

F. No. 6/03/2023-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building
5, Parliament Street, New Delhi – 110001

Dated: 31st March 2023

Case No. AD(OI) – 03/2023
INITIATION NOTIFICATION

Subject: Initiation of anti-dumping investigation concerning imports of ‘Sodium Cyanide (NaCN)’ originating in or exported from China PR, European Union, Japan and Korea RP.

F.No. 6/03/2023-DGTR - An application has been filed by Hindusthan Chemical Company and United Phosphorous Limited (hereinafter referred to as the ‘applicants’), before the Designated Authority, in accordance with the Customs Tariff Act, 1975 (hereinafter referred to as the ‘Act’) as amended in 1995 and thereafter, 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 ‘AD Rules, 1995’), for the initiation of an anti-dumping investigation and the imposition of appropriate anti-dumping duty on imports of “**Sodium Cyanide (NaCN)**” (hereinafter referred to as the ‘subject goods’ or the ‘product under consideration’) originating in or exported from China PR, European Union (hereinafter referred to as “EU”), Japan and Korea RP (hereinafter referred to as the ‘subject countries’)

2. The applicants have alleged that material injury is being caused to the domestic industry due to the alleged dumped imports, originating in or exported from the subject countries and have requested for the imposition of anti-dumping duties on the imports of the subject goods from the subject countries.

A. PRODUCT UNDER CONSIDERATION

3. The product under consideration for the present investigation is ‘**Sodium Cyanide**’ which is a moderately strong base. It is a poisonous compound with the formula NaCN. It is white in colour and is a water-soluble solid. Cyanide cation has a high affinity for metals, thus, attributing high toxicity to this base.

4. **Uses:** Sodium Cyanide is used for extraction of gold and silver from their respective ores, in electroplating, heat treatment of metals (case hardening), manufacturing insecticides, dyes, pigments, bulk drugs and in many organic syntheses, agrochemicals, nylon intermediates, gelating compounds, ore flotation and pharmaceutical intermediates.

5. **Tariff classification:** The product under consideration is classified under Chapter 28 of the Customs Tariff Act, 1975 under subheading 283711 of the Customs Tariff Classification. However, in the past, the PUC has also been imported under other sub-headings as well, such as 28371990, 28372090, 28372040, 28391100 and 28371910.

6. The parties to the investigation may provide their comments on the PUC and propose PCNs, if any, within 15 days of circulation of non-confidential version of the anti-dumping application.

B. LIKE ARTICLE

7. The applicants have stated that there are no significant differences in the article produced by the applicants and exported from the subject countries. The article produced by the applicants and imported from the subject countries are comparable in terms of physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing, and tariff classification of the subject goods. The subject goods and the article manufactured by the applicants are technically and commercially substitutable. The applicants have claimed that consumers of the subject goods are using the subject goods and the article manufactured by the applicants interchangeably. Thus, for the purposes of the present investigation, the article produced by the applicants has been considered as like article to the product being imported from China PR, EU, Japan and Korea RP.

C. SUBJECT COUNTRIES

8. The application was originally filed in respect of the alleged dumping of the subject goods originating in or exported from China PR, Japan, and Korea RP. Thereafter, during the *prima facie* examination, the investigation team on the basis of the DGCI&S data ascertained that imports from Germany are also above *de minimis* limit and are entering into the domestic market at dumped prices. Hence the subject countries for the purpose of the present investigation are China PR, EU, Japan and Korea RP.

D. PERIOD OF INVESTIGATION (POI)

9. The period of investigation (hereinafter referred to as the POI) for the present investigation is 1st October 2021 – 30th September 2022 (12 months). Further, the injury investigation period has been proposed as 1st April 2019- 31st March 2020, 1st April 2020- 31st March 2021, 1st April 2021- 31st March 2022 and the POI.

E. DOMESTIC INDUSTRY AND STANDING

10. The application has been filed by Hindusthan Chemical Company and United Phosphorous Limited. As per the information provided by the applicants, they are only the producers of the like article in India.

