

MINISTRY OF COMMERCE

(Directorate General of Anti Dumping & Allied Duties)

NOTIFICATION

New Delhi, the 26th November, 1998

Subject:- Anti dumping investigation concerning imports of P Tert Butyl Catechol- Preliminary Findings

19/1/97/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

The procedure described below has been followed with regard to the investigations:

- i. The Designated Authority (hereinafter referred to as Authority), under the Rules, received written application from M/s. K K Poonja & Sons on behalf of the domestic industry, alleging dumping of P Tert Butyl Catechol. Originating in or exported from France;
- ii. The Authority, on the basis of sufficient evidence submitted by the petitioner, decided to initiate dumping investigations against imports of P Tert Butyl Catechol from France. The Authority notified the Embassy of France about the receipt of dumping allegation before proceeding to initiate the investigations in accordance with sub-rule 5(5) of the Rules;
- iii. The Authority issued a public notice dated 19th Feb., 1998 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of P Tert Butyl Catechol. classified under custom sub-headings 2915.39 of Schedule I of the Customs Tariff Act, 1975, originating in or exported from France;
- iv. The Authority forwarded a copy of the public notice to the known exporter from France (whose details were made available by the petitioner) and industry associations in India and gave them an opportunity to make their views known in writing in accordance with the rule 6(2),
- v. The Authority forwarded a copy of the public notice to the known Importers of P Tert Butyl Catechol in India and advised them to make their views known in writing within forty days from the date of the letter;
- vi. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of P Tert Butyl Catechol for the past three years,

- including the period of investigations No information was however received from CBEC;
- vii. The Authority provided a copy of the petition to the known exporter from France and the Embassy of France in accordance with rules 6(3) supra;
 - viii. The Authority sent questionnaire, to elicit relevant information, to Rhone Poulenc, Franca, the known exporter of the subject goods, in accordance with the rule 6(4);
 - ix. The Embassy of the subject country in New Delhi was Informed about the initiation of the investigations 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 (he exporter was also sent lo the Embassy, alongwith a list known exported/producers).
 - x. A questionnaire was sent to the following known importers of P Tert Butyl Catechol in India calling for necessary information in accordance with rule 6(4)
 - a. Indian Petrochemical Corpn ,
 - b. Vinyl Chemicals Ltd.,
 - xi. Additional information regarding injury was sought from the petitioner, which was also received;
 - xii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties:
 - xiii. Cost investigations were also conducted to work out optimum cost of production and cost [o make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioner so as to ascertain if anti- dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry;
 - xiv. Investigations was carried out for the period from starting 1st Oct., 1996 to 30th Sept., 1997.

B PETITIONER'S VIEWS

2 The petitioner has raised the following issues in their petition:

- a. K K Poonja & Sons has pioneered the manufacturing of the subject goods in India, based on the technology developed by National Chemical Laboratories. K K Poonja is exporting the subject goods as also the technology.

- b. Rhone Poulenc first appointed a local agent in India to whom they extended extraordinary credit terms. The petitioner received a strong warning from the exporter's office in India to stop manufacturing the subject goods and face closure, this was followed by dumping of the goods at prices far below cost.
- c. There are three major suppliers of the subject goods in the world, Rhone Poulenc of France, Borregard italia of Italy and Dai Nippon of UK.
- d. Average demand of the subject goods in India is about 35 MT and the same is about 3000-4000 MT globally. Even one lost sale can affect the working of the petitioner seriously. The petitioner cannot suffer the unfair price war even for a limited time.

C. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED

PARTIES

3. Rhone Poulenc has responded to the notice of initiation of the investigations. The company has, however, furnished its response only on 26.6.96, though the Authority allowed it to file time upto 30th April, 1898 as per requests by the company. The Authority has however, accepted the questionnaire response filed by the company for the purpose of preliminary determination. The views expressed by them have been discussed below and the same have been dealt at appropriate places.

