

F. No. 14/35/2015 - DGAD
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 4th August 2020

NOTIFICATION

TERMINATION

Subject: Anti-dumping investigation in respect of imports of “Naphthalene in both its forms”- Crude Naphthalene originating in or exported from China PR, European Union, Russia, Iran and Japan and Refined Naphthalene originating in or exported from China PR, European Union and Taiwan.

A. Procedure

1. Having regard to the Customs Tariff Act 1975 as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification and 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”) thereof, M/s Himadri Chemicals & Industries Ltd (hereinafter referred to as the “Applicant”) filed an application before the Director General in accordance with the Act and Rules supra for initiation of Anti-dumping investigation and imposition of anti-dumping duties on imports of Crude and Refined Naphthalene (hereinafter also referred to as the “subject goods” or “product under consideration” or “PUC”). The Countries concerning Crude Naphthalene imports are China PR, European Union, Russia, Iran and Japan, while the Countries concerning Refined Naphthalene imports are China PR, European Union and Taiwan (hereinafter also referred to as the “subject countries”).

2. The Authority on the basis of prima facie evidence submitted by the Applicant, issued a public notice vide Notification No.14/35/2015-DGAD dated 1st June 2016, published in the Gazette of India, Extraordinary, subject anti-dumping investigation in accordance with the Rule 5 of the AD Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

B. Procedure

3. The Authority post-initiation sent copies of the initiation notification to the Embassy of the subject countries in India, known producers/exporters from the subject countries, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification as per Rule 6(2) of the AD Rules.
4. The Authority, granted extension, to file Exporter Questionnaire Response (EQR) by 05.08.2016, which was placed in the public domain through DGTR's website.
5. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject countries in India in accordance with Rule 6(3) of the Rules.
6. The Embassy of the subject countries in India was also requested to advise the exporters/producers from its countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
7. In response to the initiation notification and intimation, exporters/ producers from subject countries and importers/ users responded to the Authority by filing Exporter's Questionnaire Response and filing legal submissions.
8. The Authority made available non-confidential version of the evidences presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
9. The Authority, in accordance with Rule 6(6) of the AD Rules held an oral hearing on 10.04.2017. Subsequently, another oral hearing was held on 02.11.2017 in view of the change of the Designated Authority.
10. Meanwhile, M/s Bodal Chemicals Ltd approached the High Court of Gujarat challenging the initiation notification.
11. The Authority was accorded permission for extension of time for completing the investigation i.e. up to 31.08.2017, which was placed in the public domain through DGTR's website. The Authority was again granted permission to extend the time limit of concluding the investigation by 30.11.2017.
12. In lieu of the 18 months' timeline for completion of investigation and extension for the same up to 30.11.2017, the Authority informed all the concerned interested parties that considering the Hon'ble Gujarat High Court order dated 02.08.2017, the Authority will take further appropriate action as per directions contained in the judgment. The same was placed in the public domain through DGTR's website on 29.11.2017. The Hon'ble High Court Order, *inter alia*, stated as follows:

“At the request of counsel for the petitioners as well as newly added respondent, put up on 10th August 2017. Shri Devang Vyas, learned counsel appearing for the authorities submitted that it has been expressed to him by the authorities concerned that as the time is running, the accommodation which has been granted to the counsels and parties may not ultimately yield any fruitful results for deciding the final findings. The Court is of the view that the anxiety could be taken care of when the matter is taken up and after effective hearing. Suffice it to say at this stage that no precipitative action till the next date of hearing.”

13. The Hon’ble Gujarat High Court vide its Judgment dated 20.02.2020 dismissed the writ petition. The Hon’ble High Court Order, *interalia*, stated as follows:

“33. This Court is of the considered view that for the aforesaid reasons especially when the notification impugned is not in any manner causing any prejudice to the petitioners, as the petitioners has not pleaded any special prejudice, the Court need not interfere therewith. It goes without saying that the detail observations made hereinabove are only for the purpose of examining the challenge to the notification and the same shall have no bearing upon investigation, if any.

34. As a result thereof, petition fails and is hereby dismissed.”

C. Request Received from the Domestic Industry

14. While the Authority was in the process of proceeding further with the conduct of investigations, in accordance with the Rules, the domestic industry made a request to terminate the present investigation under Rule 14(a) of the AD Rule vide its letter dated 10.06.2020 stating that as the domestic industry continues to suffer from dumping from other countries in addition to the subject countries and hence would bring subsequent information on record and add other countries that are not included in the present investigation and further seeking permission to withdraw the petition with liberty to resubmit the same.

D. Examination by the Authority

15. The Authority notes that the Rule 14(a) of the Anti-Dumping Rules read as under:

“Rule 14. Termination of investigation. - The designated authority shall, by issue of a public notice, terminate an investigation immediately if—

(a) it receives a request in writing for doing so from or on behalf of the domestic industry affected, at whose instance the investigation was initiated;”

16. It is noted that Rule 14 provides for termination of investigations in certain situations which includes a situation where the application is withdrawn by the company. Rule 14(a) of Rules provides that the Designated Authority shall, by issue of a public notice, terminate an investigation immediately if it receives a request in writing for doing so from or on behalf of the domestic industry affected, at whose instance the investigation was initiated. In the present investigation M/s Himadri Chemicals & Industries Ltd is the applicant domestic producer, on whose instance the investigation was initiated. The Authority notes that the domestic industry desires to withdraw the petition so as enhance the scope

of application with other countries as well. It is noted that Rule 14(a) of the Anti-Dumping Rules does not grant any discretion to the Authority in the matter of termination of investigation, once the domestic industry files a written request for termination of the investigation.

E. Conclusion

17. In view of the aforesaid request and Rule 14(a) of the Anti-Dumping Rules, the Authority hereby terminates the anti-dumping investigation concerning imports of “Naphthalene in both its forms”- Crude Naphthalene originating in or exported from China PR, European Union, Russia, Iran and Japan and Refined Naphthalene originating in or exported from China PR, European Union and Taiwan initiated on 01.06.2016 vide Notification No.14/35/2015-DGAD.



(Bidyut Behari Swain)

Special Secretary & Designated Authority