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**File No.7/25/2019-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 the 27<sup>th</sup> December 2019

**INITIATION NOTIFICATION**

**Case No. SSR 13/2019**

**Sunset review of Anti-dumping duty imposed on imports of Phenol  
originating in or exported from South Africa**

1. Whereas M/s Deepak Phenolics Ltd., M/s SI Group India Pvt. Ltd. and M/s Hindustan Organics Chemical Ltd (hereinafter referred to as the “Applicants” or the “Petitioners”, have filed an application before the Designated Authority (hereinafter referred to as the Authority), on behalf of the domestic industry, in accordance with the Customs Tariff Act, 1975 as amended in 1995 and thereafter (hereinafter referred 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 as the “Rules”), for Sunset Review of Anti- Dumping investigation concerning imports of Phenol (hereinafter also referred to as the “subject goods” or “product under consideration”), originating in or exported from South Africa (hereinafter referred to as the “subject country”).
2. The Applicants have 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 have 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 Authority had initiated the original investigation concerning imports of Phenol originating in or exported from European Union, South Africa and Singapore vide Notification No.14/4/2002-DGAD dated 15th February, 2002. The Designated Authority vide Notification No.14/4/2002-DGAD dated 24th June 2002 notified the Preliminary Findings recommending provisional anti-dumping duties. The Final Findings Notification was issued by the Authority vide Notification No.14/4/2002- DGAD dated 13th February 2003, recommending imposition of definitive duty on the imports of the subject goods, originating in or exported from European Union, South Africa and Singapore. Definitive anti-dumping duties were imposed by the Department of Revenue vide Notification No.47/2003-Customs dated 24th March 2003.

4. A Mid-Term Review investigation was conducted and the Final Finding Notification was notified by the Authority vide Notification No.15/4/2006-DGAD dated 13th July, 2007 recommending continuation of definitive anti-dumping duty, on all imports of subject goods originating from Singapore, South Africa and European Union with change in the form of duty by imposing fixed amount of duty. The Department of Revenue imposed the definitive anti-dumping duties on the subject goods vide Notification No.98/2007-Customs dated 31.08.2007.
5. The first Sunset Review investigation was initiated on 10th August 2007. The Final Findings Notification was issued by the Authority vide Notification No.15/9/2007- DGAD dated 4th August 2008 recommending continuation of same anti-dumping duty on the imports of subject goods from European Union and Singapore and revised definitive anti-dumping duty on imports of subject goods from South Africa. On the basis of the recommendations made by the Authority, definitive anti-dumping duties were imposed by the Department of Revenue vide Notification No.114/2008- Customs dated 31st October 2008.
6. The second Mid-term review was initiated by the Authority vide Notification No. 15/16/2011-DGAD dated 8th December 2011 in respect of imports of Phenol originating in or exported from European Union, South Africa and Singapore. The Final findings in the second MTR investigation were notified by the Authority vide Notification No.15/16/2011-DGAD dated 6th February, 2013, recommending continuation of anti-dumping duties with respect to imports from South Africa and recommending withdrawal of duties on imports of subject goods from Singapore and European Union. On the basis of recommendations made by the Authority the Department of Revenue continued the imposition of anti-dumping duties on imports of subject goods from South Africa and withdrew anti-dumping duties from Singapore and European Union vide Notification No.10/2013-Customs (ADD) dated 3rd May, 2013.
7. The Designated Authority had thereafter recommended continuation of definitive anti-dumping duty on the subject goods originating in or exported from the subject country vide Notification No. No.15/21/2013-DGAD dated 27.04.2015 and the same was extended vide Notification No. 32/2015-Customs (ADD) dated 10.07.2015. The current anti-dumping duties imposed on the subject country are in force till 09.07.2020.

#### **LIKE ARTICLE**

8. Petitioners have claimed that there is no known difference in the subject goods produced by the Indian industry and exported from subject country. Subject goods produced by the Petitioners and imported from the subject country are comparable in terms of physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. Therefore, subject goods produced by the petitioners are being treated as 'like article' to that being imported from the subject country for the purpose of the present review investigation.

#### **DOMESTIC INDUSTRY**

9. The petition for initiation of sunset review has been filed by M/s Deepak Phenolics Ltd., M/s

SI Group India Pvt. Ltd. and M/s Hindustan Organics Chemical Ltd. As per available information, the production of petitioner companies is 100% of Indian production of the subject goods in the Country, as there are no other producers of the subject goods in India.

10. On the basis of information furnished, the Authority notes that M/s SI Group India Pvt. Ltd have made imports of the subject goods from the subject country during the POI, however, the same are under duty free scheme and also, are not significant in quantity so as to affect the domestic market situation.
11. On the basis of information available, the Authority is satisfied that the Application has been made by or on behalf of the domestic industry in terms of the provisions contained in Rule 2 (b) and Rule 5 (3) of the Rules.

