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**F.No. 7/15/2020-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
Jeevan Tara Building, 5, Parliament Street, New Delhi-110001**

Dated: 20th May, 2020

INITIATION NOTIFICATION

Case No. ADD-SSR-10/2020

Subject: - Initiation of Sunset Review investigation concerning imports of “Carbon Black used in Rubber Applications” originating in or exported from China PR and Russia.

1. M/s Carbon Black Manufacturers Association (CBMA) (hereinafter referred to “Applicant”) has filed an application before the Designated Authority (hereinafter referred to as the “Authority”), on behalf of the domestic producers namely, Phillips Carbon Black Limited; Himadri Speciality Chemicals Limited, Continental Carbon India Limited and Birla Carbon India Private Limited, in accordance with the Customs Tariff Act, 1975 as amended from time to time (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 Carbon Black used in Rubber applications (hereinafter referred to as “product under consideration” or “PUC” or “subject goods”), originating in or exported from China PR and Russia (hereinafter referred to as the “subject countries”). The domestic producers namely, Phillips Carbon Black Limited; Himadri Speciality Chemicals Limited and Continental Carbon India Limited (hereinafter referred to as “Participating Companies”) have provided the prescribed information in the Application.
2. The Applicant has alleged likelihood of continuation or recurrence of dumping of subject goods, originating and exported from the subject countries and consequent injury to the domestic industry and has requested for sunset 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 original investigation concerning imports of the subject goods from Australia, China PR, Iran, Malaysia, Russia and Thailand was initiated by the Authority vide Notification

No.14/21/2008-DGAD dated 26th December, 2008. The provisional anti-dumping duties were recommended vide Notification No.14/21/2008-DGAD dated 25th May, 2009 on subject goods, originating in or exported from Australia, China PR, Russia and Thailand, and the same were imposed vide Notification No. 83/2009-Customs dated 30th July, 2009. Thereafter, definitive anti-dumping duties were recommended vide Notification No.14/21/2008- DGAD dated 24th December, 2009 and the same were imposed vide Notification No.6/2010-Customs dated 28th January, 2010.

4. The Authority initiated a mid-term review (MTR) investigation on subject goods, originating in or exported from Australia, China PR, Russia and Thailand vide Notification No.15/41/2010-DGAD dated 30th August, 2011 and recommended continued imposition of the anti-dumping duties vide Notification No.15/41/2010-DGAD dated 28th February, 2013 which were imposed vide Notification No. 9/2013-Customs (ADD) dated 26th April, 2013.
5. A Sunset Review (SSR) investigation was initiated vide Notification No. 15/8/2014-DGAD dated 15th July, 2014 in respect of the subject goods, originating in or exported from the China PR, Russia and Thailand, and the extension of anti-dumping duties was recommended vide Notification No. 15/8/2014-DGAD dated 1st October, 2015 in respect of the subject goods, originating in or exported from China PR and Russia, and the same were imposed vide Notification No. 54/2015-Customs (ADD) dated 18th November, 2015. The current anti-dumping duties are valid upto 17th November, 2020.

Product Under Consideration

6. The product under consideration in the present SSR application is same as defined in the original investigation, and subsequent sunset review investigation. i.e. 'Carbon Black used in rubber applications'. As per the original investigation & first Sunset review investigation carried out by the Designated Authority earlier, the product has been defined as under:

"5. The product under consideration is 'Carbon Black used in rubber applications'. It is an inorganic chemical used in production/ processing of rubber (including tyres), as reinforcing filler. Carbon Black is also known as acetylene black, channel black, furnace black, lamp black, lampblack, thermal black, and noir de carbone. Carbon black can be divided into two categories – rubber and non-rubber applications Carbon black. Carbon black for rubber applications is the Carbon black that is used in production/ processing of rubber (including tyres), as a reinforcing filler. The present investigation is in respect of Carbon black used in rubber applications. Carbon black used in non-rubber applications, such as inks in copiers and computer printer cartridges, paints, crayons and polishes, is not within the scope of the present investigation.

6. The subject goods fall under Chapter 28 of the Act under subheading no. 28030010. The customs classification is indicative only and is in no way binding on the scope of the present investigation."

7. The present investigation being a sunset review investigation, the product under consideration remains the same as in the previously conducted investigation. The subject goods fall under Chapter 28 of the Customs Tariff under Subheading No.28030010. However, the customs classification is indicative only and is in no way binding on the scope of the present investigation.

Like Article

8. The Applicant has claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the participating companies. 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 participating companies. The two are technically and commercially substitutable and hence should be treated as 'like article' under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the participating companies in India are being treated as 'Like Article' to the subject goods being imported from the subject countries.

