

MINISTRY OF COMMERCE

NOTIFICATION

New Delhi, the 29th September, 1997

Subject: Review of Anti-dumping duties concerning imports of Bisphenol-A final findings.

ADD/IW/60/96. - 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 the Authority) issued a public notice vide Notification no. ADD/IW/60/96 dated the 30th Sept., 1996, initiating review of definitive Anti Dumping Duty recommended on imports of Bisphenol-A originating in or exported from Japan vide notification no. 14/73/92-TPD dated 18th Feb., 1994 and definitive Anti Dumping Duties imposed by the Central Government vide notification no. 102/94-Custom dated 11th March, 1994.
 - ii. The investigations concluded by the Authority vide Notification no. 14/73/92-TPD dated 18th Feb., 1994 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 duty concerning imports of Bisphenol-A, classified under custom heading 2907.23 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from Japan (also referred to as the subject country 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 Kesar Petroproducts Ltd., the petitioner 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 importers and consumers of Bisphenol-A in India (whose details were made available by Kesar Petroproducts Ltd. in the previous investigations) 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 imports of Bisphenol-A 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 Mitsui & Co., Ltd., Japan., in accordance with the rule 6 (4). The company, however, has not filed response to the questionnaire;
- viii. The Embassy of Japan in New Delhi was 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 Embassy, alongwith a list of known exporters/producers. The Embassy of Japan in New Delhi desired a list of known exporters/producers in Japan, which was also supplied to them. No other exporter/producer, however, filed any response;
- ix. A questionnaire was sent to the following importers and/or consumers of Bisphenol-A in India calling for necessary information in accordance with rule 6(4):
 - Synthetics & Polymers Industries, Mumbai;
 - Dr. Beck & Company (India) Ltd., Pune
 - SIP Industries Ltd., Chinnai;
 - Dr. EECK & Co. Ltd., Pune;
 - Parikh Resins & Polymer, Kanpur;
 - Uttamlal & Co., Mumbai;
 - Chimanlal Manganlal &Co., Mumbai;
 - Beta International, Mumbai;
 - Bharat General Textile Industries, Calcutta;
 - Cibatul Ltd., Valsad;
 - Parikh Chemical Industries, Kanpur;
 - Bengal Poly Resins Pvt. Ltd., Calcutta;
 - Speciality Chemicals, Mumbai;
 - Delta Industries Resins Pvt. Ltd., Mumbai;
 - Pragati Chemical Ltd., Mumbai;
 - M J Exports Pvt. Ltd., Mumbai;

The following parties filed response:

- Cibatul Ltd;
- Synthetics & Polymer Industries;
- Pragati Chemicals Ltd.;
- SIP Industries Ltd.;

- Dr. Deck & Co. (India) Ltd.
- x. A questionnaire was sent to Kesar Petroproducts Ltd. (referred to as Kesar Petro hereinafter) calling for necessary information Kesar Petro filed its response;
- xi. The Authority held a public hearing on 12th June, 1997 to hear the views orally, which was attended by the following:
 - Kesar Petro;
 - Cibatul Ltd.;
 - Parikh Resins & Polymers Ltd.;
 - Pragati Chemicals Ltd.

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 KESAR PETRO

2. Kesar Petro made the following submissions:

- i. There are anomalies in import duty on Bisphenol-A and its major raw materials, i.e. Phenol and Acetone, resulting in disadvantages to the company;
- ii. Dumping of Bisphenol-A by overseas exporters at very low prices has injured the domestic industry substantially which is at verge of becoming sick and unviable. Unless imports are effectively controlled by imposition of anti-dumping duties, the company may be forced to stop operations due to continuous losses.
- iii. The anti-dumping duty on imports from Japan should be increase to Rs. 27690 pmt. which is the differences between fair selling price of the domestic industry in India and the export price of Bisphenol-A from Japan.

