

# MINISTRY OF COMMERCE

## NOTIFICATION

New Delhi. 22nd October, 1999

**Subject:** Anti-dumping investigation concerning import of Pure Terephthalic Acid (PTA) from Japan, Malaysia, Spain and Taiwan-Preliminary Findings.

### PRELIMINARY FINDINGS

**No. 27/1/98-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 (hereinafter also referred to as Rules), Thereof;

### A. PROCEDURE

1. The procedure described below has been followed with regard to the investigation:
  - i. The Designated Authority (hereinafter also referred to as Authority), under The above Rules, received a written application from M/s Reliance Industries Ltd. on behalf of the domestic industry, alleging dumping PTA (hereinafter so referred to as subject goods) originating in or exported from Japan, Malaysia, Spain and Taiwan.
  - ii. Preliminary scrutiny of the application filed by petitioner revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was therefore considered as properly documented;
  - iii. The Authority, on the basis of sufficient evidence submitted by the petitioner decided to initiate the investigation against imports of PTA from Japan, Malaysia, Spain and Taiwan. The Authority notified to the Embassy of Japan, Malaysia, Spain and Taiwan about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-rule 5(5) of the Rules;
  - iv. The Authority issued a public notice dated 22nd April, 1999 published in the Gazette of India, Extraordinary, initiating anti - dumping investigations concerning imports of PTA defined under custom sub-heading No. 2917.36 of the Customs Tariff Act, 1975 originating in or exported from Japan, Malaysia, Spain and Taiwan. (hereinafter also referred to as the subject countries).
  - v. The Authority forced a copy of the public notice to all the known exporters (whose details were made available by the petitioner) of the subject goods and

- industry associations and gave them an opportunity to make their views known in writing in accordance with the Rule 6(2);
- vi. The Authority forwarded a copy of the public notice to all the known importers (whose details were made available by petitioner) of PTA in India and advised them to make their views known in writing within forty days from The date of issue of the letter;
  - vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of PTA made in India during the past three years, including the period of investigation.
  - viii. The Authority provided a copy of the petition to the known exporters and the Embassy of the subject countries in accordance with Rules 6(3) supra. A copy of the petition was also provided to other interested parties, wherever requested;
  - ix. The Authority sent a questionnaire to elicit relevant information, to the following known exporters, in accordance with the Rule 6(4);

**(a) Japan**

Mitsubishi Chemical Corporation

Mitsui Chemicals Inc.

**(b) Malaysia**

Amoco Chemical Asia Pacific Limited

**(c) Spain**

Interquisa

**(d) Taiwan**

Tuntex Petrochemical Inc.

A number of parties requested for extension of time, which was allowed by the Authority. The responses received after the extended time have not been considered for determining the preliminary findings.

The following exporters responded:

**(a) Japan**

- Mitsubishi Chemical Corporation
- Mitsui Chemicals Inc.

**(b) Malaysia**

- Amoco Chemical (Malaysia)

**(c) Spain**

- Inlerquisa

**(d) Taiwan**

- Tuntex Petrochemical Inc.

x. The Embassy of the subject countries in New Delhi was informed about the initiation of the investigation in accordance with rule 6(2) with a request to advise the exporter/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to the Embassy of subject countries, alongwith a list of known exporters/producers.

xi. A questionnaire was sent to the following known importers of PTA calling for necessary information in accordance with rule 6(4);

- M/s Indo Rama Synthetics Ltd.
- M/s PEARL Engg. Polymers Lid.
- M/s Garware Polymers Ltd.
- M/s Orrisa Synthetics Ltd.
- M/s Parasrampuria. Synthetics
- M/s JCT Ltd.
- M/s Indian Organic Chemicals Ltd.
- M/s India Poly Fibres Ltd.
- M/s FUTURA Polymers
- M/s DCL Ltd.
- M/s J.K. Synthetics Ltd.
- M/s Raymond Synthetics Ltd..

