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# ADHYATAN

## TPM NEWSLETTER

**March 2023**

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- ◆ Substantial transformation test applied for determination of Country of Origin by US Court
- ◆ Concept of single economic entity and its application in the context of dumping margin, subsidy margin and scope of domestic industry
- ◆ European Court rules on consideration of subsidies conferred by the government of a third country in the territory of the country of origin or export

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# Key Highlights

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## India

### **Government launches Product Linked Incentive (PLI) Scheme for Pharmaceutical Sector (21 Feb)**

Department of Pharmaceuticals, Ministry of Chemicals and Fertilizers issued the first tranche of incentives under the PLI scheme of Pharmaceuticals amounting to ₹166 crores to four selected applicants. The Department of Pharmaceuticals had earlier launched the PLI scheme for pharmaceuticals in 2021 with an outlay of ₹15,000 crore, in a bid to make the pharmaceutical sector self-reliant. The duration of the scheme announced was from financial year 2020-21 to financial year 2028-29, which included the period for processing of applications (2020-21), optional gestation period of one year (2021-22), incentive for 6 years and period for disbursement of incentive for sales (2028-29). Following the announcement, production of 22 active pharmaceutical ingredients (API)/ bulk drugs used for the manufacturing of life-saving drugs and high-end medical devices like CT scan and MRI machines, have been commenced.

## Global

### **US Court of International Trade (USCIT) emphasize change in name, character and use as test for determination of Country of Origin**

In the matter of Cyber Power Systems (USA) Inc. v. US, the USCIT dealt with issue of Country of Origin and the principle of 'substantial transformation'. The Plaintiff, Cyber Power Systems approached the USCIT challenging the Custom's exclusion of entry of Uninterruptible Power Supplies (UPS) and Surge Voltage Protectors (SVP) for refusal to change the Country of Origin. The Customs had previously determined that though the products were marked as 'manufactured in Philippines', they did not undergo substantial transformation in Philippines. Rather, since the manufacturing of its components was undertaken in China, they were considered as originating in China.

Pursuant to trial, the USCIT held that the production of a certain model of the UPS in Philippines satisfied all prongs of the substantial transformation test: Change in name, character, and use. As such, the Country of Origin for that model would be considered as Philippines. As regards the other products, the USCIT was not convinced by the exhibits and evidence presented during trial and found that the Country of Origin would be considered as China, as determined by the US Customs.

# Concept of Single Economic Entity: The Indian Practice

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- Single economic entity refers to a situation where two or more parties are treated as one consolidated economic unit, irrespective of independent legal status, due to relationship between the parties or otherwise.
- In the context of dumping margin, the concept of single economic entity is relevant for determination of export price where goods are exported to India through a related exporter, or are sold to a related importer in India.
- The issue is also relevant where the foreign producer sells goods to a related party in their home market, or has a related producer.
- In such cases, the price or cost of transfer between related parties comes into question, since it may be unreliable due to the relationship.
- In anti-subsidy cases, related parties are relevant in case of any procurement of raw materials or other inputs by a producer from such parties, in those cases where it is considered that subsidy received by the related party may have been transferred to the producer of the product under consideration.
- In the context of domestic industry, while DGTR has considered related domestic producers to be a single economic entity; where a producer was selling the goods to its related entity, the two entities were not considered constituting a single economic entity.

Since trade remedial investigations involve reference to a significant cost and pricing information, a key issue that arises is the treatment of transactions between related parties. Normally, the transactions between related parties are not considered reliable for determination of cost or price. Thus, either the price is compared to prices between independent parties to verify such prices are on arm's length basis, or may even be outrightly rejected. This is because in case of related parties, they are not treated as independent parties but considered as a part of single economic entity.

The Single Economic Doctrine means that two or more related entities / group companies act as a consolidated economic unit for the purpose of a particular law. While the concept of separate legal entity is prevalent under the Companies Act, the same may not necessarily be applicable for the purpose of the trade remedial investigations.

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The concept of the Single Economic Doctrine was enumerated by the European Commission in 1960s and has been accepted in India also. In fact, the practice of treating related entities as a single economic entity is being followed in effect by most member countries of WTO for the purpose of trade remedial investigations, including USA, Australia, Brazil, Argentina, Canada, etc. The same concept is reflected in the essence of the Indian law and practice, in most aspects.

### **Single economic entity in the context of dumping margin**

The concept of single economic entity is an inherent aspect of the determination of normal value, export price and landed price.

