

# MINISTRY OF COMMERCE

## NOTIFICATION

New Delhi, the 28th February, 1997

## FINAL FINDINGS

**SUBJECT:** Anti-dumping investigation concerning imports of 8- Hydroxyquinoline originating in or exported from the People's Republic of China - Final Findings.

**ADD/IW/36/95-96-** 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.

## PROCEDURE

2. The Procedure described below has been followed:

- i. The Designated Authority (hereinafter referred to as the Authority) notified Preliminary Findings vide Notification no. ADD/IW/36/95-96 dated the 6-th Sept., 1996 and requested the interested parties to make their views known in writing within forty days from the date of its publication,
- ii. Forwarding a copy of the Preliminary Findings, all known interested parties 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 the People's Republic of China (referred to as China PR hereinafter) 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 held a public hearing on 13.12.96 to hear views orally. All the parties attending the public hearing 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 were requested to offer their rebuttals. Since none of the parties collected the copies of the written submissions, they were sent by post, requesting rebuttals by 23.1.1997.
- v. In accordance to Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to all the known interested parties Comments received on the same have also been duly considered in the these findings.

## **PETITIONER'S VIEWS**

3 The petitioner in response to the Preliminary Findings made the following submissions:

- Using the stoichiometry followed by Sinochem, cost of raw material for producing 1 kg of 8-HQ from Quinoline comes to Rs. 670.56, and the Normal Value comes to Rs. 1060 per Kg. The export price, therefore, does not even cover the variable cost of production.
- The Authority should impose definitive Anti Dumping Duty on imports from China

## **VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES:**

4. The importers and exporters have expressed their views, and the same are briefly mentioned below:

### **EXPORTERS**

Only M/s. Sinochem Jiangsu Import & Export Corpn., China (hereinafter referred to as Sinochem) responded to the Preliminary Findings directly as also through the Chinese Embassy in India. No other exporter from China responded to the Preliminary Findings. The views expressed by the exporter are briefly as follows

#### **On Normal Value**

- The exporter did not have any domestic sales in "last year".
- The exporter did not export 8-HQ to any other country.
- The Normal Value worked out by the Authority is an estimated value and without accurate verification of the petitioner.
- It is improper to consider Normal Value, as worked out, on the basis of prices of a single Indian producer.
- The technology and method of production adopted by Sinochem is different from the petitioner as it produces 8-HQ from Quinoline
- The exporter has got higher installed capacity than the petitioner.
- The cost of production of the exporter in May, 96 was RMB 96.15 per Kg (US \$ 11.42).
- The exporter had exported 8-HQ to India at profit.

#### **On Export Price**

- The average Export Price of 8-HQ during the period did not decline, as observed by the Authority, but, in fact, had increased during the period.
- The Export Price was lower in comparison to other countries because of inferior quality of 8-HQ, and its lower purity.

### **On injury**

- The petitioner's cost of production is not higher than landed cost of Chinese 8-HQ.

## **IMPORTERS AND OTHER INTERESTED PARTIES**

Only one importer, namely, M/s. Vetcare Alltech Pvt. Ltd. has responded, whose comments are as under:

- **On Normal Value:** The Chemical synthetic route adopted by Chinese and the petitioner are different. Therefore, it is their belief that the Chinese producers have recovered their cost of production and are selling at profit.
- **On Dumping:** There are more than ten manufacturers of 8-HQ in China, offering 8-HQ at a price differential of one dollar.
- Imposition of anti dumping duty would severely injure importers of 8-HQ, who are exporting 100% of (hair goods manufactured out of 8-HQ).

## **EXAMINATION BY AUTHORITY**

5. submissions made by the petitioner, exporters, importers and other interested parties have been examined and considered by the Authority while arriving at these findings and, wherever appropriate, have been dealt hereinafter. The comments made subsequent to the disclosure of the essential facts have also been appropriately dealt with hereinafter.

6. The Authority confirms, in the absence of sufficient response from the exporters in the form and manner prescribed, having made these findings on the basis of the facts available to it as per rule 6(8) supra. The response from Sinochem, even though incomplete and not in the prescribed proforma, has also been appropriately considered by the Authority.

