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台灣醫療暨生技器材工業同業公會
收 107. 04. 25 文
檔號: 107282

經濟部國際貿易局　函

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受文者：台灣醫療暨生技器材工業同業公會

發文日期：中華民國107年4月23日
發文字號：貿雙一字第1070003186號
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附件：如文(計12頁)(請至本局附件下載區下載https://att.trade.gov.tw/，識別碼：5mpxr)

主旨：檢送印度商工部反傾銷局對自孟加拉、我國、韓國、印尼、巴基斯坦及泰國進口之過氧化氫(Hydrogen Peroxide)反傾銷調查案更新終判報告1份（如附件），請查照並轉知相關會員廠商因應。

說明：

一、依據駐印度代表處經濟組107年4月18日竺經字第10700001800號函（如附件）辦理；本局107年4月12日貿雙一字第1070002876號函諒達。

二、印度商工部反傾銷局依據印度關稅、貨物稅及服務稅上訴法庭(Customs, Excise and Service Tax Appellate Tribunal，CESTAT)上(2017)年12月20日第58470-58474/2017號命令，重新檢視並計算損害差額後，更新建議對自我國進口之過氧化氫課徵每公噸71美元之反傾銷稅（報告第11頁）。

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、臺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 公出

秘書室主任倪克浩代行

依照分層負責規定
授權單位主管決行

雙邊貿易一組

檔號	/	保存年限	
	/ /		

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受文者：經濟部國際貿易局
發文日期：中華民國 107 年 4 月 18 日
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密等及解密條件或保密期限：普通
附件：如文(共 11 頁)

主旨：檢送印度商工部反傾銷局對自孟加拉、我國、韓國、印尼、巴基斯坦、泰國進口之過氧化氫(Hydrogen Peroxide)反傾銷調查案更新終判報告 1 份(如附件)，請查照。

說明：

一、依據印度商工部反傾銷局 2018 年 4 月 17 日公告辦理；本組 107 年 4 月 10 日竺經字第 10700001670 號函諒達。

二、該局依據印度關稅、貨物稅及服務稅上訴法庭(Customs, Excise and Service Tax Appellate Tribunal)上(2017)年 12 月 20 日第 58470-58474/2017 號命令，重新檢視並計算損害差額後，更新建議對自我國進口之過氧化氫課徵每公噸 71 美元之反傾銷稅(報告第 11 頁)。

正本：經濟部國際貿易局
副本：

駐印度代表處

梅軒(能融代)
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經濟部國際貿易局
1070003186
107. 4. 18

國際貿易局
傳真收文

To be published in the Gazette of India, Extraordinary, Part 1 Section 1

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 17th April, 2018

NOTIFICATION

FINAL FINDING

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.

2. 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.

3. 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.
4. 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.
5. 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."

A. Procedure

6. 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:

7. The essential facts of the investigation were disclosed to the interested parties by the Authority on 9th April, 2018 in order to enable these interested parties to offer their comments on these facts.

B. Submission of other interested parties

8. 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.

C. Submissions by the Domestic Industry

9. 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.

D. Examination by the Authority

10. 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.

11. 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.

12. 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.

13. 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:

		Production Quantity MT	Original NIP Rs.	Original NIP US$	Corrected NIP Rs.	Corrected NIP US$
HOCL	Bulk	10,007	27,888	449	27,888	449
	Packed	183	34,813	560	34,813	560
NPL	Bulk	62,548	19,766	318	20,590	331
	Packed	32,091	27,025	435	27,907	449
Domestic industry as a whole	Bulk	72,755	20,887	336	21,987	354
	Packed	32,274	27,070	436	27,961	450

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

14. The recomputed NIP for the NPL for bulk is Rs.20,590 per MT as against Rs.19,766 per MT and for Packed is 27,907 per MT as against Rs 27,025 per MT. Consequently, the revised weighted average NIP for the domestic industry works out to Rs. 21,987 per MT as against Rs.20887 per MT for bulk PUC. For packed PUC, it is Rs.27,961 per MT as against 27,070 Rs/MT

15. 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 Prevised 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		***	***	***	***	25-35
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

POST DISCLOSURE COMMENTS

16. The post disclosure submissions have been received from the interested parties. Majority of the issues raised therein have already been raised earlier during the investigation and also addressed appropriately. Additional submissions have been analysed as under:

E. **Comments by Domestic Industry**

i. The only scope of the present post decisional proceedings is re-determination of NIP in the light of the CESTAT decision.

ii. The examination shows that the weighted average NIP is required to be increased by US$ *** PMT with proportionate change in the quantum of antidumping duty.

iii. Revised antidumping duty be recommended for all the countries/exporters.