**Response to the questionnaire was filed by the following importers :-**

- M/s Indo Rama Synthetics Ltd.
- M/s PEARL Engg. Polymers Ltd.
- MS DCL Ltd.
- M/s Raymond Synthetics Ltd.
- Century Enka Limited

12. Additional information regarding injury was sought from the petitioner, which was also furnished;
13. The Authority conducted on-the-spot investigation at the premises of the petitioner to the extent considered necessary;
14. The Authority made 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;
15. Cost investigations were also conducted 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) and the information furnished by the petitioner.
16. \*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules;
17. Investigation was carried out for the period starting from 1st April, 1998 to 31st December, 1998.

## **B. PETITIONER' VIEWS**

2. The petitioner have raised the following major points in their petition and their subsequent submissions.
  - a. Producers from the subject countries have been consistently dumping PTA into India and the prices at which they have dumped PTA into India have been below the normal value. The cif prices have also been coming down month after month.
  - b. The Indian demand/supply position for the period of investigation show's that India has adequate PTA capacity and docs not need PTA to be imported.
  - c. Many importers import PTA against Advance License and argue that such imports should not attract anti-dumping duly. The petitioner have set up PTA capacities even to meet the demands of polyester exporters and thus any dumped imports of PTA even under Advance License adversely affect the domestic producers. The request is to apply the Anti-Dumping Duty to imports, whether duty paid or otherwise, if they are falling within the definition of dumping.
  - d. The petitioner are not in a position to get authentic information on the domestic ex-factory realisation in the subject countries. Therefore, the Normal Value has been constructed on the cost data made available though internationally reputed consultancy firms like Dewit and Co. and CMAI
  - e. As regards injury, it is stated that their production levels have gone up. However, the petitioner's domestic prices have remained suppressed

continuously due to continued dumping by the producers from the subject countries.

## **C. Views of Exporters, Importers and other interested parties:**

### **3. I. Exporter' Views:**

- a. The Japanese exporter, M/s Mitsui Chemicals Inc. have stated that in India, they as a foreign supplier, play a supplemental role in supplying to the domestic PTA market while the major role is played by the domestic manufacturers. Their supply of PTA is (I) to key customers having mutual trust with them, (ii) with a necessary limited quantity, (c) stable for a long term (d) at international market price. Therefore, they believe that their activity has never caused any disorder in the PTA market of India.
- b. No injury has been caused to the domestic producer in view of the following:
  - i. Using the petitioner's own of market share, it is seen that the volume of PTA imports from Japan, Malaysia, Spain and Taiwan has been stable with only a slight increase in the relative share in the domestic market. Due to the expansion of domestic consumption in India, the imports of PTA has not affected the domestic producers' share of the market.
  - ii. It is stated that from 1997-98 to 1998 (April-Dec.), the petitioner's average list price of PTA to domestic major users decreased from US\$ 765 to US\$ 584 (April-Dec., 98) i.e. 23.6%. This decline has kept pace with the change in market price of PTA in the Asia region which is stated to have taken place due to the gap of the supply and demand. In the Asia region, PTA price announced by China American Petrochemical Co. Ltd. (CAPCO) in Taiwan is considered as a reference price. From 1997-98 to 1998 (April-December), the CAPCO price has decreased from US\$ 545 to US\$ 413 i.e. 24.2%. Thus, the exporter's submission is that rate of decline in PTA price in India is at the same level as other areas of the World and the PTA price is dropping due to overall decline of international market prices.
  - iii. As per the petitioner's own claim, capacity utilisation level is extremely high. These rates of utilisation are much higher than other PTA producers of the World and, therefore, their claim of injury on this count does not have any ground.
  - iv. Further it is stated that there is a steep increase in the production as well as in the sales of the domestic industry. Therefore, No injury can be claimed on these counts. As to the increase in stocks, it is stated that this increase is because of excessive production by the petitioner.

