

MINISTRY OF COMMERCE

NOTIFICATION

New Delhi, the 6th September, 1996

PRELIMINARY FINDINGS

SUBJECT: Anti-dumping investigation concerning imports of 8- Hydroxyquinoline originating from the People's Republic of China - Preliminary Findings.

No. ADD/IW/36/95-96- The Government of India having regard to the Customs Tariff Act 1975 as in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof.

A. PROCEDURE

2. The procedure described below has been followed:

- i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s. West Bengal Pharmaceutical & Phytochemical Development Corpn. Ltd., Calcutta on behalf of the domestic industry, alleging dumping of 8- Hydroxyquinoline (hereinafter referred of 8-HQ) 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-Rules (5) of Rule 5 supra.
- iii. The Authority issued a Public Notice dated 4th March, 1996 published in the Gazette of India, Extraordinary on 4th March, 1996, initiating anti dumping proceedings concerning imports of 8-HQ originating from China classified under heading 2933.40 of Schedule I of the Customs Tariff Act, 1975 and No. 2933.40.04 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 associations and to the complainant and gave them an opportunity to make their views 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;

- vi. The Authority sent questionnaires, to elicit relevant information, to the following exporters:
 - 1. M/s. Sinochem Jigangsu Import & Export Corporation, China
 - 2. M/s. China National Chemical Jianssh Company, China
- vii. The Embassy of China in New Delhi was also informed about the initiation of investigation and was requested to advise the exporters/procedures from their country to respond to the questionnaire within the prescribed time.
- viii. The questionnaire was sent to the following importers of 8-HQ :
 - 1. M/s. Bajaj Health Care Pvt. Ltd., Mumbai;
 - 2. M/s. G. Amphray Laboratories, Mumbai;
 - 3. M/s. Salvi Chemical Industries, Mumbai;
 - 4. M/s. Vetcare Alitech Pvt. Ltd., Bangalore;
- ix. Response to the questionnaire was filed by M/s. Vetcare Alitech Pvt. Ltd., Bangalore. No other importer or exporter filed response to the questionnaire inspite of issue of reminders.
- x. A Public Hearing was held by the Authority on 11th June, 1996 in order to provide further opportunity to importers, exporters, petitioners and Embassy of China. Notice for public hearing was also sent to M/s. China Jiangsu Medicines & Health Products Import Export (Group) Corpn., China. The hearing was attended only by the petitioner;
- xi. The party who attended the said public hearing was advised to present their submissions made in the public hearing in writing for obtaining counter comments from the 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;
- xii. 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 Calcutta and works at Kalyani;
- xiii. The Authority also conducted cost investigation and worked out optimum Cost of production and cost to make and sell 8-HQ in India on the basis of Generally Accepted 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;
- xiv. The investigation covered the period from 1st April, 1995 to 30th Sept., 1995.

B. PETITIONER'S VIEWS

3. The petitioner made the following major points:

- i. The petitioner is the only producer of 8-HQ in the country and thus represents the domestic industry. 8-HQ being produced by the petitioner is a like product to the 8-HQ being imported from China;
- ii. A major quantum of requirement of 8-HQ is being imported from different countries like China, Japan, France, etc.;
- iii. Imports of 8-HQ from China are at dumped prices;
- iv. The petitioner suffered badly due to dumping of 8-HQ from China. The petitioner could not market the product resulting in underutilization of plant capacity;
- v. Normal value of 8-HQ in China, on constructed cost basis comes to Rs. 789 per Kg. against which the CIF export price of 8-HQ imported from China comes to Rs. 710 per Kg.

C. EXPORTER'S VIEWS

4. No exporters attended the Public Hearing, nor expressed any views, nor response in the prescribed form and manner has been filed.

D. IMPORTER'S VIEWS

5. No importer attended the Public Hearing. One of the importer has, however, made written submissions highlighting the following main views :

- i. It was earlier getting supplies of 8-HQ from the petitioner and now importing the same from China;
- ii. It is small scale industry. It is not covered under Modvat Credit Procedure and is put into lot of hardship to get back the duty paid on raw materials supplied by the petitioner;
- iii. The product being manufactured by it is purely for export;
- iv. The delivery schedule of the petitioner is uncertain and prices unrealistic and payment is against delivery without any credit period whereas the suppliers from China are supplying the product as per schedule, goods of better quality and by offering 60 to 90 days credit against L/Cs;
- v. It could not meet export commitments due to non-availability of raw material;
- vi. The major imports have been made under Duty Exemption Scheme, using quantity based Advance Licence;
- vii. The average cost for the imported 8-HQ works out to Rs. 465 per Kg. as against Rs. 840 per Kg. (inclusive of duties and taxes) supplied by the petitioner;

