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# ADHYATAN

## TPM NEWSLETTER

**February 2023**

In this Edition

- ◆ Provision for appeal amended through budgetary amendment.
- ◆ Rules introduced to address undervaluation of imports.
- ◆ Meaning and impact of retaliatory measures imposed by India.
- ◆ Refund of duty paid for intervening period between expiry of provisional anti-dumping duty and imposition of definitive anti-dumping duty, even if assessment order not challenged.

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# Message from the Founder

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I am happy to forward the Anniversary Edition of TPM Newsletter on Anniversary Day. As many of you are already aware, TPM was founded 24 years back on 2<sup>nd</sup> February. Since then, it has stood with domestic producers, seeking protection against dumped or subsidised imports into the country. The laws, policies, procedures and practices have evolved very significantly in last three decades.

TPM has been fortunate to have a fruitful year, with a number of achievements to look back to. We were awarded the Lex Falcon Global Award during this year. We have also

handled an increasing array of policy advocacy matters, not only for trade remedies, but also customs and other indirect taxes, and non-tariff barriers. This year also saw TPM take up major assignments in other jurisdictions, without engaging local counsels, on both dumping and injury side, with promising results. In the area of trade remedies, we represented before and assisted the DGTR in major modification in practices with regard to simplification of procedure for fragmented industries, and introduction of Economic Interest Questionnaire. Our success in litigation matters also encourages us to continue to develop in that field.

As you may be aware of, Government has brought a major amendment in the trade remedial laws in the Union Budget, 2023, amending the appeal provisions, that too retrospectively, with effect from 1995. The amendment appears to be intended to imply that no appeal can be filed against determination made by the Central Government.

Decisions of the Central Government on the recommendations made by the DGTR and the present amendment are clearly indicative of significant change in the perception of the Ministry of Finance with regard to trade remedial laws and practice. At the same time, consideration of these laws by the Courts in the country is indicative of the divergence of thought between the judicial authorities and the Central Government.

We welcome your feedback, as it would be a valuable guiding factor in our continuous endeavour to improve.

Warm regards  
A. K. Gupta

# Budgetary Highlights

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## Amendment to Customs Tariff Act, 1975

The Central Government has proposed the following amendments to have a retrospective effect from 1<sup>st</sup> January 1995.

*Firstly*, the provision granting power to the Central Government to extend duties post-sunset review has been amended to state that such extension may be made if the Central Government is of such opinion pursuant to “consideration of a review”.

*Secondly*, the provisions empowering the Central Government to conduct inquiries into dumping and subsidisation has been amended to exclude the words “and determined” from “ascertained and determined”, implying that the Central Government shall only ascertain, and not determine.

*Thirdly*, the provisions under Section 9C of the Customs Tariff Act concerning appeals has been amended to provide that an appeal may be made only against a “determination or review”. Explanation to the Section provides that “determination or review” refer to such determination or review which are made in such manner as specified under the Rules made under the Act.

The Explanatory Memorandum to the Finance Bill states that the amendments are merely clarificatory in nature and intended to remove ambiguity. However, it appears that the amendments to Section 9C are intended to provide that appeals shall lie only against the findings of the DGTR. At present, appeals are maintained against the decision of Ministry of Finance. Nevertheless, time would reveal whether the validity of such an amendment, including with regard to its retrospectivity, stands the scrutiny of the judicial system.

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## **Customs duty modifications notified**

- Exemptions
  - Denatured ethyl alcohol, which is used for production of ethanol.
  - Capital assets for production of lithium ion batteries for use in battery of electrically operated vehicle (EVs)
  - Exemption on raw materials for CRGO steel, ferrous scrap and nickle cathode continued
- Reduction of duty rates
  - Acid grade Fluorspar, containing by weight more than 97% of calcium fluoride - reduced from 5% to 2.5%.
  - Crude Glycerine used for manufacture of Epichlorohydrin – reduced from 7.5% to 2.5%.
  - New Pneumatic Tyres of rubber for use in aircraft – reduced from 3% to 2.5%
  - Concessional duty of 2.5% on copper scrap continued
- Enhancement of duty
  - Compounded rubber - increased from 10% to 25% or ₹ 30 per kg, whichever is lower.
  - Vinyl chloride (chloroethylene) - increased to 2.5%.
  - Naphtha - increased to 2.5%

# Other Key Highlights

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## India

### **Introduction of Customs (Assistance in Value Declaration of Identified Imported Goods) Rules 2023**

In order to address undervaluation of the imported goods in India, the Ministry of Finance notified the aforesaid Rules vide Notification No. 03/2023 – Customs (N.T.) dated 11<sup>th</sup> January 2023. The Rules will come into effect from 11<sup>th</sup> February 2023. The salient features of the Rules are as follows:

