

**MINISTRY OF COMMERCE & INDUSTRY**  
**DEPARTMENT OF COMMERCE**  
**(DIRECTORATE GENERAL OF ANTI-DUMPING &**  
**ALLIED DUTIES)**

**NOTIFICATION**

NEW DELHI, the 17th January 2003

**FINAL FINDINGS**

**Sub:** Anti-Dumping Investigation concerning imports of Citric Acid from Indonesia and Thailand..

**No.14/11/2002-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 above Rules, received a written petition from M/s Citurgia Biochemicals Ltd., on behalf of the domestic industry, alleging dumping of Citric Acid (hereinafter referred to as subject good) originating in and exported from Indonesia and Thailand (hereinafter referred to as subject countries);
- ii. The Authority notified the Embassy/High Commission of the subject countries in India about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 *supra*;
- iii. The Authority issued a Public Notice dated 16th April, 2002, published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Citric Acid originating in or exported from the subject countries falling under Customs Sub-heading 2918.14 under Chapter 29 of the Customs Tariff Act, 1975. :
- iv. The Authority notified preliminary findings dated 14.6.2002 and forwarded a copy of the preliminary findings to the following interested parties, who were

requested to furnish their views, if any, on the preliminary findings within forty days of the date of the letter:-

### **IMPORTERS/USER**

1. M/s Amijal Chemicals, Mumbai
2. M/s Jain Process Foods Ltd., Jalgaon
3. M/s Posy Pharmachem P. Ltd., Ahmedabad
4. M/s C.J. Shah & Co., Mumbai
5. M/s Cipla Ltd., Pune
6. M/s Jain Process Foods Ltd., Jalgaon
7. M/s Sunil Chemicals, Virar, Distt. Thane
8. M/s Clariant(India) Ltd., Thane.
9. M/s Parle International Ltd., Mumbai

### **EXPORTER**

1. M/s Pt Budi Acid Jaya Tbk, Indonesia
2. M/s Thai Citric ACid Co.Ltd., Thailand
3. M/s Asia Citrix Co. Ltd., Thailand
4. M/s Citric Acid Industry Ltd., Thailand

### **DOMESTIC INDUSTRY**

M/s Citurgia Biochemicals Ltd

- v. The Authority also forwarded a copy of the preliminary findings to the Embassy of the subject country in New Delhi with a request that the exporters of subject goods and other interested parties may be advised to furnish their views on the preliminary findings within forty days of the date of the letter.
- vi. The Authority provided an opportunity to all interested parties to present their views orally on 21.10.2002. All parties presenting views were requested to file written submissions of the views expressed. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any.
- vii. Submissions in response to the preliminary findings/public hearing were made by the following interested parties:-
  - a. M/s Citurgia Biochemicals Ltd.,
  - b. M/s Clariant (India) Ltd
  - c. M/s Bilt Biochemicals Ltd.,
  - d. Views of Govt. of Indonesia on behalf of exporter

- e. Views of Govt. of Thailand on behalf of exporter
- viii. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
- ix. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of subject goods made in India during the past three years, including the period of investigation.
- x. Arguments 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 subsequently have been appropriately dealt in the disclosure and/or these findings;
- xi. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties on 11.12.2002 and comments received on the same have also been duly considered in these findings.
- xii. 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) and the information furnished by the petitioner. The cost data of the following domestic producer was provided and analysed:--

1. **M/s. Citurgia Biochemical Ltd.,**

- xiii. The Authority verified the information provided by the petitioners to the extent considered necessary.
- xiv. \*\*\*\*in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xv. Investigation was carried out for the period starting from 1st April 2001 to 31st December 2001 i.e. the period of investigation (POI).

## **B . VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES**

### **2.1 VIEWS OF DOMESTIC INDUSTRY**

- a. The margin of dumping from the subject countries has also been evidenced by the petitioner to be more than the 2% limit expressed as % of export price. It is an admitted position that the volumes of imports from the subject countries is

more than the de-minimus, and the margin of dumping based on the constructed cost method as 70.95% and 55.08% for Indonesia and Thailand respectively.

- b. The present petition filed by the domestic industry should be seen in the light of the severe injury suffered by the domestic industry due to indiscriminate dumping by the exporters. The performance of the domestic industry should also be seen in the light of severe dumping resorted by the exporters from the subject countries.

It is evident that the quantum of imports from each of the subject country is more than the de-minimus limit. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject countries directly compete with the prices offered by the domestic industry in the Indian market. Therefore, the domestic industry has requested to assess injury to the domestic industry cumulatively from the subject countries.

