

MINISTRY OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING AND
ALLIED DUTIES
NOTIFICATION

New Delhi, the 29th May, 2000

Sub: Review of anti-dumping duties concerning imports of Pure Terephthalic Acid (PTA) from Korea RP

Final Findings

No. 26/1/98-DGAD – 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 referred to as Authority), under the Rules, received from M/s Reliance Industries Ltd. (RIL) (also referred to as petitioner in this notification), a request for review of anti-dumping duty imposed on imports of PTA (hereinafter referred to as subject goods) originating in or exported from Korea RP (hereinafter referred to as subject country).
- ii. The Authority on the basis of sufficient and fully documented evidence submitted by the petitioner, decided to initiate review investigations against imports of PTA from Korea RP. The Authority issued a public notice dated 3.3.99 published in the Gazette of India, Extraordinary, initiating review investigations concerning imports of PTA exported from Korea RP.
- iii. The investigations concluded by the Authority vide notification dated 19.3.98 have been referred to as "the previous investigations" in this notification.
- iv. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of PTA in India during the period of review.
- v. The Authority notified the Embassy of Korea RP in New Delhi before proceeding to initiate the review investigation in accordance with sub-Rule 5(5) of the Rule.

- vi. The Authority held an oral hearing on 8.6.99. 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.
- vii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained and kept open for inspection by any interested party.
- viii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to all known interested parties on 28.4.2000 and comments received on the same have also been duly considered in these findings.
- ix. The Authority forwarded a copy of the public notice to all the known importers (whose details were made available by petitioner) of Pure Terephthalic Acid in India and advised them to make their views known in writing within forty days from the date of issue of the letter.
- x. The Authority provided a copy of the petition to the known exporters and the Embassy of the subject country in accordance with Rules 6(3) supra. A copy of the petition was also provided to other interested parties, wherever requested.
- xi. The Authority sent a questionnaire to elicit relevant information to the following known exporters/producers from Korea RP in accordance with the Rule 6(4):
 - 1. M/s Sunkyong Ltd.,
 - 2. M/s Samsung Petrochemicals Co. Ltd. (SPC),
 - 3. M/s Kohap Chemical Corporation,
 - 4. M/s Tae Kwang Industrial Co. Ltd.,

However, response to the questionnaire/notification was filed by the following exporters/producers only:-

- 1. M/s Samsung Petrochemicals Co. Ltd. (SPC), Korea RP

- xii. The Embassy of the subject country in New Delhi was informed about the initiation of the review investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to the Embassy, along with a list of known exporters/producers.
- xiii. A questionnaire was sent to the following known importers/user associations of the subject goods for necessary information in accordance with Rule 6(4):

- 1. M/s Sanghi Polyesters Ltd. Hyderabad

2. M/s Orissa Synthetics Ltd., Calcutta
3. M/s Parasrampuriah Synthetics Ltd., New Delhi
4. M/s JCT Ltd., Hoshiarpur
5. M/s Indian Organic Chemicals Ltd., Mumbai
6. M/s India Polyfibres Ltd., Lucknow
7. M/s Futura Polymers, Madras
8. M/s DCL Ltd., Nagpur
9. M/s J K Synthetics Ltd., Kanpur
10. M/s Raymond Synthetics Ltd., Allahabad
11. M/s Indo-Rama Synthetics Ltd., M.P.
12. M/s Pearl Engg. Polymers Ltd., New Delhi
13. M/s Garware Polyesters Ltd., Mumbai
14. M/s Elque Polyesters Ltd., Calcutta
15. Association of Synthetic Fibre Industry (ASFI)
16. Association of Polyester Staple Fibre Manufacturer

Response to the questionnaire/notification was filed by the following Importers/user Associations:

1. M/s Century Enka Ltd.
 2. M/s Sanghi Polyesters Ltd.
 3. M/s Parasrampuriah Synthetics Ltd.
 4. M/s J K Corp. Ltd.
 5. M/s SVL Superchem Ltd.
 6. M/s DCL Polyesters Ltd.
 7. M/s Raymond Synthetics Ltd.
 8. M/s Indo-Rama Synthetics Ltd.
 9. M/s JCT Ltd.
- xiv. Additional information regarding injury was sought from the petitioner, which was also furnished.
- xv. The Authority conducted on the spot investigation at the premises of the petitioner to the extent considered necessary;
- xvi. Cost investigation was also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) .
- xvii. ****in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules;
- xviii. Investigation was carried out for the period starting from 1.4.98 to 30.9.98 i.e. the period of investigation (POI).
- xix. Verification of exporters data was carried out by the Authority to the extent it was feasible. A team of officers carried out the verification of the data at the

exporters premises viz. M/s Samsung Petrochemicals Co. Ltd. (SPC) in January, 2000

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

The views expressed by the various interested parties have been stated in the disclosure statement. The views raised in response to the disclosure statement are discussed in the relevant paras herein below to the extent these are relevant as per rules and have a bearing upon the case. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in the relevant paras herein below.

