

TO BE PUBLISHED IN THE GAZETTE OF INDIA – EXTRAORDINARY-PART-I, SECTION-1

File No. 15/18/2014-DGAD
Government of India
Ministry of Commerce & Industry
Department Of Commerce
Directorate General of Anti-dumping and Allied Duties
4th Floor, Jeewan Tara Building, Parliament Street, New Delhi

Date:28.08.2014

INITIATION NOTIFICATION

(Sunset Review)

Subject: Initiation of sunset Review anti dumping investigation concerning imports of Flexible Slabstock Polyol originating in or exported from China PR, Korea RP and Chinese Taipei.

15/18/2014-DGAD –Whereas, in accordance with the Customs Tariff Act, 1975 as amended from time to time (herein after 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 (herein after referred to as the Rules), the Designated Authority (herein after referred to as the Authority) vide its Final Findings Notification No 15/19/2008 dated 22.07.2009, had recommended in a sunset review investigation, the imposition of anti-dumping duties on the imports of Flexible Slabstock Polyol (hereinafter referred to as the subject goods or Product Under Consideration or FPS), originating in or exported from China PR, Korea RP and Chinese Taipei (herein after referred to as the subject countries) and the duties were levied by the Ministry of Finance vide Customs Notification No.89/2009-Customs dated 31.08.2009.

2. Whereas, in terms of the Customs Tariff Act, the antidumping duty imposed shall unless revoked earlier cease to have effect on the expiry of five years from the date of such imposition. And, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

Request for Review

3. And whereas, in terms of the above provision, Manali Petrochemicals Limited has filed a duly substantiated petition before the Authority alleging continued dumping of the subject goods originating in or exported from the subject countries in spite of duties in force and has requested the Authority for initiation of second sunset review of the anti dumping duties levied by the Central Government on the subject goods originating in or exported from these countries vide Customs Notification No.89/2009-Customs dated 31.08.2009 and continuation of the same. The request is based on the grounds that dumping has continued in spite of imposition of antidumping duty on the import of the subject goods from the subject countries and the domestic industry continues to suffer injury on account of dumping from the subject countries as the form and quantum of anti dumping duty in force has been insufficient. The applicant has further argued that expiry of the measure against the subject countries would be likely to result in continuation or recurrence of dumping and injury to the domestic industry. The applicant also claims that revocation of anti-dumping measures would result in intensified injury to the domestic industry and, therefore, the duty is required to be continued for a further period of five years.

4. And, the Authority, on the basis of prime facie evidence of dumping of the subject goods from the subject countries and likely injury to the domestic industry, considers that initiation of sunset review proceedings for the anti-dumping duties in force would be appropriate to examine the need for continuation of such duties to offset dumping from the subject countries and to examine as to whether the injury to the domestic industry is likely to continue or recur if the duties were removed or varied from the subject countries.

Domestic Industry and Standing

5. The petition has been filed by M/s Manali Petrochemicals Ltd (hereinafter referred to as 'petitioner'). As per the records available with the Authority, the petitioner accounts for major proportion of the product under consideration in the total domestic production in the period of investigation and, therefore, constitutes Domestic Industry as well satisfies the criterion of standing within the meaning of the Rules. The petitioner has certified that there are no imports of the product under consideration during proposed POI by the petitioner or any of its related party within the meaning of Rule 2(b). The petitioner has also certified that it is

not related to any of the exporters from the subject countries in terms of the Rules.

Product Under Consideration and Like Article

6. The product under consideration in the original investigation was Flexible Slabstock Polyol of molecular weight 3000 to 4000. In the present petition for sunset review investigation, there is no change in the product under consideration. Flexible Slabstock Polyol is generally known as "FSP" in the commercial and market parlance and has been referred to as FSP as well in this investigation. The subject goods are used for manufacture of slabstock foam, etc. The product under consideration is classified under the category "Plastics and articles thereof" in Chapter 39 of the Customs Tariff Act, 1975 and further under 39072010 and 39072090 as per Customs Classification. However, Customs classification is indicative only and no way binding on the scope of the present investigation.

7. Further, there is prima facie evidence that the subject goods being imported are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, functions or end-uses of the dumped imports and the domestically produced subject goods. The two are technically and commercially substitutable also. Hence, the goods produced by the domestic industry are 'Like Article' to dumped goods from the subject countries in terms of the Rules.

Countries Involved

8. The countries involved in the present investigation are the China PR, Korea RP and Chinese Taipei.

Period of Investigation

9. The period of investigation (POI) for the purpose of present investigation is 1st April 2013 to 31st March, 2014 (12 months). However, for the purpose of analyzing injury, the data of previous three years, i.e., April 2010 to March 2011, April 2011 to March 2012, April 2012 to March-2013 and the period of investigation (POI) will be considered.

Procedure

10. The investigation will determine as to whether the continued imposition of the duties is necessary to offset dumping and whether the injury would be likely to continue or recur if the duty were removed or varied, or both.

- i. The review will cover all aspects of Final Findings Notification No 15/19/2008 dated 22.07.2009 and Customs Notification No. 89/2009-Customs dated 31.08.2009.
- ii. The provisions of Rules 6,7,8,9,10,11,16,17,18,19 and 20 of the Rules supra shall be mutatis mutandis applicable in this review.

Initiation Of Anti Dumping Investigation

11. The Authority, in view of the foregoing, initiates sunset review anti-dumping investigation into the existence, degree and effect of alleged dumping of the subject goods originating in or exported from the subject countries.

Submission of Information

12. The exporters in the subject countries, their governments through their Embassies 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 Authority at the following address:

The Designated Authority
Directorate General of Anti-Dumping and Allied Duties
Ministry of Commerce and Industry
Department of Commerce
4th Floor, Jeewan Tara Building, Parliament Street, New Delhi

13. 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. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

Time Limit

14. 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 (40 days) from the date of publication of this Notification. If no information is received within

the prescribed time limit or the information received is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with the AD Rules.

15. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire responses and offer their comments to the domestic industry's application within forty days (40 days) from the date of publication of this Notification. The information must be submitted in hard copies as well as soft copies.

Submission of information on confidential basis

16. The parties making any submission (including Appendices/Annexure attached thereto), before the authority including questionnaire response, are required to file the same in two separate sets, in case "confidentiality" is claimed on any part thereof:-

- (a) one set marked as Confidential (with title, number of pages, index, etc.), and
- (b) the other set marked as Non-Confidential (with title, number of pages, index, etc.).

17. The "confidential" or "non-confidential" submissions must be clearly marked as "confidential" or "non-confidential" at the top of each page. Any submission made without such marking shall be treated as non-confidential by the Authority and the Authority shall be at liberty to allow the other interested parties to inspect such submissions. Soft copies of both the versions will also be required to be submitted, along with the hard copies, in five (5) sets of each.

18. The confidential version shall contain all information which are by nature confidential and/or other information which the supplier of such information claims as confidential. For information which are claimed to be confidential by nature or the information on which confidentiality is claimed because of other reasons, the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information can not be disclosed.

19. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out (in case indexation is not feasible) and summarized depending upon the information on which confidentiality is claimed. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on confidential

basis. However, in exceptional circumstances, party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

20. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that the request for confidentiality is not warranted or if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.

21. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim shall not be taken on record by the Authority.

22. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorization of the party providing such information.

Inspection of Public File

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

Non-cooperation

24. 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.

(J K Dadoo)
Designated Authority