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**F. No. 7/1/2021-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi – 110001**

Case No- AD-SSR 01/2021

INITIATION NOTIFICATION

Dated: 19th February, 2021

Subject: - Initiation of Sunset Review investigation concerning imports of 1,1,1,2-Tetrafluoroethane or R-134a originating in or exported from China PR-reg.

7/1/2021-DGTR: Having regards to the Customs Tariff Act 1975, as amended from time to time (hereinafter also 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 thereof, as amended from time to time (hereinafter also referred to as the Rules or AD Rules), M/s SRF Limited (hereinafter referred to as the “applicant”) has filed an application before the Designated Authority (hereinafter referred to as the “Authority”) for initiation of sunset review investigation for extension of anti-dumping duty on imports of “1,1,1,2-Tetrafluoroethane or R-134a” (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 M/s SRF Limited has alleged that dumping of the subject goods originating in or exported from the subject country has continued even after the imposition of anti-dumping duty. The applicant has also claimed that there has been significant increase in the volume of imports despite imposition of the duty and the performance of the domestic industry has been adversely affected because of dumping and consequent injury. The applicant has further claimed that there is a likelihood of continuation of dumping of the subject goods originating and exported from the subject county and consequent injury to the domestic industry if the existing duty is allowed to expire.

3. In terms of Section 9A (5) of the Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is

required to review whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the same, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. The applicant has provided relevant information in the petition. The petition has been examined for sufficiency of information and evidence of dumping and consequent injury to justify initiation of investigation. Since the petition is duly documented and contains sufficient prima facie evidence of dumping and consequent injury as well as sufficient prima facie evidence of likelihood of dumping and injury if the existing duty is allowed to expire, the Authority initiates the sunset review investigation of the anti dumping duty already imposed on the imports of the subject goods originating and exported from the subject country.

Background of previous anti-dumping duty investigation

5. An anti-dumping investigation concerning imports of the subject goods from the subject country was initiated on 19th August, 2009 by the Authority. Thereafter, vide Final Findings No. 14/24/2009-DGAD dated 10th May, 2011, the Authority recommended imposition of definitive anti-dumping duties on imports of the subject goods from the subject country, which were implemented vide Notification No. 61/2011-Customs (ADD) dated 15th July, 2011. The Authority initiated sunset review investigation vide Initiation Notification No. 15/23/2014-DGAD dated 10th April, 2015 and recommended continued imposition of anti-dumping duties vide Notification No. 15/23/2014-DGAD dated 30th May, 2016, on imports of the subject goods originating in or exported from the subject country. Accordingly, the Central Government issued a Notification No. 30/2016-Customs (ADD) dated 11th July, 2016 imposing the duties. The said duties were levied for a period of 5 years.

Product under Consideration

6. The product under consideration in the Application is “1,1,1,2-Tetrafluoroethane or R-134a”. The application is for review and continuation of anti-dumping duties in force. The product under consideration is the same as defined in the previously conducted investigation, which was defined as follows in the Final Findings

“9. In the original investigation, the PUC was defined as follows:

51. The product under consideration in the present investigation is 1,1,1,2-Tetrafluoroethane or R-134a of all types. R-134a, is also called as Tetrafluoroethane, Genetron 134a, Suva 134a or HFC-134a, HFA- 134a, and Norflurane. It is a haloalkane refrigerant with thermodynamic properties similar to R-12 (dichlorodifluoromethane), but without its ozone depletion potential. It has the chemical formula CH₂FCF₃, and a boiling point of –26.3

°C (-15.34 °F). It is an inert gas used primarily as a high temperature refrigerant for domestic refrigeration and automobile air-conditioners. Other uses of the subject goods include plastic foam blowing, as a cleaning solvent and as a propellant for the delivery of pharmaceuticals (e.g. bronchodilators), gas dusters, and in air driers, for removing the moisture from compressed air.

52. The subject goods are being imported under Chapter 29 of the Customs Tariff Act under subheading 2903 under "Halogenated Derivatives of Hydrocarbons", under subheading 29033919 as "Other Fluorinated Derivatives", under the Indian Trade Classification (based on Harmonized Commodity Description and Coding System). The petitioner has, however claimed that the product under consideration does not have any dedicated customs classification code and are being imported under various other Customs sub-headings. However, the customs classification is indicative only and in no way binding on the scope of this investigation.

10. The scope of the product under consideration in the present sunset review investigation remains the same as the scope of the product under consideration in the final findings earlier notified in the original investigation. The product under consideration (PUC) in the present SSR application, as in the original investigation, is "1,1,1,2- Tetrafluoroethane" also known as "R-134a".

14.However, the cGMP approved pharma grade is excluded from the purview of the PUC, since the same is neither produced by the domestic industry nor imported from the subject country."