C. PRODUCT UNDER CONSIDERATION

The product under consideration is Pure Terephthalic Acid (PTA) classified under customs sub-heading 2917.36 of the customs Tariff Act, 1975 and further classified under ITC Head 29173600. PTA is a white free flowing crystalline powder free from any visual contamination and is used in manufacture of Polyester Staple Fibre (PSF), Polyester Filament Yarn (PFY), Polyethylene Terephthalate (PET), Bottle grade resins and Polyester film. The substitute for PTA is Di-Methyl Terephthalate (DMT). There are no arguments on the product under consideration.

D. DOMESTIC INDUSTRY

The interested party, M/s Reliance Industries Ltd. (RIL) requested for review of anti-dumping duties imposed on imports of PTA from Korea RP notified vide Customs Notification no. 13/98-Customs dt. 28.4.98 in view of reduction in prices by exporters from Korea RP and consequential increase in dumping margin and injury to the domestic producer. The Authority initiated the review investigation vide notification dt. 3.3.99 on imports of PTA (subject goods) from Korea RP (subject country) under Rule 23 of the Anti-dumping Rules. M/s RIL though excluded from the scope of domestic industry in the "previous investigation" was considered an interested party in this case with reference to Rule 2(c) of the Anti-dumping Rules. The Authority further notes that M/s RIL has not made any imports during the proposed period of investigation (POI) in this review. Since M/s RIL is the sole producer of PTA, the subject goods, the authority treats M/s RIL as domestic industry.

E. LIKE ARTICLE

The authority refers its final findings gazette vide notification no. 14/1/96-ADD dated 19.3.98. The goods produced by M/s RIL i.e. PTA is Like Article to PTA exported by Korea RP.

F. NORMAL VALUE AND EXPORT PRICE

a) **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.

The Authority provided opportunity to the known exporters/producers to furnish information in accordance with section cited above. The following exporters who responded have been assessed individually.

b) M/s Samsung Petrochemicals Co. Ltd. (SPC), Korea RP

i) Normal Value

The authority has considered weighted average normal value of the product for the period of investigation furnished and as verified by the investigating team. The authority notices that the credit expenses have been claimed at a higher rate of interest i.e. 25% being the over draft rate. The authority has considered the normal credit rate

viz. ***% for a short-term credit period as extended by the domestic supplier and accordingly, has allowed the adjustments on credit expenses to an extent of ***\$/MT. The authority has allowed packing and inland freight on the basis of the data/evidence produced by the exporter during verification team. The adjustments on duty drawback and un-loading are admitted as claimed. After allowing adjustments on packing, inland freight, duty drawback, credit expenses and un-loading to an extent of ***, ***, ***, *** & ***\$/MT respectively, the weighted average normal value comes to ***\$/MT.

ii) Export Price

The exporter has indicated that he is exporting through M/s Samsung Corpn. viz. the trader. The names of the customers and the quantity for the POI have been provided by the exporter. The details of adjustments for one of the importers during the POI has been provided by the exporter. These adjustments are ocean freight, negotiation charges, commission, other costs and inland freight claimed to an extent of ***, ***, ***, *** & ***\$/MT respectively. The authority notices that port-wise import details for the POI have been provided by the petitioner. The authority has referenced weighted average CIF value of the exports made by the exporter on the basis of the data furnished by the exporter and that by the petitioner. The adjustments as claimed by the exporter have been considered. The weighted average ex-factory export price comes to ***\$/MT.

C) Normal value and export price for other non-cooperating exporters

i. Normal Value

The authority has referenced the domestic selling price of the cooperating exporter for the other non-cooperating exporters. No adjustments are provided and the same is treated as the normal value in view of no data furnished by the non-cooperating exporters. The weighted average ex-factory normal value comes to ***\$/MT.

ii) Export Price

As regards, the ex-factory export price for the non-cooperating exporters, the authority has referenced the CIF price as furnished by the petitioner and allow adjustments on ocean freight, negotiation charges, commission, other costs and inland freight to an extent of ***, ***, ***, *** & ***\$/MT as claimed by the cooperating exporter which is also co-related by the adjustments indicated by the petitioner. The weighted average ex-factory export price comes to ***\$/MT.

