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ADHYATAN

TPM Newsletter

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Trade Remedial Actions in India

Number of investigations initiated 6
Number of findings issued 2
Duties imposed or continued 6
Duties recommended but not imposed 3
Ongoing anti-dumping investigations 49
Ongoing anti-subsidy investigations 5
Ongoing safeguard investigations 2

Other Trade Updates

Number of non-tariff notifications by India 0
Number of non-tariff notifications by others 332

India

Extension of temporary procedures regarding e-filing

The DGTR had introduced temporary changes in the investigation process to allow online filing of documents and oral hearings through video conferencing, in view of COVID-19 related difficulties, vide Trade Notice 01/2020, applicable till 30th June 2020, which was subsequently extended upto 30th September 2020 and further upto 31st December 2020. Now, vide Trade Notice 01/2021 dated 4th March, the DGTR has extended the application of special procedure notified vide the earlier Trade Notices further. The said procedures shall continue till further notice.

Deeper tariff concessions given to imports from Japan

The Ministry of Finance issued Notification No. 20/2021 – Customs on 30th March 2020 to amend Notification No. 69/2011. The new notification gives deeper concessions to imports made in India from Japan under the India-Japan Comprehensive Economic Partnership Agreement (IJCEPA). The said notification will come in force on 1st April 2021.

Anti-dumping duty to have a sunset clause

The Finance Minister has stated that the Government will hold stakeholder consultations from 1st April 2021 on whether imposition of a particular anti-dumping duty is beneficial or not. The duties to be recommended after 1st October 2021 will have a sunset clause or an end date and will be reviewed as per the end date. The Minister of Finance said, on 24th March 2021, that the anti-dumping duty or any other duty against dumping must be rationalized. The duties announced over the decade did not have an end date and as a result continue to be there for a long time.

Trade remedial measures are imposed by the Government of a country with the intention to protect its domestic producers from the onslaught of dumped or subsidised imports or sudden increase in the volume of imports. The aim of such measures is to ensure a healthy and competitive market environment wherein the domestic producers are able to compete with imports from other countries at viable prices. Yet, while considering the need for imposition, it must be ensured that such measures are in larger 'public interest'.

Public interest is not defined in any statute. According to the Black's Law Dictionary, public interest is something in which the public, the community at large, has some pecuniary interest. Public interest may also be defined as "impersonality, and as the opposite of giving privilege to private interest"¹. It can be also defined as "the sum of individual interest of all citizens as defined by their equal rights."² Thus, in simple terms, public interest can be defined as the interest which is not private or is beyond the interests of the parties to a dispute. In the context of trade remedial measures, public interest would mean the interests of the upstream producers (immediate upstream and further going back to the basic inputs), producers of product under consideration, downstream users (upto the final product) and ultimate consumers of the product. The expression 'public interest' is a broad term, which includes within its ambit the general social welfare taking into consideration the likely impact of the trade remedial measures on the community at large.

For a trade remedial measure, the authorities should therefore have complete information for an objective decision on public interest. This also includes a cost-benefit analysis of such measure. Thus, a public interest analysis would include an assessment of whether impact of imposition of a measure on the different constituents of the economy is more injurious as compared to the intended positive impact of the measure on the domestic industry.

The WTO Anti-Dumping Agreement and Agreement on Subsidies and Countervailing Measures indirectly, and the Agreement on Safeguards directly refer to assessment of public interest. The Anti-Dumping Agreement and Agreement on Subsidies and Countervailing Measures provide that it is desirable that lesser duty rule be followed, that is, duty imposed should be lower than the dumping or subsidy margin, if such lesser duty would be adequate to remove the injury to the domestic industry.³ As per one school of thought, this approach seeks to protect the interests of the users by not imposing higher level of duties, while allowing the users to source

While the aim of trade remedial measures is to ensure a healthy and competitive environment, there is a need to ensure that the measure is in larger public interest.

Public interest, in trade remedial investigations, would imply interests of upstream producers, producers of product under consideration, downstream users and ultimate consumers of the product.

