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File No7/1/2020-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001

Dated: 7th February 2020

INITIATION NOTIFICATION

CASE NO: (SSR) 01/2020

Sunset review of Anti-Dumping Duty imposed on imports of Caustic Soda originating in or exported from China PR and Korea RP.

1. Alkali Manufacturers Association of India (AMAI) (hereinafter referred to as the “Applicant”) has filed an application before the Designated Authority (hereinafter also referred to as the “Authority”) on behalf of Domestic Industry, in accordance with the Custom Tariff Act,1975, as amended from time to time (hereinafter also referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped articles and for determination of injury) Rules, 1995 (hereinafter also referred to as the Rules), for Review of Anti-Dumping duty imposed on imports of “Caustic Soda”,(hereinafter also referred to subject goods or product under consideration), originating in or exported from China PR and Korea RP (hereinafter also referred to as the subject countries).
2. The Applicant has alleged likelihood of continuance or recurrence of dumping of the subject goods, originating in or exported from China PR and Korea RP and consequent injury to the domestic industry and has requested for review and continuation of the anti-dumping duties imposed on the import of the subject goods originating in or exported from China PR and Korea RP.

BACKGROUND

3. The Designated Authority earlier initiated an investigation concerning imports of the subject goods from the China PR and Korea RP vide notification no. 14/10/2002-DGAD dated 14th May, 2002. On the basis of the recommendations made by the Authority, vide Preliminary findings notification no. 14/10/2002-DGAD dated 21st September, 2002, provisional anti-dumping duty was imposed by the Central Government vide Notification No. 142/2002-Customs dated 26th December, 2002. Pursuant to the investigation, the Designated Authority, vide final findings notification No. 14/10/2002-DGAD dated 4th August, 2003, recommended imposition of definitive anti-dumping duty, which was given effect vide Notification No. 142/2003-Customs dated 23rd September, 2003 on imports of subject goods, originating in or exported from China PR and Korea RP.

4. On expiry of the period of five years, anti-dumping duties imposed were enhanced and extended vide final findings No. 15/11/2007-DGAD] dated 21st November, 2008. Definitive duties were accordingly imposed vide Customs Notification No. 137/2008-Customs dated 26th December, 2008.
5. On the request of the Applicant, the Designated Authority initiated a mid-term review investigation against imports from Korea RP vide Notification No. 15/2/2010-DGAD dated 8th June, 2010. On the recommendation for modification of anti-dumping duties vide Notification No. 15/2/2010-DGAD dated 7th July, 2011, the Central Government modified the quantum of duty vide Notification No.95/2011-Customs dated 3rd October, 2011.
6. The second sunset review was initiated on 19th December, 2013, pursuant to which the Authority recommended continuation of anti-dumping duty vide Notification No. 15/23/2013-DGAD dated 18th June, 2015. Definitive duties were accordingly imposed vide Notification No. 42/2015-Customs (ADD) dated 18th August, 2015. The current anti-dumping duties imposed on the subject countries are in force till 17th August, 2020.

PRODUCT UNDER CONSIDERATION (PUC)

7. The product under consideration in the petition is the same as the previous investigations, which was defined as follows-

“The product under consideration in the present investigation is Sodium Hydroxide (chemical nomenclature of NaOH), commonly known as Caustic Soda originating in or exported from Korea ROK and China PR. Caustic Soda is an inorganic, soapy, strongly alkaline and odourless chemical.

Caustic Soda is classified under Chapter 28 of the Customs Tariff Act, 1975 under Customs head 2815.11 and 2815.12. As per ITC 8-digit classification, the product is classified under the Custom Heading 2815.1101, 28151102 and 2815.1200.

Caustic Soda is produced in two forms, i.e. lye and solids by three technology processes, i.e. mercury cell process, diaphragm process and membrane process. Liquid form can be converted into solid and the solid form can be reconverted in liquid with ease and without any change in the chemical properties of the product. The solid form has ease of storage and transportation whereas the liquid form has easy solubility. For end use both the forms are substitutable and interchangeable. The domestic industry produces caustic soda in two forms and are comparable with the imports from subject countries, therefore, is being treated as like article within meaning of 2(d) of the Rules.”

8. Since the investigation is a sunset review investigation, product under consideration remains the same as defined in the previously conducted investigation. Further, no significant developments have taken place over the period.

LIKE ARTICLE

9. Rule 2(d) with regard to “like article” provides as under: -

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

10. The Applicant has claimed that there is no known difference in the subject goods produced by the Indian industry and product under consideration exported from subject countries. Subject goods produced by the domestic producers and imported from the subject countries are comparable in terms of physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The subject goods are technically and commercially substitutable with imported subject goods. The consumers are using the subject goods interchangeably. Therefore, subject goods produced by the domestic producers are being treated as “like article” to that being imported from the subject countries for the purpose of the present review investigation.