G. DUMPING – Comparison of Normal value and Export price

The rules relating to comparison provides as follows:

"While arriving at margin of dumping, the designated authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability."

For the purpose of fair comparison between the normal value and the export price, the Authority has considered taking into account the information furnished by the exporters, and other information available with the Authority. The normal value and export price determined, as detailed above, are at ex-works level and, therefore, the comparison of normal value with weighted average export price has been considered. The authority has as per rules contained in Annexure –I of the Anti-dumping Rules carried out comparison on the basis of the weighted average normal value to weighted average export price.

It has been argued that the price at which the petitioner has exported the subject goods to countries may be considered a basis for Normal value. It has also been argued that in view of wide currency variation, exchange rates be applied prevailing as on the date of sale or at the best of the month of sale. Further the comparison for dumping should be on the basis of month to month comparison of normal value and export price in view of wide fluctuation of the PTA prices. As regards, the non-cooperating exporters, it has been argued that the best available information is the information from M/s SPC and that the same should be applied for non-cooperating exporters.

The Authority has considered the above arguments and considers it appropriate to reference the information supplied by M/s SPC on domestic prices without adjustments as an appropriate basis of normal value for the domestic sales. Since the other producers/exporters in Korea RP were given due opportunity to respond and in view of their non-cooperation no adjustments can be granted to these exporters as these are exporter specific. As regards, fluctuation of exchange rates and month to month comparison, the Authority notices that the cooperating exporter has exported only during two months of the POI and that the variation domestic and export prices in the POI and exchange rate is not to the extent which warrants transaction to

transaction comparison. The authority, however, notes that the comparison on average to average basis also reconciles with the transaction to transaction basis methodology in this particular situation by taking into consideration the variation of prices and exchange rate.

The dumping margin for exporters comes as under :

Exporter	Normal value (\$/MT)	Export Price (\$/MT)	Dumping margin (as % of export price)
M/s Samsung Petrochemical Co. Ltd. (SPC)	*****	*****	14.5%
M/s Sunkyong Industries Ltd.	*****	*****	26.76%
M/s Kohap Petrochemical Corpn.	*****	*****	26.76%
Any other Exporter	*****	*****	26.76%

H. Landed value

The landed value has been determined on the basis of weighted average export price of PTA from Korea RP determined separately for the exporters after adding the prevailing level of custom duties i.e. basic and special, one per cent towards landing charges, and two percent handling charges.

It has been argued by one of the interested parties that Special Additional Duty (SAD) @ 4% may also be added to the landed value since the petitioner is exempted from sales tax. The authority holds that the consistent practice has been to compare at a level of landed value excluding the duties levied under sections as indicated above with the non-injurious price. The authority, has, therefore, proposed to carry out comparison at the level of the landed value as illustrated above as per the existing practice.

I. INJURY, CAUSAL LINK AND DETERMINATION OF INJURY

Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, ".....taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to

depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

For the examination of the impact of the imports on the domestic industry in India, we may consider such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II(iv) of the Rules supra.

It has been argued that DMT producers have not joined the investigation and that the petitioner is already enjoying protection on account of various factors viz. basic custom duty, surcharge of basic custom duties, ocean freight, inland freight, anti-dumping duty already imposed etc. The petitioner also has not faced injury since their production has increased and imports from the subject country has declined in the POI. Further, the low price of the imports are due to logistic advantage and decline in the prices of paraxylene which is in line with international trend. The causal link is not established as the imports have declined to import volume of 29120 MT and these level of imports cannot lead to injury. It has been argued that the injury to the petitioner has been on account of decline in customs duty and that the cost structure of M/s Mitsubishi may be examined.

The authority has examined the above mentioned arguments and holds that the purpose of imposition of anti-dumping duty is not to provide protection to the domestic industry but to redress the injury to the domestic industry due to dumping. The authority has considered all the above arguments and has assessed injury by examining various injury indices as per the consistent practice as indicated in the Annexure 2 (iv) of the rules supra.

The following trends of production, capacity utilisation, market share allowed and imports from subject country are noted:

- a. The production has been 248517MT in 95-96, 269189 MT in 96-97, 683766 MT in 97-98 and 455734 in POI, showing an increasing trend.
- b. Capacity utilisation has been 124.26% in 95-96, 104.205% in 96-97, 100.68% in 97-98 and 93.48% in POI. There has been, therefore, a decreasing trend in capacity utilisation.
- c. The demand of subject goods in the domestic market has been 727.8 KTA in 95-96, 796.69 KTA in 96-97, 1076.56 KTA in 97-98 and 557.07 KTA in POI and is thus rising.
- d. The market share of petitioner in the domestic market has been 36% in 96-97, 60% in 97-98 and 69% in POI, thus shows a rising trend.

