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**F.No.7/11/2021 - DGTR
Government of India
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

Dated: 11th June, 2021

INITIATION NOTIFICATION

(Case No.AD (SSR) – 11/2021)

Subject: Initiation of sunset review of anti-dumping duty imposed on imports of “Ammonium Nitrate” originating in or exported from Russia, Georgia and Iran.

M/s. Smartchem Technologies Limited (hereinafter also referred to as the “Applicant”) has filed an application seeking initiation of sunset review investigation in respect of anti-dumping duty imposed on the imports of Ammonium Nitrate (hereinafter referred as the “product under consideration” or “PUC” or “subject goods”), originating in or exported from Russia, Indonesia, Georgia and Iran before the Designated Authority (hereinafter also referred to as the “Authority”) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the “Act”) and 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 also referred to as the “Rules”).

2. The Applicant has alleged that expiry of anti-dumping duty on the import of the subject goods originating in or exported from Russia, Indonesia, Georgia and Iran is likely to lead to continuation or recurrence of dumping and injury to the domestic industry and has requested for continuation of the anti-dumping duty levied on the import of the subject goods originating in or exported from these countries.

Background

3. The Authority had earlier initiated an anti-dumping investigation concerning imports of the subject goods originating in or exported from Russia, Indonesia, Georgia and Iran vide Notification dated 5th August, 2016. Pursuant to the investigation, the Authority, vide Final Findings Notification No. 14/1/2016 – DGAD dated 1st August, 2017, had recommended imposition of definitive anti-dumping duty, which was given effect by the Central Government vide Notification No. 44/2017 – Customs(ADD) dated 12th September, 2017. The said duties are to expire on 11th September, 2022.

Product under consideration

4. The product under consideration (PUC) in this investigation is same as that in the earlier investigation, that is, “Ammonium nitrate whether prilled, granular or in other solid form, with or without additives or coating and having bulk density in excess of 0.83 g/cc.”

5. Ammonium nitrate is a chemical compound produced using ammonia and nitric acid and has the formula NH_4NO_3 . The prills have a spherical shape with diameter between 1.0 mm to 2.5 mm. Ammonium nitrate granules are larger sized. The purity of the subject goods depends upon the quantity of additives added to improve its shelf life. Ammonium nitrate in various forms is dissolved in water to make aqueous solution for the purpose of manufacturing explosives. Since it is used for making a solution, the size or additives are not material for the downstream process and subject goods in various forms, sizes and purity are used interchangeably by the downstream industry.

6. The product under consideration is used in manufacturing slurry-based and emulsion-based explosives which are in turn used for mining and infrastructure purposes. The product under consideration is also used as a fertiliser in many countries. However, in India it is not included under the definition of fertilisers under the Fertiliser Control Order, 1985.

7. To manufacture the subject goods, Ammonia is reacted with nitric acid. Nitric acid solution is generally formed by combining a portion of the ammonia with oxygen, which is then reacted with the remaining ammonia in a neutralisation chamber to form an aqueous ammonium nitrate solution. This solution is heated and evaporated to a molten concentration or melt. From this concentration or melt, granules can be produced by layering material in a rotary pan or prills can be produced by spraying molten ammonium nitrate droplets into specially designed towers, in which the molten droplets free fall through an upward current of cool air, solidifying into small spheres as they fall. Stabilizers, additives or coating agents may be added to the granules or prills in order to prevent moisture absorption.

8. The product under consideration is classified under the Chapter 31 of the Customs Tariff Act, 1975 (51 of 1975) under the sub-heading 31023000. However, the customs classification is only indicative and not binding on the scope of the product under consideration.

Like Article

9. The Applicant has claimed that there is no known difference between the subject goods originating in or exported from Russia, Indonesia, Georgia and Iran and that produced by the domestic industry. Subject goods produced by the domestic industry and product under consideration imported from Russia, Indonesia, Georgia and Iran are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers use the two interchangeably.

The Applicant has further claimed that the two are technically and commercially substitutable and, hence, should be treated as like article under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the domestic industry in India are being treated as 'Like Article' to the subject goods being imported from Russia, Indonesia, Georgia and Iran.

Domestic industry and Standing

10. The application has been filed by M/s. Smartchem Technologies Limited. The Applicant has claimed that it is the sole producer of the like goods in India. The Applicant has not imported the subject goods from Russia, Indonesia, Georgia and Iran during the period of investigation. Further, the Applicant is not related to any exporter or producer of subject goods in these countries or any importer of product under consideration in India.

11. In view of the above and after due examination, the Authority notes that the Applicant constitutes eligible domestic industry in terms of the provisions contained in Rule 2(b) of the Rules.

Period of investigation

12. The Period of Investigation (hereinafter also referred to as "POI") in the present investigation is 1st January, 2020 to 31st December, 2020. The injury period will cover the periods 1st April, 2017-31st March, 2018, 1st April, 2018-31st March, 2019, 1st April, 2019-31st March, 2020 and the period of investigation.

Subject countries

13. The Applicant has submitted the application for initiation of sunset review investigation against the import of the subject goods originating in or exported from Russia, Indonesia, Georgia and Iran. The Applicant has claimed that dumping of the subject goods from Russia and Iran has continued and the dumping margin is significant during the POI and further that dumping and consequent injury to the domestic industry is likely to continue from Russia and Iran. The Applicant has also claimed dumping of the subject goods by Russia, Indonesia and Georgia in the third countries; surplus capacities held by the producers in Russia, Indonesia, Georgia and Iran; expansion of capacity by the producers in Russia; prominence of Indian market before the imposition of duty; loss of export market to the producers of Russia due to imposition of trade remedial measures against it; likely suppressing and depressing effect of imports on the prices of the domestic industry; price attractiveness of the Indian market and distortions in the natural gas prices in Russia.

