

MINISTRY OF COMMERCE

NOTIFICATION

PRELIMINARY FINDINGS

New Delhi, the 20th October, 1998

Subject: Anti-dumping investigation concerning imports of Citric Acid from China PR -Preliminary Findings.

29/1/97 ADD: Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping duty on dumped articles and for Determination of injury) Rules, 1995, thereof,-,

A. PROCEDURE

1. The procedure described below has been followed with regard to the investigation.
 - i. The Designated Authority (hereinafter also referred to as Authority), under the above rules, received a written application from Citurgia Bio-Chemicals Ltd., Neverite House, JN Heredia Marg, Ballard Estate Bombay (referred to as Citurgia hereinafter) on behalf of the domestic industry, alleging dumping of Citric Acid originating in or exported from China PR.
 - 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 investigations against imports of Citric Acid from China. The Authority notified the Embassy of China 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 18th March, 1998 published in the Gazette of India, Extraordinary, initiating anti dumping investigations concerning imports of Citric Acid classified under custom heading 2918.14 of Schedule 1 of the custom Tariff Act, 1975 originating in or exported from China (referred to as the subject country hereinafter);
 - v. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the petitioner) 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 the petitioner) of Citric Acid in India and advised them to make their views known in writing within forty days from the date of the letter;
- vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of Citric Acid made in India during the past three years, including the period of investigation. No information was, however, received from CBEC;
- viii. The Authority provided a copy of the petition to the known exporters and the Embassy of the subject country in accordance with rules 6(3) supra. A copy of the petition was also provided to the 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);
 - 1. China Shanzi Prosperous Chem.Ind.Group Ltd.,294, Jiefang Road, Yucheng City,Shanxi Province, China.
 - 2. Chonqing Daxin Pharma Co.Ltd.,Chunang2ao Road, Dongyan Town, Bei Bei District, China.
 - 3. Lianyungang Chem., Medicines & Health Prof, 40,Hailian East Road, Lianyungang, Jiangsu, China.
 - 4. Nantong Citric Acid Factory, 30,Henghe Rkoad, Nantong Jiangsu China.
 - 5. No.404 Factory of China Nuclear Industry Gen.Corp., P.O.Box 508-A22.\, Lanzhou City, Gansu Province, China.
 - 6. Shanxi International Countertrade Corp., 1 ‘; 0, North Tsoynan Road, Taiyuan, Shanzi, China.
 - 7. Zhengzhou Baiwen Co.Ltd., No.2, Nanyang Road, Zhengzhou 450053, China
 - 8. Zibo Hualong Industrial General Corp, Mengji Village, Zichuan District, Zibo Shandong, China.

None of the exporter responded to the questionnaire.

- x. The Embassy of the subject country in New Delhi was informed about the initiation of the investigation in accordance with rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to the Embassy, alongwith a list of known exporters/producers.
- xi. A questionnaire was sent to the following known importers of Citric Acid for necessary information in accordance with rule 6(4);

1. Govindram Chellaram Gaumukh Bldg. Yusuf Mehra Ali Road, Opp.Masjid Station Mumbai 400 003.
2. C.J.Shah & Co. Mahavir Chambers, Samuel Street, Mumbai 400 003.
3. Ramniklal Gosalia, Parshwa Chambers, II Floor, ISSAJI Street, Mumbai 400023.
4. HMG inds.Ltd., Hari Chambers, S. Bhagatsing Road-2, Mumbai 400 023.
5. Amijal Chemicals, 313/5 GIDC Ankleshwar, Gujarat.
6. Iris Laboratories (India),Plot No.379,Phase 11, GIDC Vatwa, Ahmedabad 382245
7. Gayatri Labs. Pvt.Ltd.,E-64, Road No.7, MIDC, Tarapur, Boisar Thane Dist.401502.

Response to the questionnaire was filed by M/s. Iris Laboratories (India), Ahmedabad.

