

No.14/36/2016-DGAD

Government of India

Department of Commerce

Ministry of Commerce & Industry

(Directorate General of Anti-Dumping & Allied Duties)

4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi -110001

Dated: 05/10/2016

Initiation Notification

Subject: Initiation of Anti-dumping investigation concerning imports of ‘Toluene Di-Isocyanate- (TDI)’ originating in or exported from China PR, Japan and Korea RP.

No.14/36/2016-DGAD: M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited (hereinafter referred to as “petitioner” or “the applicant”) have filed an application before the Designated Authority(hereinafter also referred to as the Authority) 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 Anti-Dumping 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 initiation of anti-dumping investigation and imposition of anti-dumping duty concerning imports of Toluene Di- Iso cyanate- TDI (hereinafter also referred to as the subject goods or product under consideration), originating in or exported from China PR, Japan and Korea RP (hereinafter also referred to as the subject countries).

Domestic Industry & Standing

2. The Application has been filed by M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited as the domestic industry.

3. The applicant company has claimed that they are the sole producer of subject good in India. Thus, as per the evidence available on record, the production of the applicant company constitutes “a major proportion” of the domestic production; in fact 100% share of domestic

production. The Authority, therefore, determines that the applicant company constitutes eligible domestic industry within the meaning of Rule 2 (b) of the Anti- Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the anti- dumping Rules.

Product under consideration

4. The product under consideration (PUC) in the present investigation is Toluene Di-Isocyanate- TDI originating in or exported from China PR, Japan and Korea RP.

5. Toluene di-isocyanate (TDI) is an organic compound with the formula $\text{CH}_3\text{C}_6\text{H}_3(\text{NCO})_2$. Two of the six possible isomers are commercially important: 2,4-TDI (CAS: 584-84-9) and 2,6-TDI (CAS: 91-08-7). 2,4-TDI is produced in the pure state, but TDI is often marketed as 80/20 and 65/35 mixtures of the 2,4 and 2,6 isomers respectively. The PUC in the present investigation concerns TDI having isomer content in the ratio of (80:20) and any other grades are beyond the scope of product under consideration.

6. TDI is a clear liquid and is used for production of Flexible Polyurethane Foam, Furniture cushion, Industrial Gaskets, Protective pads for Sports & Medical use, Automobiles: Seats, Furniture, Lining, Sun visors etc, Packing: Electronic items, Frozen Foods, Medicines, Audio-video Computer CD's etc.

7. TDI being an organic chemical is categorised under Chapter 29 of the Customs Tariff Act, 1975 and further under subheading 29291020 which pertains to Toluene di-isocyanate. However, as submitted by the applicant, this heading includes certain grades other than isomers (80:20) hence the classification is indicative only. It has also been claimed by the applicant that the imports of the subject goods have been reported under some other subheadings also such as 29094300, 29291090, 29291010, 38249090 and 39095000. The Customs classification is, however, indicative only and in no way binding on the scope of the proposed investigation and any measures to be recommended to be imposed.

Like Article

8. The applicant has claimed that there is no known difference between the subject goods exported from subject countries and that produced by the domestic industry. As submitted by the applicant, the product under consideration produced by the domestic

industry and imported from subject countries are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable.

9. The applicant has further claimed that 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 Authority treats the subject goods produced by the applicant in India as 'Like Article' to the product under consideration being imported from the subject countries.

Countries involved

10. The present investigation is in respect of dumping of the product under consideration from China PR, Japan and Korea RP.

Normal Value

11. The Applicant has claimed that China PR should be treated as a non-market economy country and its normal value be determined in accordance with Para 7 and 8 of Annexure I of the Rules. The applicant has claimed normal value for China PR on the basis of cost of production in India, duly adjusted. In terms of Para 8 in Annexure 1 to the Rules it is presumed that the producers of the subject goods in China PR are operating under non market economy conditions. In view of the above non-market economy presumption and subject to rebuttal of the same by the responding exporters from China PR, normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules with due adjustments for selling, general and administrative expenses and reasonable profit.

Further, the applicant has also constructed the normal values in respect of Japan and Korea RP on the grounds that they were neither able to get any documentary evidence nor reliable information with regard to domestic prices of the subject goods in the said countries. Further, such information is also not available in public domain. The Authority has prima-facie considered the normal value of subject goods in these countries also on the basis of constructed values as made available by the applicant for the purpose of this initiation. The

petitioner has claimed normal value on the basis of raw material price, consumption factor, conversion cost of domestic industry and profit.

Export Price

12. The applicant has determined the export price on the basis of import data procured from IBIS since the DGCI&S summary data is not reliable for the PUC. Price adjustments have been claimed on account of Ocean freight, Marine insurance, inland freight, D/O Charges, Handling & clearing charges.

Dumping Margin

13. The normal value and the export price have been compared at ex-factory level, which show significant dumping margin in respect of all the subject countries. There is sufficient prima facie evidence that the normal value of the subject goods in the subject countries is significantly 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.

Injury and Causal Link

14. Information furnished by the applicant has been considered for assessment of injury to the domestic industry. The applicant has furnished evidence regarding the injury having taken place as a result of the alleged dumping in the form of increased volume of dumped imports in absolute terms and in relation to production and consumption, price suppression, price underselling, significant financial losses, negative ROCE, negative growth in various parameters etc. There is sufficient prima facie evidence of the 'material injury' suffered by the domestic industry caused by dumped imports from subject countries to justify initiation of an antidumping investigation.

15. From the foregoing, the Authority prima facie finds sufficient evidence of dumping of the subject goods originating in or exported from the subject countries, injury to the domestic industry and causal link between the alleged dumping and injury exist to justify initiation of an anti-dumping investigation in terms of Para 5 of the Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied, would be adequate to remove the 'injury' to the domestic industry.

Initiation of anti-dumping investigation

16. The Designated Authority, in view of the foregoing paragraphs, initiates antidumping investigations into the existence, degree and effect of alleged dumping of the subject goods originating in or exported from the subject countries.

Period of Investigation (POI)

17. The period of investigation for the purpose of present investigation is from 1st April 2015 to 31st March 2016 (12 months). The injury investigation period will however, cover the periods 2012-13, 2013-14, 2014-15 and the POI.

Submission of information

18. The known exporters in the subject countries, the Government of the subject countries through their 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:

The Designated Authority
Directorate General of Anti-Dumping & Allied Duties
Department of Commerce,
Jeevan Tara Building, 4th Floor
5, Parliament Street
New Delhi -110001

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.

Time limit

20. Any information relating to the present investigation 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 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 Anti-dumping Rules.

21. 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 and offer their comments to the domestic industry's application regarding the need to continue or otherwise the Antidumping measures within 40 days from the date of initiation of this investigation.

Submission of Information on Non-Confidential basis

22. 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.

23. Information supplied without any confidential marking 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 of the confidential version and five (05) copies of the non- confidential version must be submitted by all the interested parties.

24. 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.

25. 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, parties submitting the confidential information may indicate that such information is not susceptible to summarization; a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.

26. 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.

27. 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

28. 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

29. 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 declare such interested party as non-cooperative and record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

(A.K Bhalla)

Additional Secretary & Designated Authority