1. Pursuant to a written reference made by any person, in the prescribed manner, the Board (CBIC) may put certain goods under the list of Specified goods where it has reasons to believe that the value of such goods may not be declared truthfully or accurately.
2. For this purpose, a preliminary examination would be conducted by the Screening Committee, followed by a detailed examination by the Evaluation Committee.
3. If the Evaluation Committee concludes that the value of goods has not been reported truthfully or accurately, it will specify the following in its report:
  - a. Particular Unique Quantity Code and the technical or other specifications related to the value of the goods which shall be used by the importer to declare the value on the bill of entry;
  - b. Other additional obligations for importers for demonstrating the truthfulness and accuracy of the declared value;
  - c. The checks to be exercised with respect to the imported goods;
  - d. The duration of the Order, which shall be upto 2 years, but not less than 1 year.
4. Based on the findings of the Evaluation Committee, the Screening Committee will make the recommendation to the Board. The Board, if satisfied, will accept the recommendation and issue an Order, which must be complied with by an importer of the goods.
5. In case the importer has not fulfilled the additional obligations, the goods may be provisionally cleared. The competent authority may also seek additional information and documents, if required. However, if the importer fails to fulfil the obligations within 10 days, further proceedings shall be taken in accordance with Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
6. Such Rules will not be applicable to certain goods such as to goods which attract import duty on specific rate basis, imports made under duty exemption scheme, project imports, goods imported for the purpose of re-export, imports made in non-commercial quantities, among others.

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## Global

### **US Government Accountability Office issues report on anti-dumping and anti-subsidy investigation process (20 Jan)**

The US Government Accountability Office (GAO) has issued their report, reviewing the anti-dumping and anti-subsidy investigation process applicable in the US. In the report, the GAO has found that anti-dumping and anti-subsidy measures are the most used trade remedy measures in the US, with \$30.2 billion of imported goods in fiscal year 2021 being subject to duties. 657 duty orders were active till March 2022, which impact imports from 59 countries.

One of the issues before the GAO was the common belief that domestic companies in the US may file petitions without merit to obstruct competition in the US market. In this regard, the GAO observed that current investigation process has features that ensure that the investigation is conducted based on accurate and complete information only. Further, the GAO also observed that the current US law contains no provision to allow the International Trade Commission (ITC) to consider impact of duties on downstream users, consumers, retailers, etc. While information is called for from such entities, the ITC uses such information only to understand conditions of competition in the market. However, the GAO believes that the US is unlikely to amend its laws to take into account the impact of the duties on downstream users.

### **United States files appeal against two decisions of the WTO Panel (30 Jan)**

The US notified the WTO Dispute Settlement Body of their decision to appeal against two recent reports of the Panel, involving measures imposed by the US. The impugned reports of the Panel are United States – Certain Measures on Steel and Aluminium Products (DS544, DS552, DS556, and DS564) and United States – Origin Marking Requirement (DS597). In the first dispute, the Panel held that the additional customs duties imposed by the US on account of national security were violative of its obligations under the GATT<sup>1</sup>. In the latter dispute, the Panel held that the origin marking requirement for goods originating in Hong Kong on account of national security, adversely impacted the conditions of competitions for such goods and were thus, violative of its obligations under the WTO framework. However, in absence of a functional Appellate Body, the appeals are likely to be rendered impotent.

<sup>1</sup> For more details, kindly see our update on page 8 of Newsletter 1 of 2023, available at the link below.  
<http://tpm.in/wp-content/uploads/2023/01/Adhyatan-TPM-Newsletter-Issue-1-of-2023.pdf>

# The War on Steel - Safeguards and India's Retaliatory Measures

- Where any safeguard duty is imposed by a WTO member, it is required to compensate the affected members in order to maintain equivalent level of market access that may be agreed upon via consultations.
- Article 8.2 of the Agreement allows affected members to impose retaliatory measures, if adequate compensation has not been agreed upon within 30 days.
- Pursuant to tariffs imposed by the US on steel and aluminium through Presidential Declaration in March 2018, India applied retaliatory measures, in the form of increased tariffs on 30 products. Further, while India approached the WTO Dispute Settlement Body (DSB) regarding tariffs imposed by the US, the US has approached the DSB challenging validity of retaliatory measures by India.
- India also applied retaliatory measures against European Union, pursuant to the safeguard measures imposed against exports of steel, and reduction in tariff rate quotas for India pursuant to the subsequent review of the measures.
- Recently, India notified its intention to apply retaliatory measures against the UK, when the UK Trade Remedial Authority extended safeguard measures on a number of products, including steel and aluminium products from India.

