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**F.No. 7/24/2023-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 14th February, 2024

Amendment Notification

Subject: Change in the name of producer/exporter M/s Shell Eastern Petroleum (Pte) Ltd ("SEPL") in the final finding notification no. 7/12/2019-DGTR dated 17th March 2020 of Sunset Review investigation on anti-dumping duty levied on the imports of Flexible Slabstock Polyol originating in or exported from Singapore.

F.No. 7/24/2023-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 (hereinafter referred to as "Authority") had conducted an anti-dumping investigation concerning imports of Flexible Slabstock Polyol (hereinafter also referred to as the "subject goods" or PUC) originating in or exported from Australia, EU and Singapore, and recommended imposition of anti-dumping duty vide its final findings No. 14/01/2013-DGAD dated 11th January 2015 and the duty was imposed by issuance of Customs Notification No. 09/2015- Customs (ADD) dated 7th April 2015. Thereafter, based on the duly substantiated application, the Authority initiated a Sunset Review of the anti-dumping duties (hereinafter referred to as "SSR investigation") then in force on the imports of the subject goods from Singapore vide initiation notice No. 7/12/2019-DGTR dated 9th August 2019 and recommended imposition of the definitive anti-dumping duty vide its final findings notification no. 7/12/2019-DGTR dated 17th March 2020 (hereinafter referred to as "Final Findings"). The recommendation was accepted by the Ministry of Finance and definitive duty was imposed vide Customs

Notification No. 14/2020 (ADD) dated 9th June 2020 (hereinafter referred to as "Customs Notification").

2. In the said SSR investigation, one of the cooperating producers of the subject goods from Singapore namely, Shell Eastern Petroleum (Pte) Ltd ("SEPL") participated and filed their exporters' questionnaire response. The Authority recommended individual duty of USD 45.73 per MT on the imports of the subject goods produced by SEPL.
3. During the SSR investigation, it has been recorded that the four entities of Shell Group namely, M/s. Shell Eastern Petroleum Pte Ltd (SEPL), Shell Eastern Trading Pte Ltd (SETL), Shell Chemicals Seraya Pte Ltd (SCSL) and Shell Eastern Chemicals (S) (SEC(S)) had filed individual responses. It is further recorded that SCSL is 100% subsidiary company of SEPL. SCSL is also a supplier of input i.e. propylene oxide (PO) to SEPL, which is used in the manufacture of subject goods. Shell Eastern Petroleum (Pte) Ltd ("SEPL") is the producer of the PUC and has sub-contracted the operations of the plant to its wholly owned subsidiary, Shell Chemicals Seraya Pte. Ltd. ("SCSL"). SEPL reimburses the costs incurred by SCSL for operation of plant on no profit basis under an agreement. SEPL sells the entire quantity of the subject goods to SETL and SETL, in turn, exports these goods to India. However, post the issuance of the final findings of the review investigation, M/s Shell Eastern Petroleum (Pte) Ltd ("SEPL") has changed its name to Shell Singapore Pte. Ltd. ("SSPL").
4. Accordingly, Shell Singapore Pte. Ltd. (hereinafter also referred to as "applicant"), filed an application before the Authority for the change of name in the duty table in final findings notification no. 7/12/2019-DGTR dated 17th March 2020 of sunset review investigation on anti-dumping duty levied on the imports of Flexible Slabstock Polyol originating in or exported from Singapore.

B. Procedure

5. In terms of Trade Notice 12/2018 dated 17th September 2018, the applicant filed the present application on 22nd September 2023 whereby it informed the Authority that it had changed its name from "Shell Eastern Petroleum (Pte) Ltd" to "Shell Singapore Pte. Ltd." with effect from 3rd April 2023 and requested a change of name in the final findings and consequently, the duty table as notified by customs notification.

