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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

Dated the 14th
January 2009

INITIATION NOTIFICATION

Subject: Initiation of Countervailing Duty investigation concerning imports of Sodium Nitrite originating in or exported from People's Republic of China

No. 17/1/2008-DGAD: M/s. Deepak Nitrite Limited has filed an application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act 1975,(as amended from to time and hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 (as amended from to time and hereinafter referred to as the CVD Rules) alleging subsidization of Sodium Nitrite (hereinafter referred to as the subject goods) originating in or exported from People's Republic of China (hereinafter referred to as the subject country/China PR) and requested for initiation of countervailing duty investigation for levy of countervailing duties on the subject goods.

2. And whereas, the Authority finds that sufficient evidence of existence of subsidies in relation to subject goods originating in or exported from China PR, injury to the domestic industry and causal link between the subsidies and injury exist to justify initiation of a countervailing duty investigation, the Authority hereby initiates an investigation into the alleged subsidisation and consequent injury to the domestic industry in terms of the Rules 6 of the said Rules, to determine the existence, degree and effect of alleged subsidies and to recommend the amount of countervailing duty, which, if levied, would be adequate to remove the injury to the domestic industry.

3. Domestic Industry

The Application has been filed by M/s Deepak Nitrite Limited on behalf of the domestic industry. The applicant has provided injury information. As per the evidence available on record, production of the petitioner, being more than 50% of Indian production, accounts for a major proportion of the total domestic production. The

petition thus satisfies the requirements of Rule 2(b) and Rule 6(3) of the Rules. M/s. Deepak Nitrite Limited is being treated as “domestic industry” within the meaning of Rule 2(b) supra.

4. Product under consideration

The product involved in the present investigation is Sodium Nitrite. Sodium Nitrite is an oxidizing as well as a reducing agent also. It is a white crystalline powder mostly used in pharmaceuticals industries, dye industries, lubricants, construction chemicals, rubber blowing agent, heat transfer salts, meat processing, textiles, etc. Major raw material for production of Sodium Nitrite is ammonia, which is converted into nitrous oxide at high temperature in presence of catalyst. The nitrous oxide is then absorbed in caustic soda to get Sodium Nitrite. Sodium Nitrite is primarily used in dyes industries for producing various types of intermediates, pharmaceuticals industry for production of analgin, theophylline, caffeine etc.

Sodium Nitrite is classified under custom sub-heading 2834.00 of Schedule 1 of the Act, and within 28341010 of the ITC. The classification is, however, indicative and in no way binding on the scope of the present investigations.

5. Like Articles

The petitioner has claimed that the goods produced by the domestic industry are like articles to the goods originating in or exported from China PR. It has been stated that there is no significant difference in the subject goods produced by the petitioner and those exported from China PR. Petitioner claims that the two are technically and commercially substitutable. For the purpose of present investigation, the subject goods produced by the domestic industry are being treated as like articles of the subject goods imported from China PR.

6. Countries involved

The country involved in the present investigation is People’s Republic of China (also referred to as China PR).

7. Period of investigation

The period of investigation for the purpose of present investigation is **1st April, 2007 to 31st March, 2008**. However, the injury investigation period will cover the periods April 2004-March 2005, April 2005-March 2006, April 2006-March 2007, and the Period of Investigation (POI).

8. Subsidies

The petitioner has alleged that producers of Sodium Nitrite have benefited from countervailable subsidies maintained by China PR and provided evidence showing existence of certain schemes/program claiming that the same constitute countervailable subsidies to justify initiation of an investigation. The following schemes/ program alleged in the petition to have provided countervailable subsidies to the producers/exporters of Sodium Nitrite in China PR are included in the scope of investigation:

(I) By direct transfer of funds such as grants/loans and equity infusion

A. Grant Programs:

1. State Key Technology Renovation Project Fund
2. Grants to Loss-Making State-Owned Enterprises by the Government of China PR at the National Level/Provincial Level

B. Preferential Lending:

1. Government Policy Lending Program
2. Loans and Interest Subsidies Related to the Northeast Revitalization Program.
3. Loans Pursuant to the Liaoning Province's Five-Year Framework

(III) Revenue foregone or not collected which was otherwise due e.g. fiscal incentives such as tax credits

C. Income Tax Programs Conferred by the Central Government:

1. Preferential Tax Policies for Foreign Invested Enterprises - Two Free, Three Half Program
2. Income Tax Exemption for Export-Oriented FIEs
3. Reduced Income Tax Rates for FIEs Based on Location
4. Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-Oriented Enterprises