## **LIKE ARTICLES AND DOMESTIC INDUSTRY**

7. Under Rule 2(d) "like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence

of such an article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.

8. The product under consideration which has been investigated for dumping has been defined in para 8 of the preliminary findings; which is 8-Hydroxyquinoline {referred to as 8-HQ hereinafter). The Authority notes that the articles produced by the domestic industry have characteristics closely resembling those of article under investigation and therefore the criteria prescribed in the definition under Rule 2(d) are adequately satisfied. The Authority also notes that the articles imported originating from China PR have substituted the articles produced by the domestic industry - both commercially and technically. The Authority notes that the paras 8 & 9 of the Preliminary Findings have also not been controverted.

9. The Authority confirms paras 8 to 10 of the Preliminary Findings and also confirms that 8-HQ produced by the Domestic Industry is like article to the product under consideration i.e., 8-HQ exported to India originating in or exported from China PR within the meaning of the rules supra.

## **NORMAL VALUE**

10. Under Section 9A(1)(c), normal value in relation to an article means:

- i. the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
- ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-
  - a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
  - b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no

comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

11. The Authority had sent exporters questionnaire to all the known exporters for the purpose of determination of normal value in terms of the section cited above. However, the Authority notes that none of the exporters, except Sinochem has furnished any information. Though Sinochem has furnished some of the information requested by the Authority and has stated that it has not sold 8-HQ either in its home market or to any other country, the reply is grossly incomplete. Moreover, the exporter has also not offered itself for verification. The exporter has stated that it has a capacity of 12 MT per month. Sinochem has furnished details of its production and sales only for one month, i.e. May, 1995. From the very limited information submitted by the exporter, it appears that they had either produced very negligible quantities compared to their capacity or the details of other production have not been properly reported. However, the Authority refrains from making any conjectures in the absence of sufficient information/evidence from the exporters. No information has been made available to the Authority about the prevailing Normal Value in the Chinese domestic market despite requests made to all the known interested parties. Normal Value for the exporter, therefore, cannot be determined on the basis of home market price to or Export Price to third countries.

12. The details of cost of production furnished by the exporter were also examined by the Authority and it was found that the information furnished is grossly insufficient to work out the Normal Value based on cost of production. The exporter has claimed a capacity of 12 MT 8-HQ per month and has furnished cost of Production statement also for one month i.e. May 95. Whether the exporter produced 8-HQ during the entire period is not known to the Authority. Further, the information furnished is insufficient to conclude that the cost of production is a representative cost and is based on proper allocation of costs, appropriate amortisation and depreciation on assets, allowances for capital expenditure and other development costs, as , is required to be established.

13. It is also important to note that Sinochem did not furnish full detailed information in the prescribed proforma despite several opportunities given to them by the Authority. Moreover, as stated earlier, even the sketchy information furnished could not be verified to the satisfaction of the Authority in the absence of willingness from the exporter. The Authority, therefore is left with no alternative but to disregard the information supplied by the exporter being inadequate, unsubstantiated and in the absence of proper verification, unreliable.

14. Under the circumstances, the Authority considers it appropriate to treat M/s Sinochem Jingsu at par with other non-co-operative exporters, and to determine The

Normal Value on the basis of cost of Production in China under Section 9A (1) © (ii) (b). The cost of production has been constructed on the basis of facts available with the Authority in terms of Rule 6(8).

15. For constructing cost of production of 8-HQ in China, the Authority also recognises that even though the manufacturers in China might have different technology and method of production resulting in different cost of production, the data available is insufficient to account for the same in view of non-co-operation from the exporters/producers. The Authority has, therefore, worked out cost of production in China PR on the basis of cost data of the Indian industry with appropriate adjustments, in accordance with the Rule 6(8), which authorises the Authority to work out cost of production in the country of origin on the basis of facts available with it.

16. The Normal Value on the above basis was earlier constructed at the time of preliminary determination and the same level of Normal Value has been adopted.

17. Except as detailed in the foregoing, the Authority confirms the paras 11 to 13 of the Preliminary Findings with regard to Normal Value of 8-HQ in China PR.

18. It is clarified that the Authority has not arrived at Normal Value on the basis of the petitioner's prices. The same has been worked out on the basis of the estimates at the cost of production.

