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Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhavan, New Delhi

NOTIFICATION

Dated the 18th September, 2013

Initiation of Mid-term Review Investigation

Subject: Initiation of Mid-term Review (MTR) investigation in respect of the anti-dumping duties imposed on the imports of Morpholine, originating in or exported from China PR, EU and USA.

15/5/2013-DGAD – Whereas having regard to the Customs Tariff Act, 1975, as amended from time to time, (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter referred to as Rules), the Designated Authority (hereinafter referred to as Authority), notified its final findings vide Notification No. 14/41/2010-DGAD dated 5th December, 2011 and recommended imposition of definitive anti-dumping duty on imports of "Morpholine" (hereinafter referred to as subject goods) originating in or exported from China PR, EU and USA (hereinafter referred to as subject countries) and the definitive anti-dumping duty was imposed by the Central Government vide Notification No. 10/2012-Customs dated 24th January, 2012.

2. M/s NOCIL Ltd has submitted an application requesting for initiation of a review of the anti-dumping duties imposed on the imports of the subject goods from the subject countries in accordance with section 9A of the Customs Tariff Act 1975 read with Rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. They have claimed that the circumstances that were prevalent during the period of investigation of the original investigation have changed significantly leading to a situation where the existing antidumping duties are no longer warranted.

Product under Consideration:

3. The product under consideration in the present mid-term review investigation, as in the original investigation, is 'Morpholine', originating in or exported from China PR, European Union and USA. The product scope therefore is the same as that defined in the original investigation. Morpholine is an extremely versatile chemical and is used as a chemical intermediate in the rubber industry, in corrosion control, and in the synthesis of a large number of drugs. It is also used for crop protection agents, dyes and optical brighteners. Morpholine is a solvent for a large variety of organic materials, including resins, dyes and

waxes. It can be used as a catalyst. Morpholine is used in the in toiletry and cosmetic products at concentrations up to 5% (Cosmetic Ingredient). It can be use for / in the several direct and indirect food additive applications. Morpholine is used as intermediates for rubber accelerators and as corrosion inhibitor in steam boiler systems. It is used for optical brighteners in detergent formulations. Morpholine derivatives are used in rubber vulcanization, stabilization and the manufacture of special high-speed tyres. Morpholine may be released during rubber processing. Morpholine has volatility similar to water. Morpholine derivatives such as Nmethylmorpholine and N-ethylmorpholine are used as Catalysts for the production of polyurethane foams. Morpholine derivatives are also used as analgesics and local anesthetics, antibiotics, antimycotics and for plaque control in dentistry. Morpholine is used in several direct and indirect food additive applications. Morpholine is used by the cosmetic industry also. The product falls under customs classification 29333917. Thus, the Customs classification is indicative only and is in no way binding on the scope of the present investigation.

Grounds for Review:

4. The present application for MTR has been made on the following grounds:

a. Significant increase in import price of the subject goods from the subject countries.
b. Exports being made by domestic industry at significantly higher prices.
c. Landed price of imports are above non-injurious price leading to negative injury margin.
d. Selling price of the domestic industry is significantly higher than the non-injurious price
e. Change in injury margin requires review as the PUC is attracting fixed quantum of ADD.

Initiation:

5. Rule 23 (1A) lays down the scope of a Mid-Term Review. Rule 23 of the AD Rules as amended vide Customs Notification No. 15/2011 dated 1st March 2011 reads as follows:

"(1) Any anti-dumping duty imposed under the provision of section 9A of the Act, shall remain in force, so long as and to the extent necessary, to counteract dumping, which is causing injury.

(1A) The designated authority shall review the need for the continued imposition of any antidumping duty, where warranted, on its own initiative or upon request by any interested party who submits positive information substantiating the need for such review, and a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty and upon such review, the designated authority shall recommend to the Central Government for its withdrawal, where it comes to a conclusion that the injury to the domestic industry is not likely to continue or recur, if the said anti-dumping duty is removed or varied and is therefore no longer warranted.

(1B) Notwithstanding anything contained in sub-rule (1) or (1A), any definitive antidumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that

period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry."

6. On the basis of information made available by the aforementioned Applicant before the Authority, the Authority considers it prima facie appropriate to initiate a mid-term review of the anti-dumping duties imposed on the imports of the subject goods originating in or exported from the subject countries.

Countries involved:

7. The countries involved in the present investigation are China PR, EU and USA.

Procedure:

8. Having regard to the information provided by the Applicant indicating changed circumstances necessitating a review of the measure in force, the Designated Authority now considers that it is appropriate to initiate a mid-term review of the final findings notified vide Notification No. 14/41/2010-DGAD dated 5th December, 2011 published in the Gazette of India, Extraordinary Part I, Section I and the definitive duties imposed by the Central Government vide Notification 10/2012-Customs dated 24th January, 2012 and the Authority hereby initiates an investigation in accordance with the provisions of Section 9(A) of Customs Tariff (Amendment) Act 1995 read with Rule 23 of the the Rules supra to review the need for continued imposition of the anti-dumping duties. The review will cover all aspects of the earlier Notification No. 14/41/2010-DGAD dated 5th December, 2011 and the definitive duties imposed by the Central Government vide Notification 10/2012-Customs dated 24th January, 2012 .

Period of Investigation (POI)

9. The period of investigation for the purpose of the present review is 1st April, 2012 to 31st March, 2013. The injury investigation period will however cover the periods 2009-10, 2010-11, 2011-12 and the POI (2012-13). The authority may also examine the data pertaining to the post-POI period data for likelihood analysis.

Submission of Information:

10. The exporters in subject countries, their Governments through their Embassies/High Commissions 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 in the following address:

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

11. 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

12. 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 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 Anti-dumping Rules.

13. 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 regarding the need to continue or otherwise the Anti-dumping measures within 40 days from the date of initiation of this investigation.

Submission of information on confidential basis

14. In case confidentiality is claimed on any part of the questionnaire response/submissions, the same must be submitted in two separate sets (a) marked as Confidential (with title, index, number of pages, etc.) and (b) other set marked as Non-Confidential (with title, index, number of pages, etc.). All the information supplied must be clearly marked as either "confidential" or "non-confidential" at the top of each page.

15. Information supplied without any confidential marking shall be treated as non-confidential and the Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Two (2) copies of the confidential version and five (05) copies of the non-confidential version must be submitted by all the interested parties.

16. For information claimed as confidential; the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information cannot be disclosed and/or why summarization of such information is not possible.

17. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out /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, parties submitting the confidential information may indicate that such information is not susceptible to summarization; a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.

18. 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 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.

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

20. In terms of rule 6(7) any interested party may inspect the public file containing non-confidential versions of the evidence submitted by other interested parties.

Non-cooperation

21. In case any interested party refuses access to and otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may declare such interested party as non-cooperative and record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

(J.S. Deepak)
The Designated Authority