## Introduction to Retaliatory measures

The WTO Agreement on Safeguards (“Agreement”) allows its members to restrict imports of a product in the event there is a sharp and sudden increase in imports of any product which is causing, or which is threatening to cause, serious injury to its industry. To ensure that this trade remedial measure is not misused, the Agreement requires any member imposing safeguard measures to compensate the affected members in order to maintain an equivalent level of market access that may be agreed upon via consultations. Article 8.2 of the Agreement allows the members to impose retaliatory measures on the offending member if adequate compensation has not been agreed on within 30 days of the consultation. This *‘suspension of substantially equivalent concessions or other obligations’* (“Retaliatory measure”) is imposed on the offending country after notification to the WTO Council for Trade in Goods.

## India's retaliatory measures

India has been the second-largest crude steel manufacturer in the world since 2018. In the last couple of years, India has invoked retaliatory measures in response to following



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safeguard measures that hurt its exports of steel and allied products.

### **A. United States (US)**

Section 232 of the Trade Expansion Act, 1962 allows the US President to impose import restrictions based on an investigation and affirmative determination by the Department of Commerce that the imports threaten the national security of the country. In March 2018, the former President Donald Trump, via Presidential Proclamation, applied additional tariffs of 25% and 10% on certain imports of steel and aluminium products, respectively. In May 2018, India notified the Council for Trade in Goods of its decision to engage in retaliatory measures in accordance with Articles 8.2 and 12.5 of the Agreement. This retaliation was in the form of increased tariffs on 30 select products originating in the US ranging from an additional 10% to 50% duties.

Apart from increasing tariffs, India also approached the WTO DSB (DS547) for dispute resolution against the measures imposed by the US in May 2018. A year later, in July 2019, the US approached the WTO DSB (DS585) against the additional duties imposed by India alleging that such unilateral retaliation against the US is violative of the WTO Agreement. The US further stated that, not only was the action under Section 232 not a safeguard measure, but its sovereign right to take measures to protect national security was enshrined under Article XXI of the GATT 1994. The final report on both matters is yet to be issued.

### **B. European Union (EU)**

Against the backdrop of import restrictions by the US, increased global steel overcapacity, and an increase in the use of trade restrictive and defence measures on steel, EU faced threat of re-direction of products that were intended for the US to its own market. A safeguard investigation was accordingly initiated, and definitive measures were imposed in February 2019. The measures imposed by EU consisted of tariff-rate quotas imposed on 26 steel product categories with a duty of 25% for exceeding the quotas determined.

In June 2021, following a review investigation, EU extended the safeguard measures for a period of further period of 3 years until 2024. The tariff-rate quotas for India were reduced as compared to the original measures. In August 2021, India notified the Council for Trade in Goods of its decision to apply retaliatory measures. India estimated that the safeguard measures would result in duty collection of Euro 292.01 million and proceeded to impose tariffs on products originating in EU for the same amount. The safeguard measures underwent another review in 2022 where it temporarily suspended the measures against Ukraine but without any changes for India and other countries.

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### **C. United Kingdom (UK)**

Following Brexit, the Trade Remedies Authority (TRA) reviewed measures set to lapse in June 2021 and it recommended an extension of safeguard measures on 10 out of 19 product categories for a period of three years. However, after amendment of regulations in 2021 and 2022, TRA issued its final recommendation extending the measures on 15 products for a period of three years until 2024. When choosing to accept the recommendation, the Secretary acknowledged in her oral statement before the Parliament that the decision to extend the safeguard measures departed from the UK's obligation under the Agreement; however, such action was necessitated by national interest.

India's discontentment with the UK's approach was as vocal as it had been for both EU and the US. By notifying the WTO Council of its intent to invoke retaliatory measures in September 2022, India proposed a suspension of concessions amounting to 247.7 USD million. India expected to achieve this by a 15% additional duty on 22 products including whiskey, cheese, and diesel engine parts.

#### **The path ahead**

While India and the US are before the WTO Panel, the US has been open to negotiations with regard to the tariffs imposed. The US signed agreements with EU and Japan to replace import restrictions with tariff rate quota for steel imports from these countries. This also opens up a possibility of negotiations between India and the US, in the future.

In the matter of safeguard measures imposed by EU, the situation looks dire for India. However, the ongoing EU-India negotiations for a free trade agreement ("FTA") offer India the perfect platform to take up the existing safeguard measures for discussion.

Even though the UK has not responded to these retaliatory measures yet, it has not chosen to review the existing quotas for India yet. The UK may, however, choose to take advantage of the negotiations for UK-India FTA, to seek revocation of the retaliatory measures. It could also approach the WTO DSB, though its own lack of compliance with the Agreement when imposing the measure makes the opportunity of a favourable result bleak.

So far, India's retaliatory measures have not resulted in the easing of the existing safeguard measures on steel. Nevertheless, these retaliatory measures offer India strong bargaining power during FTA negotiations.

