



12 September 2019

(19-5863)

Page: 1/3

Committee on Safeguards

Original: English

**NOTIFICATION UNDER ARTICLE 12.1(A) OF THE AGREEMENT ON
SAFEGUARDS ON INITIATION OF AN INVESTIGATION AND
THE REASONS FOR IT**

INDIA

(Phenol)

The following communication, dated 11 September 2019, is being circulated at the request of the delegation of India.

Dated the 23rd August, 2019

1. An application has been filed under Rule 5 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 (hereinafter also referred to as the "said Rules" or "safeguard rules") by M/s Hindustan Organic Chemicals Limited and M/s Deepak Phenolics Ltd, (herein after also referred to a petitioners or applicants) through M/s TPM Consultants, New Delhi alleging increased imports of "Phenol" (hereinafter also referred to as the "product under consideration" or "PUC" or subject goods) causing serious injury and threat of serious injury to the domestic industry. They have sought safeguard measures to protect the Domestic Industry of like or, directly competitive products from serious injury and threat of serious injury being caused by such increased imports of Phenol.
2. **Product Under Consideration:** The product under consideration is 'Phenol'. It is an organic chemical, also known as Carbolic Acid and used in the manufacture of Phenol Formaldehyde Resins, Laminates, Plywood, particle Boards, Bisphenol-A, Alkyl Phenols, Pharmaceuticals, Diphenyl Oxide and downstream chemicals. Phenol is classified under Chapter 29 of Custom Tariff Act under the sub-heading 29071110.
3. **Domestic Industry:** The application has been filed by M/s Hindustan Organic Chemicals Limited and M/s Deepak Phenolics Ltd for imposition of Safeguard Duty on imports of Phenol. The applicants, account for a major share (87%) of the total production of the domestic like product in India. The two producers constitute Domestic industry in terms of Clause (b) of the Sub Section (6) of Section 8B of the Custom Tariff Act, 1975.
4. **Period of Investigation:** The period considered for the purposes of present investigation is from 2016-17 to June 2019. The applicants have claimed surge in imports in Q1 2019-20.
5. **Increased Imports:** The petitioners have claimed that imports of product under consideration have increased during Q1 2019-20, and they are also facing threat of increased imports. It is noted that there is a sudden, sharp and significant increase in imports of PUC during Q1 2019-20. Despite the fact that there is a demand supply gap, the petitioners have claimed that large imports of subject goods are entering into Indian market which are at level higher than required to bridge the gap between demand and supply of subject goods. The rate of increase in imports of subject goods is considered significant considering their quantum during Q1 of 2019-20 as compared to previous quarters. The petitioners have claimed that imposition of anti-dumping duty by China coupled with

oversupply of Phenol globally and US China trade war were unforeseen circumstances leading to increase in imports into India.

6. **Serious Injury and threat of serious injury to the domestic industry:** The applicants have claimed that the increased imports of product under consideration have caused and are also threatening to cause serious injury to the domestic industry. One of the major applicants ie M/s Deepak Phenolics which started its production in November, 2018, has claimed significant decline in sales and capacity utilization for the product during Q1 of 2019-20 and they have claimed further decline in sales and capacity utilization post POI. The petitioners have also claimed that market share of domestic industry has declined whereas that of imports of subject goods have increased during Q1 of 2019-20. They have also claimed that their profits have declined during Q1 as a result of price pressures caused by increased imports. The petitioners have further claimed that there is a significant increase in inventories of subject goods produced by domestic industry. The applicants have claimed that since the imposition of anti-dumping duties on Phenol by China PR on major exporting nations, the exports from these exporting nations are getting diverted into India resulting in increase in imports into India. Further the applicants have claimed that there is an oversupply of Phenol globally and the prices of product have declined significantly. It has been claimed that applicant companies were forced by their customers to reduce their prices resulting in price suppression and depression.
7. The applicants have requested for immediate imposition of safeguard duty in view of significant increase in imports of subject goods causing serious injury and threat of serious injury to the domestic industry.
8. After examining the application filed by applicants, the Director General, prima facie, finds that increase in imports of subject goods appear to be result of unforeseen developments such as global oversupply and trade measures imposed by China PR against major Phenol producing countries, and volume and prices of these imports have caused and/or threatening to cause significant injury to domestic industry.

Initiation

9. After determining that there is sufficient evidence to justify initiation of safeguard investigation, the Director General initiates an investigation pursuant to rule 5 of the Safeguard rules, 1997 in order to determine whether as a result of unforeseen developments, the imports of the product under consideration constitute increased imports, and whether the increased imports have caused and/ or are threatening to cause serious injury to the domestic industry of like and/or directly competing products.
10. All interested parties may make their views known within a period of 30 days from the date of this notice to:

**Director General
Directorate General of Trade Remedies (DGTR),
Jeevan Tara Building, 4th Floor
5, Parliament Street,
New Delhi -110001**

11. All known interested parties are also being addressed separately.
12. Any other party to the investigation who wishes to be considered as an interested party may submit its request so as to reach the Director General on aforementioned address within 30 days from the date of this notice.
13. If no information is received within the prescribed time limit or the information received is incomplete, the Director General may record its findings on the basis of the facts available on record. The information must be submitted in hard copies as well as soft copies.
14. Submission of Information on Confidential Basis – The parties making any submission (including Appendices/Annexure attached thereto), before the Director General including questionnaire response, are required to file the same in two separate sets, in case

"confidentiality" is claimed on any part thereof. 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 Director General and the Director General shall be at liberty to allow the other interested parties to inspect such submissions. Soft copies of both the versions will also be required to be submitted, along with the hard copies, in two (2) sets of each. The confidential version shall contain all information which are by nature confidential and/or other information which the supplier of such information claims as confidential. The 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. 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. 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 Director General. The Director General may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Director General 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. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim shall not be taken on record by the Director General. The Director General 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.

15. Any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties.
 16. 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 Director General may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.
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