

**DIRECTORATE GENERAL OF SAFEGUARDS
CUSTOMS AND CENTRAL EXCISE
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NOTICE OF INITIATION OF A SAFEGUARD INVESTIGATION

[Under Rule 6 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997]

New Delhi, 26 October, 2012
F.No. D-22011/ 14/2012

Sub: Review of safeguard Duty on imports of Phthalic Anhydride(PAN) into India under provisions of Section 8B(4) of Customs Tariff Act, 1975 read with Rule 16 and Rule 18 of Customs Tariff(Identification and Assessment of Safeguard Duty)Rules, 1997 --regarding

G.S.R. An application for review and extension of safeguard duty has been filed before me under Rule 5 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 by M/s. Thirumalai Chemicals Ltd., Ranipet, Tamilnadu, M/s. IG Petrochemicals Ltd., Raigad, Maharashtra, M/s. Mysore Petrochemicals Ltd, Raichur, Karnataka for continuation/extension of Safeguard Duty on imports of Phthalic Anhydride(PAN) into India after expiry of the existing safeguard duty to protect the domestic producers of Phthalic Anhydride(PAN) against serious injury caused by the increased imports of Phthalic Anhydride(PAN) into India.

2. Domestic Industry: The application dated 7th September, 2012 has been filed by M/s Thirumalai Chemicals Ltd., Ranipet, Tamilnadu, M/s. IG Petrochemicals Ltd., Raigad, Maharashtra, M/s. Mysore Petrochemicals Ltd., Raichur, Karnataka for continuation/extension of Safeguard Duty on imports of Phthalic Anhydride(PAN). The application has been made by three of the five domestic producers of Phthalic Anhydride(PAN) in India accounting for 88% of the total production.

3. Product Involved: The product under consideration is Phthalic Anhydride. It is an anhydride of Phthalic Acid, and is commercially produced by catalytic oxidation of Ortho- xylene or Naphthalene. It is a colourless solid, variously referred as Phthalic Anhydride flakes, Phthalic Anhydride (98% min.), Phthalic Acid Anhydrous, Phthalic Anhydride (99.8% min), etc. The product is produced only in one grade, though, it may be consumed as a solid or liquid in processes it is used. As regards different applications, it does not have distinguishable different types or forms. Further, it is used in production process of various chemicals, which use the same characteristic properties of Phthalic Anhydride. Phthalic Anhydride is used to produce Phthalate esters, which function as plasticizers. It is an important chemical intermediate in plastic industry. Phthalic Anhydride is classified under Customs sub-heading No. 29173500 under the Customs Tariff Act, 1975

4. Brief history: An investigation was initiated by the DG (safeguards) earlier on the application filed under Rule 5 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 [hereinafter referred to as "Safeguard Rules"] by (1) M/s. Thirumalai Chemicals Ltd, Ranipet Tamilnadu, (2) M/s. IG Petrochemicals Ltd Raigad Maharashtra, (3) M/s. Mysore Petrochemicals Ltd, Raichur Karnataka, seeking imposition of Safeguard Duty on imports of

Phthalic Anhydride into India alleging that increased imports of Phthalic Anhydride was causing and/or threatening to cause serious injury to the domestic producers of Phthalic Anhydride in India. Having satisfied that the requirements of Rule 5 of Safeguard Rules ibid were met, safeguard investigation against imports of Phthalic Anhydride was initiated vide notice of initiation dated 10th August, 2011 published in the Gazette of India, Extraordinary on the same day.

4.1 After expeditious conduct of investigation preliminary findings were issued on 23rd September, 2011. Central Government levied provisional safeguard duty for a period of 180 days at the rate of 10% with effect from 17th January 2012 vide customs notification No.1/2012-Cus(SG) dated 17th January 2012 based on the recommendation of DG Safeguard.

4.2 Director General (Safeguard) issued Final Findings G.S.R. 263(E), dated the 29th March, 2012, recommending definitive Safeguard duty for a period of one year, i.e. from 17-01-2012 to 16-01-2013. The Central Government imposed definitive Safeguard duty for one year @ 10% from 17.01.2012 to 16.01.2013 vide customs notification No 3/2012-Cus(SG) dated 29th May, 2012.

4.3 As mentioned above, the safeguard duty is in vogue till 16th January, 2013. However, the instant application has been filed by the domestic industry for continuation/extension of safeguard duty for a further period of one year from the date of expiry of existing duty, with the purpose to enable the domestic industry to improve its competitiveness in order to survive.

5. Increased Imports: Phthalic Anhydride is imported into India from a number of countries, and primarily from Republic of Korea, Israel, Iran, Taiwan, China and Russia. The imports of Phthalic Anhydride have shown an increasing trend in absolute terms as well as compared to the domestic production. The imports and domestic production of Phthalic Anhydride during 2009-10 to Q1 of 2012-13 remained as under:

Year	Unit of quantity		Total Imports
2009-10	MT		28098
2010-11	MT		61241
2011-12 (Q 1)	MT	9752	
2011-12 (Q2)	MT	12892	
2011-12 (Q3)	MT	7792	
2011-12(Q4)	MT	7983	
2011-12 (Total)	MT		38419
2012-13 (Q 1)	MT	12907	
2012-13(Annualized)	MT		51628

(Source : Figures from 2009-10 to Feb 2012 are from DGCIS data received in the Directorate and from March 2012 to June 2012 are from IBIS as provided by the applicant)

The Imports have increased from 7983 MT in Q4 of 2011-12 to 12907 MT in Q1 of 2012-13 which shows an increase of 62% which is phenomenal. Further, imports as a percentage to domestic production have increased from 13.54% in Q4 of 2011-12 to 23.64% in Q1 of 2012-13.

