

# MINISTRY OF COMMERCE

## NOTIFICATION

New Delhi, the 29th September, 1997

**Subject:** Review of Anti-dumping duties concerning imports of PVC Resin – Final Findings.

**ADD/IW/53/96.** - Having regard to the Customs Tariff Act 1975 SB amended In 1995 and the Custom a 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 the Authority) Issued a public notice vide Notification no ADD/IW/53/&6 dated the 30th Sept., 1996. initiating review of definitive Anti-dumping duties recommended on imports of Poly Vinyl Chloride Resin (also referred to as PVC Resin hereinafter) originating in or exported from Brazil, Republic of Korea (also referred to as Korea or Korea RP hereinafter). Mexico and the United States of America (also referred to as USA hereinafter) vide notification no. 14/4/9 2-TPD dated 30th July, 1993 and definitive And Dumping Duties imposed by the Central Government vide notification no 4/94 dated 18th Jan., 1994.
- ii. The investigations concluded by the Designated Authority vide Notification no. W4/92-TPD dated 30th July, 1993 have been referred to as “the previous investigations”.
- iii. The Authority issued a public notice dated 30th Sept., 1996 published in the Gazette of India, Extraordinary, initiating review of anti-dumping duties concerning imports of PVC Resin, classified under custom heading 3904 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from Brazil, Korea RP, Mexico and USA (also referred to as the subject countries hereinafter);
- iv. The Authority forwarded a copy of the public notice to all the known exporters and industry associations (whose details were made available by PVC Resin Manufacturers Association in the previous investigations) and gave them an opportunity to make their views known in writing in accordance with the rule 6(2);

- v. The Authority forwarded a copy of the public notice to all the known associations of consumers of PVC Resin in India (whose details were made available by PREMA in the previous infestations) and advised them to make their views known in writing within forty days from the date of the letter,
- vi. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of import of PVC Resin made in India during the past three years including the period of review. No information was however, received from CBEC.
- vii. The Authority sent questionnaire, to elicit relevant information, to the following exporters, in accordance with the rule 6(4),
  - Vista Chemical Company, USA,
  - Shintech inc., USA.
  - Borden Chemicals & Plastics, USA,
  - Formsa Plastics Corp., USA,
  - Lucky Goldstar International, Korea RP,
  - Hangyang Chemical Corp., Korea RP;
  - Grupo Primex S A DE C V , Mexico,
  - U B International, Singapore.
  - Vinmar Inc , USA
  - Companhia Petroquimica, Brazil,
  - Kunstoplast of America Inc , USA

None of the exporters, however, filed response to the questionnaire

- viii. The Embassies of the subject countries in New Delhi were informed about the initiation of the review 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 and questionnaire sent to the exporters was also sent to the Embassies, alongwith a list of known exporters/producers;
- ix. A questionnaire was sent to the following associations of consumers of PVC Resin in India calling for necessary information in accordance with rule 6(4):
  - Organisation of Plastics Processors of India, Mumbai;
  - All India Cloth Association, Mumbai;
  - All India PVC Flooring Manufacturers Association, New Delhi;
  - Indian Plastics Federation, Calcutta;
  - Gujarat State Plastic Manufacturers Association, Ahmedabad;
  - All India Federation of Plastic Industries, New Delhi;
  - All India Plastics Manufacturers Association, Mumbai.

None of the parties, however, filed response to the questionnaire.

- x. A questionnaire was sent to PVC Resin Manufacturers Association (herein referred to as PREMA also) calling for necessary information in accordance with rule 6(4). PREMA requested for time upto 31.1.1997 to file information. The extension was allowed upto 10.1.1997. PREMA, however, again requested time upto 31.1.1997, pleading that it was collecting information on dumping from overseas sources. The Authority allowed time upto 31.1.1997 in view of the fact that none of the other parties to the investigations furnished any information and the information to be furnished by PREMA was of significant importance. Response was filed by PREMA on 30.1.1997.
- xi. The Authority held a public hearing on 20th Aug., 1997 to hear the views orally, which was attended by the following:
  - PVC Resin Manufacturers Association;
  - All India Federation of Plastic Industries.

