

22nd May, 2014

Anti-Dumping Duty on Imports of Solar Photovoltaic Cells, Modules and Thin Films

Investigation

1. Directorate General of Antidumping & Allied Duties (DGAD) based on the substantiated petition filed by Indian Solar Manufacturers Association has initiated the investigation on 23rd November, 2012 to determine the existence, degree and effect of the 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.
2. Investigation is into dumping by companies from China, Malaysia, Taiwan and USA.
3. As per the WTO Agreement and Antidumping Rules the investigation was to be completed in less than 18 months or by 22nd May, 2014. DGAD has, therefore, completed the investigation and issued final findings on 22nd May, 2014, the last date possible as per rules. The antidumping duty will come into effect only if notified by Ministry of Finance. This may take up to 3 months.

Transparency

4. Investigation has been carried out by DGAD in a transparent manner following due process. Public hearing of stakeholders, verification of data of exporters and domestic industry and opportunity to comment, including on the disclosure of proposed findings has been afforded to all.

Recommendation

5. DGAD has recommended anti-dumping duties ranging from US\$ 0.64 per watt to US\$ 0.81 per watt for China, US\$ 0.62 per watt for Malaysia, US\$ 0.59 per watt for Taiwan and US\$ 0.11 per watt to US\$ 0.48 per watt for USA.
6. The purpose of imposition of antidumping duties is to provide a level playing field to the domestic industry against the unfair trade practice of dumping followed by the exporters from other countries and not to restrict the imports, which can continue.

Impact

7. The imposition of antidumping duty in the instant case would not only enable the domestic industry to recommence manufacturing and become viable but also provide opportunities for bringing in Indian and foreign investment in the manufacture of solar power equipment. In view of the huge potential demand for this product in India, provision of level playing field to the domestic producers could make India a hub for manufacture of solar power equipment. Thus by leveraging the Indian market, global players with latest technology would be motivated to set up manufacturing facilities in India. This measure will thus protect and create jobs & employment.
8. Imposition of antidumping duty is likely to increase the capital cost of the solar power projects. It is expected that the capital cost per MW is likely to increase by Rs.0.60 crore, Rs.4.80 crore and Rs.2.70 crore respectively at the minimum, maximum and average levels of antidumping duties recommended.
9. Ministry of New & Renewable Energy (MNRE) is already providing subsidy for generation of solar power. The increased capital cost could be offset either by providing additional subsidy of the corresponding amount on a non-discriminatory basis or by increasing the solar power tariff by Rs 1 per Kwh for every increase of Rs.1 crore per MW in the capital cost of solar power projects. At present, the CERC notified tariff is Rs.6.99 per Kwh. MNRE may accordingly have to rework their projects.
10. If the imports of the solar equipments continue at the same level during the period of investigation, the imposition of antidumping duty will be revenue neutral. The annual antidumping duty likely to be collected at the average level of duty of US\$ 0.45 per watt would be about Rs.2160 crore. This additional duty could be used to provide additional subsidy by MNRE towards the additional capital cost of solar power projects.
11. Imposition of antidumping duty is expected to meet one of the main objectives of protecting domestic industry against the unfair trade practices followed by exporters and promote manufacturing and jobs and develop India as a global hub for manufacture of solar photovoltaic cells and modules.

Global Situation

12. Most major countries have imposed anti-dumping duty on solar photovoltaic cells and modules this product. USA has imposed an antidumping duty ranging from 18.32% to 249.46% on imports of solar cells and modules from

China PR. Similarly European Union has also imposed antidumping duty ranging from 27.3% to 64.9% on imports of solar cells and modules from China PR. As against this, the antidumping duty recommended for imposition by DGAD ranges from 9% to 98% of the CIF price prevailing during period of investigation i.e. 1st January, 2011 to 30th June, 2012.

13. Australia has also initiated an antidumping investigation against imports of certain crystalline silicon PV modules/panels from China PR.
14. The global capacity for manufacture of solar power equipment is 60000 MW. However, the global demand is only 25000 MW. There is lot of surplus capacity available in the countries like China, Malaysia, USA and Taiwan. There is every likelihood that these countries will continue to dump the solar power equipments in India till the domestic industry is killed and thereafter will raise prices.

Views of some Government Departments

15. National Manufacturing Competitiveness Council has stated that domestic solar manufacturing sector is suffering from cheap imports from China, etc. Antidumping duty is essential for nurturing the sunrise high technology sector. The nascent domestic manufacturing industry is in difficulty and delay in imposition of anti-dumping duty is coming in the way of the achievement of one of the primary objectives of National Solar Mission which is the creation of the domestic manufacturing capacity.
16. Department of Electronics & Information Technology have stated that in the absence of antidumping duty, the solar industry is facing extreme financial stress. Almost all solar cell manufacturers have been referred to BIFR and further investments have dried. Unless domestic manufacturing takes place, there is threat of perpetuating dependence on import of solar products and technology.
17. Centre for Science and Environment have stated that solar manufacturing sector is not in a healthy state. Therefore domestic solar manufacturers should get a level playing field so as to be able to compete with the exporters from USA, China, etc. today.
18. Ministry of New and Renewable Energy (MNRE) have stated that imposition of antidumping duty may have a major adverse impact on the implementation of JNNSM.

19. Ministry of Environment & Forests have stated that imposition of antidumping duty will impact the production of green energy.

WTO Compatibility

20. Imposition of antidumping measures is a WTO compliant tool to provide a level playing field to the domestic industry which is on the verge of closing down due to the unfair trade practices of exporters from China, Malaysia, Taiwan and USA. India's domestic content requirement based scheme initiated by MNRE under the Jawaharlal Nehru National Solar Mission (JNNSM) has been challenged by the USA in the WTO citing inconsistencies with Article III.4 (National Treatment Principle) of GATT 1994 and Article 2.1 of Agreement on TRIMS because of its domestic content requirement. Imposition of antidumping duty is a WTO compliant measure which would provide a level playing field to the domestic industry and promote domestic manufacturing and jobs.