C. VIEWS OF EXPORTERS, IMPORTER AND OTHER INTERESTED PARTIES

3. None of the exporters/producers have responded to the Authority and offered any comments. The importers and/or consumers have expressed their views, and the same briefly mentioned below:
 - i. Imports of Bisphenol-A from Japan have declined from 786 MT (1991-92) to approx. 43 MT (1996-97)
 - ii. The normal value of Bisphenol-A in Japan, as given to understand by some Japanese inventors, is approx. US \$ 1180 pmt. The current export price from Japan is US\$ 1250 pmt, CIF Mumbai. The normal value of Bisphenol-A in Japan being lower than the export price to India, Bisphenol-A is not being dumped in India.
 - iii. There is no injury to Kesar Petro now in the light of the observations made by the Authority in the preliminary findings notified in the previous investigations. This is borne by the following facts:
 - The injury to the domestic industry was established in the light of the fact that a new industry was being set up. This argument does not hold goods now.
 - The volume of imports from Japan together with import price from Japan and present selling prices of Kesar Petro proves that there is no material injury or material retardation to the domestic industry.
 - Economic indicators affecting Kesar Petro, such as production capacity utilisation, stocks, sales volume, market share, price trends profitability does not indicate any injury to the domestic industry.
 - iv. Fair competition from Japan has reduced because of imposition of anti-dumping duties, contrary to the observations, made by the Authority in the previous investigations.
 - v. Imposition of anti-dumping duty on Bisphenol-A has resulted in increasing the epoxy resin costs, adversely affecting its competitiveness against the imports of epoxy resin.

D. EXAMINATION BY AUTHORITY

4. The submissions made by Kesar Petro, importers, consumers and other interested parties have been examined, considered and, wherever appropriate, dealt hereinafter.

E. PRODUCT UNDER CONSIDERATION, DOMESTIC INDUSTRY AND LIKE ARTICLES

5. The final notified earlier with regard to the product under consideration, domestic industry and like articles remain unchanged.

F. DUMPING

Normal Value

6. The Authority sent exporters questionnaire to the known exporter for the purpose of determination of normal value in accordance with Section 9A(1)c. However, none of the exporters responded to the Authority nor furnished any information. The Authority, therefore, holds that none of the exporters from the subject country have co-operated with the Authority as envisaged under the Rules. The Authority also holds that the primary responsibility to establish normal value of Bisphenol-A in Japan rests with the exporter s/producers, who have failed to co-operate with the Authority.
7. The claim with regard to the normal value of Bisphenol-A in Japan made by importers, M/s. Cibatul Ltd and Pragati Chemicals Ltd. is without any evidence and, therefore, un-substantiated. The claims made by these parties with regard to the normal value of Bisphenol-A in Japan is rejected.
8. The Authority notes that there were imports of Bisphenol-A in India originating in or exported from Japan during the period of review. But the importers of Bisphenol-A during the period of review (M/s. Shree Raj Chemicals and Bengal Poly Resin Pvt. Ltd., as per information made available by Kesar Petro) have not co-operated with the Authority and have not furnished any information. The details of actual expenditure incurred by these importers on import of Bisphenol-A from Japan are, therefore, not available.
9. Kesar Petro has furnished information with regard to normal value and export price. The company has claimed normal value of Bisphenol-A in Japan on the basis of the prices prevailing in the domestic market in Japan. The company has produced photocopies of Japan Chemical week, indicating the prices of Bisphenol-A as on 9.3.95 and 25.7.96. Though the evidence produced by Kesar Petro falls beyond the review period, yet in view of non-cooperation from the exporters/producers from Japan and near consistency in the prices published in the magazines on the two dates, the Authority considers it appropriate to determine the normal value of Bisphenol-A in Japan on the basis of the prices published in Japan Chemical week for the above mentioned two dates.
10. Kesar Petro furnished transaction wise and country-wise details of imports of Bisphenol-A into India on the basis of information compiled by M/s. Exponet

India, Mumbai. This has been relied upon for determination of export price. The export prices as per Exponet India have been adjusted for ocean freight on the basis of freight paid by Kesar Petro on its exported of Bisphenol-A made from India, in view of non-cooperation from the exporters and importers. The export price so arrived has been considered as ex-works export price.

