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F. No. 6/17/2021 - DGTR

Government of India

Ministry of Commerce & Industry

(Directorate General of Trade Remedies)

4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001

Dated: 24th January, 2022

INITIATION NOTIFICATION

(Case No. AD (OI) -16/2021

Subject: Initiation of anti-dumping investigation concerning imports of “Vinyl Tiles other than in roll or sheet form” originating in or exported from China PR, Taiwan and Vietnam-reg.

1. F. No. 6/17/2021 – DGTR- Having regards to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the "Act") and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred to as the "Rules" or the “Anti-Dumping Rules”), Welspun India Limited, Welspun Flooring Limited and Welspun Global Brands Limited (hereinafter also referred to as the “applicants” or the “petitioners”) have filed a petition before the designated authority (hereinafter also referred to as the “authority”) seeking imposition of the anti-dumping duty on the imports of Vinyl Tiles other than in roll or sheet form (hereinafter referred to as the “subject goods” or the “product under consideration”) originating in or exported from China PR, Taiwan and Vietnam (hereinafter also referred to as the “subject countries”).
2. The applicants have alleged that the dumping of the product under consideration from the subject countries is materially retarding the establishment of the domestic industry in India which started commercial production in September, 2019. The applicants have submitted that the industry and the product under consideration are at the nascent stage. As the product is in the developing phase, newer attributes are being added based on the demand and the expectations of the consumers. While the product was originally conceived without a foam, the current demand is with IXPE foam. With increase in the attributes, the costs have increased but the price for the product under consideration in the market has declined. Further, the applicants have submitted that although they commenced production on 13th September 2019, they have not been able to find a place in the market yet.

3. The present petition being that of material retardation to the establishment of the domestic industry, it would be appropriate to compare the projected performance of the domestic industry with the present or the potential performance, considering the price of the imports. A detailed feasibility report, which was prepared by the applicants before the plant was set up, has been submitted with the petition. The same has been considered for the purpose of evaluating the merits of the petition.

Product under consideration

4. The product under consideration for the present investigation is “Vinyl Tiles, other than in roll or sheet form”. In the market parlance, the product under consideration is known as luxury vinyl tiles, luxury vinyl flooring, stone plastic composite, SPC, PVC flooring tiles, PVC tiles or rigid vinyl tiles, rigid vinyl flooring and in the present petition, has been referred to as Luxury Vinyl Tiles or LVT. Luxury Vinyl Tiles may be with or without the click and lock mechanism. Luxury vinyl tiles is a commonly used industry term for a type of vinyl that realistically mimics the appearance of the natural materials with an added layer to improve the wear and the performance. The product under consideration is used for covering the floors in the residential and the commercial buildings.
5. The product under consideration is classified under Chapter 39 of the Customs Tariff Act under the heading 3918. The product under consideration does not have a dedicated customs classification. While the product under consideration is classifiable under 39181090, the applicants have claimed that the product is also being imported under the Codes 39181010, 39189010, 39189020 and 39189090. The customs classification, however, is only indicative and not binding on the scope of the product under consideration in the present investigation.

Like article

6. The applicants have claimed that the subject goods produced by the domestic industry are the like articles to the subject goods originating in or exported from the subject countries. It has been stated that there are no significant differences in the subject goods produced by the domestic industry and those exported from the subject countries. The subject goods produced by the domestic industry are comparable to the imported goods from the subject countries in terms of technical specifications, manufacturing process & technology, functions & uses, pricing, distribution & marketing and tariff classification of the goods. The applicants have claim that the two are technically and commercially substitutable. For the purpose of the present investigation, the subject goods produced by the domestic industry are being treated as the ‘like article’ to the subject goods being imported from the subject countries.

Subject countries

7. The petition has been filed in respect of the dumped imports of product under consideration from China PR, Taiwan and Vietnam.

Period of investigation

8. The authority has considered 1st October, 2020 to 30th September, 2021 as the period of investigation (POI). The injury period will cover the periods 2018-19, 2019-20, 2020-21 and the period of investigation.