Material injury is being caused to domestic industry from imports. The domestic industry is producing the subject goods for the past many years. The technology adopted by the domestic industry is comparable to the technology adopted by other players. Dumped prices by the exporters from subject countries is the sole reason for the present state of market in India.

- c. None of the exporters has responded in the prescribed format to assist the Hon'ble Designated Authority to work out the dumping margins. It is therefore fairly clear that the exporters from the subject countries are aware of the fact that they are exporting the subject goods to India at dumped prices.
- d. Since there has been no response either from the importers or the exporters subsequent to the preliminary findings, it is presumed that they have no comments to offer. Under the circumstances, we would request the Hon'ble Designated Authority to kindly confirm the preliminary findings at the earliest.
- e. M/s. Bilt Biochemicals Ltd., installed capacity is 25000 MT per annum in addition to the installed capacity of M/s. Citurgia Biochemicals Ltd., of 6000 MT per annum. The domestic demand for citric acid is approximately 11000-12000 MT per annum, therefore, it is obvious that the domestic production far outstrips domestic demands, and if citric acid is allowed to be dumped into the country the domestic industry will suffer irreparable damage making it difficult to operate.

## **2.2 VIEWS OF IMPORTERS**

M/s. Clariant (India) Ltd.,

- a. The petition filed by the complainant itself mentions that M/s. Bharat Starch was closed in the years 1999-2000 & 2000-2001 and recommissioned their Citric Acid plant only in the 3rd Week of December 2001. It is surprising that there is an allegation that there is dumping on one hand and at the same time the initiation notification states that M/s. Bharat Starch which is the other producer of Citric Acid was closed during the period of investigation. This allegation of domestic industry of dumping is unsustainable.
- b. Without providing the adequate and substantial details such as cost of production, etc. will be a handicap as, we as importers, will be unable to meet and demonstrate our contention without knowing whether the allegation of dumping is true or not.
- c. Without prejudice the figures given by the complainant regarding the dumping margins and injury assessment are inaccurate and cannot be explained as at one hand the imports are being quantified in terms of MT, at the same time they are shown as percentage. It has also been mentioned in the injury assessment that the market share of domestic industry declined inspite of the total demand showing an upward trend, but the table does not show this picture. The Output/Productivity figures are also not acceptable because it seems that they have been assumed & not actual.
- d. M/s. Clairant (India) Ltd., imports 12MT/month of Citric Acid for manufacturing of textile chemicals. They procure Citric Acid both from the Petitioner Company and M/s. Bharat Starch.
- e. The importer has apprehended, if the provisional duty is confirmed these two major manufacturer of citric acid in India will lead to a complete monopolistic situation as anti dumping duty is already imposed on imports from China.

### **2.3 VIEWS OF GOVERNMENT OF INDONESIA**

- a. The Indonesian Government has requested the Authorities to re-examine the allegation of dumping once the deficiencies are removed by the Indonesian Exporter.
- b. The Indonesia Government wanted to know whether the duty of US\$ 456.7 is based on full dumping margin or the injury elimination level which is not clear from recital 24 of the finding. They further stresses whether the duty is based on the injury elimination on full dumping margin the non-injurious price calculation will be the highest in the World for citric acid.
- c. They have stated that because of the level of inefficiency of the domestic manufacturer in India, their cost of production may be higher or petitioner might have probably inputted their own cost of production to establish the normal value.

- d. Article 3.4 of the WTO Agreement requires all the known factors be considered in determining whether injury is attributable to the dumped imports.
- e. The domestic industry produces other goods as well as Citric Acid. In this regard, it is important for Designated Authority to take account of whether the alleged injury is attributable to the performance of the company in other sectors.
- f. The Government of Indonesia has difficulty in defending its interest as high level of confidentiality is granted to the petitioner and the non-confidential submission of the petitioner is unverified.
- g. There is no justification not to provide source for the cost of production information used to establish normal value so in the light of Article 6.5.2 of the WTO Agreement the Designated Authority is required to disclose the source of information used and the actual value of the indices presented.
- h. The petitioner has been operating at the full capacity during 1999-2001. In the year 2000-2001 the petitioner has shown a increase in both sales volume and selling price where as sales volume in the investigating period has declined but selling price was maintained, as such there is no evidence of price depression with the unit selling prices.
- i. The applicant did not wish to include the other Indian producer, in the proceeding as their could be many reasons as lack of support from the other Indian producer who may have confidence of the Citric Acid market in future.

