

**Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Anti Dumping & Allied Duties)**

Dated 15<sup>th</sup> July, 2014

**Notification**

**Initiation**

**(Sunset Review)**

**Subject: Initiation of Sunset Review (SSR) of Anti-Dumping duties imposed on the imports of ‘Carbon Black used in rubber applications’, originating in or exported from China PR, Russia and Thailand.**

**F.No.15/8/2014-DGAD** - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and thereafter (hereinafter also referred 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, as amended from time to time (hereinafter also referred as the Rules);

2. Whereas, an anti-dumping investigation concerning imports of “Carbon Black used in rubber application” (hereinafter also referred as the subject goods), originating in or exported from Australia, China PR, Russia and Thailand was initiated by the Designated Authority (hereinafter also referred as the Authority) vide Notification No.14/21/2008-DGAD dated 26<sup>th</sup> December 2008.
3. Whereas, the preliminary finding was issued by the Authority, recommending imposition of provisional anti-dumping duties on the imports of the subject goods, originating in or exported from Australia, China PR, Russia and Thailand, vide Notification No. 14/21/2008-DGAD dated 25th May 2009. The provisional duty was imposed by the Central Government on the imports of the subject goods, originating in or exported from the Australia, China PR, Russia and Thailand vide Notification No. 83/2009-Customs dated 30<sup>th</sup> July 2009. The final findings notification of the Authority was published vide Notification No. 14/21/2008-DGAD dated 24<sup>th</sup> December 2009. The definitive anti dumping duties were imposed by the Central Government on the imports of the subject goods

originating in or exported from the said countries vide Notification No. 6/2010 dated 28<sup>th</sup> January 2010.

4. Whereas, the Authority had initiated a midterm review (MTR) investigation vide Notification No.15/41/2010-DGAD, dated the 30<sup>th</sup> August, 2011 and vide Notification No.15/41/2010-DGAD dated the 28<sup>th</sup> February, 2013 recommended for continuation of the anti-dumping duty at enhanced rates which was imposed by the central Government vide Notification No. 9/2013-Customs (ADD) dated 26<sup>th</sup> April, 2013.
5. WHEREAS, M/s Phillips Carbon Black Limited and M/s Hi-Tech Carbon (hereinafter also referred as applicants) have filed a duly substantiated application before the Authority, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from Australia, China PR, Russia and Thailand 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 said countries.

#### **Countries Involved**

6. From the information furnished by the applicants, the Authority notes that there are no imports of the subject goods from Australia during the POI. The petitioners have also not substantiated any likelihood of dumping in respect of Australia. Subsequently, the petitioners withdrew the petition in respect of imports from Australia and requested the Authority not to initiate sunset review investigation in respect of Australia in view of lack of evidence to show likelihood or continuation of dumping and injury. In view of the above stated position, the Authority has excluded Australia from the purview of the present SSR investigation and considered China PR, Russia and Thailand (hereinafter also referred to as the subject countries) as subject countries in the present SSR investigation.

#### **Product under Consideration and Like Article**

7. The product under consideration in the present SSR application, as in the original investigation, is 'Carbon Black used in rubber applications'. The Product under Consideration (PUC) in the original investigation was defined as under:

*"5. The product under consideration is 'Carbon Black used in rubber applications'. It is an inorganic chemical used in production/ processing of rubber (including tyres), as reinforcing filler. Carbon Black is also known as acetylene black, channel black, furnace black, lamp black, lampblack,*

*thermal black, and noir de carbone. Carbon black can be divided into two categories – rubber and non-rubber applications Carbon black. Carbon black for rubber applications is the Carbon black that is used in production/ processing of rubber (including tyres), as a reinforcing filler. The present investigation is in respect of Carbon black used in rubber applications. Carbon black used in non-rubber applications, such as inks in copiers and computer printer cartridges, paints, crayons and polishes, is not within the scope of the present investigation.*

*6 The subject goods fall under Chapter 28 of the Act under Subheading No. 28030010. The customs classification is indicative only and is in no way binding on the scope of the present investigation.”*

8. Since the present application is for sunset review investigation, the scope of the product under consideration shall remain the same as that of original investigation. The subject goods fall under Chapter 28 of the Customs Tariff under Subheading No.28030010. However, the customs classification is indicative only and is in no way binding on the scope of the present investigation.

