

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES

NOTIFICATION

New Delhi the 6th August,2009

Final Findings

Sub : Mid-term review Anti-dumping investigation in the matter relating to imports of Ethylene-Propylene-Non-Conjugated- Diene-Monomer (EPDM) Rubber originating in or exported from European Union, USA, China PR and Brazil.

No.15/2/2009- DGAD : Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules);

A Background of the case

1. M/s. Unimers India Ltd , Mumbai had earlier filed an anti-dumping petition before the Designated Authority, alleging dumping of Ethylene-Propylene-Non-Conjugated-Diene-Monomer (EPDM) Rubber (hereinafter referred to as the subject goods) originating in or exported from European Union, USA, China PR and Brazil (hereinafter referred to as the subject countries).
2. The Designated Authority vide Notification Number 14/18/2004-DGAD dated 15.6.2006 published in the Gazette of India, Extraordinary Part I, Section I dated the 16th June, 2006 had notified its final findings recommending definitive anti dumping duties on imports of Ethylene-Propylene-Non-Conjugated- Diene-Monomer (EPDM) Rubber originating in or exported from European Union, USA, China PR and Brazil .
3. The definitive anti dumping duty was imposed on the subject goods by the Central Government vide Notification No.75/2006-Customs dated 19th July, 2006.
4. The All India Rubber Industries Association and Automotive Tyre Manufacturers Association have represented that the sole manufacturer of the product viz., M/s. Unimers India Ltd, Mumbai has suspended production of EPDM since February-March, 2007 and is unlikely to resume production and the anti-dumping duty on the

subject goods still continues affecting the competitiveness of the tyre and non-tyre sector goods. In view of the above, they have requested for an immediate withdrawal of anti-dumping duty on EPDM.

5. M/s.Unimers India Ltd., Mumbai has also intimated that they have suspended production of EPDM Rubber and declared formal permanent closure of their factory as per the provisions of The ID Act, 1947 with effect from 26.6.2008.

6. The Customs Tariff (Amendment) Act 1995 and the Anti Dumping Rules made there under require the Authority to review from time to time the need for continuance of anti dumping duty. Based on the request of the All India Rubber Industries Association and Automotive Tyre Manufacturers Association, and in accordance with the Rules the Mid-term Review investigation of the anti-dumping duties was initiated by the Authority vide Notification No.15/2/2009-DGAD dated 27.3.2009.

B. Procedure

7. The procedure described below has been followed with regard to this investigation:

- i) After initiation of the review investigation, the Authority notified the domestic industry, all known exporters/producers in the subject countries and known importers, calling for questionnaire responses and necessary information in accordance with Rule 6(4);
- ii) The Embassy of the subject countries in New Delhi was informed about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in their respective countries to respond to the questionnaire within the prescribed time.
- iii) The Authority sent questionnaires, to elicit relevant information to the known exporters from the subject countries. None of the exporters from subject countries have responded to the Designated Authority.
- iv) The period of investigation for the purpose of the present mid -term review is 1st Jan 2008 to 31st Dec 2008 (12 months).
- v) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigations, however no details in this respect were received.

vi) No domestic industry or domestic producer of the subject goods have provided their cost and injury information.

vii) The following importers and their associations have responded to the initiation notification and requested for immediate withdrawal of the anti-dumping duty on the subject goods:

1. M/s Jayashree Polymers Pvt Ltd,Pune,
2. M/s Phoenix Yule Ltd, Kolkatta ,
3. M/s Roop Rubber Mills Ltd , Gurgaon,
4. All India Rubber Industries Association ,
5. Foundation of Rubber Polymer Manufacturers ,New Delhi,
6. Automotive Tyre Manufacturers Association.

viii) The Authority requested the Department of Chemicals and Petrochemicals and the Department of Industrial Policy and Promotion to provide the list of the manufacturers of EPDM in India along with their detailed address, phone/fax numbers, E-mail address and their production capacity and production / import data for the injury period.

ix) The Authority held a public hearing on 23rd June, 2009 to hear the interested parties orally. No representatives of the domestic industry/ exporters attended the public hearing.

x) Disclosure Statement was issued to the known interested parties on 17.07.2009 requesting them to submit their views by 24.07.2009.

C. Product under consideration

8. The product under consideration involved in the original investigation and also in the present review application is “Ethylene-Propylene-Non-Conjugated Diene Monomer Rubber (EPDM)” originating in or exported from European Union, USA, China PR and Brazil. The present investigation is a mid-term review and none of the interested parties have made any submission requesting modification (including curtailment) in the scope of the review. Therefore, the investigation covers the product covered in the original investigation. The subject goods are classified under Chapter 40 of the Customs Tariff Act, 1975 under subheading No.4002.70 at six digit level. However, Customs classification is indicative only and, in no way, binding on the scope of the proposed investigation.

9. The product under consideration in the present investigation is Ethylene-Propylene-Non-Conjugated Diene Monomer Rubber (EPDM). EPDM is a synthetic rubber and

technical specifications of EPDM are broadly governed by Ethylene, Propylene and Diene content, and Mooney Viscosity. With the variations in Ethylene, Propylene and Diene Content and for Mooney Viscosity, different grades of EPDM Rubber can be produced.