While the Anti-Dumping Agreement and Agreement on Subsidies and Countervailing Measures do not directly provide for public interest examination, it is provided for in Agreement on Safeguards.

their requirements either through imports or domestically. Further, both the Agreements also require the investigating authorities to provide opportunities to the industrial users as well as the consumers of the product under investigation to provide information⁴, which also addresses the requirements of public interests. The experience, however, is that this liberty available under the rules has so far not led to any quantifiable, verifiable and objective approach to address the requirements of public interests.

In the Doha Round of discussions, many countries including Brazil, European Union, Canada, Japan, Korea RP and China PR proposed elaboration on the issue of public interest within the Anti-Dumping Agreement and to introduce a mandatory provision for such public interest analysis. While the investigating authorities may determine the details regarding such analysis, the WTO Anti-Dumping Agreement may lay a non-exhaustive list of factors that may be analysed.

The Agreement on Safeguards specifically provides that an investigation shall include reasonable public notice to all interested parties and public hearings in which importers, exporters and other interested parties could present evidence and their views as to whether or not the application of a safeguard measure would be in the public interest.⁵ Thus, while undertaking investigation and ascertaining the need for imposition of a safeguard measure, the authority analyses the public interest involved before recommending imposition of a measure.

The Indian Authority while conducting safeguard investigation have analysed public interest by way of assessing the impact of imposition of safeguard duty on the various constituents of the economy. Thus, impact of the duties on producers, consumers and general public at large is analysed in every safeguard investigation. The Authority in India has analysed a number of factors while determining whether imposition of the safeguard duty is in public interest or not, such as –

1. Availability of goods for downstream user industry
2. Simultaneous imposition of two trade remedial measures
3. Loss of employment
4. Competitiveness in the domestic market
5. Availability of choice for consumers in the market
6. Impact on cost and price of end products
7. Capacity of the domestic industry to cater to domestic demand
8. Dependence on imports
9. Monopolization of markets by domestic producers
10. Adjustment plan of the domestic industry

Imposition of duty to the extent of injury suffered by the domestic industry, that is, application of lesser duty rule, is considered to address public interest. Further, the Agreements also provide users and consumers an opportunity to participate in the investigation and present their views.

However, till now, there is no quantifiable, verifiable and objective approach to address public interest in India in anti-dumping and anti-subsidy investigations.

The aspect of public interest is examined by the Indian authority in every safeguard investigation. Safeguard measures are imposed only if they are found to be in public interest.

The Indian Authority has considered that imposition of duty would be in the public interest where the product under consideration is critical for production of various end-products, where the domestic industry generates significant employment, where the duty would allow the domestic market to remain competitive, where the consumers would be accorded wider choice to source their material requirements, where imposition of duty would not result in a significant increase in prices of end-products and where the domestic industry has sufficient capacity to cater to the domestic demand. On the contrary, the Authority has considered that imposition of duty would not be in public interest where there exists a demand-supply gap, where the downstream user industries would suffer due to unavailability of inputs, where cheap imports have helped domestic industry to remain competitive in international market and where the adjustment plan proposed by the domestic industry is not sufficient to allow supply of the product under consideration at competitive prices.

In India, the Authority conducts a detailed examination of public interest in safeguard investigations only and does not analyse it specifically in anti-dumping or anti-subsidy investigations. The Authorities in a number of countries, however, conduct a detailed analysis of public interest in anti-dumping and anti-subsidy investigations as well. While some countries conduct a public interest analysis mandatorily in all investigations, some countries conduct such investigation upon request from interested parties, after final determination of dumping and injury.

In the European Union, the Commission analyses the impact of imposition of a measure on the 'union interest' in each investigation.⁶ Such 'union interest' includes the interests of the domestic industry, users and the consumers. While analysing union interest, the Commission analyses factors such as effect of the measure on market share of the domestic industry, prices and profit margins, future production and capacities, employment, community traders or importers and their ability to absorb duties in their profits, users, including their input costs and finally, the impact on consumers. Additionally, the Commission also analyses the impact of the measure on the upstream supplier industry which may also form part of the union interest analysis. In the investigation concerning imports of PTFE, the Commission determined that imposition of measures was in the interest of the upstream industry whose turnover depended largely on the domestic industry.