- xii. Additional information regarding injury was sought from the petitioners, which was also furnished;
- xiii. The Authority conducted on-the-spot investigation at the premises of the petitioner to the extent considered necessary;
- xiv. 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;
- xv. 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 petitioners also as to ascertain if anti-dumping duty lower than dumping margin would be sufficient to remove injury to the domestic industry;
- xvi. *** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules;
- xvii. Investigation was carried out for the period starting from 15th April, 1996 to 31st July, 1997

B. PETITIONERS VIEW

2. The petitioner has raised the following major issues in its petition and subsequent submission.
 - i. Petitioner claims that they are the only manufacturers to make Citric Acid out of Mollasses in India. Their product is of international quality and is well accepted by consumers.
 - ii. With the reduction in custom duty, the Chinese manufacturers are reducing their prices and flooding the domestic market. This has constrained the

petitioner to reduce their selling prices and they are not able to recover their cost of production. The dumping of Chinese production is resulting into lower sale of Citric Acid, accumulation of stock and incurring of losses. It is further stated that if such situation continues, they will be constrained to shut down their operation.

- iii. The Chinese have further dropped the price of their product in the post period of investigation and thus forcing to reduce the domestic price in India further. The petitioner has further stated that they can not compete against the dumping at throwaway prices. The volume of imports is increasing and in April 1997-July 1997, it is about 60% of the demand in the country.

C. VIEW OF IMPORTERS EXPORTERS & OTHER INTERESTED PARTIES.

3. The views expressed by the exporters, importers and other interested parties are briefly as under

- i. None of the exporters named in the petition has responded and thus have not co-operated in the investigation.
- ii. M/s. Irish Laboratories (India) Ahmedabad, an importer of the subject goods has responded and their views are as under :-
 - a. the statement filed by the petitioner that they account for around 95% of the production are totally untrue and baseless. Another manufacturer M/s. Bharat Starch Industries Ltd., is existing with an annual capacity of 20000 MT.
 - b. The claim of the petitioner that: their product and product imported are consumed interchangeably is not true. Citric acid imported from China is transparent and uniform as per specification, whereas the petitioner's product is of less percentage than standard, dull and dumps and not having stringent specifications, even varying in the same batch.
 - c. It should have been feasible for me petitioner to obtain normal value as their plant is nearly 20 years old and in past they had collaboration with a world known company. The petitioner had accumulated huge profits and they should have lower the cost of production by constant R & D efforts.
 - d. The export price offered and price of citric acid produced by M/s. Bharat Starch who is another producer of citric acid is below the price offered by petitioner. The export price of India has always been the same as normal price in that country throughout last couple of years and there is no remarkable change.
 - e. The claim of the domestic industry that they have suffered material injury is not proper and correct. When there were no imports, the domestic industry used to sell at exorbitant prices.

- f. Petitioner has always moved their price close to the import price and at every chance they had increased their prices and that too without any prior notice and also on pending orders.
- g. If there would not have been imports there would have been total non-availability of products as the petitioner has not sufficient production to meet the demands.
- h. During all the years, the petitioner's have never thought of increasing their production capacity, running the plant most inefficiently, any R&D work and think of supplying the material in the domestic market at an international price instead of thinking to stop imports and get their own price.

D. EXAMINATION OF THE ISSUE RAISED:

- 4. The submission made by the exporter, importer, petitioner and other interested parties, wherever submitted have been considered and have been dealt at appropriate places in this notification.

E. PRODUCT UNDER CONSIDERATION

- 5. The product involved in the petition is Citric Acid originating in or exported from China. The product is classified under Custom Tariff heading 2918.14. The classification is, however indicative only and in no way binding on the present investigations. The petitioner has claimed that the product is under OGL category as per import policy and is mainly used as a preservative in food soft drinks, confectionery, drugs, in Textile Industry etc. and have other industrial uses like in boiler cleaning etc. All the Citric Acid are Mono Carboxylic acid and serve the same general purpose of acidulation, preservatives, buffering agent and sequestering agent. Citric acid is usually produced in crystal form.

