

**DIRECTORATE GENERAL OF SAFEGUARDS
CUSTOMS AND CENTRAL EXCISE
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Reference F.No. 22011/68/2017

New Delhi, 19th December, 2017

Notice of Initiation of a Safeguard Investigation

[Issued under Rule 6 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997]

Subject: Initiation of a Safeguard investigation concerning imports of “Solar Cells whether or not assembled in modules or panels” into India - reg.

An application dated 28.11.2017 has been filed in this office on 05.12.2017 under Rule 5 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 by the Indian Solar Manufacturer’s Association (ISMA) on behalf of five Indian producers, namely (i) M/s Mundra Solar PV Limited, Adani House, Meetha Khali 6 Road, Navrangpura, Ahmedabad-380009, Gujarat; (ii) M/s Indosolar Limited, 3C/1, EcoTech-II, Udyog Vihar, Dist: Gautam Budh Nagar, Greater Noida-201306, Uttar Pradesh; (iii) M/s Jupiter Solar Power Limited, Village Katha, Post Office Baddi, Teh. Nalagarh, Dist. Solan, Himachal Pradesh-173205; (iv) M/s Websol Energy Systems Limited, Falta SEZ Sector-II, Falta, Dist: 24 South Praganas, West Bengal-743504; and (v) M/s Helios Photo Voltaic Limited, 43B, Okhala Industrial Estate, Phase-III, New Delhi-110020, through M/s. Athena Law Associates, 808, L&T Building, Sector 18B, Dwarka, New Delhi-110075 seeking imposition of Safeguard Duty on imports of “Solar Cells whether or not assembled in modules or panels” [hereinafter referred to as “Product Under Consideration” or “PUC”] into India to protect the domestic producers of like and directly competitive articles (to the PUC) from serious injury / threat of serious injury caused by such increased imports.

2. **Domestic Industry (DI):** The applicants claim that their collective production accounts for more than 50% of the total production of the PUC in India. They contend that by virtue of this fact, they represent a major proportion of the total Indian or domestic industry of the PUC and, therefore, they have the standing to file the present application and be treated as the DI.

3. **Product Under Consideration (PUC):** The product under consideration is “Solar Cells whether or not assembled in modules or panels” classifiable under Tariff Heading 85414011 of Chapter 85 of the Customs Tariff Act, 1975. Photovoltaic Solar Cells are also known as Photovoltaic Cells in the market / trade parlance. Photovoltaic technology enables direct conversion of sunlight into electricity at the atomic level. Solar Cells are solid state electrical devices that convert sunlight directly into electricity by the photovoltaic effect. To make practical use of the Solar Cells, these are placed in panels or modules. In other words, a solar panel / module is a packaged, connected assembly of Solar Cells. The electrical connections are made to the Solar Cells in series to achieve the desired output wattage and / or in parallel to provide the desired current capability. The Customs tariff classification is indicative only and is in no way binding on the scope of the present investigation.

3.1 There are two major technologies that are available for manufacturing the PUC. The first technology is known as "Crystalline Silicon (c-Si)" based technology, also referred to as silicon wafer based technology. Crystalline Silicon includes n-type and p-type silicon, and also mono crystalline and multi crystalline silicon

materials. The second technology is referred to as "Thin Film" technology wherein amorphous silicon, cadmium tellurium (CdTe) or copper indium gallium selenium are used as semiconductor materials. Solar Cells made by using both c-Si technology and Thin Film technology are imported into India.

3.2 The applicants claim to manufacture Solar Cells using c-Si Technology and not by using Thin Film Technology. The applicants further state that Solar Cells made by using both Crystalline and Thin Film technologies are used in comparable applications or end uses and there are no material differences between such Solar Cells though the technology used may be different. Therefore, the applicants claim that the domestically produced Solar Cells based on c-Si technology are like and directly competitive articles to the imported Solar Cells originating from the use of either c-Si technology or Thin Film technology.

4. **Period of Investigation (POI):** The applicants have submitted the relevant data of imports, production etc. for the period 2014-15 to 2017-18 (upto September 2017). The POI selected is 2014-15 to 2017-18 (Annualised) which suffices to take into consideration the market conditions and other factor that are relevant for ascertaining the need for imposition of Safeguard Duty.

5. **Source of Information:** The applicants have provided transaction-wise import data for the PUC from (i) Directorate General of Commercial Intelligence & Statistics (DGCI&S), Department of Commerce for the period 2014-15 to 2017-18 (upto June 2017) and (ii) M/s Infodrive Media for the period 2017-18 (July to September 2017) and the same has been taken into consideration for analysis. The applicants have also provided data in respect of their own production, sales, inventory etc. for the period 2014-15 to 2017-18 (upto September 2017).

6. **Increase in Imports (absolute & in relative terms):** The PUC is imported into India primarily from China PR, Malaysia, Singapore and Taiwan. Taking into account the base year as 2014-15, the documents on record reveal that the imports of the PUC have increased over a period of time in absolute terms. In relative terms also, the imports have increased appreciably as compared to the base year.

