

MINISTRY OF COMEMRCE

NOTIFICATION

New Delhi, the 24th July, 1995

Subject:- Anti-dumping investigation concerning import of Potassium Permanganate originating from the People's Republic of China- Final Findings.

No. 46/ADD/94.- Having regard to the Custom Tariff Act, 1975 as amended in 1982 and Customs tariff (Identification, Assessment and Collection of Duty or Additional Duty on dumped articles and for Determination of Injury) Rules 1985 , thereof.

PROCEDURE

- i. The Designated Authority, under the above Rules, received a written petition from M/s. Universal Chemicals and Industries Pvt. Ltd., 507, Raheja Centre, 214, Nariman Point, Bombay- 400 021, dated 25.11.94 alleging dumping of Potassium Permanganate originating from the People's Republic of China;
- ii. The Designated Authority issued a Public Notice dated 30.12.94 published in the Gazette of India, Extraordinary initiating anti-dumping proceedings concerning imports of Potassium Permanganate classified under heading 2841.60 of Schedule- I of the Customs Tariff Act, 1975 and No. 2841.60.01 under India Trade classification (Based on Harmonised Commodity Description and Coding System) originating from the People's Republic of China.
- iii. The Designated Authority officially in forward the exporters and importers known to be concerned, the representatives of the exporting country and the complainant about the said initiation and gave them an opportunity to make their views known in writing and to request an oral hearing, within 40 days from the date of notification i.e. by 8th February, 1995.
- iv. The Designated Authority sent questionnaire, to elicit relevant information, to the following exporters:
 - a. M/s. China National Chemicals Import & Export Corporation, Beijing, China
 - b. M/s. Gunga Dong Chemicals & Import and Export Corporation, Guanghou, China
- v. The Embassy of the People's Republic of China in New Delhi was also informed on 2nd January, 1995 about the initiation of investigation and was requested to advised the exporters/producers from People's Republic of China

to respond to the questionnaire by 11th February, 1995. The exporters neither responded to the questionnaire nor attended the public hearing held on 24th February, 1995.

- vi. The questionnaire was also sent to the following importers of Potassium Permanganate:-
 - a. Ajay Metachem Pvt. Ltd., Pune
 - b. Armour Chemicals Ltd., Bombay
 - c. Ansar and Company, Bombay
 - d. CSC Corporation, Bombay
 - e. U.S. Vitamins Ltd., Bombay
 - f. Sparkling Traders Pvt. Ltd., Bombay
 - g. Jetsons, Thane
 - h. Supreme India International Bombay
- vii. While one of the importer to whom questionnaire was sent has reported no imports of Potassium Permanganate during the investigation period, another has acknowledged receipt of the Notification questionnaire. However, none of the importers nor any exporter have responded in the prescribed questionnaire sent to them along with the notice of initiation.
- viii. An opportunity was also given to exporters, importers and petitioners to express their views in a public hearing held on 24th Feb., 1995. The said Public hearing was attended by the representatives of the petitioner domestic industry and one of the importers, M/s. Sparkling Traders (P)Ltd., Bombay.
- ix. The submissions made in public hearing of 24th February, 1995 were obtained in writing and made available to other party for their comments.
- x. The Authority has given another opportunity to exporters, importers and petitioners to express their views in a public hearing held on 30.5.1995 by a newly Designated Authority. None of the exporters and importers availed the opportunity and only petitioner domestic industry attended the meeting.
- xi. The written submissions made by the petitioner in public hearing held on 30.5.1995 were made available to the other parties.
- xii. The Designated Authority sought and verified information deemed necessary and to this end an investigation was carried out at the premises of M/s. Universal Chemical and Industries Pvt. Ltd. The investigation covered the period from 1st April, 1993 to 30th September, 1994.

PETITIONER'S VIEWS

2. The petitioner highlighted the following points during the hearings:

- a. That the export price of Potassium Permanganate originating from the People's Republic of China was below the price at which it was being sold in the domestic market in China and export price to third countries.
- b. That there has been steep increase in the quantum of imports into India of Potassium Permanganate from the People's Republic of China.
- c. That imports from China at dumped prices has been causing material injury to the Indian producer and the Indian producer had to reduce production capacity utilisation. Domestic sales reduced despite reduction in selling price below their cost of production causing negative cash flow and heavy losses.

RESPONDENTS VIEW

3. The views expressed by the importer, who appears to be a trader, at the public hearing held on 24.2.195 as contained in their written submissions sent after the hearing were briefly as follows:

- a. The petitioner is a monopoly manufacturer of Potassium Permanganate with almost 96 per cent of market share in their hands.
- b. The price of the major raw material Caustic Potash had increased exorbitantly. This exorbitant increase was responsible for the major part of the loss.
- c. That the price of caustic potash has changed from Rs. 20,000 per MT in 1991 to Rs. 44,292 in April 1993. The price then fell to Rs. 37,000 in August, 1994 and to Rs. 28,900 in February, 1995. despite this decrease, the price of Potassium Permanganate was increased from Rs. 64,000 per MT in January 1994 to Rs. 70,000 PMT in February, 1995 and hence the claim of injury due to imports was not justified.