F LIKE ARTICLE

- 6. Petitioner has claimed that citric acid manufactured by the domestic industry and citric acid being dumped by China is consumed interchangeably though the citric acid produced by the petitioner and citric acid manufactured by Chinese exporter involve different raw material. But the process itself is same i.e. fermentation, the equipments are same and do not involve a special or different process. It is observed that petitioner is producing citric acid from Molasses whereas Chinese are using sweet potato starch as their raw material for producing citric acid. It is also stated that citric acid can be produced from calcium citrate base. Petitioner has claimed that citric acid manufactured by them and citric acid manufactured by Chinese exporters meet the same norms and comply with British Pharmacopoeia specification and can be used

interchangeably. They have submitted a certificate in this regard from an expert who has observed that both material comply fully with the Pharmacopoeia specification and can be used interchangeably in the preparation of medicinal and food products or for any other purpose required by customers. The petitioner has also submitted analysis report from a laboratory confirming that citric acid manufactured by the petitioner and citric acid imported from China have common specification.

None of the exporter, importer or other interested party has disputed to the claim of the petitioner and thus relying on the opinion of expert and laboratory analysis report, the Authority holds that citric acid manufactured by the petitioner and citric acid exported from China can be used interchangeably and thus can be substituted technically and commercially and they are "like articles" within the meaning of the rules.

G. DOMESTIC INDUSTRY

7. The petition has been filed by M/s Citurgia Bio-chemicals Ltd. Nevillie House, JN Heredia Marg, Ballard Estate, Bombay, on behalf of the domestic Industry. The other producers of citric acid are M/s. Citric India Ltd., has closed down during 1996-97. M/s. Bharat Starch Ltd., who have commenced the production during 1996-97 and has supported the petition after the initiation of investigation. It is observed that the petitioner share in total production of industry was about 87% and thus the petitioner has a 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 the said article in the country of origin alongwith reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section(6);

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely trans-shipped 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.

The petitioner has estimated the constructed cost of production on the basis of information made available to them by a delegation from China under the auspices of NRDC on Citric Acid. The petitioner has also submitted a technical note from their Vice-President (Technical) regarding the consumption norms of chemicals for the manufacture of Citric Acid from sweet potato starch and confirming that the budgeted norms of petitioner will hold good for the manufacture of citric acid based on sweet potato. The cost of basic raw material, fuel and power is taken on the basis of information taken by the petitioner's contact in Hong Kong who are in citric acid business. Regarding other raw materials, the usage norms are based on the norms and information received by petitioner's contact in China. The other fixed cost, finance cost and depreciation are based upon the amount spent by the petitioners on such expenses in the absence of information from China.

It is observed by the Authority that none of Chinese exporters have responded to the questionnaire and submitted information relating to normal value, export price, dumping margin and thus the Authority has considered them non-cooperative exporters and proceeded on best available information.

Petitioner has claimed that China is a non market economy and to obtain any information about the prices prevailing in their domestic market is not only difficult but also misleading. It is also argued by petitioner that Government of China resorts to heavy subsidies and their selling prices are not based on factors like cost of production. Thus the petitioner is claiming their constructed cost of production based on evidence available with regard to variable cost and other claims like fixed cost, and it is on the basis of factors prevailing in India. Based on this, the petitioner is claiming the constructed cost of production of citric acid of ***. However, the petitioner has not furnished sufficient evidence to arrive at the constructed cost of production and hence its authenticity cannot be confirmed. However, neither any of the interested parties viz. Exporter, Importer has contested the method of calculation, nor the factual data used in arriving at the cost. In the circumstances, Authority is constrained to rely on the available information submitted by petitioner and determine the constructed cost accordingly.