The All India Plastic Manufacturers Association sent their written comments, though the association did not attend the hearing. The written comments received have been considered while notifying these findings.

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;

- xii. The Authority kept 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 an interested party.
- xiii. Investigation was carried out for the period starting from 1st April, 1995 to 31st March, 1996.
- xiv. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to all known interested parties and comments received on the same have also been duly considered in these findings.

## **B. VIEWS OF PREMA**

2. PVC Resin Manufacturers Association made the following submissions:

- i. Despite reduction in definitive duties as compared to provisional duties recommended by the Authority, the importers did not claim a refund of excess duty. It may be concluded that the level of anti-dumping duty stands vindicated.
- ii. The level of injury suffered by the five Indian PVC producers; accounting for over 50% of domestic capacity is to the tune of Rs.3208 pmt. Since dumping

margin has also increased there is a need to increase the level of anti-dumping IPCL's recently commissioned plant are also considered. Price depression, price suppression, loss of production, sale and growth suffered by the domestic industry were a direct consequence of imports from the subject countries other than Brazil. Imports from Brazil have been erratic. No other factor causing injury can be termed to have denied a fair return to the industry.

- iii. The present level of anti-dumping duties for all countries except Brazil is absolutely inadequate. Brazil has exported very small quantities (75 MT).
- iv. **On Dumping:**
  - a. The mindset of the subject countries can be gauged by the fact that imports between April-October 1996 were very high at 1152 MT (USA), 1463 MT (Korea RP). Korea RP exported at US \$ 600 pmt CIF in the month of October, 1996 when the international prices were moving in the range of US \$ 680-710 pmt.
  - b. The trend of FOB export prices to India and home market price in USA and Korea RP establish that the exporters from these countries are still dumping their products. This is evident from the table below:

**US \$ pmt**

Period	USA		Korea RP	
	Home Market Prices	Export Price	Home Market Prices	Export Price
Q2, 1995	1018	950	1058	1019
Q3, 1995	949	1010	1036	670
Q4, 1995	766	679	786	659
Q1, 1996	702	524	744	593
Decline in Q1, 96 as compared to Q2, 95	316 (31%)	426 (45%)	314 (30%)	426 (42%)

- c. Though both domestic as well as export prices have declined, the decline in the export price (42-45%) is much sharper than decline in the home market price (30-31%).
- d. In response to the disclosure of essential facts made by the Authority, PREMA contended that the export price should be determined on the basis of Daily Customs Clearance reports published by various Customs House in ports, in view of the following:
  - i. In the data compiled by DGCI&S, in case the information supplied by a port is delayed by over six months, then the DGCI&S does not reflect the information as per clearance dates but reflects the information on the basis of their own compilation, thus distorting the imports quantity and prices.

- ii. Customs authorities have been clearing Emulsion/Paste grade resin (ITC code 39042101) under me- tariff coda of Suspension grade (ITC codes 39041000/ 30042102/ 39042109).

PREMA requested for an oral hearing to elaborate these submissions.

v. **On injury:**

- a. The dumping from South Korea and USA has led to drastic reduction in prices by the domestic producers causing grave injury.
- b. Domestic producers had to offer substantial trade discounts and credit benefits on their already declining prices in order to compete with the ready availability of dumped imports. The average realisations fell short of basic prices by Rs. 2760 pmt (94-95) and Rs. 3194 pmt (95-96). The domestic manufacturers were prevented from effecting price increases which otherwise were due in view of steep hike in prices of major in-puts, such as Ethylene, EDC and VCM.
- c. The exportable surplus capacity in USA rose to 273 kMT in Q1, 1996 from 197 kMT in Q2, 1995, whereas the same doubled in case of Korea RP in the corresponding period. The surplus capacity available pose a threat to Indian industry, capacity of which is expected to cross 1 million tonnes by the turn of the century. The subject countries have the following surplus capacities:

(figures in k MT)

Country	1996	1997	1998	1999
USA	1661	1657	2058	2084
Korea RP	135	226	294	233
Mexico	238	229	211	198
Brazil	114	102	72	59

- d. The demand for PVC in India is projected to grow at a healthy 13% to cross 8 lakh tonnes by 2000 resulting in surplus available capacity as may be seen from the following table:

(Figs in '000 MT)	96/97	97/98	98/99	99/2000
Indian PVC Consumption	567	641	725	819
Indian PVC Capacity	813	813	893	1043
Surplus Unutilised Capacity	246	172	168	224

- e. In view of huge surplus capacity within the country, continuous imports of PVC will only result in depressing the capacity utilisation.

