

No.14/17/2003-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF ANTI DUMPING &
ALLIED DUTIES

New Delhi, the 7th October 2004

Final Finding

Subject: Anti-dumping investigation concerning imports of Cyclohexanone originating in or exported from the European Union, Chinese Taipei and USA – Final finding

No. 14/17/2003-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. Gujarat State Fertilisers and Chemicals Ltd (GSFC), Vadodra (hereinafter also referred to as petitioner), on behalf of the domestic industry, alleging dumping of Cyclohexanone originating in or exported from European Union, Chinese Taipei and USA (hereinafter referred to as subject countries). The preliminary scrutiny of the application filed by the petitioner reveals certain deficiencies which were subsequently rectified by the petitioner. The petitioner was, therefore, considered as properly documented.
 - ii. The Authority notified the Embassies/High Commissions of subject countries in India about the receipt of fully documented 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 8th October 2003 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Cyclohexanone from subject countries.

- iv. The Authority forwarded copy of the said public notice to the known exporters, importers, industry associations and to the complainant and gave them an opportunity to make their views known in writing within forty days from the date of the letter in accordance with Rule 6(2).
- v. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassies/High Commissions of subject countries/territories in India. None of the producers and exporters from subject countries has responded to the application.
- vi. The Authority sent questionnaires, to elicit relevant information, to the known exporters from subject countries in accordance with Rule 6(4). None of the exporters filed any response or information to the questionnaire and notification.
- vii. The Embassies of the subject countries in New Delhi were also informed about the initiation of investigation in accordance with Rule 6(2) and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter, application filed by the domestic industry (Non-Confidential) and questionnaire sent to the known exporters was also sent to the embassies of subject countries/territory in accordance with Rule 6(3).
- viii. The questionnaire was sent to the large number of importers in accordance with Rule 6(4). None of the importers and users of the subject goods filed any response to the questionnaire and notification.
- ix. 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 in accordance with Rule 6(7);
- x. The Authority provided an opportunity to all interested parties to present their views orally on 25th May, 2004. Parties presenting views orally were requested to file written submissions, of the views expressed orally. The parties were advised to collect copies of the views expressed by opposing parties and offer rebuttals, if any. None of the interested parties have filed any response other than M/s. BASF. M/s. BASF has stated that they have not exported any material in the period of investigation and they have further requested for New Shipper Review. Domestic verification as well as exporter's verification of the data submitted by them were undertaken by the Authority. The Authority sought and verified all the information it deemed necessary for the purpose of Final Findings with regards to determination of dumping and resulting injury. The Authority conducted on the spot investigation of the domestic industry to the extent considered necessary. In accordance with Rule 16 of The Rule supra, the essential facts/ basis considered for these findings were disclosed to known

interested parties on 10th September 2004 and comments received on the same are duly considered in Final Findings.

- xi. **** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
- xii. The investigation of dumping and injury covered the period from 1st April 2002 to 30th June 2003 (Also called the period of investigation or POI). The examination of trends in the context of injury analysis covered the period from 1999-2000 to the end of POI. The import data has been examined from transaction wise data made available by the DGCIS for imports from the subject countries and countries other than subject countries.
- xiii. Domestic verification of the data submitted by them were undertaken by the Authority. The Authority sought and verified all the information it deemed necessary for the purpose of Final Findings with regards to determination of dumping and resulting injury. The Authority conducted on the spot investigation of the domestic industry to the extent considered necessary. In accordance with Rule 16 of The Rule supra, the essential facts/ basis considered for these findings are being disclosed to known interested parties and comments received on the same would be duly considered in Final Findings.
- xiv. The cost of the production of the domestic industry was also analysed to work out the optimum cost of the production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the petitioner so as to ascertain if anti Dumping duty lower than dumping margin would be sufficient to remove injury to the domestic Industry.
- xv. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation

B. Product under consideration

2. The Product under consideration in the present petition is Cyclohexanone, having chemical formula $C_6H_{10}O$ originating in or exported from Taiwan, EU and USA. Cyclohexanone is manufactured from Benzene. It acts as an intermediate in the production of adipic acid and in the manufacture of Nylon6. It is mainly sold in mild steel drums or made available in mild steel road tankers.