- c. As regards margin of dumping, M/s Mitsui Chemicals of Japan have stated that 43% margin claimed by the petitioner is based on the inaccurate data of their manufacturing cost analysis. For the actual Normal Value and Export price of their PTA, they have submitted the figures which should be referred to.
- d. Demand of PTA in India is rapidly increasing. PTA is one of the most important basic chemicals for host of user industries which are considered as key-industries by the rapidly growing countries for the purpose of generation of markets of synthetic cloths, drink bottle and other consumer goods, and naturally these industries are in a Severe international competition. A demand-supply gap for this product is projected for the future years considering the present domestic production capacity of PTA vis-a-vis [the expanding demand.
- e. Imposition of Anti-Dumping duty on PTA, it is stated, would benefit only one domestic PTA producer at the expense of many user industries of PTA. This would hamper the growth of such user industries and would have irreparable adverse effect on general economy of India, especially when the import duty rate on PTA in India is already on a higher side.
- f. As regards exports of PTA by Reliance itself, the Japanese exporter M/s Mitsubishi Chemical Corporation have stated that the petitioner themselves have also reduced their export price significantly as per their own figures furnished in this regard for the year 1997-98 and the current period, i.e. the period of investigation. Thus, the fall in the prices of PTA in that period was a global phenomenon and was not related to dumping, of PTA in Indian, market.
- g. The captive consumption of domestic industries has also increased significantly. A major part of the production of the domestic industry is not available for the market.
- h. The profit/loss claimed by the petitioner has to be seen along with the basis on which cost of production has been claimed, especially when the company is a multi-product multi-location and multi-division company.
- i. It is stated by the exporters' that DMT producers have not filed petition this time through DMT and PTA were held as like articles by the Designated Authority in the previous case of investigation into dumping of PTA. This indicates that DMT producer does not feel injured and, therefore, have not petitioned against the imports. The present petition is clearly an attempt to restrict competition in the Indian market.
- j. Further it is stated that the PTA prices in India are not set by any of the-exporters of PTA to India. The petitioner being the largest supplier of PTA in the Indian market, benchmarks the prices of PTA in India. A comparison of prices at which Reliance was selling PTA in India during the POI and the prices at which various exporters were supplying will make it evident that there is no price under cutting of PTA in the Indian market by any exporter.

- k. The Malaysian exporter have stated that no reliable data showing imports has been produced in the complaint for the investigation period. In the absence of such data, it can't be said that imports of substantial quantity of PTA are coming from Malaysia into India at a lowered price. The complaint itself reflects that the complainant has not suffered any injury. The complainant is financially very sound and has intact improved its position during the POI compared in the earlier period. In any event, the injury, if any, to the complainant is not on account of imports from Malaysia.
- l. Further, the cost of production in Malaysia as constructed by the petitioner is incorrect. It is based upon the costing done by the Dewitt and Co. which relates to a plant in USA and, therefore, is not applicable to Malaysia. Further, the costing was done by Dewitt and Co. for the year 1996. The raw material cost has substantially declined since then. Therefore, the cost of production for 1998 should have been much lower than that indicated by Dewitt and Co.
- m. There is total lack of evidence of price erosion, price under-cutting price suppression or price depression caused by imports from Malaysia. The domestic price of the complainant is around Rs. 23.100/- as per the complaint and the landed value of the Malaysian imports is around Rs. 28,114/-. Hence the question of any price erosion or under-cutting does not arise.
- n. The exporters from Spain, M/s. Interquisa, have claimed that their exports of PTA to India have declined so significantly that the same were de-minimum in the investigation period. The exports of PTA by Interquisa during the POI are claimed at 4023.25 MT. vis-a-vis the total imports of PTA into India of 226000 M.T. as pr information published by PCI-Xylenes and Polyesters Ltd. Thus, the imports from Interquisa are less than 3% of total imports of PTA into India and, therefore, are de-minimus. Hence, the investigation against them should be terminated forth with.

The fact of de-minimus imports from Spain is also evident from the petition itself where it is stated that there were no actual shipments in the period April-Sept., 1998. The petitioner merely expected that some 4500 MT was due from Spain in October, 1998. In the opinion of the Spanish exporter, it is not appropriate to proceed with the expected arrivals,

Further it is slated (hat imports from Spain are deminimus not only with reference to the total imports of PTA into India, but also with reference to the demand of PTA in India. The Agreement on Anti- Dumping provides that the investigation should be terminated forthwith if the injury to the domestic industry from imports is negligible. Exports from Spain to India during the POI were less than one percent of the total demand/consumption of PTA in India. No injury, therefore, has been caused to the

petitioner on account of exports of PTA from Spain. The investigations against Spain should be terminated forthwith on this account also.

