

No 15/23/2013-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
Udyog Bhawan, New Delhi

Dated the 19th December, 2013

Initiation Notification
(Sunset Review)

Subject: Sunset review of anti-dumping duty imposed on the imports of Caustic Soda originating in or exported from China PR and Korea RP.

No. 15/23/2013- DGAD - Whereas having regard to the Customs Tariff Act, 1975 as amended from time to time (herein after referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as the AD Rules), the Designated Authority (herein after referred to as the Authority) initiated the original anti dumping investigation in respect of the imports of Caustic Soda (hereinafter referred to as the subject goods) originating in or exported from China PR and Korea RP and definitive anti dumping duty was recommended vide final findings Notification No. 14/10/2002-DGAD dated 4.8.2003. Accordingly, definitive anti dumping duties were imposed vide Ministry of Finance Notification No. 142/2003-Customs dated the 23rd September, 2003 on all imports of subject goods originating in or exported from China PR and Korea RP (herein after referred to as the subject countries). The sunset review of the anti dumping duty so imposed against the subject countries was initiated by the Authority and the final findings recommending extension of the revised duty were issued vide Notification No. 15/11/2007-DGAD dated 21.11.2008. Definitive antidumping duty was levied by the Central Government on the subject goods originating in or exported from China PR and Korea RP vide Customs Notification No. 137/2008 dated 26.12.2008. Thereafter, the Authority conducted a midterm review investigation against imports of the subject goods from Korea RP, Saudi Arabia and the USA and the revised anti dumping duties were recommended vide Final Findings Notification No 15/2/2010-DGAD dated 7th July, 2011. The revised definitive anti dumping duty was imposed by the Central Government vide Notification No 95/2011 dated 3rd October 2011.

Request for Review

2. Whereas, in terms of the Customs Tariff (Amendment) Act 1995, the antidumping duty imposed shall unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.

3. And, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantial request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. And, whereas, in terms of the above provisions, M/s Alkali Manufacturers' Association of India (AMAI) on behalf of the manufacturers of Caustic Soda representing the Domestic Industry in India have approached the Authority with a duly substantiated application requesting for sunset review of the anti dumping duties earlier imposed on imports of Caustic Soda originating in or exported from China PR and Korea RP and seeking the continuation of anti dumping duty on the imports originating in or exported from the subject countries. The request is based on the grounds that dumping has continued in spite of imposition of antidumping duty on the import of the subject goods from the subject countries and the domestic industry continues to suffer injury on account of dumping from the subject countries as the form and quantum of anti dumping duty in force has been insufficient. The applicants have further argued that expiry of the measure against the subject countries would be likely to result in continuation or recurrence of dumping and injury to the domestic industry.

5. And, the Authority on the basis of prime facie evidence given by the applicants considers that initiation of sunset review proceedings for the anti dumping duty in force would be appropriate to examine the need for continuation of such duty to offset dumping from the subject countries and to examine as to whether the injury to the Domestic Industry is likely to continue or recur if the duties were removed or varied or both.

Domestic industry and Standing

6. The application has been filed by M/s Alkali Manufacturers' Association of India (AMAI), representing the Domestic Industry, on behalf of the domestic manufacturers of Caustic Soda in India, namely, DCM Shriram Consolidated Limited, New Delhi and Gujarat Alkalies & Chemicals Limited, Vadodara (hereinafter referred to as the Domestic Industry or the applicants). As per information available on record, the present petition satisfies the standing to file the present petition and the participating companies are "Domestic Industry" within the meaning of the Rules.

Initiation

7. Having satisfied itself on the basis of the positive prima facie evidence submitted by the domestic industry substantiating the need for a review, the Authority hereby initiates a Sunset Review in accordance with Section 9 A (5) of the Act, read with Rule 23 of Antidumping Rules, to review the need for continued imposition of duties in force and whether the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

Product under Consideration and Like Article

8. The product under consideration in the present review investigation is "Caustic Soda of All Types" generally known as "Caustic Soda". Caustic Soda is chemically known as NaOH. Caustic soda is a soapy, strongly alkaline odourless liquid widely used in diverse industrial sectors, either as a raw material or as an auxiliary chemical. Caustic soda is produced in two forms – lye and solids. Solids can be in the form of flakes, prills, granules or any other form.

