WORLD TRADE ORGANIZATION

G/SG/N/8/IND/34
G/SG/N/10/IND/25
G/SG/N/11/IND/20

15 June 2023

(23-4098)



**Committee on Safeguards** Original: English

## NOTIFICATION UNDER ARTICLE 12.1(B) OF THE AGREEMENT ON SAFEGUARDS ON TAKING A DECISION TO APPLY A SAFEGUARD MEASURE

## NOTIFICATION PURSUANT TO ARTICLE 9, FOOTNOTE 2 OF THE AGREEMENT ON SAFEGUARDS

INDIA

*PVC suspension resins with Residual VCM above 2 PPM*

The following communication, dated and received on 14 June 2023, is being circulated at the request of the delegation of India.

---

In continuation to WTO document G/SG/N/6/IND/48 dated 11 October 2022, India notifies that there has been a finding of serious injury or threat thereof caused by increased imports of the product PVC suspension resins with Residual VCM above 2 PPM.

## 1 INFORMATION ON WHETHER THERE IS AN ABSOLUTE INCREASE IN IMPORTS

Imports of the product under consideration (i.e., PVC Suspension Resins with RVCM content above 2PPM) has increased substantially in absolute terms over a very short period. The imports of the PUC have shot up suddenly during January to June 2022. Import volumes have doubled in the most recent period as compared to 2019-20 to 2020-21. Overall imports of the PUC have increased by almost 115% from the base year. It is clearly evident that there has been a recent, sudden, sharp and significant increase in imports of the PUC.

| Particulars | Unit | 2019-20 | 2020-21 | 2021-22 | **Jan-Jun' 22** | |
|---|---|---|---|---|---|---|
| | | | | | Actual | Annualised |
| | | | | | | |
| PUC (PVC Suspension Resins With RVCM above 2 PPM) | MT | 2,12,949 | 1,71,525 | 2,65,967 | 2,29,197 | 4,58,394 |
| Like article (PVC Suspension Resins with RVCM up to 2 PPM) | MT | 9,26,313 | 9,74,242 | 9,03,326 | 4,28,808 | 8,57,617 |
| Total Imports | MT | 11,39,263 | 11,45,767 | 11,69,293 | 6,58,006 | 13,16,011 |
| Increase in imports | | | | | | |
| PUC | MT | | (41,424) | 94,442 | | 1,92,427 |
| Like article | MT | | 47,929 | (70,916) | | (45,709) |
| Total Imports | MT | | 6,505 | 23,526 | | 1,46,718 |

The imports of the product under consideration have increased by almost 15% in the most recent period when compared to the same period in the previous year i.e., January 2021-June 2021 and increased by 102% when compared to January 2020-June 2020. Imports of PVC Suspension Resin with RVCM content up to 2PPM during the period January 2021-June 2021 have more or less remained the same as compared to the same period in the previous year. There has been a decline in import volumes of these goods in the January 2022-June 2022 period. It is thus concluded that the imports of product the under consideration have increased in absolute terms in the most recent period.

## 2 SERIOUS INJURY OR THREAT THEREOF CAUSED BY INCREASED IMPORTS

### A) SERIOUS INJURY

An evaluation of the overall position of the Domestic Industry (DI), in the light of almost all the relevant factors, having a bearing on the situation of the DI, shows a significant overall impairment.

The domestic industry has started suffering serious in the most recent period, as profits, cash profits and profits as a percentage of selling price of the domestic industry declined significantly. Further, the inventories of the domestic industry increased significantly in the most recent period. The serious injury to the domestic industry is due to imports of product under consideration.

Evidence of serious injury has been analysed and explained in subsequent paragraphs. The Directorate General of Trade Remedies (DGTR) has thus concluded that DI has suffered serious injury.

### B) THREAT OF SERIOUS INJURY

It is noted that the imports of the product under consideration have not only increased in relation to total imports, but also Indian production, demand and sales of domestic producers.

Increase in imports in absolute terms shows a clear surge in imports and has a rising trend, which is significant enough to constitute "increased imports" within the meaning of Section 8B of the Customs Tariff Act, 1975. Increased imports of the PUC threaten to cause serious injury to the DI.

