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**F. No. 7/26/2021-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce,
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi- 110001**

Dated: 27th August, 2021

INITIATION NOTIFICATION

Case No: AD (SSR) - 20/2021

Subject: - Initiation of sunset Review investigation concerning imports of “Toluene Di-isocyanate” (TDI), originating in or exported from China PR, Japan and Korea RP.

1. M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited (hereinafter referred to as the “applicant”) has filed an application before Designated Authority (hereinafter 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 the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 thereof, as amended from time to time (hereinafter also referred to as the Rules or AD Rules), for sunset review investigation of anti-dumping duty on imports of “Toluene Di-isocyanate” (hereinafter referred to as the “subject goods” or “product under consideration”) originating in or exported from China PR, Japan and Korea RP.
2. The applicant has alleged that dumping of the subject goods from subject countries has continued even after the imposition of anti-dumping duty. The applicant has also claimed that there has been significant increase in the volume of imports despite imposition of the duty and the performance of the domestic industry has been adversely affected because of it. The applicant has further claimed that there is a likelihood of continuation of dumping injury to the domestic industry if the existing duty is allowed to expire.

Background of previous anti-dumping duty investigation

3. The original anti-dumping investigation concerning imports of the subject goods from the subject countries was initiated by the Authority vide notification No.14/36/2016-DGAD on 5th October, 2016. The Authority recommended provisional anti-dumping duty vide preliminary findings dated 28th March, 2017 and the Ministry of Finance imposed provisional duty vide Notification No. 25/2017 – Customs (ADD) dated 5th June, 2017. Thereafter, vide final finding was issued vide notification No. 14/36/2016-DGAD dated 13th December, 2017 confirming imposition of definitive anti-dumping duties on imports of the subject goods from the subject countries, which were implemented vide Notification No. 3/2018 – Customs (ADD) dated 23rd

January, 2018. The said duties were levied for a period of 5 years and are set to expire on 4th June 2022.

Subject Countries

4. The subject countries involved in the present sunset review investigation in China PR, Japan and Korea RP.

Product under Consideration

5. The scope of product under consideration in the present investigation is same as defined in the original investigation which is as follows:-

“Toluene di-isocyanate (TDI) is an organic compound with the formula CH₃C₆H₃(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. The product is classified under Chapter 29 in heading 2929. The customs classification is only indicative and is not binding on the scope of the present application and the proposed review investigation.

Like Article

7. The applicant has claimed that the product under consideration has been investigated in the past and there are no known differences in the subject goods produced by domestic industry and that exported from the subject countries. It has been stated that there is no significant difference in the subject goods produced by the applicant and those exported from the subject countries. The applicant claims that the two are technically and commercially substitutable. For the purpose of the proposed investigation, the subject goods produced by the applicant are being treated by the Authority as ‘like article’ to the subject goods being originating in or exported from the subject countries.

Domestic Industry & Standing

8. The application has been filed by M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited. The applicant has claimed that it is the sole producer of subject goods in India. The applicant has submitted that it has neither imported the subject goods from the subject countries nor is it related to any exporter or producer of the subject goods in the subject countries or to an importer of the subject goods in India.
9. In view of the above and after due examination, the Authority notes that the applicant constitutes eligible domestic industry in terms of the provisions contained in Rule 2(b) and the application satisfies criteria in terms of Rule 5(3) of the Rules supra.

Normal Value

10. Applicant has cited and relied upon Article 15(a)(i) of China's Accession Protocol and claimed that producers in China PR must be asked to demonstrate that market economy conditions prevail in their industry producing the like product with regard to the production and sale of the product under consideration. It has been stated that in case the responding Chinese producers are not able to demonstrate that their costs and price information are market-driven, the normal value should be calculated in terms of provisions of Para 7 and 8 Annexure- I. The applicant has claimed normal value for China PR on the basis of the export price calculated for Taiwan to Vietnam. For Japan and Korea RP, the applicant has claimed the normal value based on estimates of raw material prevalent in these countries with other conversion costs of the domestic industry, duly adjusting selling, general and administrative expenses and adding reasonable profits.
11. The Authority has, however, keeping in view the facts of the case and its broad and consistent approach has constructed the normal value based on the cost of production of the domestic industry with reasonable profit for the purposes of the present initiation.

