

**F.No. 7/30/2019-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th floor 5, Parliament Street, New Delhi-110001**

Dated 22nd January, 2021

NOTIFICATION

FINAL FINDINGS

Case No. MTR-11/2019

Subject: Mid-Term Review to review the product scope of definitive Anti-Dumping duty imposed on ‘Nylon Filament Yarn’ originating in or exported from European Union and Vietnam.

Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter 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 thereof, as amended from time to time (hereinafter referred to as the AD rules), thereof;

A. BACKGROUND OF THE CASE

1. M/s. Aquafil SpA (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 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’) for initiation of limited mid-term review investigation to review the product scope and amend the definition of excluded product, that is, Bulk Continuous Filament in the antidumping duty investigation on imports of Nylon Filament Yarn (Multi Filament) (hereinafter referred to as “subject goods” or “product under consideration” or PUC) originating or exported from the European Union and Vietnam (hereinafter also referred to as subject countries). Final Findings in the said investigation were issued vide Notification No. 14/33/2016-DGAD dated 06.08.2018 and anti-dumping duty was imposed by the Central Government vide Custom Notification No. 50/2018-Customs (ADD) dated 5th October, 2018.
2. The Authority, on the basis of prima facie evidence submitted by the applicant, issued a public notice vide Notification No. 7/30/2019-DGTR dated 31 January, 2020 notifying the initiation of Mid Term Review investigation.

3. The Applicant has not requested for either removal of Anti-Dumping Duty or any change in the duty rates.

B. Procedure

4. The procedure described herein below has been followed by the Authority with regard to this subject investigation:
 - I. The Authorities notified the embassy of the subject country in India about the receipt of the present application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
 - II. The Authorities issued the Notification No. 7/30/2019-DGTR dated 31 January 2020 published in the Gazette of India Extraordinary, initiating limited mid-term review investigation concerning imports of the subject goods from subject countries.
 - III. The Authorities sent a copy of the initiation notification to the embassy of the subject countries in India, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicant and requested them to make their views known in writing within 30 days from the date of issue of letter by the authority intimating initiation of the investigation.
 - IV. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the subject countries in India in accordance with Rule 6(3) of the Rules supra.
 - V. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held via Video Conferencing on 7th January, 2021. All the parties who had attended the oral hearing were provided an opportunity to file written submissions, followed by rejoinders, if any.
 - VI. None of the interested parties attending the oral hearing has made any written submissions.
 - VII. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 19th January, 2021. No comments have been received from any interested party.

C. Product under Consideration

5. The product on which the anti-dumping measures is in force is Synthetic multi filament yarns of Nylon or Polyamides, such as flat yarn - twisted and/or untwisted, crimped yarn, fully drawn yarn (FDY), spin drawn yarn (SDY), fully oriented yarn (FOY), high oriented yarn (HOY), partially oriented yarn (POY), textured yarn – twisted and/or untwisted, and dyed yarn, single, double, multiple, folded or cabled, classifiable within Chapter 54 under customs subheading no. 5402. The product includes all variants of Nylon Filament Yarn or Polyamide Yarns such as flat/textured/ twisted/ untwisted, bright/semi-dull/full-dull (or variants thereof), grey/colored/ dyed (or variants thereof), single/double/ multiple/folded/cabled (or variants thereof), whether or not sized, but excludes high tenacity yarn of nylon. Specifically

excluded from the scope of product under consideration are all man-made filament yarns not having Nylon or Polyamides and mono filament yarn, high tenacity yarn of nylon, BCF (Bulk Continuous Filament) yarn. BCF yarn is crimped nylon filament yarn which has high tenacity of approximately 4 centi newton decitex and high denierage (approx. 650 to 1650 decitex) and is normally used in carpet making.

D. Submission made by domestic industry

6. No submissions has been made by domestic industry.

E. Submission made by other interested parties

7. No submissions has been made by other interested parties.

F. Examination by Authority

8. The Authority notes that the applicant has sought amendment in the description /properties of 'BCF' which was excluded from the scope of the product under consideration in the original investigation.
9. The Authority had earlier recommended imposition of Anti-dumping duty (ADD) on imports vide Notification No. 14/33/2016-DGAD dated 6th August 2018. The Anti-dumping duties were imposed by Central Government vide Notification No. 50/2018 Customs (ADD) dated 5th October 2018. Thereafter, the Authority initiated the present mid-term review investigation vide Notification No.7/30/2019-DGTR dated 31st January 2020.
10. The present investigation is limited to amendment of definition of "BCF" yarn, falling under HS Code 5402, excluded from the scope of the product under consideration.
11. As per Para 5 of the notice of initiation dated 31st January 2020, the applicant has sought review on the following grounds:
- The Applicant now has the capacity to manufacture the BCF yarn with denierage in excess of 1650 decitex up to 10,000 decitex. The export of BCF with higher denierage to India is claimed to have commenced during the period subsequent to the period of investigation of original investigation.
 - At the time of original investigation, the Domestic Industry i.e. M/s JCT Limited, M/s Gujarat Polyfilms Pvt. Ltd, M/s Gujarat State Fertilizers and Chemicals Ltd., M/s Prafful Overseas Pvt. Ltd. & AYM Syntex (Formerly known as Welspun Syntex) had submitted that they do not manufacture or sell BCF.
 - There is no change in the cost of investment or cost of production for manufacturing BCF with denierage upto 10,000 decitex since such manufacturing capacity has always been available with the Applicant and same can be produced with the existing production lines on the demand of customers.