The New Zealand Ministry of Business, Innovation and Employment (MBIE) also mandatorily conducts public interest analysis in trade

Where the Authority does not find the measure to be in public interest, such as in the case where there is a demand-supply gap, or where there would be shortage of supply, or the imports have allowed the industry to remain competitive, no safeguard measures have been imposed.

A number of other countries conduct a detailed analysis of public interest in anti-dumping and anti-subsidy investigation as well.

European Union analyzes the impact of a measure on 'union interest' in every investigation, which includes examination of interests of the domestic industry, users, consumers as well as upstream producers.

remedial investigations. The effect of duty on the prices of the subject imports, like product, availability of goods, product quality, financial performance of the domestic industry, employment, alternative supply of goods and any other factors that may affect competitiveness in the market are analysed. If the authorities find that cost of imposition of measures on downstream users and consumers is outweighed by the benefits to the domestic industry, the measure is determined not to be in public interest.

Similar to the practice in European Union, Canada also follows the negative public interest analysis, whereby imposition of duty is always expected to be in public interest and the interested parties must establish the contrary. However, unlike the European Union, the Canadian International Trade Tribunal (CITT) does not conduct a public interest analysis in all investigations. A public interest inquiry may be conducted suo motu or upon request by an interested party, only when the CITT is satisfied that there exist grounds to suggest that imposition of measure may not be in public interest.⁷ The Public Interest Inquiry Guidelines issued by the CITT prescribe the following factors which must be analysed by the Authority:

- a. Availability of good from other countries
- b. Impact on competition in the domestic market
- c. Impact on the downstream industries
- d. Impact on choice and availability of goods in the market
- e. Impact of non-imposition on the domestic industries

Thus, where the CITT is of the opinion that measures are likely to reduce competition in market leading to increase in prices, decline in choice or quality of goods for consumers, significant damage to downstream industry, lead to absence of imports from any other country and damage the health, safety, education or public security, the imposition of measure may not be considered in public interest. Unlike EU where a measure is completely eliminated if the measure is not in public interest, the CITT may recommend elimination of duty or reduction of duties, if such reduction is sufficient to mitigate injury and does not adversely impact the public interest.

Other than the abovementioned countries, public interest in trade remedial measures is incorporated in the legislations of Argentina, Brazil, China PR, Malaysia, Thailand, Ukraine and some others. Similar to Canada, Brazilian authorities undertake a public interest inquiry upon request by an interested party or on their own accord. On the other hand, the Chinese legislation includes a public interest clause, but does not provide what constitutes public interest and how it must be assessed.

Similarly, New Zealand examines public interest in every investigation and a cost-benefit analysis is conducted before imposition of measure.

In case of Canada, imposition of duties is expected to be in public interest, and interested parties must establish the contrary.

Canada does not conduct a public interest inquiry in all cases, but such inquiry may be conducted suo motu or upon request by an interested party, if the Authority is satisfied that there exist grounds to suggest that imposition of measure may not be in public interest.

Public interest is also examined in Argentina, Brazil, China PR, Malaysia, Thailand and Ukraine.

In order to reach conclusions as to whether the imposition of a measure is in public interest, the Authorities issue a questionnaire. While both India and European Union issue questionnaires at the time of initiation of each investigation, Canada issues a questionnaire only if the CITT is of the opinion that information in the form of questionnaire may provide a clearer picture. The Indian safeguard questionnaire is required to be filed by the domestic industry, exporters and the importers. However, none of the questionnaires specifically deal with the impact of the proposed duty on public interest. The anti-dumping / anti-subsidy questionnaire issued by the Indian authorities to be filed by the users, nevertheless, requires information regarding substitutability of the product, comparative advantages of the imported products and the impact of the proposed measure on the users. Similarly, the European Union, in its questionnaires for domestic producers, unrelated importers and users, requires detailed information to be submitted to assess the union interest. Along with information relating to business activities, information with regard to costs of productions, employment, profitability, volume of sales and market share, additional information regarding spare capacities, competition for raw materials, supply chain in domestic and international markets as well as any other elements that may impact the interests of the interested parties, is required to be provided.

