
ADHYATAN

TPM NEWSLETTER

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Key Highlights

India

DGTR proposes changes in the Trade Remedy Rules (11 Apr)

The Directorate General of Trade Remedies is proposing to make certain changes in anti-subsidy law in the form of introduction of a provision for sampling and conducting new shipper reviews. The provision for new shipper review would allow any new exporter who was not investigated in the original investigation, due to absence of exports, to seek an individual subsidy margin. Further, the DGTR has proposed modification of the anti-absorption provision in the anti-dumping law, to allow for modification of duty in cases where absorption of the existing anti-dumping duty by exporters or importers has rendered the duty imposed ineffective. To this effect, the DGTR invited comments / suggestions from all stakeholders in the month of April on the proposed changes.

WTO Panel finds import duties by India on certain Information and Communications Technology products to be inconsistent with GATT obligations (17 Apr)

The WTO Panel has found certain duties imposed by India on Information and Communication Technology products to be inconsistent with its obligations under the General Agreement on Tariffs and Trade. The dispute arose pursuant to challenge by European Union, Japan and Taiwan concerning tariff measures imposed by India on certain Information and Communications Technology (ICT) products. India imposed customs duties ranging from 7.5% to 20% on products such as mobile phones, conductors and other telecommunication products, through various customs notifications. European Union, Japan and Taiwan challenged such duties stating that they exceeded the bound rates set out in WTO Schedule of Concessions agreed to by India. Under the Schedule, India undertook to grant duty-free entry to such products, by virtue of the Ministerial Declaration on Trade in Information Technology Products. The WTO Panel held that customs duties imposed by India in excess of the bound rates is violative of its obligations under Articles II:1(a) and (b) of the GATT and consequent commitments under the Schedule of Concessions. Accordingly, India is required to bring its measures in conformity with its GATT obligations.

Global

A step forward for the Council for Trade in Goods (03 Apr)

Members of the WTO took significant steps to improve the functioning of the Council for Trade in Goods (CTG), including integration of the CTG data into the Trade Concerns Database and introduction of e-Agenda to allow members to electronically add agenda items, raise and support specific trade concerns and upload statements. The Council also heard 41 trade concerns on measures imposed by over 20 members such as non-tariff barriers and quality schemes for agricultural products and foodstuffs, tariffs and tariff rate quotas, technical barriers to trade, sanitary and phytosanitary measures, bans and restrictions, anti-subsidies etc. The next meeting of the CTG is scheduled for 6th-7th July 2023.

China initiates a trade barrier investigation against Taiwan (12 Apr)

On 12th April 2023, the Chinese Ministry of Commerce (MOFCOM) initiated a ‘trade barrier investigation’ against Taiwan for 2,455 categories of Chinese products that are subject to import restrictions or prohibition, including agriculture, mineral, chemical and textile. The investigation will determine whether the restrictive measures adopted by Taiwan contravene the applicable treaties or adversely affect the market access or competitiveness of Chinese products or services. If the MOFCOM concludes that trade barriers exist, the Ministry can request consultations or negotiations or use dispute resolution mechanisms under the applicable bilateral or multilateral agreements or take any other necessary remedial measures it deems appropriate. The outcome of the investigation is expected to be announced by 12th October 2023.

Reasonableness of Constructed Normal Value for Determination of Margins

- In case of non-cooperation by any producer from the country of export, normal value is determined based on facts available as per Rule 6(8).
- Normal value in such situations is generally calculated based on cost of production of the domestic industry including reasonable addition for profits, referred to as constructed normal value.
- For this purpose, cost of production is calculated based on the lowest cost amongst the Indian producers which is further optimised for raw material, utilities and capacity. Notional profit at the rate of 5% is added to the cost to arrive at the normal value.
- This approach of consideration of lowest cost can lead to the dumping margin being understated.
- Other jurisdictions such as the USA considers conversion costs as per annual reports of the producers in the country of export, which are often higher.
- WTO allows application of facts which are less favourable to non-participating party. Same approach can be followed in India as well.

The normal value has been defined in Section 9A(1)(c) of the Customs Tariff Act, 1975 as the comparable selling price in the domestic market of the exporting country. It is calculated based on the data of a responding foreign producer. When any producer from the country of export does not participate in an investigation, the normal value is determined based on “facts available” under Rule 6(8) of the Anti-Dumping Rules. As per its practice, the Directorate General of Trade Remedies (DGTR) in such cases normally calculates the normal value based on cost of production of the domestic industry plus reasonable addition for profits, referred to as “constructed normal value”. Further, since the law does not lay down any specific methodology, cost of production is considered based on the “optimum cost of the industry” and not the “actual cost”. Optimum cost is taken considering the cost of production of the domestic producer with lowest cost (considered to be the most efficient producer). Further, even such cost is optimized to account for most efficient utilization of raw materials, utilities and capacities. Notional profit of 5% is added to arrive at the constructed normal value.

Support and criticism for the methodology

The methodology has its fair share of advocates as well as critics. The reason for support for the methodology is because it takes into consideration the cost of only the producer with the least cost. Consideration of such cost with optimisation ensures that any inefficiencies faced by the producers having higher cost are not taken into account. On the other hand, the ones opposing this methodology argue that it assumes that all producers in the exporting country operates in the most efficient manner. Further, the optimization by consideration of lower consumption norms for raw materials and utilities and highest utilization of capacities implies that the resultant cost is often a hypothetical or notional cost, that may never be achieved. As a result, cost of production based on this approach may be lower than the actual cost of the producers in the country of export. Further, the profit margin considered at 5% may also not be reasonable, particularly in capital intensive industries. Such an approach can often lead to understatement of dumping margin. Therefore, it incentivizes foreign producers for non-participation.