11. The applicants had imported the subject goods in the base year and the year subsequent to it. However, none of the applicants has imported the subject goods in the POI or in the immediately previous year. Further, none of the applicants is related to any of the producer/exporters in the subject countries or any importers of the subject goods in India.

12. Therefore, the applicant domestic producers constitute domestic industry as defined under Rule 2(b) of the AD Rules, 1995 and the application satisfies the requirements of Rule 5(3) of the AD Rules, 1995.

F. BASIS OF ALLEGED DUMPING

13. Normal value

I. China PR

- i. The applicants have submitted that China PR should be treated as a non-market economy, and that producers from China PR should be directed to demonstrate that market economy conditions prevail in the industry with regard to the production and sales of the subject goods. Unless the producers from China PR 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, 1995.
- ii. Therefore, the normal value has been constructed based on the estimates of cost of production of the applicants duly adjusted with selling, general and administrative expenses, along with a reasonable profit margin.

II. EU, Japan and Korea RP

- i. The applicants have claimed that the data relating to price in EU, Japan and Korea RP is not available in the public domain. It is also noted that the export price of the subject goods from third countries to other countries is also not available in the public domain.
- ii. Therefore, for purpose of initiation, the normal value has been calculated based on the cost of production of the applicants duly adjusted with selling, general and administrative expenses, along with a reasonable profit margin. The Authority will further examine the evidence provided by the interested parties and the applicants for the determination of normal value during the investigation.

14. Export Price

- i. The export price for the subject goods has been computed based on the DGCI&S published import data submitted by the applicants with due adjustments for ocean freight, marine insurance, commission, inland freight, port expenses and bank charges to arrive at the net export price.

15. Dumping Margin

- i. The normal value and the export price have been compared at the ex-factory level, which *prima facie* establishes that the dumping margin is above the *de-minimis* level and is significant in respect of the product under consideration from the subject countries. Thus, there is sufficient *prima facie* evidence that the product under consideration from the subject countries is being dumped in the domestic market of India by the exporters from the subject countries.

G. INJURY AND CAUSAL LINK

16. The applicants have provided *prima facie* evidence with respect to the injury suffered by the domestic industry because of the dumped imports. The volume of the subject imports from the subject countries is significant in absolute as well as relative terms. The price undercutting from the subject countries as a whole is positive and significant. The production of the domestic industry has declined. The capacity utilisation of the domestic industry has declined. The price suppression and depression caused by the dumped imports have been preventing the domestic industry from increasing its prices to recover the full cost and achieve reasonable rate of returns. The market share of the domestic industry is below the demand which it can cater. The subject imports have had an adverse impact on the profitability parameters of the domestic industry due to which the cash profits, PBIT, and ROCE have registered a very significant decline. There has also been a significant increase in the inventory levels of the domestic industry. The productivity of applicants has moved in tandem with the changes in the production. The growth of the applicants have been negative in terms of volume as well as price parameters.

17. The import price of the subject imports has not increased in line with the increase in the cost of sales allowing continuous imports from the subject countries despite no demand and supply gap. The continuous low priced imports have not allowed the applicants to utilize its capacity to optimum level. Resultantly, the applicants are operating with idle capacities.

H. INITIATION OF ANTI-DUMPING INVESTIGATION

18. On the basis of the duly substantiated written application submitted by the applicants and having reached satisfaction based on the *prima facie* evidence submitted by the applicants concerning the dumping of the product under consideration originating in or exported from the subject countries, the consequential injury to the domestic industry as a result of the alleged dumping of the subject goods and the causal link between such injury and the dumped imports, and in accordance with Section 9A of the Act read with Rule 5 of the AD Rules, the Authority, hereby, initiates an anti-dumping investigation to determine the existence, degree and effect of the dumping with respect to the product under consideration originating in or exported from the subject countries and to recommend the appropriate amount of anti-dumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

I. PROCEDURE

19. The principles as stipulated under Rule 6 of the AD Rules, 1995 shall be followed in the present investigation.

J. SUBMISSION OF INFORMATION

20. All communication should be sent to the Designated Authority via email at email addresses dd11-dgtr@gov.in and dd16-dgtr@gov.in with a copy to adg14-dgtr@gov.in and adv13-dgtr@gov.in. It must be ensured that the narrative part of the submission is in searchable PDF/MS-Word format and data files are in MS-Excel format.