- f. Sales and capacity utilisation have declined during the period whereas inventory has increased.
  - g. Closing stocks as a percentage of average monthly domestic sales have averaged at more than 80% during investigation period and the same are continually climbing.
  - h. IPCL has recently commissioned a 150 kmt plant.
  - i. Threats from dumped imports may adversely affect planned investments and further growth of the domestic industry.
- v. The Authority should revise duties as follows:

Rs. per MT

Country	Existing duties	Proposed duties
Mexico	1619	3208
Korea RP	1253	3208
USA	504	2304
Brazil	2036	2036

- vi. The above duties should be levied for five years with immediate effect as the same is the minimum time frame for the global PVC industry to reach near demand-supply balance.

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

3. None of the exporters has responded to the Authority and offered any comments. The associations of the consumers have expressed their views, and the same are briefly mentioned below:

- i. The landed price of imports is significantly higher than indigenous prices;
- ii. The PVC Plastic industry has experienced retarded growth in the last three years due to high prices of raw materials;
- iii. The per capita consumption of Plastic in India is amongst the lowest in the Asian Region and the world;
- iv. There has been a slow down in exports due to high prices of raw materials;
- v. PVC products are eco-friendly and replace conventional materials which are limited resources;
- vi. The anti-dumping duties on PVC Resin should be withdrawn, especially in view of the following:
  - The changed international environment;

- Accelerating the growth of the PVC Plastics industry which would increase its consumption also;
  - Increasing exports of PVC Plastic products.
- vii. International price of PVC Resin has been fluctuating according to market conditions in the world. Price of PVC Resin has gone up from US \$ 500 pmt in Jan., 1993 to US \$ 700 pmt at present (with the exchange rate also increasing from Rs. 26 per US \$ to Rs. 36 per US \$ in the corresponding period). Whereas the prices of PVC Resin have gone up, as stated above, there has been no change in the prices of feedstock in the corresponding period.
- viii. The processors must be given advantage of the world market prices in the context of liberalization of economy.
- ix. Domestic producers who claim to have world capacity plants keep increasing their prices according to the international market price. One of the producers increased its prices four times in a month to align with the world market price.

## **D. EXAMINATION BY AUTHORITY**

4. The submissions made by PREMA, consumer associations and other interested parties have been examined, considered and, wherever appropriate, have been dealt hereinafter.
5. The claim of PREMA that the importers who had paid excess anti-dumping duty provisionally levied and did not claim refund after imposition of lower definitive anti-dumping duty is irrelevant to decide the present review.
6. The request of PREMA that the revised duties requested should be levied for five years on the grounds that the this time period is the minimum time frame for the global PVC industry to reach near demand-supply balance is not supported by law, as the anti-dumping rules permit levy of anti-dumping duty for a period of five years, albeit with a provision of review before the expiry of the period.

## **E. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLES**

7. The final findings notified earlier with regard to the product under consideration and like articles remains unchanged.

## **F. DOMESTIC INDUSTRY**

8. In the investigations conducted earlier, the Authority had considered the following units as forming part of the domestic industry, based on the information furnished by PREMA.

- Chemplast Sanmar Ltd.,
- Reliance Industries Ltd.,
- DCM Shriram Consolidated Ltd.,
- DCW Ltd.

It was found that PREMA furnished information, in response to the Authority's request, with regard to injury, including the extent of injury suffered by the domestic industry, on the basis of the data in respect of the following producers:

- DCM Shriram Consolidated Ltd.,
- DCW Ltd.,
- Chemplast Sanmar Ltd.,
- Finolex Pipes Ltd.,
- National Organic Chemical Industries Ltd.

It was found from the information filed by PREMA that collective production of units, information in respect of which was filed by PREMA, did not account for majority production of PVC Resin in India. PREMA was, therefore, requested to furnish information in respect of other Indian producers also so as to ensure that the information furnished by PREMA accounted for majority production of PVC Resin in India. PREMA furnished information in respect of Reliance Industries Ltd. The information filed by PREMA in thus in respect of following Indian producers.