Particulars	Unit	2014-15	2015-16	2016-17	2017-18 (Upto Sept.,2017)	2017-18 (Annualized)
Total Imports	MW	1,275	4,186	6,375	4665	9,331
Indian Production	MW	246	305	798	544	1,164
Imports as a % of Indian Production		519	1,371	799	858	802

7. **Serious Injury:** The applicants claim that the increased imports of the PUC have caused and are threatening to cause serious injury to the DI engaged in manufacture of products which are like and directly competitive (to the PUC), as indicated by the following factors:

(a) **Production:** The production and demand of the PUC increased during the period of investigation, whereas, the production of the DI as a percentage of demand declined sharply during the POI, as shown in the table below.

Particulars	Unit	2014-15	2015-16	2016-17	2017-18 (Upto Sept.,2017)	2017-18 (Annualised)
Installed Capacity	MW	392	573	653	727	1,653
Production of DI	MW	237	295	473	381	838
Demand	MW	1,475	4,470	7,157	5,186	10,430
% of production of DI with respect to demand		16	7	7	7	8

- (b) **Change in the Sales and Market Share of domestic producers in demand:** Despite rapid expansion in demand, the sales and market share of the DI has more or less remained constant in recent years and has, in fact, decreased sharply when compared to the base year, 2014-15. The DI had a market share of 13% in 2014-15 which declined to 7% during 2017-18 (A). During the same period, the market share of imports increased from 86% to 90%, as shown in the table below.

Year	Total Import (MW)	Sales of DI (MW)	Sales of Indian Producers other than DI (MW)	Total Demand (MW)	Market Share (%)		
					DI	Import	Others
2014-15	1,275	191	9	1,475	13	86	1
2015-16	4,186	276	8	4,470	6	94	0
2016-17	6,375	457	325	7,157	6	89	5
2017-18 (Upto Sept.,2017)	4,665	358	163	5,186	7	90	3
2017-18 (Annualised)	9,331	774	325	10,430	7	90	3

- (c) **Capacity Utilisation:** The production facilities of the DI were under-utilised during the entire POI and the capacity utilisation declined significantly, as evident from the table below.

Particulars	Unit	2014-15	2015-16	2016-17	2017-18 (Upto Sept.,2017)	2017-18 (Annualised)
Installed Capacity	MW	392	573	653	727	1,653
Production of DI	MW	237	295	473	381	838
Capacity Utilisation		60%	52%	72%	53%	51%

- (d) **Employment:** The trend of employment given by the DI demonstrates a declining trend throughout the POI. No doubt, the recent entry of one applicant, M/s Mundra Solar PV Limited (M/s MSPVL) in May 2017 has resulted in an increase in the total number of employees, but this is not reflective of the industry trend. In fact, if the number of employees of M/s. MSPVL is removed, the declining trend in the employment of the industry as a whole is evident, as shown in the table below. Further, the DI has claimed potential loss in employment opportunity as they are operating far below their installed capacity, as indicated at (c) above.

No. of Employees	2014-15	2015-16	2016-17	2017-18 (Upto Sept.,2017)
Excluding M/s MSPVL (Indexed)	100	135	128	127
Actual including M/s MSPVL (Indexed)	100	135	128	460

- (e) **Profit / Loss:** The DI has incurred losses on domestic sales over the POI, as shown in the table below.

Particulars	2014-15	2015-16	2016-17	2017-18 (Upto Sept.,2017)	2017-18 (Annualised)
Profit in Rs. Lakhs (Indexed)	100	(-)351	(-)146	(-)341	(-)150
Profit in Rs./Watt (Indexed)	100	(-)243	(-)61	(-)84	(-)80

- (f) **Inventory:** The table below depicts that the inventory of the DI has increased by 4 times (approx.) over the POI. This is indicative of loss of market space on account of surge in imports.

Particulars	2014-15	2015-16	2016-17	2017-18 (Upto Sept.,2017)
Closing Inventory (Indexed)	100	82	147	416

8. The applicants have requested for immediate imposition of Safeguard measures for a period of four years. The applicants have also requested for imposition of provisional Safeguard duty in view of steep deterioration in the performance of the DI, as a result of increased imports of the PUC.

9. The application has been examined and it has been found that *prima facie* the increased imports of the PUC have caused and are threatening to cause serious injury to the DI of products that are like and directly competitive to the PUC. Accordingly, it has been decided to initiate an investigation through the issue of this Notice.

10. All interested parties may make their views known within a period of 30 (thirty) days from the date of this Notice to:

The Director General (Safeguards)
Bhai Vir Singh Sahitya Sadan: 2nd Floor,
Bhai Vir Singh Marg,
Gole Market, New Delhi-110 001, INDIA.
Telefax: 011-23741542/ 23741537
E-mail: dgsafeguards@nic.in

11. All known interested parties including the known exporters in the subject countries, the Government of the subject countries through their Embassy in India, the importers and users in India are also being addressed separately.

12. Any other party who wishes to be considered as an interested party may submit a request to this effect to the Director General (Safeguards) at the aforementioned address within 15 days from the date of this Notice.

13. A public file containing all relevant material (non-confidential) shall be available for inspection by all interested parties in the office of the Director General (Safeguards) on the aforementioned address.

(Sandeep M. Bhatnagar)
Director General