I. EXPORT PRICE

9. During the POI, as per the figures complied by DGCI&S, it is observed that average CIF price of citric acid is ***. The petitioner is claiming price adjustment on account of ocean freight ***, inland freight ***, special packing charges *** and handling, clearance etc. The petitioner has estimated the above claims on the basis of their experience and approximation. They have not submitted evidence/clear evidence in support of their claims. However, the Authority notes that none of the exporter/importer has contested the above claim, and thus the Authority is constrained to accept data as submitted by the petitioner and determine the dumping. The comparison of normal value with weighted average export price (both ex-factory levels) indicated as percentage of export price, shows a dumping margin of 81.25%.

J. INJURY

10. Under Rule 11 Supra, Annexure -II, when a finding on 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.

Annexure 11(iii) under rule II 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 two countries is more than two per cent expressed as percentage of export price and the volume of the imports from each country is three per cent 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 imports 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 subject country are more than the limits prescribed above. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject country 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 such as quantum of Imports production, capacity utilisation, sales quantum, stock, Market Share, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the rules supra.

QUANTUM OF IMPORTS

11. The total imports of citric acid in the country was 3256 MT, 2250 MT and 5350 MT (on annualised basis) in 1994-95, 95-96 and in the period of investigation. Thus there is an upward trend in the total imports in absolute terms. Though imports have gone down in 1995-96 over 94-95, but there is a sharp increase of 138% in POI (on annualised basis) over 1995-96. It is also observed that the imports in April 1997 to July 1997 was 2997 MT as compared to 3830 MT in 1996-97. Thus there is a sharp increase in the later part of POI as compared to earlier part of POI. It is also observed that majority of imports are of Chinese origin and it was 99%, 98% and 85% in 1994-95, 1995-96 and in POI respectively. Thus it is observed that imports have increased sharply in absolute terms during the POI and the increase were predominant from April 1997 to July, 1997.

PRODUCTION AND CAPACITY UTILISATION

12. It is observed that the installed capacity of the petitioner has been 6250 MT PA from 1994-95 onward and there is no change in the capacity of the petitioner. M/s. Bharat Starch has commenced the production in a small way during the POI. The production of petitioner was 6003 MT, 6074 MT and 6120 MT in POI (on annualised basis). Thus the capacity utilisation was 96% in 1994-95, 97% in 95-96 and 98% in POI (on annualised basis) and thus the production and capacity utilisation is stable over the years.

SALES

13. The indigenous sales of the petitioner has been 5397 MT, 7401 MT and 5815 MT in 1994-95, 95- 96 and in POI (on annualised basis). Thus there was increase of 37.13% in 95-96 over 94-95 and a decrease of 21.5% in POI (on annualised basis). The prima facie reason of increase in sale in 1995-96 over 94-95 was, the liquidation of stocks accumulated during 94-95. However, the production during POI (on annualised basis) was 6120 MT and sales were 5815 during POI (on annualised basis). It is also observed that during April 1997 to July 1997, the production was 2028 MT

whereas sales were 1524 MT. The petitioner have claimed that they are not able to sell the material and using the plant to full capacity to recover part of the fixed cost or else the losses would aggravate and because of this policy, they have to carry huge inventory of unsold stocks. It is also observed that in July 1997, the sales have decreased to 240 tonnes, which are about 50% of the production. The decrease in sales is in spite of discounts being offered to customers.

STOCKS

14. It is observed that the closing stock of goods were 1574 MT, 219 MT and 628 on 1994-95, 95-96 and as on 31.7.97. Thus there is an increase in stocks as on 31.7.97 as compared to 31.3.1996. The petitioner has claimed that the stocks have increased due to their inability to sell due to Chinese dumping.

MARKET SHARE

15 It is observed that the Chinese imports are rising in absolute terms and their market share is also rising. This is affecting the petitioner's share of sales in total demand. It is observed that petitioner share was 62%, 77% and 52% in 94-95, 95-96 and in POI (on annualised basis). Thus, the petitioner is losing its market share in the total demand.