In order to determine the export price, the DGTR normally considers the price at which the foreign producer sells the product under consideration in India. However, in case the export price is found to be unreliable due to relationship between the exporter and importer, the DGTR may calculate the export price based on the price at which the imported articles are first resold to an independent buyer. Thus, a foreign producer and related importer in India are effectively considered as a single economic entity and accordingly, the price of transaction between them may not be considered as reliable for forming basis of the net export price. The same principle is followed in the determination of landed price.

The DGTR considers related producers and exporters as a single economic entity and thus the price of the transaction between them is often disregarded for determination of dumping margin. This is due to the fact that, in case of related producer and exporter, it is possible that a producer may have sold at a higher price to the exporter, who may in turn have sold at a lower price. Further, since some of the direct selling and distribution expenses may borne by the exporter, determination of ex-factory prices would require adjustment of expenses, irrespective of whether incurred by producer or exporter.

Same approach is followed for the determination of normal value as well. Since the DGTR considers only prices of domestic sales in the ordinary course of trade for determination of dumping margin, any sale to a related party may be disregarded in the determination of normal value.

Lastly, in case of two or more related entities producing the product under consideration in a subject country, the DGTR considers the said producers as a single economic entity, and awards them a single margin or single duty.

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### **Single economic entity in anti-subsidy cases**

In an anti-subsidy investigation, the DGTR seeks details from the foreign producer regarding the subsidies received by it as well as certain related parties. The concept of single economic entity is applied by the DGTR in such cases as the information is obtained in order to assess whether subsidies received by the related entity have been passed through to the producer of product under consideration, through the procurement of raw materials or other inputs from such related entity. This is done in a similar manner as that for the subsidies received by the producer itself for the captive input of the product under consideration. Thus, by treating the related entities as single economic entity, the DGTR assesses the amount of subsidy passed through by the related entity to the producer of the product under consideration, through transfer of raw material and other inputs, including equity.

### **Single economic entity in the context of domestic industry**

In India, treatment of related entities as a single economic entity in the context of domestic industry is a relatively complicated issue, with there being less clarity than that in the case of exporters and importers. While the concept of single economic entity was consistently applied for foreign producers, exporters and importers, the impact of the concept on the scope of domestic industry has been examined in very few cases.

The first of the recent cases where such issue was discussed was the case of Glass Fibre from China, where DGTR treated two related domestic producers as a single related entity. While one of the producers had closed down during the injury period, the other one was the sole petitioner that was actually producing the like article in India during the period of investigation. It was heavily contended by some interested parties that since one of the producers had closed down already, it was no longer a “domestic producer” and thus, should not form part of domestic industry. The DGTR treated both the producers as part of the domestic industry by applying the concept of a single economic entity.

Another case where this issue was extensively discussed was that of Vinyl Tiles from China, Taiwan and Vietnam. In this case, a group of companies, including the entity undertaking production, the entity undertaking, inter alia, sales and marketing, and the holding company of both the entities were co-petitioners. While the petitioners argued that they should be treated as a single economic entity and thus, be cumulatively considered as part of the domestic industry; other interested parties contended that only

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the entity undertaking production can be considered as a domestic producer and thus, form part of domestic industry. The DGTR only considered the entity undertaking production as part of domestic industry.

Interestingly, the DGTR also considered that prices of transactions between the two parties to be representative for determination of costs, prices and profitability. In particular, the DGTR has noted that the concept of single economic entity while applied to producers, exporters and importers, may not necessarily have an implication on the scope of domestic industry.

The concept of single economic entity has emerged as one of the most important concepts in case of trade remedial investigations. Without the said concept, the investigating authorities around the globe will not be able to accurately assess the dumping, subsidization and the quantum of duties. However, the approach taken in the Vinyl Tiles case has given a new flavour to the debate, on whether and to what extent such principle should be applied in trade remedial investigations.

– Aastha Gupta, Joint Partner  
Salil Arora, Senior Associate



# From the Courtroom

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**Judgment of General Court**  
**Hengshi Egypt Fiberglass Fabrics SAE and Jushi Egypt for Fiberglass**  
**Industry SAE**  
**Versus**  
**European Commission**

Order dated 1<sup>st</sup> March 2023

- In case of subsidies received by related parties, the total amount of benefit received can be divided by the combined turnover, to calculate subsidy margin.
- To be considered countervailable, it is not necessary that the financial contribution be conferred by the government of the country of origin or export. The provision does not preclude the possibility of a financial contribution by a third country being attributed to the country of origin or export.
- Where no relevant information concerning benchmarks was provided by the government of exporting country or public body, the Authority may proceed on the basis of facts available.
- Where duty was not collected of imports of raw materials by virtue of the exporter being located in a special customs zone, such duty foregone can be considered countervailable.

