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**Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhavan, New Delhi – 110011**

INITIATION NOTIFICATION

Dated the 23rd November, 2012

Subject: Initiation of Anti-Dumping Investigation concerning imports of Solar Cells whether or not assembled partially or fully in Modules or Panels or on glass or some other suitable substrates, originating in or exported from Malaysia, China PR, Chinese Taipei and USA.

No.14/5/2012-DGAD - Whereas Solar Manufacturer's Association (hereinafter referred to as the applicant) has filed an application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and 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 referred to as the Rules), alleging dumping of Solar Cells whether or not assembled partially or fully in Modules or Panels or on glass or some other suitable substrates (hereinafter referred to as the subject goods), originating in or exported from Malaysia, China PR, Chinese Taipei and USA (hereinafter referred to as the subject countries), for initiation of anti-dumping investigation and for levy of anti-dumping duties on the imports of the subject goods, originating in or exported from the subject countries.

2. AND WHEREAS, the Authority finds sufficient prima facie evidence of dumping of the subject goods, originating in or exported from subject countries, and injury to the domestic industry, and causal link between the dumping and injury, the Authority hereby initiates an investigation into the alleged dumping, and consequent injury to the domestic industry in terms of the Rule 5 of the Anti-dumping Rules, to determine the existence, degree and effect of any alleged dumping and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

PRODUCT UNDER CONSIDERATION

3. The product under consideration (PUC) in the present investigation is Solar Cells whether or not assembled partially or fully in Modules or Panels or on glass or some other suitable substrates. As stated by the applicant, Solar Cells are manufactured through two technologies in India i.e. crystalline silicon technology and thin film technology. Solar cells produced through both the technologies are prima facie covered under the product under consideration.

4. Solar cells are also known as Photovoltaic Cells in the market parlance. Photovoltaic is the direct conversion of sun light into electricity at the atomic level. Some materials exhibit a property known as the photoelectric effect that causes them to absorb photons of light and release electrons. When these free electrons are captured electric current results, which can be used as electricity. Semiconductor materials such as silicon used in microelectronics industry possess such photoelectric effect. When light energy strikes the semiconductor material, electrons are knocked loose from the atoms in the semiconductor material. If electrical conductors are attached to the positive and negative sides, forming an electrical circuit, the electrons can be captured in the form of an electric current i.e. electricity. The subject goods are classified under Customs Classification chapter heading 8541 40 11. However, the customs classification is indicative only and in no way binding on the scope of this investigation.

DOMESTIC INDUSTRY STANDING

5. The application has been filed by Solar Manufacturer's Association on behalf of M/s Indosolar Ltd (100% EOU), M/s Jupiter Solar Power Limited (DTA unit) and M/s Websol Energy Systems Ltd (SEZ unit). There are a number of other producers of the subject goods in India. But, as claimed by the applicant, the other Indian producers of the subject goods are themselves importers of the subject goods from the subject countries. In this context, the Authority had made efforts to ascertain the position from other known Indian producers. From the responses received, the Authority notes that most of them have acknowledged to have imported the subject goods from the subject countries during the POI. However, none of the respondents provided the required information in the prescribed format. From the available information, the Authority prima facie notes that the production of the applicant accounts for "a major proportion" of total production of the product under consideration in India. The Authority, therefore, prima facie determines that the applicant constitutes domestic industry within the meaning of the Rule 2 (b) and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

LIKE ARTICLE

6. The applicant has claimed that the subject goods, which are being dumped into India, are like articles to the goods produced by the domestic industry. There are no

differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods and the product under consideration manufactured by the applicant. The two are technically and commercially substitutable and hence be treated as 'like article' under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the applicant in India are prima facie treated as 'Like Article' to the subject goods being imported from the subject countries.

COUNTRIES INVOLVED

7. The countries involved in the present investigation are Malaysia, Peoples Republic of China, Chinese Taipei and United States of America.

NORMAL VALUE

8. The applicant has claimed that China PR should be treated as a non-market economy and determined normal value in accordance with Para 7 and 8 of Annexure I of the Rules. The applicant has claimed normal value on the basis of cost of production in India, duly adjusted for China PR. In terms of Para 8 in Annexure 1 to the Rules it is presumed that the producers of the subject goods in China PR are operating under non-market economy conditions. In view of the above non-market economy presumption and subject to rebuttal of the same by the responding exporters, normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules. As regards USA, the applicant has provided evidences of Normal Value in USA based on price information published in a trade magazine namely IMS Research and estimated the Normal Value of the subject goods in USA on this basis. The Applicant has submitted that best possible efforts were made to procure evidences of domestic price in Chinese Taipei and Malaysia and however they could not procure any. Applicant has claimed Normal Value for Chinese Taipei and Malaysia on the basis of cost of production in India, duly adjusted.