- Nehwath Fathima, Associate

# From the Courtroom

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## Perfect Importers and Distributors (India) Pvt. Ltd.

Versus

## Union of India

Order dated 16<sup>th</sup> December 2022

- No anti-dumping duty is applicable on any imports made during the intervening period between the date of expiry of the provisional duty, and the date of imposition of definitive duties.
- The decision of Commissioner (Appeals) is binding on the lower authority.
- The High Court has power to direct the refund in a case where tax or money has been realised without the authority of law, unless there has been avoidable laches on the part of the petitioner.
- In a case where bills of entry are filed with claim of nil or lower duty, and additional duty is required to be paid for delivery of goods by Customs authorities, no modification of any assessment order is required in case the importer is eligible for refund of such additional duty.

The present order arose out of a writ under Article 226 of the Constitution, whereby the petitioner requested for a refund of anti-dumping duty paid by it, with interest. The dispute pertained to anti-dumping duty applicable on imports of Cast Alloy Aluminum Wheels or Alloy Road Wheels used for Motor Vehicles. Provisional anti-dumping duty was imposed on imports of the product on 11<sup>th</sup> April 2014, for a period of six months, on 10<sup>th</sup> October 2014. Thereafter, definitive anti-dumping duty was imposed on the imports of the product, vide Notification No. 21/2015 dated 22<sup>nd</sup> May 2015, for a period of five years beginning from the date of imposition of provisional duty.

The petitioner was an importer, engaged in trading of the product. The facts of the case were that the petitioner had paid anti-dumping duty on three bills of entry cleared on 4<sup>th</sup> February 2015, 12<sup>th</sup> May 2015 and 21<sup>st</sup> May 2015. The petitioner was directed to pay anti-dumping duty on such imports, in order to take delivery of goods.

Thereafter, the petitioner sought refund of the duties on the basis that no anti-dumping duty is applicable for the period between the date of expiry of the provisional duty, and the date of imposition of definitive duty. In this regard, the petitioner relied upon the decision of the Hon'ble Supreme Court in CIT, Bangalore v. G.M. Exports, wherein it

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was held that if there is a gap between the date on which provisional anti-dumping duty notification expires and the imposition of definitive anti-dumping duty, no anti-dumping duty is applicable in the intervening period.

However, the Customs adjudicating authorities took a view that since definitive anti-dumping duty was levied vide Notification No. 21/2015 dated 22<sup>nd</sup> May 2015, with effect from the date of imposition of provisional duty, that is, 11<sup>th</sup> April 2014, duties were payable for such imports, and rejected the request for refund. Even though the Commissioner (Appeals) set aside the order rejecting refund and remanded the matter back, the Customs adjudicating authorities maintained that since the petitioner had not challenged the assessment order by which anti-dumping duty was levied, refund could not be granted. Thereafter, the matter was again remanded by the Commissioner (Appeals). However, no further action was taken by the Customs adjudicating authorities in such regard.

Accordingly, the petitioner filed a writ petition in the High Court of Gujarat. The Customs authorities contended that the delay had been on account of the fact that the issue was pending in a similar matter before the Supreme Court. Thereafter, vide decision dated 28<sup>th</sup> September 2019, the Supreme Court had held that claim of refund cannot be entertained unless the order of assessment or self-assessment is modified in accordance with the law by taking recourse to the appropriate proceedings.

The Gujarat High Court held that no anti-dumping duty was applicable on the imports made by the petitioner during the period between the expiry of the provisional duty, and the imposition of definitive duties. The Court further found the claim of the respondent Customs authorities, that no refund can be made unless the assessment order was modified, was an attempt to evade the directions issued by the appellate authority, that is, Commissioner (Appeals). However, the decision of the higher authority is binding on the lower authority.

The Court further noted that under Article 226, the High Court has power to direct the refund in a case where tax or money has been realised without the authority of law, unless there has been avoidable laches on the part of the petitioner. Lastly, the Court also noted that the petitioner had filed bills of entry without including anti-dumping duty, and had paid duty only after being directed by Customs authorities. Accordingly, the issue of modification of assessment order does not arise. Accordingly, the High Court directed the Customs authorities to refund the amount of duty to the petitioner, with an interest of 6%.

# Foreign Trade Policy

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## **Implementation of report of the RoDTEP Committee (09 Jan)**

The DGFT has revised the Appendix 4R after incorporating changes and recommendations made by the RoDTEP Committee in relation to certain errors and anomalies in 432 HS Codes in the earlier notified RoDTEP rates. The revised Appendix will be applicable on exports made from 16<sup>th</sup> January 2023 to 30<sup>th</sup> September 2023.

