

**MINISTRY OF COMMERCE**  
**NOTIFICATION**  
**No. 10/1/95-ADD**

New Delhi, the 8th August, 1996

**PRELIMINARY FINDINGS**

**Subject:** Anti-dumping investigation concerning imports of Sodium Ferrocyanide Originating from the People's Republic of China- preliminary findings.

The Government of India 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 a Authority) under the above Rules, received a written petition from M/s. Cyanides and Chemicals Company, Bombay on behalf of the domestic industry, alleging dumping of Sodium Ferrocyanide originating from the People's Republic of China (hereinafter referred to as China);
- ii. The Authority notified the Embassy of China about the receipt of dumping allegations 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 11th October, 1995 published in the Gazette of India, Extraordinary on 12th October, 1995 initiating antidumping proceedings concerning imports of Sodium Ferrocyanide originating from China classified under heading 2837.20 of schedule I of the Customs Tariff Act, 1975 and No. 2837.20.04 under Indian Trade Classification (based on Harmonized commodity Description and Coding System);
- iv. The Authority forwarded copy of the said public notice to the known exporters, importers, industry, and associations and to the complainant and gave them an opportunity to make their view known in writing and to request for an oral hearing;
- v. According to sub-rule (3) of Rules 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassy of China. A copy of the petition was also made available to M/s. Citurgia Bio-Chemicals, an importer,

- on request. Another copy of the petition was sent to M/s. China National Chemical Construction Ahui Co., on request;
- vi. The Authority sent questionnaire, to elicit relevant information, to the following exporters:
1. M/s. Sinochem liaoning, China
  2. M/s. Shangai Chemicals Imp. & Exp. Corporation, China
  3. M/s. China National Chemical Construction Ahui Co., China
  4. M/s. Advanced Chemicals Ltd., Hong Kong
  5. M/s. Guandong Chemicals Imp and Exp. Corpn., China
- vii. The Embassy of China in New Delhi was also informed about the initiation of investigation and was request, to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time;
- viii. The questionnaire was sent to the following importers of Sodium Ferrocyanide:
1. M/s. Citurgia Bio-Chemicals, Bombay
  2. M/s. Seth Chemicals Works Pvt. Ltd., Calcutta
- ix. Response to the questionnaire was filed by M/s. Citurgia Bio-Chemicals, Bombay and M/s. Seth Chemicals Works Pvt. Ltd., Calcutta. No exporter filed response to the questionnaire;
- x. Since the Chinese origin material was exported by an exporter from Hong Kong, i.e. M/s. Advance Chemicals Ltd., the exporter was requested to provide information in accordance with the proviso to Section 9 A (1) (c). No response, however, has been received in this regard;
- xi. A public hearing was held by the Authority on 17th January, 1996 in order to provide further opportunity to importers, exporters, petitioner, and Embassy of China. The hearing was attended by the two importers viz M/s. Citurgia Bio chemical and M/s. Seth chemicals Works Pvt. Ltd. besides the petitioner M/s. China National Construction Ahui Company requested to postpone the hearing scheduled on 17.1.96 on the plea that from Jan. to March 96, there would be one National Holidays after another in China. The exporters was advised to sent written comments if so desired;
- xii. On the request of the importers who attended the 17th January hearing, the Authority decided to give some more time to the importers to defend their case and the hearing was postponed to 9th February, 1996. Accordingly, another hearing was held on 9th Feb., 1996 which was attended by the above importers and the petitioner, M/s. Advanced Chemicals Ltd., Hong Kong informed that they are not sending anyone to represent in the hearing as the volume of material that it has exported was extremely small s a percentage of their total business. No written representation was received from them either;

- xiii. All the parties who attended the said public hearing were advised to present their submission made in the public hearing in writing for obtaining counter comments from other party(ies) to the investigation and the written submissions received from the party(ies) were made available to the other party(ies) for their counter comments;
- xiv. The Authority sought and verified information deemed necessary for the investigation, and to this end investigations were carried out at the premises of the petitioner's head office at Bombay and works at Surat;
- xv. The Authority also conducted cost investigation and worked out optimum Cost of production and cost to make and sell Sodium Ferrocyanide in India on the basis of Generally Accounting Principles and Rule 6(8) of the Rules supra so as to ascertain as to whether anti-dumping duty lower than the dumping margin would be adequate to remove the injury.
- xvi. The investigation covered the period from 1st April, 1994 to 30th June, 1995.