It is primarily used as an intermediate in the production of Caprolactum and in the manufacture of Nylon6. It is also used as a solvent and thinners for lacquers, especially those containing nitrocellulose or vinyl chloride polymer and copolymer resins including polyvinyl chloride and methacrylate ester polymers, as a sludge

solvent in oil for piston type aircraft lubrication and as a solvent for DDT and organic phosphorus insecticides and pesticides. There are no arguments from any of the interested parties rebutting the contention of the domestic industry.

Cyclohexanone is classified under Chapter 29 of the Customs Tariff Act and at subheading No.29142200 in the International Trade Classification based on harmonized system.

C. Like Article

3. The petitioner has claimed that goods produced by it are like articles to the goods originating in or exported from subject countries/ territory. There is no significant difference in the subject goods produced by the petitioner and those exported from subject countries/ territory. Petitioner claims that the two are technically and commercially substitutable. Therefore, for the purpose of present investigation, the goods produced by the petitioner are being treated as Like Articles of the product imported from the subject countries/ territory within the meaning of the Rules, supra.

Petitioner have furnished copy of the invoices raised to various customers as sales evidence. Petitioner has also furnished import information as per secondary sources, which shows name of importer. It shows that material is being imported by same parties, who are buying material from domestic industry.

There is no arguments raised by any one of the opposing interested parties in this regard. On the basis of the detailed investigation, the Authority notes that Cyclohexanone produced by the domestic industry has characteristics, which are similar to those imported from subject countries and to those sold in the market of exporters' countries. In view of the above, the Authority holds that Cyclohexanone produced by the domestic industry and those being imported from and sold in the subject countries are like articles within the meaning of the rules.

D. Domestic Industry

4. The petition has been filed by M/s Gujarat State Fertilizers & Chemicals Limited, Vadodra, Gujarat. The Authority has determined that the petitioner is a major producer of subject goods in India accounting for a major proportion of the production of the subject goods in India. The Authority notes that the petitioner constitutes a domestic Industry within the meaning of the rule 2(b) and the petitioner satisfies the criteria of standing to file the petition in terms of Rule 5(3)(a) of the Rules.

E. De-minimus.

5. As regards ascertaining that the imports from the subject countries during the period of investigation (POI) are above de-minimus levels, the Authority has referred to the transaction wise data from the subject countries as made available by DGCIS. After examining the data, The Authority holds that imports from all the subject countries are above de-minimus levels in terms of volume of imports.

F. Dumping.

6. Under Section 9A(1) I of the Customs Tariff Act 1975, Normal value in relation to an article means:

1. 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
2. When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:-
 - a. Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
 - b. The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6)";

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

7. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). None of the exporters have responded to the questionnaire in the form and manner required as per letter to the exporters and exporters questionnaire. In fact there are no arguments from any of the exporters in this investigation.

F.1 USA, EU and Chinese Taipei.

(a) Cooperation

8. None of the exporters from the subject countries/territory have responded to the questionnaire in the form and manner required as per letter to the exporters and exporters questionnaire. In fact there are no arguments from any of the exporters in this investigation. M/s. BASF have stated that they have not exported any material in period of investigation and requested for new shipper investigation. WTO agreement on Anti Dumping states as in this regard. "As soon as possible after the initiation of the investigation, the investigating authorities should specify in detail the information required from any interested party, and the manner in which that information should be structured by the interested party in its response. The authorities should also ensure that the party is aware that if information is not supplied within a reasonable time, the authorities will be free to make determinations on the basis of the facts available, including those contained in the application for the initiation of the investigation by the domestic industry."

(b) Normal Value & Export Price:

9. The prices of the Cyclohexanone are being periodically reported in reputed journal "Polyamides and Intermediates" published by Tecnon. The petitioner has based its normal value in case of EU and Taiwan on the basis of the prices reported in this journal. The industry has stated that they made efforts to get evidence of prices of subject goods in the domestic market of subject countries. Efforts were also made to get an evidence of price from a published journal. However, it has been stated that they have not been able to get any evidence of price at which subject goods are being sold in the domestic market of subject countries, as the product does not appear to be widely traded (unlike products such as Benzene and Caprolactam). In view of the non cooperation from all exporters from each of the subject countries, Designated Authority has no option but to proceed on the basis of best information available. The Authority has determined normal value of the cyclohexanone on the basis of the prices of the subject goods reported in this journal for EU and Chinese Taipei where these prices are quoted in this journal for EU and Asia. For USA, normal value has been constructed on the basis of the prices of the cyclohexane reported in this journal for USA. It is noted that the claim made by the petitioner with regard to determination of normal value has also not been disputed by the exporter or other interested parties. Under the circumstances, normal value under the rules is determined on the basis of facts available as per rule 6(8) of the Anti-dumping Rules. Therefore, the information available on the published journal with reference to the prices of the subject goods in the country of origin has been taken as the basis for working out the normal value of the subject goods for the exporter. Export price at ex factory level has been determined with the available data from DGCIS and with adjustments as per the facts available.

