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VIEWPOINT

The WTO angle to urea buy-back from Oman

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As part of the agreement for setting up a joint venture in Oman for urea manufacture, India also signed an agreement for buy-back of the entire quantity produced—about 1.5 million tonne (mt) — at a pre-determined price benchmarked to the production cost. In view of gas being available to the project at a throwaway price of $0.77 per million Btu, India's access to cheap urea will be easier. Besides, it will have uninterrupted supply.

This arrangement seems attractive when seen against the backdrop of the substantially higher cost of feedstock in India. The cost of domestic gas to plants at the landfall point is about $2.0 per million Btu, whereas to plants along the HBJ pipeline, this is charged @ $2.5 per million Btu; the cost of naphtha is higher at about $6.0 per million Btu. The fact that there is an acute shortage of gas in India further enhances the attractiveness of sourcing urea from Oman, where gas is abundant.

Notwithstanding the above, there is urgent need for assessing the buy-back agreement vis-a-vis our commitments under the World Trade Organisation (WTO). We need to assess whether by procuring a significant portion of our requirements from a single source, without going through global competitive bidding, we will not be denying a reasonable opportunity to other suppliers? Will this not constitute a violation of the most favoured nation treatment under Article II of GATT, 1994?

A review of the past trends brings out that the global price of urea fluctuates with changes in the demand-supply balance. Now, if the price at which urea is purchased from the Oman project is lower than the prevailing global price, other suppliers may not raise a hue and cry. But if the former is higher, these suppliers can claim that a reasonable opportunity to sell urea has been denied to them.

Under the Exim policy, urea import is allowed only through designated state trading enterprises viz. MMTC, STC and Indian Potash Ltd. All imports, including buy-back of urea produced at the Oman project, have to be routed through them. The role of the trading agencies vis-a-vis the import from Oman has to be clearly understood. Will the former entertain the request from Indian partners viz., Iffco and Kribhco, for import of 1.5 mt of urea p.a. from Oman in full? More important, will the designated enterprises be able to bring the entire quantities in a WTO compatible manner?

To answer the first question, we need to know why India did not allow free urea import in the first place? The aim was primarily to restrict imports to the extent necessary for meeting the shortfall in indigenous supply. In the current year, the import so far has been only about 200,000 tonne even as domestic supply is more or less equal to the demand. Despite adequate domestic supply, if the designated enterprises bring the entire 1.5 mt of urea from Oman, it will lead to excess availability.

Assume that the entire quantity of buy-back from Oman can be accommodated without causing excess supply. The designated enterprises may still not be able to bring the entire quantity. This is because as per Article XVII of WTO, they will have to invite competitive bids and it is unlikely that the Oman project will win a contract to fully cover the quantities committed. If an attempt is made to buy the quantities bypassing the bidding route, it could be held as a violation of Article XVII.

Under the retention price scheme, the subsidy on domestic urea is higher than the implicit subsidy on imported urea. Even under the uniform concession scheme, the former will be higher than the latter. Such differential treatment could pose problems in terms of our WTO commitment. These could be overcome by withdrawing subsidy on imported urea. However, under this dispensation, urea sourced from Oman will not qualify for subsidy support, thereby rendering it uneconomical.

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