

To be published in Part-I Section I of the Gazette of India Extraordinary

**F. No. 7/32/2020-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: 22nd September 2020

Case No. AD-SSR 16/2020

INITIATION NOTIFICATION

Subject: Initiation of sunset review investigation concerning imports of Melamine from China PR

1. Gujarat State Fertilizers & Chemicals Limited (hereinafter referred to as the “Applicant”) has filed an application before the Designated Authority (hereinafter referred to as the “Authority”), in accordance with the Customs Tariff Act, 1975 (hereinafter referred to as the “Act”) as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the Rules), as amended from time to time, for sunset review of anti-dumping investigation concerning the imports of Melamine (hereinafter referred to as the “subject goods” or “product under consideration”), originating in or exported from China PR (hereinafter referred to as the “subject country”)
2. The Applicant has alleged likelihood of continuation or recurrence of dumping of subject goods, originating and exported from the subject country and consequent injury to the domestic industry and has requested for review and continuation of the anti-dumping duty imposed on the imports of subject goods, originating in or exported from the subject country.

Background

3. The original investigation concerning the imports of the subject goods from the subject country was initiated by the Authority vide Notification No. 14/16/2003-DGAD dated 10th September 2003. The Authority notified final findings vide Notification No. 14/16/2003-DGAD dated 3rd September 2004 recommending definitive antidumping duty on the imports of Melamine from the subject country. The definitive antidumping duty was imposed on the subject goods vide Notification No. 107/2004-Customs (ADD) dated 16th November 2004.
4. Thereafter, M/s Gujarat State Fertilizers & Chemicals Limited filed an application for initiating 1st sunset review. The first sunset review was initiated on 21st November 2008, which culminated into extension of antidumping duty vide DGTR notification on 20th November 2009 and later implemented by Ministry of Finance notification vide notification number 10/2010 -Customs on 19th February 2010.

5. Second sunset review was initiated on 9th December 2014, which culminated into extension of antidumping duty vide DGTR notification on 5th December 2015 which was implemented vide notification no. 2/2016 - Customs (ADD) dated 28th January 2016. The existing duties will expire on 27th January 2021.
6. Post this, a new shipper review was also conducted the final findings for which were issued dated 19th June 2019 and imposed by the Ministry of Finance vide Notification No. 34 /2019-Customs (ADD) dated 6th September 2019.

Subject country

7. The investigation being a sunset review, the scope of the subject country is confined to the subject country in the original investigation i.e. against the subject goods originating in or exported from China PR.

Product under consideration

8. The product under consideration as in the original investigation is Melamine. As per the original investigation carried out by the Designated Authority the product has been defined as under:

“Product under consideration in the present investigation is Melamine, a tasteless, odorless, and non-toxic substance. Melamine is used for making melamine formaldehyde, which in turn is used in producing downstream products. Melamine formaldehyde resin used for laminates offer good hardness, resistance to scratch, stain, water and heat.

Melamine has a dedicated Custom Sub Heading 29336100 of Chapter 29 of the Customs Tariff Act. The product falls under OGL category and is freely importable”

Like Article

9. The applicant has claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the product under consideration manufactured by the applicant. The two are technically and commercially substitutable and hence should be treated as ‘like article’ under the Rules. Therefore, the subject goods produced by the applicant in India are being treated as ‘like article’ to the subject goods being imported from the subject country.

Domestic industry and standing

10. The application has been filed by M/s Gujarat State Fertilizers & Chemicals Limited. The applicant has claimed to be the sole producer of the product under consideration in India. The applicant has claimed that it is not related to any exporter or producer of the subject goods in the subject country or any importer of the product under consideration in India. On the basis of the information available, the Authority is satisfied that the application has been made ‘by or on behalf of the domestic industry’ in terms of Rule 2 (b) and Rule 5(3) of the Rules.

