

Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
Udyog Bhawan, New Delhi

Dated the 11th August, 2009

Initiation Notification

Sub: Initiation of anti-dumping investigation concerning imports of Phenol originating in or exported from Japan & Thailand.

No. 14/27/2009-DGAD - Whereas Hindustan Organic Chemicals Ltd. (herein after referred to as applicant) have filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 (herein after referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as the Rules), alleging dumping of Phenol, (hereinafter referred to as subject goods), originating in or exported from Thailand and Japan, (herein after referred to as "subject countries") and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods. The request is supported by M/S S I Group-India Ltd.

2. AND WHEREAS, the Authority finds sufficient prima facie evidence of dumping of the subject goods from the subject Countries, injury to the domestic industry and causal link between the dumping and injury exist, the Authority hereby initiates an investigation into the alleged dumping, and consequent injury to the domestic industry in terms of the Rules 5 of the said Rules, to determine the existence, degree and effect of any alleged dumping and to recommend the amount of antidumping duty which, if levied, would be adequate to remove the injury to the domestic industry.

Product Under Consideration

3. The product under consideration for the investigation is Phenol, also known as Carboic Acid. The product is marketed in two grades Crystalline and Hydrated. The two grades are differentiated on the basis of flow characteristics of Phenol. Phenol is used in the manufacture of Phenol formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol-A alkyl Phenols Pharmaceuticals, Dephenyl Oxide etc.

4. Phenol is a basic organic chemical, normally classified under Chapter 29 of the Customs Tariff Act. However, imports are reported under Chapter 27 also. The product is classifiable under Customs Tariff heading no. 2907.11 and 2707.60. The Customs classifications are, however, indicative only and in no way binding on the scope of the present investigation.

Domestic Industry and Standing

5. The application has been filed by M/s. Hindustan Organic Chemicals Limited and supported by M/S S I Group-India Ltd. There are only two known producers of the subject goods in the Country. According to the information provided in the application, the production of Hindustan Organic Chemicals Limited constitute 58% of Indian production during Apr'08-Sept'08 and 55% during Oct'08-Mar'09 and along with the supporter, it constitutes 100% of the Indian Production. Thus, the applicant shall constitute "domestic industry" for the purpose of the present investigations.

6. The Authority, after examining the above, determines that the applicant constitutes domestic Industry within the meaning of the Rule 2 and the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

Countries Involved

7. The countries involved in the present investigation are Thailand and Japan.

Like Article

8. Applicant has claimed that there is no significant difference in Phenol produced by the applicant and Phenol exported from subject countries. Both products are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Both the products are technically and commercially substitutable and hold closely resembling characteristics. It is further claimed that the consumers have used the two interchangeably. Therefore, for the purpose of present investigation, subject goods produced by the applicant are being treated as "Domestic Like Article" to the subject goods imported from subject countries within the meaning of the Anti Dumping Rules.

Normal Value

9. In the absence of availability of data in respect of the domestic sales in Thailand and Japan, the applicant has constructed normal value on the basis of constructed cost of production of subject goods in subject countries. The Authority has prima-facie considered the normal value of subject goods in subject countries on the basis of constructed values as made available by the applicant, subject to adjustment in the higher interest cost claimed in respect of Thailand, and the same has been considered by the Authority for the purpose of initiation.

Export Price

10. The export price of the subject goods from the subject Countries has been claimed on the basis of data obtained from International Business Information Services (IBIS), Mumbai. Price Adjustments have been claimed on account of Ocean Freight, Marine Insurance, Port Expenses and Inland Freight etc. and scaling down the same to reasonable limits normally adopted by the Authority. There is sufficient evidence of export prices claimed by the applicant for the subject goods from the subject countries.

Dumping Margin

11. Normal value and export price have been compared at ex-factory level in respect of the subject countries. There is sufficient evidence that the normal value of the subject goods in Thailand and Japan, so arrived is significantly higher than the ex-factory export price indicating, prima facie, that the subject goods are being dumped by exporters from subject countries into the Indian market.

Injury and Causal Link

12. The applicant has claimed that injury to the domestic industry has not been caused due to the factors other than the dumped imports, as shown below:

- i. The subject goods are being imported primarily from Japan, Thailand and the countries already attracting duty. The imports from other countries are minimal.

ii. There is some decline in demand in 2008-09 as compared to preceding year but it was significantly higher than 2005-06 and 2006-07. While demand declined, subject imports increased significantly in absolute terms and in relation to demand and production.

iii. The pattern of consumption with regard to PUC has not undergone any change and therefore could not have contributed to the injury.

iv. There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.

v. Technology for production of subject goods has not undergone any change and therefore, not a factor of injury.

vi. The applicant does not have significant export activities for the product concerned. The export performance of the applicant therefore, has not caused any injury to the domestic industry.

vii. The productivity of the applicant has declined solely due to dumping.

13. Applicant has submitted that once it is shown that there is an adverse volume and price effect from dumped imports, and the effects of injury caused by dumped imports then, the only basis on which to conclude that the injury is not caused by the dumped imports is through non-attribution analysis, i.e., that other factors have caused the injury. As listed known other factors do not establish that injury has been caused by these other factors, the only inescapable conclusion is that the injury to the domestic industry has been caused by the dumped imports from a number of sources including subject countries. While the above parameters establish that injury to the domestic industry has not been caused by the other factors, applicant has submitted that the following parameters establish that the injury to the domestic industry has been caused by the dumped imports.

- a. Imports from the subject countries were undercutting the prices of the domestic industry. As a direct consequence, the volume of imports increased significantly.
- b. Increase in the volume of dumped imports resulted in decline in sale volumes of the domestic industry.
- c. Decline in the sales volumes of the domestic industry resulted in decline in the market share of the domestic industry.
- d. Decline in prices of the domestic industry resulted in deterioration in profits, and consequently cash flow and return on capital employed for the domestic industry.

14. There is sufficient evidence that the dumped imports of subject goods from subject countries are, prima facie, causing material injury to the domestic industry.

Initiation of Antidumping Investigation

15. The Designated Authority, in view of the foregoing paragraphs, initiates anti-dumping investigations into the existence, degree and effect of alleged dumping of the subject goods originating in or exported from the subject Countries.

Period Of Investigation

16. The Period of Investigation for the purpose of the present investigation is 1st October 2008 to 30th June 2009 (9 months). The injury investigation period will, however, cover the period 2006-07, 2007-08, 2008-09 and the POI.

Submission of Information

17. The exporters in the subject Countries, their Government through the Embassy, the importers in India known to be concerned with this investigation 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 Designated Authority at the following address:

The Designated Authority
Directorate General of Anti Dumping & Allied Duties,
Ministry of Commerce & Industry,
Department of Commerce,
Government of India,
Room No. 240, Udyog Bhavan,
New Delhi – 110107.

18. As per Rule 6(5) of Rule supra, the Designated Authority is also providing opportunity to the industrial users of the article under investigation and to representative consumer organizations, who can furnish information relevant to the investigation regarding dumping, injury and causality. Any other interested party may also make its submissions relevant to the investigation within the time limit set out below.

Time Limit

19. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days from the date of publication of this notification. The known exporters and importers, who are being addressed separately, are however required to submit the information within forty days from the date of the letter addressed to them separately.

Submission of Information

20. 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 Designated Authority may record findings on the basis of facts available and make such recommendations to the Central Government as deemed fit.

Inspection of Public File

21. In terms of Rule 6(7), the Designated Authority maintains a public file. Any interested party may inspect the public file containing non-confidential version of the evidence submitted by interested parties.

R Gopalan
Designated Authority