

# MINISTRY OF COMMERCE

## NOTIFICATION

New Delhi, the 10th October, 1996

## FINAL FINDINGS

**Subject:** Anti-dumping investigation concerning imports of Sodium Ferrocyanide originating from the People's Republic of China- Final Findings.

**No. 10/1/95-ADD-** Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof.

## PROCEDURE

### 2. The procedure described below has been followed:

- i. The Designated Authority (herein after referred to as the Authority) notified Preliminary Findings vide Notification No. 10/1/95-ADD dated the 8th August, 1996 and requested the interested parties to make their views known in writing within forty days from the dated of its publication.
- ii. Forwarding a copy of the Preliminary Findings, all the known interested parties were requested to furnish their views, if any, on the preliminary findings within forty days of the date of the letter,
- iii. The Authority also forwarded a copy of the Preliminary Findings to the Embassy of China PR in New Delhi with a request that the exporters and the other interested parties in China PR may be advised to furnish views on the Preliminary Findings;
- iv. One of the importers M/s. Citurgia Biochemicals Pvt. Ltd. vide their letter dated 16.9.96 which was received by the Authority on 19-9-96 requested for personnel discussions with regard to the submissions made by them on the preliminary findings. All interested parties were categorically informed about the time limit which expired on 16-9-96 by which date they were requested to file their submissions to the Authority. The request for personal discussions from M/s. Citurgia Biochemicals was received on 19-9-96 and in view of the fact that anti- dumping proceedings are time bound, the Authority was not in a position to accede to the request of the importer for personal discussions. However, in the interest of justice, the Authority has taken into account all the

submissions made by them in the said letter even though the same was received after the prescribed time limit.

- v. In accordance to Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to all the interested parties known and comments were sought on the same.
- vi. Subsequent to the disclosure of essential facts on 23-9-96, M/s. Citurgia Biochemicals vide their letter dated 30-9-96 submitted additional evidence in the form of letters/invoices and also requested for personal hearing. From the examination of the said letter the Authority observed that additional evidence cannot be permitted at this late stage i.e. after the disclosure of the essential facts to all the interested parties.

## **PETITIONERS' VIEWS**

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

- a. Levy of Anti-dumping has not been proposed with retrospective basis;
- b. The petitioner has put up a plant of minimum economic size, though the demand for the product is limited. The optimum capacity utilization for such type of plant is 75% to 80% of capacity;
- c. Incidental charges and packing and inland transportation in China are notional inevitable elements of cost;
- d. The current rate of customs duty should be considered for working out the landed value of imports.

## **EXPORTERS' VIEWS**

4. None of the exporters offered any comments on the Preliminary Findings.

## **IMPORTERS' VIEWS**

### **5. The importers, while repeating some of the views expressed before the Preliminary Findings, made the following major points:**

- a. The petitioner has not given any evidence of the domestic prices of Sodium Ferrocyanide in China and the same has been constructed at the rates applicable to India. The petitioner has not given details of the basis for working out the Normal Value which has been constructed at the rates applicable to India.
- b. The technical know-how, cost of production, finance cost, norms and other factors may be different in China. The exporter from China has also confirmed

that the Sodium Ferrocyanide to India is comparatively cheap, due to low cost of raw material and labour prevailing in China. The cost of production of the Sodium Ferrocyanide worked out for China seems to be based on conjectures, surmises and not on actual and real facts;

- c. The Authority should have made more efforts for finding out Normal Value, in view of non-cooperation from the exporters, through Indian Embassy or Trade consulates to get the desired information;
- d. The Authority has not given the methodology adopted for arriving at the cost of production for the purposes of Normal Value;
- e. The volume of material imported during the period of investigation was negligible and the same is extremely small as compared to the total consumption;
- f. The steep increase in imports of Sodium Ferrocyanide cannot be linked to alleged dumping practice. The increase could be due to various reasons;
- g. The petitioner is having installed capacity much higher than the demand in the country resulting in non-recovery of costs of interest, depreciation and other overheads although the Authority has stated that the petitioner has worked out fair selling price;
- h. The petitioner is not able to reduce its cost of production due to its inefficiency. The findings of the Designated Authority based on high stocks and the inability of the petitioner to reduce its prices is incorrect;
- i. The findings that the prices of Chinese exports are under-cutting the local prices is purely arbitrary;
- j. The imposition of Anti Dumping duty will hurt the interest of actual users/ultimate consumers of other product and will reward inefficient industry and would be against the liberalization policy adopted by the Government.
- k. The petitioner has increased its prices of Sodium Ferrocyanide by 15 per cent in early August, 1996 when the import duties on Chemicals were reduced in the Union Budget and the Government had not yet announced Anti Dumping Duty. The revised price is more or less matching with the landed value of Chinese material with the Anti Dumping Duty,
- l. A committee of experts comprising of representatives of Consumers' Research Institute, independent Cost Accountants and experts in Chemical industries, consumers and other competitive manufacturers should be set up by the Designated Authority to work out real costs.

## **EXAMINATION BY AUTHORITY**

6. The submissions made by the petitioner and importers have been examined and considered by the Authority while arriving at these findings and wherever appropriate have been dealt hereinafter.

7. The Authority confirms, in the absence of any direct response from the exporters in the form and manner prescribed, having made these findings on the basis of the facts available to it as per rule 6(8) supra.

## **LIKE ARTICLES AND DOMESTIC INDUSTRY**

8. The Authority confirms the paras 8 to 10 of the Preliminary Findings relating to like article and domestic industry status.