21. The known producers/exporters in the subject countries, the Governments of the subject countries through their Embassies in India, the importers and users in India who are known to be associated with the subject goods are being informed separately to enable them to file all the relevant information within the time limits mentioned in this initiation notification. All such

information must be filed in the form and manner as prescribed by this initiation notification, the AD Rules, 1995 and the applicable trade notices issued by the Authority.

22. Any other interested party may also make submission relevant to the present investigation in the form and manner as prescribed by this initiation notification, the AD Rules, 1995 and the applicable trade notices issued by the Authority within the time limits mentioned in this initiation notification.

23. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other interested parties.

24. Interested parties are further directed to keep regularly visit the official website of the Directorate General of Trade Remedies (<https://www.dgtr.gov.in/>) to stay updated and apprised with the information as well further processes related to the investigation.

K. TIME LIMIT

25. Any information relating to the present investigation should be sent to the Designated Authority via email at email address dd11-dgtr@gov.in and dd16-dgtr@gov.in with a copy to adg14-dgtr@gov.in and adv13-dgtr@gov.in within 30 days from the date on which the non-confidential version of the application filed by the domestic industry would be circulated by the Designated Authority or transmitted to the appropriate diplomatic representative of the exporting countries as per Rule 6(4) of the AD Rules. If no information is received within the stipulated time limit or the information received is incomplete, the Authority may record its findings based on the facts available on record and in accordance with the AD Rules, 1995.

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 as stipulated in this notification.

27. Where an interested party seeks additional time for filing of submissions, it must demonstrate sufficient cause for such extension in terms of Rule 6 (4) of the AD Rules, 1995 and such request must come within the time stipulated in this notification.

L. SUBMISSION OF INFORMATION ON CONFIDENTIAL BASIS

28. Where any party to the present investigation makes confidential submissions or provides information on a confidential basis before the Authority, it is required to simultaneously submit a non-confidential version of such information in terms of Rule 7(2) of the AD Rules and in accordance with the relevant trade notices issued by the Authority in this regard.

29. Such submissions must be clearly marked as “confidential” or “non-confidential” at the top of each page. Any submission which has been made to the Authority without such markings shall be treated as “non-confidential” information by the Authority, and the Authority shall be at liberty to allow other interested parties to inspect such submissions.

30. The non-confidential version of the information filed by the interested parties should essentially be a replica of the confidential version with the confidential information preferably indexed or blanked out (where indexation is not possible) and such information must be appropriately and adequately summarized depending upon the information on which confidentiality is claimed.

31. 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 containing a sufficient and adequate explanation in terms of Rule 7 of the AD Rules, 1995 and appropriate trade notices issued by the Authority, as to why such summarization is not possible, must be provided to the satisfaction of the Authority.

32. The interested parties can offer their comments on the issues of confidentiality claimed by the domestic industry within 7 days of the receipt of the non-confidential version of the application.

33. Any submission made without a meaningful non-confidential version thereof or without a sufficient and adequate cause statement in terms of Rule 7 of the AD Rules, 1995 and appropriate trade notices issued by the Authority, on the confidentiality claim shall not be taken on record by the Authority.

M. INSPECTION OF PUBLIC FILE

34. A list of registered interested parties will be uploaded on the DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties.

N. NON-COOPERATION

35. In case any interested party refuses access to and otherwise does not provide necessary information within a reasonable period or within the time stipulated by the Authority in this initiation notification, or significantly impedes the investigation, the Authority may declare such interested party as non-cooperative and record its findings based on the facts available and make such recommendations to the Central Government as deemed fit.


(Anant Swarup)
Designated Authority