In the anti-dumping investigation concerning imports of Melamine from European Union, Japan, Qatar and the United Arab Emirates, only one producer from Qatar, Qatar Melamine Company, had participated in the investigation and no response was received from the other subject countries. The cooperative producer had no domestic sales and therefore, the normal value could not be determined based on its domestic selling price. The DGTR calculated normal value for the cooperative producer based on its cost of production and for the other subject countries based on facts available (i.e., cost of production of the most efficient domestic producer). The dumping margin determined was much higher than where there was no participation. The dumping margin was determined as below:

Country →	Qatar (Cooperative Producer)	EU	Japan	UAE
Dumping margin	40-50%	10-20%	10-20%	10-20%

Practice followed by other jurisdictions

The practice followed in India is in contrast with that followed in other countries such as United States of America. The US Department of Commerce relies on Section 776 of The

Tariff Act, 1930 for the determination of normal value in similar circumstances and applies adverse facts available. For instance, in the anti-dumping investigation concerning imports of Sodium Nitrite from Russia, no producer from Russia participated in the investigation. The USDOC had determined normal value based on facts available by relying on the information provided by the petitioner. The petitioner had relied on the annual reports of the Russian producer to construct cost of production. Certain other jurisdictions also refer to the actual cost of production of their own domestic industry for the determination of normal value. However, even in such cases, the lowest cost of production is not adopted for the determination of normal value.

The way forward

One approach that can be followed by the Indian petitioners is to rely on annual reports of the producers in the subject country. Further, efforts can also be made to provide any other information available in the public domain in this regard such as domestic prices in the country of export, import/export price in the country of export etc. However, such information is not always available, due to the foreign producers being multi-product companies, lack of publicly available information, lack of dedicated tariff codes, etc.

Therefore, in certain cases, it may remain necessary to continue to rely on construction of normal value based on cost of production of the domestic industry. In such cases, it would be appropriate to consider the actual or even the highest cost of production of the domestic industry, in order to discourage non-participation by the foreign producers. In this regard, the Hon'ble Supreme Court has held that the DGTR has the statutory authority to draw adverse inference in case of non-participation. Similarly, even the WTO Panel in DS539: United States — Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available held that the Article 6.8 of the Agreement does not require an investigating authorities to select facts which are "most favourable" to the non-participating party. In view of the same, the Indian authorities could consider adoption of a higher cost of production, or at least the actual cost of production. Further, it should not be considered that the non-participating exporting producers are "efficient", while the Indian industry as "inefficient".

– Kalpesh Gupta, Senior Associate

From the Courtroom

ACP Manufacturer Association Versus Union of India

Order of CESTAT
dated 13th April 2023

- Where the domestic industry has not produced like article to an imported product type, such product cannot be subject to anti-dumping duty.
- Anti-dumping duty cannot be imposed because no injury can be caused to the domestic industry due to imports of such product type.
- The domestic industry would have to provide evidence of production capacity and sales volume to prove that it produced such product type.
- The claim of the domestic industry that the product type under issue, Color Coated Aluminium Coils, were produced through job workers that painted coils, was rejected. The Court noted that the process for production of Color Coated Coils required a separate machinery, which entailed significant investment.

Facts:

The ACP Manufacturer Association filed an appeal before the Tribunal against the recommendations made by the DGTR regarding imposition of anti-dumping duty on imports of Flat Rolled Products of Aluminium including Colour Coated Aluminium Coils. Based on the recommendations of DGTR, the Ministry of Finance imposed the anti-dumping duty vide Customs Notification No. 68/2021 – Customs (ADD) dated 6th December 2021.

The appellant alleged that the domestic industry does not produce Colour Coated Aluminium Coils in commercial volumes. It was further alleged that the domestic industry currently does not even have the capacity to produce Colour Coated Aluminium Coils. There was no evidence regarding any investment made by the domestic industry for setting up the production facilities of the said product as manufacturing Colour Coated Aluminium Coils involves significant investment.

Accordingly, the appellant sought that Colour Coated Aluminium Coils be excluded from the imposition of anti-dumping duty retrospectively with effect from the date of issuance of Customs Notification, that is, 6th December 2021. The appellant also sought

refund of the excess duty collected on the import of Colour Coated Aluminium Coils during this period.

Issue:

The sole issue in the present case before the Tribunal was whether Colour Coated Aluminium Coils, that was not produced by the domestic industry in commercial volumes, should be excluded from the scope of product on which anti-dumping duty has been levied.

Decision:

The Tribunal held that the domestic industry failed to produce any evidence before the DGTR or the Tribunal to substantiate that it has the capacity to produce like article for Colour Coated Aluminium Coils in commercial volumes. While the domestic industry provided evidence to the DGTR that some job workers were painting Aluminium Coil to produce Colour Coated Aluminium Coils, the product under issue is not manufactured through such process. Colour Coated Aluminium Coils are manufactured using coating machines, which cost about ₹ 5 crore to produce 150 MT of Coils. In order to fulfil the demand in India, 20 coating machines will be required which entail an investment of ₹ 100 crores. Further, the domestic industry should have provided details of production capacity and the volume of sales in domestic market in order to prove that it manufactures Colour Coated Aluminium Coils.

