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No No.15/21/2013-DGAD

Government of India

Department of Commerce

Ministry of Commerce & Industry

(Directorate General of Anti-Dumping & Allied Duties)

Udyog Bhavan, New Delhi-110011

Dated the 28<sup>th</sup> October, 2013

### **INITIATION NOTIFICATION**

**Subject: Sunset review of Anti Dumping Duty imposed in respect of imports of Phenol originating in or exported from South Africa.**

Whereas having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the 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 (herein after referred to as the AD Rules), the definitive anti-dumping duty was originally recommended vide notification No. 14/4/2002- DGAD dated 15th February, 2003 on import of Phenol (hereinafter referred to as the subject goods) originating in or exported from South Africa and whereas the Central Government issued its Notification 47/2003 - Customs, dated 24<sup>th</sup> March, 2003.

2. Whereas, the Designated Authority, in the meantime, concluded midterm review investigation against imports of subject goods from European Union, South Africa and Singapore and has vide Notification dated 6<sup>th</sup> February, 2013 recommended withdrawal of anti dumping duty from subject goods originating in or exported from European Union and Singapore.

3. And whereas, M/s Hindustan Organic Chemicals Limited (HOCL) and SI Group India Ltd ( also referred to as petitioners or applicants) have jointly filed an application in accordance with the Act and the AD Rules before the Designated Authority (Authority) alleging likelihood of continuation of dumping of the subject goods, originating in or exported from the subject countrys and consequent injury to the domestic industry and have requested for review, continuation and enhancement of the anti-dumping duties, imposed on the imports of the subject goods, originating in or exported from the subject country.

#### **Domestic industry**

4. The petition has been jointly filed by M/s Hindustan Organic Chemicals Limited and SI Group India Ltd. It is noted that the Petitioners are the only producers of product concern in India. Petition therefore, satisfies the standing and petitioners constitute Domestic Industry within the meaning of the Rules.

### **Product under consideration and Like Article**

5. The Product under consideration, as in the original investigation, subsequent sunset review and mid term review as also in the present sunset 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.”*

6. This being a Sunset review, therefore, the investigation covers the product covered in the original investigation

7. The petitioners have claimed that the product produced by them is a like article to the product imported from the subject country in terms of physical and technical characteristics, manufacturing process and technology, functions & uses, product specifications, pricing, distribution & marketing, and tariff classification of the goods. The two are technically and commercially substitutable, and consumers use the two interchangeably. Subject goods produced by the petitioners are being treated as ‘like article’ to the goods being imported from the subject country for the purpose of the present review investigation.

### **Subject Country**

8. The present application has been filed in respect of alleged continued dumping of the product under consideration from South Africa (hereinafter also referred to as subject country).

### **Normal value**

9. The Petitioners have submitted that they were able to get the information/evidence of price of subject goods in the domestic market of the subject country and accordingly determined

the normal value. The Authority, after examination, has considered the normal value of subject goods in subject country as made available by the applicants.

### **Export Price**

10. Petitioners have determined export price by procuring data from DGCI&S to assess the volume and value of imports in India. These prices are FOB export prices. Price adjustments have been made on account of commission, port expenses, inland freight, and bank charges.

### **Dumping Margin**

11. Petitioners have provided sufficient evidence that the normal values of the subject goods in the subject countries are significantly higher than the net export prices, prima-facie, indicating that the subject goods originating in or exported from the subject country continue to be dumped, to justify initiation of a review investigation.

### **Injury and Causal Link**

12. The petitioners have claimed that domestic industry continues to suffer material injury by way of adverse price effects as evidenced by price undercutting and price suppression leading to deterioration in profits to negative levels, decline in return on capital employed and cash profits, etc. The petitioners have claimed that the continued material injury has been caused due to the dumped imports from the subject country. The Authority considers that there is sufficient prima facie evidence of continued injury caused to the domestic industry by continued dumped imports from subject country to justify initiation of a review investigation.

### **Initiation of Sunset Review of Anti Dumping Duty**

13. In view of the above information and the duly substantiated application filed, and in accordance with Section 9 A (5) of the Act read with Rule 23 of the Anti-dumping Rules, the Authority hereby initiates a Sunset Review investigation to examine whether expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

### **Period of Investigation:**

14. The Period of Investigation (POI) for the purpose of the present review is 1<sup>st</sup> April 2012 to 31<sup>st</sup> March 2013 (12 months). However, injury analysis shall cover the years 2009-10, 2010-11, 2011-12 & POI. The data beyond POI may also be examined to determine the likelihood of dumping and injury.

## **Procedure**

15. The investigation will determine whether continued imposition of the duty is necessary to offset dumping, whether the injury is likely to continue or recur if the duty were removed or varied, or both.

- a) The review covers all aspects of Notification No. 14/4/2002- DGAD dated 15th February, 2003 (final findings of the original investigation) and subsequent review notifications in so far as they pertain to South Africa.
- b) The country involved in this investigation is South Africa..
- c) Provisions of Rules 6,7,8,9,10,11,16,17,18,19 and 20 of the Anti-Dumping Rules supra shall be mutatis mutandis applied in this review.

## **Submission of Information**

16. The known exporters in the subject countries, the government of the subject country through its embassy in India, the importers and users in India known to be concerned with the product are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Authority at the following address:

Government of India  
Ministry of Commerce and Industry  
Directorate General of Anti-Dumping and Allied Duties  
Department of Commerce  
Room No.243, Udyog Bhawan,  
New Delhi-110107.

17. 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.

## **Time Limit:**

18. Any information relating to the present review 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 Notification. 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 AD Rules.

19. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire's responses and offer their comments to the domestic industry's application regarding the need to continue or otherwise the AD measures within 40 days from the date of initiation of this review investigation.

**Submission of information on confidential basis.**

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

**Inspection of public file**

26. 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**

27. 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.

(J.S Deepak)

Designated Authority