## 3 EVIDENCE OF SERIOUS INJURY

### A) ASSESSMENT OF DEMAND/CONSUMPTION

The demand for the product has increased throughout and in the most recent period. Further, demand in the most recent period (on annualised basis) was higher as compared to the demand in the base year. However, so significant was the increase in the volume of imports of the subject product that whereas the demand increased by *** MT in the most recent period as compared to the base year, the subject imports increased by ***MT, which amounts to around 87% of the increase in demand. Thus, the growth in consumption was largely encapsulated by imports of the subject product.

| Particulars | Unit | 2019-20 | 2020-21 | 2021-22 | **Jan-Jun' 22** | |
|---|---|---|---|---|---|---|
| | | | | | Actual | Annualised |
| | | | | | | |
| Domestic Industry-Sales | MT | *** | *** | *** | *** | *** |
| | Indexed | 100 | 103 | 116 | 63 | 126 |
| Other producers-Sales | MT | *** | *** | *** | *** | *** |
| | Indexed | 100 | 95 | 94 | 51 | 102 |
| Imports of PUC | MT | 2,12,949 | 1,71,525 | 2,65,967 | 2,29,197 | 4,58,394 |
| Imports of like article | MT | 9,26,313 | 9,74,242 | 9,03,326 | 4,28,808 | 8,57,617 |
| Demand/Consumption | MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 99% | 101% | 56% | 112% |

### B) EVOLUTION OF PRICES OVER THE PERIOD

It is seen that the difference between the landed price of the PUC and the like article during the most recent period increased as compared to the base year and the previous year. Further, there has been an increase in the price difference between the PUC and the like article since 2021-22 and this pattern has continued in the most the recent period.

| Landed prices | Unit | 2019-20 | 2020-21 | 2021-22 | **Jan-Jun' 22** |
|---|---|---|---|---|---|
| PUC | ₹/MT | 65,754 | 81,281 | 1,21,784 | 1,27,503 |
| Like article | ₹/MT | 68,504 | 80,141 | 1,23,615 | 1,31,951 |
| Difference | ₹/MT | -2,749 | 1,140 | -1,831 | -4,448 |

## C) PRICE UNDERCUTTING:

It is noted that the imports of the PUC were priced below the selling price of the domestic industry and causing price undercutting.

| Particulars | Unit | PUC | Like Article |
|---|---|---|---|
| Net Sales realisation | ₹/MT | *** | *** |
| Landed Price | ₹/MT | 1,27,503 | 1,31,951 |
| Price Undercutting | ₹/MT | *** | *** |
| Price Undercutting | % | *** | *** |
| Price Undercutting | Range | 5-15% | 1-5% |

## D) PRICE SUPPRESSION/DEPRESSION

It is seen that in the most recent period (January-June, 2022), whereas the cost of sales of the like article manufactured by the domestic industry increased by ₹ *** per MT, the selling price has declined by ₹***per MT. Although, the landed value of the imported PUC has increased, it is noted that, despite such increase, the landed price of the PUC is below the cost of sales as well as the selling price of the domestic industry. The imports are thus depressing the prices and preventing the price increase that would have otherwise happened in absence of such low-priced imports of the PUC.

| Particulars | Unit | 2019-20 | 2020-21 | 2021-22 | **Jan-Jun' 22** |
|---|---|---|---|---|---|
| Cost Of sales | ₹/MT | *** | *** | *** | *** |
| | Indexed | 100 | 113 | 162 | 166 |
| Landed Price | ₹/MT | *** | *** | *** | *** |
| | Indexed | 100 | 124 | 185 | 194 |
| Selling Price | ₹/MT | *** | *** | *** | *** |
| | Indexed | 100 | 130 | 185 | 183 |

## E) MARKET SHARE

It is seen that the market share of the product under consideration has increased significantly in the most recent period, whereas the market share of domestic producers as a whole and other domestic suppliers of the PUC declined in the most recent period. The domestic industry has maintained its market share by lowering its selling price. The domestic producers have not been able to take advantage of the growth in consumption which has largely been captured by the imports of the PUC.

| Particulars | Unit | 2019-20 | 2020-21 | 2021-22 | **Jan-Jun' 22** |
|---|---|---|---|---|---|
| Domestic Industry | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 107 | 114 | 114 |
| Other Producers | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 95 | 92 | 89 |
| Domestic Producers as a whole | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 98 | 98 | 96 |
| Imports of subject product | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 78 | 122 | 189 |
| Imports of like article | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 108 | 97 | 82 |
| Total Demand | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 107 | 114 | 114 |

## F) CAPACITY, PRODUCTION, CAPACITY UTILIZATION AND DOMESTIC SALES

The growth in demand was largely captured by the imports of the PUC due to which the domestic industry was not able to take advantage of the growth in demand.