Further, there was no evidence that the imports of Colour Coated Aluminium Coils would cause any injury to the domestic industry since like article for the same are not being manufactured and sold by it. Therefore, in view of lack of any evidence to substantiate the claim made by the domestic industry, the Tribunal concluded that domestic industry does not manufacture or produce like article for the Colour Coated Aluminium Coils being imported. Accordingly, such Coils were excluded from the scope of the levy.

Foreign Trade Policy

Procedure for obtaining Registration Certificate for import of Isopropyl Alcohol notified (11 Apr)

In accordance with the Safeguard Quantitative Restrictions, the DGFT has notified the procedure for issuance of Registration Certificate for import of Isopropyl Alcohol for the year 2023-24. The utilisation for the Registration Certificate shall be reviewed on quarterly basis and any imports made in excess of the quota for a quarter shall be deducted from the quota of the next quarter. Any unutilised quarter will be added to the subsequent quarter. The procedure is available at the [link](#) herein.

Procedure of applying for the Amnesty Scheme notified (17 Apr)

The DGFT has notified the procedure for filing applications for Amnesty Scheme for one-time settlement of default in export obligation by Advance Authorisation and EPCG Authorisation holders. All the applications have to be filed electronically and will be processed by the RAs after verifying the payment of applicable duties and interest within three working days. The procedure is available at the [link](#) herein.

Amendment in Foreign Trade Policy 2023 with regards to Amnesty Scheme (18 Apr)

The Foreign Trade Policy 2023 has been amended to clarify the interest payable under the Amnesty Scheme. As per the scheme, all the pending cases of default in meeting Export Obligation of authorisations under EPCG and Advance Authorisation Schemes can be regularised by the authorisation holder on payment of all customs duties that were exempted in proportion of unfulfilled Export Obligation and interest at the rate of 100% of such duties exempted. The DGFT has now clarified that the interest payable is capped at maximum of 100% of such duties exempted on which interest is payable.

HSN Codes notified for Technical Textiles – 8 digit level (17 Apr)

The DGFT in consultation with the Ministry of Textiles (MoT) had notified 32 new HSN Codes for Technical Textiles under these Chapters 39, 54, 55, 56, 59, 60, 62, 63 and 68 of ITC(HS) Codes. However, it was found that imports / exports have not been booked under the correct HS Code. Accordingly, the importers / exporters have been instructed to file Bill of Entry / Shipping Bill at 8-digit level. A list of the HS Codes is available at the [link](#) herein.

Amendment under Interest Equalisation Scheme in respect of UIN (21 Apr)

On 8th March 2022, the RBI extended the Interest Equalisation Scheme up to 31st March 2024 and later the DGFT operationalised a new online system to register for the scheme. Accordingly, on 20th March 2023, the DGFT notified that all the exporters seeking benefit under the scheme with effect from 1st May 2023 are required to submit an Acknowledgement consisting of UIN which would be associated with a particular bank only for a one-time disbursement. However, in view of certain operational challenges being faced by the beneficiaries, the DGFT notified the revised guidelines on 21st April wherein an Acknowledgement consisting of UIN, valid for a financial year shall be unique to a specific bank. If a scheme beneficiary desires to take advantage of the benefits of the scheme from multiple banks, a new UIN must be provided for each bank.

Amendment in Handbook of Procedures with regards to ratification of norms under Advance Authorisation (25 Apr)

In order to facilitate ease of doing business and reduce transaction cost, the Handbook of Procedures 2023 has been amended in respect of Advance Authorisation to extend the validity of the ad-hoc norms ratified by the Norms Committee from the earlier date of 31st March 2023 to 31st March 2026.

Aayat Niryat Forms and Appendices under Foreign Trade Policy 2023 notified (26 Apr)

The DGFT has notified the ANFs and Appendices under Foreign Trade Policy 2023, which shall now be applicable instead of the ANFs and Appendices under Foreign Trade Policy 2015-20.

Trade Agreements

Indian Updates

Next round of India and United Kingdom free trade agreement held in April

India and UK have fast-tracked negotiations for the FTA. Within a gap of 1 month, the two countries have completed two rounds of negotiations. After concluding the eighth round of negotiations between India and the UK that took place in New Delhi from 20th March to 24th March, the two countries concluded the ninth round of negotiations in April, which was held from 24th April to 28th April.

Global Updates

United Arab Emirates – Israel CEPA comes into force

The UAE-Israel Comprehensive Economic Partnership Agreement that was signed last year in May, has entered into force from 1st April 2023. Under the agreement, tariffs will be removed or reduced on more than 96 percent of product lines which currently covers 99 percent of the goods traded the two countries.

Vietnam and Israel conclude negotiations on Free Trade Agreement

Vietnam and Israel have concluded the seventh and final round of negotiations for the Vietnam – Israel Free Trade Agreement. The countries aim to sign the agreement in 2023.

Ukraine and Canada agree on an updated Free Trade Agreement

In order to strengthen trade ties and support Ukraine's economic recovery, Prime Ministers Denys Shmyhal and Justin Trudeau have signed a joint declaration on the conclusion of negotiations of the modernisation of the Canada-Ukraine Free Trade Agreement (CUFTA). The two countries have agreed to complete the processes to implement it as quickly as possible.