- e. The imports from Korea RP were 86759 MT in 96-97, 113767 MT in 97-98 and 29120 MT in POI and have thus decreased significantly.
- f. The share of imports from Korea RP in total imports of subject goods has been 30.8% in 96-97, 43.14% in 97-98 and 33.5% in POI and have thus decreased in relative terms.

The authority notes that though there is no decline in the market share and production in the POI of the petitioner and that as the imports of the subject goods in POI has also decreased, the dumped imports have, therefore, not led to any volume effect. The authority notices that the demand of PTA during 96-97, 97-98 and POI has been increasing. The Net Sales Realisation (NSR) for the petitioner however, has declined from 96-97, 97-98 and in POI as indicated below:

Year	NSR (Rs./MT)
95-96	55488
96-97	30186
97-98	22597
POI	19837

However, the NSR for the product under consideration for the domestic industry in the POI has been below the Non-injurious Price (NIP) on account of matching of the selling prices by the petitioner with the landed value of dumped imports, thus leading to these financial losses.

The non-injurious selling price of PTA in India for the domestic industry has been determined by the Authority by considering the optimum cost of production for the domestic industry in the POI. While evaluating NIP for the domestic industry, the authority has made appropriate analysis of all the relevant factors including usage of raw materials, the usage of utilities, the actual expense during POI, investments, the capacity utilisation etc. The authority notes that M/s Mitsubishi Chemical Corporation reported to be setting up a PTA plant has not produced the subject goods in the POI and, therefore, its cost of production is not referenced. It is the cost structure of M/s RIL i.e. domestic industry which has been referenced.

The authority thus, concludes that the imports from the subject country has led to price depression in the selling prices of the product under consideration in the domestic market thus leading the petitioner to financial losses and causing injury to domestic industry.

J. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

It has been argued by many interested parties that anti-dumping duty has driven out suppliers of exporting countries and deprived Indian polyester manufacturers the benefit of low international prices and that this has also affected exports. It has been indicated that the petitioner is taking such a recourse for a pre-dominant market situation. In order to protect the interest of the producers the option of imports needs to be kept open.

The authority after examining the above arguments holds that the purpose of anti-dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market which is in the general interest of the country.

It is recognised that the continuation of imposition of anti-dumping duty might affect the price levels of the products manufactured using the subject goods and consequently might have some influence relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the anti-dumping measures particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices and would prevent the decline of the domestic industry and also help maintain availability of wider choice to the consumers of PTA. Imposition of anti-dumping measures would not restrict imports from the subject country in any way and, therefore, would not affect the availability of the product to the consumers.

K. FINAL FINDINGS

The authority after considering the foregoing concludes that:

- a. PTA originating in or exported from the subject country as indicated in the foregoing para (G) has been exported to India below its Normal value.
- b. Domestic industry has suffered material injury on account of price suppression caused by dumped imports leading to financial losses.
- c. The injury has been caused to the domestic industry by dumping of the subject goods originating in or exported from Korea RP.
- d. The authority recognises the need for continuation of imposition of definitive anti-dumping duty on all imports of PTA falling under Chapter 29 Custom Head 2917.36 originating in or exported from Korea RP as quantified in Sub-para K(g).
- e. The landed value on imports for the purposes shall be the assessable value as determined by the customs under the custom Head 1962 and all duties of

customs except duty levied under section 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

- f. It was considered to recommend the amount of anti-dumping duty equal to the margin of dumping or less which if levied would remove the injury to domestic industry. Landed value of the imports for individual exporters, for the purpose, were compared with the non-injurious selling price (NIP) of the domestic industry, determined for the period of investigation. As the difference was less than the dumping margin, a duty lower than that of the dumping margin is recommended.
- g. Accordingly it is proposed that anti-dumping duties as set out below be imposed, from the date of notification to be issued in this regard by the Central Government, on all imports of PTA originating in or exported from the subject country i.e. Korea RP falling under chapter 29 (Custom Head 2917.36) of the Customs Tariff.

Sl. No.	Name of the company	Amount (\$/MT)
1.	Korea RP M/s Samsung Petro-chemicals Co. Ltd. (SPC)	16.07
2.	Any other exporter	17.04

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 and Additional Secy.