12. The authority has observed that none of the interested parties has made any submissions or objections to the present mid-term review investigation.
13. The Authority notes that it has been mentioned that the product, BCF, is used majorly in the carpet manufacturing industry. The applicant has requested for amendment in the definition of the term 'BCF' defined in the Notification No.50/2018-Customs (ADD) dated 5th October, 2018, as follows:
14. *"BCF (Bulk Continuous Filament) Yarn ,which is a crimped nylon filament yarn which has high tenacity of approximately 4 centi newton decitex and high denierage (approx.. 650 to 1650 decitex) and is normally used in carpet making."*
15. The Authority conducted desk verification of the information submitted by the applicant to understand the product scope and application of BCF in carpet manufacturing and the related technical details. The product development and testing process and role of denierage of BCF in carpet manufacturing and performance parameters were also noted.
16. While seeking amendment the Applicant submitted that Domestic Industry does not produce BCF yarn and domestic importers are forced to buy BCF yarn at higher cost. The domestic industry has not made any objections to the claim of the applicant.
17. The Authority notes that the basic arguments of the applicant, M/s Aquafil SpA is that BCF is excluded from the scope of PUC, however the range of denierage of BCF as defined in the notification covers BCF of only a specified range while the applicant is capable of producing BCF yarn with higher denierage as well. Range specified in the notification covers as of now only BCF yarn with denierage between 650 decitex to 1650 decitex.
18. The Authority has further noted that the applicant in its submission has clearly mentioned that it always had the capacity to produce BCF yarn with denierage more than 1650 decitex and it has been supplying such BCF yarn to its customers in countries other than India. Further, the Authority has taken note of submission made by the applicant that there has not been any change in cost of production of the said BCF yarn since the manufacturing capacity to produce BCF yarn with higher denierage also existed in the past as well.
19. The Applicant has also submitted a certificate from Chartered Engineer dated 11th February 2019 along with the petition which certifies that the Applicant has capacity to manufacture BCF yarn with denierage more than 1650 decitex. The Applicant has also provided sale invoices for sale of BCF Yarn with denierage higher than 1650 decitex to establish that they are manufacturing such high denierage BCF yarn.
20. The Authority has noted that the domestic industry has not submitted any concerns on the submissions made by the applicant for amendment in the definition of BCF yarn.

21. On the basis of the submissions made and information furnished by the applicant, the Authority notes that there is merit in the view submitted by the applicant as the increase in denierage over 1650 decitex does not alter the essential characteristics of the BCF yarn and the product continues to be BCF yarn. The clarification is necessary and appropriate to address the full range of production of BCF yarn. The range determined to be extended remains part of the excluded product. Therefore, the modification is largely in the nature of clarification and would not amount to modification in the scope of measures attracting antidumping duty.

G. POST DISCLOSURE COMMENTS

22. No comments have been received from Applicant or other interested parties.

H. RECOMMENDATIONS

23. In view of the submissions made, investigation conducted, and facts established, the Authority recommends that the BCF yarn with denierage from 650 decitex to 10,000 decitex is excluded from the ambit and scope of the antidumping duty recommended earlier vide Final Findings Notification No.14/33/2009-DGAD dated 6th August, 2018 read with Corrigendum to Final Findings Notification no. 14/33/2016-DGAD dated 06.08.2018 issued on 06.09.2018 and imposed vide Customs Notification No.50/2018 dated 05.10.2018.
24. Accordingly, the Authority recommends that the footnote given under Duty Table vide Final Findings Notification No.14/33/2009-DGAD dated 6th August, 2018 and Corrigendum to Final Findings Notification No. 14/33/2016-DGAD dated 06.08.2018 issued on 06.09.2018 and imposed vide Customs Notification No.50/2018 dated 05.10.2018 may be read as following:

“*Synthetic multi filament yarns of nylon or polyamides such as flat yarn-twisted and/or untwisted, crimped yarn, fully drawn yarn (FDY), spin drawn yarn (SDY), fully oriented yarn (FOY), high oriented yarn (HOY), partially oriented yarn (POY), textured yarn-twisted and/or untwisted, and dyed yarn, single, double, multiple, folded or cabled, classifiable within chapter 54 under customs subheading No. 5402. The product includes all variants of Nylon Filament Yarn or polyamide yarn such as flat/ textured/ twisted/ bright/ semi-dull/ full dull (or variants thereof), grey/coloured/dyed (or variants thereof), single, double, multiple, folded or cabled (or variants thereof), whether or not sized, but excludes high tenacity yarn of nylon. Specifically excluded from the scope of product under consideration are all man-made filament yarns not having nylon or polyamides and mono filament yarn, high tenacity yarn of nylon.

BCF (Bulk Continuous Filament) Yarn, which is a crimped nylon filament yarn which has high tenacity of approximately 4 centi newton decitex and high denierage (approx. 650 decitex to 10,000 decitex) and is normally used in carpet making.

I. FURTHER PROCEDURE

25. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.



(B. B. Swain)

Special Secretary & Designated Authority