- viii. The weighted average export price of 8-HQ incurred by it was CIF \$ 12.94 per kg. for 1994-95 and around US\$ 13.15 per kg. during the period of investigation and therefore, contention of the petitioner in para 4 of the initiation notification is incorrect.
- ix. The petitioner is a monopoly producer in India.
- x. The basis of pricing of the petitioner on cost plus basis can no longer be in vogue.
- xi. Any change in duty structure would affect the price of the products made from 8-HQ and sold in India.

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 facts available to it as per rule 6(8) supra.

F. LIKE ARTICLE

8. 8-HQ is an organic chemical. Crude 8-HQ manufactured using Glycerin, Ortho Nitro Chloro Benzene, Sodium Sulphide, Caustic Lye, Sulphuric Acid is purified to make 8-HQ of 99% purity or more. It is a life saving drug and classified under custom code 2933.40 of Schedule I of the Customs Tariff Act, 1975 and No. 2933.40.04 under Indian trade classification (based on harmonized commodity description).

9. The petitioner is producing 8-HQ using Skraup's synthesis starting from Ortho Nitro Chloro Benzene. The product, as per petitioner, is also produced from quinoline by sulphonation and caustic fusion. Though alternative routes for production of 8-HQ exist, none of the exporters provided any information to the Authority in this regard. The Authority, however, noted from the reply furnished by one of the importers that the product being produced by petitioner and that of Chinese origin are being interchangeably used. It has, therefore, come to the conclusion that 8-HQ being imported from China has characteristics closely resembling to the 8-HQ being produced by the domestic industry and, therefore, the two are considered as like article in accordance with rule 2(d) supra. The product, 8-HQ is, therefore, covered under the scope of this investigation.

G. DOMESTIC INDUSTRY

10. The petition has been filed by M/s. West Bengal Pharmaceutical & Phytochemical Development Corpn. Ltd. (a Government of West Bengal Undertaking), House, 2nd floor, 1 & 3 B.T. Maharaj Sarani, Calcutta-700 001. The petitioner is the producer of 8-HQ in India, and therefore, constitute domestic industry in accordance with Rule 2(b) supra.

H. NORMAL VALUE

11. Petitioner has not furnished normal value 8-HQ based on domestic prices in China, pleading that China is a non market economy. The petitioner has suggested working out normal value based on cost of production constructed for China.

12. None of the exporters has furnished any information on the normal value. Though the normal value of US\$ 24.65 per kg. estimated on the basis of cost of production of the product in China was indicated in the notification initiating the investigation, it has not been refuted by any of the exporters.

13. The Authority considered the above views and worked out normal value based on the facts available. The normal value had to be reconstructed under Chinese conditions adopting appropriate reference levels. The international price of key raw materials and other costs based on Indian Industry have been considered for reconstructing Normal Value of 8-HQ. The Normal Value has been determined in accordance with sub-clause ©(ii)(b) of Section 9A of the Act supra. The Normal Value on the above basis works out to US\$ 21.58 per. Kg.

I. EXPORT PRICE

14. 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 one of the importers in the format prescribed by the Authority.

15. Since the importer has furnished exporter-wise 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 exporters. The petitioner claimed adjustment for (i) ocean freight (US\$ 0.15), (ii) insurance (US\$ 0.12), (iii) Other Charges (US\$ 0.60) and the same have been accepted by the Authority.

J. COMPARISON

16. 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 facts available with it in the absence of any cooperation 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\$ Kg)

Exporter	Dumping Margin
Sinochem Jiangsu Import & Export Corpn., China	9.30
China Jiangsu Medicines & Health Products Import Export (Group) Corpn., China	9.74

17. The Authority notes that the normal value and export price during the investigation period only are relevant for arriving at the conclusion of dumping, and the current export price to India or international prices are not relevant for the purpose.

K. INJURY

18. Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles..." In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like 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.

19. 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 utilisation, sales, stock, profitability, net sales realisation etc.

(a) Volume and Market Share of Dumped Imports:

20. Imports of 8-HQ from China as per DGCIS statistics increased from nil (1993-94) to 14.5 MT (1994-95). During the Period of investigation, imports have steeply increased to 34 MT as against 2.5 MT during the corresponding period in the previous years resulting in sharp increase in the volume of imports in absolute terms.

