

MINISTRY OF COMMERCE & INDUSTRY
(Department of Commerce)
Directorate General of Anti Dumping & Allied Duties

Notification

New Delhi, the 14th June, 2002

PRELIMINARY FINDINGS

Subject: Anti-dumping investigation concerning imports of Citric Acid into India originating in or exported from Indonesia and Thailand.

No. 14/11/2002-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

2. 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 Citurgia Biochemicals Ltd., on behalf of the domestic industry, alleging dumping of Citric Acid (hereinafter referred to as subject good) originating in and exported from Indonesia and Thailand (hereinafter referred to as subject countries);
- ii. The Authority notified the Embassy/High Commission of the subject countries in India about the receipt of dumping 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 16th April, 2002, published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Citric Acid originating in or exported from the subject countries falling under Customs Sub-heading 2918.14 under Chapter 29 of the Customs Tariff Act, 1975
- iv. The Authority forwarded copy of the said public notice to the known exporters, importers, users, industry associations and to the complainants and gave them an opportunity known in writing.

- v. According to sub-rule (3) of Rule 6 *supra*, the Authority provided a copy of the petition to all the known exporters and Embassy/High Commission of subject countries in India.
- vi. The Authority sent questionnaires, to elicit relevant information, to the following exporters from the subject countries:
- M/s Pt Budi Acid Jaya Tbk, Indonesia
 - M/s Thai Citric ACid Co.Ltd., Thailand
 - M/s Asia Citrix Co. Ltd., Thailand
 - M/s Citric Acid Industry Ltd., Thailand
- vii. The Embassy/High Commission of subject countries in New Delhi were also informed about the initiation of investigation and were requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time;
- viii. The questionnaire was sent to the following known users/importers of subject goods in India calling for necessary information in accordance with Rule 6(4):
1. M/s Amijal Chemicals, Mumbai
 2. M/s Jain Process Foods Ltd., Jalgaon
 3. M/s Posy Pharmachem P. Ltd., Ahmedabad
 4. M/s C.J. Shah & Co., Mumbai
 5. M/s Cipla Ltd., Pune
 6. M/s Jain Process Foods Ltd., Jalgaon
 7. M/s Sunil Chemicals, Virar, Distt. Thane
 8. M/s Clariant(India) Ltd., Thane.
 9. M/s Parle International Ltd., Mumbai
- x. 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;
- 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 covered the period from 1st April, 2001 to 31st December, 2001.
- xiii. Additional details regarding injury were sought from the petitioner, which were also furnished.
- xiv. The Authority conducted on-the-spot verification of the domestic industry to the extent considered necessary.
- xv. The cost of production of the domestic industry was also analysed to work out optimum cost of production and cost to make and sell the subject goods in India

on the basis of Generally Accepted Accounting Principles(GAAP) based on the information furnished by petitioner so as to ascertain if anti dumping duty lower than dumping margin would be sufficient to remove injury to domestic industry.

- xvi. Copies of initiation notice was also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. PETITIONER'S VIEWS

3. The petitioners have made the following major points in their submissions:

- i. They are two producers of the subject goods in India of which M/s Bharat Starch Industries Ltd., plant of which was lying closed in the years 1999-2000 and 2000-01 and recommissioned their Citric Acid Plant only in the third week of December, 2001. M/s Citurgia Biochemicals Ltd., account for more than 25% of the production by the domestic industry as defined in the Anti Dumping Rules. Therefore, they have the standing to file the application on behalf of the domestic industry. Further, the petitioners are not related to any importer/exporter of the subject product.
- ii. There is no known difference in Citric Acid produced by the Indian industry and that exported from subject countries. The subject goods produced by the Indian industry and imported from subject countries are comparable in terms of physical as well as chemical characteristics, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. Subject goods produced by the petitioners and imported from subject countries should be treated as like article in accordance with the anti-dumping Rules.
- iii. The present petition filed by the domestic industry should be seen in the light of the severe injury suffered by the domestic industry due to indiscriminate dumping by the exporters. The performance of the domestic industry should also be seen in the light of severe dumping resorted by the exporters from the subject countries.
- iv. It is evident that the quantum of imports from each of the subject country is more than the de-minimis limit. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject countries directly compete with the prices offered by the domestic industry in the Indian market. The Authority is, therefore, requested to assess injury to the domestic industry cumulatively from the subject countries.
- v. Material injury is being caused to domestic industry from imports. The domestic industry is producing for the past many years. The technology

adopted by the domestic industry is comparable to the technology adopted by other players. It is submitted that the export at dumped prices by the exporters from subject countries is the sole reason for the present state of market in India

C. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES :

4.M/s P.T. Budi Acid Jaya, Indonesia has furnished information in response to the Initiation Notification in the format of the exporter questionnaire prescribed. However, no arguments have been given regarding injury and causal link or other aspects of investigation. M/s Asia Citrix Co., Ltd., Thailand, M/s Thai Citric Acid Co. Ltd., and M/s Citric Acid Industry Co. Ltd., Thailand, have stated that they have not exported to India during the period of investigation. None of the importers has given information in the format of the prescribed questionnaire.

D. EXAMINATION AND FINDINGS BY AUTHORITY

5.The submission made by the importers, exporters, users, domestic industry and other interested parties have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

6.The cases of new exporters or those stated to be willing to give price undertaking shall be considered, on request, by the Authority in accordance with the Rules supra.

E. PRODUCT UNDER CONSIDERATION

7.The product under consideration in the present petition is "Citric Acid" also known as Citric Acid Monohydrate. Citric Acid is a basic chemical normally classified under Customs sub-headings 2918.14 of the Custom Tariff Act. The Custom classification is indicative only and not binding on the scope of investigation. Citric Acid is used as preservative in food, soft drinks, confectionery, drugs, in textile dyeing and printing industry and has other industrial uses like in boiler cleaning etc..

F. LIKE ARTICLE

8.Rule 2(d) of the Anti Dumping Rules specifies that "Like Articles" means an Article which is identical or alike in all respects to the product under investigation or in the absence of such an Article, another article, having characteristics closely resembling those of the articles under examination. The Authority holds that Citric Acid being produced by the domestic industry and that being imported from the subject countries

can be used interchangeably and thus the two are commercially and technically substitutable and therefore, are like articles within the meaning of the Rules.

G. DOMESTIC INDUSTRY

9.M/s Citurgia Biochemicals Ltd., have filed the petition. As per evidence available, M/s Citurgia Biochemicals Ltd., have the standing to file the petition on behalf of domestic industry as per Rule 5 of the Anti Dumping Rules. The petitioner accounts for more than 25% of the Domestic production during the Period of Investigation of the subject goods in India. Accordingly, the Authority holds that the petitioner fulfils the requisite criteria to represent the domestic industry.

H. NORMAL VALUE, EXPORT PRICES & DUMPING MARGINS

10. Under Section 9A(1)© 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)
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);

11. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). M/s Asia Citrix Co., Ltd., Thailand, M/s Thai Citric Acid Co. Ltd., and M/s Citric Acid Industry Co. Ltd., Thailand, have stated that they have not exported to India during the period of investigation. Since none of the exporters from Thailand have furnished information to the Authority in the prescribed questionnaire, the Authority has relied on the best information available in the case of exporters from Thailand as per Rule 6(8) *supra*.

M/s P.T. Budi Acid Jaya Tbk, Indonesia, have filed reply to the Initiation Notification in the prescribed questionnaire. However, there are number of deficiencies in the reply filed which are as follows:

- a. The company has given sales price structure for domestic sales in Appendix 5 and Appendix 6. Appendix 5 gives price at ex-factory level as US \$ **** and in Appendix 6 as US ****. This shows wide variation and no justification for the same has been given.
- b. The complete details of the products manufactured by the exporter, as required in Appendix 7, have not been furnished.
- c. The company has not furnished complete details of factory cost and profit of export to India, domestic sales and exports to countries other than India, as solicited in the Appendices 8, 9 & 10 respectively. The details of raw materials, quantity, rate and total cost has not been furnished. The element wise cost of utilities along with quantity, rate, total cost, has also not been furnished. No information regarding total cost of other elements, namely direct labour, manufacturer overheads, depreciation, financial & interest costs, packing costs & selling and general expenses, have been furnished.
- d. The company has not furnished the non confidential version of the confidential information submitted in reply to the questionnaire required as per Rules.
- e. The company has not provided copies of trading, profit & loss account and balance sheet for the current year and previous two financial years showing the determination of gross profit, details of selling and administration and other costs and net profit.
- f. In Appendix 1, for the domestic sales, one consolidated invoice seem to have been raised for the entire month at the end of the month. There is need to clarify the matter in order to determine the sales being at arm's length and in the ordinary course of trade. As per the questionnaire, transaction-wise details are required to be given for all the domestic sales.