Existing Name in the Duty Table	Shell Eastern Petroleum (Pte) Ltd ("SEPL")
Proposed New Name in the Duty Table	Shell Singapore Pte. Ltd. ("SSPL")

6. Considering the nature of the request and in terms of Trade Notice No. 12/2018 dated 17th September 2018, the Authority examined the said application and circulated the non-confidential version of the application to the domestic industry i.e., M/s Manali Petrochemicals Ltd. and sought their views on the request made so that the request could be considered appropriately and the need to undertake a Mid-Term Review ("MTR"), if warranted, could be properly evaluated.
7. An oral hearing was conducted by the Authority on 30th November 2023 providing the relevant interested parties with an opportunity to participate in the oral hearing in case they wish to present information relevant to the investigation. The ensuing submissions made by the participants are recorded below and have been duly considered by the Authority.

C. Submissions

C.1 Domestic Industry i.e., M/s Manali Petrochemicals Limited

8. There is no power vested with the Hon'ble Authority to relook into any aspect of the final findings unless drawn from a Rule or remanded back by the Tribunal or any Courts (Supreme Court / High Court). Also, since the recommendation of a change in the Duty Table is a substantive change which is not of a typographical or clerical nature, the instant proceedings of name change cannot proceed without initiating the investigation in terms of Rule 23(1A). Without initiation, the Designated Authority has no legal power/jurisdiction to proceed with any investigation or make any recommendation to amend the Duty Table as envisaged under Rule 17. The legal procedure cannot be short-circuited by the issuance of a Trade Notice.
9. The Trade Notice does not state the rule under which the change of name is proposed to be undertaken, without initiation of the proceedings. Moreover, by not issuing a public notice i.e., initiation notification, about the change of name, all the interested parties are not put to notice. Therefore, the procedure is inherently against the principles of natural justice.
10. The SSPL has not approached the DGTR within a mandatorily period of 90 days, so DGTR cannot investigate the issue under Trade Notice 12/2018. Moreover, since they have failed to comply with the mandatory instructions, they shall be treated as 'non-cooperative producer/ exporter' during the subsequent investigations. The applicant has not even requested any condonation of delay, before filing the 'name change request information', a post-facto condonation request cannot be accepted.

11. The applicant has withheld material facts with the intention to seek benefit under Trade Notice 12/2018. The application does not mention that SSPL was established in 1961 having UEN no. 196100094H which later got dissolved. The impression is given that the new name has been adopted in April 2023 only. In this connection, no information is provided as to how SSPL could exist with two different UENs. Assuming that SSPL with UEN no. 196100094H was no longer existing, so then applicant needed to bring such facts on record. Further, the applicant has not provided any data or information if the corporate or shareholding structure of the two shareholders has undergone a change. The change thereto in any shareholder of the applicant may have a direct implication in the ownership structure of the applicant, as the scope of work of the new entity is different from the entity having the current name.
12. Since the extracts of the board resolution, wherein the change of name is proposed is accepted by the Board are kept confidential, the Authority cannot use this evidence for reaching any conclusion. Similarly, the exporter has claimed confidentiality on the extracts from the financial statement dated 13.12.2023. Since the current proceedings are of a name change, observations by the auditor or any references to name change in the audited documents cannot be allowed to be kept confidential.
13. Additionally, the exporter has not provided details of the goods exported post-April 2023 to the current date. It has not only provided incomplete information to the domestic industry but also to the Hon'ble Authority, thus withholding of information has severely prejudiced the right. This can only be undertaken through an interim review under Rule 23.

C.2 Applicant- Shell Singapore Pte. Ltd. ("SSPL")

14. The change in name has been carried out to more clearly reflect the name of the predominant jurisdiction in which the company operates commercially and to enable the ease of recognition regionally.
15. The change in name of the applicant was a simple name change, without a change in ownership structure or legal status of the entity. The present name change does not necessitate a reassessment of dumping and injury parameters and therefore, the request falls within the category of name change "*for record only*" as per the Trade Notice No. 12/2018 dated 17th September 2018.
16. The following documents have been filed to demonstrate that the present case is a simple name change, without a change in ownership structure or legal status:

- a) Board Resolution dated February 1, 2023, passed by the company in respect of the change of name to Shell Singapore Pte. Ltd.
- b) Certificate Confirming Incorporation of Company issued by Accounting and Corporate Regulatory Authority ("ACRA"), Singapore, confirming the name change.
- c) The audited financial statement for the financial year ended 31st December 2021.
- d) The exporter questionnaire response filed by the applicant during the SSR investigation.
- e) Annual returns filed by the applicant with the Singaporean Authorities.
- f) The Register of Members issued by ACRA.