Hengshi Egypt Fiberglass Fabrics SAE and Jushi Egypt for Fiberglass Industry SAE approached the General Court of Europe, requesting annulment of the regulation of 2020 imposing anti-dumping and countervailing duties on Woven and/or Stitched Glass Fibre Fabrics from China PR and Egypt. Pursuant to an investigation initiated on 16<sup>th</sup> May 2019, such producers / exporters were subjected to a countervailing duty of 10.9% on imports of Glass Fibre Fabrics into European Union.

In the first part of the plea, the Applicants alleged that the methodology of the Commission to determine the countervailable subsidies was incorrect. The Applicants alleged that the Commission should have calculated the amount of countervailable subsidies in terms of benefits conferred on each company individually and then determine the weighted average of the subsidies received. Instead, the Commission considered the total subsidies received by both the companies and divided them by combined total turnover of the said companies. They alleged that appropriate calculation



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would have resulted in subsidy margin being much less than that determined by the Commission. The Commission rebutted the submission by stating as related entities, the companies could use the benefits interchangeably. It was also submitted that as per codified Guidelines, when choosing the denominator used to allocate the amount of subsidy which is not limited to a particular product, the denominator should be the recipient's total sales. Since both the companies belong to the same group their total sales was considered. The Court rejected the plea by holding that the Applicants failed to provide sufficient evidence to rebut the methodology employed by the Commission.

The Applicants also alleged that the Commission erred in determination of total subsidies granted to the Applicants. In order to be a countervailable subsidy, the government granting financial contribution and financial contribution itself must be within the territory of the country of origin or export. Thus, Chinese subsidies provided in SETC Zone of Egypt should not be considered. The Court in this regard noted that the words "within the territory of a country" does not imply that the financial contribution must come directly from the government of the country of origin or export. Such financial contribution may be attributed to the country of origin or exports. The provision does not preclude the possibility of financial contribution granted by a third country and being attributed to the government of the country of origin or exports. This is especially true in the present case where Government of China and Government of Egypt worked closely to establish the SETC Zone.

The next allegation raised was that the benchmark considered by the Commission for land was not appropriate. While the applicants purchased undeveloped land, the Commission considered the benchmark as Egypt TEDA's investment cost for expansion zone as benchmark. The Commission contended that the publicly available information of the zone, in which the applicants were established, was considered. The total cost of development of 6 km<sup>2</sup> land in the same area was considered by the Commission. The Commission also considered the profit margin of the developer. Further, the Commission held that while Jushi did not purchase land with buildings, the land already had all necessary utilities such as roads, sewage treatment, public lighting, security etc. which are likely to effect the value of the land. While the Commission called information of undeveloped land from Government of Egypt and Egypt TEDA, no information was furnished. Based on the contention of the Commission, the Court held that the Commission did not err in considering the information available to it in determining the benchmark for land.

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The Applicants also contended that the Commission was wrong to determine that Government of Egypt had foregone revenue for imported materials used by Jushi to produce raw materials sold to Hengshi. Jushi did not have to pay customs duties on imports of the product regardless it was situated in the SCZone or under the generally applicable Egyptian Laws wherein it would have received duty drawback. The Commission contended that there was no effective and proper duty drawback system in place and the special zone in which the applicants were situated was not a standard export-processing zone. The Commission held that, in case Jushi was located in the domestic market of Egypt, it would have to pay the customs duty. The Court held that the Commission did not err in findings that the Government of Egypt had foregone revenue in this regard.

In view of the above, the Court dismissed the application, and upheld the decision of the Commission.

# Foreign Trade Policy

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## **Alignment of RoDTEP schedule for certain chapters with First Schedule of the Customs Tariff Act, 1975 (07 Feb)**

Based on the recommendation of the RoDTEP Committee, the Central Government has aligned the RoDTEP schedule for Chapter 28, 29, 30 and 73 with the First Schedule of the Customs Tariff Act, 1975. The revised schedule will be effective from 15<sup>th</sup> February 2023 and will be applicable for exports made from 15<sup>th</sup> February 2023 to 30<sup>th</sup> September 2023.

## **Allocation of quota of import of Calcined Pet Coke and Raw Pet Coke for the year 2023-24 notified (14 Feb)**

The DGFT has notified the guidelines / procedure for implementation of restrictions imposed on imports of Calcined Pet Coke and Raw Pet Coke for the year 2023-24. The annual quantity limitation for import is 0.5 million tons for Calcined Pet Coke for use as Calcined Pet Coke in Aluminium industry; and 1.5 million MT of Raw Pet Coke for CPC manufacturing industry. The imports shall be subject to guidelines laid down by Ministry of Environment, Forest and Climate Change. The procedure is available at the link [herein](#). The last date for filing application was 28<sup>th</sup> February 2023.