Basis of likelihood of continuation or recurrence of dumping.

a. Normal value

11. The Applicant has claimed that China should be treated as a non-market economy and the Chinese producers should be called upon to show that market economy conditions prevail in the industry producing the like product, or these producers are otherwise entitled to MET. Unless the Chinese producers show that such market economy conditions prevail, their normal value should be determined in accordance with Para 7 of Annexure – I to the Anti-Dumping Rules. The applicant has provided imports from other market economy 3rd country and also data regarding the cost of production of subject goods. The Authority has evaluated normal value both on the basis of import price from market economy 3rd country and also on the basis of cost of production in India.

b. Export price

12. The Authority has computed the export price for subject goods for the subject country based on Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction-wise import data. Adjustments have been made for ocean freight, marine insurance, port expenses, bank charges, commission and handling charges.

c. Dumping margin

13. The normal value and the export price as computed in para 11 and 12 above have been compared at ex-factory level, which prima facie shows dumping margin is above the de-minimis level in respect of the product under consideration from the subject country. The dumping margin is significant on the basis of both normal values i.e. import price from market economy 3rd country and cost of production of goods in India. There is sufficient prima facie evidence that the product under consideration from subject country is being dumped into the Indian market by the exporters from the subject country, thus indicating likelihood of continued dumping as to justify initiation of investigation.

Likelihood of continuation or recurrence of injury and causal link

14. The Authority notes that there is prima facie evidence of dumping and consequential injury to the domestic industry on account of volume effect i.e. significant imports, low production, capacity utilization, sales and market share and price effect due to positive and significant price undercutting and price underselling which has led to losses, cash losses and negative return on capital employed. Further, the data provided by the applicant on the significant dumped imports inspite of duties, third countries dumping, price attractiveness of the Indian market, injurious exports to other countries, capacity expansions, surplus capacities, duties imposed by other countries against the subject country and export orientation in the subject country also prima facie indicate a likelihood of dumping and consequential injury on cessation of the anti-dumping duty. Since this is a sunset review investigation, the Authority will also analyze the post period of investigation data to analyze the trend of imports.

Initiation of Sunset Review Investigation

15. 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 country 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.

Period of Investigation (POI)

16. The period of investigation (POI) for the present investigation is April 2019 to March 2020 (12 month) and the injury period will cover the periods April 2016 - March 2017, April 2017 - March 2018, April 2018 - March 2019 and the period of investigation. The Authority may, also consider Post POI data, as considered necessary to undertake from likelihood analysis.

Procedure

17. The review will cover all aspects of the final findings published vide Notification No. 14/16/2003-DGAD dated 3rd September 2004, recommending imposition of anti-dumping duty on imports of Melamine from China PR. The Authority would also undertake likelihood analysis of dumping and injury as required.
18. The provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 of the Rules supra shall be mutatis mutandis applicable in this review.

Submission of Information

19. In view of the special circumstances arising out of COVID-19 pandemic, all communication should be sent to the Designated Authority via email at email address adg11-dgtr@gov.in and dd13-dgtr@gov.in. It should be ensured that the narrative part of the submission is in searchable PDF/ MS Word format and data files are in MS Excel format.
20. The known exporters, Government through its Embassy in India, the importers and users in India known to be concerned with the subject goods and the domestic industry are being informed separately to enable them to file all the relevant information in the form and manner prescribed within the time-limit set out below
21. Any other interested party may also make its submissions relevant to the investigation in the form and manner prescribed within the time-limit set out below on the email address mentioned in Para 19 above.
22. 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

23. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the email address adg11-dgtr@gov.in and ddl3-dgtr@gov.in 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 Rule, the notice calling for information and other documents shall be deemed to have been received within 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
24. 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

25. Any party making any confidential submission or providing information on confidential basis before the Authority, is required to simultaneously submit a non-confidential version of the same in terms of Rule 7(2) of the Rules and the Trade Notices issued in this regard. Failure to adhere to the above may lead to rejection of the response / submissions.
26. The parties making any submission (including Appendices/Annexures attached thereto), before the Authority including questionnaire response, are required to file Confidential and Non-Confidential versions separately.
27. 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.
28. 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.
29. 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 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, the party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.

30. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied the request for confidentiality is not warranted or if 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.
31. 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.
32. 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

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

Non-Cooperation

34. 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.



(Bidyut Behari Swain)
Special Secretary & Designated Authority