

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan

New Delhi, the 24th Dec., 2007

INITIATION NOTIFICATION

(Sunset Review)

Subject : Initiation of Sunset Review of anti-dumping duty imposed against import of Ferro Silicon from China PR and Russia.

No.15/19/2005-DGAD – The Designated Authority, having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995, recommended imposition of provisional Anti Dumping duty on imports of Ferro Silicon (hereinafter referred to as subject goods) originating in or exported from Russia & China PR (hereinafter referred to as subject countries) falling under sub-heading 7202.21 & 7202.2100. The preliminary findings were published vide Notification No.28/1/2000-DGAD dated 16th November 2000 and provisional duty was imposed on the subject goods vide Customs Notification No.152/2000-Customs dated 26th December 2000. The Designated Authority came out with final finds on 28th May 2001 and definitive anti dumping duty was imposed by the Govt. of India vide Customs Notification No.67/2001-Customs dated 25th Jun 2001. The anti dumping duty was applicable upto 25th December, 2005.

2. Request for Review and Initiation

AND WHEREAS following the completion of 4 years of the anti dumping duty imposed, an alert letter was sent to the domestic industry stating that the Designated Authority is contemplating to undertake Sunset Review under Section 9A(5) of Customs Act with a view to ascertain whether the cessation of the anti dumping duty in this case is likely to lead to continuation or recurrence of dumping and injury and they were requested to give full information regarding extent of imports from subject countries and evidence relating to dumping, if any, and impact of cessation of the anti dumping duty in this case.

AND WHEREAS the domestic industry (M/s. Indian Metals & Ferro Alloys Ltd, Bhubaneswar and M/s. VBC Ferro Alloys, Hyderabad) had filed the request for initiation of sunset review on the above subject. The matter was examined and after detailed examination, it was considered appropriate not to review the anti dumping duty imposed on Ferro Silicon from subject countries. The main reasons for not initiating the sunset review were the fact that there was no prima facie evidence borne out of the submission of the domestic industry that cessation of anti dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

The applicants for review thereafter filed a petition in Hon'ble High Court of Delhi as Writ Petition (Civil) No.16893/06 and as per direction of the Hon'ble Court vide judgment dated 1.11.2007 Sunset Review is required to be conducted in accordance with the procedure laid down in Rule 23 of the Rules.

3. Initiation

The Hon'ble Court held that

- (a) A Sunset Review is mandatory and the contention of the respondents to the contrary is rejected
- (b) A Sunset Review is required to be conducted in accordance with the procedure laid down in Rule 23 of the rules

and directed the Authority to consider the request of the applicants to initiate the review under Rule 23. Pursuant to the said Order of the Hon'ble High Court, the Authority hereby initiate this review investigation to examine the likelihood of continuation or recurrence of dumping and injury on imports of ferro silicon originating in or exported from Russia and China PR in the event of cessation of the duty. Pending completion of the review as per the direction of the Hon'ble Court, the import of the subject goods shall be assessed as provisional w.e.f. 01st January, 2008.

4. Product under consideration

The product under consideration is Ferro Silicon. Ferro Silicon is an alloy of Iron and Silicon containing Calcium, aluminium, carbon etc as impurities. Silicon constitutes a major proportion in Ferro Silicon. It is primarily used as deoxidiser in the production of steel and alloy steel.

Ferro Silicon is described in terms of physical size of the product. Generally, the size of the ferro silicon is described in terms of millimeter of the outer dia of the product. The product is produced and sold in terms of weight (kg or MT).

Ferro Silicon is classified under custom sub-heading Nos. 7202.21 and 7202.2100 of Chapter 72 of Custom Tariff Act, 1975.

5. Procedure

a) Countries involved: The countries involved in the present review is the Peoples Republic of China and Russia.

b) Period of Investigation: The period of investigation for the purpose of the present Review is 1st October, 2006 to 30th September, 2007.

c) The provision of Rules 6,7,8,9,10,11,16,17,18,19 and 20 of the Rule Supra shall be mutatis mutandis applicable in this review.

d) Submission of information- The exporters in subject countries, their government through their embassy in India, the importers and users in India known to be concerned and the domestic industry are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the:

The Designated Authority,
Directorate General of Anti-Dumping & Allied Duties,
Ministry of Commerce & Industry,
Department of Commerce
Room No.240,
Udyog Bhavan,
New Delhi-110011.

Any other interested party may also make its submissions relevant to the investigations in the prescribed form and manner within the time limit set out below.

e) Time Limit – Any information relating to the present review and any request for hearing should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 days) from the date of publication of this review notification. If no information is received within the prescribed time limit or the information received is incomplete, the Designated Authority may record its findings on the basis of the facts available on record in accordance with the Rules supra.

f) Submission of information on Non-confidential basis – In terms of Rule 6(7) of the Rules, the interested parties are required to submit non-confidential summary of any confidential information provided to the Authority and if in the opinion of the party providing such information, such information is not susceptible to summarization, a statement of reason thereof is required to be provided. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

g) Inspection of Public File – In terms of Rule 6(7), any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties.

h) Use of facts available – In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

R. Gopalan
Designated Authority