## **Processing of pending MEIS / SEIS applications (20 Feb)**

The DGFT has notified that any application received by Regional Authorities (RAs), which was deficient due to being filed in the incorrect jurisdiction, shall be re-opened and examined for merits / additional documents by such RAs. RAs have also been directed to provide an opportunity of personal hearing to the applicants, before rejecting any case. A circular was issued to this effect pursuant to representations by applicants and RAs, concerning multiple applications being pending as deficient on account of being filed at the wrong jurisdiction. In issuing the circular, the DGFT took cognizance of the fact that the MEIS and SEIS schemes have already been discontinued, and transfer / migration of files at this stage from one RA to another may be time-consuming and unfeasible.

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### **Relaxation granted to cover excess duty utilised in EPCG (24 Feb)**

Vide notice dated 13<sup>th</sup> April 2022, the DGFT had allowed any holder of EPCG license to pay an additional fee to cover any excess duty benefit utilized at the time of application for EODC under Foreign Trade Policy 2015-20. This was allowed in those cases where the excess duty utilized exceeded the license amount by not more than 10%. The benefit has now been extended to licenses issued under Foreign Trade Policy 2009-14. The export obligation shall automatically stand enhanced proportionately.

### **Amendment in Handbook of Procedures with regard to export obligation period (28 Feb)**

The DGFT has amended the Handbook of Procedures 2015-20 to notify a slab-wise composition fee applicable for all decisions of the Policy Relaxation Committee (PRC) involving levy of Composition Fee in case of extension of Export Obligation Period and / or regularisation of exports already made under Advance Authorization Scheme. No refund of Composition Fee paid earlier shall be admissible.

# Bureau of Indian Standards

## Substitution of Standards (02 Feb)

The Bureau of Indian Standards has notified substitution of certain Standards, including the following, with effect from 26<sup>th</sup> January 2023 in substitution of the earlier Standards. However, the previous Standards remained in force concurrently till 26<sup>th</sup> February 2023. For a full list of products, please refer to the attached [link](#).

No., Year and Title of the Indian Standard established	No., Year and Title of the Indian Standard withdrawn
<b>IS 5074 : 2023/ISO 1099 : 2020</b> Metallic Materials – Fatigue Testing – Axial Force-Controlled Method (First Revision)	<b>IS 5074 : 1969</b> Method of Axial Load Fatigue Testing of Steel
<b>IS 7212 : 2023</b> Methods of Determination of Copper (First Revision)	NA

## Amendment of Standards (09 Feb)

The Bureau of Indian Standards has notified amendment to the following Standards with effect from 30<sup>th</sup> January 2023. However, the previous unamended Standards will remain in force concurrently till 29<sup>th</sup> April 2023.

- **IS 17261 : 2022** Textiles - Polyester Continuous Filament Fully Drawn Yarns - Specification (First Revision)
- **IS 17263 : 2022** Textiles - Polyester Staples Fibres - Specification (First Revision)

## Substitution of Standards (16 Feb)

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

No., Year and Title of the Indian Standard established	No., Year and Title of the Indian Standard withdrawn
<b>IS 7016 (Part 8) : 2023/ISO 1419 : 2019</b> Methods of Test for Rubber or Plastics Coated Fabrics Part 8 Accelerated Ageing (First Revision)	<b>IS 7016 (Part 8) : 1975</b> Methods of Test for Coated and Treated Fabrics Part 8 Accelerated Ageing

<b>No., Year and Title of the Indian Standard established</b>	<b>No., Year and Title of the Indian Standard withdrawn</b>
<b>IS 3708 (Part 4) : 2023/ISO 125 : 2020</b> Methods of Test for Natural Rubber Latex Part 4 Natural Rubber Latex Concentrate – Determination of Alkalinity (Fourth Revision)	<b>IS 3708 (Part 4) : 2016/ISO 125 : 2011</b> Methods of Test for Natural Rubber Latex Part 4 Natural Rubber Latex Concentrate – Determination of Alkalinity (Third Revision)
<b>IS 7016 (Part 11) : 2023/ISO 5979 : 1982</b> Methods of Test for Rubber or Plastics Coated Fabrics Part 11 Determination of Flexibility – Flat Loop Method (First Revision)	<b>IS 7016 (Part 11) : 1987</b> Methods of Test for Coated and Treated Fabrics Part 11 Determination of Flexibility – Flat Loop Method

