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**File No7/5/2020-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 7th February, 2020

**Case No. SSR 04/2020
INITIATION NOTIFICATION**

Sub: - Sunset Review of Anti Dumping Duty imposed on imports of Acrylonitrile Butadiene Rubber from Korea RP.

1. M/s Apcotex Industries Limited (hereinafter also referred to as the “Applicant”) has filed an application before the Designated Authority (hereinafter also referred to as the Authority), on behalf of the domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also 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 duty imposed on imports of “Acrylonitrile Butadiene Rubber” (hereinafter also referred as the “subject goods” or “product under consideration” or “PUC” or NBR) from Korea RP (hereinafter also referred to as the “subject country”).
2. The Applicant has 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 has 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 original investigation concerning imports of the subject goods from Korea RP and Germany was initiated by 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) 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 (ADD) was imposed on the subject goods vide Customs Notification No. 62/1997-Customs, dated 30th July 1997.
4. The Authority had initiated a sunset review in the matter of continuation of final anti-dumping duty on acrylonitrile butadiene rubber 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. The definitive antidumping duty was imposed vide notification No. 111/2002-Customs, dated 10th October, 2002.

5. The Authority initiated mid-term review investigations on import 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 goods from Korea RP and Germany vide notification No. 15/5/2004 dated 6th June 2005. The definitive antidumping duty was imposed by Government vide Custom Notification No.78/2005-Customs dated 1st September, 2005.
6. The second sunset review investigation was 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. The definitive antidumping duty was imposed by Government vide Custom Notification No. 01/2009-Customs dated 2nd January 2009.
7. The Authority vide Notification No. 15/29/2013-DGAD Dated the 31st December 2013, initiated the third Sunset Review investigation. The Final Finding Notification was issued by the Authority vide Notification No. 15/29/2013-DGAD dated 30th June 2015, recommending imposition of definitive duty against imports from Korea RP. On the basis of recommendations made by the Authority in the final findings, definitive anti-dumping duty was imposed vide Notification No. 46/2015-Customs (ADD), 4th September 2015. The ADD is valid till 3rd September, 2020.

Product under consideration

8. The product under consideration as in the original investigation is Acrylonitrile Butadiene Rubber (NBR). As per the original investigation carried out by the Designated Authority, the product has been defined as under:

“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 country”

9. Since the present investigation is a sunset review investigation, product under consideration remains the same as defined in the previously conducted investigation.
10. The Applicant has requested for exclusion of Latex NBR, Powder NBR and Carboxylated NBR from the scope of NBR. The product is classified under heading No. 40025900 in Chapter 40 of the First Schedule to the said Customs Tariff Act, 1975 and ITC HS Classification. It is however submitted that the customs classification is indicative only and in no way binding upon the product scope.

Like Article

11. The Applicant has claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods and the product under consideration manufactured by the applicant. The two are technically and commercially substitutable and hence should be treated as ‘like article’ under the Rules. Therefore, the subject goods produced by the Applicant in India are being treated as ‘Like

Article' to the PUC being imported from the subject country.

Domestic industry

12. The application has been filed by M/s Apcotex Industries Limited. The Applicant has claimed to be the sole producer of NBR in India. The Applicant has also claimed that it has neither imported the subject goods from the subject country nor is related to any exporter or producer of subject goods in the subject country or any importer of the PUC in India. 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.

Likelihood of continuation or recurrence of dumping

13. The Applicant has claimed that Normal Value could not be determined on the basis of prevailing prices in Korea RP. The Applicant has adopted the alternative method prescribed under the Rules, that is, export price from Korea to a third country. The Applicant has considered export price from Korea to Vietnam for determination of Normal Value. There are significant exports of the product under consideration from Korea to Vietnam and the information is publicly available.
14. The Applicant has considered FOB export price from Korea to Vietnam, as per Trade Map data as Normal Value. The associated volumes are significant and sufficient to enable determination of Normal Value on this basis.
15. The Authority has computed the export price for the subject country on the basis of the Directorate General of Commercial Intelligence and Statistics (DGCI&S), transaction-wise import data. Price adjustments have been made on account of ocean freight and marine insurance.
16. Dumping margin has been determined for the subject country considering the estimates of Normal Value and export price. The resultant dumping margin is significant and much above de-minimus limit. There is prima facie evidence that Normal Value of the subject goods in the subject country is significantly higher than the net export price, indicating that the subject goods originating in or exported from the subject country are being exported at dumped prices, thus indicating likelihood of continuation of dumping.

Likelihood of continuation or recurrence Injury

17. There is prima facie evidence of dumping and consequent injury to the domestic industry on account of volume effect, that is, increase in volume of dumped imports from subject country and price effect, that is, price suppression, leading to losses, negative return on capital employed (ROCE) and cash losses. Further, the data provided by the Applicant regarding unutilized capacity, capacity expansions, imposition of anti-dumping duty by China PR on subject goods exported from Korea RP also prima facie indicates a likelihood of dumping and injury to domestic industry on cessation of the ADD.

Initiation of Sunset Review Investigation

18. On the basis of the duly substantiated written application by or on behalf of the domestic industry, and having satisfied itself, on the basis of the prima facie evidence submitted by the domestic

industry, about the likelihood of continuation or recurrence of dumping and injury to the domestic industry, in accordance with Section 9 A (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 existing ADD duties are likely to lead to continuation or recurrence of dumping and injury to the Domestic Industry.

Subject Country

19. The subject country in the present investigation is Korea RP.

Period of Investigation (POI)

20. The period of investigation (POI) for the present investigation is 1st April, 2019 to 31st December, 2019 (9 months) and the injury period will cover the period of 1st April, 2016-31st March 2017, 1st April, 2017-31st March 2018, 1st April, 2018-31st March 2019 and the POI.

Procedure

21. The provisions of Rule 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 of the Rules shall be mutatis mutandis applicable in the present investigation.

Submission of Information

22. The known exporters in the subject countries, their Government through their Embassy in India, the importers and users in India known to be concerned with the PUC 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.
23. 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. The information/ submission may be submitted to:

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

24. 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

25. 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 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.

26. 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

27. The parties making any submission (including Appendices/Annexes 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.).
28. 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, along with the hard copies in four (4) sets of each.
29. 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.
30. 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.
31. 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.
32. 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.
33. 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

34. In terms of rule 6(7) of the Rules, any interested party may inspect the public file containing non-confidential version of the evidences submitted by other interested parties.

Non-Cooperation

35. 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.

(Bhupinder S. Bhalla)
Additional Secretary & Designated Authority