Bureau of Indian Standards

Substitution of Standards (21 April)

The Bureau of Indian Standards has notified substitution of certain standards, including the following, with effect from 19th April 2023. However, the previous unamended standard will remain in force concurrently till 19th May 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
IS 6587 : 2023 Textiles — Spun Hemp Yarn — Specification (Second Revision)	IS 6587 : 1987 Specification for Spun Hemp Yarn (First Revision)
IS 8991 : 2023 Textiles — Nylon Fabrics for Sleeping Bags — Specification (First Revision)	IS 8991 : 1978 Specification Nylon Fabrics for Sleeping Bags
IS 18158 : 2023 Textile Floor Covering — Artificial Grass Carpet Made of Synthetic Yarn for Landscape — Specification	NA

Substitution of Standards (22 April)

The Bureau of Indian Standards has notified substitution of certain standards, including the standard **IS 10931 : 2023** Lauric Acid — Specification (First Revision) with effect from 20th April 2023. However, the previous unamended standard **IS 10931 : 1984** Specification for Lauric Acid will remain in force concurrently till 20th October 2023. For a full list of products, please refer to the attached [link](#).

Substitution of Standards (22 April)

The Bureau of Indian Standards has notified substitution of certain standards, including the standard **IS 12067 : 2023** Palm Fatty Acids — Specification (First Revision) with effect from 20th April 2023. However, the previous unamended standard **IS 12067 : 1987** Specification for Palm Fatty Acids will remain in force concurrently till 20th July 2023. For a full list of products, please refer to the attached [link](#).

Substitution of Standards (22 April)

The Bureau of Indian Standards has notified substitution of certain standards, including the following, with effect from 19th April 2023. However, the previous unamended standards will remain in force concurrently till 19th May 2023. For a full list of products, please refer to the attached [link](#).

No., Year and Title of the Indian Standard established⁰	No., Year and Title of the Indian Standard withdrawn
IS 4105 : 2023 Styrene (Vinyl Benzene) — Specification (Third Revision)	IS 4105 : 2020 Specification for Styrene (Vinyl Benzene) (Second Revision)
IS 14507 : 2023 Diphenyl Ether — Specification (First Revision)	IS 14507 : 1998 Diphenyl Ether — Specification

Substitution of Standards (22 April)

The Bureau of Indian Standards has notified substitution of certain standards, including the standard **IS 14534 : 2023** Plastics — Recovery and Recycling of Plastics Waste — Guidelines (Second Revision) with effect from 18th April 2023. However, the previous unamended standard **IS 14534 : 2016** Plastics — Guidelines for the Recovery and Recycling of Plastics Waste (First Revision) will remain in force concurrently till 18th May 2023. For a full list of products, please refer to the attached [link](#).

Note: Our newsletter only includes certain key updates concerning Bureau of Indian Standards. Other updates during the month can be found at this [link](#).

Non-Tariff Measures

India

Change in effective date for certain Quality Control Orders (12 April)

The Ministry of Textiles has notified the Geo Textiles (Quality Control) Order, 2022. The Order requires that the covered products must conform to the Indian Standard Mark. However, products destined for exports are not covered under the Order. The Order covers products such as jute geotextiles, HDPE and PVC geomembranes, needle-punched non-woven & polypropylene geobags, and geogrids. For a full list of products, please refer to the [link](#) herein.

Change in effective date for certain Quality Control Orders (18 April)

The Ministry of Chemicals and Fertilizers has notified a change in the effective date of certain Quality Control Orders. Following the amendments, the Orders concerning the following products shall come into force on 24th April 2024.

- Styrene (Vinyl Benzene)
- Acrylonitrile

Further, the order concerning Maleic Anhydride shall come into force on 24th October 2023.

Change in effective date for certain Quality Control Orders (24 April)

The Ministry of Chemicals and Fertilizers has notified a change in the effective date of certain Quality Control Orders. Following the amendments, the Orders concerning the following products shall come into force on 24th October 2023.

- Lauric Acid
- Acid Oil
- Palm Fatty Acids
- Rice Bran Fatty Acids
- Coconut Fatty Acids
- Hydrogenated Rice Bran Fatty Acids

Further, the order concerning the Methylene Chloride (Dichloromethane) shall come into force on 20th November 2023.

Global

USA

US Consumer Product Safety Commission notifies proposed rule for limiting CO emissions and seeks comments thereon (21 Apr)

The US Consumer Product Safety Commission has preliminarily determined that there exists an unreasonable risk of injury and death associated with acute carbon monoxide (CO) poisoning from portable generators. Therefore, the Commission has proposed a rule under the Consumer Product Safety Act (CPSA) that limits CO emissions from portable generators and requires them to shut down when specific emission levels are reached. The Commission is providing an opportunity to the interested parties to present comments on this supplemental notice of proposed rulemaking (SNPR).

China

National Standards of People Republic of China notified for Control Gear and other auxiliaries for Electric Lighting Products (11 Apr)

The national ministerial-level agency, State Administration for Market Regulation (Standardization Administration of the People's Republic of China) has specified safety requirements for marking the mechanical and electrical structure of the control gear and its components that are used in electrical lighting products in order to ensure the safety of users and protection of human health.