Product Control Number methodology

9. The applicants have proposed the adoption of the Product Control Number (PCN) methodology, based on the following parameters:
 - a. Thickness of tiles
 - b. Thickness of wear layer
 - c. Style of print layer / digital printing
 - d. Whether IXPE foam is used
 - e. Whether it has click and lock mechanism.
10. As per the practice of the authority, the PCN methodology would be decided post initiation after inviting comments from all the interested parties. The interested parties may provide their comments/suggestions for the finalization of PCNs for the purpose of this investigation within 15 days from the date of the initiation of this investigation.

Domestic industry and standing

11. The petition has been filed by Welspun India Limited (“WIL”), Welspun Flooring Limited (“WFL”) and Welspun Global Brands Limited (“WGBL”), which are related entities. WIL is the parent company of both WFL and WGBL. WGBL is a trading entity and has entered into a long-term contract for the sale of the subject goods manufactured by WFL. The applicants have provided all the necessary information for the purpose of the present investigation. The applicants have stated that while the expenses till the stage of production are incurred by WFL, WGBL incurs the selling and distribution expenses for the product and thus, they have jointly filed the present petition.
12. The applicants have reported that being in the nascent stage of production, they have imported the product under consideration in India and that these imports were necessitated as the applicants had not commenced commercial production of the subject goods. The applicants have stated that they declared the commercial production in September, 2019 and the last import made by them was in July, 2019 and they have not imported the subject goods post commencing commercial production. The applicants have also stated that they are not related to the exporters of the subject goods from the

subject countries or the importers in India. The applicants have, therefore, requested that they may be considered within the scope of the domestic industry.

13. The applicants have submitted that there are three other producers of the subject goods in India, namely, Thousand Oak Innovation LLP, Mingle Plast Private Limited and Responsive Industries Limited. From the information available on record, it is noted that the applicants account for 95% of the domestic production of the like article in India.
14. Considering that the domestic industry in the present case is at a nascent stage and that no imports have been made by the applicants after WFL declared commercial production and in the POI; that applicants account for a major proportion of the total domestic production in India, the Authority is of the view that the applicants constitute domestic industry as defined under Rule 2(b) of the Anti-Dumping rules, and the petition satisfies the requirement of standing in terms of Rule 5(3) of the Anti-Dumping Rules.

Normal value

Normal value for China PR

15. The applicants have claimed that China PR should be treated as a non-market economy and unless the Chinese producers show that such market economy conditions prevail, their normal value should be determined in accordance with Para 7 of Annexure – I to the Anti-Dumping Rules. In this regard, the applicants have identified Korea RP as an appropriate third country to determine the normal value for China PR. The applicants have stated that as per the transaction wise data of the imports of the product under consideration from Korea RP to India, the imports are coming at un-dumped prices. The applicants have, therefore, proposed to determine the normal value for China PR on the basis of the CIF price of exports from Korea RP to India. Such price has been adjusted for ocean freight, marine insurance, port expenses, commission, bank charges and inland freight. The authority, for the purpose of the initiation of the investigation, has accepted the claim of the applicants in respect of the determination of the normal value. The interested parties may offer their comments, if any, on accepting Korea RP as the appropriate third country for China PR within the prescribed time.

Normal value for Taiwan and Vietnam

16. The applicants have claimed that they had made efforts to determine the normal value for Taiwan and Vietnam based on the basis of the direct selling price in these countries but were not able to find any evidence for the same and further that as there are no dedicated codes for the product under consideration, it is not possible to determine the normal value based on the exports from these countries. The applicants have, therefore, proposed to construct the normal value for Taiwan and Vietnam on the basis of the best

available information, having regard to the cost of the production in India, duly adjusted, and with reasonable margin. The authority, for the purpose of the initiation of the investigation, has accepted the claim of the applicants in respect of the determination of the normal value for Taiwan and Vietnam.

