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**No. 15/01/2016 - DGAD.**

**Government of India**

**Department of Commerce**

**Ministry of Commerce & Industry**

**(Directorate General of Anti-Dumping & Allied Duties)**

**4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi -110001**

Dated the 7<sup>th</sup> June 2016

**INITIATION NOTIFICATION**

**Subject: Initiation of Sunset Review Investigation of Anti-dumping duty on import of Pentaerythritol originating in or exported from China PR in India.**

**No. 15/01/2016 - DGAD:** Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Designated Authority (herein after referred to as Authority) recommended imposition of Anti Dumping Duty on imports of Pentaerythritol (hereinafter referred to as subject goods) originating in or exported from China PR and Sweden (hereinafter referred to as subject countries). The final findings notification of the Authority was published vide notification No. 14/16/2004-DGAD dated 02nd February, 2006 respectively. On the basis of the findings, definitive anti dumping duties on the subject goods imported from subject countries were imposed by the Department of Revenue vide Custom notifications No. 37/2006 dated 20.04.2006.

2. The Authority initiated sunset review investigations vide Notification No. 15/3/2010-DGAD dated 26<sup>th</sup> March 2010. The Authority recommended continued imposition of definitive anti dumping duties on imports from China PR vide notification No.15/3/2010-DGAD, dated the 25<sup>th</sup> March, 2011 and Ministry of Finance imposed definitive anti-dumping duty vide notification No. 47/2011-Customs, dated the 14<sup>th</sup> June, 2011 on all imports of subject goods originating in or exported from China PR. However, anti dumping duties on imports from Sweden were revoked by the Authority in the sunset review

3. WHEREAS in terms of Section 9A(5) the Customs Tariff (Amendment) Act 1995 the antidumping duty imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review, whether the

expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In this regard, the Designated Authority hereby initiate sunset review in accordance with section 9A(5) of the Act read with Rule 23 of Antidumping Rules to examine whether cessation of the duty would lead to continuation or recurrence of dumping and injury.

#### **Domestic Industry & Standing**

4. The petition has been filed by M/s Kanoria Chemicals and Industries Limited.

5. As per the evidence available on record, the production of the applicant company constitutes "a major proportion" of the domestic production. The Authority, therefore, determines that the applicant company constitutes eligible domestic industry within the meaning of Rule 2 (b) of the Anti Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

#### **Product under consideration**

6. The product being dumped in the Indian market from the subject country is Pentaerythritol. Pentaerythritol is an organic compound which finds application in manufacture of Alkyd Resin, Rosin Esters, Plasticizers, Printing Inks, Synthetic Rubber, Stabilizers for Plastics, Modified drying oils, Detonators, Explosives, Pharmaceuticals, Core oils and Synthetic Lubricants. Pentaerythritol can be of technical grade or nitration grade and both grades are included within the scope of product under consideration and proposed investigation.

7. The production process, however, largely results in production of Technical Grade. Less than 2% production results in nitration grade, while the production of Di-pentaerythritol is less than 0.5%. More than 97% production is of technical grade. The imports are primarily in technical grade. Di-Pentaerythritol and Pentaerythritol are two different kinds of products. Di-Pentaerythritol is beyond the scope of the product under consideration.

8. Pentaerythritol is classified under Customs sub heading no. 290542 under Chapter 29 of the Customs Tariff Act, 1975. However, Customs classification is indicative only and in no way binding on the scope of the investigation.

9. This being a Sunset Review of the product on which duty is already in force, the definition of the Product under consideration is the same as mentioned in the original investigation.

### **Countries involved**

10. The present investigation is in respect of alleged dumping of the product under consideration from China PR.

### **Normal Value**

11. The petitioners have claimed that China PR should be treated as a nonmarket economy country and have proposed determination of normal value in accordance with Para 7 and 8 of Annexure I of the Anti Dumping Rules. The petitioners have claimed that normal value could not be determined on the basis of price or constructed value in a market economy third country or price from such third countries to other countries for the reason that the relevant information is not accessible to the petitioners. Petitioner has, therefore, determined normal value on the basis of cost of production in India, by considering the international prices of basic raw materials (except ethanol), best consumption norms and conversion cost of the domestic industry, duly adjusted for selling, general and administrative expenses. The normal value has, thus, been determined based on cost of production in India, duly adjusted.

### **Export Price**

12. The Petitioners have submitted the DGC&IS transaction-wise import information to assess the volume and value of the subject import in India. Export price has been determined on the basis of weighted average of the import price. Export price has been adjusted for Ocean Freight, Marine Insurance, Commission, Port Expenses, Inland Freight and Bank Charges to arrive at the net export price.

### **Dumping Margin**

13. The Petitioner has provided evidence that the normal values of the subject goods in the subject country are significantly higher than the net export prices, prima-facie indicating that the subject goods originating in or exported from the subject country are being dumped, to justify sunset review initiation of an antidumping investigation.

### **Initiation**

14. The petition is in the form and manner prescribed by the Designated Authority and contains prima facie evidence to review as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. Thus, in view of the duly substantiated application filed by the domestic industry and in accordance with Section

9 A (5) of the Act, read with Rule 23 of the AD Rules, the Authority hereby initiates a Sunset Review investigation to review the need for continued imposition of the duties in force in respect of the subject goods originating in or exported from the subject country and to examine as to whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

**Period of Investigation (POI)**

15. The Period of Investigation (POI) proposed by the applicant is from April 2015 to December 2015 and the injury investigation period is for the periods, Apr'12-Mar'13, Apr'13-Mar'14, Apr'14-Mar'15 and the Period of Investigation. However, for enabling the Authority to make required analysis on the basis of more updated data, it is recommended to determine the POI as April 2015 to March 2016 (12 Months). The injury investigation period will however, cover the periods 2012-13, 2013-14, 2014-15 and POI. The domestic industry is required to submit information on likelihood of continuance or recurrence of dumping or injury or both substantiating the need for continuation of duty in force.

**Submission of information**

16. The known exporters in the subject country, the Government of the subject countries through their embassy in India, the importers and users in India known to be concerned with the product 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 & Allied Duties,  
Ministry of Commerce & Industry, Department of Commerce  
4th Floor, Jeevan Tara Building, 5 Parliament Street,  
New Delhi -110001.

17. 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**

18. Any information relating to the present investigation 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.

19. 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 Antidumping measures within 40 days from the date of initiation of this investigation.

### **Submission of Information on Non-Confidential basis**

20. In case confidentiality is claimed on any part of the questionnaire's 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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**

26. 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**

27. 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.



(A.K. Bhalla)

Additional Secretary & Designated Authority