- a. The specialty chemicals, fibres and polymers business of the company has been combined and spun off into a separate company - Rhodia Chimie.
- b. The company produces the raw material required for making P Tert Butyl Catechol, namely Catechol.
- c. The company is selling various inhibitors into India, PTBC is one of them The policy of the exporter is to grow its inhibitors business in India. The company is not randomly looking out to secure new business at any cost. It is following a plan of complementing our inhibitor portfolio and is actively looking for synergies in a planned and methodical way The pricing differs between Europe, North America and Asia, the Asian region generally having the lowest prices. Within Asia, the prices offered in Taiwan and Korea are lower compared to India. The price depends upon the other business which the company may have. The pricing is according to the local market conditions.
- d. The current import duty on PTBC is 35%, whereas the petitioner has mentioned as 36%.
- e. The company, whose name has been indicted by petitioner as the agent of the exporter is in fact its distributor, who stocks and sells PTBC. The indenting is done by their company incorporated in India.

- f. The injury being felt by the petitioner is on account of significantly high price paid by the petitioner for the major raw materials.

D. EXAMINATION OF THE ISSUES RAISED

4. The submissions made by the exporter, importers, petitioner and other interested parties have been examined, considered and have been dealt at appropriate places hereinafter.

E. PRODUCT UNDER CONSIDERATION

5. The product under consideration in the present Investigations is Pars Tertiary Butyl Catechol (also referred to as P Teri Butyl Catechol or PTBC in this report) of all forms/grades/purities. P Teri Butyl Catechol is classified under custom sub- heading 2915.39 of Schedule 1 of the Customs Tariff Act. 1975.

6. PTBC is a polymerization Inhibitor and prevents polymerization of polymers such as styrene, butadiene vinyl chloride, vinyl acetate. Addition of PTBC results in increase in the life of these monomers. PTBC is sold in various forms.

7. The manufacturing process, functions & uses Indicated above are, however indicative only and are in no way binding on the scope of me present invocations.

F. LIKE ARTICLES

8. In order to examine whether the P Tert Butyl Catechol produced by the domestic industry is a like article to the P Tert Butyl Catechol exported from France characteristics such as physical characteristics (size, chemical composition, raw material), manufacturing process, and technology, functions and uses. product specifications, pricing. distribution and marketing and tariff classification of the goods have been considered The goods exported from France and goods produced by the petitioner have characteristics closely resembling each other and the two are technically and commercially substitutable The goods produced by the domestic industry are a like article to the goods exported from France within me meaning of Rule 2(d).

G. DOMESTIC INDUSTRY

9. the petition has been filed by M/S. K K Poonja & Sons. 7, Khimji Poonja Bhatia Niwas 233, Samuel Street. Mumbai-400 003. There is one more producer of P Tart Butyl Catechul in India, M/s. Percynic Chemicals, Vapi. Tha production of the

petitioner, however, accounts for a major proportion of the total domestic production in India, as may be seen from the below

% share

K K Poonja & Sons 62 .5

Percynic Chemicals 37.3

10. The petitioner, therefore, satisfies the standing to file the present petition and constitutes domestic industry in accordance with Rule 2(b) supra.

H. DUMPING

NORMAL VALUE:

11. 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 along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

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.

12. The Authority provided opportunity to the known exporter from France to furnish information relevant to the investigations and offer comments, if any in accordance

with the Section cited above. The Authority wrote to the Embassy of France in India also Though the Authority allowed Rhone Poulenc to file response latest by 30th April, 1998 on request from the exporter, the company filed its response on 26th June, 1998. Even though the response filed by the company was significantly after the date allowed by the Authority, the Authority has accepted the response The Authority deputed a team of officials to the office of the exporter for verifying the information to the extent deemed fit for the purpose of these Investigations. The visiting team requested for certain information in support of the claims made by the exporter, which have not been furnished by the company.

13. None of the importers or other interested party(ies) have responded to the notice of initiation, even though M/a. Vinyl Chemicals (India) Ltd. requested for extension of time, which was allowed by the Authority.

