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

**NOTIFICATION**

New Delhi  
Dated the 4<sup>th</sup> November, 2013

**Final Findings**

**Subject: - Mid Term Review of the anti-dumping duty imposed on the imports of Nylon Tyre Cord Fabric, originating in or exported from Belarus.**

**F. No. 15/28/2011-DGAD** – Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter referred to as the Rules) thereof;

**A. BACKGROUND**

2. The Designated Authority (hereinafter also referred to as the Authority) had issued its final findings vide Notification No.14/09/2008-DGAD dated 29.09.2009 recommending definitive anti-dumping duty on the imports of Nylon Tyre Cord Fabric (hereinafter also referred to as the subject goods), originating in or exported from Belarus (hereinafter also referred to as the subject country).

3. Whereas the Central Government, vide Customs Notification No.121/2009-Customs dated 30.10.2009, had imposed definitive anti-dumping duty on the imports of the subject goods originating in or exported from the subject country.

4. And whereas JSC Grodno Azot, Production & Technological Complex, "Khimvolokno", Ul. Slavinskogo, 4, 230026, Grodno, Republic of Belarus, has filed an application for change of name of the producer/exporter in the relevant Customs Notification from 'Grodno Khimvolokno' to "JSC Grodno Azot", following the affiliation of Grodno Khimvolokno to JSC Grodno Azot. In the Final Findings Notification as well as in the relevant Customs Notification of the original investigation, the anti-dumping duty on the imports of the subject goods, originating in or exported from the subject country has been imposed on the producer/exporter combination of Grodno Khimvolokno, Belarus and Kapsco Private Ltd, Singapore.

5. And, whereupon in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority issued a public notice dated 20<sup>th</sup> February, 2013, published in the Gazette of India, Extraordinary, initiating the Mid Term Review investigation for examining and deciding the change of name requested by the exporter/producer from Belarus. Thus, the present review is limited to the aspect of only the 'name change' claimed by JSC Grodno Azot with regard to the Final Finding Notification No.14/09/2008-DGAD dated 29.09.2009 and Customs Notification No. 121/2009-Customs dated 30.10.2009.

## **B. PROCEDURE**

6. In this investigation, the procedure described herein-below has been followed:
- i. The embassy of the subject country in India was informed about the initiation of the investigation, in accordance with Rule 6(2) of the AD Rules.
  - ii. The Authority sent copies of initiation notification dated 20<sup>th</sup> February, 2013, to the embassy of the subject county and known producers of subject goods in India as per the available information. Parties to this investigation were requested to file their responses and make their views known in writing within the prescribed time limit.
  - iii. There was no period of investigation set for the purpose of the present investigation as the scope of the investigation was restricted to the change of name of the exporter from the subject country.
  - iv. The Authority made available non-confidential version of the evidence presented by the interested parties in the form of a public file kept open for inspection by the interested parties.
  - v. The Authority has examined the information furnished by the exporter with regard to the changed circumstance for accuracy and adequacy of the information so provided.
  - vi. In accordance with Rule 6(6) of the Anti-dumping Rules, the Authority also provided opportunity to all interested parties to present their views orally in the public hearing held on 10<sup>th</sup> June, 2013. The parties which presented their views in the public hearing were requested to file written submissions of the views expressed orally followed by rejoinders. The arguments made in the written submissions and rejoinders thereon received from the interested parties to the extent considered relevant for the present investigation have been considered in the Disclosure Statement.
  - vii. Information provided by interested parties on 'confidential basis' was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide

sufficient non-confidential version of the information filed on confidential basis.

- viii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has examined the issue on the basis of the 'facts available'.
- ix. In accordance with the Rule 16 of the Anti-dumping Rules, the essential facts under consideration before the Authority were disclosed to the known interested parties on 27<sup>th</sup> September, 2013.
- x. The submissions received from the interested parties during the course of the present investigation including the comments received on the disclosure statement, to the extent considered relevant, have been considered in this final finding.
- xi. \*\*\* marked in this Final Findings represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Anti-dumping Rules.

### **C. SUBMISSIONS MADE BY INTERESTED PARTIES**

7. The following are the submissions made by M/s JSC Grodno Azot, the applicant exporter from Belarus during the course of the investigation:

- i) The scope of the present review is limited to change of name only. The name change of the exporter has become inevitable as a result of reorganization by affiliation of JSC "Grodno Khimvolokno" with JSC "Grodno Azot" which resulted in the merger of JSC "Grodno Khimvolokno" with JSC "Grodno Azot" and the entity JSC "Grodno Khimvolokno" ceased to exist.
- ii) The term 'affiliation' used in the application and also in these submissions denotes 'merger'.
- iii) JSC "Grodno Azot" became a successor in all rights and obligations of JSC "Grodno Khimvolokno". The individual anti-dumping duties conferred by the Authority in the past on "Grodno Khimvolokno" is not any exception and the same also needs to be made applicable to JSC "Grodno Azot".
- iv) Such merger has occurred as per the prevailing Belarusian law which is evident from the certificate of such merger and hence any apprehension of domestic industry with regard to the legal sanctity of the name change is untenable.
- v) Even the Indian AD rules do not contain any provision prohibiting such change in name and wherever warranted the Authority has absolute discretion to amend the existing notification to incorporate the change in the

name of a party/exporter that had extended complete cooperation to the Authority in the past.

