

# MINISTRY OF COMMERCE

## NOTIFICATION

New Delhi, the 15th February 1999

## FINAL FINDINGS

**Subject:** Anti-dumping investigation concerning imports of P-Tert Butyl Catechol from France- Final Findings.

**No. 19/1/97/ADD.** - Having regard to the Customs Tariff Act. 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof:

### A. PROCEDURE

1. The Procedure described below has been followed:
  - i. The Designated Authority (hereinafter also referred to as the Authority) notified preliminary findings vide notification dated the 26th Nov., 1998 and requested the interested parties to make their views known in writing within forty days from the date of its publication;
  - ii. The Authority forwarded a copy of the preliminary findings to the known interested parties who were requested to furnish their views. If any, on the preliminary findings within forty days of the date of the letter;
  - iii. The Authority also forwarded a copy of the preliminary findings to the Embassy of France in New Delhi with a request that the exporters and other interested parties may be advised to furnish their views on the preliminary findings:
  - iv. The Authority provided an opportunity to all interested parties to present their views orally on 11th Jan. 1999. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals. If any;
  - v. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties, for inspection, upon request;
  - vi. Argument raised by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have

not been repeated herein for sake of brevity. However, the arguments raised by the interested parties have been appropriately dealt in the preliminary findings and/or these findings;

- vii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have also been duly considered in these findings.

## **B. VIEWS OF PETITIONERS, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES AND EXAMINATION BY AUTHORITY**

2. The views expressed by various interested parties have been discussed in the relevant paras hereinbelow. The arguments raised by the interested parties have been examined, considered and wherever appropriate, dealt in the relevant paras hereinbelow.

## **C. PRODUCT UNDER CONSIDERATION, LIKE ARTICLES AND DOMESTIC INDUSTRY**

3. Product under consideration in the present investigations is P-Tert Butyl Catechol (hereinafter also referred to as PTBC). There is no dispute on the product under consideration and, therefore, the Authority confirms preliminary findings with regard to product under consideration.

### **Petitioner, like article and domestic industry:**

4. The petition accounts for a major proportion of the total domestic production. The petitioner, therefore, satisfies the standing to file the present petition and constitutes domestic industry within the meaning of the Rules.

5. It has been argued that quality of PTBC is a major consideration of the prices. The effect of the differences in quality, if any, on the extent of dumping or injury have, however, not been demonstrated by any interested party. The argument is, therefore, ignored. There is no dispute that the goods produced by the domestic industry and goods imported from France are similar in terms of characteristics such as physical characteristics, function & uses, technology, production process, marketing arrangements, pricing and customer perception and are technically and commercially substitutable. Difference in scale of operation, if any, does not alter the properties of

the two goods in terms of these characteristics. The goods produced by the domestic industry are, therefore, like article to the product under consideration.

6. In view of the foregoing, the Authority confirms preliminary findings with regard to the product under consideration, like article, and domestic industry.

## **D. DUMPING**

7. The authority notes that with regard to the price adjustments disallowed by the Authority. Rhone Poulenc have not furnished any further information after notifying the preliminary findings. All the information furnished before preliminary findings have been taken into account for working out dumping margin.

8. With regard to the argument of the petitioner that it has able to export to other countries at much higher price and Rhone Poulenc has kept the prices in the Indian market at very low level, the Authority notes that the only relevant issues with regard to dumping and the extent of dumping are the normal value in the subject country and export price to India. The price at which the petitioner could export its goods to other countries are irrelevant for this purpose.

9. Rhone Poulenc has argued that it has to maintain a large team, whose primary function is to support users of PTBC with guidance on how to use the Rhodia product. The Authority appreciates that the exporter might be maintaining a large team and the exporter could have claimed price adjustment on this account. However, since the exporter has not claimed any quantified price adjustment, no price adjustment is feasible.

10. Normal value in the preliminary findings was determined on the basis of the information furnished by Rhone Poulenc. The export price was arrived at in the preliminary findings by correlating the claims of the exporter and the petitioner. Since the exporter has not furnished any further information in respect of the price adjustments disallowed by the Authority, the Authority considers it appropriate to confirm the preliminary findings with regard to determination of dumping margin.

11. The Authority, in view of the foregoing confirms preliminary findings with regard to determination of dumping and dumping margin.