National Standards of People Republic of China notified For Axle Catch for Coal Mines (11 Apr)

The national ministerial-level agency State Administration for Market Regulation (Standardization Administration of the People's Republic of China) has specified safety technical requirements, installation and use requirements, test methods and inspection rules for axle catch for coal mines in order to ensure the safety of users and the protection of human health.

National Standards of People Republic of China notified for Paper, Plastic and Textile Fibre Express Packaging Products (11 Apr)

The national ministerial-level agency, State Administration for Market Regulation (Standardization Administration of the People's Republic of China) has specified the limits and test methods of heavy metals and other harmful substances to be used in paper, plastic and textile fibre packaging products for express service in order to ensure the safety of users and protection of human health.

National Standards of People Republic of China notified for Sensors used in Coal Mines, Meter and Data Logging Devices (11 Apr)

The national ministerial-level agency, State Administration for Market Regulation (Standardization Administration of the People's Republic of China) has specified the safety technical requirements, test methods and inspection rules for instruments used in coal mines in order to ensure the safety of users and to enhance productivity along with efficient cost saving. This notification is applicable to coal mine gas detection sensors, detectors and other environmental monitoring sensors and detectors.

National Standards of People Republic of China notified for Metal Cutting Machine Tools (11 Apr)

The national ministerial-level agency, State Administration for Market Regulation (Standardization Administration of the People's Republic of China) has specified basic safeguarding technical requirements, measures, and assessment methods of main hazards that exist in the metal cutting machine and machine tool accessories in order to ensure the safety of users and protection of human health.

Note: Our newsletter only includes certain key updates concerning Non-Tariff Measures. Other updates during the month can be found at this [link](#).

Trade Remedial Actions

Chapter 27 – Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes

USA

- Initiation of sunset review of anti-dumping duty on imports of Foundry Coke from China. (03 Apr)

Chapter 28 – Inorganic chemicals

USA

- Initiation of sunset review of anti-dumping duty on imports of Silicon Metal from China. (25 Apr)

Chapter 29 – Organic chemicals

Trade remedial actions in India

Imposition of anti-dumping duty on imports of Ursodeoxycholic Acid (UDCA) from China and South Korea. (10 Apr)

The DGTR had issued final findings recommending imposition of anti-dumping duty on imports of Ursodeoxycholic Acid (UDCA) from China and South Korea vide Final Findings dated 19th January 2023. Based on the final findings issued by the DGTR, the Central Government has imposed anti-dumping duty on imports of Ursodeoxycholic Acid (UDCA) from China and South Korea for a period of 5 years from the date of imposition of provisional anti-dumping duty. The anti-dumping duty will remain in force till 17th August 2027.

Other trade remedial actions

EU

- Continuation of anti-dumping duty on imports of Sodium Gluconate from China. (12 Apr)

Turkey

- Continuation of anti-dumping duty on imports of Phthalic Anhydride from South Korea. (14 Apr)

Chapter 31 – Fertilisers

USA

- Continuation of anti-dumping and anti-subsidy duties on imports of Ammonium Sulfate from China. (05 Apr)

Chapter 38 – Miscellaneous chemical products

Argentina

- Imposition of anti-dumping duty on imports of Fungicides based on Copper Hydroxide, Copper Oxycloride or Cuprose Oxide from Brazil. (04 Apr)

USA

- Affirmative determination by the USDOC in the sunset review of anti-dumping and anti-subsidy duties on imports of Biodiesel from Argentina and Indonesia. (04 Apr)

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

Trade remedial actions in India

Termination of anti-dumping investigation into imports of Sulphur Black from China. (24 Apr)

The DGTR terminated anti-dumping investigation into imports of Sulphur Black from China. The domestic industry withdrew the petition as the price undercutting, dumping margin and injury margin increased post the period of investigation. The domestic industry submitted that the quantum of anti-dumping duty based on the current period of investigation will be inadequate to address dumping and injury.

Chapter 39 – Plastics and articles thereof

Trade remedial actions in India

Imposition of anti-dumping duty on imports of Vinyl Tiles, other than in roll or sheet form from China and Taiwan. (19 Apr)

The DGTR had issued final findings recommending imposition of anti-dumping duty on imports of Vinyl Tiles, other than in roll or sheet form from China and Taiwan vide the

Final Findings dated 23rd January 2023. In light of the final findings issued by the DGTR, the Central Government has imposed the anti-dumping duty on imports of Vinyl Tiles, other than in roll or sheet form from China and Taiwan for a period of 5 years. The anti-dumping duty will remain in force till 18th April 2028.

Other trade remedial actions

China

- Affirmative determination in the sunset review of anti-dumping duty on imports of Vinylidene Chloride - Vinyl Chloride Copolymer Resin from Japan. (19 Apr)

Chapter 40 – Rubber and articles thereof

Trade remedial actions against India

USA

Preliminary affirmative determination by the USDOC in the administrative review of anti-dumping duty on imports of certain New Pneumatic Off-the-Road Tires from India. (05 & 06 Apr)

The USDOC has preliminarily determined that the Indian producers were dumping the subject merchandise in the U.S during the period of review, that is 1st March 2021 to 28th February 2022. The USDOC has determined dumping margin in the range of 1.32% to 8.91% for the Indian producers. The final determination is presently due in July 2023.