Export price

17. The export price of the subject goods from the subject countries has been determined by considering the CIF price reported in the DGCI&S data. The price adjustments have been made on account of Ocean freight, Marine insurance, Port expenses, Bank charges, Inland freight and Commission. There is sufficient evidence with respect to the export price to justify initiation of the investigation.

Dumping margin

18. The normal value and the export price have been compared at ex-factory level, which prima facie show that the dumping margin is above the de-minimis level and significant in respect of the product under consideration from the subject countries.
19. On the basis of the duly substantiated written application by or on behalf of the domestic industry, and having satisfied itself, on the basis of the prima facie evidence submitted by the domestic industry, about dumping of the product under consideration originating in or exported from the subject country, injury to the domestic industry and causal link between such alleged dumping and injury, and in accordance with Section 9A of the Act read with Rule 5 of the Rules, the Authority, hereby, initiates an investigation to determine the existence, degree and effect of any alleged dumping in respect of the product under consideration originating in or exported from the subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

Procedure

20. The principles as given in Rule 6 of the Rules will be followed for the present investigation.

Submission of information

21. In view of the special circumstances arising out of COVID-19 pandemic, all communication should be sent to the Designated Authority via email at email addresses adg15-dgtr@gov.in, adv11-dgtr@gov.in, dir16-dgtr@gov.in and dd15-dgtr@gov.in. It should be ensured that the narrative part of the submission is in searchable PDF/MS Word format and data files are in MS Excel format.

22. The known exporters in the subject countries, their governments through their Embassies in India, the importers and users in India known to be concerned with the subject goods and the domestic industry are being informed separately to enable them to file all the relevant information in the form and manner prescribed within the time-limit set out below.
23. Any other interested party may also make its submissions relevant to the investigation in the form and manner prescribed within the time-limit set out below on email addresses mentioned above.
24. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

Time-limit

25. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses adg15-dgtr@gov.in, adv11-dgtr@gov.in, dir16-dgtr@gov.in and dd15-dgtr@gov.in within thirty days from the date of receipt of the notice as per Rule 6(4) of the Anti-Dumping Rules. It may, however, be noted that in terms of explanation of the said Rule, the notice calling for information and other documents shall be deemed to have been received one week from the date on which it was sent by the Designated Authority or transmitted to the appropriate diplomatic representative of the exporting country. If no information is received within the prescribed time-limit or the information received is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with the Rules.
26. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire responses within the above time limit.
27. The interested parties are further advised to keep a regular watch on the official website of DGTR, i.e., www.dgtr.gov.in for any updated information with respect to this investigation.

Submission of information on confidential basis

28. Any party making any confidential submission or providing information on confidential basis before the Authority, is required to simultaneously submit a non-confidential version of the same in terms of Rule 7(2) of the Rules and the Trade Notices issued in this regard. Failure to adhere to the above may lead to rejection of the response / submissions.

29. The parties making any submission (including Appendices/Annexes attached thereto), before the Authority including questionnaire response, are required to file Confidential and Non-Confidential versions separately.
30. The “confidential” or “non-confidential” submissions must be clearly marked as “confidential” or “non-confidential” at the top of each page. Any submission made without such marking shall be treated as non-confidential by the Authority, and the Authority shall be at liberty to allow the other interested parties to inspect such submissions.
31. The confidential version shall contain all information which is by nature confidential and/or other information which the supplier of such information claims as confidential. For information which are claimed to be confidential by nature or the information on which confidentiality is claimed because of other reasons, the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information cannot be disclosed.
32. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out (in case indexation is not feasible) and summarized depending upon the information on which confidentiality is claimed. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on confidential basis. However, in exceptional circumstances, the party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.
33. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that the request for confidentiality is not warranted or if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.
34. Any submission made without a meaningful non-confidential version thereof or without good cause statement on the confidentiality claim shall not be taken on record by the Authority.
35. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorisation of the party providing such information.

Inspection of Public File

36. A list of all registered interested parties will be uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file will not be accessible physically due to ongoing global Covid-19 pandemic.

Non-cooperation

37. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.



(Anant Swarup)

Joint Secretary & Director General