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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, 10th August, 2011
F.No. D-22011/ 08/2011

Sub: Initiation of safeguard investigation concerning imports of Phthalic Anhydride into India.

G.S.R. An application 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 imposition of Safeguard Duty on imports of Phthalic Anhydride into India to protect the domestic producers of Phthalic Anhydride against serious injury caused by the increased imports of Phthalic Anhydride into India.

2. Domestic Industry: The application 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 imposition of Safeguard Duty on imports of Phthalic Anhydride. The application has been made by three of the five domestic producers of Phthalic Anhydride in India accounting for 86% 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, and (4) M/s SI Group India Ltd., Navi Mumbai Maharashtra, 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, safeguard investigation against imports of Phthalic Anhydride was initiated vide notice of initiation dated 28th November 2008 published in the Gazette of India, Extraordinary on the same day.

4.1 After expeditious conduct of investigation preliminary findings were issued on 1st January 2009. Central Government levied provisional safeguard duty at the rate of 25% with effect from 29th January 2009 vide customs notification No.9/2009-Cus dated 29th January 2009 based on the recommendation of DG Safeguard.

4.2 Director General (Safeguard) issued Final Findings G.S.R. 366(E), dated the 28th May, 2009, recommending definitive Safeguard duty for a period of three years, i.e. from 29-01-2009 to 28-01-2012. The Central Government however imposed definitive Safeguard duty for one year only, @ 25% from 29.01.2009 to 30.06.2009 and @15% from 01.07.2009 to 31.12.2009.

4.3 The definitive safeguard duty has expired on 31.12.2009. Thereafter, no application was filed for review by the domestic industry. However, the instant application filed by the domestic industry has been for imposition of safeguard duty for one year with the purpose to enable the domestic industry to improve its capacity utilization 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 and Taiwan. 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 Q4 of 2008-09 to April-May,2011 remained as under:

Year	Financial	Quarter	Total Imports (MT)	Domestic Production (MT)
2008-09		Q4	6103	49607
2009-10		Q1	7240	47985
		Q2	5163	58259
		Q3	8526	40437
		Q4	7169	52853
2010-11		Q1	23615	55503
		Q2	8611	58168
		Q3	18082	52319
		Q4	11657	51271
2011-12	May	April-	9188	35716

The Imports have increased from 28098 MT 2009-10 to 61965 MT in 2010-11 which shows an increase of 121% which is phenomenal. Further the import with respect to domestic production was 14.08 % in 2009-10 and increased to 28.52 % in 2010-11.

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:* The domestic production has been falling steadily from 58259MT in Quarter 2 (2010-11), then 52319 MT in Quarter 3 (2010-11) & further to 51271MT in Q4(2010-11) and finally to 50124 MT in Q1(2011-12) .

YEAR		Index	QTY(MT)
2008-09	Q4	100	49607
2009-10	Q1	97	47985
	Q2	117	58259
	Q3	82	40437
	Q4	107	52853
2010-11	Q1	112	55503
	Q2	117	58168
	Q3	105	52319
	Q4	103	51271
2011-12	Q1	101	50124

b) *Capacity Utilization:* Capacity utilization of the domestic industry has declined significantly in the most recent period, from 87% in Q2 of 2010-11 to 75% in Q1 of 2011-12.

YEAR		Capacity utilized(%)
2008-09	Q4	83
2009-10	Q1	72
	Q2	87
	Q3	60
	Q4	79
2010-11	Q1	83
	Q2	87
	Q3	78
	Q4	76
2011-12	Q1	75

The plant of Mysore Petrochemicals is at present under shutdown for an indefinite period w.e.f 20.06.2011 due to accumulation of high stocks.

c) *Share of domestic producers in domestic consumption:* Market share of domestic producers has fallen significantly. Applicants had a market share of 75% in 2009-10 which

fell to 69% during 2010-11. The market share of the applicants further declined to 64% in Q1(Apr-May 2011).

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:-

	Rs. In Lakhs
Financial Year	Profitability
2009-10	2583
2010-11 (Annualized)	-1513
2011-12 (Q1)	-384
2011-12 (Annualized)	-1536

e) *Inventories* – the inventories with the domestic industry have increased significantly. The table below depicts the inventories level which have witnessed a massive surge from 4530 MT in 2009-10 to 5718 MT in 2010-11 and further to 8131 MT in Q1 (2011-12), almost doubling in 2011-12 from the 2009-10 level, reflecting the plight of the domestic industry.

YEAR		Index	QTY(MT)
2008-09	Q4	100	5365
2009-10	Q1	30	1604
	Q2	114	6101
	Q3	9	487
	Q4	84	4530
2010-11	Q1	83	4468
	Q2	46	2484
	Q3	172	9232
	Q4	107	5718
2011-12	Q1	152	8131

7. The domestic industry has requested for immediate imposition of safeguard measures for a period of one year in their application. The domestic industry's request for imposition of provisional safeguard duty for one year is in light of critical circumstances, since interim measures are imperative in view of steep deterioration in performance of the domestic industry as a result of increased imports of product under consideration. The major Chinese market for PAN has clogged for the export oriented producers of Korea and Taiwan whereas the Indian market is still strong which led to tremendous increase in imports. The applicants have further submitted that despite increase in the prices of raw materials, the prices of PAN remained the same or at times declined. This is due to market pressure faced by the domestic industry from the increase in imports leading to financial losses.

8. 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 and such increase in imports has caused irreparable

damage to the domestic industry and accordingly, it has been decided to initiate an investigation through this notice.

9. 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

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

11. 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.