Export Price

12. Authority has procured the Directorate General of Commercial Intelligence and Statistics (DGCI&S) data and relied upon it to compute the export price for subject goods for the subject countries. Price adjustments have been made on account of Ocean freight, marine insurance, commission, bank charges, port charges and inland freight expenses. The applicant has submitted that CIF price of imports in 2020-21 have increased because significant amount of freight is included in the prices. The applicant has, therefore, claimed a higher adjustment in freight considering prevailing situation globally.
13. The Authority, however, notes that there is no evidence provided for claiming a higher adjustment in freight and has therefore, also correlated the f.o.b. export price from subject countries to India based on TradeMap data for adopting the same for determination of prima facie Dumping Margin.

Dumping Margin

14. The normal value and the export price have been compared at ex-factory level, which prima facie shows dumping margin is above the de-minimis level in respect of the PUC from subject countries. There is sufficient prima facie evidence that the PUC from subject countries is being dumped into the Indian market by the exporters from China and Japan.

Likelihood of continuation or recurrence of Injury

15. There is prima facie evidence that product under consideration has been exported from subject countries at dumped prices, and consequential injury to the domestic industry on account of significant imports, price undercutting, decline in production, capacity utilization, sales and

market share and price effect leading to reduction in profits, cash profits and return on capital employed. Further, the data provided by the applicant on the third countries dumping, price attractiveness of the Indian market, injurious exports to other countries, export orientation of the producers in the subject countries, also prima facie indicate a likelihood of dumping and injury on cessation of the anti-dumping duty. The Authority would examine the same in course of investigation.

Initiation of sunset review investigation

16. On the basis of the duly substantiated application of the applicant, and having satisfied itself on the basis of the prima facie evidence submitted by the domestic industry, 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 the subject countries and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

Period of Investigation

17. The period of investigation in the present investigation is the period from 1st April, 2020 to 31st March, 2021 (12 months). The injury analysis period will cover the period of investigation and the preceding three 2017-18, 2018-19 and 2019-20.

Procedure

18. The review investigation will cover all aspects of the final findings published vide Notification No. No. 14/36/2016-DGAD dated 13th December, 2017 recommending imposition of anti-dumping duty on the imports of subject goods from the subject countries. The Authority will also undertake likelihood analysis of dumping and injury as required.
19. 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

20. In view of the special circumstances arising out of COVID-19 pandemic, all communication should be sent to the Authority via email at the email addresses adg11-dgtr@gov.in, dir13-dgtr@gov.in, jd16-dgtr@gov.in, and dd12-dgtr@gov.in
21. The known producers/exporters in the subject countries, their government through their embassy in India, the importers and users in India known to be connected 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 below.

22. Any other interested party may also make its submissions relevant to the investigation the prescribed form and manner within in the time limit set out below.
23. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to other interested parties.

Time Limit

24. In view of the special circumstances arising out of COVID-19 pandemic, any information relating to the present investigation should be sent to the Authority via email at the email addresses adg11-dgtr@gov.in, dir13-dgtr@gov.in, jd16-dgtr@gov.in, and dd12-dgtr@gov.in within 30 days from the date of the 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 Rules, 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 Authority or transmitted to the appropriate diplomatic representative of the exporting countries. If no information is received within the prescribed time limit or the information received is incomplete, the Authority may record its finding on the basis of the facts available on records in accordance with the Rules.
25. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant investigation and file their questionnaire response/submissions within the above time limit.

Submission of information on confidential basis

26. 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.
27. 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.
28. 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 a liberty to allow the other interested parties to inspect such submissions.
29. 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 is 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.
30. 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.

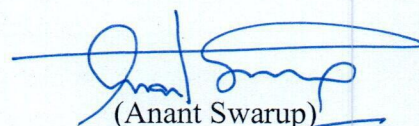
31. However, in exceptional circumstances, the party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.
32. The Authority may accept 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 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.
33. 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.
34. 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

35. A list of interested parties will be uploaded on DGTR' s website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file will not accessible physically due to ongoing global pandemic.

Non-cooperation

36. 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.


(Anant Swarup)
Designated Authority