14. The Authority has noted that, prima facie, dumping of the subject goods has continued from Russia and Iran and there is likelihood of continuation of dumping and consequent

injury to the domestic industry in respect of the imports of the subject goods from these countries.

15. The Authority has further noted that though in respect of Georgia, there is no export of the subject goods to India in 2018-19, 2019-20 and the POI, yet the trend of exports of the subject goods from Georgia to other countries coupled with surplus capacity in Georgia shows strong prima facie likelihood of dumping of the subject goods and consequent injury to the domestic industry if the duty is allowed to expire in the case of imports of the subject goods from Georgia.

16. In respect of Indonesia, the Authority has noted that on the basis of evidence on record, there is neither any export of the subject goods to India in 2018-19, 2019-20 and the POI nor is there any prima facie evidence of likelihood of Indonesia resorting to dumping in the event duty is allowed to expire on the import of the subject goods from Indonesia.

17. On the basis of the duly substantiated written application by the domestic industry, and having satisfied itself of the facts available, and in accordance with Section 9A(5) of the Act read with Rule 23 (1B) of the Rules, the Authority hereby initiates the 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 Russia, Georgia and Iran (hereinafter also referred to as the "Subject Countries") and to examine whether the expiry of such duty in respect of these countries is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

18. The subject countries for this investigation, therefore, are Russia, Georgia and Iran.

Basis of Alleged Dumping

Normal value for Russia

19. The Applicant has claimed that it did not have access to information regarding the latest domestic selling price in Russia. However, it has provided information with regard to domestic selling price in Russia prevailing in 2019. The same have been adjusted based on the change in export price between 2019 and the period of investigation, to determine the normal value for Russia during the period of investigation. The Authority has, however, not accepted the claim of the Applicant because the data relied upon by the Applicant was not recent. The Authority has, therefore, constructed the normal value based on the cost of production of the domestic industry with reasonable profit for the purposes of the present initiation.

Normal value for Iran

20. The Applicant has claimed that the normal value for Iran could not be determined based on the domestic selling price for want of public information or on the basis of exports from

the country. The Applicant has further submitted that information with regard to cost of production in Iran is not available. Accordingly, the normal value has been constructed on the basis of cost of production in India along with selling, general and administrative expenses and reasonable profits.

Export price for Russia

21. The Authority has computed the export price for Russia based on Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction-wise import data. Price adjustments have been made for ocean freight, marine insurance, port expenses, bank charges, inland freight and commission.

Export price for Iran

22. The Authority has computed the export price for Iran based on Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction-wise import data. Price adjustments have been made for ocean freight, marine insurance, port expenses, bank charges, inland freight and commission.

Normal value and export price for Indonesia and Georgia

23. Since there are no imports of the product under consideration from Indonesia and Georgia during the period of investigation, normal value and export has not been determined for these countries.

Dumping Margin

24. 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 and significant in respect of the product under consideration from Iran and Russia. During the period of investigation, there are no imports from Georgia and Indonesia and accordingly, no dumping margin can be determined. There is prima facie evidence that the product under consideration is being dumped into the Indian market by the exporters from Iran and Russia.

Likelihood of continuation or recurrence of injury and causal link

25. On the basis of the duly substantiated written application by the domestic industry, and having satisfied itself of the facts available, the Authority prima facie concludes that there is likelihood of continuation of dumping and consequent injury to the domestic industry in respect of the imports of the subject goods from Russia, Georgia and Iran, the subject countries.

Procedure

26. The present sunset review will cover all aspects of the Final Findings of the original investigation published vide Notification No. 14/1/2016 – DGAD dated 1st August, 2017 recommending imposition of anti-dumping duty on imports of product under consideration from the subject countries. The Authority would also undertake likelihood analysis of dumping and injury as required.

27. The provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 of the Anti-Dumping Rules will be mutatis mutandis applicable in this review.

Submission of Information

28. 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 addresses adg15-dgtr@gov.in, adv13-dgtr@gov.in, dir16-dgtr@gov.in and ac11-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.

29. The known exporters in the subject countries, their governments through their Embassies 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.

30. 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 email address mentioned in paragraph 28 above.

31. 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

32. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses adg15-dgtr@gov.in, adv13-dgtr@gov.in, dir16-dgtr@gov.in and ac11-dgtr@gov.in within thirty days from the date of receipt of the notice as per Rule 6(4) of the Anti-Dumping 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 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.

33. 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.

34. The interested parties are further advised to keep a regular watch on the official website of DGTR, i.e., www.dgtr.gov.in for any updated information with respect to this investigation.

Submission of information on confidential basis

35. 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.

36. The parties making any submission (including Appendices/Annexes attached thereto), before the Authority including questionnaire response, are required to file Confidential and Non-Confidential versions separately.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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.

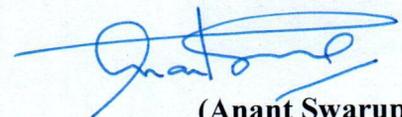
42. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorisation of the party providing such information.

Inspection of Public File

43. A list of all registered interested parties will be uploaded on 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 since the public file will not be accessible physically due to ongoing global pandemic.

Non-cooperation

44. 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