#### **2.4 EXAMINATION BY THE AUTHORITY ON VIEWS EXPRESSED BY GOVERNMENT OF INDONESIA**

- a. The Authority notes that the Indonesian Exporter did not file the complete response to the exporters questionnaire. This issue was addressed at the Para 11 in the preliminary findings.
- b. Regarding the duty composition to the extent of dumping margin or injury elimination level, the Authority proposes to recommend the anti dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry.
- c. The exporter has not furnished the complete data regarding cost of production in the relevant Appendix of the exporters questionnaire as pointed out in Para 11 (C) of the preliminary findings. The Authority has therefore been constrained to determine the cost of production and normal value as per facts available.
- d. All factors have been examined to ascertain the impact of dumped imports on the domestic industry.

- e. The Authority notes that only the costing and factors related to the Injury in production of Citric Acid have been taken into consideration in this investigation.
- f. The Authority notes that the non-confidential submission of the petitioner has been forwarded to the Exporters along with the initiation notification dated 16th April 2002 in the light of Rule 6 and Rule 7 of Anti Dumping Rules.
- g. The Authority notes that there is a significant decline both in sales volume and selling price of the domestic industry during the period of investigation. While the decline in selling price is marginal but it is important to note that the domestic industry has lost significant sales during the POI and it is because the domestic industry's attempt to maintain the same level of the selling price.
- h. The Authority notes, regarding cost of production, the authority carried out the complete and detailed verification and examination of the books of accounts and records of the domestic industry.
- i. The level of non-injurious price is the information confidential to the domestic industry as the level is based on the costing information on all relevant factors concerning the production and the production process of the domestic industry.

## **2.5 VIEWS OF GOVERNMENT OF THAILAND**

Department of Foreign Trade, Thailand has stated while investigating export statistics from customs it is found that the 3 alleged Thai exporters listed in the petition have not exported Citric Acid to India.

## **2.6 EXAMINATION BY THE AUTHORITY**

The Authority notes that the exporters M/s. Thai Citric Acid Co. Ltd., Thailand, M/s. Asia Citrix Co. Ltd., Thailand and M/s. Citric Acid Industry Ltd., Thailand may file application as per anti dumping rules for a New Shipper Review if they have not sold or exported the subject merchandise to India during the period of investigation.

**REJOINDER TO THE SUBMISSIONS MADE BY THE INTERESTED PARTY IN THE PUBLIC HEARING:**

## **2.7 REJOINDER OF DOMESTIC INDUSTRY**

- a. A party to the proceedings before the Hon'ble Designated Authority cannot and should not make conditional submissions. Each interested party is expected to cooperate with the Designated Authority and must furnish information as per importers questionnaire in the form and manner specified by the Hon'ble Designated Authority. It is requested that the Hon'ble Designated Authority

may treat such offers of making available requisite information subject to conditions as an attitude of non-cooperation.

- b. There is no substance in the submission of the interested parties that confirmation of provisional levy would result in monopolistic situation. The argument is inherently fallacious as the Indian users are procuring the product under consideration from multiple sources and, therefore, it cannot be said that any Indian producer is enjoying monopolistic market conditions.
- c. The argument raised by the importer that allegation of dumping is unsustainable when M/s. Bharat Starch was closed for years 1999-2000 and 2000-2001 is without any basis and deserves to be rejected outright. It is admitted that Bharat Starch was closed as pointed out during the period 1999-2000 & 2000-2001 and hence was not taken within the purview of domestic industry and therefore the grievance of the importer is baseless.
- d. Unsubstantiated claims have been made by the importer that the figures given by the complainant regarding the dumping margins and the injury assessment are inaccurate and cannot be explained. Certain submissions of the Petitioners have been picked up and used out of context by the importer to claim that the tables do not support submissions of drop in market share of domestic industry. It is specifically denied that output/productivity figures are assumed and not actual. Since there is no argument raised against the above mentioned facts, as such there is no scope of any clarification that is required or warranted in facts and circumstances of the present investigation.
- e. None of the exporters from Indonesia and Thailand has cooperated in the present investigations and must, therefore, as per Anti Dumping jurisprudence be declared non-cooperative and hence face the consequences of non-cooperation. Their non-cooperation itself evidences that the subject goods are being dumped in India by exporter of Indonesia. In the absence of complete data being submitted by the exporter either made available directly or through embassy of Indonesia, the Hon'ble Designated Authority would have no option under the present law except to declare them non-cooperative. With greatest respect, it is the submission of the domestic industry that in the aforementioned circumstances, the submissions made by the Government of Indonesia may not be taken into consideration.
- f. M/s. Citurgia Biochemicals Ltd., has expressed its full support for fixation of anti-dumping duty on citric acid originating in or exported from Indonesia and Thailand.
- g. We have studied the submissions from Indonesia and wish to state that adequate time was given prior to the preliminary imposition of anti dumping duty and adequate time has been given after the imposition of anti-dumping duty for parties to respond.