## **NORMAL VALUE**

9. Though some of the importers argued that the cost of production of the Sodium Ferrocyanide in China PR may be different due to technical/ other factors and that the same seems to be not based on actual and real facts. However, none of the importers, in spite of adequate opportunity provided by the Authority before and after preliminary findings, made available any data/ information necessary for determination of the normal value. Similarly, none of the exporters has supplied factual information in this regard in spite of specific requests made to them. The Authority, therefore, after considering all related arguments/ circumstances in this regard, adopted the basis of constructed cost of production, as detailed in paras 11 to 15.

10. It is reiterated that the Authority has worked out Normal Value on the basis of weighted average Export Price of Sodium Cyanide from India to various destination in the world and other cost based on Indian industry for reconstructing the Normal Value of Sodium Ferrocyanide in China PR in accordance with sub clause (c)(ii)(b) of Section 9A of the Act supra, as detailed in para 15 of the Preliminary Findings. The amount of Normal Value and methodology considered by the Authority has been disclosed to all the interested parties known. It is clarified that the Authority has not considered the export price of Sodium Cyanide from Indian to China alone for working out Normal Value.

## **EXPORT PRICE**

11. The Authority confirms the paras 16 to 17 of the Preliminary Findings with regard to Export Price of Sodium Ferrocyanide from China PR except that correct figures for the adjustments for insurance was 0.862% and 0.577% for 1994-95 and the first quarter of 1995-96 respectively. This inadvertent typographical error, which has not affect on the export price determined in the preliminary findings, was intimated to all the known interested parties while disclosing the basis of the findings.

12. Regarding the petitioner's request of consideration of incidental and packing and inland transportation in China which are notional inevitable elements of costs for adjustment of export price, the position has already been brought out in the preliminary findings at para17 and in the absence of any fresh evidence in this regard, no further adjustments is considered.

## **COMPARISON**

13. The Authority confirms the paras 18 to 19 of the Preliminary Findings with regard to comparison of Export Price and Normal Value.

## **INJURY**

14. The importer failed to substantiate is argument that the volume of Sodium Ferrocyanide imported during the period of investigation is negligible and small compared to the total consumption in India. Moreover, the information relied upon by the Authority in paras 22 to 23 of Preliminary Findings in this regard has also not been controverted by the importer.

15. It is reiterated, as brought out in para 39 of the Preliminary Findings, that the Authority has considered fair selling price of Sodium Ferrocyanide at optimum level of capacity utilization. Therefore, the extent of injury to the domestic industry on account of excess capacity has been nullified.

16. It is clarified that the Authority has not merely relied upon the submission of the petitioner regarding fair selling price. The Authority deputed a team consisting of Cost Accountants for on-the-spot investigation and has worked out, in detail, the fair selling price of Sodium Ferrocyanide in India for the domestic industry. Since the same is based on confidential data furnished by the petitioner, the Authority refrains from discussing the details.

17. The Preliminary Findings of the Authority on the issues of price undercutting, stocks and inability of the petitioner to increase its price is based on information on record. The importer has not been able to furnish any evidence to the contrary on these accounts.

18. After considering the arguments raised by the interested parties the Authority confirms the paras 20 to 32 of the Preliminary Findings relating to injury to the domestic industry.

## **CAUSAL LINK**

19. One of the importers, arguing that increase in imports could be due to various reasons, stated that the steep increase in imports of Sodium Ferrocyanide cannot be linked to the alleged dumping practice. The Authority noted that the importer has made a general statement and failed to brought out the factors/ circumstances and evidences, other than dumping, which are responsible for such steep increase in the import of Sodium Ferrocyanide during the period of investigation.

20. The observations of the Authority on the issue of steep increases in imports of Sodium Ferrocyanide is in accordance with the Rules. The Authority confirms the para 33 of the Preliminary Findings with regard to causal link between dumping of Sodium Ferrocyanide from China PR and injury to the domestic industry.

## **INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES**

21. Regarding the petitioner's request for imposition of anti- dumping duty on retrospective basis, sub- section (3) of Section 9 A of the Act supra stipulates the conditions necessary for levy of anti- dumping duties retrospectively. In the absence recommend levy of anti- dumping duties retrospectively.

22. It is reiterated that the current rate of customs duty, change in selling price of Sodium Ferrocyanide by petitioner and other changes consequent to the investigation period are outside the scope of this investigation. However, any party to the investigation may request the Authority for review of the present findings, in accordance with the Rules supra.

23. The purpose of anti- dumping duties, as detailed in paras 34-35 of the Preliminary Findings, is to remove dumping which has caused injury to the domestic injury and to re-establish a situation of fair competition and not to restrain imports from any specific source.

## **FINAL FINDINGS**

24. The Authority has, after considering the forgoing come to the conclusion that:

- i. Sodium Ferrocyanide of Chinese origin has been exported to India below its normal value;
- ii. The Indian industry has suffered material injury;
- iii. The injury has been caused by the imports from China.

25. The Authority therefore, confirms paras 42 to 44 of the Preliminary Findings and recommends the imposition of final Anti-dumping Duties on all imports of Sodium Ferrocyanide originating from China at the rates specific below:

<b>Name of the Exporter</b>		<b>Amount (Rs. per MT)</b>
(a)	Advance Chemicals Ltd., Hong Kong	19,877
(b)	China National Chemical Construction Ahui Co., China	20,129
(c)	Guadong Chemicals Imp. And Exp. Corpn., China	16,358
(d)	Sincochem Liaoning, China	20,287
(e)	Exporters Other than above	20,287

26. Subject to above, the Authority confirms the preliminary findings notified on 8th August, 1996.

**DIPAK CHATTERJEE,**  
Designated Authority