14. The petitioner claimed normal value on the basis of quotation raised by Rhone Poulenc for sales in France. The normal value on this basis works out to US \$ *** per kg The petitioner has supplemented its claim of normal value with quotations raised by Rhone Poulenc for sales in USA and Philippines. However, since the exporter has furnished information, the normal value has been determined on the basis of (the information furnished by the exporter. The exporter has claimed the following price adjustments for sales in the two markets

Exports to Sales In home

India market

Packing *** **

Inland freight *** **

Technical Services

Total *** **

15. In view of no price adjustment claimed made by the petitioner from sales in the home market, the Authority considers it appropriate to consider price adjustments on the basis of claims made by the exporter No price adjustment is called -for with regard to packing in view of the same amount of expenditure in the two markets. The Authority has considered adjustment on account of inland freight on the basis of Information furnished by the exporter With regard to the adjustment on account of technical services, the exporter has not furnished any evidence or basis for claiming price adjustment on this account The exporter failed to furnish any evidence at the time

of verification also. No price adjustment has, therefore, been done on this account in view of unsubstantiated claim by the exporter.

16. The normal value on the above basis Comes as under:

Amount (US \$ per kg.)

Selling price ***

Less: Inland freight ***

Normal value ***

EXPORT PRICE:

17. The export price claimed by the exporter has been correlated with the claims made by the petitioner on this account, which shows that the price claimed by the petitioner is lower than the price claimed by Rhodia Chimie. The claim of the petitioner is based on the quotation raised by Rhone Poulenc and accepted by the importer. M/s Indian Petrochemical Corpn. Though, the exporter has furnished some photocopy of invoices no exhaustive information in respect of exports made by the company to India could be made available by the exporter at the time of verification.

18. In view of the above, the Authority considers it appropriate to consider CIF export price on the basis of claims made by the petitioner for the purpose of preliminary determination

19. With regard to the price adjustments from CIF export price to determine ex-works export price, the Authority notes that the petitioner has not claimed any price adjustment from the CIF export price. The exporter has, however, claimed the following price adjustments from the export price and sales in the home market.

Exports to Sales in home

India market

Packing *** **

Inland freight *** **

Technical Services

Total *** **

20. The exporter was requested to furnish necessary information in support of its claim of the above price adjustment;?. However, the exporter failed to furnish necessary information the visiting team. Though the exporter has not substantiated its claim, the Authority considers it appropriate to allow price adjustments on the basis of the information furnished by the exporter since the petitioner has also not furnished any information with regard to the price adjustment. No price adjustment is called for with regard to packing expenses in view of the same amount of expenditure in the two markets. The Authority has considered adjustment on account of inland freight on the basis of information furnished by the exporter

21. The ex-works export price on the above basis comes as under:

Amount (US \$ per kg.)

Export price ***

Less

Inland freight ***

Ex works export price ***

Comparison of normal value and export price

22. The rules relating to comparison provides as follows:

"While arriving at margin of dumping, the designated authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally a ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences in conditions terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to effect price comparability."

23. For the purpose of fair comparison between the normal value and the export price the Authority may consider taking into account the information furnished by the petitioner, Rhodia Chimie and other published information available with the Authority. The normal value and export price determined, as detailed above, are at ex-works level and therefore, the comparison of normal value with weighted average export price may be considered

24. The dumping margin comes 30%.

I. INJURY AND CAUSAL LINK

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

26. For the examination of the impact of the imports on the domestic industry in India we may consider such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc In accordance with Annexure II (iv) of the rules supra.

27. Volume and Market share of Dumped imports: Imports of P Tert Butyl Catechol from France increased from 2.5 MT in 1996 to 8.5 MT in 1997 resulting in sharp increase in imports in absolute terms as also relative to consumption in India.