21. Market share of the imports from China in the total demand in the Country, considering total quantum of imports, indigenous sales and captive consumption of the Indian producer, increased sharply from 29% in 1994-95 to 67% during the period of investigation. The petitioner lost significant market share inspite or reduction in selling price as detailed in para 28 below.

(b) Export Prices from China:

22. The average CIF Export Price from China declined sharply from Rs. 423 per kg. (1994-95) to Rs. 381 per Kg. during the period of investigation.

(c) Production and Capacity utilization:

23. Production of the Petitioner declined from an average of about 1.402 MT per month in 1993-94 to an average of 0.638 MT per month during the period of investigation.

(d) Sales in absolute terms:

24. Average sales in absolute terms per month were 1163 kg. per month (1993-94) to an average of 539 kg. per month during the period of investigation, resulting in sharp decline in the sales in absolute terms. Further, Sales during April 1995 to June, 1995 remained nil, in spite of reduction in selling prices by the petitioner.

(e) Stocks:

25. The Authority notes that the stock of 8-HQ with the petitioner increased during the period of investigation as compared to previous year, and peaked to 2.248 MT during the month of June 1995.

(f) Average Sales Realisation:

26. The average unit sales realisation for the domestic industry increased from of Rs. 695 per kg. in 1993-94 to Rs. 772 per kg. in 1994-95. However, the same reduced steeply to Rs. 650 per kg. during the period of investigation, a level lower than 1993-94. The Authority observed that the average sales realisation during the period of investigation was lower than optimum cost of production resulting in losses to the petitioner.

(g) Price undercutting:

27. The Authority find that the Chinese exports were undercutting the prices of Sodium Ferrocyanide in the Indian market during the period on investigation, and the domestic industry was forced to reduce its prices in view of dumped imports from China.

(h) Price Suppression:

28. The Authority finds that in spite of increase in the cost of inputs, the domestic industry was prevented to increase its prices commensurate with the increase in its cost of production; rather it has to reduce its price. This resulted in a situation of price suppression in the Indian Market.

(i) Profit/Loss:

29. The petitioner is multi product organization, and no conclusion can be drawn from the annual accounts about the financial position of the company for the producer under consideration. The Authority has, however, relied upon the profitability of the petitioner from the product under consideration after considering allocation and apportionment of expenses on the basis of Generally Accepted Accounting Principles. The Authority noted that the average sales realisation to the petitioner is less than the cost of production resulting in losses from the sale of 8-HQ.

(j) Conclusion on injury:

30. 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. CASUAL LINK

31. 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 the total imports also increased significantly. As a direct consequence, the domestic industry lost its market share to significant level.
- ii. The substantial import of 8-HQ from China at dumped prices forced the domestic industry to reduce its selling prices to unremunerative level which resulted in a situation of price undercutting in the Indian 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 the sales of 8-HQ in India.

M. INDIAN INDUSTRY'S INTEREST

32. The purpose of anti dumping duty 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.

33. The Authority recognized that the imposition of anti-dumping duty might affect the price levels of the products manufactured using 8-HQ 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. 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.

34. The Authority confirms that it has worked out reasonable Selling Price of 8-HQ 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.

35. 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 injury to the petitioner.

36. The Authority has calculated the level of injury being faced by the domestic industry after considering the custom duties prevailing during the period of investigation.

37. Since the imposition of Anti –Dumping Duty on imports originating from China will not restrict imports from that country, the imports alongwith imports from other sources will keep the domestic market competitive and will not allow any unfair advantage to the domestic industry. The petitioner cannot exercise monopoly.

N. CONCLUSIONS

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

- i. 8-HQ 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.

39. The Authority considers it necessary to impose an anti-dumping duty provisionally, pending final determination, on all imports of 8-HQ originating from China in order to remove the material injury to the domestic industry. The margin of dumping for each known exporter determined by the Authority are indicated in Para 41.

40. 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 on 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 8-HQ falling under custom code 2933.40.04 originating from China, pending final determination.

Exporter	Amount of Duty Rs. per Kg.
Sinochem Jiangsu Import & Export Corpn., China	183
China Jiangsu Medicines & Health Products Import Export (Group) Corpn., China	206
Exporters other than above	206

41. 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. VIJAYARAGHAVAN,
Designated Authority and Addl. Secy.