

**To Be Published in Part-I Section-I of the Gazette of India Extraordinary**

**F. No. 7/06/2022-DGTR**  
**Government of India**  
**Ministry of Commerce & Industry**  
**Department of Commerce**  
**Directorate General of Trade Remedies**  
**Jeevan Tara Building, 5, Parliament Street, New Delhi -110001**

**Dated 30<sup>th</sup> Septemer,2022**

**Amendment Notification**

**Subject: Change in the name of producer/exporter Aekyung Petrochemical Co., Ltd. in the Final Finding Notification No. 6/16/2020-DGTR dated 19<sup>th</sup> May, 2022 of Anti-dumping investigation concerning imports of Phthalic Anhydride (PAN) originating in or exported from China PR, Indonesia, Korea RP and Thailand.**

**F. No. 7/06/2022-DGTR:-**Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter 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, as amended from time to time (hereinafter referred to as "the Rules") thereof;

**A. Background**

1. The Directorate General of Trade Remedies ("Authority") had conducted an Anti-dumping investigation concerning imports of Phthalic Anhydride (PAN) originating in or exported from China PR, Indonesia, Korea RP and Thailand ("subject countries") and recommended imposition of the definitive anti-dumping duty vide its final findings notification no. 6/16/2020-DGTR dated 19<sup>th</sup> May,2021("Final Findings"). The recommendation was accepted by the Ministry of Finance and definitive duty was imposed vide Customs Notification No. 48/2021- Customs (ADD) dated 9<sup>th</sup> August,2021("Customs Notification").
2. In the said anti-dumping investigation, one of the cooperating producers of the subject goods from Korea namely, Aekyung Petrochemical Co., Ltd., Korea RP and its four unrelated traders of the subject goods namely, Canko Marketing Corporation, Korea RP, Humade Corporation, Korea RP, Hyundai Corporation, Korea RP and Polychem Asia Co., Ltd., Korea RP, participated and filed their exporters questionnaire responses. The Authority recommended individual duty for the producer Aekyung Petrochemical Co., Ltd., Korea RP.

3. During the original investigation, Aekyung Petrochemical Co., Ltd., Korea RP was engaged in the manufacture and sale of various petrochemical products. Aekyung Petrochemical Co., Ltd., Korea RP, Aekyung Chemical Co., Ltd. (Old company) and AK Chemtech Co., Ltd., are related companies and belong to the same group with AK Holdings Inc being the parent company holding majority shares. Post the issuance of the final findings, Aekyung Petrochemical Co., Ltd., Korea RP has absorbed Aekyung Chemical Co., Ltd. (old company) and AK Chemtech Co., Ltd., as a result of consolidation strategy of the group. Post the said consolidation, from 1st November 2021, the surviving company Aekyung Petrochemical Co., Ltd., Korea RP, has changed its name from Aekyung Petrochemical Co., Ltd. to Aekyung Chemical Co., Ltd.

## **B. Procedure**

4. On 28<sup>th</sup> January 2022, Aekyung Chemical Co., Ltd., Korea RP (hereinafter referred to as the “applicant”), filed the application requesting for change of name of the cooperating producer from Aekyung Petrochemical Co., Ltd., Korea RP to Aekyung Chemical Co., Ltd., Korea RP, in the duty table of the final findings, in accordance with the Trade notice No. 48/2021- Customs (ADD) dated 9th August,2021.
5. Considering the nature of the request and in terms of Trade Notice No. 12/2018 dated 17th September 2018, the Authority examined the aforementioned application and also asked for additional documents from the applicant. The Authority circulated the non-confidential version of the application to the domestic industry and sought their views on the request made so that the request could be considered appropriately and the need of undertaking a Mid-Term Review (“MTR”) could be evaluated.
6. No submission/evidence against the claims of the applicant was filed by the domestic industry within the stipulated timelines. However, the legal representative of the domestic industry in the original investigation filed belated legal arguments and requested the Authority to hold an oral hearing.
7. An oral hearing was conducted by the Authority on 15<sup>th</sup> September, 2022. The submissions made by the participants are recorded below and have been considered by the Authority.

## **C. Submissions**

### **View of the Applicant-Aekyung Chemical Co., Ltd., Korea RP**

8. Aekyung Petrochemical Co., Ltd., Korea RP, was a producer from Korea RP of the subject goods and had exported the subject goods to India directly and through four unrelated traders namely, Canko Marketing Corporation, Korea RP, Humade Corporation, Korea RP, Hyundai Corporation, Korea RP and Polychem Asia Co., Ltd., Korea RP during the POI. All the subject goods exported

by Aekyung Petrochemical Co., Ltd., Korea RP, to India during the POI were produced by itself only. Aekyung Petrochemical Co., Ltd., Korea RP and its four unrelated traders, were determined as cooperating entities in the final findings notification dated 9<sup>th</sup> August, 2021, issued by the Authority pursuant to the subject investigation.