While it may be argued that public interest analysis is an unnecessary exercise since the measure is largely intended to provide remedy to the domestic producers, it must be kept in mind that such analysis is an exception by its very nature and duties are imposed with an intention for them to be beneficial for the industry as whole. Further, trade remedial investigations are quasi-judicial proceedings and the investigating authorities must follow the principles of natural justice. Therefore, all interested parties including downstream users, upstream suppliers and consumers whose rights or liabilities may be affected by the imposition of the measures must be provided an opportunity to participate in the investigation and assist the Authority in imposing a measure that may have significant benefits for all parties involved. However, at present, the examination of public interest in anti-dumping and anti-subsidy investigations in India is limited and there is a need to further develop the same.

In India, the questionnaire to be filled by the users requires information regarding substitutability of the product, comparative advantages of the imported product and impact of proposed on the users.

While a trade remedial measure is intended to provide remedy to domestic producers, there is a need to examine whether the measure is beneficial for the industry as a whole.

At present, the public interest examination in India is limited and there is a need to further develop the same.

1 International Trade Centre, Business Guide to Trade Remedies in Brazil: Anti-dumping, countervailing and safeguard legislation, practices and procedures, Geneva: ITC, 2009, p. 31

2 Petersmann, E., in Moen, P. Public Interest Issues in International and Domestic Anti-Dumping Law: The WTO, European Communities and Canada, Graduate Institute of International Studies, Geneva, 1998, p. 6

3 Article 9.1, Anti-dumping Agreement and Article 19.1, Agreement on Subsidies and Countervailing Measures

4 Article 6.12, Anti-dumping Agreement and Article 12.10, Agreement on Safeguards

5 Article 3.1, Agreement on Safeguards

6 Article 21 of Regulation 2016/ 1036

7 Section 45(1) of the Special Import Measures Act, 2017

Trade Remedial Actions in India

Initiation of investigations

- Sunset review investigation on imports of Barium Carbonate from China PR (02 Mar)
- Sunset review investigation on imports of PVC Flex Film from China PR (24 Mar)
- Anti-dumping investigation on imports of Fluoro Backsheet from China PR (30 Mar)
- Sunset review investigation on imports of Cold Rolled / Cold Reduced Flat Steel Products of Iron or Non-Alloy Steel from China PR, Japan, Korea RP and Ukraine. (31 Mar)
- Sunset review investigation on imports of Hot-Rolled Flat Products of Alloy or Non-Alloy Steel from Brazil, China PR, Indonesia, Japan, Korea RP and Russia (31 Mar)
- Anti-dumping investigation on imports of Certain Rubber Chemicals viz., TDQ from China PR, European Union and Russia; PVI from China PR and CBS from China PR and European Union (31 Mar)

Termination of investigation

- New shippers review for individual anti-subsidy duty rate for Shandong Haohua Tire Company Limited, China PR for duty imposed on imports of New/Unused Pneumatic Radial Tyres with or without Tubed and/or Flap of Rubber having Nominal Rim Dia Code above 16” from China PR (04 Mar)

Duties recommended

- Continuation of anti-dumping duty on imports of 2-Ethyl Hexanol from European Union, Indonesia, Korea RP, Malaysia, Taiwan and United States of America (08 Mar)
- Continuation of anti-dumping duty on imports of Normal Butanol from European Union, Malaysia, Singapore, South Africa and United States of America (30 Mar)

Duties imposed or extended

- Extension of anti-dumping duty on imports of Phenol from European Union and Singapore till 7th June 2021 (03 Mar)
- Imposition of anti-dumping duty on imports of Black Toner in powder form from China PR, Malaysia and Taiwan (05 Mar)
- Imposition of anti-subsidy duty on imports of Textured Tempered Glass from Malaysia (09 Mar)
- Imposition of anti-dumping duty on imports of Ciprofloxacin Hydrochloride from China PR (11 Mar)
- Imposition of anti-dumping duty on imports of Faced Glass Wool in Rolls from China PR (18 Mar)

Duties imposed or extended (Contd.)