## **2.8 REJOINDER OF IMPORTER**

M/s. Clariant (India) Ltd.,

- a. Importer has raised, whether the duty of US\$ 456.67/mt is based on full dumping margin or injury elimination level and also if the duty is based on full dumping margin then would not the injury elimination price would be higher.
- b. The petitioner has taken his own cost of production to establish the normal value which is over stated and it only reflects the inefficiency of the domestic industries in India.
- c. The origin for calculating the dumping on the basis of constructed cost has not been disclosed.
- d. Non-confidential submission of the petitioner is unverified.
- e. During the period 1999-2000 the petitioner has been operating at its full capacity and year 2000-2001 their both selling volume and selling price has increased which proves no injury.

## **2.9 Price Undertaking offered by Indonesian Exporter**

M/s. P.T. BUDI ACID JAYA, Indonesia, who are the producer and exporter of Citric Acid have not responded in the prescribed questionnaire in the present anti dumping case. However, after the public hearing 21st October 2002 they have proposed for a price undertaking offer.

## **2.10 EXAMINATION BY THE AUTHORITY**

The Designated Authority proposes to consider all submissions made by interested parties on merits and in accordance with the Rules, consistent with the Articles of WTO Agreement and also the various provisions of the public hearing and disclosure of the non-confidential information as indicated in the anti dumping rules.

However, certain important issues raised by the petitioner/exporter and other interested parties have been examined by the Authority as under:

- a. Regarding the duty composition to the extent of dumping margin or injury elimination level, the Authority notes and proposes to recommend the anti dumping duty equal to the margin or less, which if levied, would remove the injury to the domestic industry.
- b. The Authority notes, that notwithstanding the unsubstantiated argument raised by the importer/exporter regarding cost of production, the authority carried out the complete and detailed verification and examination of the books of accounts and records of the domestic industry.

- c. The level of non-injurious price is the information confidential to the domestic industry as the level is based on the costing information on all relevant factors concerning the production and the production process of the domestic industry.
- d. Regarding the issue raised by M/s. Clariant (India) Ltd., It is pointed that Column (1) of Para K(1) of preliminary finding dated 14th June 2002 denotes heading as Imports in MTs for the data in the same Column as in percentage terms. It is clarified that at the end of the said Table the figures are indexed. The abbreviation "MT" as mentioned in Column 1 is only to indicate that the indexation is being done to the physical quantities measured in Metric Tons and not the value.

Regarding Para K(b) of preliminary finding there is a typographical error in the last column as the last column of the previous Table seems to be erroneously mentioned in this Table as well. The actual figures in the last column, read as follows:-

Year	% share
1999-2000	49.82%
2000-2001	53.67%
April-December, 2001	44.42%
Annualized	44.42%

## **2.11 In response to the disclosure, the following submissions have been made by domestic industry**

### M/s. Citurgia Biochemicals Limited

The domestic industry have reiterated their submissions made earlier and have mentioned that as there are no submissions to the contrary neither any objection on the issue of product under consideration, like article and standing of the Domestic Industry, they have requested to confirm the preliminary findings.

No responses were received either from the importer/user industry or exporter to the disclosure statement.

## **C. EXAMINATION BY AUTHORITY**

The foregoing submissions made by the exporter, importer and the petitioner, to the extent these are relevant as per Rules and have a bearing upon the case, have been examined, considered and dealt with at appropriate places in these findings.

### **3.1 PRODUCT UNDER CONSIDERATION**

The Authority recalls and reiterates Para E 7 on the product under consideration of the preliminary findings dated 14.6.2002 as under:-

The product under consideration in the present petition is "Citric Acid" also known as Citric Acid Monohydrate. Citric Acid is a basic chemical normally classified under Customs sub-headings 2918.14 of the Custom Tariff Act 1975. The Custom classification is indicative only and not binding on the scope of investigation. Citric Acid is used as preservative in food, soft drinks, confectionery, drugs, in textile dyeing and printing industry and has other industrial uses like in boiler cleaning etc.