5. Reduced Income Tax Rate for New or High Technology Enterprises
6. Preferential Tax Policies for Research and Development at FIEs
7. Income Tax Credits on Purchases of Domestically Produced Equipment - Applicable to Domestically Owned Companies
8. Income Tax Credits on Purchases of Domestically Produced Equipment - Applicable to FIEs

D. Income Tax Programs Adopted by Provincial Governments

E Indirect Tax Programs and Import Tariff Programs Conferred by the Central Government

1. VAT Exemption on Exports
2. VAT Rebate for FIE Purchases of Domestically Produced Equipment
3. VAT and Tariff Exemptions on Imported Technology and Equipment for Encouraged Industries

(IV) Provision of goods or services other than general infrastructure

1. Provision of Electricity, Natural Gas, Water and Utilities for Less Than Adequate Remuneration
2. Provision of Land for Less Than Adequate Remuneration

The Pre-initiation consultations were held with the representatives of the Government of China PR on 19th November 2008 in New Delhi. During the consultations, the Govt. of China claimed that a number of schemes/program did not exist or were revoked/modified during the POI. However, the Govt. of China has not established that there was no countervailable subsidy beyond *de-minimis* limits during the POI.

The claims of the Govt. of China have been taken on record and would be further examined during the course of the investigation. There is sufficient evidence with regard to existence of countervailable subsidies to justify initiation of countervailing duty investigation in terms of the Rules.

9. Export Price

The petitioner has claimed export price based on the transaction-wise data provided by IBIS. There is sufficient evidence with regard to export price to justify initiation of countervailing duty investigation in terms of the Rules.

10. Subsidy margin

The petitioner has estimated margin of subsidy in various schemes and has claimed that the Chinese producers have benefited from alleged schemes beyond *de- minimis* limits.

11. Dumping of the goods from China PR

In view of dumping of the subject goods earlier established, the subject goods attract anti dumping duty in case of imports from China PR. Based on a petition separately filed by the domestic industry requesting review of existing anti dumping duty, the Authority has separately initiated a mid-term review investigation vide notification no 15/24/2008-DGAD dated 17th November 2008.

12. Injury and Causal Link

The petitioner has furnished information on various parameters relating to 'injury' to the domestic industry as prescribed under Annexure-I of the Rules. Petitioner has claimed that the domestic industry has suffered continued injury inspite of existing anti dumping duties. The evaluation of the information shows that the volume of imports is significant in absolute terms and in relation to production & consumption in India. Imports are undercutting the prices of the domestic industry. On the basis of the information provided, it is seen that the performance of the domestic industry deteriorated in terms of profits, return on investments, cash profit and inventories on account of alleged subsidization and dumping of subject goods from China PR.

There is sufficient evidence that the 'injury' to the domestic industry has also been caused by subsidized imports from China PR to justify initiation of a countervailing duty investigation in terms of the Rules.

13. Procedure & Submission of information

During the course of the investigation, the Authority will determine whether the product concerned originating in the subject country is being subsidised & countervailable and whether this subsidisation has caused injury to the Indian domestic industry.

In terms of Article 13.2 of the Agreement on Subsidies and Countervailing Measures, throughout the period of investigation, Government of China PR shall be afforded a reasonable opportunity to continue consultations, with a view to clarifying the factual situation and to arriving at a mutually agreed solution.

The exporters in China PR, Government of China PR, importers and users in India known to be concerned and the domestic industry are being informed separately to enable them to file all information relevant in the form and manner prescribed. Any other party interested to participate in the present investigation may write to:

The Designated Authority,
Directorate General of Anti-Dumping & Allied Duties,
Department of Commerce,
Ministry of Commerce & Industry,
Room No.240, Udyog Bhawan,
New Delhi-110107.

As per Rule 7(5) of the Rules supra, the Designated Authority is also providing opportunity to the industrial users of the article under investigation, and to representative consumer organizations who can furnish information which is relevant to the investigation regarding subsidy, injury and causal link. Any other interested party may also make its submissions relevant to the investigation within the time limit set out below.

14. Time limit

Any information relating to this investigation should be sent in writing so as to reach the Authority at the above address not later than 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 their findings on the basis of the facts available on record in accordance with the Rules supra.

15. Submission of Information on Non-Confidential basis

In terms of Rule 8 of the CVD rules, the interested parties are required to submit non-confidential version of any confidential information provided to the Authority. The non-confidential version or non-confidential summary of the confidential information

should be in sufficient detail to provide a meaningful understanding of the information to the other interested parties. If in the opinion of the party providing such information, such information is not susceptible to summary; a statement of reason thereof is required to be provided.

16. Non cooperation

In terms of Rule 7(8), 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.

17. Inspection of Public File

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

(R. Gopalan)
The Designated Authority