- vi) Since Grodno Khimvolokno is now affiliated with JSC Grodno Azot, the duties applicable on Grodno Khimvolokno should now be made applicable in the name of JSC Grodno Azot. Thus, the notification in force with regard to anti-dumping duties on imports of NTCF from Belarus may please be modified to reflect the name JSC Grodno Azot instead of Grodno Khimvolokno.
- vii) The contention of the domestic industry that the subject exporter has not made any exports to India has no factual or legal relevance in the present investigation. The present case is all about a name change to restore the legal rights of the applicant. The legal rights conferred upon the applicant by way of an investigation by the Hon'ble Authority in the past can now be restored only through suitable amendments in the existing notification.
- viii) The significance of difference in individual duty and residual duty is not of any relevance with regard to the name change as the exporter is seeking only restoration of its legal right. The allegation of the domestic industry that the intention and objective of the exporter is not clear is nothing but to frustrate the present review process. There is no provision in AD rules to measure any 'intention' of the parties and hence the allegation has no legal basis.
- ix) The allegation of domestic industry that the exporter could not clarify the meaning of 'reorganized by way of affiliation' at the time of oral hearing is incorrect. The Exporter had clearly responded in the oral hearing by saying that the 'reorganisation by way of affiliation' is nothing but a merger.
- x) The legal structure of the company did not change after merger because it still remains a State Concern of the Peoples Republic of Belarus. The shares of "Grodno Khimvolokno" are merged with JSC "Grodno Azot" leading to termination of the entity "Grodno Khimvolokno". Hence, the apprehensions and contentions of domestic industry with regard to legal structure and implication of the same are all irrelevant. It is reiterated that the scope of the present review covers name change of the exporter only.
- xi) The scope of present review is clearly restricted to change in name only. It has already been clarified that the legal structure of the company did not change after merger because it still remains a State Concern of the Peoples Republic of Belarus. The shares of "Grodno Khimvolokno" are merged with JSC "Grodno Azot" leading to termination of the entity "Grodno Khimvolokno". Thus, the contention of the domestic industry with regard to determination of fresh dumping margin is untenable as the scope of the review itself is restricted to change of name.

- xii) The present request is to restore the legal rights of the exporter which can be done only through making necessary modifications in the notifications to incorporate the change in name. Apprehension of the domestic industry such as expansion plans, expansion in capacity etc of the exporter are out of place as the scope of present review is limited to name change only. There is no facts and basis to such apprehensions. The exporter earlier cooperated with the Authority and the only change in circumstance which necessitated the present review is the change in name of the exporter.
- xiii) The present case is all about a name change to restore the existing legal rights of the applicant which would no way prejudice the interests of other parties.

8. The following are the submissions made by the responding domestic producer during the course of the investigation:

- i. The scope of the present review is limited to mere change of name. So long as the present review is limited to change of name, the domestic industry does not have any objection to such change of name if the same is in accordance with the law.
- ii. There is no known import of the product under consideration from Belarus since 2009-10. The change of name has occurred only recently. However, there were no exports even in the past. It is thus evident that the exporter is unable to export the product without resorting to dumping.
- iii. The anti-dumping duty on the named exporter was USD 0.77 per kg while the residual duty is US\$ 0.99 per kg. The difference between anti-dumping duty on the named exporter and in the residual category is not so high as to show the position where the exporter could not export with residual duties but would be able to export if the name is changed and the specific duty is assigned. Thus, the objective or the intent of the applicant in the present review is not clear to the domestic industry.
- iv. The meaning of “reorganized by way of affiliation” is not clear. It is vital to understand the change in the legal structure, as it might have direct implications on the resultant dumping margin.
- v. It is also not clear how the exporter is entitled to the same quantum of anti-dumping duty. Both the essential ingredients of dumping margin i.e. normal value and export price are company specific behaviour of the exporter concerned. Different exporter may follow different pricing policies and mechanism. Thus, with the change in management, the normal value

and export price may undergo a change; leading to significantly different dumping margin.

- vi. It is also relevant to point out in this regard that the future plans of the exporters are also equally relevant. If the exporter is enhancing its capacities or is planning to restructure its operations, it follows that its behaviour would undergo a significant change, which shall imply a change in dumping margin.

#### **Post-Disclosure comments made by the interested parties**

9. No relevant post-disclosure comment was made by M/s JSC Grodno Azot, the applicant exporter from Belarus.

10. The following are the post-disclosure comments made by the responding domestic producer:

- i. The change of name has occurred only recently. However, there was no export in the past. Thus the exporter is unable to export the product without dumping.
- ii. The difference between anti-dumping duty on the named exporter and in the residual category is not so high as to show the position where the exporter could not export with residual duties but would be able to export if the name is changed. Thus the objective of seeking change in name by the exporter is not clear.
- iii. The dumping margin being company specific is linked to the decision making of the exporter, which in turn is determined by the ownership. With the change in ownership, the decision making may change, which may result in change in normal value and export price and thus significant dumping.