## **EODC Online Monitoring System for EPCG and Advance Authorisation (12 Jan)**

The DGFT had earlier notified a system for monitoring the progress of EODC applications of Advance / EPCG authorisation vide Trade Notice 1/2018-19 dated 4<sup>th</sup> April 2018. The DGFT IT systems have been revamped post which the redemption / EODC details in respect of Advance / EPCG authorisation including IEC details, status of license, redemption applied or approved, details of data transmission, etc are accessible on the DGFT website. Further, in cases where EODC is incorrectly reflected on the system, the exporters are required to confirm the status of past authorisations on DGFT website and upload a copy of the redemption letter.

## **Amendment in Handbook of Procedures with regard to Advance Authorisation (18 Jan)**

The Handbook of Procedures 2015-20 has been amended to simplify the process of levying Composition Fee in case of extension of Export Obligation Period under Advance Authorisation Scheme, and to further digitalize processes. The following changes have been made:

- a. Extension of export obligation for specified inputs with pre-import condition under Appendix-4J has been allowed for a period of not more than half of the stipulated export obligation period, subject to payment of prescribed composition fee.
- b. Extension of export obligation period up to 6 months from the date of expiry of such period subject to payment of prescribed composition fee.
- c. Further extension of 6 months after the first extension subject to payment of prescribed composition fee. No further extension shall be provided and no extension shall be provided beyond 12 months from the date of expiry of the obligation period.
- d. In case a ban / restriction is imposed on export of a product where export obligation period has already been notified prior to the imposition of ban, such period will automatically be extended for a period equivalent to the duration of the ban.
- e. The revised composition fee will only be applicable on requests made after 19<sup>th</sup> January 2023.

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### **Amendment in Handbook of Procedures with regard to SCOMET items (17 Jan)**

The Handbook of Procedures 2015-20 has been amended to allow issuance of authorisation for bulk exports of SCOMET items from an Indian exporter to ‘Stockist’ entity (an entity abroad to whom the SCOMET items are originally exported by Indian principal / wholly owned subsidiary for subsequent transfer to the ultimate end user). However, the Stockist company should be a subsidiary / principal company abroad of the Indian exporter.

### **Extension of export obligation period under EPCG scheme (20 Jan)**

The Handbook of Procedures 2015-20 has been amended to allow extension of the Export Obligation period from the date of expiry, for the number of days the existing EO period of an authorisation falls within 1<sup>st</sup> February 2020 to 31<sup>st</sup> July 2021, without payment of any composition fee. The extension will, however, be subject to 5% additional export obligation in value terms.

### **Amendment in import policy of Urea (24 Jan)**

The Foreign Trade Policy 2015-20 has been amended to allow the import of Urea (for agriculture purposes) on Government account either through designated STEs itself or through any Fertiliser Marketing Entity (FME), authorised by the Department of Fertiliser, by filing a Bill of Entry at the Indian ports.

# Bureau of Indian Standards

## **Amendment of Standard applicable to Acetone (07 Dec)**

The Bureau of Indian Standards notified amendment to the standard **IS 170 : 2022** Acetone — Specification (Fifth Revision) with effect from 30<sup>th</sup> December 2022. However, the previous unamended standard will remain in force concurrently till 29<sup>th</sup> March 2023.

## **Substitution of Standard concerning Food Grade Benzoic Acid (07 Jan)**

The Bureau of Indian Standards has notified substitution of the standard **IS 4448 : 2022** Benzoic Acid, Food Grade — Specification (Second Revision) in place of **IS 4448 : 1994** Benzoic Acid, Food Grade — Specification (First Revision) with effect from 23<sup>rd</sup> December 2022. However, the unamended Standard will remain in force concurrently till 23<sup>rd</sup> June 2023.

## **Substitution of Standards, including for testing of rubber latex, and petroleum products (18 Jan)**

The Bureau of Indian Standards has notified substitution of certain standards including the following with effect from 10<sup>th</sup> January 2023 in substitution of the earlier standards. However, the previous standards will remain in force concurrently till 10<sup>th</sup> February 2023. For a full list of products, please refer to the attached [link](#).

<b>No., Year and Title of the Indian Standard established</b>	<b>No., Year and Title of the Indian Standard withdrawn</b>
<b>IS 8259 : 2023</b> Oxydemeton — Methyl Emulsifiable Concentrates — Specification (First Revision)	<b>IS 8259 : 1976</b> Specification for Oxydemeton – Methyl Emulsifiable Concentrates
<b>IS 9316 (Part 4) : 2023/ISO 124 : 2014</b> Methods of Test for Rubber Latex Part 4 Determination of Total Solids Content	<b>IS 9316 (Part 4) : 1988</b> Methods of Test for Rubber Latex Part 4 Determination of Total Solids Content RL:4
<b>IS 1448 (Part 61) : 2023</b> Methods of Test for Petroleum and its Products Part 61 Determination of the Leakage Tendencies of Automotive Wheel Bearing Greases	<b>IS 1448 (Part 61) : 1974</b> Methods of Test for Petroleum and its Products Part 61 Evaporation Loss in Greases (2-Hour Drying)
<b>IS 2632 : 2023</b> Crotonaldehyde — Specification (First Revision)	<b>IS 2632 : 1964</b> Specification for Crotonaldehyde