- DCM Shriram Consolidated Ltd.,
- DCW Ltd.,
- Chemplast Sanmar Ltd.,
- Finolex Pipes Ltd.,
- National Organic Chemical Industries Ltd.
- Reliance Industries Ltd.

Collective production of the above units accounted for major proportion of the total Indian production of PVC Resin. These companies, therefore, collectively constitute domestic industry within the meaning of the Rules.

## **G. DUMPING**

9. The Authority sent exporters questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)c.

However, none of the exporters responded to the Authority and have not furnished any information. The Authority, therefore, holds that none of the exporters from the subject countries have co-operated with the Authority as envisaged under the Rules.

10. PREMA has furnished information with regard to normal values and export prices and the same is discussed hereinbelow:

**Dumping claimed by PREMA:**

11. Normal value in case of USA and Korea may be determined on the basis of information furnished by Arthur D’Little, U.K. In case of Mexico, the domestic prices have been claimed on basis of import parity price from the US, tariff rate of 7 percent, freight of US \$ 90 pmt payable on PVC Resin imported into Mexico and transportation cost differential of US \$ 40 pmt. The normal values claimed by PREMA for the subject countries are as under:

Period	USA	Korea RP	Mexico	Brazil
Q2, '95	1018	1058	1359	970
Q3, '95	949	1036	1274	1000
Q4, '95	766	786	1049	970
Q1, '96	702	744	970	842
Fall from Q2 to Q1	316 31%	314 30%	389 29%	128 13%

12. These prices are after adjusting the same for differences in transportation and packing costs, as detailed above in case of Mexico, and as detailed hereinbelow for USA and Korea RP.

**13. Adjustments in home market prices in case of USA and Korea RP claimed by PREMA.**

- a. **USA:** Difference in transportation costs (US \$ 24 pmt in case of domestic and US \$ 10 pmt in case of exports), Packing premium of US \$ 44 pmt for delivery in 2525 kgs. as opposed to bulk delivery by rail car.
- b. **Korea RP:** There is no freight differential as both the destinations are located at similar distances.

In view of the fact that none of the exporters from the subject countries has furnished any information and in the absence of any other information, either supporting or contradictory, the Authority has determined normal valued in the subject countries on the basis of claims made by PREMA.

14. PREMA claimed export prices on the basis of data compiled by the Directorate General of Commercial Intelligence and Statistics (DGCI &S). Though PREMA

claimed that import volume as per customs daily listings are higher than the volumes as per the DGCI&S, it had not disputed in its submissions that export price as per the statistics compiled by DGCI&S represents correct export price of PVC Resin imported from eh subjects countries. PREMA, however, contended in response to the Authority's disclosure of essential facts that the export price as per DGCI&S cannot have precedence over Daily Customs Clearance reports. The Authority notes that the argument has been raised by PREMA after disclosure of essential facts. Moreover, the export prices worked out by PREMA from the Customs Daily Clearances are based on information compiled from the data of Mumbai, Calcutta, Madras, Porbunder, Okha and Kandla ports, whereas the information compiled BY DGCI&S covers all ports in India, and therefore, more authentic and reliable. The claim made by PREMA is not admissible not only due to the fact that the same has been made after disclosure, but also due to the fact that the information compiled is not for all ports in India. The Authority, therefore, considers it appropriate to determine export prices on the basis of statistics compiled by DGCI&S.

15. PREMA has claimed ocean freight and insurance @ US \$ 100 pmt in case of USA, US \$ 70 pmt in case of Korea RP, US \$ 120 pmt in case of Mexico and US \$ 145 pmt in case of Brazil. The Authority has allowed adjustment for ocean freight and insurance as claimed by PREMA.

