

Commerce Says India, Turkey Quartz Too Cheap

By Elise Hansen

Law360 (April 29, 2020, 2:49 PM EDT) -- Quartz surface products imported from India and Turkey were sold in the U.S. at unfairly low prices and received anti-competitive subsidies from the countries' governments, the U.S. Department of Commerce found in a final determination.

Commerce's International Trade Administration on Tuesday said that Indian exporters sold the products in the U.S. between 2.67% and 5.15% below their fair value, while imports from Turkey were up to 5.17% below fair value. Quartz surface products are used in countertops and backsplashes, among other items, and their imports from India and Turkey were worth a combined \$97.5 million in 2018, the determination said.

Commerce also found that businesses from both countries received government subsidies, with exporters from India getting countervailable subsidies at rates ranging from 1.57% to 2.34% and exporters from Turkey receiving a 2.43% rate.

The U.S. International Trade Commission is set to make final injury determinations around June 11, Commerce said. If the commission does find injury, Commerce will issue anti-dumping and countervailing duty orders, the statement said.

The final determination responds to a petition from Cambria Company LLC, a Minnesota-based company that produces quartz surfaces. Commerce in December set preliminary anti-dumping duties of up to 4.88% for Turkish products and between 2.62% and 5.05% for Indian products. And in October, Commerce rolled out early-stage countervailing duties on imports from both countries.

Counsel for Pokarna Engineered Stone Ltd., one of the Indian companies named in the investigation, told Law360 that the company is "generally pleased" with Commerce's decision. Pokarna was found to have slightly higher subsidy rates than most other Indian companies, but lower dumping rates.

"I believe that Commerce issued a fair and well-reasoned decision for most of the issues," Lizbeth Levinson of Fox Rothschild LLP said. "We are now focusing our efforts on the final injury phase at the U.S. International Trade Commission."

One of the companies dinged by the duties, MS International Inc., challenged Commerce's early determinations in the U.S. Court of International Trade. The court ruled in January that MSI had to wait until the government completed its probe before suing.

Cambria has been aggressively pursuing trade cases against its foreign competitors, securing duties on imports of Chinese quartz in June of last year.

Commerce's final determinations are considerably below the levels Cambria alleged in its petition, resulting in a mixed ruling for both sides. Cambria's counsel, Luke Meisner of Schagrin Associates, said the company was pleased that Commerce did find anti-competitive practices but said he believes the rates are understated.

"We feel strongly that the evidence shows that the domestic industry, including Cambria, has been injured by imports from India and Turkey," Meisner said. "We do not believe that the final rates fully capture the total extent of the subsidies received and dumping engaged in by Indian and Turkish producers."

Cambria is considering requesting an administrative review of the final rates, he added.

Counsel for the exporters said they were mostly pleased with the relatively restrained findings. Cambria initially alleged a nearly 90% dumping margin for Turkish producers and over 340% for Indian producers, noted Alexander Schaefer of Crowell & Moring LLP. Schaefer represented Belenco Dis Ticaret AS, one of the Turkish companies named in the determination.

"While we continue to maintain that Belenco was never dumping, on balance we think that Commerce's determinations were reasonable on most of the issues and reflect Cambria's fundamental mischaracterization of the market," Schaefer said.

The relatively low levels of dumping and subsidies means Cambria will have to fight harder to show injury and get any duties pushed through, Schaefer said.

"Cambria still has to convince the International Trade Commission that despite these very small margins the subject imports injured or threatened the domestic industry," Schaefer said. "In our view Cambria has fallen short on that front."

Counsel for another of the Indian companies, Antique Marbonite Private Ltd. and its affiliates, questioned some of the reasoning underlying Commerce's determination.

"There are questionable aspects of the anti-dumping decision for both mandatory respondents," Arpit Bhargava of SBA Strategy Consulting LLP told Law360. "The rates decided by Commerce in the [anti-dumping] decision are artificially high and do not show the fair pricing methodology followed by the Indian exporters."

Bhargava also said he believed that Turkish and Indian producers had a different target market than Cambria.

"The quartz surface products manufactured by [Cambria] are only for luxury customers and are not accessible to the masses," Bhargava said. "Indian and Turkish exporters are serving the demand shortfall in the US market and helping common Americans to afford a quality product without compromising on their dream kitchen or home."

Cambria Company LLC is represented by Roger B. Schagrin, Luke A. Meisner and Paul W. Jameson of Schagrin Associates.

Pokarna Engineered Stone Ltd. is represented by Lizbeth R. Levinson, Ronald M. Wisla and Brittney R. Powell of Fox Rothschild LLP.

Antique Marbonite Private Ltd. and its affiliates are represented by Arpit Bhargava of SBA Strategy Consulting LLP.

Belenco Dis Ticaret AS is represented by Alexander Schaefer and Ru Xiao-Graham of Crowell & Moring LLP.

The cases are Certain Quartz Surface Products from India and Turkey, case numbers A-533-889, A-489-837, C-533-890 and C-489-838, before the International Trade Administration.

--Additional reporting by Alex Lawson, Suzanne Monyak and Kaitlyn Burton. Editing by Alyssa Miller.

Update: This story has been updated with more information and with comments from Alexander Schaefer, Luke Meisner and Arpit Bhargava.