- Extension of anti-dumping duty imposed on imports of Tyre Curing Presses till 30th September 2021 (26 Mar)
- Continuation of anti-dumping duty on imports of 2-Ethyl Hexanol from European Union, Indonesia, Korea RP, Malaysia, Taiwan and United States of America (26 Mar)
- Imposition of anti-dumping duty on imports of Polyethylene Terephthalate Resin from China PR (27 Mar)
- Extension of anti-dumping duty imposed on imports of Melamine from China PR till 30th September 2021 (31 Mar)

Duties recommended but not imposed

- Anti-dumping duty on imports of New Pneumatic Radial Tyres of Rubber for Buses and Lorries from Thailand (01 Mar)
- Modification of anti-dumping duty on imports of Polytetrafluoroethylene (PTFE) from Russia (17 Mar)
- Anti-subsidy duty on imports of Styrene Butadiene Rubber from Korea RP (30 Mar)

Trade Remedial Actions against India

United States of America

DOC issues affirmative final determination in the administrative review of anti-dumping duties on imports of welded carbon steel standard pipes and tubes from India. (19 Mar)

DOC found that the sole producer and exporter from India, Garg Tube Export LLP and its affiliate Garg Tube Limited sold the subject goods at less than normal value and the weighted average dumping margin was 13.90%.

DOC issues negative final determination in the administrative review of anti-dumping duties on imports of polyethylene terephthalate film, sheet and strip from India by Jindal Poly Films Limited. (23 Mar)

DOC in the administrative review affirmed its preliminary determination that sales by Jindal Poly Films Limited in the USA were not at less than normal value and the weighted average dumping margin was 0%.

United States of America (Contd.)

USITC finds that material injury is being caused to US industry by imports of common alloy aluminium sheets from 18 countries, including India. (31 Mar)

USITC found that US industry is being materially injured by imports of common alloy aluminium sheets from Bahrain, Brazil, Croatia, Egypt, Germany, India, Indonesia, Italy, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and Turkey. The DOC will now impose anti-dumping duties on imports of such goods.

USITC finds that material injury is being caused to US industry by imports of subsidized common alloy aluminium sheets from Bahrain, India and Turkey. (31 Mar)

USITC found that imports of subsidized DOC found that common alloy aluminium sheets from Bahrain, India and Turkey are causing material injury to US industry. The DOC will now impose countervailing duties on imports of such goods.

Other Trade Remedial Actions

Argentina

- Affirmative preliminary determination issued in the anti-dumping investigation on imports of expandible polystyrene in granules from China PR and Chinese Taipei (25 Mar)
- Initiation of sunset review investigation concerning imports of Eyeglasses from China PR (30 March)

Australia

- Initiation of anti-dumping investigation on imports of quenched and tempered steel plate from United States of America (15 Mar)
- Termination of anti-dumping investigation on aluminium micro-extrusions from China PR (17 Mar)
- Imposition of anti-dumping duties pursuant to review on imports of certain aluminium zinc coated steel from China PR (17 Mar)
- Initiation of anti-dumping investigation on imports of copper tubes from Vietnam (22 Mar)
- Initiation of exemption inquiry of anti-dumping measures on imports of hollow structural sections (HSS) from China PR, Korea RP, Malaysia and Taiwan (22 Mar)

Brazil

- Initiation of sunset review concerning imports of footwear from China PR (01 Mar)
- Continuation of anti-dumping duties on imports of adipic acid from China PR, France, Germany, Italy and United States of America (30 Mar)
- Continuation of anti-dumping duty on imports of radial tires for buses or trucks from Japan, Korea RP, Russia and Thailand (19 Mar)
- Affirmative preliminary determination issued in anti-dumping investigation on imports of socks from China PR and Hong Kong and negative determination issued on imports of socks from Paraguay (12 Mar)