The Authority has confirmed the preliminary finding on product under consideration, since no arguments were raised by the interested parties.

### **3.2 LIKE ARTICLE**

The Authority recalls and reiterates Para F 8 on the Like Article of the preliminary findings dated 14.6.2002 as under:-

Rule 2(d) of the Anti Dumping Rules specifies that "Like Articles" means an Article which is identical or alike in all respects to the product under investigation or in the absence of such an Article, another article, having characteristics closely resembling those of the articles under examination. The Authority holds that Citric Acid being produced by the domestic industry and that being imported from the subject countries can be used interchangeably and thus the two are commercially and technically substitutable and therefore, are like articles within the meaning of the Rules.

There is no argument disputing that Citric Acid produced by the domestic industry has characteristics closely resembling the imported product and is substitutable by the Citric Acid imported from the subject countries both commercially and technically. Citric Acid produced by the domestic industry has been treated as the Like Article to the product exported from Thailand and Indonesia, within the meaning of Rule 2(d),

In absence of any argument raised by the interested parties, the Authority has confirmed the preliminary finding on Like Articles.

### **3.3 STANDING OF THE DOMESTIC INDUSTRY**

The Authority recalls Para G 9 on the Standing of the Domestic Industry of the preliminary findings dated 14.6.2002 as under:-

The petition has been filed by M/s Citurgia Biochemicals Ltd., on behalf of the domestic industry. Other producers of Citric Acid in India are M/s. Bharat Starch

Industries Ltd. However, M/s. Bharat Starch Industries Ltd., was lying closed in the years 1999-2000 and 2000-01 and recommissioned their Citric Acid Plant only in the third week of December, 2001. Therefore, M/s Citurgia Biochemicals Ltd., have the standing to file the petition on behalf of domestic industry as per Anti Dumping Rules.

As per Rule 2(b) of the Anti Dumping Rules, "domestic industry means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers shall be deemed not to form part of domestic industry." Further Rule 5(3) of the Anti Dumping Rules states that Designated Authority shall not initiate any investigations pursuant to an application made under sub rule (1) unless it determines on the basis of an examination of the degree of support for, or opposition to the application expressed by domestic producers of the like product that the application has been made by or on behalf of the Domestic Industry provided that no investigation shall be initiated if domestic producers expressly supporting the application account for less than 25% of the total production of the like article by the Domestic Industry .

The Authority notes that there is no opposition to the petition by any of the domestic producers and therefore confirms the standing of the domestic industry in view of no submissions and holds that the petitioner satisfies the condition as per Rule 5(3)(a) and (b) and represents domestic industry as per Rule 2(b).

#### **3.4. PRICE UNDERTAKING**

Rule 15 of Anti Dumping Rules relating to suspension or termination of investigation on price undertaking provides that the Designated Authority may suspend or terminate an investigation if the exporter of the article in question furnishes an undertaking in writing to the Designated Authority to revise the prices so that no exports of the said article are made to India at dumped prices, or in the case of imports from specified countries undertake to revise the prices so that injurious effect of dumping is eliminated and Designated Authority is satisfied that the injurious effect of dumping is eliminated.

#### **M/s. P.T. BUDI ACID JAYA, INDONESIA**

One of the exporters, M/s. P.T. BUDI ACID JAYA, INDONESIA had extended his willingness to offer price undertaking. The offer was examined in detail and the Designated Authority found that the undertaking offered by the exporter cannot be

accepted as the exporter M/s. P.T. BUDI ACID JAYA, did not file the complete response to the Exporters questionnaire and thereby treated non cooperative by the Authority during the investigations.

### **3.5 NORMAL VALUE, EXPORT PRICE & DUMPING MARGIN**

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 transshipped 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.

### **3.6 Indonesia**

#### **(a) NORMAL VALUE:**

The Authority notes that the none of the exporters/producers from Indonesia have provided the complete information as per the prescribed questionnaire.

The Normal Value was determined at the time of Preliminary Findings of the investigations on the basis of the constructed cost of production of Citric Acid as per information available in the petition. The Authority has adopted the same for Final Findings. Accordingly, the Normal Value of Citric Acid for all exporters from Indonesia has been taken at US\$ \*\*\*\*\* per MT.