17. The change in the name has not brought any structural changes in the company e.g.:

- a) No change in the legal status or ownership structure.
- b) No change in operations of the entity.
- c) No change in the shareholders and their holdings
- d) No change in cost structure
- e) No change in the source of utilities
- f) No change to existing manufacturing sites and business offices under SSPL.
- g) No change in the business license number.

18. The Hon'ble High Court of Delhi, in the case of *Inovyn Sverige AB v. The Designated Authority*, has held that in cases where there is a simple change in the name of an exporter, without a change in ownership or legal status, there is no justification for the Authority to conduct a full-fledged MTR investigation. The Hon'ble High Court of Delhi has issued clear instructions to the Designated Authority to follow a simplified procedure in cases involving a simple name change which has not impacted or altered the basis for the imposition of the anti-dumping duties.

19. The delay in notifying the Authority within 90 days of the name change was not intentional and solely on account of the lack of knowledge of the relevant trade notice issued by the Authority. The said delay may be kindly condoned by the Authority.

20. Notwithstanding the delay in notifying the Authority, the applicant has, through the Singapore High Commission notified the change in name to the Customs Authorities merely 20 days after the change in its name.

21. No prejudice has been caused to any party as a result of the applicant's apparent delay in notifying the Authority regarding the change in its name. The delay in notifying the Authority regarding the name change has been prejudicial to SSPL alone since the

duty table contains the name of "SEPL", and on account of the name change, the company has not been able to benefit from the individual rate of duty granted to it pursuant to the final findings of the SSR investigation.

22. There are no justifications for treating SSPL as 'non-cooperative'. Under Rule 6(8) of the Anti-Dumping Rules, a party may be treated as 'non-cooperative' only if it refuses access to or otherwise does not provide necessary information, or significantly impedes the investigation.
23. No other entity is involved in the present name change. The applicant bears a unique entity no. (UEN) 196000089G. All documents furnished by the applicant in its application depict this UEN.
24. As seen from the records maintained by the Accounting and Company Regulatory Authority (ACRA) of Singapore, the entity with UEN No. 196100094H was dissolved in the year 1997. Since the dissolution of the above entity took place 26 years prior to the present name change, the applicant fails to understand its relevance to the present proceedings.
25. The special resolution passed by the Board of Directors of the applicant ordered the destruction of the company seal bearing the name "Shell Eastern Petroleum (Pte) Ltd", and therefore, it is legally impermissible for the applicant to conduct business under this name.

D. Examination by the Authority

26. The examination of the submissions made by the domestic industry and the applicant have been made hereinunder.
27. The applicant changed its name from "Shell Eastern Petroleum (Pte) Ltd" to "Shell Singapore Pte. Ltd." with effect from 3rd April 2023. As claimed by the applicant, the name has been changed with a motive to more clearly reflect the predominant jurisdiction in which the company operates commercially and to enable the ease of recognition regionally. Further, the new name of the company is closely associated with Shell's principal brand and it is also a more encompassing name which suggests that the company's business extends to more than just the petroleum business, particularly in this era of the energy transition. The aforesaid reason has also been mentioned in the company's (SSPL) Annual Financial Statement of FY 2022, filed on 13th June 2023.

28. The applicant filed the application as per the prescribed format under Trade Notice 12/2018 and the following documents were annexed which have been duly examined by the Authority:

