

To be published in the Part 1 Section 1 of Gazette of India, Extraordinary

Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti dumping & Allied Duties)

Dated the 22nd June, 2010

Initiation Notification

Subject: Initiation of review investigation concerning anti-dumping duty imposed on imports of Flexible Slabstock Polyol originating in or exported from Singapore pursuant to the orders of the Hon'ble CESTAT No. AD/1 to 4/10 CU (DB) dated 30th April, 2010.

No. 18/13/2008-DGAD – Whereas having regard to the Customs Tariff Act, 1975 as amended in 1995, and thereafter, and the 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), vide Notification No. 15/25/2009-DGAD Dated 26th December, 2007 the Designated Authority (hereinafter referred to as the Authority) had notified final findings recommending definitive anti dumping duty on imports of Flexible Slabstock Polyol (hereinafter referred to as the subject goods) originating in or exported from European Union, Japan, Singapore and United States of America (hereinafter referred to as the subject countries).

2. And whereas definitive anti dumping duty was imposed on the subject goods vide Customs Notification No. 15/2008-Customs dated 5th February, 2008.

Product under Consideration

3. The product under consideration in the present investigation, as defined in the original investigation, is Flexible Slabstock Polyol, a polymer, originating in or exported from the subject countries. The subject product is a clear viscous liquid of molecular weight 3000-4000, manufactured by polymerization of propylene oxide and ethylene oxide with a triol chain starter. It is a polyether and on reaction with catalysts and additives yields polyurethane foams used in upholstery, mattresses, pillows, bolsters, transport seating and packaging. Flexible Slabstock Polyol is transported in tankers or stored in steel drums. It is classified under the category "Plastics and articles thereof" in Chapter 39 of the Customs

Tariff Act, 1975 and further under 3907.20 as per International Trade Classification. The classification, however, is only indicative and in no way binding on the scope of the present investigation.

Initiation

4 Certain Interested parties namely M/s. D.P. Foam Pvt. Ltd., Pondichery, M/s. Manali Petrochemical Ltd., Chennai, M/s BASF Southeast Asia Pvt Ltd, Singapore and M/s Shell Eastern Petroleum Pvt Ltd, Singapore filed appeal No. AD/7/2008 With AD/S/1023/08, AD/8/2008 With AD/S/1025/08, AD/10/2008-CU(DB) With AD/S/1103/08, AD/16/2008-CU(DB) before Hon'ble CESTAT against the aforesaid Final Findings of the Designated Authority.

5. The Hon'ble CESTAT, New Delhi vide orders dated 30th April, 2010, while allowing the aforesaid four appeals, has directed as follows:

*“ 19. Under the circumstances, and for the reasons stated above, we set aside the impugned final findings and the impugned notification issued pursuant thereto insofar as the exports of the impugned goods originating in/or exported from Singapore are concerned and remand the matter for fresh determination by the D.A., **preferably within a period of 6 months from the date of pronouncement of this order**, after giving an adequate opportunity of hearing to the appellants and other interested parties, if any. However, keeping in view the spirit behind the second proviso to Section 9A (5) of the Customs Tariff Act, 1975, we order that antidumping duty shall continue to be levied on such impugned goods at the same rates as applicable during the sunset review for a period starting from the date of the impugned notification till expiry of 6 months from the date of pronouncement of this order on a provisional basis and subject to the outcome of the fresh decision by the D.A.*

20. All the four appeals are allowed in the above terms.”

6. In pursuance with the above stated orders of the Hon'ble CESTAT, the Designated Authority hereby initiates a review of the anti-dumping duty earlier recommended by the Designated Authority vide Notification No. 15/25/2009-DGAD Dated 26th December, 2007, in respect of the subject goods originating in or exported from Singapore, under the provisions of Rule 23 of the Rules and Section 9A (5) of the Customs Tariff (Amendment) Act, 1995 as amended.

Country involved

7. The country involved in the present investigations is Singapore.

Grounds for Review

8. In view of the above stated orders of the Hon'ble CESTAT, a review of anti dumping measures in force, under the provision of Rule 23 of the Rules and Section 9A (5) of the Customs Tariff (Amendment) Act, 1995 as amended, in respect of the subject goods originating in or exported from Singapore is necessary.

Procedure

9. Having regard to the above stated orders of the Hon'ble CESTAT necessitating a review of the measure in force, the Designated authority hereby initiates a review investigation of the final findings notified vide No. 15/25/2009-DGAD Dated 26th December, 2007 published in the Gazette of India, Extraordinary Part I, Section I in terms of the provision of Section 9(A) of Customs Tariff (Amendment) Act 1995 read with Rule 23 supra, in respect of the subject goods originating in or exported from Singapore.

Submission of Information

10. The exporters in the subject country, their government through their Embassy in India/representatives, 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.243,
Udyog Bhavan,
New Delhi-110011.

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

Time Limit

11. 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 this notification, along with the non-confidential version. 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.

Non-confidential summary:

12. 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. If in the opinion of the party providing such information, such information is not susceptible to summarization; a statement of reasons thereof is required to be provided.

Inspection of Public File:

13. In terms of Rules 6(7), any interested party may inspect the public file containing non-confidential version of the information submitted by other interested parties.

14. 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.

(P.K.Chaudhery)
The Designated Authority