(b) EXPORT PRICE:

None of the exporters from Indonesia has submitted details of export price in reply to the Questionnaire. The Authority had adopted the export price based on DGCI&S, Calcutta statistics in the Preliminary Findings. The Authority has adopted the same for the final finding. Ocean freight, Marine insurance, inland freight and port charges to the extent of \*\*\*\*\*, \*\*\*\*\*, \*\*\*\*\*, and \*\*\*\*\* \$/MT respectively based on the claim of the petitioner has been considered. The Ex-factory export price in the Period of Investigation thus works out to \*\*\*\*\* \$/MT.

### 3.7 Thailand

(a) NORMAL VALUE:

The Authority notes that the none of the exporters/producers from Thailand has provided the information as per the prescribed questionnaire.

The Normal Value was determined at the time of Preliminary Findings of the investigations on the basis of the constructed cost of production of Citric Acid as per information available in the petition. The Authority has adopted the same for Final Findings. Accordingly, the Normal Value of Citric Acid for all exporters from Japan has been taken at US\$ \*\*\*\*\* per MT.

(b) EXPORT PRICE:

None of the exporters from Thailand has submitted details of export price in reply to the Questionnaire. The Authority had adopted the export price based on DGCI&S, Calcutta statistics in the Preliminary Findings. Ocean freight, Marine insurance, inland freight and port charges to the extent of \*\*\*\*\*, \*\*\*\*\*, \*\*\*\*\*, and \*\*\*\*\* \$/MT respectively based on the claim of the petitioner has been considered. The Ex-factory export price in the Period of Investigation thus works out to \*\*\*\*\* \$/MT.

### 3.8 DUMPING-COMPARISON OF NORMAL VALUE AND EXPORT PRICE

(a) The rules relating to comparison provides as follows: -

- i. "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.
- ii. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of

sales, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability"

- iii. The authority proposes to follow the consistent policy of adopting the principles governing the determination of Normal Value, Export Price, and Margin of Dumping as laid down in Annexure I of the anti dumping rules. Based on the Normal Values and Export Prices as indicated above the Authority assessed the Dumping Margins in case of all exporters/producers from the subject countries as given in the table below:-.

Country-Wise Exporters/Producers	Normal Value (\$/MT)	Export Price (\$/MT)	Dumping Margin (%)
Indonesia	****	****	70.95%
Thailand	****	****	55.08%

#### D. 4.1 INJURY AND CAUSAL LINK

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.

#### 4.2 CUMULATIVE ASSESSMENT OF INJURY

It is observed from the facts available on record that the margins of dumping from each of the subject countries are more than the 2% limit expressed as % of export price. Also the volumes of imports from each of the country are more than deminimus. Cumulative assessment of the effects of imports would be appropriate since the exports from the subject countries directly compete with each other and with the goods offered by the domestic industry in the Indian market. The Authority, therefore, proposes to assess injury to the domestic industry from the subject countries cumulatively.

The Authority notes that the margin of dumping and quantum of imports from subject countries are more than the limit prescribed above. Cumulative assessment of effect of imports from Indonesia and Thailand are appropriate since the export prices from these countries were directly competing with the prices offered by the domestic industry in the Indian market and displacing domestic producers.

4.3 As regards the impact of the dumped imports on the domestic industry the principle (iv) of Annexure-II of the Anti Dumping Rules states:

"The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilisation of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow inventories, employment wages growth, ability to raise capital investments."

4.4 The Authority notes that the non-injurious price has been evaluated for the various domestic producers by appropriately considering the sales realisation from the related products. Also in order to eliminate inefficiencies, the Authority has normated and benchmarked the best practices on utilisation of raw materials, utilities etc..

4.5 As regards the injury which could happen on account of higher cost of production in India, the Authority notes that under the Indian Anti Dumping Rules it is the lesser duty rule which is applied.

4.6 The Authority has taken into account all indices regarding injury for the final determination. This would involve all relevant parameters viz. volume of dumped imports, their effect on prices in the domestic market and its subsequent effect on domestic producers, production, capacity utilization, profitability, net sales realization etc. While determining the Non Injurious Price for the like article for the domestic industry, the Authority has considered the optimum cost of production for the domestic industry which would take into account the normated best consumption norms and would also take into account the actual price of the raw materials during the Period of Investigation which go into the production of the product under consideration. While arriving at the injury margin, the Designated Authority takes into account optimum capacity utilization for arriving at a Non Injurious Price.

The Authority has also examined the various injury parameters as per the Annexure II of the Anti Dumping Rules and look into the various factors which could have caused injury to the domestic industry in order to establish the causality.

4.7 On the basis of the evidence available, the following parameters show existence of injury to the domestic industry caused by dumped imports from subject countries:-

a) Changes in Market Share held by the Indian producers.