11. Since none of the exporters from the subject country and importers in India have responded to the Authority, the Authority has not determined dumping margins for individual exporters. The Authority took into account the information furnished by Kesar Petro, as no other party has furnished any factual information with sufficient evidence, for the purpose of fair comparison between the normal value and the export price and compare normal value with weighted average export price. The comparison has been considered as on ex-works basis. The comparison shows dumping margin of 83 percent of export price.

G. INJURY AND CAUSAL LINK

12. Decline in volume of dumped imports is insufficient to warrant removal of anti-dumping duties in force. The decline in the volume may be a result of the very imposition of anti-dumping duties. The anti-dumping duties are required to be removed only if the product is not being exported at dumped prices and/or the product is being exported at such prices that it would not cause injury to the domestic industry.
13. It would be inappropriate to hold that the imports from the subject country would not cause to the domestic industry in the light of the economic parameters affecting the domestic industry. The improvement in any or all the economy parameters affecting the domestic industry could be a result of the very fact of imposition of anti-dumping duties. The injury to the domestic industry would, however, recur in case the product is being sold at dumped prices (as the case is in the instant case) and the imports are entering at such prices in India which is significantly lower than the fair selling price of the domestic industry. The improvement in the economic parameters affecting the domestic industry does not, therefore, warrant removal of anti-dumping duty.
14. The present selling price of Kesar Petro or in the review period is irrelevant to decide whether the anti-dumping duty recommended earlier is required to be continued. The fair selling price of the domestic industry and the landed value of imports from Japan (including the prevailing level of customs duties and excluding the anti-dumping duty in force) are the only relevant factors to decide whether the anti-dumping duty recommended earlier is require to be continued.

H. LANDED VALUE

15. The landed value of imports from Japan has been calculated considering the weighted average export price as per the details compiled by Exponet India, after adding the prevailing level of customs duties and one percent landing and two percent handling charges. The anti dumping duty in force on imports from Japan has not been included in the landed values.

I. OTHER ISSUES

16. The fact that the imposition of anti-dumping duties on Bisphenol-A has affected the price competitiveness of the end product, i.e. epoxy resins or polycarbonates is irrelevant to decide the present review.

The anomalies in the prevailing structure of customs duties on Bisphenol-A, Phenol, and Acetone are beyond the scope of the present review.

J. FINAL FINDINGS

- 17.17. The Authority concludes, after considering the foregoing, that:

- Bisphenol-A originating in or exported from Japan has been exported to India below its normal value.
- The domestic industry would suffer material injury in case the anti-dumping duty in force is removed.
- The injury to the domestic industry would be caused from imports from Japan in case the anti-dumping in force is removed.

18. It is considered appropriate to continue the imposition of anti dumping duty on imports of Bisphenol-A originating in or exported from Japan.

19. It was considered whether the duty recommended earlier would be sufficient to prevent the injury to the domestic industry. The weighted average landed price of the imports, for the purpose, was compared with the fair selling price of the domestic industry determined for the period of investigation. Whether the difference is lower than the dumping margin, determined as detailed hereinabove, a duty lower than the dumping margin is recommended. Accordingly, it is recommended that anti-dumping duty of Rs. 8434 per MT be imposed, from the date of notification to be issued in this regard by the Central Government, on all imports of Bisphenol-A, falling under Chapter 29 of the Customs Tariff, originating in or exported from Japan.

20. Subject to above, the final findings notified vide notification no. 14/73/92-TPD dated 18th Feb., 1994 are unaltered.
21. An appeal against this order shall lie to the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act supra.

DIPAK CHATTERJEE,
Designated Authority