| Particulars | Unit | 2019-20 | 2020-21 | 2021-22 | **Jan-Jun' 22** | |
|---|---|---|---|---|---|---|
| | | | | | Actual | Annualised |
| Installed Capacity | MT | *** | *** | *** | *** | *** |
| | Indexed | 100 | 100 | 103 | 52 | 103 |
| Production | MT | *** | *** | *** | *** | *** |
| | Indexed | 100 | 100 | 115 | 58 | 117 |
| Capacity Utilization | MT | *** | *** | *** | *** | *** |
| | Indexed | 100 | 100 | 112 | 113 | 113 |
| Domestic Sales | MT | *** | *** | *** | *** | *** |
| | Indexed | 100 | 103 | 116 | 63 | 126 |

## G) INVENTORY

The inventories with the domestic industry increased substantially in the most recent period, showing ***% increase in the most recent period as compared to the previous year. Even though the sales of domestic industry have slightly increased in the 'most recent period', due to surge in imports of the PUC, the domestic industry was not able to take advantage of the full growth in demand because of which the inventories of the domestic industry have accumulated.

| **Particulars** | **Unit** | **2019-20** | **2020-21** | **2021-22** | **Jan-Jun' 22** | |
|---|---|---|---|---|---|---|
| | | | | | Actual | Annualised |
| Average Inventories | MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 73 | 35 | 197 | 197 |

## H) PROFIT/LOSS

It is seen that domestic industry was suffering losses in the base year. The domestic industry was incurring losses during the base year; however, the domestic industry was making profits from the year 2020-21 till June 2022. However, it is seen that there is a decline in profitability of the domestic industry during the most recent period, which is an indication of imminent injury to the domestic industry. Further, the selling price of the domestic industry was also below the cost of sales in the base year due to which the domestic industry suffered losses in the base year. It is further seen that while the profitability of the domestic industry improved in 2020-21 & 2021-22, the profitability parameters in terms of per unit profits, cash profits per unit and profits as a percentage of selling price declined in the most recent period as compared to 2020-21 and 2021-22.

| **Particulars** | **Unit** | **2019-20** | **2020-21** | **2021-22** | **Jan-Jun' 22** |
|---|---|---|---|---|---|
| Profits/Losses | ₹/MT | (***) | *** | *** | *** |
| | Indexed | (100) | 288 | 386 | 246 |
| Cash Profits | ₹/MT | (***) | *** | *** | *** |
| | Indexed | (100) | 612 | 788 | 546 |
| Profit as a % of selling price | ₹/MT | (***) | *** | *** | *** |
| | Indexed | (100) | 221 | 208 | 134 |

## 4 UNFORESEEN DEVELOPMENTS

Due to the Russia-Ukraine conflict, the oil prices increased. Due to the increase in oil prices, the cost of production of petrochemicals increased globally. This resulted in increase in cost of production of PVC Suspension Resins manufactured through ethylene route.

It is also noted that PVC Suspension Resin with RVCM content above 2 PPM is primarily manufactured through the carbide route (where prices of coal have remained stable), whereas PVC Suspension Resin with RVCM content up to 2 PPM is primarily manufactured through the ethylene route (where prices have been impacted by the Russia- Ukraine conflict). As a result of increase in VCM costs, the price of PVC Suspension Resin increased. This led to increase in imports of product under consideration in India, as these producers of resin above 2 PPM did not face these cost increases.

There was a disparity between consumption and production of the product under consideration in China due to COVID-19 related lockdowns, (b) the product is majorly consumed in the eastern part of China which faced significant number of lock downs due to COVID-19, whereas the product under consideration is majorly produced in the western part of China, which did not face as much lockdowns as was faced in the eastern-part. This led to shutdown of the downstream industry, resulting in decline in demand of the product under consideration in China, without proportionate reduction in production.

Due to this imbalance, the production of the product did not decline commensurate to decline in demand, resulting in significant material available with these producers at a cost much lower than the cost of producers through ethylene route. Further, manufacturing of PVC Suspension Resins is a continuous process leading to inventory build-up, if not sold in the market. The domestic industry submitted that inventory build-up beyond certain limits is not even an option with any producer and therefore producers have to continuously sell the product.

## 5 ADJUSTMENT PLAN

The imposition of quantitative measures is recommended only for a period of one year. Further, given the fact that the measure has been imposed only for a period of one year, it has not been considered necessary to make determination regarding the appropriateness of adjustment plan brought by the applicants.