16. The export prices and normal values so determined have been considered as ex-works prices.

17. Since none of the exporters from the subject countries has responded to the Authority's request for information, the Authority has not determined dumping margins for individual exporters. The Authority took into account the information furnished by PREMA, as no other party furnished any factual information, for the purpose of fair comparison between the normal values and the export prices and compared normal values with weighted average export prices, for each of the subject countries. The comparison shows the following dumping margins:

Country	Dumping margin (US \$ per MT)
Brazil	14
Korea RP	318
Mexico	313
USA	64

## **H. INJURY AND CAUSAL LINK**

18. Imports of PVC Resin after April 1996 are irrelevant to decide dumping and/or injury in the present investigations. The contention of PREMA that dumping from

Korea RP and/or USA led to drastic reduction in prices by the domestic producers is also unsubstantiated. It is found that imports from Korea RP and USA entered at an average price of Rs. 42125 and 41367 pmt, whereas the fair selling price of the domestic industry, as claimed by PREMA, was Rs. \*\*\*\*\* pmt. Since imports from the subject countries entered in the Indian market at prices significantly higher than the fair selling price claimed by the domestic industry, it cannot be said that the imports from the subject countries are causing injury to the domestic industry. Any difference between the fair selling price and the net realisations by the domestic industry, therefore, cannot be attributed to the dumped imports.

19. The contention of PREMA that the domestic producers had to offer substantial trade discounts and/or credit benefits on their already declining prices in view of the dumped imports is not established. The dumped imports were available at prices significantly higher than the fair selling price claimed by PREMA and, therefore, the same cannot be held as a reason for offering trade discounts or for lower net realisations.

20. The contention of PREMA that the domestic producers were prevented from effecting price increases, which were due in view of steep hike in the prices of major in-puts in view of dumped imports is also not established, as the imported products were available at prices significantly higher than the fair selling price which the domestic industry should have received, thus leaving sufficient cushion to the domestic industry to effect any price increase upto the landed cost of the imported goods from the subject countries in so far as the imports from these countries are concerned. The reasons for inability of the domestic producers to effect price increases also cannot be, therefore, attributed to the availability of the dumped imports.

21. The contention of PREMA that the courtiers have created excess exportable capacity also does not establish any injury to the domestic industry from the dumped imports. The dumping cannot be held to have caused any injury to the domestic producers, as the goods were exported by the exporters from these countries at landed prices significantly higher than the fair selling price of the domestic industry. The surplus capacities which might be available in the subject countries in future is also irrelevant.

22. The surplus utilised capacity in India during investigation period or in the future does not establish injury to the domestic industry.

23. PREMA has not established that the lower price realisations than the fair selling price to the extent of Rs. 3208 pmt by the domestic industry is due to dumped imports.

24. The argument that the level of injury would exceed Rs. 9300 pmt, in case production cost of IPCL's recently commissioned plant are consider, is unsubstantiated and, therefore, may be rejected.

## **LANDED VALUE**

25. The landed value have been calculated considering the weighted average export price as per the statistics compiled by SGCI&S, after adding the prevailing level of customs duties and one percent landing and two percent handling charges. Separate landed values have been calculated for each country. The anti-dumping duties in force on imports from these countries have not been included in the landed values.

## **J. OTHER ISSUES**

26. The fact that Brazil has exported very small quantities does not warrant removal of anti-dumping duty on imports from Brazil, even if the volumes are deminimus. Imports of the subject goods after imposition of anti-dumping duty have to be viewed in the context of the anti dumping duty in force on such goods. The low volume of imports from any of these countries could be a result of the very imposition of anti dumping duty. It would, therefore, not be appropriate to remove anti-dumping duty in force on any product merely on the ground that the imports are de-minimus.

## **K. FINAL FINDINGS**

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

- PVC Resin originating in or exported from the subject countries has been exported to India below its normal value.
- The domestic industry has not suffered any material injury from imports of PVC Resin from the subject countries.
- No injury has been caused to the domestic industry by the exports of PVC Resin originating in or exported from the subject countries.

28. It is considered appropriate to discontinue the anti-dumping duties in force on imports of PVC Resin on exports originating in or exported from USA, Brazil, Mexico and Korea RP. The Authority may, however, on sufficient cause being shown, review these findings before the expiry of five years from the date of first.

29. Subject to above, the final findings notified vide notification No. 14/4/92-TPD dated 30th July, 1994 is confirmed.

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

**DEEPAK CHATTERJEE,**  
Designated Authority