檔號	/ /	保存年限	

經濟部國際貿易局　函

機關地址：臺北市湖口街1號
承 辦 人：徐梅軒
聯絡電話：(02)23977466
傳　　真：(02)23584339
電子郵件：travelcat0705@trade.gov.tw

24159
新北市三重區重新路5段609巷6號3樓之3

受文者：台灣醫療暨生技器材工業同業公會

台灣醫療暨生技器材工業同業公會 收 107. 04. 13 文 檔號：107250

發文日期：中華民國107年4月12日
發文字號：貿雙一字第1070002876號
速別：最速件
密等及解密條件或保密期限：
附件：如文(計12頁)

主旨：有關印度商工部反傾銷局更新對自孟加拉、韓國、印尼、巴基斯坦、泰國及我國進口之過氧化氫(Hydrogen Peroxide)展開反傾銷調查事實揭露報告事，請查照並轉知相關會員廠商因應。

說明：

經濟部貿易局

一、依據駐印度代表處經濟組107年4月10日竺經字第10700001670號函（如附件）辦理；本局106年6月16日貿雙一字第1067016838號函諒達。

二、印度商工部反傾銷局原於上(106)年4月11日公告本案終判報告，惟部份業者將本案上訴至印度關稅、貨物稅及服務稅上訴法庭(Customs, Excise and Service Tax Appellate Tribunal, CESTAT)，該局依據上年12月20日法庭命令更新本案事實揭露報告。

三、本案利益關係人倘欲對本報告內容表示意見，應於本(107)年4月16日上午10時30分前將意見提供該部，收件窗口為The Designated Authority, Directorate General of Anti-Dumping and Allied Duties, Department of Commerce, Ministry of Commerce and Industry, 4th

Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi-110001。本案調查官為Mithileshwar Thakur，電話：+91-11-23349443，電郵：m.thakur@nic.in。

正本：台灣區石油化學工業同業公會、台灣肥皂清潔劑工業同業公會、臺灣製藥工業同業公會、台灣區酸鹼工業同業公會、台灣環境衛生用藥工業同業公會、台灣醫療暨生技器材工業同業公會

副本：中華民國全國工業總會、本局局長室、副局長室、貿易服務組、綜合企劃委員會、駐印度代表處經濟組（以上均不含附件）

局長 楊珍妮

依照分層負責規定
授權單位主管決行

國際章
騎縫章

雙邊貿易一組

檔號	/	保存年限	
	/ /		

駐印度代表處經濟組　函

機關地址：34 Paschimi Marg, Vasant Vihar, New Delhi-110057, India
承 辦 人：謝丞淵
聯絡電話：91-11-4607-7722
電子郵件：cyhsieh@moea.gov.tw

受文者：經濟部國際貿易局
發文日期：中華民國 107 年 4 月 10 日
發文字號：竺經字第 10700001670號
速別：最速件
密等及解密條件或保密期限：普通
附件：請洽承辦人

主旨：有關印度商工部反傾銷局更新對自孟加拉、我國、韓國、印尼、巴基斯坦、泰國進口之過氧化氫(Hydrogen Peroxide)展開反傾銷調查事實揭露報告事，請查照。

說明：

一、依據印度商工部反傾銷局調查官 Mithileshwar Thakur 本(2018)年 4 月 9 日電子郵件辦理；本組 106 年 6 月 15 日竺經字第 10600002800 號函諒達。

二、該局原於上(2017)年 4 月 11 日公告本案終判報告，惟部份業者將本案上訴至印度關稅、貨物稅及服務稅上訴法庭(Customs, Excise and Service Tax Appellate Tribunal)，該局依據法庭命令更新本案事實揭露報告(如附件)。CESTAT

三、本案利益關係人倘欲對本報告內容表示意見，應於本年 4 月 16 日上午 10 時 30 分前將意見提供該部，收件窗口為 The Designated Authority, Directorate General of Anti-Dumping and Allied Duties, Department of Commerce, Ministry of Commerce and Industry, 4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi-110001。本案調查官為 Mithileshwar Thakur，電話：+91-11-23349443，電

梅軒
宏部

東北亞

經濟部國際貿易局
1070002876

107. 4. 10

國際貿易局 傳直收文

郵：m.thakur@nic.in。

正本：經濟部國際貿易局
副本：

裝

訂

線

F. No.14/03/2015-DGAD
Government of India
Department of Commerce
Ministry of Commerce & Industry
Directorate General of Anti-Dumping & Allied Duties
4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi -110001

Dated 9th April, 2018

To

THE DOMESTIC INDUSTRY AND ALL INTERESTED PARTIES

DISCLOSURE STATEMENT

Subject: Anti-dumping investigation concerning imports of Hydrogen Peroxide originating in or exported from Bangladesh, Taiwan, Korea RP, Indonesia, Pakistan and Thailand.

