

F. No. 15 /21/2016 –DGAD (Case No. SSR 04/2017)
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping & Allied Duties

Dated the 11th Jan., 2017

INTIATION NOTIFICATION

(Sunset Review)

(Case No. SSR 4/2017)

Subject: Initiation of Sunset Review Investigation of Anti-dumping duty concerning imports of 'Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade)' originating in or exported from Israel and Taiwan

File No. 15/21/2016 (Case No. SSR 04/2017) Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Designated Authority (hereinafter referred to as the Authority) recommended imposition of Anti Dumping Duty on imports of Phosphoric Acid of all grades and all concentrations (hereinafter referred to as subject goods) originating in or exported from Israel and Taiwan (hereinafter referred to as subject countries). The preliminary finding of the Designated Authority was issued on 25.10.2011 and provisional anti-dumping duties were imposed vide D.O.R notification no. 04/2012-Cus dated 13th January, 2012. The final findings notification of the Authority was published vide notification No. 14/44/2010-DGAD dated 2nd February 2012. On the basis of the findings, anti dumping duty was imposed on the imports of the subject goods from subject countries by the Department of Revenue vide notifications No. 19/2012 – Customs (ADD) dated 04th April, 2012. The anti-dumping duties imposed in this case will expire on 12th January, 2017

2. Based on the examination of the petition filed by the Domestic Industry, Authority came to the conclusion that there is no need to initiate the Sunset Review concerning imports of Phosphoric Acid from Israel and Taiwan and accordingly, O.M. dated 02nd Jan.,

2017 was issued denying the request for Sunset Review. Against the O.M the Domestic Industry filed the writ petition no. 147/2017 and 247/2017 before the Hon'ble High Court of Delhi. The extracts of directions from Hon'ble High Court are reproduced as under:-

“Consequently, a direction is issued to the respondent to – in the course of the day – initiate the Sunset Review in the petitioners’ case. At the same time, the Sunset Review and notification as well as the orders shall carry a stipulation that the proceeding itself would be subject to the final outcome of the writ proceedings. It is further directed that the question of imposition of Anti-Dumping duty would be in accordance with law.”

In compliance with the above stated directions of the Hon'ble High Court, a sunset review case is hereby initiated with the following details:

The present petition has been filed by M/s Gujarat Alkalies & Chemicals Ltd. & Grasim Industries Ltd. (hereinafter referred to as *Petitioner*), on behalf of the domestic industry for the product under consideration

B. Initiation of Sunset Review

3. Pursuant to the above stated orders of the Hon'ble High Court, the Designated Authority hereby initiates sunset review in accordance with section 9A(5) of the Custom Tariff (Amendment) Act read with Rule 23 of Antidumping Rules.

C. Product under consideration

4. The product under consideration is 'Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade)'. Phosphoric Acid is an inorganic chemical used for the production of sodium phosphate, calcium phosphate, magnesium phosphate, ammonium phosphate, etc. The subject goods are also being used in pharmaceutical applications, beverages, seed processing, sugar juice clarification and sugar refining, food phosphate manufacturing etc.

5. Though Phosphoric Acid is classified under subheading no 28092010 in the Customs Tariff Act but there is no dedicated custom classification for the product under consideration. Customs classifications are indicative only and in no way binding on the scope of this investigation.

6. Since the proposed investigation is a sunset review investigation, the scope of the product under consideration is the same as that of the previously concluded sunset review investigation

D.Procedure

7. The investigation will determine whether the expiry of the measure would be likely to lead to a continuation or recurrence of dumping and injury. The Authority will examine whether imposition of the duties is necessary to offset dumping and causing injury.

- i. The countries involved in this review investigation are Israel and Taiwan.
- ii. The period of investigation for the purpose of the present review is from 1st April 2015 to 30th June 2016. The injury investigation period will however cover the periods April'2012-March'13, April'2013– March'2014, April'2014-March'2015 and the POI
- iii. 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.

While submitting questionnaire response, producer/ exporter may have to demonstrate prevalence of market condition related to manufacture, production and sale of subject good in the domestic market and in export to India and other countries. For this purpose, the producer/exporter, may clarify and provide sufficient information on the following:

- (a) Decision in regard to price, cost, input including raw material, cost of technology and labor, output, sales and investment, are made in response to market signal reflecting supply and demand and without significant state interference and weather cost of major inputs substantially reflect market value.
- (b) Production costs and financial situation does not suffer from any distortion.

(c) The producer/exporter are subject to bankruptcy and property law which guarantees legal certainty and stability for the operation of the firms.

(d) Exchange rate conversions are carried out at the market rate.

E. Submission of information

8. The known exporters in the subject countries, the Government of the subject countries through their embassies 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:

**The Designated Authority,
Directorate General of Anti-Dumping & Allied Duties,
Ministry of Commerce & Industry, Department of Commerce
4th Floor, Jeevan ara Building,
5 Parliament Street, New Delhi -110001**

9. 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.

F. Time limit

10. Any information relating to the present investigation 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.
11. 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 Antidumping measures within 40 days from the date of initiation of this investigation.

G. Submission of Information on Non-Confidential basis

12. In case confidentiality is claimed on any part of the questionnaire's 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

13. 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.

14. 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.

15. 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.

16. 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.

17. 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

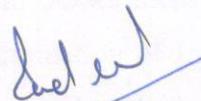
the Authority. The Authority on being satisfied and accepting the need for confidentiality of the information provided; shall not disclose it to any party without specific authorization of the party providing such information.

H. Inspection of Public File

18. 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.

I. Non-cooperation

19. 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.



(Dr. Inder Jit Singh)

Additional Secretary & Designated Authority