28. Export price from France: GIF export price of P Tert Butyl Catechol from France declined from US \$ *** per kg (1996) to US \$ *** per kg. (1997).

29. Economic parameters affecting the domestic industry: The position with regard to various parameters indicating injury is as follows:

- a. **Production and Capacity Utilisation:** The production of the petitioner declined from *** MT in 1994-95 to *** MT in 1996-97 and *** MT in the period of investigation
- b. **Sale in absolute terms:** Sales in absolute volumes declined significantly from *** MT (1994-95) to *** MT (1996-97) and ***MT in the period of investigation.
- c. **Stocks:** Stock of P Tert Butyl Catechol with the petitioner increased during the period of investigations as compared to previous year from *** MT (1994-95) to *** MT (1995-96) and *** MT in the period of investigation.
- d. **Average Sales Realisation:** Average unit sales realisation of the domestic industry declined from *** per kg. (1994-95) to *** per kg (1995-96) and *** in the period of investigation. The average sales realisation during the period of

investigations was significantly lower than cost of production resulting in losses to the petitioner.

- e. **Price Undercutting:** The exports from France were significantly undercutting the prices of P Tert Butyl Catechol in the Indian market.
- f. **Profit/Loss:** The petitioner was making profits from its sale relating to P Tert Butyl Catechol. However, sales significantly below cost of production in the investigation period resulted in financial losses to the petitioner.

30. **Conclusion on Injury:**

- The imports of P Tert Butyl Catechol from France increased in absolute terms
- Exports of P Tert Butyl Catechol from the subject country forced the domestic industry to reduce UK prices to unremunerative levels, and prevented the domestic industry from recovering its cost of production and fair selling price, resulting in financial losses to the domestic industry.
- Various economic indicators relating to domestic industry such as production, capacity utilisation, sales quantities, average sales realisation, stock, losses collectively and cumulatively establish that the domestic industry has suffered material injury:

31. It is thus seen the domestic Industry has suffered material injury.

J INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

32. 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.

33. 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 practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of P Tert Butyl Catechol. Imposition of anti dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.

34. To ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry, the Authority has relied upon reasonable selling price of P Tert

Butyl Carechol in India for the domestic industry by considering the optimum cost of production for the domestic industry.

M. LANDED VALUE:

35. The landed value has been determined on the basis of weighted average export price of P Tert Butyl Calechol from France, determined as described in the para relating to dumping, after adding the prevailing level of customs duties and one percent landing.

N. CONCLUSIONS:

36. It is thus seen, after considering the foregoing, that:

- a. P Tert Butyl Catechol originating in or exported from France has been exported to India below normal value, resulting in dumping;
- b. The Indian industry has suffered material injury;
- c. The injury has been caused by the imports from the subject country.

It is considered necessary to impose anti dumping duty, provisionally, pending final determination, on all imports of P Tert Butyl Catechol originating in or exported from the subject country, pending investigations.

37. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. Landed price of the imports, for the purpose, was compared with the fair selling price of the domestic industry, determined for the period of investigations. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, it is proposed that provisional anti dumping duties be imposed. from the dale of notification to be issued in this regard by the Central Government, on all imports of subject goods in India originating in or exported from France falling under Chapter 29 of the Customs Tariff, pending final determination. The anti-dumping duty shall be the difference between Rs. 320.71 per kg and the landed price of imports par kg. subject to a minimum of Ra. 56.99 per kg.

38. Landed value of imports for the purpose shall tie 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, 9 and 9A of the Customs Tariff Act. 1975.

O. FURTHER PROCEDURE:

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

- a. The Authority invites comments on these findings from all interested parties and the same would be considered In the final findings.
- b. Exporters importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the despatch of the letter 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 conduct verifications to the extent deemed necessary. No fresh evidence will be accepted at this stage;
- d. The Authority would provide opportunity to all Interested parties for oral submissions, for which the date and time shall be communicated to all known interested parties separately;
- e. The Authority would disclose essential -facts before announcing final findings.

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