COST OF PRODUCTION, EROSION OF PROFITS AND PRICE UNDERCUTTING

16. The petitioner has stated that cost of production has gone up on account of increasing power tariff and increase in molasses price, which is a raw material in the production of citric acid. It is noted that whereas the cost of production is rising; on account of these, the petitioner is unable to realise the total cost due to Chinese dumping, as domestic industry is offering discounts to its consumers. Thus their profitability is affected. Petitioners have stated that they have made profit of Rs.*** lacs in 1995-96, Rs.*** in 1996-97 and April-July 1997, they have incurred losses. The petitioner has claimed that they are not been able to charge fair selling price which permits recovery of full cost of production and earn a reasonable profit. Various dealers of the petitioner have demanded discounts on the basis of lower prices at which imported goods are available in the market and this proves the price undercutting resorted to by Chinese manufacturer.

RETARDATION OF GROWTH OF DOMESTIC INDUSTRY

17. The petitioner claims that due to dumping, they will be constrained to close the factory, which in turn will lead to several workers becoming jobless, and this would

affect the growth of citric acid industry in the country. It is also claimed that there are a lot of other ancillary units depending on petitioner and these industries will also be affected if the petitioner shut down their operations. Petitioner has also informed that they were forced to close the factory on 16.12.97 due to poor off-take of material and they have laid off the workers. It is also stated that number of employees have gone down for 254 as on 1.4.96 to 243 as on 1.4.97.

CONCLUSION ON INJURY

18. The Authority thus observe that:

- The imports from China have increased sharply during the period of investigations.
- The production and Capacity utilisation has been status quo over the years.
- There is a decrease in sales and consequently increase in closing stock.
- The market share of imported goods has gone up whereas the share of petitioner in total demand has come down.
- The cost of production have gone up, during the period of investigation but the realisation have gone down in the later part of the POI and thus the petitioner has suffered losses in the later part of POI. Though in the earlier part, they have earned profit.
- Imports from subject country resulted in price cutting in Indian market;

The Authority, after considering the above, concludes that domestic industry has suffered material injury from the imports of citric acid originating from China.

K CAUSAL LINK

19. In establishing that the material injury to the domestic industry has been caused by the imports from the subject country, the authority holds an increase in market share of imports from China resulted in decline in the market share of petitioner. The dumped material forced the domestic industry to hold higher stocks. The export of citric acid from China force the domestic industry to keep its prices to un-remunerative levels and prevented it to recover its fair price resulting in losses/decrease in profits.

L. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

20. 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. It is recognised that the imposition of anti dumping duties might affect the price levels of the products manufactured using the 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, particularly if the levy of the anti dumping duty is restricted to an 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 practice would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of citric acid. Imposition of anti dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers. To ascertain the extent of Anti-dumping duty necessary to remove the injury to the domestic industry, the Authority relied upon reasonable selling price of Citric Acid in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilisation for the domestic industry.

M. LANDED VALUE

21. The landed value of imports from China PR have been determined on the basis of weighted average export price of citric acid from China PR, after adding the prevailing level of customs duties and one percent landing and two percent handling charges.

N. CONCLUSIONS:

22. The Authority, after considering the foregoing, concludes that:

- Citric acid originating in or exported from China PR has been exported to India below normal value resulting in dumping;
- The domestic industry has suffered material injury.
- The injury has been caused cumulatively by the imports from the subject country.

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 the subject country, pending investigations.

24. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. Landed prices of the imports, for the purpose, were compared with the fair selling price of the domestic industry, determined for the

period of investigation. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended.

25. Accordingly, the Authority recommends that provisional anti dumping duty. The Anti Dumping Duty shall be the difference between Rs. 58,925 per MT and the landed price of imports per MT, from the date of notification to be issued in this regard by the Central Government, on all imports of citric acid originating in or exported from China PR falling under Chapter 2918.14 of the Customs Tariff, pending final determination.

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 duties levied under Section 3, 3A, 8B and 9, 9A of the Customs Tariff Act, 1975.

27. 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 from the date of the dispatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings.

RATHI VINAY JHA...
Designated Authority