## 6 PRODUCT INVOLVED

The product under consideration (PUC) is "Poly Vinyl Chloride (PVC) Suspension Resins with Residual Vinyl Chloride Monomer (RVCM) above 2 PPM" and is used in pipes, packaging, wiring and insulations, medical products, automotive applications, artificial leather for diverse applications like upholstery, furnishing, jackets, purse, belts, shoes, consumer goods etc. For more details, kindly see the copy of the attached Final Findings dated 15th of May 2023 and can be seen at https://www.dgtr.gov.in.

## 7 PRECISE DESCRIPTION OF THE PROPOSED MEASURE

DGTR, the competent authority has recommended imposition of quantitative restrictions on imports of the PUC into India in quantity (MT) as specified in the Table below.

**Quotas (in MT)**

| Quarter | 1st | 2nd | 3rd | 4th |
|---|---|---|---|---|
| Total PUC | **54,203** | **54,920** | **55,646** | **56,382** |
| Imports from China | 20,494 | 20,765 | 21,039 | 21,317 |
| Imports from Chinese Taipei | 15,100 | 15,299 | 15,502 | 15,707 |
| Imports from USA | 9,690 | 9,818 | 9,948 | 10,079 |
| Imports from Russia | 8,920 | 9,038 | 9,157 | 9,279 |
| Imports from other developing countries | Countries as per list below are exempt from imposition of safeguards measure | | | |
| Imports from other developed countries | No known imports of the product under consideration above 2 PPM | | | |

## 8 FURTHER INFORMATION

The Final Findings were published in Gazette of India on 15th of May 2023 and can be seen at https://www.dgtr.gov.in.

## 9 PROPOSED DATE OF IMPOSITION OF SAFEGUARD MEASURE

The safeguard measure will be applicable from the date of issue of notification in this regard by the Department of Commerce, Ministry of Commerce and Industry, Government of India.

## 10 INVITATION FOR CONSULTATIONS

Consistent with Article 12.3 of the Agreement on Safeguards, India proposes to give an opportunity for consultation for those Members having substantial interest as exporters of the product concerned, for the purpose of exchanging views on the measure proposed. Members who wish to engage in consultations may contact the Directorate General of Foreign Trade (DGFT), New Delhi addressed to DGFT at dgft@nic.in within 10 days from the date of issuance of this notification. Consultations will take place in a virtual setting.

## NOTIFICATION PURSUANT TO ARTICLE 9, FOOTNOTE 2 OF THE AGREEMENT ON SAFEGUARDS

## 1 SPECIFY THE MEASURE

**Quotas (in MT)**

| Quarter | 1st | 2nd | 3rd | 4th |
|---|---|---|---|---|
| Total PUC | **54,203** | **54,920** | **55,646** | **56,382** |
| Imports from China | 20,494 | 20,765 | 21,039 | 21,317 |
| Imports from Chinese Taipei | 15,100 | 15,299 | 15,502 | 15,707 |
| Imports from USA | 9,690 | 9,818 | 9,948 | 10,079 |
| Imports from Russia | 8,920 | 9,038 | 9,157 | 9,279 |
| Imports from other developing countries | Countries as per list below are exempt from imposition of safeguards measures | | | |
| Imports from other developed countries | No known imports of the product under consideration above 2 PPM | | | |

## 2 SPECIFY THE PRODUCT SUBJECT TO THE MEASURE

The product under consideration (PUC) is "Poly Vinyl Chloride (PVC) Suspension Resins with Residual Vinyl Chloride Monomer (RVCM) above 2 PPM".

## 3 SPECIFY THE DEVELOPING COUNTRIES TO WHICH THE MEASURE IS NOT APPLIED UNDER ARTICLE 9.1 OF THE AGREEMENT ON SAFEGUARDS, AND THE IMPORT SHARE OF THESE COUNTRIES INDIVIDUALLY AND COLLECTIVELY

As the imports from the developing countries listed in the notification no. 19/2016-customs (NT) dated 5 February, 2016, other than China PR, do not exceed 3% individually and 9% collectively, imports of "Poly Vinyl Chloride (PVC) Suspension Resins with Residual Vinyl Chloride Monomer (RVCM) above 2 PPM" originating from such developing countries (other than China PR) will not attract Quantitative Restrictions in terms of Section 9A(1) of the Foreign Trade (Development and Regulation) Act, 1992, as amended.