## **II. Views of the Importers:**

(a) The domestic polyester industry is passing through a difficult phase in terms of profits and most of the polyester producers have booked huge losses in the last three consecutive financial years except the petitioner. The petitioner is trying to prevent imports from countries which have logistic advantage in supplying the material at internationally competitive prices thereby depriving the importers the price advantage and alternative source.

## **(D) Examination of the issues raised**

4. The foregoing submissions made by the exporters, the importers, the petitioner and other interested parties have been examined and those having relevance to the Rules and a bearing on the instant case have been dealt with at appropriate places in these findings.

## **(E) Product under consideration**

5. The product involved in the present investigation is Pure Terephthalic Acid or PTA, as is more commonly known, originating in or exported from Japan, Malaysia, Spain and Taiwan. PTA is a white free flowing crystal fine powder free from any visual contamination. PTA is classified under Sub heading No. 2917.36 of ITC (HS) classification. The classification is only indicative and in no way binding on the scope of present investigation. PTA is normally used in the manufacture of polyester staple fibre/filament yarn/polyethylene terephthalate (PET) (Textile Grade) and polyester films.

## **(F) Like article:**

6. The petitioner have claimed that the production process as employed by them to manufacture PTA is similar to other PTA manufacturers in the World. They utilize the technology licensed by M/s ICI (Dupont), who are among the World leaders in PTA globally PTA produced by the petitioner is claimed to have specifications which are internationally recognised. The Authority finds that the petitioner's product and that imported from the subject countries are comparable in technical specifications, manufacturing process and technology, functions and uses. The Authority also finds that both have similar end uses and both are used by the importers and consumers interchangeably. Thus, the Authority observes that PTA produced by the domestic

industry in India has characteristics closely resembling the same of PTA imported from the subject countries. Both are technically and commercially substitutable and, therefore, are treated as Like Articles under the meaning of the Anti-Dumping Rules.

## **(G) Domestic Industry**

7. The petition has been filed by M/s Reliance Industries Ltd. 3rd Floor, Maker Chamber-IV, 222. Nariman Point, Mumbai-400021 who are the only producer of PTA in India. Since the petitioner accounts for the total domestic production of PTA in India, they have the standing to file the petition on behalf of the domestic industry under the Rules.

## **(H) Dumping**

8. Under Section 9A(1)(c), normal value in relation to an article means:

- i. 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
- ii. 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 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 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 transshipped 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.

9. The Authority had sent questionnaires to the exporters from the subject countries eliciting information in terms of the section cited above. The claim made by the exporters with regard to normal value and export price are as under:

## **I. Claims of the exporters**

### **10. Country: Japan:**

Exporter - M/s Mitsui Chemicals Inc.

The exporter have furnished information in respect of PTA in relation to their domestic price and export price to India. Export price to India is claimed on C and F basis adjustments are claimed on account of inland freight and overseas freight. Accordingly, export price at ex- works level is claimed at US\$ xxx/M.T. In respect of domestic sales, average, ex-works domestic selling price i.e. The Normal Value is claimed as US\$ xxx/MT after adjustments claimed on inland freight and storage. The comparison of Normal value and Export, price so claimed shows the dumping margin as US\$ xxx/MT which is 29.57% of the export price.

### **Country : Japan**

Exporter : Mitsubishi Chemical Corporation:

The exporter have submitted information regarding the domestic as well export price of PTA. Average export price of PTA to India during the period of investigation is claimed on C and F basis as US\$ xxx/M.T. and adjustment are claimed on account of discount/commission, inland freight, and overseas freight. Thus export price at ex-factory level is claimed at US\$ xxx/M.T. In respect of domestic sales, average domestic selling price for the relevant period is claimed as US\$ xxx/M.T. and adjustments claimed on discounts/commission, inland freight and sight discount. Thus, Normal Value is claimed as US\$/M.T. The comparison of the Normal Value and Export price so claimed by the exporter shows the dumping margin at US\$ xxx/M.T. which is 23.70% of export price.