#### **Like Article**

9. Rule 2(d) with regard to like article provides as under: -

*"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;*

10. Applicants have claimed that there is no known difference in carbon black produced by them and exported from subject countries. Carbon black produced by the applicants and imported from subject countries are having comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The application filed is for the review, continuation and enhancement of the quantum of the anti-dumping duty in force, and the issue of like article has been already dealt with in the previous investigations. In the earlier investigations the Authority has already held that the subject goods produced by the domestic industry is like article to the same imported from the subject countries.

#### **Domestic Industry & Standing**

11. The application has been filed by M/s. Phillips Carbon Black Limited and M/s. Hi-Tech Carbon who constituted the domestic industry in the original investigation.

There are three other producers of subject goods in India namely M/s. Continental Carbon India Limited, Himadri Chemicals and Industries Limited and M/s Good luck Carbon Black Pvt. Ltd. These other domestic producers have neither supported nor opposed the present SSR application. From the application it is noted that the applicant industry's production accounts for 78.29 % in the production of the subject goods in India, hence constituting a major proportion in Indian production, as per the Rules.

12. As submitted by the applicants, none of the applicant companies have imported the subject goods from the subject countries. It has been further submitted that Phillips Carbon Black Limited is not related to any exporter or importer of the subject goods. However, Hi-Tech Carbon belonging to Aditya Birla Group has group companies in Thailand and China involved in the export of subject goods to India during the POI. On the basis of information furnished by the applicants, the Authority notes that the exports made by the related Chinese exporters constitutes an insignificant percentage of the total exports of the subject goods made by China to India during the POI to – (i) the total Indian production, (ii) domestic sales of the DI and, (iii) the total demand for subject goods in India. The issue regarding standing of the applicants was raised in the earlier investigations by the interested parties and the same had been examined by the Authority in the relevant findings, wherein the Authority had held that both Hi-Tech Carbon and M/s Phillips Carbon Black Limited constitute domestic industry. Since there is no material change in the above position, the Authority has considered the present applicants as constituting domestic industry within the meaning of the Rule 2(b) of the Rules and the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra

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

13. WHEREAS in view of the duly substantiated application filed and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping 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**

14. The period of investigation (POI) proposed by the applicant is October, 2012 – September, 2013 (12 Months) with the injury investigation period as covering 2010-11, 2011-12, 2012-13 and POI. However, for enabling the Authority to

make required analysis on the basis of more updated data, the Authority hereby determines the POI as October, 2012 – December, 2013 (15 Months). The injury investigation period will, however, cover the periods 2010-11, 2011-12, 2012-13 and POI. The data beyond POI may also be examined to determine the likelihood of dumping and injury.

### **Procedure**

15. The review covers all aspects of Notification No. 14/21/2008-DGAD dated 24<sup>th</sup> December, 2009 (final findings of the original investigation) and as modified in the mid-term review investigation vide final findings No. 15/41/2010-DGAD dated 28<sup>th</sup> February, 2013.
16. 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**

17. The known exporters in the subject countries, the government of the subject countries 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  
Department of Commerce  
Directorate General of Anti-Dumping and Allied Duties  
4<sup>th</sup> Floor, Jeevan Tara Building  
5, Parliament Street, New Delhi – 110001

18. 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**

19. Any information relating to the present review 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.

20. 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 Anti-dumping measures within 40 days from the date of initiation of this investigation.

**Submission of information on confidential basis**

21. In case confidentiality is claimed on any part of the questionnaire 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 and accompanied with soft copies.
22. 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 two (02) copies of the non-confidential version must be submitted by all the interested parties.
23. 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.
24. 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.

25. 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.
26. 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:**

27. 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**

28. 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.

**(J. K. Dadoo)**  
**Designated Authority**