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### **Amendment of Standards applicable to certain Agro Textiles (18 Jan)**

The Bureau of Indian Standards has notified amendment to the standard **IS 16190 : 2014** Agro Textiles — High Density Polyethylene (HDPE) Laminated Woven Lay Flat Tube for Irrigation Purpose — Specification with effect from 2<sup>nd</sup> January 2023. However, the previous unamended standard will remain in force concurrently till 1<sup>st</sup> April 2023.

### **Amendment of Standard applicable to Maleic Anhydride (24 Jan)**

The Bureau of Indian Standards has notified amendment to the standard **IS 5149 : 2020** Specification for Maleic Anhydride, Technical (Second Revision) with effect from 16<sup>th</sup> January 2023. However, the previous unamended standard will remain in force concurrently till 15<sup>th</sup> April 2023.

### **Amendment of Standards applicable to Synthetic Micro-Fibres for use in Cement Based Matrix (24 Jan)**

The Bureau of Indian Standards has notified amendment to the standard **IS 16481 : 2022** Textiles — Synthetic Micro-Fibres for Use in Cement Based Matrix — Specification (First Revision) with effect from 16<sup>th</sup> January 2023. However, the previous unamended standard will remain in force concurrently till 15<sup>th</sup> February 2023.

Note from the editor: Our newsletter only includes certain key updates concerning BIS and Quality Control Orders. Other updates during the month can be found on our website, at this [link](#).



# Trade Agreements

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## **India and USA no longer in favour of a mini trade or free trade agreement**

The Indian government has scrapped the talks for a mini trade agreement or free trade agreement with the American Government. Instead the two countries are now ‘thinking big’ and focusing on greater market access and ease of doing business, scaling up trade, investment and business.

## **India’s trade agreement talks with EU and the UK on track**

India’s negotiations for proposed Comprehensive Free Trade Agreements with the UK and European Union are on track. India recently concluded sixth round of talks with the UK and third round with the European Union. The next round of negotiations will be held soon.

## **India and Vietnam to begin talks on trade agreement**

India and Vietnam are set to begin talks on a potential trade agreement. A joint Indo-Vietnamese working group will be formed in the coming months to examine the feasibility of a trade pact.

## **India-Bangladesh to start negotiations for trade agreement**

India and Bangladesh are expected to start negotiations on the proposed Comprehensive Economic Partnership Agreement within the next 2 months. The Ministry of Commerce, Bangladesh has already formed two committees – an Advisory Committee (AC) and an eleven-member Trade Negotiation Committee (TNC).

# Trade Remedial Actions in India

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## **Investigations Initiated**

- Anti-dumping investigation into imports of Printed Circuit Boards (PCB) from China and Hong Kong. (30 Dec)

## **Duties recommended**

- Imposition of anti-dumping duty on imports of Ursodeoxycholic Acid (UDCA) from China and Korea<sup>[2]</sup>. (19 Jan)
- Imposition of anti-dumping duty on imports of Vinyl Tiles, other than in roll or sheet form from China and Taiwan<sup>[3]</sup>. (23 Jan)

## **Customs Notifications**

- Extension of anti-dumping duty on imports of Fishing Nets from China till 9<sup>th</sup> July 2023. (06 Jan)

## **Change of name of exporter in duty table**

- Amendment in the duty table to modify the name of exporter from Aekyung Petrochemical Co., Ltd. to Aekyung Chemical Co., Ltd in the customs notification imposing anti-dumping duty on Phthalic Anhydride from China, Indonesia, Korea and Thailand. (25 Jan)

# Trade Remedial Actions in Other Countries

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## **Chapter 25 - Salt; sulfur; earths and stone; plastering materials, lime and cement**

### USA

- Final affirmative determination by USITC in the sunset review of the anti-dumping duty on imports of Gray Portland Cement and Cement Clinker from Japan. (26 Jan)

## **Chapter 28 - Inorganic chemicals**

### **Trade remedial actions against India**

#### USA

*Final affirmative determinations by USDOC in the anti-dumping and anti-subsidy investigations into imports of Sodium Nitrite from India. (06 Jan)*

The USDOC has published its final determinations, wherein it has determined the dumping margin for Deepak Nitrite Limited and other exporters as 44.82%, reduced from 58.13% as determined in preliminary determination. Further, a net subsidy rate of 2.40% was determined, reduced from 12.88% as determined in the preliminary determination.