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

Government of India Ministry of Finance
(Department of Revenue)
(Central Board of Excise and Customs)
**Notification**

**No.19/2016-Customs (N.T.)**

New Delhi, 5th February, 2016

G.S.R.(E).- In pursuance of clause (a) of sub-section (6) of section 8B of the Customs Tariff Act, 1975 (51 of 1975) and in supersession of notification of the Government of India in the Ministry of Finance, Department of Revenue, No.103/98 Cus, dated the 14th December, 1998, published in the Gazette of India, Extraordinary vide number G.S.R. 737(E), dated the 14th December, 1998, except as respects things done or omitted to be done before such supersession, the Central Government, hereby notifies the following countries as developing countries for the purposes of the said section, namely:

| | | | | | |
|---|---|---|---|---|---|
| 1 | Afghanistan | 45 | Ghana | 89 | Palestine |
| 2 | Albania | 46 | Grenada | 90 | Panama |
| 3 | Algeria | 47 | Guatemala | 91 | Papua New Guinea |
| 4 | Angola | 48 | Guinea | 92 | Paraguay |
| 5 | Armenia | 49 | Guinea Bissau | 93 | Peru |
| 6 | Azerbaijan | 50 | Guyana | 94 | Philippines |
| 7 | Bangladesh | 51 | Haiti | 95 | Republic of Moldova |
| 8 | Belarus | 52 | Honduras | 96 | Romania |
| 9 | Belize | 53 | Indonesia | 97 | Rwanda |
| 10 | Benin | 54 | Iran (Islamic Republic of) | 98 | Saint Lucia |
| 11 | Bhutan | 55 | Iraq | 99 | Saint Vincent and the Grenadines |
| 12 | Bolivia (Plurinational State of) | 56 | Jamaica | 100 | Samoa |
| 13 | Bosnia and Herzegovina | 57 | Jordan | 101 | Sao Tome and Principe |
| 14 | Botswana | 58 | Kazakhstan | 102 | Senegal |
| 15 | Brazil | 59 | Kenya | 103 | Serbia |
| 16 | Bulgaria | 60 | Kiribati | 104 | Sierra Leone |
| 17 | Burkina Faso | 61 | Kyrgyz Republic | 105 | Solomon Islands |
| 18 | Burundi | 62 | Lao People's Democratic Republic | 106 | Somalia |
| 19 | Cabo Verde | 63 | Lebanon | 107 | South Africa |

| | | | | | |
|---|---|---|---|---|---|
| 20 | Cambodia | 64 | Lesotho | 108 | South Sudan |
| 21 | Cameroon | 65 | Liberia | 109 | Sri Lanka |
| 22 | Central African Republic | 66 | Libya | 110 | Sudan |
| 23 | Chad | 67 | Madagascar | 111 | Suriname |
| 24 | China | 68 | Malawi | 112 | Eswatini |
| 25 | Colombia | 69 | Malaysia | 113 | Syrian Arab Republic |
| 26 | Comoros | 70 | Maldives | 114 | Tajikistan |
| 27 | Congo | 71 | Mali | 115 | Thailand |
| 28 | Costa Rica | 72 | Marshall Islands | 116 | The former Yugoslav Republic of North Macedonia |
| 29 | Côte D'Ivoire | 73 | Mauritania | 117 | Timor-Leste |
| 30 | Cuba | 74 | Mauritius | 118 | Togo |
| 31 | Democratic People's Republic of Korea | 75 | Mexico | 119 | Tonga |
| 32 | Democratic Republic of the Congo | 76 | Micronesia (Federal State of) | 120 | Tunisia |
| 33 | Djibouti | 77 | Mongolia | 121 | Türkiye |
| 34 | Dominica | 78 | Montenegro | 122 | Turkmenistan |
| 35 | Dominican Republic | 79 | Morocco | 123 | Tuvalu |
| 36 | Ecuador | 80 | Mozambique | 124 | Uganda |
| 37 | Egypt | 81 | Myanmar | 125 | Ukraine |
| 38 | El Salvador | 82 | Namibia | 126 | United Republic of Tanzania |
| 39 | Eritrea | 83 | Nepal | 127 | Uzbekistan |
| 40 | Ethiopia | 84 | Nicaragua | 128 | Vanuatu |
| 41 | Fiji | 85 | Niger | 129 | Viet Nam |
| 42 | Gabon | 86 | Nigeria | 130 | Yemen |
| 43 | The Gambia | 87 | Pakistan | 131 | Zambia |
| 44 | Georgia | 88 | Palau | 132 | Zimbabwe |

[F. No.21000/22/2015-OSD (ICD)]