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MOFCOM Announcement No.3 of 2019 on Case-filing of the Final Review of the Countervailing Measures against Imports of Solar-grade Polysilicon Originating in the United States

January 19, 2019 - 16:10 BJT (15:10 GMT) MOFCOM

On January 20, 2014, the Ministry of Commerce of the People's Republic of China (the "MOFCOM") issued Announcement No.4 of 2014, deciding to carry out final countervailing measures on imports of solar-grade polysilicon originating in the United States for five years from January 20, 2014.

On October 9, 2018, MOFCOM issued Announcement No.77 of 2018, announcing that the countervailing measures against the imports of solar-grade polysilicon originating in the United States will expire on January 19, 2019. In accordance with the Countervailing Regulations of the People's Republic of China, if it is determined upon review that the termination of the collection of countervailing duties may lead to the continuance or re-occurrence of subsidies and damage, the period for the collection of countervailing duties may extend accordingly. Since the day of the announcement in effect, the domestic industry or any natural person, legal person or relevant organization, on behalf of the domestic industry, may file a written-form application for expiry review to the MOFCOM, 60 days prior to the expiration of the countervailing measures.

On November 16, 2018, MOFCOM received a formal application for expiry review on countervailing measures officially submitted by six companies including Jiangsu GCL Power Silicon Technology Development Co., Ltd. on behalf of the industry of solar-grade polysilicon in China. The applicants claimed that, if the countervailing measures against the imports of solar-grade polysilicon originating in the United States were terminated, the subsidy and damage to the industry in China might continue or reoccur, and they requested the MOFCOM to maintain the countervailing measures against the imports of solar-grade polysilicon originating in the United States. In accordance with the relevant provisions of the Countervailing Regulations of the People's Republic of China, the MOFCOM reviewed the qualifications of the applicants, the products under investigation, the similar domestic products, the imports of the products under investigation during the implementation of the countervailing measures, the possibility of continuity or reoccurrence of subsidy, the possibility of continuity or reoccurrence of the damages and the related evidence. The present evidence available shows that the applicant meets the provisions specified in Article 11, Article 13 and Article 17 of the Countervailing Regulations of the People's Republic of China on industry and industry representativeness, and therefore, it is eligible to apply on behalf of the Chinese solar-grade polysilicon industry. The investigation authority believes that the applicants' claims and the prima facie evidence submitted are in conformity with the requirements for an expiry review.

According to Article 47 of the Countervailing Regulations of the People's Republic of China, MOFCOM decides to conduct an expiry review investigation into the countervailing measures imposed on the imports of solar-grade polysilicon originating in the United States as of January 20, 2019. Relevant matters are hereby announced as follows:

I. Continuous Implementation of the Countervailing Measures

As suggested by MOFCOM and decided by the Customs Tariff Commission of the State Council, during the expiry review investigation of the countervailing measures, the imports of solar-grade polysilicon originating in the United States will still be subject to countervailing duties within the scope and at the rate released in MOFCOM Announcement No.4 of 2014.

II. Review Investigation Period

The subsidy investigation period for this review is from January 1, 2018 to December 31, 2018, and the investigation period for industrial damages is from January 1, 2014 to December 31, 2018.

III. Product Scope Covered by the Review

The products coverage released this time is consistent with that in the MOFCOM Announcement No.4 of 2014.

IV. Review Contents

This review aims to make clear that whether subsidy and damage may continue or occur again if countervailing measures imposed on the imports of solar-grade polysilicon originating in the United States were terminated.

The MOFCOM may investigate other subsidies that may be discovered during the review process.

V. Registration for Participating in the Investigation

Any stakeholding party and government of the related stakeholding country may register at the Trade Remedy and Investigation Bureau of the Ministry of Commerce for participating in this final review of countervailing investigation within 20 days after the announcement being issued. The related parties whose interests are concerned and which participate in the investigation are required to provide basic identity information, the quantity and amount of the investigated products exported to or imported from China, the quantity and amount of the similar products produced and sold, and the related and illustrative informations during the subsidy investigation period. The Reference Format of the Registration to Participate in the Investigation can be downloaded from the Trade Remedy and Investigation Bureau's sub-website of the MOFCOM website (<http://trb.mofcom.gov.cn>).

In this announcement, the stakeholding party refers to the individuals and organizations as defined in Article 19 of the Countervailing Regulations of the People's Republic of China.

VI. Look up Public Information

The stakeholding parties and the governments of the stakeholding countries can download at the related website, or search, read, transcribe and photocopy the non-confidential text of the non-confidential application submitted by the applicants through the MOFCOM Trade Relief Public Information Office (Tel.: 0086-10-65197856). In the process of investigation, the stakeholding parties and governments of the stakeholding countries can consult the public information about the case through the relevant websites, or search, read, transcribe and copy the same in the MOFCOM Trade Relief Public Information Office.

VII. Comments

If any stakeholding parties and the government of the related stakeholding countries have any comments on the product scope and category, the qualification of the applicants, countries covered by the investigation regarding this investigation and other related questions, they may submit their opinions in written form to Trade Remedy and Investigation Bureau of the Ministry of Commerce within 20 days since the releasing of this announcement.

VIII. Investigation Methods

In accordance with Article 20 of the Countervailing Regulations of the People's Republic of China, MOFCOM may get to know the related situation and conduct investigation via questionnaire, sampling, hearing, site investigation and etc from the takeholding parties and governments of the related stake holding countries.

In order to obtain the information required for the investigation of this case, MOFCOM usually issues questionnaires within 10 working days before the deadline for registering for participating in the investigation as prescribed herein, to overseas importers or producers, governments of the exporters, and domestic manufacturers and importers. The stakeholding parties and governments of the related stakeholding countries registered can download the questionnaire from the related websites.

The other stakeholding parties and the governments of the related stakeholding countries that do not get registered for participating in the investigation can download the questionnaire from the related websites, or obtain it from the Trade Remedy and Investigation Bureau of the Ministry of Commerce and fill the form as required.

All interested parties and governments are required to submit complete and accurate answers within the time specified. Answers shall include all the information as required by the questionnaires.

IX. The Submission and Processing of Confidential Information

If it is necessary to keep confidential the information submitted by the stakeholding parties and the governments of the stakeholding countries to MOFCOM, they may request MOFCOM to make confidential treatments and explain the reasons. If MOFCOM agrees on their request, the stakeholding parties and the governments of the stakeholding countries applying for confidentiality shall provide non-confidential summary of the confidential information at the same time. Non-confidential summary shall contain sufficient and meaningful information to enable other stakeholding parties and the governments of stake holding countries to have a reasonable understanding of the confidential information. If the non-confidential summary cannot be provided, reasons shall be made clear. If the stakeholding parties or the governments of stakeholding countries do not require for confidential treatment for the information they have submitted, MOFCOM will consider the information as public information.

X. Consequences of Non-cooperation

In accordance with Article 21 of the Countervailing Regulations of the People's Republic of China, when MOFCOM makes an investigation, the stakeholding parties and the government of the stakeholding countries should faithfully report the situations and provide the relevant materials. If the stakeholding party or the government of the stake holding country fails to report the real situation and fails to provide necessary information within the reasonable time, or seriously impedes an investigation through any other means, MOFCOM may give a ruling according to the facts already obtained and the best information available.

XI. Investigation Period

This investigation starts on January 20, 2019, and ends prior to January 19, 2020.

XII. Contact Information

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