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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: 25.02.2020

INITIATION NOTIFICATION

(Case No. O.I.02/2020)

Subject: Initiation of Anti-Dumping investigation concerning imports of “Phenol” originating in or exported from Thailand and United States of America.

1. Deepak Phenolics Ltd., Hindustan Organics Chemicals Ltd. and SI Group India Pvt. Ltd. (hereinafter also referred to as the “Applicants”) have filed a joint application before the Designated Authority (hereinafter also referred to as the “Authority”), on behalf of domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the “Act”) and Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the “Rules”) for Anti-dumping investigation on imports of “Phenol” (hereinafter also referred as “subject goods” or “product under consideration” or “PUC”) originating in or exported from Thailand and United States of America (also referred to as “subject countries”).
2. The Applicants have alleged dumping of the subject goods, originating in or exported from the subject countries and consequent injury to the domestic industry, and has requested for imposition of the anti-dumping duties on the import of the subject goods originating in or exported from the subject countries.

Product under consideration

3. The product under consideration in the present investigation is “Phenol”. The product is marketed in two forms i.e. bulk and packed. Bulk sales are normally in loose form, whereas packed sales can be of much smaller container loads and are generally packed in drums. Phenol is used in Phenol Formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol-A, Alkyl Phenols, Pharmaceuticals, Diphenyl Oxide, etc.
4. This product is classified under Customs Tariff heading no. 2907.11. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation.

Like Article

5. The Applicants have claimed that the PUC, which is dumped into India, are like article to the goods produced by the domestic industry and that there are no known differences either in the technical specifications, quality, functions or end-uses of the alleged dumped imports and the domestically produced goods manufactured by the Applicants. The Authority notes that the two are *prima facie* technically and commercially substitutable and, hence, should be treated as 'like article' under the Rules.

Domestic industry

6. The Application has been jointly filed by Deepak Phenolics Ltd., Hindustan Organics Chemicals Ltd. and SI Group India Pvt. Ltd. Applicants account for 100% of Indian production as there is no other producer of the subject goods in India, apart from the Applicants. 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.
7. 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.

Basis for Alleged Dumping

Normal value for Thailand and USA

8. The Applicant has claimed normal value by considering the domestic prices in Thailand and USA. For this purpose, the Applicants have relied upon reports by market research agency, ICIS monthly bulletin for determination of normal value for Thailand and USA. Appropriate adjustments have been made to bring the CFR prices available in ICIS Reports to ex-factory level for appropriate comparison.

Export price

9. The Authority has computed the export price for subject goods for the subject countries based on Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction wise import data as well as their monthly published data. Adjustments have been made for ocean freight, marine insurance, port expenses, commission and inland freight.
10. The normal value and the export price have been compared at ex-factory level, which *prima facie* shows dumping margin, which is above the *de-minimis*, and is significant in respect of the PUC from the subject countries. There is sufficient *prima facie* evidence that the PUC from subject countries is being dumped into the Indian market by the exporters from the subject countries.

Injury and Causal Link

11. Information furnished by the Applicants has been considered for assessment of injury to the domestic industry. The Applicants have furnished evidence regarding the injury resulting from the alleged dumping of dumped imports during the Period of Investigation and price depressing effect on domestic industry. The Applicants have claimed that as a result of dumped imports of subject goods from subject countries, their performance have been adversely impacted in respect of profits, cash profits and return on capital employed. The Applicants have further claimed that they have suffered losses during the Period of Investigation on account of dumped imports of subject goods from subject countries. The Applicants have also claimed that there is a further threat of injury to the domestic industry in view of significant capacities of subject goods in subject countries and depressing effect of import prices on domestic selling prices. There is sufficient *prima facie* evidence of injury being caused to the domestic industry by dumped imports of subject goods from the subject countries.

Retrospective imposition of duties

12. The Applicants have requested for retrospective imposition of the antidumping duty by claiming the following:

- a. There is clear history of dumping of the product in the country. Not only there is history of dumping from USA and Thailand, but also from a number of other countries.
- b. The importers in India are aware of the fact that exporters practice dumping of Phenol into India. The importers are also aware that such a practice would cause injury to the Indian producers.
- c. The exporters have resorted to massive dumping is well established by the fact that the dumping margin has remained significant on monthly basis during the period of investigation.
- d. The performance of domestic industry has steeply declined over the period of investigation.

13. The interested parties may offer their comments this regard as per time limit given in para 22 of this notification.

Initiation of Anti-Dumping Investigation

14. 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 dumping of the subject goods originating in or exported from the subject countries, injury to the domestic industry and causal link between such alleged dumping and injury, and in accordance with Section 9A of the Act read with Rule 5 of the Rules, the Authority, hereby, initiates an investigation to determine the existence, degree and effect of

any alleged dumping in respect of the subject goods originating in or exported from the subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

Subject Countries

15. The subject countries for the present investigation are Thailand and United States of America.

Period of Investigation (POI)

16. The Applicants have proposed period of investigation from 1st June 2019 to 30th November 2019 (6 months). However, for enabling the Authority to make required analysis based on more recent data, the Period of Investigation (hereinafter also referred to as “POI”) in the present investigation is 1st July 2019 to 31st December 2019 (6 months). The injury investigation period will cover the periods 1st April 2016- 30th March 2017, 1st April 2017- 30th March 2018, 1st April 2018- 30th June 2019 and the POI.

Procedure

17. Principles as given in Rule 6 of the Rules will be followed for the present investigation.

Submission of Information

18. The 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.

19. 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.

20. The information/ submission may be submitted to:

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

21. 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

22. 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 sub 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 countries. 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.

23. 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

24. 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.

25. The parties making any submission (including Appendices/Annexures 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.).

26. 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.

27. 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.

28. 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.
29. 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.
30. 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.
31. 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

32. 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

33. 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.

(Bhupinder S. Bhalla)
Additional Secretary & Designated Authority