

To be published in Part-I Section I of the Gazette of India Extraordinary

**File No.7/41/2020-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 31st December, 2020

INITIATION NOTIFICATION

Case No. (SSR) 22/2020

Subject: Initiation of Sunset Review of Anti-dumping Duty imposed on Imports of Phenol originating in or exported from European Union and Singapore

1. Whereas M/s Deepak Phenolics Ltd. and M/s Hindustan Organics Chemical Ltd (hereinafter referred to as the “Applicants”), have filed an Application before the Designated Authority (hereinafter referred to as the “Authority”), on behalf of the Domestic Industry, in accordance with 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”), for sunset review of Anti-Dumping duty imposed on imports of Phenol (hereinafter also referred to as the “subject goods” or “product under consideration”), originating in or exported from European Union and Singapore (hereinafter referred to as the “subject countries”).
2. The Applicants have alleged likelihood of continuation or recurrence of dumping of subject goods, originating in and exported from the subject countries and consequent injury to the domestic industry and have requested for review and continuation of the anti-dumping duty imposed on the imports of subject goods, originating in or exported from the subject countries.

Background

3. The Authority had initiated the original investigation concerning imports of Phenol originating in or exported from European Union, Korea RP and Singapore vide Notification No. 14/13/2014-DGAD dated 15th October, 2014. The Final Findings Notification was issued by the Authority vide Notification No. 14/13/2014-DGAD dated 12th January, 2016 recommending imposition of definitive Anti-dumping duty on the imports of the subject goods, originating in or exported from European Union, Korea RP and Singapore. Definitive anti-dumping duties were imposed by the Department of Revenue vide Notification No. 6/2016 – Customs (ADD) dated 8th March, 2016.

Production Under Consideration

4. The Product Under Consideration is “Phenol” was defined in the original investigation as follows:
“Phenol is a basic organic chemical normally classified under Chapter 29 of the Customs Tariff Act. The product is marketed in two forms- bulk and packed. Bulk sales are normally in loose form, whereas packed consignments can be of much smaller container loads and generally packed in drums. Phenol is used in Phenol Formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol-A, Alkyl Phenols, Pharmaceuticals, Diphenyl oxide etc. The product is classified under Customs Tariff heading no. 29071110. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.”
5. Since the present investigation being a sunset review investigation, product under consideration remains the same as defined in the previously conducted investigation. Phenol is classified under Chapter 29 of the Customs Tariff Act under subheading 2907.11. However, the customs classification is only indicative and is not binding on the scope of the product under consideration.

Like Article

6. The Applicants have claimed that there is no known difference in the subject goods produced by the Indian industry and exported from subject countries. Subject goods produced by the Applicants and imported from the subject country are comparable in terms of physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers use the two interchangeably. Therefore, subject goods produced by the Applicants are being treated as ‘like article’ to that being imported from the subject country for the purpose of the present review investigation.

Domestic Industry and Standing

7. The Application for initiation of sunset review has been filed by M/s Hindustan Organics Chemicals Ltd. and Deepak Phenolics Ltd. As per available information, the production of the Applicants accounts for a major proportion in the domestic production of the subject goods in the country. The Applicants have claimed that neither they have imported the PUC from the subject countries in the period of investigation nor they are related to any exporter or producer of PUC in the subject countries or any importer of the PUC in India.
8. In view of the above and after due examination, the Authority notes that the Applicants constitute eligible domestic industry in terms of Rule 2 (b), and the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules supra.

Likelihood of Continuation or Recurrence of Dumping

Normal Value

9. The Applicants have claimed normal value by considering the prices prevailing in European Union and Singapore. For this purpose, the Applicants have relied upon weighted average of transaction prices as per Eurostat data for determination of prices in European Union, and ICIS monthly prices for determination of prices in Singapore.
10. Relevant adjustments have been made to the prices to bring them at ex-factory level. There is sufficient evidence of normal value claimed for the subject goods in subject countries to justify initiation of investigations.

Export Price

11. The Applicants have claimed export prices for the subject countries based on Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction wise import data. Price adjustments have been made on account of ocean freight, commission, inland freight expenses, port expenses and marine insurance in European Union and Singapore to arrive at ex-factory export price.

Dumping Margin

12. Considering the normal value and export price determined as above, dumping margin has been determined, in accordance with Section 9 A(1)(a) of the Customs Tariff Act, 1975. It is noted that dumping margin is not only above de minimis level, but also significant. There is prima facie evidence that normal value of the subject goods in the subject countries are significantly higher than the net export prices, indicating that the subject goods originating in or exported from the subject countries are being exported at dumped prices, thus, indicating continued dumping so as to justify initiation of investigation.

Likelihood of Continuation or Recurrence of Injury And Casual Link

13. The Authority notes that there is prima facie evidence of dumping and consequential injury to the domestic industry on account of price effect due to price under cutting and price depression leading to reduced profits, cash profits and Return on Capital Employed during the Period of Investigation as compared to preceding year. It is also noted that the Performance of the domestic industry has deteriorated in terms of decline in capacity utilization, profits, cash profits and return on investments as compared to preceding year. The Applicant has provided information with regard to continued dumped imports, significant dumping margin, existing unutilized capacities, dumping margin in third countries and imposition of Anti-dumping duty by China as factors establishing likelihood of continuation or recurrence of dumping and recurrence of injury to the domestic industry should anti- dumping duty is allowed to lapse. The information provided by the applicant, prima facie, shows continuation of dumping of subject goods from subject countries, and likelihood of injury to domestic industry in case of cessation of the Anti-dumping duty

Initiation of Sunset Review Investigation

14. And therefore, on the basis of the duly substantiated application of the Applicants, and having satisfied itself, on the basis of the prima facie evidence submitted by the domestic industry, substantiating the likelihood of continuation/ recurrence of dumping and injury, and in accordance with Section 9A(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 countries 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.

Subject Countries

15. The subject countries in the present sunset review investigation are European Union and Singapore.

Period of Investigation

16. The period of investigation (POI) for the present investigation is 1st July, 2019 to 30th June, 2020 (12 Months) and the injury investigation period is from 2016-17, 2017-18 and April, 2018-June 2019, and POI.

Procedure

17. The review will cover all aspects of the final findings published vide Notification No. 14/13/2014-DGAD dated 12th January, 2016.
18. 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

19. 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 address adg13-dgtr@gov.in, adv11-dgtr@gov.in, dir13-dgtr@gov.in and dir14-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.
20. The known producer/ exporters in the subject countries, their Government 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.

21. 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.
22. 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.
23. Interested parties are further advised to keep a regular watch on the official website of the Designated Authority <http://www.dgtr.gov.in/> for any updated information with respect to this investigation.

Time Limit

24. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses mentioned above 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 within 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.
25. 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

26. 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.
27. The parties making any submission (including Appendices/Annexures attached thereto), before the Authority including questionnaire response, are required to file Confidential and Non-Confidential versions separately.
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.

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 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 evidence submitted by other interested parties.

Non-cooperation

35. 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.

(B. B. Swain)
Special Secretary & Designated Authority