## **B. PETITIONER'S VIEWS**

### 3. The petitioner made the following major points:

- i. The petitioner represents the domestic industry. Sodium Ferrocyanide being produced by the petitioner is a like product to the Sodium Ferrocyanide being imported from China;
- ii. China is dumping Sodium Ferrocyanide in India since 1993-94 and the petitioner approached the government for considering levy of anti dumping duty earlier also, which was, however, turned down by the Government;
- iii. Imports of Sodium Ferrocyanide steeply increased to 118 MT in 1994-95 because of dumping, and the petitioner was forced to approach to the Government again for levy of anti dumping duty;
- iv. Sodium Cyanide is a basic raw material into production of Sodium Ferrocyanide, and considering the value of Sodium Cyanide alone, cost of even this single raw material is not being recovered by the exporters from China;
- v. China being a non-market economy, Normal Value should be considered based on cost of production worked out for China, and the same comes to US\$ 1440 per MT;
- vi. The CIF export price of Sodium Ferrocyanide from China, when adjust for the same level of trade comes to US\$ 615, which, when compared with Normal Value, clearly establish dumping of Sodium Ferrocyanide in India by the exporters from China;
- vii. The imports of Sodium Ferrocyanide have increased dramatically from 18 MT (1993-94) to 118 MT (1994-95) and 155 MT during the first six months of 1995-96;

- viii. Market share of imports from China increases dramatically from around 4% (1993-94) to 49% (1995-96);
- ix. The exports of Sodium Ferrocyanide from China at almost the same price level over the years in spite of increase in cost of production resulted in price suppression in the Indian market;
- x. A situation of price under cutting prevailed in the Indian market in view of dumping from China;
- xi. Indian industry has suffered material and real injury directly caused by the dumped imports.

## **C. EXPORTERS VIEWS**

4. The view expressed by the exporters are briefly as follows:

- i. China is on way to market economy due to rapid economic reform programme and all economic activities are directed by the relevant foreign supply and demand of the market and enterprises in China assume sole responsibility for their profit and loss and sale of their products at price below cost will lead to their bankruptcy;
- ii. The prices of Sodium Ferrocyanide exported to India are comparatively low due to relatively cheap cost of raw material and labour and dumping of Sodium Ferrocyanide of Chinese origin, therefore does not exist;
- iii. The volume of material exported was extremely small as a percentage of their total consumption and it was representing in the hearing.

## **D. IMPORTERS VIEWS**

5. The major views expressed by the importers in the public hearing and reproduced in writing are as follows:

- i. Sodium Ferrocyanide has to be imported into India to ensure two sources of supply, as M/s. Gujarat Alkalies and Chemical Company could not supply enough quantities of Sodium Ferrocyanide;
- ii. The price of Sodium Ferrocyanide from China has increased to US\$ 1066 per MT;
- iii. The CIF price of Sodium Ferrocyanide from China has more or less remained constant from 1992-93, the Chinese prices of Sodium Ferrocyanide have gone down in Indian market due to reduction in the customs duties and not because of dumping by China;

- iv. The export price from other countries such, as West Germany have been around US\$ 800 per MT, which proves that the Chinese products are not dumped at low prices.
- v. The Normal Value of US\$ 1350 per MT in China appears to be arbitrarily inflated by the fact that the same product is available from other European Countries at prices close to Chinese prices.
- vi. The export of Sodium Cyanide by the petitioner is not to the some party from whom Sodium Ferrocyanide is being imported. The Sodium Cyanide exported by the petitioner might be used in China in some other applications and not for converting it into Sodium Ferrocyanide;
- vii. The petitioner has assumed its manufacturing process and consumption normal for working out Normal Value, which may be different in China. Indian prices for some of the raw materials have been considered for constructing Chinese cost;
- viii. The petitioner admitted that the Chinese export price to third countries is around the same level at which it is being exported to India conforming that there is no dumping from China;
- ix. The petitioner is a multi product company and has not furnished basis of allocation of fixed cost;
- x. The petitioner's plant could be oversized resulting in its underutilisation;
- xi. The petitioner is a monopoly producer in India.
- xii. The petitioner refused to consider reduction in its price of Sodium Ferrocyanide. M/s. Gujarat Alkalies and Chemicals Ltd., on request, reduced its prices to match the Chinese prices, which implies that there was scope for reduction in prices by the petitioner also.
- xiii. The exporter could have changed its technology and process, which would have enabled them to maintain the prices and it not necessary to increase the prices year by year.

