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**File No. 7/28/2019-DGTR**  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Trade Remedies)  
4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001

Dated 27<sup>th</sup> December 2019

## **INITIATION NOTIFICATION**

**CASE NO: (SSR) 16//2019**

### **Sunset review of Anti-Dumping duty imposed on import of Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade) originating in or exported from Korea RP.**

1. Whereas M/s Gujarat Alkalies & Chemicals Limited and M/s Grasim Industries Limited (hereinafter referred to as the “Applicants” or “Petitioners”) have filed a joint application before the Designated Authority (hereinafter also referred to as the “Authority”) in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter also 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 also referred to as the “Rules”) for Sunset Review of Anti-Dumping duty imposed on imports of “Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade)” (hereinafter also referred to subject goods or product under consideration), originating in or exported from Korea RP (hereinafter also referred to as the subject country).
2. The Applicants have filed an application before the Authority, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from Korea RP and consequent injury to the domestic industry and have requested for review and continuation of the anti-dumping duties imposed on the imports of the subject goods, originating in or exported from the subject country.

### **BACKGROUND**

3. The Designated Authority had earlier initiated an investigation concerning imports of Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade), originating in or exported from Korea RP vide Notification No. 14/7/2007-

DGAD dated 12.11.2008. On the basis of the recommendations made by the Authority vide Preliminary Findings Notification No. 14/7/2007-DGAD dated 24.4.2009, anti-dumping duty was imposed by the Central Government vide Notification No. 74/2009 – Customs dated 22.6.2009. Pursuant to the investigation, the Designated Authority recommended imposition of anti-dumping duty vide Final Findings Notification No. 14/07/2007-DGAD dated 11.11.2009, definitive anti-dumping duty was imposed by the Central Government vide Notification No. 140/2009 – Customs dated 15.12.2009 on the imports of the subject goods, originating in or exported from Korea RP.

4. The Designated Authority, thereafter, conducted a sunset review investigation and the anti-dumping duties imposed vide Notification No. 15/7/2014-DGAD dated 19.06.2015. The definitive anti-dumping duty was extended by the Central Government vide Customs Notification No. 45/2015 -Customs dated 24.08.2015. The current anti-dumping duties imposed on the subject country are in force till 23.08.2020.

#### **LIKE ARTICLE**

5. The Applicants have claimed that there is no known difference in the subject goods produced by the Indian industry and product under consideration exported from subject country. Subject goods produced by the Applicants and imported from the subject country are comparable in terms of physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. Therefore, subject goods produced by the Applicants are being treated as “like article” to that being imported from the subject country for the purpose of the present review investigation.

#### **DOMESTIC INDUSTRY**

6. The petition has been filed by M/s Gujarat Alkalies & Chemicals Limited and M/s Grasim Industries Limited jointly. As per the available information, the Applicants have neither imported the subject goods from the subject country nor are they related to any other producer/exporter of subject goods in the subject country or any importer in India. Further, the Applicants account for a major proportion in Indian production of the subject goods.
7. On the basis of information available, the Authority is satisfied that the Application has been made by or on behalf of the domestic industry in terms of the provisions contained in Rule 2 (b) and Rule 5 (3) of the Rules.

## **BASIS OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING**

8. The Applicants have claimed that the information relating to domestic selling prices in the subject country were not available. Accordingly, the Applicants have considered best available information regarding cost of production of the product under consideration in Korea RP for determination of normal value.
9. The Applicant has claimed export prices on the basis of DGCI&S transaction wise import data. Price adjustments have been made on account of ocean freight, marine insurance, commission, port expenses and inland freight expenses.
10. Considering the normal value and export price determined as above, dumping margin has been determined, in accordance with Section 9 A(1)(a) of the Customs Tariff Act, 1975. It is noted that dumping margin is not only above de minimis level, but also significant. There is prima facie evidence that constructed normal value of the subject goods in the subject countries are significantly higher than the net export prices, indicating that the subject goods originating in or exported from the subject country are being exported at dumped prices, thus indicating continued likelihood of dumping so as to justify initiation of investigation.

