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F.No.14/12/2012-DGAD  
Ministry of Commerce & Industry  
Department of Commerce  
DGAD

**INITIATION NOTIFICATION**

Date 28<sup>th</sup> September 2012

Subject: Initiation of Anti Dumping investigation concerning imports of 'Red Phosphorous' originating in or exported from China PR

M/s Metal Powder Company Ltd. (MEPCO), Tamil Nadu and United Phosphorus Limited, Mumbai (UPL) (hereinafter referred to as 'petitioners' or applicants) have filed an application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and 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 referred to as the AD Rules) for initiation of Anti-Dumping Duty investigation concerning imports of Red Phosphorous (hereinafter also referred to as the subject goods) originating in or exported from China PR (hereinafter also referred to as the subject country).

**Product under consideration**

2. The product under consideration for the purpose of present investigation is 'Red Phosphorous, excluding red phosphorus used in electronic applications'. Red Phosphorus is an allotrope of elemental Phosphorus, and is one of the major forms of the same. The other major form of phosphorus is White Phosphorus. The product under consideration is produced and sold in a number of different grades. However, costs and prices of different grades do not vary significantly, barring red phosphorus used in electronic applications. Red phosphorus is used to manufacture phosphoric acid and other phosphorous compounds, phosphorous bronzes and metallic phosphides and as an additive to semiconductors, electroluminescent coatings, safety matches and fertilizers. Red Phosphorous is an organic compound and is classified under Chapter 28 (2804 70 20) of the Customs Tariff Act, 1975. Only the product under consideration is dispositive, and the customs classification is indicative and is in no way binding on the scope of the present investigation.

**Like Article**

3. The petitioners have claimed that the subject goods, which are exported from subject country into India, are identical to the goods produced by the domestic industry. Red Phosphorous produced by the domestic industry and imported from subject country is 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. Consumers can use and are using the two interchangeably.

The two are technically and commercially substitutable and hence should be treated as 'like article' under the AD Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the petitioners in India are being treated as 'Like Article' to the subject goods being imported from the subject country.

### **Domestic Industry & Standing**

4. The petition has been filed by M/s Metal Powder Company Ltd. (MEPCO) and M/s United Phosphorus Limited (UPL) who are the major manufacturers of the product under consideration. There are two more producers of the product in the country – Sri Magenta Chemicals and Kalpataru Chemicals. It has been claimed by the petitioners that their production commands a major share in the total Indian production. As per information available on record, the petitioners account for 69% of the total domestic production. Thus, the Authority has determined that the petition satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. Further, M/s. Metal Powder Company Ltd. (MEPCO) and M/s. United Phosphorus Limited (UPL) are being treated as 'domestic industry' within the meaning of Rule 2(b).

### **Subject Country**

5. The country involved in the present investigation is China PR.

### **Normal value**

6. The petitioners have claimed that China PR should be treated as a non-market economy and the normal value should be determined in accordance with para-7 of Annexure-I to the Rules. The petitioners have claimed normal value on the basis of cost of production in India, duly adjusted including selling, general and administration expenses and profits. It has been submitted by the domestic industry that sufficient information regarding cost or price in a market economy third country for determination of Normal value in case of China PR is not available. Thus, The Normal value claims by the applicants have been considered for the purposes of initiation.

### **Export Price**

7. The petitioners have determined export prices based on transaction-wise import data compiled by IBIS. The export prices have been adjusted for ocean freight, marine insurance, commission, port expenses, bank charges, handling charges and adjustment for VAT refund to arrive at net

export price at ex-factory level. Evidence in support of price adjustments has been provided in respect of Ocean Freight, Marine Insurance, Commission, Inland Freight, Port Expenses and Bank Commission.

### **Dumping Margin**

8. The petitioners have provided sufficient evidence that the normal value of the subject goods in the subject country are significantly higher than the net export price, prima-facie indicating that the subject goods originating in or exported from the subject country are being dumped, to justify initiation of an antidumping investigation.

### **Injury and Causal Link**

9. The petitioners have claimed that they have suffered material injury with regard to profits, return on investment and cash profits. It has further been claimed that profitability has deteriorated significantly to such an extent that the domestic industry suffered financial losses, negative return on investment and negative cash profits. The petitioners have also claimed adverse price effects as evidenced by price depression, price undercutting and price underselling. The petitioners have claimed that the material injury has been caused due to the dumped imports from the subject country. The Authority considers that there is sufficient evidence of 'injury' being suffered by the petitioners caused by dumped imports from the subject country to justify initiation of an anti-dumping investigation.

### **Period of Investigation**

10. The period of investigation (POI) for the purpose of present investigation is from 1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2012. However, for the purpose of analyzing injury, the data of previous three years, i.e. Apr'08- Mar'09, Apr'09-Mar'10, Apr'10-Mar'11 and the period of investigation has been considered.

### **Submission of information**

11. The known exporters in the subject country and their Government through its Embassy in India, importers and users in India known to be concerned and the domestic industry are being informed separately to enable them to file all information relevant in the form and manner prescribed. Any other interested party may also make its submissions relevant to the investigation within the time-limit set out below and write to:

The Designated Authority,  
Directorate General of Anti-Dumping & Allied Duties,  
Ministry of Commerce & Industry,  
Department of Commerce  
Room No.240, Udyog Bhawan,

**Time limit**

12. Any information relating to this investigation should be sent in writing so as to reach the Authority at the above address not later than 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.

**Submission of information on confidential basis.**

13. 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.

14. 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. Two (2) copies each of the confidential version and the non-confidential version must be submitted.

15. 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.

16. 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, party submitting the confidential information may indicate that such information is not susceptible of summary; a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

17. 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.

18. 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**

19. 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**

20. 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 record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

**(Vijaylaxmi Joshi)**  
**Designated Authority**