*Final negative determination by USDOC in the anti-dumping investigation and final affirmative determination in the anti-subsidy investigation into imports of Barium Chloride from India. (06 Jan)*

The USDOC has determined that the imports of Barium Chloride from India were not being dumped into the US, by the Indian exporters. However, the USDOC determined that the Indian exporters received countervailable subsidies for exports to the US. Accordingly, a net subsidy rate of 23.57% was determined for Chaitanya Chemicals and other parties.

## **Chapter 32 - Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes**

### **Trade remedial actions against India**

#### USA

*Initiation of new shipper review concerning anti-dumping duty on imports of Carbazole Violet Pigment 23 from India. (27 Jan)*

The USDOC has initiated a new shipper review concerning exports made by Sudarshan Chemical Industries Limited. The request for the review was made by Navpad Pigments

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Private Limited and Sudarshan Chemical Industries Limited. However, the request by Navpad Pigments was rejected since U.S. Customs and Border Protection data indicated that Navpad Pigments had exported goods to the US during the period of review, which was from 1<sup>st</sup> December 2021 till 30<sup>th</sup> November 2022.

### **Other trade remedial actions**

#### **USA**

- Termination of sunset review by USITC of anti-dumping duty on imports of Stilbenic Optical Brightening Agents from China and Taiwan. (04 Jan)

### **Chapter 40 - Rubber and articles thereof**

#### **USA**

- Final negative determination by USITC in the anti-dumping investigation into imports of Emulsion Styrene-Butadiene Rubber from Czechia and Russia. (04 Jan)

### **Chapter 54 – Man-made filaments**

#### **Turkey**

- Initiation of anti-circumvention investigation of anti-dumping duty on imports of Woven Fabrics from Synthetic Filament Yarn from China, but exported through the European Union (except Bulgaria, Cyprus and Greece), North Macedonia and Bosnia and Herzegovina. (24 Jan)

### **Chapter 55 – Man-made staple fibres**

#### **Turkey**

- Initiation of anti-circumvention investigation of anti-dumping duty on imports of Woven Fabrics from Synthetic or Artificial Staple Fibre from China, but exported through European Union (except Bulgaria, Cyprus and Greece) and North Macedonia. (24 Jan)

### **Chapter 56 - Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof**

#### **Turkey**

- Initiation of anti-circumvention investigation of anti-dumping duty on imports of certain Non-Woven Fabrics from China, but exported through North Macedonia. (24 Jan)

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## **Chapter 59 - Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use**

### **Turkey**

- Initiation of anti-circumvention investigation of anti-dumping duty on imports of Fabrics, Impregnated, Coated, Covered or Laminated with Polyurethane, Imitation Leather or other from China, but exported through Bulgaria, France and North Macedonia. (25 Jan)

## **Chapter 68 - Articles of stone, plaster, cement, asbestos, mica or similar materials**

### **Trade remedial actions against India**

#### **USA**

*Final affirmative determination by USDOC in the administrative review of anti-dumping duty on imports of certain Quartz Surface Products from India. (09 Jan)*

The USDOC has issued affirmative determination in the administrative review of anti-dumping duty on imports from India. The period of review for the investigation was 13<sup>th</sup> December 2019 to 31<sup>st</sup> May 2021. It determined a negative dumping margin for Pokarna Engineered Stone Limited, 323.12% for Antique Marbonite Private Limited, Shivam Enterprises and Prism Johnson Limited and 3.19% for all the non-selected companies.

## **Chapter 72 – Iron and Steel**

### **Trade remedial actions against India**

#### **USA**

*Continuation of anti-dumping duty on imports of Stainless Steel Wire Rods from India. (05 Jan)*

Based on the affirmative determinations by both the USDOC and the USITC, the USDOC has issued order for continuation of anti-dumping duty on imports from India. Pursuant to the review, it was determined that the Indian exporters have continued to dump the goods in USA and that revocation of the order is likely to lead to a continuation or recurrence of material injury to the US industry. The duties were first imposed in December 1993.

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## **Other trade remedial actions**

### **United Kingdom**

- Initiation of review of safeguard measures in the form of tariff rate quota imposed on Category 13 Steel – Rebar from Egypt, Oman and United Arab Emirates. (16 Jan)

### **USA**

- Initiation of anti-dumping and anti-subsidy investigations by USITC into imports of Tin Mill Products from Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and United Kingdom. (18 Jan)
- Final affirmative determination by USITC in the sunset review of anti-dumping duty on imports of Steel Concrete Reinforcing Bar from Japan, Taiwan and Turkey. (25 Jan)
- Final affirmative determination by USITC in the sunset review of anti-dumping duty on imports of Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, China, France, Germany, Italy, Japan, South Africa, South Korea, Taiwan, and Turkey and of anti-subsidy duty on imports from China and South Korea, and final negative determination for imports from Brazil. (31 Jan)

## **Chapter 73 – Articles of Iron and Steel**

### **Trade remedial actions against India**

#### **USA**

*Initiation of sunset review by USDOC of anti-dumping duty on imports of certain Welded Carbon Steel Pipes and Tubes from India, Thailand and Turkey. (03 Jan)*

The USDOC has initiated a sunset review of anti-dumping duty on imports from India. This is the fifth sunset review of the duty. The original duties were imposed on 12<sup>th</sup> May 1986 and have been in place for more than three decades.

