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Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001**

Dated: 26th May, 2020

INITIATION NOTIFICATION

Case No. AD-OI-15/2020

**Subject: Initiation of Anti-dumping investigation concerning imports of
“Acrylonitrile Butadiene Rubber” originating in or exported
from China PR, European Union, Japan and Russia.**

1. M/s Apcotex Industries Limited (hereinafter also 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 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 original anti-dumping investigation concerning imports of “Acrylonitrile Butadiene Rubber”, also known as “NBR” (hereinafter referred to as “product under consideration” or “PUC” or “subject goods”), originating in or exported from China PR, European Union, Japan and Russia (hereinafter also referred to as the “subject countries”).
2. The Applicant has alleged that material injury to the Domestic Industry is being caused due to dumped imports from the subject countries and has requested for imposition of anti-dumping duty on the imports of the subject goods.

Product under Consideration

3. The product under consideration (PUC) is “Acrylonitrile Butadiene Rubber” or “NBR”, specifically excluding Latex NBR, Powder NBR and Carboxylated NBR. NBR is a synthetic rubber produced by the emulsion copolymerization of butadiene and acrylonitrile. NBR is used in the manufacture of various rubber articles where resistance to oil, abrasion and heat applications are involved, such as oil seals, hoses, automotive products, gaskets, rice dehusking rolls, printers, fabrics, oilfield products, etc. The major raw materials required for NBR are Acrylonitrile and Butadiene. Different grades of NBR are defined in terms of mooney viscosity and acrylonitrile content.
4. The product is classified under customs classification 40025900. The customs classification is indicative only and in no way binding on the scope of the present investigation.

Like Article

5. The Applicant has 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. The two are technically and commercially substitutable and hence should be treated as 'like article' under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the Applicant in India are being treated as 'Like Article' to the subject goods being imported from the subject countries.

Domestic Industry

6. The application has been filed by M/s Apcotex Industries Limited. The Applicant has claimed to be the sole producer of NBR in India. The Applicant has also claimed that it has neither imported the subject goods from the subject countries nor is related to any exporter or producer of subject goods in the subject countries or any importer of the PUC in India. On the basis of information on record, 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.

Normal Value

Normal Value for China PR

7. The Applicant has 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 Applicant has cited Para 8(2) of Annexure I of the Rules and has stated that the Chinese producers should be directed to demonstrate that market economy conditions prevail in the industry producing the subject goods in terms Para 8(3) of Annexure I of the Rules. The Applicant has claimed that for China, normal value should be determined in accordance with para 7 and 8 of Annexure I of the Rules. The prices or constructed value of the product under consideration in the appropriate market economy third country or the prices from such third country to other countries, including India, has neither been made available by the Applicant nor is this information available with the Authority from any public source. In view of the same, normal value has been determined on the basis of price paid or payable in India, duly adjusted to include profit, which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits.

Normal value for European Union, Japan and Russia

8. The Applicant has claimed that the data relating to actual selling price in European Union, Japan and Russia are not available. The Applicant has not provided information regarding appropriate third country. This information is also not available with the Authority from any public source. Therefore, the Normal value for these countries has been constructed for Russia, European Union and Japan on the basis of best estimates of cost of production in these countries along with associated selling, general and administrative expenses, and reasonable profit.

Export Price

9. The export price for the subject countries has been computed based on Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction-wise import data. Price adjustments have been made on account of ocean freight, commission, inland freight expenses, port expenses, bank charges, marine insurance, and VAT (in case of China only).
10. The normal value and the export price have been compared at ex-factory level, which *prima facie* shows significant dumping margin above the *de minimis* in respect of the subject goods from the subject countries. There is sufficient *prima facie* evidence that the subject goods are being dumped into the Indian market by the exporters from the subject countries.

Injury and Causal Link

11. Information furnished by the Applicant has been considered for assessment of injury to the domestic industry. The Applicant 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 total imports, and consumption in India, price undercutting, and price suppressing and depression effect on the domestic industry. The Applicant has claimed that its performance has been adversely impacted during the POI leading to decline in production, sales, capacity utilization, market share, profits, return on capital employed (ROCE) and cash profits. There is sufficient *prima facie* evidence of injury being caused to the domestic industry by dumped imports of subject goods from the subject countries.

Initiation of Anti-Dumping Investigation

12. On the basis of the duly substantiated written 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 dumping of the product under consideration originating in or exported from the subject countries, injury to the domestic industry and causal link between such alleged dumping and injury, and in accordance with Section 9A of the Act read with Rule 5 of the Rules, the Authority, hereby, initiates investigation to determine the existence, degree and effect of alleged dumping in respect of the product under consideration originating and exported from the subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

Subject Countries

13. The subject countries for the present investigation are China PR, European Union, Japan and Russia.

Period of Investigation (POI)

14. The Applicant has proposed the period of investigation (POI) from 1st July, 2019 to 31st December, 2019 (6 Months).

15. However, the explanation to amended Rule 22(3) with regard to the period of investigation states as follows:

For the purposes of these rules, the period of investigation shall, - (i) not be more than six months old as on the date of initiation of investigation. (ii) be for a period of twelve months and for the reasons to be recorded in writing the designated authority may consider a minimum of six months or maximum of eighteen months."

16. In view of the above provision in the Rules, the period of investigation (POI) adopted by the Authority for the present investigation is 1st July, 2019-31st March 2020 (9 months) and the injury investigation period will cover 1st April, 2016-31st March 2017, 1st April, 2017-31st March 2018, 1st April, 2018-30th June, 2019 and the POI. The Authority considers it appropriate to adopt 9 months as the investigation period in the present case in view of claim of the Applicant that there has been significant drop in the prices after June 2019, dumping from these countries either commenced or intensified in this period; and as a result of decline in the prices, the performance of the domestic industry has declined significantly in this period.

Procedure

17. Principles as given in Rule 6 of the Rules will be followed for the present investigation.

Submission of Information

18. 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 adg13-dgtr@gov.in and dir14-dgtr@gov.in.
19. The known producers/exporters in the subject countries, their Governments through their Embassies 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.
20. 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
21. 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

22. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses adg13-dgtr@gov.in and dir14-dgtr@gov.in 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 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.

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 Confidential and Non-Confidential versions separately.
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.
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 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.
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 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.
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. The modality of maintaining public file in electronic mode is being worked out.

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