9. In the previous sunset review investigation conducted on the subject goods, the Authority had defined the product under consideration and its scope as under:

"The product under consideration in the present case is Caustic soda, which is chemically known as NaOH. Being a sunset review investigation, product under consideration in the present application is the same as has been in the original investigation. In the final findings of the original investigation, the Designated Authority had defined the product under consideration as follows:

The product under consideration in the present investigation is Sodium Hydroxide (chemical nomenclature of NaOH), commonly known as Caustic Soda originating in or exported from Korea ROK and China PR. Caustic Soda is an inorganic, soapy, strongly alkaline and odourless chemical.

Caustic soda is classified under chapter 28 of the Customs Tariff Act, 1975 under Customs head 2815.11 and 2815.12. As per ITC 8-digit classification, the product is classified under the Custom Heading 2815.1101, 2815.1102 and 2815.1200.

Caustic soda is produced in two forms, i.e. lye and solids by three technology processes, i.e. mercury cell process, diaphragm process and membrane process. Liquid form can be converted into solid and the solid form can be reconverted in liquid with ease and without any change in the chemical properties of the product. The solid form has ease of storage and transportation whereas the liquid form has easy solubility. For end use both the forms are substitutable and interchangeable. The domestic industry produces caustic soda in two forms and are comparable with the imports from subject countries, therefore, is being treated as like article within meaning of 2(d) of the Rules".

10. The present petition is for sunset review of the anti dumping duty earlier imposed. Proposed investigation being review of existing anti dumping duty, the scope of the product under consideration in the proposed investigation shall remain

the same as the scope of the product under consideration in the final findings earlier notified.

11. Further the applicants submitted that subject goods produced by the domestic industry and the subject goods imported into India from the subject countries are like articles within the meaning of the Anti-dumping Rules; that there is no known difference between the subject goods imported from the subject countries and that produced by the domestic industry; that the subject goods produced by the domestic industry and imported from the 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; that the consumers can use and are using the two interchangeably and that the two are technically and commercially substitutable. After examination, the Authority concludes that the subject goods produced by the domestic industry are like article to that imported from the subject countries.

Procedure

12. The investigation will determine as to whether the expiry of the measures would be likely to lead to a continuation or recurrence of dumping and injury. The Authority will examine as to whether the continued imposition of the duties is necessary to offset dumping and whether the injury would be likely to continue or recur if the duties were removed or varied, or both.

i). The review will cover all aspects of the Notification No. 137/2008 dated 26.12.2008.

ii). The countries involved in this review investigation are China PR and Korea RP.

iii). The period of investigation (POI) for the purpose of the present review is from October, 2012 to September, 2013 and for the injury analysis, data of the previous three years, viz., 2010-11, 2011-12, 2012-13 and the proposed POI will be considered.

iv). 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

13. The exporters in the subject countries, their governments through their Embassy in India, 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 Authority at the following address:

The Designated Authority
Directorate General of Anti-Dumping and Allied Duties
Ministry of Commerce and Industry

14. 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. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

Time Limit

15. 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.

16. 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 within forty days (40 days) from the date of publication of this Notification. The information must be submitted in hard copies as well as soft copies.

Submission of information on confidential basis

17. In case confidentiality is claimed on any part of the questionnaire response/submissions, the same must be submitted in two separate sets- (a) one 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.

18. 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. Five (5) copies each of the confidential version and the non-confidential version must be submitted.

19. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or 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 to summary and a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

20. 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.

21. 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

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

Non-cooperation

23. 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.

J S Deepak
Designated Authority