Sir/Madam,

In accordance with Rule 16 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended, I am directed by the Designated Authority to disclose the essential facts under consideration before the Designated Authority in the matter relating to the anti-dumping investigation concerning imports of "Hydrogen Peroxide" (H2O2) originating in or exported from Bangladesh, Taiwan, Korea RP, Indonesia, Pakistan and Thailand remanded by Hon'ble CESTAT vide its Order dated 20.12.2017. Central Excise and Service Tax Appellate Tribunal

2. This Disclosure Statement comprises of following Annexures:

Annexure I: General Disclosure

Annexure II: Methodology for arriving at non-injurious price

(Confidential copy for Domestic Industry only)

2. The Annexures cited above contain essential facts under consideration of the Designated Authority, which would form the basis for the Final Findings to be issued in pursuance of the order of the Hon'ble CESTAT in the matter. The reproduction of facts does not tantamount to either acceptance or rejection of any fact/argument/submission. Arguments raised/submissions made by the interested parties during the course of the

present remand proceedings are reflected in this Disclosure Statement to the extent they are considered relevant to this investigation by the Authority.

3. Notwithstanding the facts given in this Disclosure Statement (including facts given on a confidential basis), the Designated Authority would consider all replies given, on merits, in order to arrive at a final determination.
4. *** in this Disclosure Statement represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
5. Interested parties may offer their comments, if any, by Email at the addresses mentioned below by 10: 30 AM on 16th April, 2018. Signed hard copy may also be given at 4th Floor, Jeevan Tara Building, New Delhi-110001. Since anti-dumping investigations are time bound, the Designated Authority shall not entertain any request for extension of time.
6. This issues with the approval of the Designated Authority.

Thanking You.

Yours sincerely,

Mithileshwar Thakur
Addl. Director General
m.thakur@nic.in

F. No.14/03/2015-DGAD
Government of India
Department of Commerce
Ministry of Commerce & Industry
Directorate General of Anti-Dumping & Allied Duties
4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi -110001

Annexure-I

DISCLOSURE STATEMENT

Subject: Anti-dumping investigation concerning imports of Hydrogen Peroxide originating in or exported from Bangladesh, Taiwan, Korea RP, Indonesia, Pakistan and Thailand, remanded by Hon'ble CESTAT through Order no. 58470-58474/2017 dated 20.12.2017.

No. 14/3/2015-DGAD – Having regard 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) thereof, M/s National Peroxide Limited (NPL) and M/s Hindustan Organic Chemicals Ltd (HOCL) had filed Anti-dumping petition and the Authority had issued Final Finding dated 11th April, 2017 recommending imposition of AD Duty on imports of "Hydrogen Peroxide" (H2O2) originating in or exported from Bangladesh, Taiwan, Korea RP, Indonesia, Pakistan and Thailand. In pursuance of the above mentioned Final Findings, Department of Revenue through Notification No. 28/2017-Customs (ADD) dated 14th June, 2017 imposed antidumping duty.

1. Thereafter, two appeals were filed by the exporters from Bangladesh (M/s Samuda Chemicals Ltd and M/s ASM Chemical Industries Ltd.), one by the exporter from Thailand (M/s Solvay Peroxy Thai Limited) and another two appeals by constituents of the Domestic Industry (M/s NPL and M/s HOCL) .While the appellant exporters sought setting aside of imposition of Anti-Dumping Duty or reduction of the quantum of duty, the Domestic Industry sought enhancement of the said duty.

Appellants

2. The Hon'ble CESTAT held that there was no merit either in the appeals filed by the exporters against the levy of anti-dumping duty on the subject goods or in the appeal filed by HOCL.

3. In the appeal filed by NPL, it was pleaded by NPL that inadequate and incorrect return on capital employed had resulted in incorrect fixation of quantum of Anti-Dumping duty. It was argued by NPL that in the computation of NIP , the Designated Authority had arrived at the optimum production which itself should have addressed the issue of closure of plant for part-period during the POI , the optimum production having been arrived at based on the highest level of notional production during last 3 years and POI . It was accordingly argued that there was no mandate in the AD Rules to make further adjustment in the notional return and that a further reduction in such notional return reduced the NIP and consequently injury margin and the quantum of anti-dumping duty levied.