In view of the inadequate response filed by the exporter from Indonesia, the Authority has decided not take into account the information furnished by the exporter and has relied on the information provided by the domestic industry for the purpose of preliminary findings. However, the information furnished by the exporter shall be taken into account after the deficiencies are removed and full information required as per the questionnaire, is furnished.

12. The principles governing the determination of normal value, export price and the dumping margin as laid down in the Custom Tariff Act and the Anti Dumping Rules are elaborated in Annexure I to the Rules. As submitted by the petitioners at the time of initiation, the normal value has been determined on the basis of the constructed cost of production separately for each country. Also regarding the export prices, the

Authority has adopted the export prices based on information provided by DGCI&S, Kolkata. For adjustments on account of Ocean freight, insurance, inland freight, port charges and commission on the exports sales, the information provided by the domestic industry has been used for arriving at net export price separately for each country. The dumping margins arrived at for the purpose of preliminary findings are as follows:

Country/Territory	Exporters/ Manufacturers	Dumping Margin(%)
Indonesia	All exporters	70.95
Thailand	All exporters	55.08

I. INJURY

13. Under Rule 11 supra, Annexure II, when a finding of injury is arrived at such finding shall involve determination of the injury to the domestic industry "..... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles" 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 the like article 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 domestic industry in India, indices having a bearing on the state of industry as production, sales, stock, profitability, net sales realization, the magnitude and margin of dumping, etc., have been considered in accordance with Annexure II(iv) of the rules supra.

J. CUMULATIVE ASSESSMENT OF INJURY

15. Annexure II (iii) under Rule 11 supra further provides that " in case where imports of a product from more than one country are being simultaneously subjected to Anti Dumping investigation, the Designated Authority will cumulatively assess the effect of such imports, only when it determines that the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual country is less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article and cumulative assessment of the imports is

appropriate in light of the conditions of competition between the imported article and the like domestic article".

16. The Authority notes that the margin of dumping and quantum of imports from subject countries are more than the limit prescribed above. Cumulative assessment of the effect of the imports from Indonesia and Thailand are appropriate since the export prices from these countries were directly competing with the prices offered by the Domestic Industry in the Indian market and displacing domestic producers here.

K. INJURY ASSESSMENT

17. All economic parameters affecting the Domestic Industry as indicated above such as production capacity utilisation, sales volume etc., have been examined as under :-

a. Increased imports from the Subject Countries

The imports from the subject countries in comparison to the total imports have increased from 27.78% in 2000-2001 to 75.28% during the period of investigation. Further, imports from the subject countries in comparison to the total demand in the country have also increased from 12.87% in 2000-2001 to 41.84% during the period of investigation, as given in the following table:

Year	Imports(MT)	Total Demand	% share
1999-2000	4.86%	100.00	4.86
2000-2001	12.87%	97.18%	12.87%
April-Dec, 2001	41.84%	76.91%	41.84%
Annualized	41.84%	102.54%	41.84%

b. Decline in market share held by the Indian producers

The table below shows that the market share of domestic industry declined from 53.67% in 2000-2001 to 44.42% in the period of investigation, while the total demand is showing an upward trend.

Year	Domestic Sales	Total Demand	% share
1999-2000	100.00	100	49.82%
2000-2001	104.68	97	12.87%
April-Dec, 2001	68.57	77	41.84%
Annualized	91.42	103	41.84%

It is seen from the above that the imports from the subject countries have gone up in relation the total demand in the country.

c. Output/Productivity

There has been a drop in the production as well as the capacity utilization of the domestic industry to the extent of about 4% in the period of investigation over the preceding financial year.

Year	Capacity (MT)	Production	Cap. Utilization(%)
1999-2000	100	100.00	97.79%
2000-2001	100	100.82	98.59%
April-Dec, 2001	75	72.55	94.60%
Annualized	100	96.73	94.59%

d. Selling Price of Petitioner Company.

There has been a decline in the selling price also in the period of investigation over the last year.