6. Injury: The applicant have claimed that the increased imports of Phthalic Anhydride have caused and are threatening to cause serious injury to the domestic producers of Phthalic Anhydride as indicated by the following factors:

a) *Production:*

YEAR		Index	QTY(MT)
2009-10	Q1	100	47985
	Q2	121	58259
	Q3	84	40437
	Q4	110	52853
TOTAL			199534
2010-11	Q1	116	55503
	Q2	121	58168
	Q3	109	52319
	Q4	107	51271
TOTAL			217261
2011-12	Q1	104	50124
	Q2	107	51346
	Q3	114	54736
	Q4	123	58918
TOTAL			215124
2012-13	Q1	114	54576

It is seen that production of domestic industry has fallen to 54576 MT in Q1 of 2012-13 from 58918 MT in Q4 of 2011-12. This shows that domestic production has shown a downward trend in first quarter of 2012-13, despite imposition of safeguard duty on the product wef 17 Jan 2012.

b) *Capacity Utilization:*

YEAR	Quarter	Capacity utilized(%)
2009-10	Q1	72
	Q2	87
	Q3	60
	Q4	79
Average for 2009-10		75
2010-11	Q1	83
	Q2	87
	Q3	78
	Q4	76
Average for 2010-11		81
2011-12	Q1	75
	Q2	77
	Q3	82
	Q4	88
Average for 2011-12		81
2012-13	Q1	81

Capacity utilization of the Domestic Industry has fallen to 81% in Q1 of 2012-13 from the preceding quarter Q4 of 2011-12 when it was 88%. Therefore, despite levy of safeguard duty on imports during this period, the capacity utilization has not improved.

c) *Share of domestic producers in domestic consumption:*

		Imports (MT)	Domestic Sales by Industry (MT)	Sale of other producers(MT)	Consumption in India (MT)	Market share of DI
2009-10	Q1	7240	35530	5930	48700	73%
	Q2	5163	41289	5930	52382	79%
	Q3	8526	39427	5930	53883	73%
	Q4	7169	40696	5930	53795	76%
TOTAL		28098	156942	23720	208760	75%
2010-11	Q1	23615	39817	5938	69370	57%
	Q2	8611	51007	5938	65556	78%
	Q3	18082	38941	5938	62961	62%
	Q4	10933	44553	5938	61424	73%
TOTAL		61241	174318	23752	259311	67%
2011-12	Q1	9752	38149	7659	55560	69%
	Q2	12892	46947	7659	67498	70%
	Q3	7792	42886	7659	58337	74%
	Q4	7983	49748	7659	65390	76%
TOTAL		38419	177730	30636	246785	72%
2012-13	Q1	12907	46884	7367	67158	70%

From the above table, it is evident that the share of domestic industry in domestic consumption of Phthalic Anhydride has fallen to 67% in 2010-11 from 75% in 2009-10. It has slightly increased to 72% in 2011-12, but still less than the base year 2009-10. Further, it has declined to 70% in Q1 of 2012-13 from 76% in Q4 of 2011-12.

d) *Profit/loss* – the profitability of the domestic industry has steeply deteriorated to such a situation that the domestic industry is now suffering financial losses. This is evident from the table below:-

Financial Year	Profitability(Indexed)
2009-10	100
2010-11	-39
2011-12	-177
2012-13 (Q1)	47

Profit of DI have fallen to 47(Indexed) in 2012-13 Q1 from 100(Indexed) in 2009-10. In between, the DI has suffered losses of 39(Indexed) in 2010-11 which mounted to 177(indexed) in 2011-12, which includes a quarter when safeguard duty was leviable.

e) *Inventories –*

YEAR		Index	QTY(MT)
2009-10	Q1	100	1604
	Q2	380	6101
	Q3	30	487
	Q4	282	4530
2010-11	Q1	279	4468
	Q2	155	2484
	Q3	576	9232
	Q4	356	5718
2011-12	Q1	507	8131
	Q2	235	3774
	Q3	58	932
	Q4	223	3579
2012-13	Q1	273	4381

From the table above, it is evident that inventories have increased to 4381 MT in Q1 of 2012-13 from 932 MT in Q3 of 2011-12.

7. The application has been examined and it has been found that prima facie increased imports of PAN (Phthalic Anhydride) have caused and are threatening to cause serious injury to the domestic producers of PAN despite levy of safeguard duty to the extent of 10% wef 17 January 2012 and such increase in imports has caused irreparable damage to the domestic industry. Accordingly, it has been decided to initiate a review investigation through this notice, for continuation/extension of safeguard duty on Phthalic Anhydride.

8. All interested parties may make their views known within a period of 30 days from the date of this notice to:

The Director General (Safeguards)
Bhai Vir Singh Sahitya Sadan: 2nd Floor,
Bhai Vir Singh Marg,
Gole Market, New Delhi-110 001, INDIA.
Telefax: 011-23741542/ 23741537
E-mail: dgsafeguards@nic.in

9. All known interested parties are also being addressed separately.

10. Any other party to the investigation who wishes to be considered as an interested party may submit its request so as to reach the Director General (Safeguards) on the aforementioned address within 21 days from the date of this notice.

Sd/-
(Indrani Dutt Majumder)
Director General.