### **Country : Malaysia**

Exporter : Amoco Chemical (Malaysia)

The exporter have claimed weighted average ex-plant price of export sales to India as US\$ xxx/M.T. The details of adjustments and various heads of adjustments are not furnished. Similarly, for domestic sales, weighted average ex-factory domestic selling price is claimed as US\$ xxx/M.T. However, the details of adjustments are not furnished. Thus, as per the exporter's claim, the dumping margin is worked out at 6.88%.

### **Country: Spain**

Exporter : Interquisa

The exporter have claimed that the investigation initiated against them is required to be terminated forthwith as exports from Spain are de-minimum not only with reference to total imports of PTA into India but also with reference to the total imports of PTA into India but also with reference to the demand of PTA in India. In their opinion, there was no basis for initiation of investigation against Spain nor the petition filed by Reliance Industries contained sufficient information that the volume of PTA exported from Spain was more than de-minimus.

Notwithstanding the above submission that the exports made by Interquisa are within the de-minimus limits as prescribed under the Agreement on Anti-Dumping, the exporter have filed their response to the questionnaire. The exporter have furnished information on both Normal Value and export price. The weighted average export price is claimed on C and F basis at US\$ xxx/M.T. and adjustments claimed on account of discounts/commissions, inland freight, handling, taxes, overseas freight US\$ xxx/M.T. For domestic sales, the weighted average selling price for the POI is claimed as US\$ xxx/M.T and adjustments are claimed on inland freight, import taxes, additional production cost and long term contract. Thus the Normal Value is claimed as US\$ xxx/M.T. The comparison of Normal Value and export price so claimed by the exporter shows the dumping margin at 1.90% of the export price.

**Country : Taiwan**

Exporter : Tuntex petrochemicals Inc.,

The exporter have claimed that they have never exported PTA to India during the period of investigation, i.e. 1st April, 98 to 31st December, 1998. Taipei Economic and Culture Centre have also forwarded the company's records which show no export of PTA to India during 1998. They have requested to terminate the investigation against the company.

## **J. Examination of the claims of the Exporters on Normal Value, Export Price and dumping margin by the Authority**

11. The claims of various exporters as stated in the foregoing paragraph, i.e. paragraph 10, are examined as under:

**Country : Japan:**

Exporter : Mitsui Chemical Inc.

The Authority notes that the exporter have chimed Normal Value on the basis of weighted average domestic price of their sales in Japan and the adjustments made thereon on account of inland freight and storage which the Authority allows to reach the domestic selling price at ex-works level. Therefore, the Authority determines the Normal Value at US\$ xxx/M.T. for the purpose of Preliminary determination which is subject to verification.

Export price is claimed by the exporter on the basis of weighted average cif value of exports to India during the period of Investigation. Month wise quantity and value of exports have been furnished for the relevant period. Adjustments have been claimed on account of inland freight and overseas freight which are allowed by the Authority. The Authority, thus, determines the ex-works export price at US\$ xxxx/M.T. which is subject to verification

The comparison of the Normal Value and export price so determined calculates the dumping margin as US\$ xxx/ M.T. which is 29.57% of the export price.

**Country : Japan**

Exporter : M/s Mitsubishi Chemical Corporation:

Here, the Authority finds that the exporter have claimed Normal value on the basis of weighted average selling price of their domestic sales during the period of investigation and adjustment thereon claimed on account of discounts/commission, inland freight and sight discount. The Authority finds the inland freight claimed in Normal value calculation to be on a much higher aide as compared to the same claimed in export price structure. The Authority determines the amount under this head at par with the same in export price structure and allows adjustments claimed under other heads. Thus the Normal Value is determined at US\$ xxx/M.T. For the purpose of Preliminary determination which is subject to verification.

As regards export price, the Authority finds that the export have claimed the same on the basis of weighted average cif value of exports to India during the POI. Month wise Value and quantity of exports have been furnished for the relevant period. Adjustments are claimed on account of discounts commission, inland freight, handling and overseas freight, which are allowed by the Authority. The Authority, thus, determines the export price at US\$ xxx/MT at ex-factory level.