## **E. EXAMINATION AND FINDINGS BY AUTHORITY**

6. The submissions made by the exporters, importers, petitioner and other interested parties have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

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

## **F. LIKE ARTICLES**

8. Sodium Ferro Cyanide is an organic chemical and is manufactured out of Sodium Cyanide, having application for production of fencycine, pigments, photographic fixing agents in electroplating industry, for fermentation processes of fruits acids and pharmaceutical/chemical industry etc. Sodium Ferro Cyanide is classified under custom code 2837.20 of Schedule I of the Customs Tariff Act, 1975 and No. 283720.04 under Indian trade classification (based on harmonized commodity description).

9. Sodium Ferrocyanide being imported from China has characteristics closely resembling to the Sodium Ferro Cyanide being produced by the domestic industry and, therefore, the two are considered as like article in accordance with Rule 2(d) supra. The product, Sodium Ferrocyanide is, therefore, covered under the scope of this investigation.

## **G. DOMESTIC INDUSTRY**

10. The petition has been filed by M/s. Cyanides and Chemicals Co. (a unit of M/s. Hindustan Development Corporation) 65, Free Press House, Nariman Point, Mumbai-400 021. M/s. Gujarat Alkalies and Chemicals Ltd., is also producing Sodium Ferrocyanide. Production of the petitioners, however, accounted for more than 80% of total Indian Production and, therefore the petitioner constitute domestic industry in accordance with Rule 2 (b) supra.

## **H. NORMAL VALUE**

11. Petitioner has not furnished normal value of Sodium Ferrocyanide based on domestic prices in China, pleading that China is a non-market economy and getting any information about domestic prices prevailing there is not only difficult but also could be misleading. Though it has furnished export price to third countries, it has alleged that the same are also at dumped prices and may not be relied upon. The petitioner suggested working out normal value based on cost of production constructed for China.

12. The petitioner has exported Sodium Cyanide, a key raw material for production of Sodium Ferro Cyanide, to China and requested that the price at which they have exported Sodium Cyanide to China should be considered for constructing the domestic price of the product in China. Regarding the other cost elements, it was suggested that the cost of production of Sodium Ferrocyanide in India should be the basis.

13. Some of the importers have expressed there viewed as set in para 5 above on the methodology adopted by the petitioner in working out the normal value.

14. None of the exporters has furnished any information on the normal value. The normal value of US\$ 1350 per MT worked out on the basis of constructed cost and indicated in the notification initiating the investigation has also not been refuted by any of the exporters.

15. The Authority considered the above views and worked out normal value based on the facts available. The Authority notes that while it could be true that China is on way to market economy, yet the exporter has failed to furnish information in the prescribed form and manner and has not disclosed its selling prices in its home market. The exporter while arguing availability of cheaper raw material and labour has neither furnished any evidence in this regard, nor quantified the difference. Mere statement of the exporter on this account, therefore, cannot be considered. The normal value has to be reconstructed under Chinese conditions adopting appropriate reference levels. The weighted average export price of sodium cyanide from India to various destinations in the worked and other costs based on Indian industry have been considered for reconstructing Normal Value of Sodium Ferrocyanide. The Normal Value has been determined in accordance with sub-clause (c)(ii)(b) of Section 9A of the Act supra.

## **I. EXPORT PRICE**

16. The exporters from China have not furnished relevant information desired by the Authority. The export price had, therefore, to be worked out based on the information furnished by the importers in the format prescribed by the Authority.

17. Since the importer have furnished CIF prices, the CIF prices have been adjusted to work out ex-works export price on the basis of information furnished by the petitioner and the importers in the absence of any direct response in the prescribed form and manner from the exporter. The petitioners claimed adjustment for (i) ocean freight (US\$ 80), (ii) insurance (US\$ 10), (iii) incidental charges (US\$ 5) and (iv) packing and inland freight (US\$ 20). Supporting evidence for adjustment for ocean freight has been admitted for US\$ 80 whereas for insurance, adjustment on the basis of importers information @ 0.377 % to 0.602 % of CIF value is considered for determining export wise export price.