EXPORT PRICE

9. The applicant has claimed export prices on the basis of data obtained from Trade Impex Statistics Services. The data from the same source has been taken into consideration for the injury period including the POI. Price adjustments have been prima facie allowed on account of ocean freight, marine insurance, commission, port expenses and bank charges to arrive at the net ex-factory export price.

DUMPING MARGIN

10. Normal value and export price have been compared at ex-factory level, which shows significant dumping margin in respect of the subject countries. There is prima facie evidence to show that the normal value of the subject goods in the subject countries is significantly higher than the ex-factory export price, indicating, prima facie, that the subject goods are being dumped into the Indian market by the exporters from the subject countries. The dumping margins are estimated to be above *de minimis*.

INJURY AND CAUSAL LINK

11. The applicant has furnished evidence regarding the 'injury' having taken place as a result of the alleged dumping in the form of increased volume of dumped imports, price undercutting, price underselling, price depression and decline in profitability and financial losses, negative return on capital employed, cash flow, etc, of the domestic industry. There is sufficient prima facie evidence of 'injury' being suffered by the domestic industry caused by dumped imports from the subject countries to justify initiation of an antidumping investigation.

PERIOD OF INVESTIGATION

12. The period of investigation (POI) proposed by the applicant was 1st January 2011 to 31st December 2011 (12 months). However, for enabling the Authority to make required analysis on the basis of more updated data, the Authority hereby determines the POI as 1st January 2011 to 30th June 2012 (18 months). The injury investigation period will however cover the periods April 2008-March 2009, April 2009-March 2010, April 2010-March 2011 and the POI.

RETROSPECTIVE IMPOSITION OF DUTIES

13. The applicant has requested for retrospective imposition of duty as the injury is claimed to be caused to the domestic industry by massive dumping of subject product in relatively short time. They have further submitted that considering the huge volume of such imports, unless duty is recommended retrospectively, the desired remedial measures of anti-dumping duties may not be accomplished. The interested parties may make their submissions in this regard.

SUBMISSION OF INFORMATION

14. The known exporters in the subject countries and their Government through their Embassy in India, importers and users in India known to be concerned and the domestic industry are being informed separately to enable them to file all relevant

information in the form and manner prescribed. Any other interested party may also make its submissions relevant to the investigation within the time-limit set out below and write to:

**The Designated Authority
Directorate General of Anti Dumping & Allied Duties,
Ministry of Commerce & Industry,
Department of Commerce,
Government of India,
Room No. 240, Udyog Bhavan,
New Delhi –110011.**

TIME LIMIT

15. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above not later than 40 (forty) days from the date of publication of this notification. The known exporters and importers, who are being addressed separately, are however required to submit the information within 40 (forty) days from the date of the letter addressed to them separately. If no information is received within the prescribed time limit or the submitted information is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with the Rules. It may be noted that no request, whatsoever, shall be entertained for extension in the prescribed time limit.

SUBMISSION OF INFORMATION ON NON-CONFIDENTIAL BASIS

16. In case confidentiality is claimed on any part of the questionnaire's response/submissions, the same must be submitted in two separate sets (a) marked as Confidential (with title, index, number of pages, etc.) and (b) other set marked as Non-Confidential (with title, index, number of pages, etc.). All the information supplied must be clearly marked as either "confidential" or "non-confidential" at the top of each page.

17. Information supplied without any mark shall be treated as non-confidential and the Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Two (2) copies each of the confidential version and the non-confidential version must be submitted.

18. For information claimed as confidential; 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 and/or why summarization of such information is not possible.

19. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out / 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, party submitting the confidential information may indicate that such information is not susceptible of summary; a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

20. 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 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.

21. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim may not be taken on record by the Authority. The Authority on being satisfied and accepting the need for confidentiality of the information provided; shall not disclose it to any party without specific authorization of the party providing such confidential information.

INSPECTION OF PUBLIC FILE

22. In terms of Rule 6(7), the Designated Authority maintains a public file. Any interested party may inspect the public file containing non-confidential version of the evidence submitted by the interested parties.

NON-COOPERATION

23. In case any interested party refuses access to and 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.

(J.S. Deepak)
The Designated Authority