### **Substitution of Standards (16 Feb)**

The Bureau of Indian Standards has notified substitution of certain Standards, including the following, with effect from 10<sup>th</sup> February 2023 in substitution of the earlier standards. However, some of the previous standards will remain in force concurrently till 16<sup>th</sup> March 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 7016 (Part 3/Sec 2) : 2023/ISO 4674-2 : 2021</b> Methods of Test for Rubber or Plastics Coated Fabrics	<b>IS 7016 (Part 3/Sec 2) : 2017/ISO 4674-2 : 1998</b> Methods of Test for Coated and Treated Fabrics Part
<b>IS 8877 : 2023</b> Acetoacetic Methyl Ester – Specification (Third Revision)	<b>IS 8877 : 2017</b> Acetoacetic Methyl Ester – Specification (Second Revision)
<b>IS 15134 : 2023</b> 2-Nitro-4-Methoxyaniline, Technical – Specification (First Revision)	<b>IS 15134 : 2002</b> 2-Nitro-4-Methoxy Aniline, Technical – Specification

### **Substitution of Standards (16 Feb)**

The Bureau of Indian Standards has notified substitution of certain standards, including the following, with effect from 10<sup>th</sup> February 2023 in substitution of the earlier standards. However, the previous standards will remain in force concurrently till 10<sup>th</sup> March 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 1796 : 1986</b> Specification for Glycerine (Second Revision)	<b>IS 1796 : 1986</b> Specification for Glycerine (Second Revision)

### **Amendment of Standards (17 Feb)**

The Bureau of Indian Standards has notified amendment to the Standard **IS 3502 : 2009** Steel Chequered Plates (Third Revision) with effect from 10<sup>th</sup> February 2023. However, the previous unamended Standards will remain in force concurrently till 9<sup>th</sup> May 2023.

### **Amendment of Standards (17 Feb)**

The Bureau of Indian Standards has notified amendment to the following Standards with effect from 10<sup>th</sup> February 2023. However, the previous unamended Standards will remain in force concurrently till 9<sup>th</sup> May 2023.

- **IS 17262 : 2022** Textiles – Polyester Partially Oriented Yarn (POY) – Specification (First Revision)
- **IS 17264 : 2022** Textiles – Polyester Industrial Yarns – Specification (First Revision)

### **Amendment of Standards (17 Feb)**

The Bureau of Indian Standards has notified amendment to the standard **IS 16415 : 2015** Composite Cement – Specification with effect from 10<sup>th</sup> February 2023. However, the previous unamended Standards will remain in force concurrently till 9<sup>th</sup> August 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 Israel moving forward to finalise Free Trade Agreement.**

Israel's Ambassador recently said that India and Israel are both keen on finalizing the proposed free trade agreement pact. The Ambassador indicated that there is an upcoming 'high-level' visit to move forward the agreement.

## **India and Switzerland to put the India – European Free Trade Association Agreement on fast track**

As India and Switzerland celebrate 75 years of their friendship treaty this year, the Swiss government is seeking to put the talks on the India-European Free Trade Association trade deal on the fast track. The country hopes to seal the agreement this year. The State Secretary of the State Secretariat of Economic Affairs and Indian origin member of the Swiss Parliament will be traveling to India to discuss the negotiations with Hon'ble Shri Piyush Goyal.

## **India-Australia comprehensive negotiations begin in February**

After implementing an interim deal in December, India and Australia have begun the negotiations for the India-Australia comprehensive economic cooperation agreement from February.

## **India and UK to close the seventh round of FTA negotiations soon**

The seventh round of the India-UK free trade agreement are currently underway in London and are expected to be concluded soon on a positive note. The sixth round of negotiations were conducted in Delhi in December 2022.

# Trade Remedial Actions

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## **Chapter 11 – Products of the milling industry; malt; starches; inulin; wheat gluten**

### Madagascar

- Initiation of safeguard investigation into imports of Wheat or Meslin Flour. (18 Feb)

## **Chapter 20 – Preparations of vegetables, fruit, nuts or other parts of plants**

### Brazil

- Continuation of anti-dumping duty on imports of Frozen Potatoes from Belgium, France, Germany and the Netherlands. (16 Feb)

### USA

- Imposition of anti-dumping duty on imports of certain Lemon Juice from Brazil and South Africa. (16 Feb)

## **Chapter 28 – Inorganic chemicals**

### Trade remedial actions against India

#### USA

*Final affirmative determination by the USITC in the anti-subsidy investigation into imports of Barium Chloride from India. (17 Feb)*

The USITC has determined that the U.S. industry was materially injured due to imports of subsidized merchandise from India. The Commission instituted the investigation on 12<sup>th</sup> January 2022, following petition filed by Chemical Products Corp., Cartersville, Georgia. The USDOC will now issue orders for imposition of duties.