7. The product is classified under Chapter 29 in heading 2903, "Halogenated Derivatives of Hydrocarbons", under subheading 29033919 as "Other Fluorinated Derivatives". The customs classification is only indicative and is not binding on the scope of the present application and the proposed review investigation.

Like Article

8. The applicant has claimed that there are no known differences in the subject goods produced by domestic industry and that exported from the subject country. It has been stated that there is no significant difference in the subject goods produced by the applicant and those exported from the subject country. The applicant claims that the two are technically and commercially substitutable. For the purpose of the proposed investigation, the subject goods produced by the applicant is being treated by the Authority as 'like article' to the subject goods being originating in or exported from the subject country.

Domestic Industry & Standing

9. The Application has been filed by M/s SRF Ltd. It is noted that there are no other producers of the product under consideration in India. The production by the Applicant constitutes 100% of the domestic production of the like article. The Applicant has claimed that it is not related to an exporter or producer of the subject goods in the subject country or an importer in India either directly or indirectly within the meaning of Rule 2(b) of Anti-Dumping Rules. In view of the same, it is concluded that the application satisfies the requirements of standing in terms of Rule 5(3), and the applicant constitutes domestic industry within the meaning of Rule 2(b).

Subject Country

10. The subject country involved in the present sunset review investigation is China PR.

Period of Investigation

11. The period of investigation in the present investigation is the period from 1st October, 2019 to 30th, September, 2020 (12 months). The injury analysis period will cover the period of investigation and the preceding three years 2017-18, 2018-19 and 2019-20. The authority would also examine the post POI data of 6 months of the petitioner and other interested parties to examine whether the expiry of existing ADD duties are likely to lead to continuation or recurrence of dumping and injury to the Domestic Industry.

Normal Value for China PR

12. The Applicant has submitted that the Normal Value should be determined as per Para 7 of Annexure I of the Anti-Dumping Rules, 1995. Pursuant to the same, efforts were made to determine normal value on the basis of price or constructed value in a market economy third country. However, there is verifiable evidence or published information regarding the same. Therefore, the applicant has determined normal value in the subject country on the basis of import price of the subject goods from the United States of America to India. The Authority has considered import price from market economy third country to India. This methodology has been upheld by the CESTAT as well (in the matter of Kuitun Jinjiang

Chemical Industry Co. Ltd.). The applicant has given reasons why USA is an appropriate country. Considering the legal provision and CESTAT order, it would be appropriate to consider import price from USA to India.

Export Price for China PR

13. Export price of the subject imports has been determined by considering volume and value of imports based on the DGCI&S. Price adjustments have been made on account of Ocean freight, Marine insurance, Commission, Bank charges, Port expenses, Inland freight and VAT refund.

Dumping Margin

14. The normal value and the export price have been compared at ex-factory level, which prima facie shows dumping margin is above the de-minimis level in respect of the PUC from the subject country. There is sufficient prima facie evidence that the PUC from subject country is being dumped into the Indian market by the exporters from the subject country, thus indicating likelihood of continued dumping so as to justify initiation of investigation.

Likelihood of continuation or recurrence of Injury

15. There is prima facie evidence that the product under consideration has been exported from the subject country at dumped prices, thus showing continued dumping of the product; the dumping margin and injury margin are positive and significant; the domestic industry has suffered continued injury and injury to the domestic industry is likely to intensify in the event of cessation of anti-dumping duty.

Initiation of Sunset Review Investigation

16. On the basis of the duly substantiated application of the applicants, 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.

Procedure

17. The review investigation will cover all aspects of the final findings published vide Notification No. 15/23/2014-DGAD dated 30th May, 2016 recommending imposition of anti-dumping duty on the imports of subject goods from subject country. The Authority will 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 Authority via email at the email addresses adg15-dgtr@gov.in, dir13-dgtr@gov.in, jd14-dgtr@gov.in, and ac11-dgtr@gov.in.

20. The known producers/exporters in the subject country, its governments through its embassy in India, the importers and users in India known to be connected 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 below.

21. Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within in the time limit set out below.

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

Time Limit

23. In view of the special circumstances arising out of COVID-19 pandemic, any information relating to the present investigation should be sent to the Authority via email

at the email addresses adg15-dgtr@gov.in, dir13-dgtr@gov.in, jd14-dgtr@gov.in, and ac11-dgtr@gov.in within 30 days from the date of the 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 Rules, 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 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 finding on the basis of the facts available on records 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 investigation and file their questionnaire response/submissions 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 a 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 is 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 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 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. The modality of maintaining public file in electronic mode is being worked out.

Non-cooperation

34. In case where an interested party refuses access to or otherwise does not provide necessary information within a reasonable period or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.



(Anant Swarup)

Joint Secretary & Designated Authority