

TO BE PUBLISHED IN THE GAZETTE OF INDIA-EXTRAORDINARY PART-I, SECTION-1

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-dumping & Allied Duties

Udyog Bhawan, New Delhi
Dated the 10th September, 2012

INITIATION NOTIFICATION

Subject: Initiation of Sunset Review Anti-Dumping investigation concerning imports of 'Phosphoric Acid- Technical Grade and Food Grade (including Industrial Grade)' originating in or exported from China PR.

No. 15/1010/2012-DGAD: Whereas having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the AD Rules), definitive anti-dumping duty was originally recommended by the Designated Authority (hereinafter referred to as the Authority) on import of 'Phosphoric Acid- Technical Grade and Food Grade (including Industrial Grade)' (hereinafter referred to as the subject goods) originating in or exported from China PR (hereinafter referred to as the subject country) vide Notification 14/7/2006-DGAD dated 3rd January, 2008 and whereas the Ministry of Finance implemented the recommendation vide its Notification No. 17/2008 dated 19th February, 2008.

2. Whereas in terms of Section 9A (5) of the Customs Tariff (Amendment) Act, 1995, the anti-dumping duties imposed under this Section, shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury and if satisfied on the basis of the

information received that there is sufficient justification for extension of such duty, the Authority may recommend to the Central Government for extension of such duty.

3. Whereas M/s Gujarat Alkalies & Chemicals Limited and M/s Punjab Chemicals & Crop Protection Ltd (also referred to as “petitioner companies” or “petitioners”) filed a petition under section 9A (5) of the Customs Tariff Act, 1975 as amended in 1995, read with Rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, before the Designated Authority (hereinafter referred to as the Authority) requesting Sunset Review of anti dumping duties earlier imposed on imports of Phosphoric Acid- Technical Grade and Food Grade from China PR. The petitioners have claimed that cessation of anti dumping duty imposed on the subject goods from the subject country is likely to lead to continuation or recurrence of dumping and injury and they have, therefore, requested the Authority for extension of duty already in place.

Domestic Industry & Standing

4. The petition has been filed by M/s Gujarat Alkalies & Chemicals Limited and M/s Punjab Chemicals & Crop Protection Ltd. The Petitioners’ production accounts for 50.05 % of the total production of the subject goods in India, and hence, constituting a major proportion in the Indian production. In view of the foregoing, the Petitioners satisfy the requirement of standing to file the present petition and the Petitioner Companies constitute ‘Domestic Industry’ as per the Anti Dumping Rules.

Product under consideration

5. The product under consideration is ‘Phosphoric Acid- Technical Grade and Food Grade’. Present investigation being a review investigation, the product under consideration remains the same as has been defined in the original investigation. There has been no significant development in the product over the period. In the Final Findings dated 3rd January, 2008 of the original anti-dumping investigation, the Designated Authority defined product under consideration as under:

*“The Product under consideration in the present investigation is
“Phosphoric Acid - Technical Grade & Food Grade” (including industrial*

grade). Phosphoric Acid is used for the production of sodium phosphate, calcium phosphate, magnesium phosphate, ammonium phosphate, pharmaceutical applications, beverages, seed processing, sugar juice and sugar refining, food phosphate manufacturing, etc. Phosphoric Acid is classified under Customs subheading No. 28092010. The custom classification is however, indicative only and has no binding on the scope of the present investigation.”

Like Articles

6. Petitioners have submitted that the goods produced by the them are like article to the imported product from the subject country in terms of parameters such as physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification. The petition filed is for the review, continuation and enhancement of the anti-dumping duty in force and the issues of like article have been already dealt in the previous investigation.

Subject Country

7. The country involved in the present investigation is China (referred to as the ‘Subject Country’).

Normal Value

8. The petitioners have claimed that China PR should be treated as a non-market economy country and have proposed determination of normal value in accordance with Para 7 and 8 of Annexure I of the Anti Dumping Rules. The petitioners have claimed that normal value could not be determined on the basis of price or constructed value in a market economy third country or price from such third countries to other countries for the reason that the relevant information is not accessible to the petitioners. The normal value has, thus, been determined based on cost of production in India, duly adjusted. Consumption norms of one of the petitioners companies’ production have been considered for major raw materials and utilities for the purpose of initiation.

Export Price

9. The Petitioners have submitted the IBIS transaction-wise import information to assess the volume and value of the subject import in India. Export price has been determined on the basis of weighted average of the import price. Export price has been adjusted for Ocean Freight, Marine Insurance, Commission, Port Expenses, Inland Freight and Bank Charges to arrive at the net export price.

Dumping Margin

10. The Petitioners have provided sufficient evidence that the normal values of the subject goods in the subject country are significantly higher than the net export prices, prima-facie indicating that the subject goods originating in or exported from the subject country are being dumped, to justify sunset review initiation of an antidumping investigation.

Initiation

11. The petition is in the form and manner prescribed by the Designated Authority and contains prima facie evidence to review as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. Thus, in view of the duly substantiated application filed by the domestic industry and in accordance with Section 9 A (5) of the Act, read with Rule 23 of the AD 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 country and to examine as to 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

12. The period of investigation (POI) for the purpose of present investigation is from 1st April, 2011 to 31st 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 will be considered. For threat of material injury, the data beyond the POI may also be examined.

Submission of information

13. 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 the 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,
New Delhi -110107.

Time limit

14. 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 Non-Confidential basis

15. All interested parties shall provide a non-confidential summary in terms of Rule 7 (2) of the AD Rules for the confidential information provided as per Rule 7 (1) of the AD Rules. The non-confidential version or non-confidential summary of the confidential information should be in sufficient detail to provide a meaningful understanding of the information to the other interested parties. If in the opinion of the party providing information, such information is not susceptible to summary, a statement of reason thereof is required to be provided. Notwithstanding anything contained above, 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 authorise its disclosure in a generalised or summary form, it may disregard such information.

Inspection of Public File

16. 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

17. 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 Governments as deemed fit.

Sd/-

(Smt Vijaylaxmi Joshi)

Designated Authority