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Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan

New Delhi, the 21st November, 2008

INITIATION NOTIFICATION
(Sunset Review)

Subject : Initiation of Sunset Review of anti dumping duty imposed against import of Melamine originating in or exported from China PR.

No.15/29/2008-DGAD – Whereas, the Designated Authority having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as AD Rules) recommended imposition of provisional duty vide notification No.14/16/2003-DGAD dated 27.02.2004 and such provisional duty was imposed by the Government of India vide Notification No.53/2004-Customs dated 02.04.2004. The Authority issued its final findings recommending imposition of definitive anti dumping duty on imports of Melamine (hereinafter referred to as subject goods) originating in or exported from China PR, vide notification Number 14/16/2003-DGAD dated 03.09.2004 and such definitive duty was imposed by the Govt. Of India vide customs notification No.107/2004-Customs dated 16th November, 2004.

2. Request for Review and Initiation

AND WHEREAS in terms of the Act and Rules referred to above the anti dumping duty imposed shall cease to have effect on expiry of five years from the date of such imposition unless the Designated Authority (hereinafter referred to as the Authority) in a review determines that expiry of the duty shall lead to continuation or recurrence of dumping and injury to the domestic industry.

AND WHEREAS in terms of the above provisions, the domestic industry i.e. M/s Gujarat State Fertilizers & Chemical Ltd., Vadodra approached the Designated Authority with an application requesting for such a review. The Authority considers that initiation of Sunset Review proceedings for the anti dumping duty in force would be appropriate to examine whether the expiry of duty is likely to lead to continuation

or recurrence of dumping and injury. The Hon'ble Delhi High Court in W.P. No.16893 of 2006 held that sunset review is mandatory. Therefore, the Authority, hereby, initiate sunset review in accordance with Section 9A(5) of the Act read with Rule 23 of anti dumping Rules.

3. Grounds for review:

The request is for continuation of the antidumping duties is based on the grounds that import of subject goods has increased in absolute terms. Further, the absolute volume of imports is far higher than what is reflected in the Indian custom data. The share of the Chinese imports has increased as compared to total imports in India. Petitioner has stated that even import price have increased, but the increased in import price is far lower than the domestic selling price. Petitioner further argued that increase in prices was a result of increase in the input costs. The injury to the domestic industry is however likely in the event of revocation of duties. The petitioner has thus alleged that dumping and consequent injury to the domestic industry is likely in the event of revocation of anti dumping duties.

4. Product under consideration

The product under consideration in the original investigation was. Melamine , a tasteless, odorless, and non- toxic substance (chemical powder). Melamine is reacted with format dehyde and made into resins or moulding powder for making innumerable products of beauty and utility. Melamine formaldehyde resin used for laminates offer good hardness, resistance to scratch, stain, water and heat. Laminate used in some electrical applications possess high mechanical strength, good heat resistance and good electrical insulating properties.. Melamine is classified under customs sub-heading no. 293361 under Chapter 29 of the Customs Tariff Act, 1975 and ITC (HS) Code 29336100. The classification is however indicative only and in no way binding on the scope of the present investigations.

5. Normal value in the country of export

The applicant has submitted that Chine PR continues as a non market economy country and have been treated so by the Authority in all investigations subject to rebuttal of the presumption by individual exporters. Accordingly, the petitioner has submitted that unless the responding Chinese exporters satisfies the Authority, the Designated Authority is required to determine normal value in accordance with para 7 of Annexure 1 to the Rules . The petitioner has further submitted that they could not obtain the information on price or constructed value in a market economy third country. Accordingly the petitioners has proposed India as a surrogate country for China PR. However, the Govt of exporting country, exporters and producers from the subject country may file separate questionnaire response rebutting the above presumption of non market economy status for determination of normal value in the subject country.

6. Procedure

a) Countries involved: the country involved in the present review is the Peoples Republic of China.

b) Period of investigation: the period of investigation for the purpose of the present investigations is 1st April, 2007 to 30th June, 2008. The injury investigation period would however cover the period 2004-05, 2005-06, 2006-07 and the POI.

c) The investigation will determine whether the expiry of the measure would be likely to lead to a continuation or recurrence of dumping and injury and the quantum of duty required for offsetting dumping and injury.

d) The review will cover all aspects of Notification No.14/16/2003-DGAD dated 03.09.2004.

e) The provisions of Rules 6 7 8 9 10 11 16 17 18 19 and 20 of the Rule supra shall be mutatis mutandis applicable in this review.

f) Submission of information The exporters in the subject country, the governments of the subject country through its embassy in India, the importers and users in India known to be concerned with the product and the domestic industry 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:

Designated Authority
(Directorate General of Anti Dumping and Allied Duties)
Government of India
Ministry of Commerce & Industry
Department of Commerce
Room No.240, Udyog Bhawan
New Delhi-110 011.

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.

g) Time limit – 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 mention above not later than forty days(40 days) from the date of publication of this review notification. If no information is received within the prescribed time limit or the information received is incomplete, the Designated Authority may record its findings on the basis of the facts available on record in accordance with the Rules supra.

h) Submission of information on Non confidential basis – in terms of rule 6(7) of the Rules the interested parties are required to submit non confidential summary or any confidential information provided to the authority and if in the opinion of the party providing such information such information is not susceptible to summarization a statement of reason thereof is required to be provided. In case where an interested party refuses access to or otherwise does not provide necessary information within a reasonable period, or significantly impede the investigation the Authority may record its findings on the basis of facts available to it and make such recommendations to the central government as deemed fit.

i) Inspection of public file: in terms of Rule 6(7) any interested party may inspect the public file containing non confidential version of the evidence submitted by other interested parties.

j) Use of the facts available: 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 facts available to it and make such recommendations to the Central Government as deemed fit.

R. Gopalan
Designated Authority