## **LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY AND CASUAL LINK**

11. The Authority notes that there is prima facie evidence of dumping and consequential injury to the domestic industry on account of price due to price under cutting and price under selling leading to reduced profits, Return on Capital Employed (ROCE) and cash flows. Further, the data provided by the Applicants on the capacity and export orientation of producers/exporters in the subject country also prima facie indicates a likelihood of dumping and consequential injury on cessation of the AD duty.

## **INITIATION OF SUNSET REVIEW**

12. And therefore, on the basis of the duly substantiated application of the Applicants, and having satisfied itself, on the basis of the prima facie evidence submitted by the domestic industry, substantiating the likelihood of continuation/ recurrence of dumping and injury, and in accordance with Section 9A(5) of the Act read with Rule 23 (1B) of the 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 whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

### **PRODUCT UNDER CONSIDERATION (PUC)**

13. The product under consideration for the purpose of present investigation is “Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade)” (hereinafter also referred to as product under consideration). The present investigation being a Sunset review, the scope of product under consideration is the same as that in the original investigation.
14. The subject products are classified under Chapter Heading 28 under the code 2809 20 10. The customs classification is indicative only and in no way it is no way binding upon the product scope.

### **SUBJECT COUNTRY**

15. The subject country in the present sunset review investigation is Korea RP.

### **PERIOD OF INVESTIGATION**

16. The period of investigation for the purpose of the present investigations is 1st April, 2018 – 30th June, 2019 (15 months). The injury investigation period shall cover the periods 1st April 2015 to 31st March 2016, 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2107, 1st April 2017 to 31st March 2018 and the period of investigation.

### **PROCEDURE**

17. The present sunset review covers all aspects of the final findings of the original investigation published vide Notification No.14/07/2007-DGAD dated 11th November 2009 and final findings of sunset review investigation published vide Notification No. 15/7/204-DGAD dated 19th June, 2015.
18. 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.

### **SUBMISSION OF INFORMATION**

19. The known exporters in the subject country, the Government of the subject country through its embassy 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 Trade Remedies,  
Ministry of Commerce & Industry,**

**Department of Commerce  
4th Floor, Jeevan Tara Building,  
Parliament Street, New Delhi -110001.**

20. 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. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

**TIME LIMIT**

21. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above within thirty days from the date of receipt of the notice as per Rule 6(4) of the Rules. It may, however, be noted that in terms of explanation of the said sub rule, the notice calling for information and other documents shall be deemed to have been received one week from the date on which it was sent by the Designated Authority or transmitted to the appropriate diplomatic representative of the exporting country. 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 Rules.
22. 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 within the above time limit.

**SUBMISSION OF INFORMATION ON CONFIDENTIAL BASIS**

23. The parties making any submission (including Appendices/Annexures attached thereto), before the Authority including questionnaire response, are required to file the same in two separate sets, in case "confidentiality" is claimed on any part thereof:
- i. One set marked as Confidential (with title, number of pages, index, etc.), and
  - ii. The other set marked as Non-Confidential (with title, number of pages, index, etc.).
24. 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 Authority, and the Authority 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. Four (4) copies of the confidential version and two (2) copies of the non-confidential version must be submitted by all the interested parties.

25. The confidential version shall contain all information which is by nature confidential and/or other information which the supplier of such information claims as confidential. For information which are 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.
26. 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 summarised 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, the party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarisation is not possible must be provided to the satisfaction of the Authority.
27. 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 if the supplier of the information is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, it may disregard such information.
28. Any submission made without a meaningful non-confidential version thereof or without good cause statement on the confidentiality claim shall not be taken on record by the Authority.
29. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorisation of the party providing such information.

#### **INSPECTION OF PUBLIC FILE**

30. In terms of Rule 6(7) of the Rules, any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties.

#### **NON-COOPERATION**

31. 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 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.

**(Bhupinder S. Bhalla)**  
**Additional Secretary & Designated Authority**