

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

No 15/7/2014-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
Udyog Bhawan, New Delhi

Dated the 20 June, 2014

Initiation Notification

(Sunset Review)

Subject: Sunset review anti-dumping investigation concerning imports of Phosphoric Acid of all grades and all concentration (excluding Agriculture/Fertilizer Grade) originating in or exported from Korea RP.

No 15/7/2014-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 Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the AD Rules or Rules), the Designated Authority (hereinafter referred to as the Authority) initiated the anti dumping investigation in respect of the imports of Phosphoric Acid of all grades and all concentration (excluding Agriculture/Fertilizer Grade) (hereinafter referred to as the subject goods) originating in or exported from Korea RP (hereinafter referred to as the subject country) and definitive anti dumping duty was recommended vide Final Findings Notification No 14/07/2007-DGAD dated 11th November, 2009. Accordingly, definitive anti dumping duty was levied by the Central Government vide Custom Notification No 140/2009-Customs dated 15.12.2009.

Request for Review

2. Whereas, in terms of the Customs Tariff Act, 1995, the antidumping duty imposed shall unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.

3. And, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantial request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. And, whereas, in terms of the above provisions, M/s Gujarat Alkalies & Chemicals Ltd and Punjab Chemicals, major manufacturer of the subject goods in India, have approached the Authority with a duly substantiated application requesting for sunset review of the anti-dumping duty earlier imposed vide Ministry of Finance Notification No. 140/2009-Customs dated 15.12.2009 on the imports of the subject goods originating in or exported from the subject country and seeking the continuation of anti-dumping duty. The request is based on the grounds that dumping of the subject goods originating in or exported from the subject country has continued in spite of the imposition of anti-dumping duties on the import of the subject goods from the subject country and the domestic industry continues to suffer injury on account of dumping from the subject country. The applicants have further argued that the expiry of the measure against the subject country would be likely to result in continuation or recurrence of dumping and injury to the domestic industry.

5. And, the Authority on the basis of prime facie evidence given by the applicants considers that initiation of sunset review proceedings for the anti-dumping duties in force would be appropriate to examine the need for continuation of such duties to offset dumping from the subject country and to examine as to whether the injury to the domestic industry is likely to continue or recur if the duties were removed or varied.

Domestic Industry and Standing

6. The application has been filed by M/s Gujarat Alkalies & Chemicals Ltd and Punjab Chemicals (hereinafter referred to as the domestic industry or the applicants), producers of the subject goods in India. As per the records available with the Authority, the applicants account for major share in the Indian production and constitute domestic industry and fulfill the condition of standing within the meaning of the Rules.

7. Having satisfied itself on the basis of the positive prima facie evidence submitted by the domestic industry substantiating the need for a review, the Authority hereby initiates the Sunset Review in accordance with Section 9 A (5) of the Act, read with Rule 23 of Antidumping Rules, to review the need for continued imposition of duties in force and whether the expiry of the duties would be likely to lead to continuation or recurrence of dumping and injury.

Product under Consideration and Like Article

8. The product under consideration for the purpose of present investigation as proposed by the applicants in the application is "Phosphoric Acid of all grades and all concentration (excluding Agriculture/Fertilizer Grade) originating in or exported from Korea RP. Phosphoric Acid is a clear, colourless, odourless, non-volatile, rather viscous, syrupy liquid, commonly used as an aqueous solution of 85% solution can be corrosive, although non-toxic when diluted. 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. The present petition being a petition for sunset review of existing anti dumping duty, the scope of the product under consideration in the proposed investigation remains the same as the scope of the product under consideration in the final findings earlier notified.

9. The Designated Authority noted as follows in the Final Findings of the original investigation vide notification dated 15th December, 2009:

"The product under consideration in the present investigation is Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade)."

10. The Authority concludes that the product under consideration in the present sunset review investigation is Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade). The scope of the product under consideration in the present investigation remains the same as the scope of the product under consideration in the final findings earlier notified. 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 an inorganic chemical classified under Chapter 28 of the Customs Tariff Act and subheading number 2809.20 of Indian Trade Classification (based on harmonized commodity system). The classification is, however, indicative only and in no way binding on the scope of the present investigation.

11. The applicants have claimed that there is no known difference in product produced by the applicants and exported from the subject country. Both products have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc. It has been claimed by the domestic industry that comparison of essential product properties in respect of domestic product and imported product show that the subject goods

produced by the domestic industry are similar to the subject goods imported from subject country in terms of essential product properties. The Authority determines that the subject goods produced by the domestic industry are like article to the subject goods imported from the subject country.

Procedure

12. The investigation will determine as to whether the expiry of the measures would be likely to lead to continuation or recurrence of dumping and injury. The Authority will examine as to whether the continued imposition of the duties is necessary to offset dumping and whether the injury would be likely to continue or recur if the duties were removed or varied.

- i. The review will cover all aspects of the Final Findings Notification No 14/07/2007-DGAD dated 11th November, 2009.
- ii. The country involved in the review investigation is Korea RP.
- iii. The period of investigation (POI) for the purpose of the present review proposed by the domestic industry was from October, 2012 to September, 2013. However, the Authority determines the period of investigation from April, 2013 to March, 2014 and for injury analysis, data of the previous three years, viz., 2010-11, 2011-12, 2012-13 and the POI will be considered.
- iv. The provisions of Rules 6,7,8,9,10,11,16,17,18,19 and 20 of the Rules shall be mutatis mutandis applicable in this review.

Submission of Information

13. 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 Anti-Dumping and Allied Duties
Ministry of Commerce and Industry
Department of Commerce
Room No. 132, Udyog Bhavan, New Delhi-110011.**

14. 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

15. Any information relating to the present review 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 communication of initiation 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.

16. 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 Anti-dumping measures within 40 days from the communication of initiation of this Notification.

Submission of information on confidential basis

17. In case confidentiality is claimed on any part of the questionnaire 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.

18. 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. Two (2) copies of the confidential version and five (05) copies of the non-confidential version must be submitted by all the interested parties.

19. 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.

20. 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.

21. 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.

22. 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:

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

Non-cooperation

24. 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.

J K Dadoo
Designated Authority