## **J. COMPARSION**

18. For the purpose of fair comparison between the normal value and the export price, the Authority took into account the information furnished by the petitioner, importers and the best information available with it in the absence of any direct response in the prescribed form and manner from the exporters. The Authority has compared normal value with weighted average export price, both at ex-works level, for individual exporter and has arrived at following dumping margins:

(US\$ /MT)	
Exporter	Dumping Margin
Advance Chem Ltd.	630
China National Chemical Construction Ahui Co.	638
Guandong Chemicals Imp. And Exp. Corpn.	586
Sinochem Liaoning	643

19. The Authority notes that the normal value and export price during the investigation period only are relevant for deciding dumping and the current export price to India or international prices are not relevant for the purpose.

## **K. INJURY**

20. 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 in to 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 under cutting by the dumped imports as compare with the price of the like product 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.

21. For the examination of the impact on the domestic industry in India, the Authority considered such further indices having a bearing on the state of industry as production capacity utilization, sales, stock, profitability net sales realization, etc.

### **(a) Volume and Market Share of Dumped Imports:**

22. Imports of Sodium Ferrocyanide from China increased from 18 MT (1993-94) to 320 MT during the period of investigation, resulting in sharp increase in the volume of imports in absolute terms.

23. Market share of the imports from China in the total demand in the Country, considering total quantum of imports and indigenous sales of the Indian Producers, increased sharply from 4% (1993-94) to 32% during the period of investigation. The petitioner lost significant market share in spite of reduction in selling price as detailed in para 28 below.

**(b) Export Prices from China:**

24. The CIF Export Price from China were Rs. 22300 per MT (1993-94) and Rs. 21217 per MT during the period of investigation and therefore, remained nearly constant. The petitioner alleged that the export price in 1993-94 were also at dumped price, and had, in fact, filed a petition.

**(c) Production and Capacity Utilization:**

25. Production of the petitioner declined from an average of about 49 MT per month in 1992-93 to about 34 MT per month during the period of investigation. Authority notes that the production during 1993-94 was still lower (at an average of 29 MT per month) owing to higher stock. The petitioner could increase the production during the period of investigation due to increase in sale at prices lower than the levels at which the product was sold in 1992-93 and 1993-94.

**(d) Sales in absolute terms:**

26. Average sales in absolute terms per month were 42 MT (1992-93), 38.4 MT (1993-94) and 39.6 during the period of investigation. In spite of reduction in selling price of the product in 1993-94 on wards, the petitioner was not able to sell the product to the level achieved in 1992-93, though it could marginally achieve better results during the period of investigations compared to 1993-94.

**(e) Stocks:**

27. The Authority notes that the petitioner had high level of stocks of 222 MT in the beginning of 1993-94 which gradually reduced to a low 23.2 MT in June, 1994 mainly due to reduction in production activity in 1993-94 coupled with marginally increased sales on account of reduced selling price.

**(f) Average Sales realization:**

28. The unit sales realization for the domestic industry declined gradually from Rs. 53478 per MT (1992-93) to Rs. 51768 per MT (1993-94) and Rs. 47255 per MT during the period of investigation. The Authority observed that the average sales

realization during the period of investigation was lower than optimum cost of production resulting in losses to the petitioner.

**(g) Price undercutting:**

29. The Authority finds that the Chinese exports were undercutting the prices of Sodium Ferrocyanide in the Indian market, and the domestic industry was forced to reduce its prices gradually and continuously in view of dumped imports from China.

**(h) Price Suppression:**

30. The Authority finds that the near maintenance of the export price by the exporter from China over the years in spite of increase in the cost of inputs resulted in a situation of price suppression in the Indian Market, which prevented the domestic industry to increase its prices commensurate with the increase in its cost of production.

**(i) Profit/loss:**

31. The petitioner is a part of multi-unit organization engaged in multi-product activities, and no conclusion can be drawn from the printed annual accounts about the financial position of the company for the product under consideration. The Authority has, however, relied upon the profitability of the petitioner from the product under consideration after considering allocation and appointment of expenses on the basis of Generally Accepted Accounting Principles. The Authority noted that the average sales realization to the petitioner is less than the cost of production resulting in losses from the sale of Sodium Ferrocyanide.