*Imposition of anti-dumping and anti-subsidy duties on imports of Sodium Nitrite from India. (27 Feb)*

The USDOC has issued orders for imposition of anti-dumping and anti-subsidy duties following the final affirmative determination by the USITC. The USDOC has determined a dumping margin as 44.82%, reduced from 58.13% determined in preliminary determination. Further, a net anti-subsidy rate of 2.40% was determined, reduced from 12.88% as determined in the preliminary determination.

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## **Chapter 28 – Inorganic chemicals**

### **Turkey**

- Initiation of sunset review of anti-dumping duty on imports of Sodium Percarbonates from Germany and Sweden. (25 Feb)

## **Chapter 29 – Organic Chemicals**

### **Trade remedial actions by India**

*Affirmative determination by the DGTR in the sunset review of anti-dumping duty on imports of Saturated Fatty Alcohols from Indonesia, Malaysia and Thailand. (02 Feb)*

DGTR recommended continuation of anti-dumping duty on imports of Saturated Fatty Alcohol from Indonesia, Malaysia and Thailand for a further period of 5 years. The application for initiation of sunset review investigation was filed by VVF India Limited. The current anti-dumping duty is in force till 24<sup>th</sup> September 2023. DGTR held that despite the anti-dumping duty in force, the subject imports increased over the injury period and the Indian industry suffered material injury in terms of decline in share, sales, profitability, and return on capital employed.

*Final affirmative determination by the DGTR in the anti-subsidy investigation into imports of Saturated Fatty Alcohols from Indonesia, Malaysia and Thailand. (07 Feb)*

DGTR recommended imposition of anti-subsidy duty on imports of Saturated Fatty Alcohol from Indonesia, Malaysia and Thailand for a further period of 5 years. The application for initiation of anti-subsidy investigation was filed by VVF India Limited. DGTR held that the product under consideration has been exported to India at subsidized price due to which the Indian industry is suffering injury in terms of decline in sales, decline in market share, cash losses and negative return on investment.

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

### **China**

*Initiation of sunset review of anti-dumping duty on imports of O-Chlorine-Nitroaniline from India. (12 Feb)*

The MOFCOM has initiated a sunset review of anti-dumping duty on imports from India. This is the first sunset review of the duty. The original duty was imposed on 12<sup>th</sup>

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February 2018, wherein the MOFCOM had imposed a duty of 31.4% for Aarti Industries Limited and 49.9% for all other parties.

#### Other trade remedial actions

#### USA

- Continuation of anti-dumping duty on imports of Chlorinated Isocyanurates from China and Spain. (22 Feb)
- Continuation of anti-dumping duty on imports of Furfuryl Alcohol from China. (28 Feb)

### **Chapter 31 – Fertilisers**

#### USA

- Affirmative determination by the USITC in sunset review of anti-dumping and anti-subsidy duties on imports of Ammonium Sulfate from China. (08 Feb)

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

#### Trade remedial actions against India

#### China

*Imposition of anti-dumping duty on imports of Phthalocyanine Pigments from India. (24 Feb)*

The MOFCOM has published its final determinations, wherein it has imposed anti-dumping duty on imports from India. The MOFCOM has determined individual dumping margins for Meghmani Organics Limited, Ramdev Chemical Industries and Dhanveen Pigments Private Limited as 18.7%, 11.9% and 14.1% respectively. For other companies that cooperated with the investigation, the MOFCOM has determined a dumping margin of 16% and a margin of 30.7% has been determined for all other non-cooperative producers.

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

### **USA**

*Initiation of administrative review by the USDOC of anti-dumping duty on imports of Carbazole Violet Pigment 23 from India. (03 Feb)*

The USDOC has initiated an administrative review of anti-dumping duty on imports from India. In the previous review, the USDOC determined that Pidilite Industries Limited, a producer/exporter of Carbazole Violet Pigment 23 (CVP 23) from India, did not sell subject merchandise at prices below normal value.

## **Chapter 39 – Plastics and articles thereof**

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

#### **USA**

*Final negative determination by the USDOC in the administrative review of anti-dumping duty on imports of Polyethylene Terephthalate Films, Sheets, and Strips (PET Film) from India. (02 Feb)*

The USDOC has determined that the Indian producers did not dump the merchandise in the U.S. during the period of review, 1<sup>st</sup> July 2020 to 30<sup>th</sup> June 2021. The USDOC determined 0% margin for both selected respondents, Jindal Poly Films Limited and SRF Limited.