9. Aekyung Petrochemical Co., Ltd., Korea RP, Aekyung Chemical Co., Ltd. (Old company) and AK Chemtech Co., Ltd., are related companies and belong to the same group with AK Holdings Inc, being the parent company holding majority shares. Aekyung Petrochemical Co., Ltd., Korea RP has absorbed Aekyung Chemical Co., Ltd. (Old company) and AK Chemtech Co., Ltd. as a result of consolidation strategy of the group. Post the said consolidation, from 1st November 2021 and the surviving company Aekyung Petrochemical Co., Ltd. has changed its name from Aekyung Petrochemical Co., Ltd. to Aekyung Chemical Co., Ltd.
10. Phthalic Anhydride (subject goods) is manufactured by Aekyung Petrochemical Co., Ltd., Korea RP and is the main raw material for plasticizers, unsaturated polyester resins, paints, etc. Aekyung Chemical Co., Ltd. (old company) was involved in manufacture of Resins, Hardeners, and Adhesives. AK Chemtech Co., Ltd., was involved in the manufacturing and sale of Surfactants. Neither the Aekyung Chemical Co., Ltd. (old company) and AK Chemtech Co., Ltd., were involved in the production or sales of the subject goods, the only company involved in production of the PUC was Aekyung Petrochemical Co., Ltd., Korea RP.
11. The objective of the change in the name and the consolidation of these three group companies into one was to improve the management capabilities of key talent and product portfolio business. Additionally, with uniform management the applicant has plans to expand and upgrade its R&D functions to secure its own original technology and strengthen its eco-friendly response capabilities. Also, the aim of the consolidation is to become a company that can provide high value-added products and comprehensive chemical solutions by breaking away from the business structure centered on manufacturing and selling materials of additives through the company-wide business direction and strategy. The request falls within the category of name change only and there is no change in the basic nature of the business as per the Trade Notice No. 12/2018 dated 17<sup>th</sup> September, 2018. The following documents have been filed by the Applicant in the application
  - Original and new Business License.
  - Structure of Management pre and post consolidation.
  - Details of shares of the shareholder and related persons before and after the consolidation
  - Audited Annual Reports for the year 2021.
12. Non-confidential version of the application and additional documents were circulated to the domestic industry for their comments. Sufficient time was granted to them to file the submission. Despite several reminders no comment/submission was filed by the domestic industry.
13. M/s TPM Consultants is not representing the domestic industry as no authorization is filed with the Authority stating that they are authorized by the domestic industry to participate in the present investigation. They did not even file a letter of intent to participate in this request. Therefore, TPM should not be allowed to participate in the present oral hearing.

14. Even if the Authority has sent an email to respond, the legal representative must have taken authorization from the domestic industry to participate in the oral hearing and file comments on their behalf.
15. The sole reason of consolidation of the three group companies into one was to improve the management capabilities of key talent and product portfolio business.
16. After consolidation, Aekyung Petrochemical Co., Ltd. continued for three months with the same name and exported the subject goods to India as well without any hassle. Since the other companies neither supply any raw material to Aekyung petrochemical Co., Ltd. nor are involved in the production of PUC, there is no change in any other parameters of Aekyung Petrochemical Co., Ltd. with the consolidation of these companies. They are even located at different places.
17. There was no change at all with the addition of these companies in the cost of production, production process or export of the PUC to India. However, due to name change only, Aekyung Chemical Co. Ltd. had to appear before the Authority.
18. The consolidation and change in the name of Aekyung Petrochemical Co., Ltd. to Aekyung Chemical Co., Ltd. has not brought any structural changes in company e.g.:
  - No change in business license number.
  - No change in capacity,
  - No change in address of the factory
  - No change in majority shareholders
  - No change in source of raw materials
  - No change in cost structure
  - No change in overseas sales team
  - No change in source of utilities
  - No change in number of workers in plant.
19. There are no changes in Aekyung Petrochemical Co. Ltd. with the consolidation of these companies and post change in name. Thus, post consolidation and change in name, there is no change in overall working of the company and no change in cost of production structure has taken place.
20. As per past practices of DGTR, there is no implication of merger in the name change. The Authority has never calculated dumping margin and injury margin in case of name change.
21. Rule 23 is not applicable for the name change. The Authority has specifically issued Trade Notice 12/2018 for the name change whereby it has been specifically mentioned that the requests for name change on account of merger/ demerger/ acquisition, change in ownership structures/shareholding pattern, change in requirement of law of a member country. Therefore, Trade Notice shall be followed in case of name change on account of above.