## **EXPORT PRICE**

19. The information furnished by Sinochem suggests that it has exported 8-HQ to India only in one month. Export Price furnished by Sinochem has been considered for determination of dumping margins. M/s. China Jiangsu Medicines & Health Products Import Export (Group) Coprn., China and other exporters from China, if any, have failed to furnish ex-works Export Price, in the absence of which, the Authority has worked out Export Price on the basis of the information made available by the importers in the form and manner prescribed by the Authority, as brought out in the Preliminary Findings. The adjustments allowed by the Authority in arriving at ex-works Export Price, as detailed in the para 15 of the Preliminary Findings have not been controverted, and are, therefore, confirmed.

20. Except as detailed in the foregoing, the Authority confirms the paras 14 to 15 of the Preliminary Findings with regard to Export Price of 8-HQ from China PR.

## **COMPARISON**

21. The Preliminary Findings with regard comparison of Normal Value with Export Price is uncontroverted. The Authority confirms the paras 16 to 17 of the Preliminary Findings.

## **INJURY**

22. The contention of Sinochem that cost of production of the petitioner was not higher than the landed cost of Chinese 8-HQ is unsubstantiated and contrary to the evidence on record. It is also clear from the available evidence that the petitioner was forced to sell 8-HQ at prices significantly below its cost of production. The weighted average landed value of individual exporters were lower than the fair selling price of 8-HQ worked out by the Authority, as brought out in para 40 of the findings.

23. The information relied upon by the Authority in paras 18 to 30 of Preliminary Findings with regard to the injury to the Domestic Industry has also not been controverted.

24. It is clarified that the Authority has not merely relied upon the submissions of the petitioner regarding fair selling price. The Authority deputed a team of officials for conducting a detailed on-the-spot investigation and has worked out the fair selling price of 8-HQ in India for the domestic industry. Since the same is based on confidential data furnished by the petitioner, the Authority refrains from discussing the details.

25. After considering the arguments raised by the interested parties the Authority confirms paras 18 to 30 of the Preliminary Findings relating to injury to the domestic industry.

## **CAUSAL LINK**

26. The Authority has worked out Fair Selling Price for the Domestic Industry at optimum level of operations and therefore, the effects of extraneous factors, if any, are nullified.

27. The findings by the Authority in paras 18 to 30 of the Preliminary Findings with regard to the injury to the Domestic Industry are also uncontroverted.

28. The Authority after considering all related issues, confirms para 31 of the Preliminary Findings with regard to causal link between dumping or 8-HQ originating from China PR and material injury to the domestic industry

## OTHER ISSUES

29. The issue with regard to petitioner's monopoly position is also irrelevant in the present proceedings as the right of a single producer can not be restricted under the Anti Dumping Act, so long as the petitioner satisfies the criterion of Domestic Industry. Moreover, it is observed that the domestic producers are facing direct competition from imports of 8-HQ from various sources and are not, in fact, in a position to dictate or manipulate the prices or the market of 8-HQ. Moreover the purpose of ant-dumping duties, as detailed in para 32 of the Preliminary Findings, is to remove dumping which has caused injury to the domestic industry and to re-establish a situation of fair competition and not to restrain imports from any specific source.

30. Except as detailed in the foregoing, the Authority confirms the paras 32 to 37 of the Preliminary Findings.

## FINAL FINDINGS

31. The Authority has, after considering the foregoing come to the conclusion that:

- 8-HQ originating in or exported from China PR has been exported to India below its normal value, "
- The domestic industry has suffered material injury;
- The injury has been caused to the Domestic Industry by the exports originating in or exported from China PR

32. The Authority therefore, confirms paras 38 to 40 of the Preliminary Findings and recommends imposition of definitive Anti-dumping duties on all imports of 8-HQ originating in or exported from China PR at the rates specified below:

Name of the Exporter	Amount of Duty (Rs. per Kg.)
A. Sinochem Jiangsu Import & Export Corpn., China	183
B. China Jiangsu Medicines & Health Products Import Export (Group) Corpn., China	206
Exporters other than above	206

30. Subject to above, the Authority confirms the preliminary findings dated 6.9.1996.

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

**Deepak Chatterjee,**  
Designated Authority