#### **Examination by the Authority**

11. The submissions/views/comments made by the interested parties during the course of the investigation including post-disclosure stage are addressed herein below:

- i) The application for change of name has been filed by JSC Grodno Azot. In the original anti-dumping investigation concerning NTCF, "Grodno Khimvolokno", an exporter/producer from Belarus has cooperated with the Authority and the anti-dumping duty on the imports of the subject goods, originating in or exported from the subject country was imposed on the producer/exporter combination of Grodno Khimvolokno, Belarus and M/s Kapsco Private Ltd, Singapore. It has been submitted by the applicant that the name change of the producer/exporter has become inevitable as a result of reorganization of JSC "Grodno Khimvolokno" by affiliation to JSC "Grodno

Azot". This had resulted in the merger of JSC "Grodno Khimvolokno" with JSC "Grodno Azot" and the entity JSC "Grodno Khimvolokno" ceased to exist. JSC "Grodno Azot" became a successor in all rights and obligations of JSC "Grodno Khimvolokno". The Authority therefore holds that the individual anti-dumping duties conferred on "Grodno Khimvolokno" vide Customs Notification dated 30.10.2009 needs to be made applicable to JSC "Grodno Azot".

- ii) The Authority notes that the merger has occurred as per the prevailing Belarusian law based on the certificates of such mergers provided to the Authority by the applicant
- iii) With regard to the issue of meaning of reorganisation by affiliation, the exporter has clarified that the term 'reorganisation by affiliation' means merger. The Authority notes that JSC "Grodno Azot" became a successor in all rights and obligations of JSC "Grodno Khimvolokno". The Authority further notes that the legal structure of the company did not change after merger and the new company still remains a State Concern of the Peoples Republic of Belarus. The shares of "Grodno Khimvolokno" are merged with JSC "Grodno Azot" leading to termination of the entity "Grodno Khimvolokno".
- iv) It has been clarified in the initiation notification itself that the scope of present review is restricted to change of name only and various submissions by interested parties in this respect are considered and examined in detail.
- v) The Authority holds that the other issues raised by the responding domestic producer are of no relevance to the request of the applicant to change its name.
- vi) The Authority notes that the post-disclosure comments made by the responding domestic producer are presumptuous and devoid of substantiated facts.

### **Conclusion and Recommendations**

12. Vide the Final Findings Notification No.14/09/2008-DGAD dated 29.09.2009 the Authority had recommended imposition of anti-dumping duty as follows:

*"107. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty equal to the amount indicated in Col 9 of the table below to be imposed from the date of this notification on all imports of subject goods originating in or exported from Belarus.*

SN	Heading/ subheading	Description of goods	Specification	Country of origin	Country of export	Producer	Exporter	Duty amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10	11
1	5902.10	NTCF	All Grades	Belarus	Singapore	Grodno Khimvo Iokno	Kapsco Private Ltd.	0.77	Kg	USD
2	5902.10	NTCF	All Grades	Belarus	Belarus	Grodno Khimvo Iokno	Grodno Khimvo Iokno	0.77	Kg	USD
3	5902.10	NTCF	All Grades	Belarus	Belarus	Any combination other than at 2 above.		0.92	Kg	USD
4	5902.10	NTCF	All Grades	Belarus	Any country other than Belarus.	Any combination other than at 1 above.		0.92	Kg	USD
5	5902.10	NTCF	All Grades	Any country other than country/ies attracting anti dumping duty.		Any	Any	0.92	Kg	USD

13. Having considered all the aspects of the case, including submissions made by M/s JSC Grodno Azot, the applicant exporter from Belarus and other interested parties, the Authority concludes that the investigation has established that JSC “Grodno Azot” became a successor in all rights and obligations of JSC “Grodno Khimvolokno”. The legal structure of the company did not change after merger and the new company still remains a State Concern of the Peoples Republic of Belarus. The shares of “Grodno Khimvolokno” are merged with JSC “Grodno Azot” leading to termination of the entity “Grodno Khimvolokno”. This change necessitates change in name of the producer/exporter and amendments to the notification recommending anti-dumping duties on the said producer/exporter.

14. Accordingly, the authority recommends following amendments in the Duty table given at Para 107 of the Final Finding No. 14/09/2008-DGAD dated 29<sup>th</sup> September 2009:

- i) Against Serial No. 1, in Col. 7, the name of the Producer ‘Grodno Khimvolokno’ may be amended to read as ‘JSC Grodno Azot’.

- ii) Against serial No.2, in Col. No.7, the name of the Producer '*Grodno Khimvolokno*' may be amended to read as 'JSC Grodno Azot'.
- iii) Against serial No.2, in Col. No.8, the name of the Exporter '*Grodno Khimvolokno*' may be amended to read as 'JSC Grodno Azot'.

15. An appeal against the orders of the Central Government arising out of this order shall lie before the Customs, Excise, and Service Tax Appellate Tribunal in accordance with the Act.

**(J.S. Deepak)**  
Designated Authority