Domestic Industry

9. The application has been filed by M/s Carbon Black Manufacturers Association (CBMA) on behalf of domestic producers namely, Phillips Carbon Black Limited; Himadri Speciality Chemicals Limited, Continental Carbon India Limited and Birla Carbon India Private Limited. The participating companies namely, Phillips Carbon Black Limited, Himadri Speciality Chemicals Limited, and Continental Carbon India Limited have provided the prescribed information in the Application.
10. These participating companies have claimed that they have neither imported the subject goods from the subject countries nor are related to any exporter or producer of subject goods in the subject countries or an importer of the product under consideration in India. The production of the participating companies constitutes a major proportion in Indian production, and these participating companies have provided relevant injury information.
11. In view of the above and after due examination, the Authority notes that the participating companies 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

a. Normal Value for China PR

12. The Applicant has claimed that China PR should be treated as a non-market economy and the normal value should be determined in terms of paragraph-7 of Annexure I of the Rules. The Applicant has cited Para 8(2) of Annexure I of the Rules and has stated that the Chinese

producers should be directed to demonstrate that market economy conditions prevail in the industry producing the subject goods in terms Para 8(3) of Annexure I of the Rules. The Applicant has claimed that for China, normal value should be determined in accordance with para 7 and 8 of Annexure I of the Rules. The prices or constructed value of the product under consideration in the appropriate market economy third country or the prices from such third country to other countries, including India, has neither been made available by the Applicant nor is this information available with the Authority from any public source. In view of the same, normal value has been determined on the basis of price paid or payable in India, duly adjusted to include profit, which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits.

b. Normal Value for Russia

13. The Applicant has claimed that information on actual selling price of the product, or cost of production in Russia is not publicly available. Applicant has also stated that export price to third country cannot be adopted in view of significant differences in costs and prices of different types of the product involved. The normal value for Russia has, therefore, been constructed on the basis of best estimates of cost of production in Russia alongwith associated selling, general and administrative expenses, and reasonable profit.

c. Export Price

14. The export price for subject goods for the subject countries has been computed based on the Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction-wise import data. Adjustments have been made for ocean freight, marine insurance, commission, inland freight expenses, port expenses, bank charges, and VAT (for China PR only). There is sufficient prima facie evidence with regard to the net export prices claimed by the Applicant.

d. Dumping margin

15. 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 Act. There is sufficient prima facie evidence that the normal value of the subject goods in the subject countries are higher than the ex-factory export price, indicating, prima facie, that the subject goods are being dumped into the Indian market by the exporters from the subject countries.

Likelihood of continuation or recurrence of Injury

16. The Applicant has claimed that the performance of the domestic industry is already fragile as production, capacity utilization, sales volume, inventories, profit, cash profits and return on investment have deteriorated in the proposed POI. Further, the Applicant has claimed likelihood of injury in the event of cessation of anti-dumping duty, and furnished evidence with regard to significant surplus, and unutilized capacities, export orientation, low capacity utilization of the producers in the subject countries, along with information on price undercutting by imports from subject countries, and further expansions by producers in the

subject countries. The Applicant has claimed that the cessation of anti-dumping duty is likely to lead to continuation or recurrence of injury.

Initiation of Sunset Review

17. On the basis of the duly substantiated application of the Applicant, and having satisfied itself, on the basis of the prima facie evidence 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 subject countries to examine whether the expiry of existing anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

Subject Countries

18. For the purpose of the investigation, the subject countries are China PR and Russia.

Period of investigation

19. The Applicant has provided information for the period 1st April, 2019 to 31st December, 2019 (9 Months) and has proposed period of investigation as 1st April, 2019 to 31st December, 2019. The injury investigation period has been proposed to cover the periods 1st April, 2016- 31st March, 2017; 1st April, 2017- 31st March, 2018; 1st April, 2018- 31st March, 2019, and the POI.

20. Explanation to Rule 22 of the Rules states that:

“For the purposes of these rules, the period of investigation shall, - (i) not be more than six months old as on the date of initiation of investigation. (ii) be for a period of twelve months and for the reasons to be recorded in writing the designated authority may consider a minimum of six months or maximum of eighteen months.”

21. In view of the above provision in the Rules, the period of investigation (POI) adopted by the Authority for the present investigation is 1st April, 2019 to 31st March, 2020 (12 months) and the injury period will cover the periods 1st April, 2016- 31st March, 2017; 1st April, 2017- 31st March, 2018; 1st April, 2018- 31st March, 2019, and the POI.

Procedure

22. The review investigation will cover all aspects of the final findings published vide Notification No. 15/8/2014-DGAD dated 1st October, 2015 recommending extension of anti-dumping duty on imports of subject goods from China PR and Russia. The Authority will also undertake likelihood analysis of dumping and injury.

23. 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

24. In view of the special circumstances arising out of COVID-19 pandemic, all communication should be sent to the Designated Authority via email at the email addresses adg13-dgtr@gov.in and adv13-dgtr@gov.in.
25. The known producers/exporters in the subject countries, their Governments 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.
26. 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.
27. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other interested parties.

Time Limit

28. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses adg13-dgtr@gov.in and adv13-dgtr@gov.in 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 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.
29. 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

30. 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.

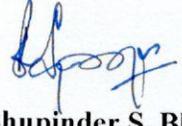
31. The parties making any submission (including Appendices/Annexures attached thereto), before the Authority including questionnaire response, are required to file Confidential and Non-Confidential versions separately.
32. The “confidential” or “non-confidential” submissions must be clearly marked as “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.
33. 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.
34. 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.
35. 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.
36. 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.
37. 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

38. 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. The modality of maintaining public file in electronic mode is being worked out.

Non-cooperation

39. 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.



20/05/20

(Bhupinder S. Bhalla)

Additional Secretary & Designated Authority