(c) Comparison:

10. For the purpose of a fair comparison between the normal value and export price at an ex factory level, due allowance wherever appropriate, has been allowed in respect of transport, insurance, handling and other costs.

(d) Dumping Margin:

11. In accordance with Rule 6(IV) of annexure I to the anti dumping rules, the dumping margin was established on the basis of constructed normal values with the weighted average export price at an ex factory level. The comparison showed the existence of dumping of the subject goods by the exporter during the POI. The weighted average dumping margin, expressed, as a percentage to the export price has been determined and is mentioned below.

	NV Ex	EP Ex	DM	DM %
	US \$	US \$	US \$	%
Chinese Taipei	****	****	****	16.35
EU	****	****	****	21.56
USA	****	****	****	56.06

G. Injury

Domestic consumption/demand

12. For the calculation of the Domestic consumption/demand of the product under consideration in a domestic market, the authority added the sales volume of the domestic industry to the total imports into the domestic market. On this basis, it is noted that the domestic demand or consumption of the subject goods in the domestic market declined from 21007 MTs in 1999-2000 to 15228 MTs representing a decline of 28%.

	1999-00	2000-01	2001-02	POI Annualized
Merchant Demand	21007	15745	17872	15228
Indexed	100.00	74.95	85.08	72.49
Demand including captive	****	****	****	****
Indexed	100.00	94.15	90.59	88.27

13. Cumulative Assessment of the effects of imports concerned

- i. The Authority examined whether imports of subject goods originating in subject countries should be assessed cumulatively as per Article 3.3 of the Agreement on Anti-Dumping and Rule 11 of the Anti Dumping Rules Under the Customs Tariff Act.

- ii. The margins of dumping established in relation to the imports from each of the subject countries) was above the de minimus threshold as defined in Article 5.8 of the Agreement on Anti-Dumping and Rule 14 of the Anti Dumping Rules and Volume of dumped imports from each of these countries was not negligible.
- iii. The domestic product and product supplied by producers in subject countries are like articles; and the imported products and domestically produced subject goods can and are being interchangeably used. Transaction wise information on importers from various countries and sales invoices of the domestic industry show that there are a number of parties who have resorted to purchase from the domestic industry and imports from subject countries. It is further noted that subject goods supplied by various countries compete in the same market. Further, it is also noted that products supplied by various producers in subject countries are being marketed in India during the same periods through comparable sales channels and under similar commercial conditions. Price undercutting is positive in respect of each of the subject countries.
- iv. In the light of the above, the authority has considered that the criteria set out in article 3.3 of the Agreement of Anti-Dumping and as per para iii of the Annexure II under Rule 11 were met with respect to imports from each of the subject countries and therefore Imports from these subject countries should be cumulated for the purpose of injury determination.

Imports originating in the subject countries.

Volume

14. The volume of dumped imports of the subject goods from subject countries into the domestic market increased by 9% over the injury period. Imports from subject countries were 4843 MT in 1999-2000, which declined to 3430 MT in 2000-2001. In 2001-2002, imports increased to 5093 MT, which increased to 5290 MT in period of investigation. The volume of dumped imports on annualised basis shows 9% increase over 1999-2000.

(MT)	1999-00	2000-01	2001-02	POI Annualized
Market Share in Imports				
EU	3947	3430	3799	2788
USA	0	0	194	557
Chinese Taipei	896	0	1100	1945
Total	4843	3430	5093	5290
Changes in Volume of Dumped Imports		-1413	1663	197
Other Imports	5941	550	1094	765
Changes in Volume of Other Imports		-5391	544	-329

Share of subject countries in total imports

15. Over the period under consideration, the share of the dumped imports from the subject countries in the total imports increased by 42.46% percentage. The market share held by the dumped imports in the total imports increased from 44.91% in 1999-00 to 87.37% during the POI. It is therefore noted that the share of dumped imports in the total imports has increased in the share of the total imports.