EXAMINATION BY AUTHORITY

4. The above submissions have been kept in view while evaluating the injury aspect as narrated at the appropriate places.

5. In the absence of any response from the exporters, the Designated Authority has made the findings on the basis of the information available to it as per Rule 14 supra. The Designated Authority noted that neither the representative of the exporter exporting country i.e. People's Republic of China was present at the hearing, nor did they respond to the questionnaire and the Designated Authority had resorted to the best information available i.e. the acts figures supplied by the petitioner.

PRODUCT UNDER CONSIDERATION

6. Potassium Permanganate (an organic chemical) is a dark purple crystalline material and is a compound of Manganese, Potassium and Oxygen. It is available in Technical grade (95 per cent purity) and Pure grade (99 per cent purity). It is used for potable and waste water treatment, chemical manufacture and processing, aqua-culture metal re-finding and surface cleaning, decolourisation, bleaching and special treatment in textile industry, deodorisation fumigation, tanning, reagent in analytical chemistry, zinc processing and as a powerful oxidizing agent in many Customs Tariff Code 28416001 (Harmonised system), and falls under open general licence category.

DOMESTIC STATUS

7. The petition has been filed for and on behalf of M/s. Universal Chemicals and Industries (P)Ltd., 507, Raheja Centre, Nariman Point, Bombay-400 021 having works at Ambernath, Distric Thane and Lote Parashuram Dist. Ratnagiri, Maharashtra. The petitioner accounts for a majority of production of Potassium Permanganate in India and hence satisfies the domestic industry status in accordance with Rule 2© of the Customs Tariff (Identification, Assessment and Collection of Duty or additional duty on dumped articles and for Determination of Injury) Rules, 1985. Some other companies also manufacture Potassium Permanganate in India in insignificant quantities.

NORMAL VALUE

8. The petitioner has provided information on domestic prices of Potassium Permanganate in People's Republic of China. Since none of the exporters furnished factual information in response to the questionnaire sent to them, the domestic price reported by petitioner after adjusting for taxes has been used for the purpose of determination of Normal Value. In the written submission made in pursuance of the Public Hearing held on 24.2.95, the petitioner has highlighted that the Normal Value according to their best knowledge, was around \$ 915-950 PMT whereas the Export Price was about \$ 550-6000 PMT. However, the Designated Authority noted that in the petition, the domestic price in China during the period of investigation was given as \$ 810 and hence the same was used in the determination.

9. During the course of investigation and formally in public hearing held on 30.5.95, the petitioner stated that China is a non-market economy and domestic price may not have included all the constituents of the cost. They have submitted that he constructed cost of production selling distributing expenses and profit margin) of these product in PR of China works out to USD 1500 per metric tonne and the prices of Chinese origin Potassium Permanganate in other countries ranges from USD 1470 to USD 1565 per meteric tonne and therefore, requested to give due consideration while calculating anti

dumping duty injury to domestic industry. Copies of the above submission were provided to each of the known importers and exporters in PR of China electing their comments. Except for one importer who has provided purchase price of the product from petitioner during the last three years, none of other importers nor any exporter submitted their comments.

10. The Authority considered the request of the petitioner for changing the method of normal value and rejected on the grounds that (a) it is belated or an after thought and (b) full opportunity at all stages of this was not available to other parties urged.

EXPORT PRICE

11. The export price has been determined on the basis of the weighted average price reported by the importers for the purpose of Customs clearance, as compiled by DGCIS Calcutta which has been found to be reliable. The CIF export price as appearing in DGCIS Statistics have been adjusted for insurance and freight for working out the FOB price. The FOB export price has been treated as ex-works price based on the best information available.

COMPARISON

12. For the purpose of a fair comparison between the normal value and export price and in accordance with Section 9(A) (2) of the Customs Tariff Act, 1975 and Rule 14 supra, the Authority took into account the best available information with it in the absence of any response from the exporters in the People's Republic of China, who were given ample opportunity to make available the relevant information from their end. The weighted average export price obtained during the period of investigation has been compared with the Normal price.

INJURY

13. Under Rule 18 supra, when a finding of injury is arrived at, "such finding shall involve an examination of facts which the Designated Authority considers relevant under the circumstances including the volume of dumped imports and their effect on price in the domestic market for like products and the consequent impact of such imports on domestic producers of such product". 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 an identical product 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.

14. For the examination of the impact on the industry in India, the designated Authority considered such indicators having a bearing on the state of industry as production, capacity utilisation, sales stock profitability and net sales realisation.

(a) Volume and Market Share of dumped Import

15. Total imports increased from 63 MT in 1991-92 to 114 and 469 MTs respectively in 1992-93 and 1993-94. Imports from People's Republic of China (PRC) have steeply increased in absolute terms from nil in 1991-92 to 73.5 MT in 1992-93 to 405 MT in 1993-94, resulting in sharp increase in their market share from nil in 1991-92 to 8 per cent in 1992-93 to 38.5 per cent in 1993-94. The weighted average price of imports from PRC remained by and large at the level of Rs. 21,850 PMT in 1992-93 and increased marginally to Rs. 22,036 PMT in 1993-94.