The Authority notes from the table below that the sales of the domestic industry has declined in absolute terms as well as in relation to the total demand in the country. Their market share has declined from 53.67 % in 2000-2001 to 44.42% in the period of investigation. The loss of market share becomes more significant as the total demand is showing an upward trend.

Year	Domestic Sales	Total Demand	% share
1999-2000	100.00	100	49.82%
2000-2001	104.68	97	53.67%
April-December 2001	68.57	77	44.42%
Annualized	91.42	103	44.42%

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It is also observed that the imports from the subject countries in comparison to the total imports have increased drastically from 27.78% in 2000-2001 to 75.28%.

During the period of investigation. This increase is on account of the low prices of imports from these sources. Imports from the subject countries have also gone up in absolute terms leading to the loss of market share of the domestic industry.

Year	Imports from Subject Countries (MT)	Total Imports	% share
1999-2000	100.00	100.00	9.68%
2000-2001	257.40	89.72	27.78%
April-December 2001	662.39	85.19	75.28%
Annualized	883.19	113.59	75.28%

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Further, imports from the subject countries in comparison to the total demand in the country have also increased drastically from 4.86% in 1999-2000 to 12.87% in 2000-2001 and to 41.84% during the period of investigation.

Year	Imports (MT)	Total Demand	% share
1999-2000	4.86%	100.00	4.86%
2000-2001	12.87%	97.18%	12.87%
April-December 2001	41.84%	76.91%	41.84%
Annualized	41.84%	102.54%	41.84%

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## b) Output/Productivity & Capacity Utilization

It is noticed that the domestic industry had been operating at fairly high levels of capacity utilization prior to the period of investigation. However, the capacity utilization of the petitioners declined from 98.59 % in 2000-2001 to 94.60 % in the period of investigation, a decline of about 4% over the period. It is also seen that there has been a drop in the production in the period of investigation over the preceding financial year.

Year	Capacity (MT)	Production (MT)	Capacity Utilization (%)
1999-2000	100	100.00	97.79%
2000-2001	100	100.82	98.59%
April-December 2001	75	72.55	94.60%
Annualized	100	96.73	94.60%

#### c) Sales Volume & Sales Value

The Authority notes that there has been a significant decline in the sales volume of the domestic industry to the tune of 12.7% of the sales volume in the period of investigation as compared to the preceding year. It can be seen that there has been a decline in the selling price also in the period of investigation over the last year. While the decline in the selling price is marginal, it is important to note that the domestic industry has lost significant sales during the period. The Designated Authority is of the view that the domestic industry's attempt to maintain the same level of selling prices has to be seen in the context of the declining sales volume. Further, due to the sustained dumping from the subject countries, the domestic industry has been suffering losses on the sale of the subject goods in the period of investigation.

#### d) Evidence of Lost Contracts

The complainant domestic industry has argued that despite the efforts by them to hold on to the customers, the fact that 3670 MT of dumped imports arrived into India during POI is adequate evidence that it lost potential customers.

#### e) Employment & Wages

It has further been argued by the domestic industry that despite poor realization, they have made all attempts to sustain higher levels of production and capacity utilization and, therefore, there has been no impact on the employment. Further, injury to the domestic industry cannot be reflected in the employment figures as the Indian labour laws are rigid in this regard. There has been no impact on the wages for the same reasons as explained above.

#### f) Profitability

It has been argued by some of the importers/exporters that the Designated Authority need to examine the cost and the profitability of the domestic industry carefully and duly account for the inefficiency of the domestic industry. However, the Designated Authority notes that none of the opposing parties has given any concrete data or submissions to establish their claims. Notwithstanding the unsubstantiated arguments advanced by the exporters/importers, the Authority has carried out the complete and detailed verification of the books and records of the domestic industry. Based on this detailed examination, the Authority confirms its preliminary findings in this regard. As indicated in the preliminary findings, the domestic industry has suffered serious injury in the form of direct losses per unit of sale. A comparison of the selling price and the cost of production per unit during the period of investigation clearly shows an increase in the loss per unit of sale. As indicated in the preliminary findings, it is apparent that it is the price factor alone which can be considered to have led to injury to the domestic industry resulting in losses.

Year	Sales Value (Rs. In lakhs)	Cost of Sales (in lakhs)	Profit/Loss (in Lakhs)	Profitability
1999-2000	****	****	****	****
2000-2001	****	****	****	****
April-December 2001	****	****	****	****
Annualized	****	****	****	****

#### g) Actual and Potential Negative Effect on Cash Flows & Growth

As is clear from the above table, the domestic industry has suffered losses during the period of investigation which is obviously affecting their cash flows. Due to the losses in the industry and continued dumped imports, the domestic industry is also not in a position to make any new investments for expansion.