- a. The special resolution passed by the Board of Directors of the applicant on 1st February 2023, approving the change in name of the applicant from SEPL to SSPL. The Board approved the destruction of "Common Seal" bearing the name "Shell Eastern Petroleum (Pte) Ltd" following the change of name of the company and a "New Common Seal" having the name of "Shell Singapore Pte. Ltd." was approved and adopted.
- b. Certificate Confirming Incorporation of Company issued by Accounting and Corporate Regulatory Authority ("ACRA"), Singapore, acknowledging that the entity bearing UEN 196000089G (i.e., the applicant) was previously known as "Shell Eastern Petroleum (Pte) Ltd", and has changed its name to "Shell Singapore Pte. Ltd." effective from 3rd April 2023.
- c. The undertaking dated 20th April 2023 from SSPL stating that all legal rights, obligations and concessions accorded to SEPL previously remain in full force and effect with SSPL, and will not be impacted by the name change. SSPL retains all business operations and manufacturing activities previously undertaken by SEPL with no change to existing manufacturing sites and business offices under SSPL.
- d. Annual return dated 14th July 2023, for the year ended on 31st December 2022 (after the name change but relating to the period prior to the name change) filed before ACRA by SSPL showing same UEN as shown in the Certificate Confirming Incorporation of company issued by ACRA.
- e. Register of Member ("ROM") dated 25th August 2023, issued by ACRA affirming the shareholders and their holdings in SSPL.
- f. The audited annual financial statement for the year ended on 31st December 2022, published post change of name showing new name and erstwhile name.

29. The following issues have been raised by the applicant and the domestic industry as integral components of their submissions:

- i. **The Authority does not have the power/jurisdiction to change the name of the applicant in the duty table without initiating a Mid-Term Review (MTR) investigation under Rule 23(1A).**

30. The domestic industry has alleged that there is no power vested with the Hon'ble Authority to relook into any aspect of the final findings unless drawn from a Rule or remanded back by the Tribunal or any Courts (Supreme Court / High Court). In this regard, the Authority refers to the judgement of *Inovyn Sverige AB v. The Designated*

*Authority*¹, wherein the Hon'ble Delhi High Court admonished the DGTR for undertaking intricate Mid-Term Review Investigations for a mere change of name.

16. ... *"When an entity mentioned in the Final Findings comes forward to say that there is a change in its name and not in its legal status, the question is whether the DA would be justified in such circumstances to require such entity to go in for a mid-term Review"*

17. ... *"The only justification advanced before this Court by learned counsel for the DA is that there is no other procedure available for dealing with such a request. The Court is unable to appreciate the above approach of the DA." ... "The Petitioner has repeatedly asserted that its legal status has not changed. All that has happened is a change in its name. There was no occasion, therefore, for the DA to presume that such a change of the name of the Petitioner as appearing in the Final Findings would somehow prejudice the other interested parties and that a mid-term Review has to be undertaken to examine if this change in name has resulted in a changed circumstance justifying the mid-term Review."*

18. ... *"In the present case it was incumbent on the DA to have first examined whether, on the basis of the documents submitted by the Petitioner, the change in its name has altered or impacted the basis for the imposition of the anti-dumping Duty in terms of the Final Findings dated 4 April 2014."*

19. ... *"The question is not so much about the prejudice caused to the Petitioner by the mid-term Review but whether in fact it is called for at all. A mid-term Review would undoubtedly not get over in a short time. It would undoubtedly further delay the availing of the benefit of the anti-dumping duty notification by the Petitioner. The Court suggests that the DA must issue a further set of instructions to account for the need to make routine clerical corrections in the Final Findings or for that matter in any other Findings rendered by the DA particularly where such corrections are occasioned by changes that take place after the issuance of the Findings or notification as the case may be. The contingency of change in name is one such."*

20. ... *"The failure to devise a procedure for dealing with such contingencies cannot constitute a valid reason to compel the initiation of a mid-term Review to effect changes that are of a routine nature and which do not affect the basis of the Findings."*

31. The principles elucidated in the above judgement have been re-iterated by the Hon'ble Delhi High Court in *Inovyn Chlor Vinyls Ltd. v. The Designated Authority*². The above judgements make it clear that a simple name change, without any change in the legal

¹ 2016 SCC OnLine Del 3662; (2016) 340 ELT 496; (2016) 157 DRJ 614.

² 2016 SCC OnLine Del 6789; (2016) 339 ELT 539.

status of the entity, does not warrant a mid-term review investigation under Rule 23(1A) of the AD Rules.