Affirmative determination by the USITC in the sunset review of anti-dumping and anti-subsidy duties on imports of certain New Pneumatic Off-the-Road Tires from India. (27 Apr)

The USITC has determined that revocation of duties is likely to result in continued dumping and subsidization of the subject merchandise. The review was initiated on 1st February 2022. The USDOC had earlier issued affirmative determinations and will now issue orders for continuation of duties.

Other trade remedial actions

Mexico

- Initiation of anti-dumping investigation into imports of New Pneumatic Radial Tires for Cars and Light Trucks from China. (05 Apr)

Chapter 44 – Wood and articles of wood

USA

- Affirmative determination by the USDOC in the sunset review of anti-dumping and anti-subsidy duties on imports of certain Softwood Lumber Products from Canada. (03 and 06 Apr)
- Affirmative determination by the USDOC in the sunset review of anti-dumping and anti-subsidy duties on imports of Multilayered Wood Flooring from China. (04 & 05 Apr)
- Affirmative determination by the USDOC in the sunset review of anti-dumping duty on imports of certain Hardwood Plywood Products from China. (05 Apr)

Chapter 53 – Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn

Trade remedial actions in India

Initiation of sunset review of anti-dumping duty on imports of Flax Yarn of below 70 Lea Count from China. (31 Mar)

The DGTR initiated sunset review of anti-dumping duty on imports of Flax Yarn of below 70 Lea Count from China. The application for initiation of the review was filed by Grasim Industries Limited and Sintex Industries Limited. The anti-dumping duty was first levied on 18th October 2018 and will be in force till 17th October 2023, unless extended by the Central Government.

Chapter 54 – Man-made filaments

Trade remedial actions in India

Affirmative determination in the sunset review of anti-dumping duty on imports of High Tenacity Polyester Yarn from China. (06 Apr)

The DGTR has issued final findings recommending continuation of anti-dumping duty on imports of High Tenacity Polyester Yarn from China. The application for initiation of investigation was filed by Reliance Industries Limited and was supported by Wellknown Polyesters Limited, Sanathan Textiles Private Limited and Fairdeal Jumbo Packaging Private Limited. The DGTR concluded that there is likelihood of continuation / recurrence of dumping and injury as the dumping has continued even after imposition of

anti-dumping duty, the exporters are circumventing the anti-dumping duty in force and undercutting the prices of the domestic industry. Further, the producers in China hold excess capacities and inventories and are export oriented.

Chapter 55 – Man-Made Staple Fibres

Turkey

- Initiation of sunset review of anti-dumping duty on imports of Polyester Staple Fibre from China, Indonesia, and South Korea. (14 Apr)

Chapter 56 – Wadding, Felt And Nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof

Trade remedial actions in India

Extension of anti-dumping duty on imports of Fishing Nets from China. (06 Apr)

The DGTR has initiated a sunset review of anti-dumping duty on imports of Fishing Nets from China on 30th September 2022 and has requested extension of duties. The anti-dumping duty were originally set to expire on 9th April 2022. In light of the request made by DGTR, the Central Government has extended the anti-dumping duty on Fishing Nets from China till 9th September 2023.

Trade remedial actions against India

Turkey

Continuation of anti-dumping duty on imports of Metallized Textile Yarns from China, India, South Korea and Taiwan. (06 Apr)

The Ministry of Trade has determined that if the current anti-dumping duty on imports from China, India, South Korea and Taiwan is allowed to expire, there is a likelihood of continuation or recurrence of dumping and injury to the Turkish industry. Accordingly, duty equivalent to USD 2.2 per kg has been continued on subject imports.

Other trade remedial actions

Turkey

- Imposition of anti-dumping duty on imports of Metalized Textile Yarns from Georgia. (06 Apr)

**Chapter 59 – Impregnated, Coated, Covered or Laminated Textile Fabrics;
Textile Articles of a Kind Suitable for Industrial Use**

Turkey

- Continuation of anti-dumping duty on imports of Polyurethane Coated Imitation Leather Fabrics from China. (08 Apr)

Chapter 69 – Ceramic products

Mexico

- Continuation of anti-dumping duty on imports of Ceramic Wall and Floor Coverings from China. (04 Apr)

Chapter 72 – Iron and steel

Trade remedial actions in India

Affirmative determination in the sunset review of anti-subsidy duty on imports of certain Hot Rolled and Cold Rolled Stainless Steel Flat Products from China. (06 Apr)

The DGTR has issued final findings recommending continuation of anti-subsidy duty on imports of certain Hot Rolled and Cold Rolled Stainless Steel Flat from China. The application for initiation of investigation was filed by Jindal Stainless Limited and Jindal Stainless (Hisar) Limited. The DGTR concluded that there is likelihood of continuation / recurrence of subsidization and injury in view of increase in imports, surplus capacities in China, price attractiveness of Indian market and trade remedial measures imposed by various countries against China.

Trade remedial actions against India

Mexico

Continuation of anti-dumping duty on imports of Ferrosilicomanganese from India. (03 Apr)

The sunset review investigation was initiated based on an application filed by Compañía Minera Autlán, S.A.B. de C.V. The Ministry of Economy issued final findings in the sunset review of anti-dumping duty levied on imports of Ferrosilicomanganese from India. The anti-dumping duty has been continued for a further period of 5 years. The original duties were levied on 18th October 2016.