*Initiation of sunset review of anti-dumping duty on imports of Cold-Drawn Mechanical Tubings from China, Germany, India, Italy, South Korea and Switzerland, and anti-subsidy duty on imports from China and India. (03 Jan)*

The USDOC and the USITC have initiated a sunset review of anti-dumping duty on imports from India. In the original investigation concluded in 2018, the USDOC determined a dumping margin ranging from 8.26% to 33.80% for Indian exporters and a net subsidy rate ranging from 8.02% to 42.60%.

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*Initiation of administrative review by USDOC of anti-dumping and anti-subsidy duties on imports of Welded Stainless Pressure Pipes from India. (03 Jan)*

The USDOC has initiated an administrative review of anti-dumping and anti-subsidy duties on imports from India. In the previous review, the USDOC determined a dumping margin of 34.32% for Ratnamani Metals and Tubes Limited and all other parties. The previous review of anti-subsidy duties was, however, terminated on 11<sup>th</sup> May 2020.

*Final affirmative determination by USDOC in the administrative review of anti-dumping duty on imports of certain Cold-Drawn Mechanical Tubings of Carbon and Alloy Steel from India. (09 Jan)*

The USDOC has issued its final determination in the administrative review of anti-dumping duty on imports from India. The period of review for the investigation was from 1<sup>st</sup> June 2020 to 31<sup>st</sup> May 2021. It determined that Tube Products of India, Ltd., a unit of Tube Investments of India Limited (collectively, TII) was dumping the subject goods in the US. USDOC determined a dumping margin of 16.80% for TII.

### **Other trade remedial actions**

#### **European Union**

- Initiation of expiry review of the anti-dumping duty on imports of Cast Iron Articles from China. (27 Jan)

#### **Malaysia**

- Initiation of sunset review of anti-dumping duty on imports of Cold Rolled Stainless Steel in Coils, Sheets or any other form from China, Korea, Taiwan and Thailand. (31 Jan)

#### **USA**

- Initiation of sunset review by USDOC of anti-dumping duty on imports of certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan and anti-subsidy duty on imports from Turkey. (03 Jan)
- Initiation of sunset review of anti-dumping duty on imports of Circular Welded Non-Alloy Steel Pipes from Brazil, Mexico, Korea and Taiwan. (03 Jan)
- Initiation of sunset review of anti-dumping duty on imports of Seamless Line and Pressure Pipes from Germany. (03 Jan)
- Termination of anti-dumping investigation by USITC on imports of Steel Nails from Sri Lanka. (03 Jan)
- Revocation of anti-dumping and anti-subsidy duties on imports of High Pressure Steel Cylinders from China. (20 Jan)

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## **Chapter 74 – Copper and articles thereof**

### **Canada**

- Initiation of sunset review investigation by CBSA and CITT of anti-dumping and anti-subsidy duties on imports of certain Copper Pipe Fittings from Vietnam. (16 Jan)

### **USA**

- Final affirmative determination by USDOC in the sunset review of anti-dumping duty on imports of Brass Sheets and Strips from France, Germany, Italy and Japan. (03 Jan)

## **Chapter 76 – Aluminium and articles thereof**

### **Vietnam**

- Continuation of anti-dumping duty on imports of certain Aluminium products from China. (19 Jan)

## **Chapter 81 - Other base metals; cermets; articles thereof**

### **USA**

- Initiation of sunset review by USITC of anti-dumping duty on imports of Pure Granular Magnesium from China. (27 Jan)

## **Chapter 84 - Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof**

### **USA**

- Initiation of anti-subsidy investigation into imports of Gas Powered Pressure Washers from China and anti-dumping investigation into imports from Vietnam (25 Jan)



# 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.

In its first two decades, TPM was primarily 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 also assists 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 represents 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 China, Argentina, Brazil, Canada, Egypt, European Union, GCC, Indonesia, South Korea, Turkey and USA.

In the last few years, TPM's reputation has grown in other fields of non-tariff barriers, policy advocacy matters, foreign trade policy, business consulting and litigation. Its vast experience with industry leaders in various sectors puts it in a unique position to effectively and efficiently handle matters relating to policy advocacy before various government forums as well as business consulting. This has brought new avenues of growth for the TPM team and has helped industry find innovative solutions to complex problems.

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