10. EPDM Rubber is primarily used in rubber profiles, automotive tyres and tubes, cables, hoses and moulded items used in the automobile parts. The changes in Ethylene, Propylene and Diene content and Mooney Viscosity and other characteristics will merely modify the general property for which EPDM is consumed. EPDM Rubber can be of various grades and can be supplied in various forms. This investigation covers all grades of Ethylene-Propylene-Non-Conjugated Diene Rubber (EPDM), in all grades and all forms. The Most important industrial use of EPDM is for the manufacture of tyre and non-tyre rubber products .

D. Standing and scope of the Domestic Industry

11. In the original investigations, M/s Unimers India, Ltd Mumbai had filed the petition before the Designated Authority for imposition of Anti-dumping duty on the imports of the subject goods from the subject countries. In the present investigation the importers and their associations have requested for immediate withdrawal of the duties in view of suspension of production by the sole manufacturer of the subject goods in India. The authority requested the Department of Chemicals and Petrochemicals (the concerned administrative department) to provide the list of manufacturers of EPDM in India along with their detailed address and their production capacity and production/import data for the injury period including the POI . In response the Department of Chemicals and Petrochemicals (the concerned administrative department) vide their letter No.25011/7/2009-PC-II dated 27.05.2009 has intimated as follows:

a) There is only one manufacturer of EPDM Rubber namely Unimers India Ltd.

b) In 2006-07 the unit was in production for 7 months, in 2007-08 the unit was in production for only 3 months and in 2008-09 the unit was not in production.

The Department of Industrial Policy and Promotion (DIPP) , to whom a reference was made , has also recommended that the anti- dumping duty on EPDM may be revoked to protect the interests of the domestic tyre and non-tyre industries.

E. Dumping Determination:

12. Determination of normal value, export price and dumping margin are not relevant in the present investigations as neither the domestic industry nor any other interested

parties have submitted the required information .The mid-term review has been initiated on the basis of the requests of the importers and their representatives that the sole domestic producer has stopped production of the subject goods and the continuation of the anti –dumping duty is detrimental to the interests of the user sector of the country.

F. Injury and Causal link Determination :

13. The mid-term review has been initiated on the basis of the requests of the importers and their representatives that the sole domestic producer has stopped production of the subject goods and continuation of the anti –dumping duty is detrimental to the interests of the user sector of the country .The Authority has taken note of the intimation of the domestic industry that they have suspended production of EPDM Rubber and declared formal permanent closure of their factory as per the relevant provisions of the ID Act,1947 from June 26 ,2008.The Authority has also taken note of the fact that Department of Chemicals and Petro-chemicals (the concerned administrative department) has intimated that there is only one manufacturer of EPDM Rubber namely Unimers India Ltd , and ; in 2006-07 the unit was in production for 7 months, in 2007-08 the unit was in production for only 3 months and in 2008-09 the unit was not in production. The Authority has also taken note of the recommendations of the Department of Industrial Policy and Promotion that the anti- dumping duty on EPDM may be revoked to protect the interests of the domestic tyre and non-tyre industries.

G. Likelihood of continuation or recurrence of injury :

14. Present investigation is a mid-term review investigation and have been initiated at the behest of importers/ user industry informing that the sole manufacturer of the product viz., M/s. Unimers India Ltd, Mumbai has suspended production of EPDM since February-March, 2007 and is unlikely to resume production and the anti-dumping duty on the subject goods still continues affecting the competitiveness of the tyre and non-tyre sector goods. M/s.Unimers India Ltd., Mumbai has also intimated that they have suspended production of EPDM Rubber and declared formal permanent closure of their factory as per the provisions of The ID Act, 1947 with effect from 26.6.2008.

Thus, the question of examining continuation of injury does not arise in this case as the sole domestic industry has already closed down and suspended production.

15. Views of the Importers/Users and their representative

a. All India Rubber Industries Association-

M/s Unimers India Ltd, the sole producer of EPDM, in India, has ceased production of EPDM, which is a critical raw material for the tyre and non-tyre rubber goods producers of the country, and has no intention of restarting production. Since EPDM is not indigenously produced, the question of any injury to the domestic industry does not and will not arise in future. The Indian Rubber industry non-tyre sector, which hitherto was maintaining a steady growth of 6 to 8%, with an average export growth of 20%, has been severely affected due to global recession and is struggling hard to fight back to its growth trail. Continuation of anti-dumping duty on EPDM is substantially affecting the consuming interest and also blunting the competitive edge of the domestic producers of rubber goods in the international market.