32. The Hon'ble High Court of Delhi has issued clear directions to the Authority to follow a simplified procedure for making changes in name of an exporter in the duty table if there is no change in legal status or ownership of the entity and if the change in name does not materially alter or impact the basis of the underlying final findings. Subsequent to these judgements, the DGTR issued Trade Notice No. 12/2018, establishing a formal mechanism for streamlining the procedure for "carrying out change of name of producer(s)/exporter(s)". The said Trade Notice aligns with the recommendations of the Hon'ble High Court of Delhi. Consequently, the ongoing proceedings for altering the name of the applicant without a formal initiation of investigation under Rule 23(1A) fall very well within the purview of the Authority's powers and jurisdiction.

33. Further, it is pertinent to mention that DGTR has consistently adhered to the simplified procedure outlined in the Trade Notice 12/2018 in cases involving a simple change of name in the duty table of the producer/exporter, without conducting a comprehensive MTR investigation. It is noted that conclusive evidence substantiates the absence of any modifications to the legal status, ownership, shareholders, or holding pattern of the applicant. The Authority is duly satisfied that this matter falls within the purview outlined in the Trade Notice no. 12/2018. Subsequently, the Authority disseminated the pertinent details to the domestic industry.

34. In light of the above, the arguments presented by the domestic industry regarding the lack of power vested with the Hon'ble Authority to relook into any aspect of the final findings unless drawn from a Rule or remanded back by the Tribunal or any Courts is not found to be sustainable.

ii. The present name change application has been filed after 90 days as mandated by Trade Notice No. 12/2018.

35. The domestic industry has submitted that the exporter's failure to contact the DGTR within the required 90-days period prohibits the DGTR from investigating the issue as per Trade Notice 12/2018 and the exporter shall be considered as a non-cooperative producer/exporter in future investigations. The Authority emphatically notes that the applicant has egregiously failed to adhere to the explicitly defined timelines set forth in paragraph 7 of the aforementioned Trade Notice and has neglected to furnish any justification for the ensuing delay in the application. Furthermore, the applicant, in a glaring oversight, has made no attempt to solicit condonation of the delay

contemporaneously with the application submission. Instead, the applicant has belatedly sought condonation solely through *post hoc* averments presented in written submissions subsequent to the oral hearing. This blatant disregard for procedural norms is condemned unequivocally by the Authority.

36. Without prejudice to the above, it may be noted that the role of this Authority is not to restrict review for continued imposition of the trade remedial measures in any manner. The stipulated 90-days timeframe is a mandatory procedural requirement essential for conducting timely investigations. Nevertheless, DGTR, in its capacity as an Authority, recognizes the importance of ensuring that the rights of an applicant are not unduly compromised solely on procedural grounds. Consequently, DGTR carefully considers the applications in such situations.

37. The Authority notes that no prejudice has been caused to any party as a result of the applicant's apparent delay in notifying the Authority regarding the change in its name. In fact, the delay in notifying the Authority regarding the change in name has been prejudicial to the applicant alone since the duty table contains the name of "Shell Eastern Petroleum (Pte) Ltd", and on account of the change in name, the applicant has not been able to benefit from the individual rate of duty granted to it pursuant to the final findings of the SSR investigation.

38. Further, pursuant to Rule 6(8) of the anti-Dumping Rules, the Authority holds the discretion to treat any party as 'non-cooperative' only if that party "refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation". As a quasi-judicial function, the Authority has consistently exercised this discretion cautiously only if there is conclusive evidence that the concerned party has impeded the investigation and failed to cooperate with the Authority. In the present case, there is no justification for treating the applicant as 'non-cooperative' in terms of Rule 6(8) since the applicant has not withheld any information.

39. In light of the foregoing circumstances, the Authority firmly asserts that outright dismissal of the current application based solely on technical and procedural grounds would be an imprudent course of action. Consequently, the Authority exercises its discretion to condone the delay, deeming it a just and warranted measure.

iii. The applicant has withheld material facts by not disclosing information regarding a dissolved entity with UEN 19610094H and has not furnished all relevant information at the time of filing its application.