Other trade remedial actions

USA

- Affirmative determination by the USDOC in the sunset review of anti-subsidy duty on imports of Carbon and Alloy Steel Wire Rod from Turkey. (05 Apr)

Chapter 73 – Articles of iron or steel

Trade remedial actions in India

Affirmative determination in the sunset review of anti-dumping duty on imports of Grinding Media Balls from Thailand. (12 Apr)

The DGTR has issued final findings recommending continuation of anti-dumping duty on imports of certain Grinding Media Balls excluding Forged Grinding Media Balls from Thailand. The application for initiation of investigation was filed by AIA Engineering Limited and Welcast Steels Limited. The DGTR concluded that there is likelihood of continuation / recurrence of dumping and injury due to imports from Thailand as the producers in Thailand have a history of dumping in India, hold freely disposable capacity, have been dumping in third countries and are export oriented. However, continuation of anti-dumping duty has not been recommended on imports from China.

Trade remedial actions against India

Argentina

Imposition of provisional anti-dumping duty on imports of Tees and Elbows for Butt Welding (Fittings) of non-alloy steel from India. (04 Apr)

The Ministry of Economy imposed provisional anti-dumping duty on Indian imports of Tees and Elbows, except 180° elbows and reduction elbows, for butt welding (fittings), of non-alloy steel, manufactured according to ASME B16.9 and ASTM A234 standards or equivalent standards. The application for imposition of anti-dumping duty was filed by Chamber of Steel Pipe and Tube Manufacturers (CYTACERO) on behalf of the firm Cintolo Hnos. Metalúrgica S.A.I. and C. The dumping margin determined by the Ministry for imports from India is 198.43%.

Turkey

Initiation of sunset review of anti-dumping duty on imports of Pipe Fittings from Brazil, Bulgaria, China, Indonesia, India and Thailand. (08 Apr)

The Ministry of Trade, Turkey has issued notice initiating the sunset review of anti-dumping duty on imports from Brazil, Bulgaria, China, Indonesia, India and Thailand. The application for initiation of review was filed by Trakya Döküm San. ve Tic. Inc. The duties were first imposed in 2012.

USA

Preliminary affirmative determination by the USDOC in the anti-circumvention investigation of anti-dumping duty on imports certain Welded Carbon Steel Standard Pipes and Tubes from India, when completed in Vietnam (12 Apr)

The USDOC has determined that imports of certain Welded Carbon Steel Standard Pipes and Tubes, completed in Vietnam using hot-rolled steel produced in India, are circumventing the antidumping duty order on Pipes and Tubes from India. SeAH Steel VINA Corporation and Vietnam Haiphong Hongyuan Machinery Manufacturing Co. Ltd. were selected as mandatory respondents in the case.

Affirmative determination by the USDOC in the sunset review of anti-subsidy duty on imports of certain Cold-Drawn Mechanical Tubings of Carbon and Alloy Steel from India (20 Apr)

The USDOC has determined that revocation of duty on Indian imports is likely to result in continued subsidization for the subject merchandise. The review was initiated on 3rd January 2023. The duties were first imposed on 1st February 2018, in the range of 8.07% to 42.77% for the Indian producers.

Initiation of sunset review of anti-dumping and anti-subsidy duties on imports of Stainless-Steel Flanges from China and India. (25 Apr)

USITC has initiated the first sunset review of anti-dumping and anti-subsidy duties on Stainless Steel Flanges from India. The duties were imposed on 9th October and 5th October 2018 respectively. The dumping margins determined for Indian producers ranged from 19.16% to 145.25% and the subsidy rates ranged from 4.92% to 256.16%.

Initiation of anti-dumping and anti-subsidy investigations by USITC on imports of Non-Refillable Steel Cylinders from India (28 Apr)

The USITC initiated anti-dumping and anti-subsidy investigations into imports of subject merchandise from India. The petition was filed on 27th April 2023 by Worthington Industries, Columbus, Ohio. The USITC will now initiate preliminary phase investigation to determine whether there is a reasonable indication that US industry is materially injured or threatened with material injury.

Other trade remedial actions

Australia

- Initiation of sunset review of anti-dumping duty on imports of Steel Pallet Racking from China and Malaysia. (3 Apr)

Argentina

- Imposition of provisional anti-dumping duty on imports of Liquified Gas Stoves from China. (11 Apr)

Canada

- Initiation of anti-dumping and anti-subsidy investigations by CBSA and CITT into imports of certain Steel Utility Wind Towers from China. (21 Apr)

EU

- Continuation of anti-dumping duty on imports of Stainless-Steel Tube and Pipe Butt-welding Fittings from China and Taiwan. (13 Apr)
- Initiation of sunset review of anti-dumping duty on imports of Steel Ropes and Cables from China. (14 Apr)

Philippines

- Initiation of safeguard investigation into imports of Liquified Petroleum Gas (LPG) Cylinders. (4 Apr).