## **E. INJURY AND CAUSAL LINK**

12. The arguments raised by the interested opposing parties and examination of the same by the Authority are as under:-

**Argument raised:**

(a) Injury to the domestic industry is not from dumped imports from France. The same is because of the other Indian producer, who has gained market share at the cost of the petitioner.

**Examination by Authority:**

As brought out in the preliminary findings also, imports of PTBC from France increased in absolute terms as also relative to consumption in India. The argument of the interested party is, therefore, rejected.

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**Argument raised:**

(b) Rhone Poulenc has displaced the exports from Japan and not market share of domestic industry.

**Examination by Authority:**

As stated in the previous paragraph, imports of PTBC from France increased in absolute terms as also relative to consumption in India. The argument of the interested party is, therefore, rejected.

**Argument raised:**

(c) The domestic industry has to import Catechol resulting in increase in cost of production. The high cost of Catechol is the result of injury to the domestic industry.

**Examination by Authority:**

The Authority notes that the exporter, while arguing that the cost of Catechol for the domestic industry is higher has neither furnished its own cost of production nor its cost of Catechol. Further, as stated under para 34 of the preliminary findings also, the

Authority has assessed reasonable selling price of PTBC in India by considering optimum cost of production. Moreover, it would be inappropriate to compare mere cost of Catechol of two producers, as what is more relevant is the total cost of production, including selling, general & administrative expenses. The argument is, therefore, ignored.

**Argument raised:**

(d) The injury to the domestic industry should now be considered taking into account the injury to the other Indian producer.

**Examination by Authority:**

The petitioner constitutes domestic industry within the meaning of the Rules. Further, support to the petition by Percynic Chemicals does not bind the company to furnish all relevant information to the Authority, particularly when the petitioner satisfies the definition of the term "domestic industry" under the Rules. The argument is, therefore, rejected.

**Argument raised:**

(e) Japan has exported PTBC to India at US\$ 5.6 per kg in Sept. 1998. The exporter from Japan are thus resorting to dumping and the volume of imports are also substantial.

**Examination by Authority:**

There is no allegation of dumping by Japan and hence these arguments are outside the scope of the present investigations. Mere sales at low prices does not constitute dumping. Not only that the export is beyond the investigation period, but also there is no information available about normal value of PTBC in Japan. The argument is, therefore, rejected.

13. The arguments raised by the Indian Industry on injury are as follows:

**Argument raised:**

(a) Percynic Chemical has stated that it has also suffered injury from the dumped imports, as it had to reduce the prices by more than 16% for the period Oct., 96 March, 97 and by 25% or more for the period April-Sept., 1997.

**Examination by Authority:**

Percynic Chemicals has not furnished supporting information. Further, the petitioner constitutes "domestic industry" within the meaning of the Rules. Injury has been determined for the domestic industry within the Rules. The contention of Percynic Chemicals is, therefore, ignored.

**Argument raised:**

The level of anti-dumping duty recommended by the Authority is insufficient.

**Examination by Authority:**

As stated in the preliminary findings also, the amount of anti-dumping duty recommended is based on the lower of the dumping margin and the extent of injury. The Authority assessed the fair selling price and extent of injury in the preliminary findings. The same has, however, been assessed again for the purpose of these findings also.

## **F. FINAL FINDINGS**

14. The Authority, after considering the foregoing, concludes that:

- a. P Tert Butyl Catechol originating in or exported from France has been exported to India below its normal value.
- b. The Domestic Industry has suffered material injury.
- c. The injury has been caused to the domestic industry by dumping of the subject goods originating in or exported from France.

15. The Authority confirmed the preliminary findings with regard to imposition of anti dumping duty and recommends imposition of definitive anti-dumping duty on all imports of P Tert Butyl Catechol (as per details brought in the para relating to product under consideration in these findings as also in the preliminary findings) falling under chapter 29 originating in or exported from France. The anti-dumping duty shall be Rs. 48.03 per kg.

16. Landed value of imports for the purpose shall be the assessable value as determined by the customs under the Customs Act, 1962 and all duties of customs except duties levied under Section 3, 3A, 8B, 9 or 9A as the case may be of the Customs Tariff Act, 1975.

17. Subject to above, the Authority confirms the preliminary findings dated 26.12.1998.

18. An appeal against this order shall lie to the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act supra.

**RATHI VINAY JHA...**  
Designated Authority & Addl. Secy.