DOMESTIC INDUSTRY

11. The application has been filed by Alkali Manufacturers Association of India (AMAI). DCW Limited, Gujarat Alkalies and Chemicals Limited, SEIL Chemical Complex and Grasim Industries Limited (hereinafter also referred to as “Domestic Producers”) have provided injury information. As per the available information, the Domestic Producers have neither imported the subject goods from the subject countries nor are they related to any other producer/exporter of subject goods in the subject countries or any importer in India. Further, the Domestic Producers account for a major proportion in Indian production of the subject goods. Applicant has submitted that all producers of subject goods in India are part of the Association and the decision of filing of the present application for extension of anti-dumping duty in force was taken by its Executive Committee of the Association.
12. On the basis of information available, the Authority is satisfied that the Application has been made by or on behalf of the domestic industry in terms of the provisions contained in Rule 2 (b) and Rule 5 (3) of the Rules.

LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

13. The Applicant has claimed that China PR should be treated as a non-market economy and has requested to determine normal value in accordance with Para 7 and 8 of Annexure I of the Rules. The Applicant has claimed that Chinese Taipei should be considered as the appropriate surrogate country for determining the normal value for China PR. The Applicant has claimed normal value based on the prices in Chinese Taipei, published by the market research agency report, IHS Markit in its periodic publication, Global Chlor Alkali Report. The normal value for Korea RP have also been claimed on the basis of prices published in Global Chlor Alkali Report.

14. The Applicant has claimed export prices on the basis of Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction wise import data. Price adjustments have been made on account of ocean freight, marine insurance, commission, port expenses and inland freight expenses.
15. Considering the normal value and export price determined as above, dumping margin has been determined, in accordance with Section 9 A(1)(a) Act. It is noted that dumping margin is above de minimis level. There is *prima facie* evidence that normal value of the subject goods in the subject countries are significantly higher than the net export prices, indicating that the subject goods originating in or exported from the subject country are being exported at dumped prices, thus indicating continuation likelihood of dumping so as to justify initiation of investigation.

LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

16. The Authority notes that there is *prima facie* evidence of dumping. Further, the data provided by the Applicant on the capacity and export orientation of producers/exporters in the subject country also *prima facie* indicates a likelihood of dumping and consequential injury on cessation of the Anti Dumping Duty.

INITIATION OF SUNSET REVIEW INVESTIGATION

17. On the basis of the duly substantiated application of the Applicant, and having satisfied itself, on the basis of the *prima facie* evidence submitted by the domestic industry, substantiating the likelihood of continuation/ recurrence of dumping and injury, and in accordance with Section 9A(5) of the Act read with Rule 23 (1B) of the 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 countries and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

SUBJECT COUNTRIES

18. The subject countries in the present investigation are China PR and Korea RP.

PERIOD OF INVESTIGATION

19. The Applicant had proposed period of investigation from April 2019-September 2019 (6 months). However, the Authority has found it appropriate to consider the period of investigation (POI) in the present investigation from 1st April 2019 to 31st December 2019 (9 months). The injury period shall cover the periods 1st April 2016 to 31st March 2017, 1st April 2017 to 31st March 2018, 1st April 2018 to 31st March 2019 and the period of investigation.

PROCEDURE

20. The present sunset review will cover all aspects of the final findings of the original investigation published vide notification no. 14/10/2002-DGAD dated 4th August 2003 recommending imposition of anti-dumping duty on imports of Caustic Soda from China PR and Korea RP and all aspects of the final findings published vide notification no. 15/11/2007-DGAD dated 21st November, 2008 and notification no.15/23/2013-DGAD dated 18th June, 2015, recommending imposition of anti-dumping duty on imports of Caustic Soda from China PR and Korea RP. The Authority would also undertake likelihood analysis of dumping and Injury as required.
21. The provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 of the Rules shall be mutatis mutandis applicable in this review.

SUBMISSION OF INFORMATION

22. The known exporters in the subject countries and their Government through embassies in India, the importers and users in India known to be concerned with the subject goods and the the domestic industry are being addressed separately to enable them to file relevant information in the form and manner prescribed within the time-limit set out below.
23. 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. The information/ submission may be submitted to:

The Designated Authority
Directorate General of Trade Remedies
Department of Commerce
Ministry of Commerce and Industry
4th Floor, Jeevan Tara Building
5, Parliament Street, New Delhi – 110001.

24. 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

25. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above within thirty days from the date of receipt of the notice as per Rule 6(4) of the Rules. It may, however, be noted that in terms of explanation of the said sub rule, the notice calling for information and other documents shall be deemed to have been received one week from the date on which it was sent by the Designated Authority or transmitted to the appropriate diplomatic representative of the exporting country. 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 Rules.

26. 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 within the above time limit.

SUBMISSION OF INFORMATION ON CONFIDENTIAL BASIS

27. The parties making any submission (including Appendices/Annexes 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:

- i. One set marked as Confidential (with title, number of pages, index, etc.), and
- ii. The other set marked as Non-Confidential (with title, number of pages, index, etc.).

28. 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. Four (4) copies of the confidential version and two (2) copies of the non-confidential version must be submitted by all the interested parties.

29. The confidential version shall contain all information which is 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 cannot be disclosed.

30. 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 summarised 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, the party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarisation is not possible must be provided to the satisfaction of the Authority.

31. 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 authorise its disclosure in generalised or summary form, it may disregard such information.

32. Any submission made without a meaningful non-confidential version thereof or without good cause statement on the confidentiality claim shall not be taken on record by the Authority.
33. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorisation of the party providing such information.

INSPECTION OF PUBLIC FILE

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

NON-COOPERATION

35. 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.

(Bhupinder S. Bhalla)
Additional Secretary & Designated Authority