UK

- Imposition of provisional anti-subsidy duty on imports of Ironing Boards from Turkey. (26 Apr)

USA

- Initiation of sunset review of anti-dumping duty on imports of Carton Closing Staples from China. (03 Apr)
- Initiation of sunset review of anti-dumping duty on imports of Steel Wire Garment Hangers from Taiwan and Vietnam and anti-subsidy duty on imports from Vietnam. (03 Apr)
- Affirmative determination by the USDOC in the sunset review of anti-dumping duty on imports of certain Cold-Drawn Mechanical Tubings of Carbon and Alloy Steel from China. (03 Apr)
- Preliminary negative determination by the USDOC in the anti-circumvention investigation of anti-dumping duty on imports of certain Circular Welded Carbon Steel and Non-alloy Steel Pipes and Tubes from Taiwan and South Korea, when completed in Vietnam. (12 Apr)
- Preliminary affirmative determination by the USDOC in the anti-circumvention investigation of anti-dumping duty on imports Light-Walled Rectangular Pipes and Tubes from China, South Korea and Taiwan and anti-subsidy duty on imports from China, when completed in Vietnam. (12 Apr)
- Continuation of anti-dumping duty on imports of Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines. (12 Apr)
- Preliminary affirmative determination by the USDOC in the anti-circumvention investigation of anti-dumping and anti-subsidy duties on imports of Circular Welded Carbon Quality Steel Pipe from China, when completed in Vietnam. (12 Apr)
- Affirmative determination by the USDOC in the sunset review of anti-subsidy duty on imports of Circular Welded Carbon Steel Pipes and Tubes from Turkey. (24 Apr)

Chapter 74 – Copper and articles thereof

Trade remedial actions against India

USA

Initiation of anti-dumping and anti-subsidy investigations by USITC into imports of Brass Rods from Brazil, India, Israel, Mexico, South Africa and South Korea. (28 Apr)

The USITC initiated anti-dumping and anti-subsidy investigations into imports of subject merchandise from Brazil, India, Israel, Mexico, South Africa and South Korea.

The petition was filed on 27th April 2023 by American Brass Rod Fair Trade Coalition, Washington, District of Columbia, Mueller Brass Co., Port Huron, Michigan, and Wieland Chase LLC, Montpelier, Ohio. The USITC will now initiate preliminary phase investigation to determine whether there is a reasonable indication that US industry is materially injured or threatened with material injury.

Other trade remedial actions

USA

- Continuation of anti-dumping duty on imports of Brass Sheets and Strips from France, Germany, Italy, and Japan. (04 Apr)

Chapter 76 – Aluminium and articles thereof

USA

- Preliminary affirmative determination by the USDOC in the anti-circumvention investigation of anti-dumping duty on imports Common Alloy Aluminium Sheet from China, when produced using Aluminium Alloy 4017. (12 Apr)

Chapter 82 – Tools, implements, cutlery, spoons and forks, of base metal

Trade remedial actions against India

Argentina

Initiation of sunset review investigation of anti-dumping duty on imports of Straight Manual Saw Blades of High-Speed Steel from India. (19 Apr)

The Ministry of Economy initiated a sunset review investigation of anti-dumping duty levied on imports of Saw Blades from India. The investigation was initiated following an application filed by Sin Par S.A. The current anti-dumping duty, in the form of a specific duty of USD 0.13 per unit, shall continue to be in force, until the review is concluded.

Other trade remedial actions

Argentina

- Initiation of sunset review of anti-dumping duty on imports of Cutlery of Stainless Steel, with Wooden or Plastic Handles from China. (12 Apr)

Chapter 83 – Miscellaneous articles of base metal

Trade remedial actions in India

Initiation of anti-dumping investigation into imports of Easy Open Ends of Tin Plate from China. (31 Mar)

The DGTR has initiated an anti-dumping investigation into imports of Easy Open Ends of Tin Plate from China. The application for initiation of investigation was filed by Easy Openends India Private Limited which is the sole producer of the product in India. DGTR prima facie concluded that the domestic industry has suffered injury due to imports of the product as the volume of dumped imports has increased in India which is undercutting the prices of the domestic industry. It was also concluded, prima facie, that the domestic industry has suffered financial losses, cash losses and negative return on investment.

Other trade remedial actions

Turkey

- Continuation of anti-dumping duty on imports of Hinges, Fixed Hangers, Hat Hangers, Elbows and other similar articles from China. (06 Apr)

USA

- Continuation of anti-dumping duty on imports of Paper Clips from China. (21 Apr)

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

Eurasian Economic Union

- Initiation of sunset review of anti-dumping duty on imports of Rolling-element Bearings from China. (21 Apr)

Chapter 90 - Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus

China

- Affirmative determination issued in sunset review of anti-dumping duty on imports of Dispersion Unshifted Single-mode Optical Fibre from EU and USA. (21 Apr)

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

Trade remedial actions against India

USA

Initiation of anti-dumping investigation into imports of Boltless Steel Shelving Units Pre-packaged for Sale from India, Malaysia, Taiwan, Thailand and Vietnam. (26 Apr)

The USITC has initiated an anti-dumping investigation into imports of subject merchandise from India, Malaysia, Taiwan, Thailand and Vietnam. The petition was filed on 25th April 2023 by Edsal Manufacturing Co. Inc., Chicago, Illinois. The USITC will now initiate preliminary phase investigation to determine whether there is a reasonable indication that US industry is materially injured or threatened with material injury.

Other trade remedial actions

USA

- Continuation of anti-dumping duty on imports of Floor-Standing, Metal-Top Ironing Tables and certain parts thereof from China. (19 Apr)

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.

For more details about the contents of this newsletter, kindly contact aastha@tpm.in.

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