F. **Comments by other interested parties**

iv. We request the Authority to confirm that NIP has been modified, to the extent of issues related to return only and that too for M/s National Peroxide Limited.

v. The methodology for calculating the Non-injurious Price was not described in detail to the interested parties

vi. Since injury margin is negative for Indonesia, we request the Authority to confirm the same in the final findings.

G. **Examination by the Authority**

17. The Authority notes that most of the submissions by parties are repetitive in nature and were already addressed earlier in the disclosure statement. The findings above deal with these arguments of the parties. Further, the Authority has examined submissions of interested parties herein below to the extent relevant and not addressed elsewhere.

i. As regards the submission of the exporters to confirm that NIP has been modified, to the extent of issues related to return only and that too for M/s National Peroxide Limited. The Authority notes that re-computation of NIP has been worked out only for NPL in view of Hon'ble CESTAT order.

ii. As regards the submission of the exporters that methodology for calculating the Non-Injurious Price has not been disclosed in detail, the Authority notes that the principles followed in determination of NIP has been disclosed as per the consistent practice.

18. The Authority notes that adequate opportunity was given to all the interested parties to offer comments on the issue, remanded by the Hon'ble CESTAT. The Authority having recomputed the Injury margin recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry in view of the lesser duty rule. Accordingly, the revised anti-dumping duty equal to the amount indicated in Column 8 of the table below is recommended to be imposed by the Central Government on the imports of the subject goods originating in or exported from subject countries.

Duty Table

SN	Sub-Heading or Tariff Item	Description on of goods	Country of Origin	Country of export	Producer	Exporter	Amount	Currency	Unit
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	2847	Hydrogen Peroxide *	Bangladesh	Bangladesh	M/s Samuda Chemicals	Samuda Chemicals	46.90	USD	MT
2	2847	Do *	Bangladesh	Bangladesh	Tasnim Chemicals	Tasnim Chemicals	27.81	USD	MT
3	2847	Do *	Bangladesh	Bangladesh	ASM Chemicals	ASM Chemicals	46.29	USD	MT
4	2847	Do *	Bangladesh	Bangladesh	Any combination other than mentioned in S.N. 1,2 & 3 above		105.82	USD	MT
5	2847	Do *	Bangladesh	Any country other than those subject to antidumping duty	Any	Any	105.82	USD	MT
6	2847	Do *	Any country other than those subject to	Bangladesh	Any	Any	105.82	USD	MT

			antidumping duty						
7	2847	Do *	Pakistan	Pakistan	M/s Sitara Peroxide Ltd	M/s Sitara Peroxide Ltd	69.91	USD	MT
8	2847	Do *	Pakistan	Pakistan	Descon Oxychem Ltd	Descon Oxychem Ltd	76.60	USD	
9	2847	Do *	Pakistan	Pakistan	Any combination other than mentioned in S.N. 7 & 8 above		132.31	USD	MT
10	2847	Do *	Any country other than those subject to antidumping duty	Pakistan	Any	Any	132.31	USD	MT
11	2847	Do *	Pakistan	Any country other than those subject to antidumping duty	Any	Any	132.31	USD	MT
12	2847	Do *	Thailand	Thailand	M/s Thai Peroxide Co Ltd	M/s Thai Peroxide Co Ltd	31.59	USD	MT
13	2847	Do *	Thailand	Thailand	Any combination other than mentioned in S.N. 12 above		78	USD	MT
14	2847	Do *	Any country other than those subject to antidumping duty	Thailand	Any	Any	78	USD	MT
15	2847	Do *	Thailand	Any country other than those subject to antidumping duty	Any	Any	78	USD	MT
16	2847	Do *	Korea	Korea	Any	Any	60.52	USD	MT

17	2847	Do *	Korea	Any country other than those subject to antidumping duty	Any	Any	60.52	USD	MT
18	2847	Do *	Any country other than those subject to antidumpin g duty	Korea	Any	Any	60.52	USD	MT
19	2847	Do *	Taiwan	Taiwan	Any	Any	71	USD	MT
20	2847	Do *	Taiwan	Any country other than those subject to antidumping duty	Any	Any	71	USD	MT
21	2847	Do *	Any country other than those subject to antidumpin g duty	Taiwan	Any	Any	71	USD	MT

E. Further procedure

19. An appeal against the order of the Central Government that may arise out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)
Additional Secretary & Designated Authority