#### h) Inventories

The inventories have significantly increased from 687MT at the end of March 2001 to 1225MT as on 31.12.2001 and is, therefore, indicative of injury to the domestic industry.

#### i) Magnitude of Margin of Dumping:

As already indicated in the respective paras of these findings, the margins of dumping are as high as 71.95% and 55.08% for Indonesia and Thailand respectively.

#### j) Price Undercutting

It has been observed that dumping by the subject countries has had a significant impact on the net sales realization by the domestic industry for the subject goods. To hold on to its market share, the petitioner had to compete with low priced and dumped imports of subject goods from the subject countries. The landed values of the dumped imports also indicate that there is price under-cutting taking place.

#### k) Price Underselling

The Authority has also examined the claim of the domestic industry that the domestic industry is suffering on account of direct losses. The Authority notes that price underselling is an important indicator to make an assessment of injury. The Authority has worked out a fair selling price and compared the same to the landed value to arrive at the extent of price underselling.

#### l. Return on investment & Ability to raise capital.

The rate of return on the investment during the period of investigation for the product under consideration has been negative for the domestic industry as a result of which the domestic industry has not been able to raise fresh capital or plan new investment in this product.

## **E. CAUSAL LINK**

5.1 In determining whether material injury to the domestic industry was caused by the dumped imports, the Authority took into account the following facts:-

- a. The Authority observes that there is a single market for the subject goods where dumped imports compete directly with the goods produced by the domestic industry. Decline in demand is not a factor causing injury to the domestic industry. The imported subject article and the domestically produced goods are like articles and are used for the same applications/end uses. Thus, pricing becomes the most important factor determining purchase of the article from either imported sources or domestic sources.
- b. The imports from subject countries suppressed the prices of the product in the Indian market to such an extent that the domestic industry was prevented from recovering its full cost of production and earn a reasonable profit from the sale of subject goods in India.
- c. Dumped imports of subject goods from subject countries at dumped prices has resulted in substantial losses to the domestic industry.

5.2 The Authority has examined various economic factors and indices and has come to the following conclusions:

1. There has been a significant increase in the dumped imports of subject goods from subject country in absolute and relative terms.
2. The dumped imports had a significant effect on the domestic prices of subject goods which resulted in price undercutting
3. The dumped imports of subject goods have caused price suppression
4. The inventory of finished goods with the domestic industry has increased due to dumped imports.
5. The market share of the domestic industry has declined in the total demand.
6. The domestic industry has not been able to raise fresh capital or plan new investment.
7. The domestic industry is facing difficulty to raise the wages of its employees.

The above factors cumulatively have caused material injury to the domestic industry.

## **F. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:**

6.1 The purpose of anti dumping duties 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.

6.2 The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from Subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

## **G. FINAL FINDING**

7.1 It would be seen, after considering the foregoing, that:

- a. Citric Acid originating in or exported from Indonesia and Thailand have been exported to India below Normal Value, resulting in dumping;
- b. The Indian industry has suffered material injury on account of price undercutting, price suppression and significant increase in the volume of dumped imports of subject goods from Indonesia and Thailand;

- c. The injury has been caused cumulatively to the domestic industry by the dumped imports from Indonesia and Thailand.

7.2 It is considered necessary to impose anti dumping duty, on all imports of Citric Acid originating in or exported from Indonesia and Thailand.

7.3 The Authority proposes to recommend the amount of anti dumping duty equal to the margin of dumping or injury, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury margin, the landed price of imports has been compared with the non injurious selling price of the petitioner company determined for the period of investigation.

7.4 Accordingly, the Authority recommends imposition of definitive anti dumping duty as indicated in Col. No. 3 below be imposed from the date of notification issued in this regard by the Central Government on Citric Acid originating in or exported from Indonesia and Thailand.

Sl. No.	Exporters/Producers	Amount of Anti Dumping Duty Recommended (US \$ per MT)
1	2	3
Indonesia	All exporters/producers	456.67
Thailand	All exporters/producers	374.36

7.5 The landed value of imports for the purpose shall be the assessable value as determined by the customs under Customs Tariff Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

7.6 Subject to above, the Authority confirms the preliminary findings dated 14.6.2002

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

**L.V. SAPTHARISHI,**  
Designated Authority