**(j) Conclusion of Injury:**

32. The Authority is led to inescapable conclusion that all the relevant factors, cumulatively and collectively establish that the domestic industry has suffered material injury during the period of investigation.

## **L. CAUSAL LINK**

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

- i. The imports of the product from China increased significantly in absolute terms and relative to the production and consumption of the product in India. The

- share of China in total imports also increased significantly. As a direct consequence, the domestic industry lost its market share to a significant level.
- ii. The substantial imports of Sodium Ferrocyanide from China at dumped prices forced the domestic industry to reduce its selling prices to un-remunerative level which resulted in a situation of price under cutting in the India Market.
  - iii. The imports from China 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 sales of Sodium Ferrocyanide in India.

## **M. INDIAN INDUSTRY'S INTEREST**

34. The purpose of anti-dumping duties in general 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.

35. The Authority recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using Sodium Ferrocyanide 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, particularly if the levy of the anti-dumping duty is limited to the amount necessary to redress the injury to the domestic industry. 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 Sodium Ferrocyanide. The Authority notes that the imposition of anti-dumping measures would not restrict imports from China in any way, and therefore would not affect the availability of the product to the consumers. The consumers could still maintain two even more sources of supply.

36. The Authority confirms that it has worked out reasonable Selling Price of Sodium Ferrocyanide in India for the domestic industry, by considering the optimum cost of production at optimum level of Capacity Utilization for the petitioner, to ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry. The selling price, being based on confidential data provided by the petitioner, has not been disclosed in these findings.

37. Injury being caused to the petitioner from factors other than dumping have not been considered by the Authority while recommending the amount of Anti-dumping duty necessary to remove the full extent of injury to the petitioner.

38. The reduction in customs duties in no way affect the dumping per se. In so far as the injury is concerned, the Authority has calculated the level of injury being faced by the domestic industry after considering the customs duties prevailing during the period of investigation.

39. The Authority notes that demand of Sodium Ferrocyanide in India is less than the capacities available within the country. However, the Authority has worked out Fair Selling Price considering optimum level of Capacity Utilization and therefore, the incidence of higher overheads because of larger capacity than the demand has been nullified. Further, since the imposition of Anti-Dumping Duty on imports originating from China will not restrict imports from that country, the imports will keep the domestic market competitive and will not allow any unfair advantage to the domestic industry. The petitioner cannot exercise monopoly.

40. While it could be true that the exporter might have changed its technology and process yet, the same is presumptive. No argument has been advanced by any exporter in this regard, nor the same is quantified. The argument is therefore not accepted.

41. The Authority notes that the petitioner as well as the other producer have been forced by the importer to reduce the prices of Sodium Ferrocyanide which clearly establish a situation of price undercutting prevailing in the Indian market.

## **N. CONCLUSIONS**

42. The Authority has, after considering the foregoing come to the conclusion that:

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

43. The Authority considers it necessary to impose an anti-dumping duty provisionally, pending final determination, on all imports of Sodium Ferrocyanide originating from China in order to remove the material injury to the domestic industry. The export price, normal value and the margin of dumping for each known exporter determined by the Authority are indicated in para 18.

44. The Authority considered whether a duty lower than the dumping margin would be sufficient to remove the injury. The weighted average landed price of the imports for individual exporter, for the purpose, was compared with the fair selling price of the domestic industry, determined by the Authority for the period of investigation. Wherever the difference was less than the dumping margin, a duty

lower than the dumping margin is recommended, and accordingly the Authority recommends that provisional anti-dumping duties as set out below be imposed from the date of notification to be issued in this regard by the Central Government on all imports of Sodium Ferrocyanide falling under customs code 2837.20.04 originating from China, pending final determination.

**(Rs. per MT)**

<b>Exporter</b>	<b>Amount of Duty</b>
Advance Chem Ltd.	19,877
China National Chemical Construction Ahui Co.	20,129
Guandong Chemicals Imp. And Exp. Corpn.	16,358
Sinochem Liaoning	20,287
Exporters other than above	20,287

45. The known exporters, importers and other interested parties are being separately addressed by the Authority, who may make known their views and request for an oral hearing to the Authority. Any other interested party may also make its views known within forty days from the date of its publication to the Authority.

**T.S. VIJAYRAGHAWAN**  
Designated Authority and Additional Secy. to the Govt. of India