The dumping margin is thus calculated at US\$ xxx/M/T. which works out to 29.90% of the export price.

**Country : Malaysia:**

Exporter : Amoco Chemical ( Malaysia)

The Authority examined the exporter's response to the questionnaire and found that and the informations on the: Normal Value and Export price submitted by the exporter are incomplete and not properly corroborated. The vital appendices of the questionnaire have not been filled in by the exporter, whereby the Authority is not in a position to arrive at the Normal value and Export price. In the absence of these informations, the Authority has no other alternative but to consider the information provided by the petitioner and the export price (cif) from the DGCIS source as the best available information for determination of Normal Value and export price. Thus, the Authority determines the Normal value as US\$ 553/MT and Export price as US\$ 459.08/M.T.

Thus, the dumping margin is determined at US\$ 93.92 M.T which works out to 20.45% of the Export price.

### **Country : Spain**

Exporter: M/s. Interquisa:

The Authority has examined the claim of the exporter that their exports to India are below de minimus with reference to total imports of PTA into India during the period of investigation. However, the Authority finds that even though the petitioner initially provided information on expected arrivals of PTA from Spain into India, furnished later the details of actual import from Spain during July-August, 1998 arriving at ICD, Nagpur and JNPT, the data of which are not captured by the official agency, i.e. DGCIS, in their provisional figures. The Authority, on the other hand, finds that the exporter themselves, in their response have informed about the volume of 4024 M.T. of PTA exported by them to India during the period of investigation, which the Authority relies upon. Further, with regard to the total volume of imports of PTA into India of 226000 M.Ts during the POI quoted by the exporter from the source published by PCI-xylenes and Polyesters Ltd., the Authority finds that the said figures is only in the nature of forecast data and not actual data. The actual figure of total imports of PTA into India is determined by the Authority at 87,497 M.T. on the basis of DGCI&S data and the data from other sources. Considering the volume of PTA exported by Interquisa to India during the POI as claimed by them vis-à-vis as determined by the Authority, the Authority finds that the imports from Spain constitute 4.60% of total imports into India and, thus the same are above the de-minimus level.

As regards the exporter's claim to terminate the investigation against them as the injury caused by the imports from them is negligible, the Authority notes that as per

the Rules it is the cumulative impact of import on the domestic industry, and not the impact of imports from an individual country or exporter, which is to be taken into account in injury determination in cases where imports from more than one country are being simultaneously subjected to anti-dumping investigation.

The Authority, therefore, upholds the investigation against the country and the exporter. The Authority notes that the exporter have claimed Normal Value on the basis of weighted average domestic selling price of all sales in Spain during the period of investigation and the adjustments claimed on account of inland freight, import taxes, additional production cost and long term contract. The Authority, while allowing the adjustments claimed on inland freight and long term contract, however, does not take into consideration the adjustments claimed on import taxes and additional production cost as these do not seem to be expenses incurred after the ex-factory stage. Further, these charges claimed by the exporter are not corroborated/evidenced. Thus, the Authority determines the Normal value at US\$ xxx/M.T. for the purpose of Preliminary determination subject to verification.

Export price is claimed on the basis of weighted average C & F value of exports to India during the POI and the adjustments claimed on account of discounts/commission, inland freight, handling, taxes, overseas freight and other which the Authority allows. Thus the Authority determines the export price at US\$ xxx/M.T. at ex-factory level, subject to verification.

The dumping margin is, thus, calculated at US \$ xxx/M.T. which is 15% of the export price.

### **Country : Taiwan**

Exporter : Tuntex Petrochemicals Ltd.

The Authority has verified the exporter's claim that they have not exported PTA to India during the period of investigation and has found the claim to be correct. The Authority finds that the official data of DGCI&S do not reflect any export of PTA from Taiwan during the relevant period and the petitioner themselves have withdrawn the country of Taiwan from the scope of their petition/complaint in their subsequent submissions. The Authority, therefore, terminates the anti-dumping investigation initiated against Taiwan.