### **Other trade remedial actions**

#### **Brazil**

- Initiation of sunset review of anti-dumping duty on imports of PET films from Mexico, Turkey and UAE. (23 Feb)

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

#### **Brazil**

- Continuation of anti-dumping duty on imports of Agricultural Tyres from China. (16 Feb)

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## **Chapter 48 – Paper and paperboard; articles of paper pulp, of paper or paperboard**

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

#### **USA**

*Initiation of sunset review of anti-dumping duty on imports of Lined Paper Products from China and India and anti-subsidy duty on imports from India. (01 Feb)*

The USDOC has initiated a sunset review of anti-dumping and anti-subsidy duties on imports from India. This is the third sunset review of the duty. The original duties were imposed in September 2006 and have been in place for more than a decade.

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

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

#### **USA**

*Initiation of sunset review of anti-dumping duty on imports of Fine Denier Polyester Staple Fiber from China, India, Indonesia, South Korea and Taiwan and anti-subsidy duty on imports from China and India. (01 Feb)*

The USDOC and USITC have initiated a sunset review of anti-dumping and anti-subsidy duties on imports from India. This is the first sunset review of the duties. The original duties were imposed on 30<sup>th</sup> May 2018 and 23<sup>rd</sup> January 2018 respectively and has been currently initiated on the request of the U.S. producers Auriga Polymers Inc., Fiber Industries LLC, Nan Ya Plastics Corporation America, and Sun Fiber LLC.

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

### **Trade remedial actions by India**

*Initiation of anti-circumvention investigation into anti-dumping duty levied on imports of Fishing Nets originating in China and exported from Malaysia. (21 Feb)*

DGTR initiated an anti-circumvention investigation concerning anti-dumping duty levied on imports of Fishing Nets originating in China and exported from Malaysia. The

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application for initiation of the anti-circumvention investigation was made by the Indian Fishnet Manufacturers Association. The anti-dumping duty on imports from China was levied on 10<sup>th</sup> April 2018 and will be in force till 9<sup>th</sup> July 2023 unless extended by the Central Government.

### **Chapter 60 – Knitted or crocheted fabrics**

#### **Brazil**

- Continuation of anti-dumping duty on imports of Viscose Knitwear from China. (16 Feb)

### **Chapter 69 – Ceramic products**

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

#### **Argentina**

*Initiation of sunset review of anti-dumping duty on imports of Vitrified Tiles from Brazil, China, India, Malaysia and Vietnam (14 Feb)*

The Ministry of Economy initiated a sunset review investigation of anti-dumping duty levied on imports of Vitrified Tiles from Brazil, China, India, Malaysia and Vietnam. The goods exported from India to Argentina are subject to an anti-dumping duty of 75.8%. The investigation has been initiated on a request filed by Ilva S.A., Ceramica SAN Lorenzo I.C.S.A., Ceramica Alberdi S.A. and Canteras Cerro Negro S.A. which represent 90% production of the Vitrified Tiles in Argentina.

#### **Other trade remedial actions**

#### **USA**

- Preliminary negative determination by the USDOC in the Covered Merchandise Inquiry of anti-dumping and anti-subsidy duties on imports of certain Magnesia Carbon Bricks from China. (17 Feb)

### **Chapter 70 – Glass and glassware**

#### **Brazil**

- Continuation of anti-dumping duty on imports of Automotive Glass from China. (16 Feb)



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## **Chapter 70 – Glass and glassware**

### **USA**

- Final affirmative determination by the USDOC in the anti-circumvention investigation of anti-dumping and anti-subsidy duties on imports of certain Amorphous Silica Fabric from China, by 70-90% ASF. (03 Feb)

## **Chapter 72 – Iron and Steel**

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

#### **USA**

*Initiation of sunset review of anti-dumping and anti-subsidy duties on imports of certain Cut-To-Length Carbon-Quality Steel Plates from India, Indonesia and South Korea. (01 Feb)*

The USDOC has initiated a sunset review of anti-dumping and anti-subsidy duties on imports from India. This is the fourth sunset review of the duty. The original duties were imposed first in December, 1999 and have been in place for more than two decades.

*Final affirmative determination by the USDOC in the administrative review of anti-subsidy duty on imports of Forged Steel Fluid End Blocks from India. (07 Feb)*

The USDOC has determined that the Indian producers received countervailable subsidies for merchandise exported to the U.S. The period of review for the investigation was 26th May 2020 to 31st December 2021. The USDOC determined a subsidy rate of 22.17% for Bharat Forge Limited.