(b) Production Trend and Capacity Utilisation:

16. There has been downward trend in the production of Potassium permanganate as the production of the petitioners company declined constantly from 1371 MT (92-93) to 993 MT (93-94) and further to 479 during the first half of 94-95 resulting in around 30 per cent decline in the production between 1992-93 and 1994-95. Consequently the capacity utilisation declined from 71 per cent to about 50 per cent in the first six months of 94-95.

(c) Sales Trend

17. Sales of the production in the domestic market have also declined from 778 MT in 92-93 to 581 MT in 93-94 and 309 MT in the first six months of 94-95 resulting in decline of volume of sales by more than 20 per cent in 94-95 as compared to 92-93.

(d) Price Trend

18. Average realisation (exclusive of Excise Duty) from sales of potassium permanganate to the petitioner has decreased from Rs. 51,586 MT (1992-93) to Rs. 50,549 MT in 1994-95 (first half) though it was slightly higher in 1993-94 (Rs. 52778 MT)

(e) Stock Trend

19. Stock of the product has increased steeply from 68 MT in April 93 to 146 MT in December 93. However, the study of monthly trend indicated that the stock had

decreased to 77 MT in September 94 due to lowering of sales price coupled with higher export by the petitioner.

(f) Profitability Trend

20. The petitioner suffered losses of Rs. 0.75 lakhs in 92-93 which increased considerably to Rs. 39.95 lakhs in 1993-94 and further to Rs. 23.00 lakhs in the first six months in 1994-95

21. The average price has fallen marginally from Rs. 52778 per MT in 1993-94 to Rs. 50,549 per MT. The average price was suppressed by the Export price from China for which the prices would have increased to cover the increase in costs.

(g) Conclusion of Injury

22. The quantum of imports from Peoples Republic of China and consequently its share in Indian market have increased substantially. Production, capacity utilisation and sales of the petitioner company have declined and inventory increased during investigation period. The producer has to reduce its selling price and were prevented from selling at a price level which could cover its cost of production and allow reasonable profit.

23. The Designated Authority is, thus led to the conclusion that the domestic industry is suffering material injury.

CASUAL LINK

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

- i. The imports of the product from PRC have increased significantly. As a direct consequence, the domestic industry has not market share from 87 per cent in 1992-93 to 55 per cent in 1993-94. The share of China in the total imports have also increased from 65 per cent to 86 per cent.
- ii. Increase in dumped imports have led to lower sales, production, capacity utilisation and substantial inventory.
- iii. The imports had a direct effect on the price of the domestic industry which had to sell a level its cost of production resulting in losses to the domestic industry.

INDIAN INDSTRY'S INTEREST

25. The purpose of anti dumping duties is in general to eliminate dumping which is causing injury to the Indian industry and to re-establish the situation of open and fair competition on the Indian market which is in the general interest of the country.

26. The Authority recognized that the imposition of anti dumping duties might affect the price levels of the product manufactured using Potassium Permanganate and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market not be reduced by the anti dumping measures particularly if the levy of anti dumping duty is limited to the amount necessary to redress the injury. On the contrary, the removal of the unfair advantages gained by dumping practices is designed to prevent the decline of the Indian Industry and thus to help maintain the availability of the widest choice to the consumers. Thus, even though the petitioner has a virtual monopoly in India, the duty recommended is just sufficient to prevent the injury and not to give him an edge.

FINDINGS

27. The Authority, accordingly, has come to conclusion that:

- i. Exporters from the Peoples Republic of China have sold Potassium Permanganate in India below normal value;
- ii. The Indian industry has suffered material injury;
- iii. The imports caused material injury to Indian Industry;

28. The Authority considers that the imposition of anti dumping measures in the present case will re-establish fair competition by eliminating the injurious effects of dumped prices.

29. The Authority considers is necessary, to impose a final anti dumping duty in order to remove the material injury to the domestic industry. The export price normal value and the margin of dumping in this case were determined by the Designated Authority as:

	USD/MT	Rs./MT
Normal Value	810	25,410
Export Price	619	19,418
Margin of Dumping	191	5,992

30. The Authority, considered whether a duty lower than the dumping margin would be enough to remove the injury. The average landed price of the Chinese imports was compared with the fair selling price of Potassium Permanganate produced during the period of investigation. This fair selling price took into account the actual raw

material prices available from time to time and these answers the point raised in para 3©. This difference was more than the dumping margin and accordingly the Authority recommends of dumping of Rs. 5,992 (Rupees five thousand nine hundred ninety two pr MT be imposed on imports of Potassium Permanganate originating from the Peoples Republic of China falling under chapter 28 of the Customs Tariff.

Y.V. REDDY,

Designated Authority And Addl. Secy.