Year	Sales Volume(MT)	Sales Value (Rs. lacs)	Unit Price (Rs./MT)
1999-2000	100.00	100.00	100.00
2000-2001	104.68	105.73	101.00
April-Dec, 2001	68.57	68.68	100.17
Annualized	91.42	96.82	100.17

e. Profitability

An examination of the records of the domestic industry indicates that the domestic industry has suffered serious injury in the form of direct losses per unit of sale. A comparison of the selling price and the cost of production per unit during the period of investigation clearly shows an increase in the loss per unit being suffered by the petitioner company. Thus it is apparent that it is the price factor alone which can be considered to have led to injury to the domestic industry resulting in losses.

f. Price Undercutting

It has been observed that dumping by the subject countries has had a significant impact on the net sales realization by the domestic industry for the subject goods. To hold on to its market share, the petitioner had to compete with low priced and dumped imports of subject goods from the subject countries. The landed values of the dumped imports also indicate that there is price under-cutting taking place.

g. Price Underselling

The Authority has also examined the claim of the domestic industry that the domestic industry is suffering on account of direct losses. The Authority notes that price underselling is an important indicator to make an assessment of injury. The Authority has worked out a fair selling price and compared the same to the landed value to arrive at the extent of price underselling.

h. Return on investment & Ability to raise capital

The rate of return on the investment during the period of investigation for the product under consideration has been negative for the domestic industry as a result of which the domestic industry has not been able to raise fresh capital or plan new investment in this product.

i. Employment

The employment levels of domestic industry have not undergone any significant change during the period of investigation.

Determination of Injury.

18. On examination of the evidence, it has been found that there is marginal decline in production and domestic sales of the domestic industry. The petitioner company is suffering losses on account of low priced and dumped imports from the subject countries. The most significant parameter evidencing injury is the price undercutting and price underselling as per the evidence available with the Authority. On the basis of the evidence available before the Authority, it is determined that the domestic industry has suffered injury and is suffering further threat of injury during the period of investigation.

J. CAUSAL LINK

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

- a. The Authority observes that there is a single market for the subject goods where dumped imports compete directly with the goods produced by the domestic industry. Decline in demand is not a factor causing injury to the domestic industry. The imported subject article and the domestically produced goods are like articles and are used for the same applications/end uses. Thus, pricing becomes the most important factor determining purchase of the article from either imported sources or domestic sources.

- b. The imports from subject countries suppressed the prices of the product in the Indian market to such an extent that the domestic industry was prevented from recovering its full cost of production and earn a reasonable profit from the sale of subject goods in India.
- c. Dumped imports of subject goods from subject countries at dumped prices has resulted in substantial losses to the domestic industry.

H. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:

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

21. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from Subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

I. CONCLUSIONS

22. It would be seen, after considering the foregoing, that:

- a. Citric Acid originating in or exported from Indonesia and Thailand have been exported to India below Normal Value, resulting in dumping;
- b. the Indian industry has suffered material injury from exports of subject goods from Indonesia and Thailand;
- c. The injury has been caused cumulatively by the dumped imports from Indonesia and Thailand.

23. It is considered necessary to impose anti dumping duty, provisionally, pending final determination, on all imports of Citric Acid originating in or exported from Indonesia and Thailand pending final determination.

24. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. The average landed value of the imports, for the purpose, was compared with the non-injurious price for the petitioner company, determined for the period of investigations. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended.

25. Accordingly, it is proposed that provisional Anti Dumping Duty as indicated in column 3 below be imposed from the date of notification to be issued in this regard by the Central Government on Citric Acid originating in or exported from Indonesia and Thailand pending final determination.

Sl. No.	Exporters/Producers	Amount of Anti Dumping Duty Recommended (US \$ per MT)
1	2	3
Indonesia	All exporters	456.67
Thailand	All exporters	374.36

26. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except Additional duty of Customs levied under section 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

N. FURTHER PROCEDURE

27. The following procedure would be followed subsequent to notifying the preliminary findings:

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- b. Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of preliminary findings. Any other interested party may also make known its views within forty days from the date of these findings;
- c. The Authority would provide opportunity to all the interested parties for making oral submissions which have to be rendered thereafter in writing;
- d. The Authority would conduct further verification to the extent deemed necessary;
- e. The Authority would disclose essential facts before announcing final findings.

L.V. Saptharishi
Designated Authority