Canada

- CBSA issues affirmative determination of likelihood of dumping in case of expiry of anti-dumping duty on imports of refined sugar from Denmark, Germany, Netherlands, United Kingdom and United States of America and likelihood of subsidizing in case of expiry of countervailing duty on imports from European Union (01 Mar)
- CBSA issues preliminary determination of dumping of imports of concrete reinforcing bar from Oman and Russia (04 Mar)
- Initiation of expiry review of anti-dumping duty and countervailing duty imposed on imports of carbon and alloy steel line pipe from China PR (08 Mar)
- Conclusion of normal value review on imports of carbon steel welded pipes from Thailand by Sahathai Steel Pipe Public Company Limited (23 Mar)
- CBSA issues final determination of dumping of wheat gluten from Australia, Austria, Belgium, France, Germany and Lithuania (23 Mar)
- Initiation of expiry review of anti-dumping and countervailing duties imposed on imports of steel grating from China PR (30 Mar)

China PR

- Imposition of anti-dumping and countervailing duties on imports of wine from Australia (26 Mar)

Egypt

- Imposition of anti-dumping duties on imports of bus and truck tyres except for light trucks from China PR and Thailand (3 Mar)

European Union

- Imposition of definitive anti-dumping duty on imports of sulphanilic acid from China PR, following an expiry review (12 Mar)
- Conclusion of new exporting producers investigation concerning definitive anti-dumping measures imposed on imports of ceramic tableware and kitchenware from China PR (19 Mar)

European Union (Contd.)

- Imposition of definitive anti-dumping duty on imports of aluminium extrusions from China PR (30 Mar)

Malaysia

- Initiation of anti-dumping investigation on imports of stranded steel wire for prestressing concrete from China PR (31 Mar)

New Zealand

- Affirmative final determination in the public interest inquiry in the anti-dumping investigation concerning imports of galvanised wire from China PR

Pakistan

- Initiation of anti-dumping investigation on imports of cold rolled coils from Taiwan and China PR (01 Mar)
- Initiation of anti-dumping investigation on imports of Soda Ash from Turkey (30 Mar)

Thailand

- Initiation of sunset review of anti-dumping duties on imports of low carbon wire rod from China PR (09 Mar)

Turkey

- Imposition of anti-dumping duty on imports of knives and cutting blades for grinders, mixers and fruit or vegetable presses from China PR (24 Mar)
- Imposition of revised anti-dumping duty on imports of glass fiber reinforcement materials from Thailand (24 Mar)
- Imposition of revised anti-dumping duty on imports of staple fibre yarns from Cambodia (24 Mar)
- Imposition of revised anti-dumping duty on imports of hinges from Korea RP and North Macedonia (27 Mar)
- Initiation of anti-dumping investigation on imports of cocoa butter (solid and liquid) from Malaysia (27 Mar)
- Imposition of anti-dumping duty on imports of cylinder door locks, cold storage holders, other door locks, and door lock cylinders (barrel) from China PR (27 Mar)

Vietnam

- Initiation of anti-dumping investigation on imports of welding material from China PR, Malaysia and Thailand (25 Mar)