### **Other trade remedial actions**

#### **Australia**

- Continuation of anti-dumping duty on imports of Steel Reinforcing Bars from Greece, Indonesia, Spain, Taiwan and revocation of duty on imports from Thailand. (20 Feb)

#### **Canada**

- Continuation of anti-dumping duty on imports of Concrete Reinforcing Bars from Belarus, Separate Customs Territories of Taiwan, Penghu, Kinmen and Matsu, Hong Kong, Japan, Portugal, and Spain. (02 Feb)

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## **Chapter 72 – Iron and Steel**

### **UK**

- Initiation of transition review of anti-dumping duty on imports of certain Corrosion Resistant Steels from China. (02 Feb)

### **USA**

- Continuation of anti-dumping duties on imports of certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, China, France, Germany, Italy, Japan, South Africa, South Korea, Taiwan and Turkey, and revocation of duty on imports from Brazil. (10 Feb)
- Continuation of anti-dumping and anti-subsidy duties on imports of Steel Concrete Reinforcing Bars from Japan, Taiwan and Turkey. (10 Feb)
- Initiation of anti-dumping investigation into imports of Tin Mill Products from Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and the UK, and anti-subsidy duty on imports from China. (14 Feb)
- Continuation of anti-subsidy duty on imports of certain Carbon and Alloy Steel Cut-to-Length Plate from China and South Korea. (15 Feb)

## **Chapter 73 – Articles of iron or steel**

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

#### **USA**

*Initiation of administrative review by the USDOC of anti-dumping and anti-subsidy duties on imports of Stainless-Steel Flanges from India. (03 Feb)*

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 3.66% for Chandan Steel Limited, 1.27% for Kisaan Die Tech Private Limited and 3.40% for companies not selected for individual examination.

#### **Other trade remedial actions**

#### **Columbia**

- Initiation of sunset review of anti-dumping duty on imports of Cylindrical Metal Drums with capacity equal to 208 litres from Chile. (06 Feb)

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## **Chapter 73 – Articles of iron or steel**

### **UK**

- Initiation of sunset review of anti-dumping duty on imports of certain Corrosion Resistant Steels from China. (08 Feb)

### **USA**

- Affirmative determination by the USITC in the sunset review of anti-dumping duty on imports of Light-Walled Rectangular Pipes and Tubes from Taiwan. (22 Feb)

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

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

#### **USA**

*Final negative determination by the USITC in the anti-dumping investigation into imports of Steel Nails from India, Thailand, and Turkey. (06 Feb)*

The USITC has determined that the U.S. industry was not materially injured or threatened with material injury due to imports of Steel Nails from India, Thailand, and Turkey. The Commission instituted the investigation on 30<sup>th</sup> December 2021, following petitions filed by Mid Continent Steel & Wire, Inc., Poplar Bluff, Missouri. The USDOC will now issue notice of termination of investigation.

### **Other trade remedial actions**

#### **USA**

- Initiation of sunset review of anti-dumping duty on imports of Pure Magnesium from China. (01 Feb)

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

#### **USA**

- Final affirmative determination by the USITC in the anti-dumping and anti-subsidy investigations into imports of Gas-Powered Pressure Washers from China and Vietnam. (14 Feb)

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

### **USA**

- Final affirmative determination by the USDOC in the changed circumstances review of anti-dumping duty on imports of Tapered Roller Bearings and parts thereof, Finished and Unfinished from China. (22 Feb)
- Final affirmative determination by the USDOC in the anti-circumvention investigation of anti-dumping and anti-subsidy duties on imports of certain Vertical Shaft Engines Between 99cc and Up To 225cc, and parts thereof from China, by imports of dual-piston engines as a later-developed merchandise. (28 Feb)

## **Chapter 85 – Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers**

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

#### **USA**

*Initiation of administrative review by the USDOC of anti-dumping and anti-subsidy duties on imports of Utility Scale Wind Towers from India (03 Feb)*

The USDOC has initiated an administrative review of anti-dumping and anti-subsidy duties on imports from India. In the previous investigations, a dumping margin of 54.03% was determined for all producers from India, while a subsidy rate ranging from 2.25% to 397.70% was determined for all the producers from India.

#### **Other trade remedial actions**

#### **Canada**

- Initiation of sunset review by the CITT and CBSA of anti-dumping duty on imports of Liquid Dielectric Transformers from South Korea. (13 and 14 Feb)

#### **UK**

- Initiation of anti-dumping investigation into imports of certain Manganese Dioxides from China. (08 Feb)

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**Chapter 87 – Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof**

**Eurasian Economic Union**

- Final affirmative determination in the anti-circumvention investigation into anti-dumping duty on imports of Commercial Vehicle Tyres from China when fitted with Road Wheels. (01 Feb)

**Chapter 94 – Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings**

**Vietnam**

- Imposition of anti-dumping duty on imports of Tables & Chairs from China and termination of investigation into imports from Malaysia. (17 Feb)

# 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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