40. The domestic industry has argued that the applicant has withheld the fact that SSPL was established in 1961 having UEN no. 196100094H. Additionally, there is no information as to how Shell Singapore Pte. Ltd. (SSPL) could exist with two distinct UENs. If Shell Singapore Pte. Ltd. (SSPL) with UEN no. 196100094H no longer existed, so applicants needed to bring such facts on record. Also, the applicant has not furnished any data or information regarding any changes in the corporate or shareholding structure of the two shareholders, which could directly impact the ownership structure of the applicant.

41. In this regard, the Authority notes that the entity Shell Singapore (Pte.) Ltd bearing UEN 196100094H was dissolved on July 1, 1997. This fact is corroborated by the company profile, as submitted by the applicant in its rejoinder, of the entity with UEN 196100094H, which is maintained by the Accounting and Company Regulatory Authority (ACRA), Government of Singapore.

42. Further, the records of the applicant and its related entities have already been examined, verified and duly considered by the Authority while issuing the final findings of the sunset review investigation in 2020. Therefore, the Authority considers the relevance of entity with UEN 196100094H (dissolved in 1997) inconsequential in the present matter.

iv. The applicant must demonstrate that shipments made post the change in the name of the applicant were subjected to the anti-dumping duties.

43. The domestic industry has argued that the applicant must demonstrate that shipments made post the change in the name of the applicant were subjected to anti-dumping duties. In this regard, the Authority notes that the Board Resolution approving the change in the company's name ordered the destruction of the company seal bearing the name "Shell Eastern Petroleum (Pte) Ltd". Therefore, the applicant legally cannot operate under this name, and hence the applicant cannot issue invoices under this name subsequent to the change in name taking effect. Further, the applicant has submitted sample invoices of its exports after the change in name since April 2023 to the Authority along with its rejoinder.

v. The applicant has not furnished all relevant information at the time of filing its application

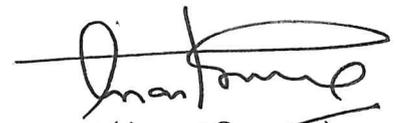
44. The domestic industry has contended that the applicant has not provided the change in the shareholders and their holding pattern. Information pertaining to extracts of Board Resolution, wherein change of name is proposed and extracts from financial

statement dated 13.12.2023 were claimed as confidential and therefore, cannot be used as evidence for reaching any conclusion.

45. In this regard, it is noted that the Board Resolution being an internal document of a private limited company is claimed to be confidential. Though the disclosure of the complete Board Resolution is not made in the non-confidential version of the application, however, the relevant facts from the Board Resolution to the present case have been summarised in the application. Therefore, there is no prejudice caused to the domestic industry through the non-disclosure of the board resolution in the present case for a name change application. Further, the financial statement contains sensitive business information relating to the company's revenue, cost of sales, gross profit, financial income, statement of assets and liabilities, etc., the disclosure of which would cause serious damage to the company's competitive position in the market. In view of the above, the Authority has accepted the confidentiality claimed by the applicant.
46. Without prejudice to the above, it may be noted that the Authority has duly examined the documents submitted along with the application and verified that the shareholders and their holdings have not changed post the name change. It is also noted that the exporter questionnaire response filed by the applicant during the sunset review investigation (prior to the name change), the audited annual return of the applicant for the year ended 31st December 2021 (prior to the name change) and the Register of Members issued by the Accounting and Corporate Regulatory Authority of Singapore (subsequent to the name change) show the same shareholders and the same percentage of shares held by each of them. This clearly demonstrates that there is no change in shareholders or the percentage of shares held by them prior to and subsequent to the name change.
47. The examination further reveals that the request falls in the category of a name change within the guideline given in the Trade Notice No. 12/2018 dated 17th 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.
48. Having considered all aspects, the Authority recommends the following change in the Duty Table in para no. 131 of the final findings notification no. 7/12/2019-DGTR dated 17th March, 2020:

“At SN 1, in Column 6, the name of the producer “Shell Eastern Petroleum (Pte) Ltd” be amended to read as “Shell Singapore Pte. Ltd.”.

49. Accordingly, the Authority recommends the above change in the name in the Customs Notification No. 14/2020-Customs(ADD) dated 9th June 2020 as well.
50. 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