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F NO 15/29/2013-DGAD
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Anti-Dumping & Allied Duties)
Udyog Bhavan, New Delhi-110011

Dated the 31 st December, 2013

NOTIFICATION

INITIATION

Subject: Sunset Review (SSR) Anti-dumping Investigation concerning imports of Acrylonitrile Butadiene Rubber (NBR), originating in or exported from Korea RP

F. No15/29/2013-DGAD Having regard to 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), the Designated Authority (hereinafter referred to as the Authority) recommended imposition of anti-dumping duty on imports of “Acrylonitrile Butadiene Rubber (NBR)” (hereinafter referred as the subject goods), originating in or exported from Korea RP.

2. Whereas, original investigation concerning imports of the subject goods from Korea RP and Germany was initiated by the Authority vide notification No. 9/1/95-ADD dated 15th March, 1996. The preliminary finding was issued by the Authority on 30th December, 1996, recommending provisional antidumping duty on the imports of Acrylonitrile Butadiene Rubber (NBR) (hereinafter referred to as subject goods) originating in or exported from Korea RP and Germany. The Authority notified its final findings on 17th July, 1997 recommending definitive antidumping duty on the imports of NBR originating in or exported from Korea RP and Germany. The definitive antidumping duty was imposed on the subject goods vide Customs Notification No. 62/1997-Customs, dated 30th July 1997. The Authority had initiated a sunset review in the matter of continuation of final anti-dumping duty on acrylonitrile butadiene rubber (hereinafter referred to as NBR) originating in, or exported from Korea RP and Germany and recommended continued imposition of definitive antidumping duty on imports of the subject good vide notification No. 50/1/2000 dated 21st September 2002 and imposed vide notification No. 111/2002-

Customs, dated the 10th October, 2002. The Authority initiated mid-term review investigations on imports of subject goods exported from Korea RP and Germany on 29th March, 2004 and recommended continued imposition of definitive antidumping duty on imports of the subject good vide notification No. vide notification No. 15/5/2004 dated 6th June 2005 and imposed by Finance vide Custom Notification No.78/2005-Customs dated 1st September 2005. Second sunset review investigations were initiated by the Authority on 8th October 2007 and the Authority recommended continued imposition of anti dumping duty on imports of the subject goods from Korea RP vide Notification No. 15/6/2007 dated 4th October 2008 and imposed by Finance vide Custom Notification No. 01/2009-Customs dated 2nd January 2009.

3. Whereas, M/s Omnova Solutions (India) Pvt. Ltd. have now filed a duly substantiated application before the Authority, as the domestic industry of the subject goods in India, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from Korea RP and consequent injury to the domestic industry and have requested for review, continuation and enhancement of the anti-dumping duties imposed on the imports of the subject goods, originating in or exported from Korea RP.

Domestic Industry

4. The application for the sunset review has been filed by M/s Omnova Solutions (India) Pvt. Ltd. (hereinafter referred to as petitioner) who has claimed to be the sole domestic producer of the product under consideration in the country and has provided relevant information for the purposes of the present petition. M/s Omnova Solutions (India) Pvt. Ltd have certified that there are no imports of the product under consideration by them either directly or through an affiliated company from Korea RP and they are related to any importer in India or exporter from Korea . Having regard to Rules, the Authority, determines that the petitioner constitutes Domestic Industry within the meaning of the Anti Dumping Rules for the purpose of present investigation.

Product under consideration and Like Article

5. The product involved in the original investigation and earlier sun set review was Acrylonitrile Butadiene Rubber (NBR) also known as Nitrile Rubber falling under heading No. 40025900 in Chapter 40 of the First Schedule to the said Customs Tariff Act and ITC HS Classification. This being a sunset review investigation, the scope of the investigation is limited to the product already identified in the earlier investigations. This classification is however, indicative only and in no way binding on the scope of the present investigation

NBR is used in the manufacture of various rubber articles where resistance to oil, abrasion and heat applications are involved, such as oil seals, hoses, automotive

products, gaskets, rice de-husking rolls, printers, fabrics, oilfield products, etc. The major raw materials required for NBR are Acrylonitrile and Butadiene. Different grades of NBR are defined in terms of mooney viscosity and acrylonitrile content. The subject goods produced by domestic industry are used interchangeably with those imported from the subject countries,

6. Petitioner has claimed that there is no known difference between the subject goods exported from the subject country and that produced by the petitioner. Subject goods produced by the domestic industry and imported from the subject country 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 can use and are using the two interchangeably. The two are technically and commercially substitutable. The Authority considers that NBR produced by the domestic industry is like article to that imported from the subject country for the purpose of present investigation.

Initiation of Sunset Review

7. In view of the duly substantiated application filed and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority hereby initiates a sunset review investigation to review the need for continued imposition of anti dumping 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.

Country involved

8. The petition is filed for the review, continuation and enhancement of the quantum of anti-dumping duty in force on imports of NBR from Korea RP. These imports are currently subject to definitive anti-dumping duties imposed vide Ministry of Finance Notification No. 1/2009-Customs dated 2nd January, 2009.

Period of Investigation

9. The period of investigation for the present investigation is proposed by petitioner from 1st October, 2012 to 30th September, 2013 (12 Months). The injury investigation period will cover the periods April 2010-March 2011, April 2011-March 2012, April 2012-March 2013 and the proposed Period of Investigation (POI).

Procedure

10. The present sunset review covers all aspects of the final findings of the previous sunset review investigation published vide Notification No. 15/6/2007-DGAD dated 4th October 2008.

11. 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

12. 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 Anti-Dumping and Allied Duties
Ministry of Commerce and Industry Department of Commerce
Room No. 240, Udyog Bhavan, New Delhi-110011.

13. 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.

Time Limit

14. Any information relating to the present review and any request for hearing should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 Days) from the date of publication of this Notification. 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 Anti-dumping Rules.

15. 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 and offer their comments to the domestic industry's application regarding the need to continue or otherwise the Anti-dumping measures within 40 days from the date of initiation of this investigation.

Submission of information on confidential basis

16. In case confidentiality is claimed on any part of the questionnaire response/submissions, the same must be submitted in two separate sets (a) marked as Confidential (with title, index, number of pages, etc.) and (b) other set marked as Non-Confidential (with title, index, number of pages, etc.). All the information supplied must be clearly marked as either “confidential” or “non-confidential” at the top of each page.

17. Information supplied without any confidential marking shall be treated as non-confidential and the Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Two (2) copies of the confidential version and five (05) copies of the non-confidential version must be submitted by all the interested parties.

18. For information claimed as confidential; 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 and/or why summarization of such information is not possible.

19. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out/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, parties submitting the confidential information may indicate that such information is not susceptible to summarization; a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.

20. 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 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.

21. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim may not be taken on record by the Authority. 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:

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

Non-cooperation

23. 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.

(J.S. Deepak)

Designated Authority