United States of America

- DOC issues affirmative final determination in the sunset review of countervailing duties on imports of welded line pipe from Turkey and anti-dumping duty on imports from Korea RP and Turkey (02 Mar)
- DOC issues affirmative preliminary determination in the anti-dumping investigation on imports of container trailer chassis and subassemblies from China PR (03 Mar)
- DOC issues affirmative final determination in the anti-dumping investigation on imports of seamless carbon and alloy steel standard, line, and pressure pipe from Czech Republic (03 Mar)
- DOC issues affirmative final determination in the second sunset review of anti-dumping and countervailing duties on imports of potassium phosphate salts from China PR (08 Mar)
- DOC issues affirmative final determination in the fourth sunset review of suspension agreement concerning imports of cut-to-length carbon steel plate from Russia and Ukraine (08 Mar)
- DOC issues affirmative final determination in the sunset review of anti-dumping duties on imports of melamine from China PR (09 Mar)
- USITC finds that material injury is being caused to the US industry by imports of phosphate fertilizers from Morocco and Russia (11 Mar)
- DOC finds that countervailable subsidies are being provided to producers of certain vertical shaft engines between 99cc and up to 225cc from China PR (12 Mar)
- USITC finds that material injury is likely to continue in the event of revocation of anti-dumping duties on imports of polyvinyl alcohol from China PR and Japan (12 Mar)

Foreign Trade Policy

Online module introduced for Adjudication, Appeal and Review (01 Mar)

An online module has been implemented for adjudication, appeal and review with effect from 27th February 2021. For adjudication, the exporters have to submit the prescribed documents evidencing fulfilment of export obligation within the period prescribed. Exporters will also be able to submit appeals online, within the prescribed time, as well as review petitions. No appeal can be filed once the time limit expires. However, till 31st March 2021 appeal can be filed manually or online.

Enlistment of The Plastic Export Promotion Council as authorized agency for issue of Certificate of Origin (17 Mar)

The Plastic Export Promotion Council has been enlisted under Appendix 2E as an authorized agency for issuance of Non-Preferential Certificates of Origin.

Last date for Applications for Rebate of State Levies (17 Mar)

Para 1.03 of the Foreign Trade Policy has been amended to notify the last date for filing applications for Rebate of State Levies (RoSL). The last date for applications for shipping bills with Let Export Order (LEO) date from 1st October 2017 to 6th March 2019 would be 30th June 2021. The last date for applications for shipping bills with Let Export Order before 1st October 2017 would be 31st December 2021.

Electronic issuance of import authorization for restricted items (23 Mar)

The DGFT has introduced a new module for filing of electronic paperless applications for and issuance of import authorizations for restricted items with effect from 22nd March 2021.

Electronic issuance of Non-Preferential Certificate of Origin (25 Mar)

The DGFT had earlier allowed for electronic issuance of Preferential Certificate of Origin. The facility is now being extended to Non-Preferential Certificate of Origin, with effect from 15th April 2021. However, DGFT shall allow a transition period and it shall not be mandatory for exporters to submit applications electronically immediately. Instead, the existing procedure of submitting paper applications shall be allowed to continue up to 31st July 2021 or till further orders.

Online filing of requests for closure of advance authorization (30 Mar)

DGFT has rolled out an online facility for redemption, surrender, duty paid regularization, bond waiver and clubbing of advance authorizations. The new IT system would allow managing the entire life cycle of advance authorizations online including issuance, amendment and closure.

Extension of Foreign Trade Policy 2015-20 (31 Mar)

The Foreign Trade Policy 2015-20, which was valid till 31st March 2021, has been extended upto 30th September 2021. Further, the application of Handbook of Procedures, 2015-20 has also been extended upto 30th September 2021.

Amendment of import policy with regard to certain copper and aluminium products (31 Mar)

The import policy with regard to certain copper and aluminium products, falling under Chapter 74 and 76 of the ITC HS Classification has been amended from “Free” to “Free with compulsory registration” under the Non Ferrous Metal Import Monitoring System.

Procedure for allocation of quota for import of Calcined Pet Coke used in Aluminum industry and Raw Pet Coke used in CPC industry notified (31 Mar)

Import of Calcined Pet Coke used in Aluminium industry would be subject to a quota of 0.5 million MT per annum, and import of Raw Pet Coke used in Calcined Pet Coke industry would be subject to a quota of 1.4 million MT per annum. The DGFT has notified the procedure for applying for imports for Financial Year 2021-22 under the quotas. All applications for the year must be made by 15th April 2021.

Issuance of Preferential Certificates of Origin under India-Mauritius CECPA (31 Mar)

DGFT has notified a list of authorized agencies allowed to issue Preferential Certificate of Origin under the India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement.