### **Non Cooperative Exporters:**

In respect of non-cooperative exporters and the exporter/producers not names by the petitioner from the subject countries excluding Taiwan, the Authority determines the

dumping margin at the highest dumping margin determined for the cooperative exporter/producers from each country. Thus, the dumping margin as % of ex-factory export price in respect of subject countries and exporters are determined as under:-

Country	Exporter	Dumping Margin
1. Japan	1. Mitsui Chemicals Inc.	29.57%
	2. Mitsubishi Chemical Corpn.	29.90%
	3. All other Exporters	29.90%
2. Malaysia	1. Amoco Chemical (Malaysia)	20.45%
	2. All other Exporters	20.45%
3. Spain	1. Interquisa	15%
	2. All other exporters	15%

## K. INJURY

12. Under Rule 11 supra, Annexure-II of the Rules, when a finding of injury is arrived at, such finding shall involve determination of lire 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 article and the consequent effect of such imports on domestic producer, of such article..." 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 price, to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

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 import from each country 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 countries less than three percent, the imports cumulatively accounts for more than seven percent of the import of like article, and cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

The Authority notes that the margin of dumping and quantum of imports from the subject countries are more than the limits prescribed above. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject countries

were directly competing with the prices offered by the domestic industry, in the Indian market.

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

**(a) Average sales realisation and profitability:**

The average sales realisation was RS...../M.T., during 1995-96. Rs...../M.T. during 1996-97, RS...../M.T. during 1997-98. It declined in the year 1997-98 to Rs...../MT. from Rs... .. /M.T. during 1996-97. During the POI, it is observed that the average sales realisation has incurred loss during both 1997-98 and the loss per M.T. has increased from Rs. .... /MT, during 1997-98 to Rs. ..../MT during the POI, i.e. April-December, 1998

**(b) Profitability :**

Consequent upon the decline in net sales realisation, the petitioner have suffered loss during both 1997-98 period and the period of investigation. The loss per M.T. has increased from Rs. ..../MT. during 1997-98 to Rs. .... /M.T. during the period of investigation i.e. April-Dec., 1998.

## **L. Conclusion on Injury:**

13. In the light of the above observations on injury parameters, the following conclusions are arrived at:

- a. (a) There has been a decline in average net sales realisation in respect of the subject goods during the period of investigation as compared to the previous years of 1996-97 and 1997-98.
- b. (b) The decline in net sale realisation has resulted in decline of profitability and increase of losses incurred by the petitioner.

These two vital factors, namely, decline in sales realisation and consequent losses incurred by the petitioner, who are the domestic industry being the only producer of the subject goods, suggest that the domestic industry has suffered material injury.

## **M. Causal link**

14. The Authority finds that though there is dumping of the product and there is injury suffered by the petitioner, there is no causal link between the two. In this connection, the Authority finds that the landed value of imports from each of the subject countries from the known exporters is higher with reference to the reasonable and non-injurious selling price of the petitioner as gives as negative injury margin for each of the known exporters. Thus, the causal link between the dumped imports and the material injury suffered by the petitioner is not established, especially when injury is determined only on the parameters relating to net sales realisation and profitability.

## **N. LANDED VALUE:**

15. The landed value of imports is determined on the basis of the cif value of import of PTA, after adding the prevailing level of customs duties and one percent landing and two percent handling charges.

## **O. Conclusions**

16. After considering the foregoing, it is seen that:

- a. There has been no import of PTA from Taiwan during the period of investigation, i.e. 1st April, 1998 to 31st December, 1998
- b. PTA described under para 5 and originating in or exported from Japan, Malaysia and Spain has been exported below normal value, resulting in dumping.
- c. The Indian Industry has suffered material injury.
- d. The causal link between the dumping of the product and injury has not been conclusively established.

17. It is, therefore, not considered necessary to impose anti dumping duty provisionally, pending final determination, on the imports of PTA originating in or exported from the subject countries.

## **P. FURTHER PROCEDURE :**

18. 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, petitioners and other interested parties known to be concerned are being addressed separately by the Authority, who may make

known their views, within forty days of the dispatch of this notification. Any other interested party may also make known its views within forty days from the date of publication of these findings.

- c. The Authority would disclose essential facts before announcing the final findings.

**RATHI VINAY JHA...**  
Designated Authority