4. Based on the appeal filed by the NPL, the Hon'ble CESTAT on the issue of determination of NIP of domestic industry has remanded the case to the Designated Authority with the direction to make re-determination of NIP and complete the same within a period of three months from the date of receipt of the order. The relevant extract of the CESTAT Order is given below:

> *"27. While we are upholding the imposition of anti-dumping duty on the subject goods it is apparent that the grievance of the appellant (NPL) as a DI on the calculation of net return/adjusted return as made by the DA requires re-examination. The learned counsel for the DA also admitted that there has been no past instance of such second adjustment while arriving at the return on capital employed. In these facts and circumstances of the case, we note that the matter has to go back to the DA for a limited purpose of verifying the correctness of the return on investment as arrived at by the DA based on optimum production of 15 months and again by the adjustment in the net return. We direct the Designated authority to re-examine this aspect and to give a finding regarding the correctness of the method followed by him while determining the return on investment in respect of NPL. To that extent, the quantification of anti-dumping duty is set aside for a re-examination by the DA. However, during that period of such re-examination the present levy as recommended and notified shall continue to be charged. We advise the DA to complete his re-examination as above within three months of receipt of this order. The appellants and interested parties shall be provided adequate opportunity in this regard to present their case."*

Procedure

5. In compliance with the above direction of Hon'ble CESTAT, the Authority conducted an oral hearing on 1.2.2018 inviting all the interested parties including the domestic industry.

The representatives of domestic industry, the exporters and other interested parties attended the oral hearing. The parties attending the oral hearing were requested to make their submissions in writing and rejoinders, if any. Pursuant to the oral hearing the following parties made their submissions:

Submission of other interested parties

6. The legal counsels representing M/s Thai Peroxide Company Ltd., Thailand and M/s Samuda Chemicals Ltd., Bangladesh have submitted that the methodology for calculating the Non-injurious Price disclosed at the stage of Disclosure Statement was very generic curtailing the right of the interested parties to file a detailed comment.

Submissions by the Domestic Industry

7. Following submissions were made by M/s NPL , a constituent of the domestic industry

a. There was error in calculating the return on investment in respect of M/s National Peroxide Limited. The method was not in conformity with Annexure III of the AD Rules as well as consistent practice of the DA and therefore the return and profit determined in case of NPL was not correct.

b. CESTAT vide its order no 58470-58474/2017 dated 20/12/2017 held that the Designated Authority has incorrectly calculated return and remanded the matter back to the Designated Authority for the purpose of re-fixation of NIP.

c. The scope of the hearing was limited only to re-fixation of NIP.

d. Even when Designated Authority invited other interested parties to attend hearing and even when a number of them attended the hearing, none of them made any submission on the issue under consideration. One of the interested parties even stated that it was a clear case of computation error and implied that other interested parties did not have anything to submit or comment.

e. As per the consistent practice, the Authority has considered 22% p.a. return on investment (capital employed) for determination of the NIP. However, while doing so, a calculation error has occurred, whereby, instead of adopting a return of Rs. *** per MT, a figure of Rs *** per MT has been considered.

f. The NIP is required to be re-fixed after considering correct figures for return, as held by the CESTAT. Consequently, NIP and injury margin is required to be re-determined.

Examination by the Authority

8. As regards the submission of the exporters that their right to make detailed comment on the NIP has been curtailed due to non-disclosure of detailed computations, the Authority notes that the principles followed in determination of NIP has been disclosed as per the consistent practice. Some interested parties had filed appeal against the determination as referred above and the Hon'ble CESTAT has dismissed these appeals. In any case, the Authority cannot disclose data relating to computation of NIP to exporters as it would amount to disclosing confidential data.

9. The Hon'ble CESTAT has directed to verify the correctness of double adjustment on account of closure of the plant of NPL for some period during POI for granting return on capital employed.

10. The Authority has re-examined the computation of return on capital employed allowed to National Peroxide Ltd., one of the constituent of the domestic industry. It is seen that manufacturing operations of NPL were suspended for some time during POI for undertaking expansion. This was required to be duly taken into account while determining return on capital employed. Considering the closure of unit of NPL for part of the period, the Authority had determined optimum production of 15 months as *** MT, as against the actual production of *** MT. This was done to appropriately adjust the closure of the plant. However, inadvertently, return was further adjusted to account for suspension of production by the company.