	1999-00	2000-01	2001-02	POI Annualized
Market Share in Imports				
EU	3947	3430	3799	2788
Share	36.60	86.17	61.41	46.05
USA	0	0	194	557
Share	0	0	3.13	9.20
Chinese Taipei	896	0	1100	1945
Share	8.31	0	17.78	32.12
Market share of dumped imports from Subject Countries in total imports	44.91	86.18	82.32	87.37
Market share of Other countries in total imports	55.09	13.82	17.68	12.63

Market share of dumped imports in total demand

16. The Designated Authority has also examined share of dumped imports from subject countries in demand of subject goods in India. The Authority finds that share of subject countries, which was 23.03% in 1999-2000 in Merchant Demand increased to 34.74% during the POI.

Market share in Demand	1999-00	2000-01	2001-02	POI
Domestic industry	48.66	74.72	65.39	60.24
Imports – Subject Countries	23.06	21.78	28.49	34.74
Imports – Other Countries	28.28	3.49	6.12	5.02
Changes in market share of				
Dumped imports		-1.28	6.71	6.25
Other imports		-24.79	2.63	-1.1
Domestic industry		26.06	-9.33	-5.15

Market share of dumped imports in production of subject goods in India

17. It is found that dumped imports from subject countries increased in relation to production of the domestic industry. For the purpose, the Authority has considered production once by excluding captive consumption and thereafter by including captive consumption. There does not appear to be an uniform trend in this regards and though the dumped imports have increased in relation to the net production in India ,there is a marginal increase when the captive consumption is also included.

	1999-00	2000-01	2001-02	POI Annualized
Considering *net production	****	****	****	****
Year by year change		-17.61	14.34	13.62
Considering *gross production	****	****	****	****
Year by year change		-2.16	2.94	0.45

*Net excludes captive consumption and *gross includes captive consumption.

On the basis of above examination, it is concluded that there has been a marginal rise in the market share of dumped imports of the subject countries during the POI as compared to previous years in proportion to the net as well as gross productions.

Evolution of import price

18. The Authority notes that there was no consistent pattern in the import prices. The import prices increased very significantly in 2000-01 as compared to previous year and thereafter declined in 2001-02. The prices increased thereafter.

	1999-00	2000-01	2001-02	POI Annualized
CIF export price from subject countries (weighted average)	26731	38069	30972	34128
% change over previous year		42.41	-18.64	10.19

The Authority notes that prices of the subject goods fluctuate in view of the fact that the input prices also keep fluctuating.

Price undercutting

19. A comparison of the prices of the product concerned was made between the exporting producers and the domestic industries average selling price in the domestic market, net of all rebates and taxes to unrelated customers, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. The CIF prices of the subject countries concerned were adjusted for post importation basic customs duty. This comparison showed that during the period of investigation, the subject goods originating in the subject countries were sold in the Indian market at prices which undercut the domestic industry's prices when expressed as a percentage of the domestic selling prices of the domestic industry. However the margin of undercutting is considered low in this case.

Rs. PMT	Landed Price	Undercutting Amount	Undercutting %
Net sales realization of the domestic industry	****		
Taiwan	****	****	5-10%
EU	****	****	1-5%
USA	****	****	10-15%

All subject countries	****	****	4-6%
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Price Underselling

20. The Authority has also examined the claim of the petitioner that the domestic industry is suffering on account of the losses from the sale of subject goods. The Authority notes that price underselling is an important indicator to make an assessment of the injury. The Authority has worked out the non-injurious price for the product under consideration and compared the same with the landed value to arrive at the extent of price underselling. The analysis shows a price underselling 6-10% from subject countries which is not considered significant by the Authority.

Price Depression

Price Depression of domestic industry from dumped imports	1999-00	2000-01	2001-02	POI
Cost of production	****	****	****	****
Indexed	100	127.83	103.94	131.30
Selling prices	****	****	****	****
Indexed	100	123.25	108.05	117.27
Cost of production as % of sales	****	****	****	****
Indexed	100	103.7	92.8	116.4

Though the selling prices increased from the base year to 2000-01, it was marginally depressed from 2001 to POI. It is therefore noted that there is no significant trend of price decline during the period under consideration.

Situation of the Domestic Industry

Preliminary remarks

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

Sales:

24. Merchant sales volumes of domestic industry were as follows:-

Year	1999-00	2000-01	2001-02	April 02 – June 03 POI	POI Annualized
Sales	*				