

14/44/2010-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping & Allied Duties
Udyog Bhawan, New Delhi

Dated the 4th February 2011

INITIATION NOTIFICATION

Subject: Initiation of anti-dumping investigation concerning imports of ‘Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade)’ originating in or exported from Israel and Taiwan

No. 14/44/2010-DGAD: Whereas M/s. Gujarat Alkalies & Chemicals Limited, Baroda (hereinafter referred to as the Applicant) has 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), alleging dumping of ‘Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade)’ (hereinafter also referred to as the subject goods) originating in or exported from Israel and Taiwan (hereinafter also referred to as the subject countries) and has requested for initiation of anti- dumping investigation and levy of anti dumping measures.

Product under consideration

2. 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.

3. 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.

Domestic Like Article

4. The Applicant has claimed that there is no known significant difference in the subject goods produced by the Indian industry and the subject goods exported from the subject countries. The subject goods produced by the Indian industry and imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are

technically and commercially substitutable. The consumers are using the two interchangeably. Though producers of phosphoric acid world over broadly follow either of the two paths, viz. the wet process or the dry process but the technology and production process of the two are comparable to the best of knowledge of the Applicant.

5. Thus, the subject goods produced by the Applicant are being treated as like article to the product under consideration imported from the subject countries within the meaning of the AD Rules for the purpose of this investigation.

Domestic industry & 'Standing'

The application has been filed by M/s. Gujarat Alkalies & Chemicals Limited, Baroda on behalf of the domestic industry and has been supported by M/s Punjab Chemicals & Crop Protection Ltd. As per information available on record, the Applicant accounts for about 45 % of the total Indian production and thus the production of the Applicant accounts for a major proportion of the domestic production. Further, the production of the Applicant along with the supporter is more than 50% of the Indian production.

6. Thus, the Authority has determined that the application satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules and the Applicant is being treated as 'domestic industry' within the meaning of Rule 2(b) of the AD Rules.

Countries involved

7. The countries involved in the present investigation are Israel and Taiwan (hereinafter also referred to as the subject countries).

Normal value

8. The applicant has constructed the normal values in respect of the subject countries stating that neither they were able to get any documentary evidence or reliable information with regard to domestic prices of the subject goods in the subject countries nor the same are available in the public domain. The Authority has prima-facie considered the normal value of subject goods in subject countries on the basis of constructed values for the purpose of the initiation of this investigation.

Export price

9. The Applicant has determined export prices based on the data compiled by IBIS, Mumbai. The export prices have been adjusted for ocean freight, marine insurance, port handling and inland transportation etc to arrive at net export price at ex-factory level.

Dumping margin

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

'Injury' and causal link

11. The Applicant has claimed material injury and threat of material injury as a result of the alleged dumping. It has been claimed that the imports have increased in absolute terms and in relation to consumption in India and that the imports are significantly undercutting the prices of the domestic industry and as well depressing the prices of the domestic industry. The Applicant has further claimed deterioration in performance of the domestic industry in terms of production, capacity utilization, market share, profits, return on capital employed and inventories.

12. There is sufficient evidence of the 'injury' being suffered by the domestic industry caused by the dumped imports from the subject countries to justify initiation of an antidumping investigation in terms of the AD Rules.

Initiation of Anti Dumping Investigation

13. In view of the foregoing, the Authority finds that sufficient evidence of dumping of the subject goods from the subject countries, 'injury' to the domestic industry and causal link between the dumping and 'injury' exists to justify initiation of an anti-dumping investigation. Accordingly, the Authority hereby initiates an investigation into the alleged dumping, and consequent 'injury' to the domestic industry in terms of the Rules 5 of the AD Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping measure, which, if levied, would be adequate to remove the injury to the domestic industry.

Period of investigation

14. The period of investigation for the purpose of present investigation is **1st April 2009 to 30th June 2010**. The injury investigation period will, however, cover the periods April 2006-March 2007, April 2007-March 2008, April 2008-March 2009 and the Period of Investigation (POI) viz. 1st April 2009 to 30th June 2010. For threat of material injury, the data beyond the POI may also be examined.

Submission of information

15. The known exporters in the subject countries and their Governments through their Embassy/Economic and Cultural Centre 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.243, Udyog Bhawan,
New Delhi -110107.**

16. 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.

Time limit

18. Any information relating to this investigation and any request for hearing should be sent in writing so as to reach the Authority at the above mentioned address, 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 AD Rules.

Submission of information on Confidential basis.

19. 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.

20. 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.

21. 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.

22. 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 Designated Authority.

23. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Designated 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.

24. 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 Designated Authority. The Designated 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

25. 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.

Use of ‘facts available’

26. 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

(P. K. Chaudhery)
The Designated Authority