Considering the fact that the domestic industry has suspended production of EPDM Rubber and declared formal permanent closure of their factory as per the relevant provisions of the ID Act, 1947 from June 26, 2008, continuation of the anti-dumping duty on the subject goods will be detrimental to the interests of the manufacturers of tyre and non-tyre rubber goods producers of the country. In view of the above the anti-dumping duty on EPDM should be withdrawn immediately, as imposed on imports from the subject countries.

b. Automotive Tyre Manufacturers Association -

M/s Unimers India Ltd, the sole producer of EPDM, in India, has ceased production of EPDM. Since EPDM is not indigenously produced, the question of any injury to the domestic industry has ceased to exist. Continuation of anti-dumping duty on EPDM is resulting in additional financial burden on consuming interests and affecting their competitiveness substantially affecting the consuming interest and also blunting the competitive edge of the domestic producers of rubber goods in the international market. In view of the above the anti-dumping duty on EPDM should be withdrawn immediately, as imposed on imports from the subject countries.

c. Automotive Component Manufacturers Association of India-

EPDM is an important input required by the auto component manufacturing industries. M/s Unimers India Ltd, the sole

producer of EPDM , in India, has ceased production of EPDM. Since EPDM is not indigenously produced, the question of any injury to the domestic industry has ceased to exist. On the contrary, continuation of anti-dumping duty on EPDM is affecting their cost competitiveness.

d. Foundation of Rubber & Polymer Manufacturers-

M/s Unimers India Ltd is the sole manufacturer of EPDM India and their plant is lying closed for last 18- 20 months. There is no basis of continuing the anti-dumping duty on the subject goods from the subject countries. The Authority should take urgent steps for withdrawal of the anti-dumping duty on the subject goods from the subject countries.

16. In response to the disclosure statement the following importer's/representatives have submitted their views:

- i) The Foundation of Rubber & Polymer Manufacturers has intimated that there is no justification to continue the anti dumping duty on the subject goods from the subject countries and requested early withdrawal of the duty.
- ii) The All India Rubber Industries Association has reiterated their earlier views and requested for immediate withdrawal of the duty.
- iii) The Automotive Tyre Manufacturers Association has informed that the plant of M/s Unimers is lying closed for nearly two years and requested immediate withdrawal of the anti dumping duty.
- iv) The Automotive Component Manufacturers Association of India has intimated that revocation of the anti dumping duty cannot result in continuation of injury as there is no domestic production and requested for immediate withdrawal of the duty on the subject goods.

Examination by the Authority

17. The Authority has taken note of the information submitted by the domestic industry M/s.Unimers India Ltd., Mumbai that they have suspended production of EPDM Rubber and declared formal permanent closure of their factory as per the provisions of The ID Act, 1947 with effect from 26.6.2008.

18. The Authority has taken note of the information provided by the Department of Chemicals and Petro-chemicals (the concerned administrative department) that there is only one manufacturer of EPDM Rubber namely Unimers India Ltd, and ; in 2006-07 the unit was in production for 7 months, in 2007-08 the unit was in production for only 3 months and in 2008-09 the unit was not in production.

19. The Authority has taken note of the recommendations of the Department of Industrial Policy and Promotion that the anti- dumping duty on EPDM may be revoked to protect the interests of the domestic tyre and non-tyre industries.

20. The Authority has also taken note of the views of the importers/users of the subject goods in the country that there is no justification of continuing the anti dumping duty on the subject goods as the sole producer in the country has stopped production .

21. Based on the above facts the Authority concludes that:

- i) M/s Unimers India Ltd , Mumbai was the domestic industry in the original application and the sole producer of the subject goods in the country.
- ii) As confirmed by the Deptt. of Chemicals and Petrochemicals, there is no other producer of the subject goods in the country .
- iii) All the importers/users of the subject goods and their representatives have unanimously opined that since the sole domestic producer has stopped production, the anti dumping duty on the subject goods should be revoked.
- iv) In view of the closure of the domestic industry, if the anti dumping duty on the subject goods is allowed to be continued any further, it may affect the domestic users adversely.
- v) Revocation of the anti dumping duty on the imports of the subject goods originating in or exported from the subject countries may not cause any injury to any domestic industry, the same being not there any more.

H. Final Findings:

22. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority through the submissions of interested parties or otherwise as recorded in the above findings and on the basis of the above analysis of the state of production in the country the

Authority concludes that should the present anti dumping duties be revoked, no domestic industry is likely to be injured.

I. Indian industry's interest and other issues

23. The Authority recognises that the continued imposition of anti dumping duties may have cascading effect on the prices of the end products and adversely affect the market competitiveness of the domestic manufacturers of the end products. On the contrary, revocation of the anti dumping measures would not affect any domestic industry since presently there is none producing the subject goods in the country.

24. The purpose of anti dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Revocation of the anti dumping measures would not affect any domestic industry since presently there is none producing the subject goods in the country.

J. Recommendations

25. Having concluded that the revocation of the anti dumping measures would not affect any domestic industry since presently there is none producing the subject goods in the country; the Authority is of the opinion that the measure is required to be revoked in respect of imports from European Union, USA, China PR and Brazil.

26. Having examined thus, the Authority recommends withdrawal of the Anti-Dumping Duty in place as recommended by the Authority vide Final Findings Notification No. 14/18/2004-DGAD dated 15.6.2006, published in the Gazette of India, Extraordinary Part I, Section I on the 16th June, 2006 and notified by the Central Government vide Notification No..75/2006-Customs dated 19th July, 2006.

27. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

R. Gopalan
Designated Authority