Bureau of Indian Standards

Need for submission of details of products under mandatory standards

All licensees necessarily need to submit details of consignments carrying products covered under mandatory standards. The same needs to be done pre-shipment at Manak Online website

Acetone Quality Control Order

Effective date of Acetone Quality Control Order has been extended to 14th September 2021.

Metrod (Malaysia) Sdn Bhd & Ors.
versus
Designated Authority, DGAD

Final Order No. 51069-51072/2021

The present appeals were filed against the final findings of the Designated Authority in the anti-subsidy investigation into imports of “Continuous Cast Copper Wire” originating in Malaysia, Indonesia, Vietnam, and Thailand, wherein the Designated Authority recommended imposition of countervailing duty against the said imports.

The Appellants claimed that the findings of the Designated Authority imposing 2.47% CVD was incorrect because of (a) incorrect computation of subsidy for “other program”, which was not even countervailable; and (b) “copper wire” manufactured by appellant is not similar to “continuous cast copper wire rods”. The Appellants further claimed that only the remission of a drawback of import charges in excess of those that are levied on imported inputs consumed in the production of the export goods can be considered as a countervailable subsidy. The Appellants also claimed that upon exclusion of subsidy margin calculated as under “other programs”, the overall subsidy margin would fall below de-minimis level i.e., 2%.

The CESTAT, after hearing arguments of all the parties noted that the prejudice was caused to the Appellant due to reference to a wrong program in the disclosure statement. The CESTAT noted that only remission or drawback of import duties in excess of those that are levied on imported inputs consumed in the production of export goods, after due adjustments, alone can be considered countervailable. The CESTAT rejected the contentions that the Appellant did not provide adequate evidence to substantiate the claims that inputs were exclusively used for manufacturing products for exports. Further, the CESTAT noted that the detailed submission by the Appellant also proves the existence of proper verification mechanism to ensure no excess remission.

The CESTAT took note of WTO Appellate Body decision in EC-PET from Pakistan and concluded that if the Designated Authority was of the opinion that no adequate verification system existed in Malaysia to check excess remission, the Designated Authority was under an obligation to request Malaysian government to conduct further examination. The CESTAT observed that imposition of countervailing duty of 2.47% is liable to set aside. Having reached such conclusion, it did not find it necessary to examine the contention that “copper wire” is not akin to “continuous cast copper wire rods”.

About Us

TPM was founded in 1999 at a time when the practice of trade remedies in India was in its infancy and there were only a handful of firms in the field. While other firms added these services to their existing portfolios, TPM dealt exclusively in cases in the domain of trade remedies.

TPM began its journey with a staff of merely 2 professionals. Today, it has a team of more than 40 professionals including Cost Accountants, Chartered Accountants, Company Secretaries, Lawyers, Engineers and MBAs.

From the beginning, TPM was focused on providing consultancy in the field of trade remedies. TPM helps domestic producers suffering due to cheap and unfair imports into India to avail the necessary protection under the umbrella of the WTO Agreements. TPM has also assisted the domestic producers in other countries to avail similar measures in their respective countries. Besides assisting domestic producers in India and other countries, TPM also assists exporters and importers facing trade remedial investigations in India or other countries. TPM has assisted Indian exporters facing investigations in a number of jurisdictions such as Argentina, Brazil, Canada, Egypt, European Union, GCC, Indonesia, Korea RP, Turkey and USA.

TPM has an enviable experience in the field, of more than 700 cases. Its unique experience in the field sets it apart from other firms. While the firm is primarily dedicated to trade remedies, it also provides services in the field of trade policy, non-tariff barriers, competition law, trade compliance, indirect taxation, trade monitoring and analysis. It also represents industries before the Government in matters involving customs policy.

TPM Consultants

Ish Kriti, J-209, Saket, New Delhi – 17



[011 – 4989 2200](tel:011-49892200)



info@tpm.in



www.tpm.in



[TPM Solicitors
& Consultants](#)

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