		Production Quantity MT	Original NIP Rs.	Original NIP US$	Corrected NIP Rs.	Corrected NIP US$
HOCL	Bulk	***	***	***	***	***
	Packed	***	***	***	***	***
NPL	Bulk	***	***	***	***	***
	Packed	***	***	***	***	***
Domestic	Bulk	***	***	***	***	***

industry as a whole	Packed	***	***	***	***	***

11. Since the injury suffered by NPL on account of plant closure was already nullified by considering normative production based on the highest capacity utilisation during the injury period, no further adjustment in the return, calculated on the basis of the principles laid down in Annexure III to the Rules, is warranted. Accordingly, the recomputed NIP for NPL is as under:

The exchange rate adopted by the Authority during the POI for the subject investigation is 1 US$ = Rs 62.13

12. The recomputed NIP for the NPL for bulk is Rs. *** per MT as against Rs. *** per MT and for Packed is *** per MT as against Rs. *** per MT. Consequently, the revised weighted average NIP for the domestic industry works out to Rs *** per MT as against Rs. *** per MT for bulk PUC. For packed PUC, it is Rs*** per MT as against *** Rs/MT

13. Since the NIP has been re-computed as mentioned above, there is a need for re-computing injury margin (difference between NIP and the landed value). The Authority has accordingly re-computed the injury margin by considering the recomputed NIP. The proposed revised injury margin is shown in the table below;

	Quantity MT	Landed Value	NIP US$	Injury margin US$/MT	Injury margin %	Injury margin Range
Pakistan						
Sitara Peroxide Ltd						
Loose	***	***	***	***		
Packed	***	***	***	***		
PUC	***	***	***	***	***	15-25
Descon Oxychem Ltd						

Loose	***	***	***	***		
Packed	***	***	***	***		
PUC	***	***	***	***	***	15-25
Residual		***	***	***	***	35-45
Bangladesh						
Tasmin Chemicals Complex Ltd						
Loose	***	***	***	***		
Packed	***	***	***	***		
PUC	***	***	***	***	***	15-25
Samuda Chemicals Complex Ltd						
Loose	***	***	***	***		
Packed	***	***	***	***	***	15-25
ASM Chemical Industries Ltd						
Loose	***	***	***	***		
Packed	***	***	***	***		
PUC	***	***	***	***	***	15-25
Residual		***	***	***	***	15-25
Thailand						
Thai Peroxide Company Ltd						
Loose	***	***	***	***		
Packed	***	***	***	***		
PUC	***	***		***	***	5-15
Residual		***	***	***	***	15-25
Korea RP						
Loose	***	***	***	***		
Packed	***	***	***	***		
PUC	***	***		***	***	10-20

Taiwan						
Loose	-	-	-	-	-	-
Packed	***	***	***	***	***	15-25
Indonesia						
Loose	***	***	***	***		
Packed	***	***	***	***		
PUC	***	***		***	***	Negative

14. The above essential facts in the present disclosure statement are being disclosed to the interested parties in order to enable them to offer their comments.

15. The Authority would conclude on the matter after receiving the comments of the interested parties on this disclosure statement.

ANNEXURE-II

(Confidential copy for Domestic Industry only)

METHODOLOGY FOR DETERMINATION OF NON-INJURIOUS PRICE

1. The NIP has been determined by adopting the verified information/data relating to the cost of production for the period of investigation i.e. 1st April, 2014 to 30th June 2015 (15 months). in respect of domestic industry, and the cost data submitted by said domestic industry duly certified by Chartered/Cost Accountants. Detailed analysis/examination and reconciliation of the financial and cost records maintained by the company, wherever applicable, were carried out for this purpose. The NIP for the domestic industry has been determined in terms of the principles outlined in Annexure III to the AD Rules as briefly described below:

a) RAW MATERIAL COST: The best utilization of raw materials by the domestic producer, over the POI and preceding three years period, at the POI rates was considered.

b) COST OF UTILITIES: The best utilization of utilities by the domestic producer, over the POI and preceding three years period, at the POI rates was considered.

c) PRODUCTION: The best utilization of production capacity over the POI and preceding three years period was considered.

d) SALARY & WAGES: Propriety of the expenses grouped under this head and charged to the cost of production was examined. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production.

e) DEPRECIATION: The reasonableness of the amount of depreciation charged to the cost of production was examined to ensure that no charge has been made for facilities not deployed on the production of the subject goods.

f) IDENTIFICATION AND ALLOCATION/APPORTIONMENT OF EXPENSES: The reasonableness and justification of various expenses claimed for the POI has been examined.

g) REASONABLE RETURN ON CAPITAL EMPLOYED: A reasonable return (pre-tax) @ 22% on average capital employed (i.e., Average Net Fixed Assets and Average Working Capital) for the product under consideration was allowed for recovery of interest, corporate tax and profit. Interest is allowed as an item of cost of sales and after deducting the interest, the balance amount of return has been allowed as pre-tax profit to arrive at the NIP.

2. NIP FOR THE DOMESTIC INDUSTRY: The NIP for the bulk PUC is proposed as Rs. ***per MT and for packed PUC as Rs. *** per MT

****