### **BASIS OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING**

12. The Applicants have claimed that the information relating to domestic selling prices in the subject country were not available. Due to unavailability of any direct evidence for price prevailing in South Africa market, the petitioners have considered the export price from South Africa to Belgium for determination of normal value as per South African Revenue Services (SARS) Statistics available on Trade Map website. Further the prices of Belgium are considered for the reason that Belgium is the second largest export destination of South Africa after India.
13. Relevant adjustments have been made to the prices to bring them at ex-factory level. There is sufficient evidence of normal value to justify initiation of investigations.
14. The Applicant has claimed export prices on the basis of DGCI&S transaction wise import data. Price adjustments have been made on account of ocean freight, commission, inland freight expenses, port expenses and marine insurance in South Africa to arrive at ex-factory export price.
15. Considering the normal value and export price determined as above, dumping margin has been determined, in accordance with Section 9 A(1)(a) of the Customs Tariff Act, 1975. It is noted that dumping margin is not only above de minimis level, but also significant. There is prima facie evidence that constructed normal value of the subject goods in the subject countries are significantly higher than the net export prices, indicating that the subject goods originating in or exported from the subject country are being exported at dumped prices, thus indicating continued likelihood of dumping so as to justify initiation of investigation.

### **LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY AND CASUAL LINK**

16. The Authority notes that there is prima facie evidence of dumping and consequential injury to the domestic industry on account of price effect due to price under cutting and price under selling leading to reduced profits, Return on Capital Employed (ROCE) and cash flows.

Further, the data provided by the petitioner on the capacity and export orientation of producers/exporters in the subject countries also prima facie indicates a likelihood of dumping and consequential injury on cessation of the AD duty.

### **INITIATION OF SUNSET REVIEW INVESTIGATION**

17. And therefore, on the basis of the duly substantiated application of the petitioners, 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.

### **PRODUCT UNDER CONSIDERATION**

18. The Designated Authority defined the product under consideration in the Final Findings of the previous investigation as follows-

*“Phenol is a basic organic chemical normally classified under Chapter 29 of the Customs Tariff Act. The product is marketed in two forms- bulk and packed. Bulk sales are normally in loose form, whereas packed consignments can be of much smaller container loads and generally packed in drums. Phenol is used in Phenol Formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol-A, Alkyl Phenols, Pharmaceuticals, Diphenyl Oxide, etc. This product is classified under Customs Tariff heading no. 2907.11 and 2707.60 as per Indian Trade Classification. The Customs and ITC HS classifications are, however, indicative only and in no way binding on the scope of the present investigation.”*

19. Since the present investigation being a sunset review investigation, product under consideration remains the same as defined in the previously conducted investigation. Phenol is classified under Chapter 29 of the Customs Tariff Act under subheading 2907.11. The customs classification is only indicative and is not binding on the scope of the product under consideration.

### **SUBJECT COUNTRY**

20. The subject country in the present sunset review investigation is South Africa.

### **PERIOD OF INVESTIGATION**

21. The period of investigation (POI) for the present investigation is 1st April 2019 to 30th September 2019 (6 Months) and the injury investigation period is from 1st April 2016 to 31st March 2017, 1st April 2017 to 31st March 2018, 1st April 2018 to 31st March 2019, and POI.

## **PROCEDURE**

22. The review will cover all aspects of the final findings published vide Notification No. No.15/21/2013-DGAD dated 27.04.2015 recommending imposition of anti-dumping duty on imports of Phenol from South Africa.
23. 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**

24. The known exporters in the subject country, the Government of the subject country through its embassy in India, the importers and users in India known to be concerned with the product are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Authority at the following address:

**The Designated Authority,  
Directorate General of Trade Remedies,  
Ministry of Commerce & Industry,  
Department of Commerce  
4th Floor, Jeevan Tara Building,  
Parliament Street, New Delhi -110001.**

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

26. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above 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 sub rule, the notice calling for information and other documents shall be deemed to have been received 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.
27. 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**

28. The parties making any submission (including Appendices/Annexures attached thereto), before the Authority including questionnaire response, are required to file the same in two separate sets, in case "confidentiality" is claimed on any part thereof:
  - i. One set marked as Confidential (with title, number of pages, index, etc.), and
  - ii. The other set marked as Non-Confidential (with title, number of pages, index, etc.).
29. 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. Soft copies of both the versions will also be required to be submitted. Four (4) copies of the confidential version and two (2) copies of the non-confidential version must be submitted by all the interested parties.
30. 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.
31. 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 summarised 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 summarisation is not possible must be provided to the satisfaction of the Authority.
32. 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 authorise its disclosure in generalised or summary form, it may disregard such information.
33. 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.
34. The Authority on being satisfied and accepting the need for confidentiality of the information

provided, shall not disclose it to any party without specific authorisation of the party providing such information.

### **INSPECTION OF PUBLIC FILE**

35. 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**

36. 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.

**(Bhupinder S. Bhalla)**  
**Additional Secretary & Designated Authority**