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Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
Udyog Bhawan, New Delhi

8th December 2011

No. 15/16/2011-DGAD

Initiation Notification
(Mid-term Review)

Subject: Initiation of Mid Term Review of Anti Dumping Duty imposed in respect of imports of Phenol originating in or exported from European Union, South Africa and Singapore

Whereas having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as AD Rules), the Designated Authority (herein after referred to as the Authority) vide Notification 14/4/2002-DGAD issued preliminary findings on 24th June 2002 and provisional anti dumping duty was imposed vide Customs Notification no 79/2002 dated 13th August 2002. The Authority issued final findings on 15th February, 2003 and definitive anti dumping duties were imposed by the Customs Notification vide Notification No. 47/2003-Customs dated 24th March, 2003. A midterm review of anti dumping duty imposed was initiated on 14th July 2006 and the final findings were issued on 13th July 2007 vide notification 15/4/2006-DGAD which was amended on 25th July 2007. The definitive anti dumping duty was imposed on 31st August 2007 vide customs notification no 98/2007-Customs. The final findings of the sunset review of the anti dumping were issued on 4th August, 2008 vide notification no 15/09/2007 and definitive anti dumping duty was imposed on 31st October 2008 vide Customs Notification no 114/2008.

Product under Consideration

2. The Product under consideration, as in the original investigation, subsequent sunset review and also in the present review application is Phenol. As per the original investigation carried out by the Designated Authority the product has been defined as under.

“The product under consideration is Phenol originating in or exported from Singapore, South Africa and European Union. 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. This product is classified under Customs Tariff heading no. 2907.11 and 2707.60 as per Indian Trade Classification. The Customs and ITC HS classifications are, however, indicative only and in no way binding on the scope of the present investigation.”

3. The product under consideration in the proposed midterm review is same as what has been defined during the original investigation and in the sunset review investigation.

Initiation

4. The Customs Tariff (Amendment) Act 1995 and the AD Rules made there under require the Authority to review from time to time the need for continuance of anti-dumping duty. An application on the above subject has been filed by Merino Panel Products Ltd (“The Applicant/Petitioner”), who is an importer of subject goods from subject countries. The applicant has filed an application under Section 9 A of the Customs Tariff Act as amended and Rule 23 of Anti dumping rules substantiating the need for Mid-Term Review of the anti-dumping duty earlier imposed on the subject goods originating in or exported from subject countries and have requested for initiation of changed circumstances review for revocation of anti dumping duty. The Designated Authority considers that the Mid Term Review of the anti dumping duty recommended earlier would be appropriate at this stage under the provisions of Section 9A(5) of the Customs Tariff (Amendment) Act, 1995 as amended read with Rule 23 of Anti Dumping Rules.

Countries Involved

5. The countries involved in the present investigation are European Union, South Africa and Singapore.

Grounds for Review

6. The applicant has, inter-alia, listed following grounds for undertaking the midterm review

- (a) The export price has significantly increased during the last 5 years.
- (b) The imports of subject goods into India from the subject countries are not at dumped prices and the dumping margin claimed is negative.
- (c) The domestic industry has witnessed significant improvements in performance especially in recent years and is not suffering injury.
- (d) The prices of major Raw Materials (Benzene and Propylene) have significantly increased in 2010-11 as compared to 2006-07, the period of investigation of the SSR investigation. This has resulted in the increase in the normal value.

Procedure

7. Having decided to review the final findings notified vide Notification no 15/09/2007 dated 4th August 2007 and consequent anti dumping duty imposed vide Customs Notification No. 114/2008 -Customs, dated 31st October 2008, the Authority hereby initiates investigations to review the need for continued imposition of anti dumping duty, and whether the anti dumping duty is required to be modified or revoked in accordance with the Customs Tariff (Amendment) Act, 1995 and AD Rules. The review covers all aspects of Notification dated 4th August, 2007.

Period of Investigation

8. The period of investigation for the purpose of the present review is from April 10-June 11. However, injury analysis shall cover the years Apr'07-Mar'08, Apr'08-Mar'09, Apr'09-Mar'10 and Apr'10-Jun' 11.

Submission of Information

9. The exporters in subject countries, their government through their Embassies//representatives, the importers and users in India known to be concerned and the domestic industry are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the:

The Designated Authority,
Ministry of Commerce & Industry,
Department of Commerce,
Directorate General of Anti-Dumping & Allied Duties, (DGAD),
Room No. 240, Udyog Bhavan,
New Delhi-110011

10. 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.

Submission of information on confidential basis.

11. In case confidentiality is claimed on any part of the questionnaire's response/submissions, the same must be submitted in two separate sets (a) marked as Confidential (with title, index, number of pages, etc.) and (b) other set marked as Non-Confidential (with title, index, number of pages, etc.). All the information supplied must be clearly marked as either "confidential" or "non-confidential" at the top of each page. Information supplied without any mark shall be treated as non-confidential and the Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Two (2) copies each of the confidential version and the non-confidential version must be submitted.

12. For information claimed as confidential; 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 and/or why summarization of such information is not possible.

13. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out / 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, party submitting the confidential information may indicate that such information is not susceptible of summary; a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

14. 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 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.

15. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim may not be taken on record by the Authority. 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.

Time Limit

16. Any information relating to the present review and any request for hearing should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 Days) from the date of publication of this review notification. If no information is received within the prescribed time limit or the information received is

incomplete, the Designated Authority may record its findings on the basis of the facts available on record in accordance with the AD Rules.

Inspection of Public File

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

Inspection of public file:

18. In terms of rule 6(7) any interested party may inspect the public file containing non-confidential versions of the evidence submitted by other interested parties.

Non-cooperation

19. 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 record its findings on the basis of the facts available to it and make such recommendations to the Central Governments as deemed fit.

(Vijaylaxmi Joshi)
Designated Authority