22. Arab Republic of Egypt Ministry of Trade & Industry changed the name of Aekyung Petrochemicals Co., Ltd. to Aekyung Chemicals Co., Ltd., without reassessing the anti-dumping duties imposed on DOP from Korea RP. The name change was duly accepted by the Investigation Authority and notified on 6/2/2022 within three weeks of filing the request.

#### **View of the domestic industry**

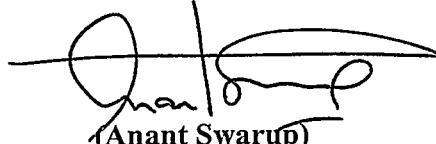
23. The DGTR forwarded the communication to TPM (legal representative of the domestic industry in the original investigation), and sought comments. If DGTR has sent communication to TPM and has not sought authorisation, it was not for the TPM to ask DGTR to ask TPM to file authorisation.
24. It is not a mere change of name, there is a complete corporate restructuring. Aekyung Chemical Co., Ltd. and AK Chemtech Co., Ltd. were absorbed by Aekyung Petrochemical Co. Ltd., Korea. After the restructuring, the name of the new entity has been changed to Aekyung Chemical Co., Ltd. In fact, it would be seen that the primary objective of the restructuring undertaken by Aekyung Chemical is to boost its sales and profits. Through this process, it aims to post four trillion won in sales and 300 billion won in operating profit by 2030.
25. The structural change stated by the applicant would have led to change in normal value and export price. In fact, the applicant has not even stated that the structural changes have not led to any change in normal value and/or export price. Also, the applicant is silent about self-consumption of the product and how the same has changed between the previous situation and the present situation; and what is the impact of the same on dumping margin. Once the structure has changed, it follows that company's policies with regard to production, sales, market, price will all undergo a change. DGTR cannot determine, without undertaking a review, whether there is a change in these parameters as a result of change in ownership. This can only be undertaken through an interim review under Rule 23.
26. The procedure laid down under Rule 22 or 29 in any case is not applicable to the present case. The only procedure that is applicable to the present case is the procedure laid down under Rule 23.

#### **D. Examination by the Authority**

27. The submissions made by the applicants have been examined and the following observations are made.
28. The need for change in the name of the producer in the duty table has arisen, since Aekyung Petrochemical Co., Ltd., Korea RP, has absorbed Aekyung Chemical Co., Ltd. (Old company) and AK Chemtech Co., Ltd., as a result of consolidation strategy of the group. Post the said consolidation, from 1<sup>st</sup> November 2021, the surviving company Aekyung Petrochemical Co., Ltd., Korea RP, has changed its name from Aekyung Petrochemical Co., Ltd. to Aekyung Chemical Co., Ltd.

29. After examination of the application and enclosed documents, the Authority sought clarification on the existing documents and also asked the applicant to submit additional relevant supporting documents like MoU/MoA, business licenses, board resolution, list of related companies and annual reports. The applicant addressed the above queries/requirements and filed the complete non-confidential version of the application with addendum on 22<sup>nd</sup> June 2022.
30. The Authority circulated the non-confidential version of the instant application to the legal representative of the domestic industry in the original investigation and sought the comments on the name change application on behalf of the domestic industry. The Authority notes that neither the domestic industry nor its legal representative in the original investigation made any submission/objection to the request of change in the name by the applicant within the prescribed and subsequently extended timelines.
31. The Authority notes that neither Aekyung Chemical Co., Ltd. (old company) and AK Chemtech Co., Ltd., were involved in the production or sales of the subject goods, the only company involved in production of the PUC was Aekyung Petrochemical Co., Ltd., Korea RP.
32. The examination further reveals that the request falls in the category of name change within guideline given in the Trade Notice No. 12/2018 dated 17<sup>th</sup> September, 2018 and there is no change in the ownership in a manner that alters the basic nature of the business. The request is covered within the scope of the trade notice.
33. Having considered all aspects, the Authority recommends following change in the Duty Table in para no. 6 of the final findings notification no. No. 6/16/2020-DGTR dated 19<sup>th</sup> May,2021:

“At SN 6, in Column 6, the name of the producer “Aekyung Petrochemical Co., Ltd.” be amended to read as “**Aekyung Chemical Co., Ltd.**”
34. Accordingly, the Authority recommends the above change in the name in the Customs Notification No. 48/2021- Customs (ADD) dated 9<sup>th</sup> August,2021 as well.
35. An appeal against the orders of the Central Government arising out of this notification shall lie before the Customs, Excise, and Service Tax Appellate Tribunal in accordance with the Act.



(Anant Swarup)  
Designated Authority