

MINISTRY OF COMMERCE & INDUSTRY
(Department of Commerce)
Directorate General of Anti Dumping & Allied Duties

Notification

New Delhi, the 30th April, 2003

PRELIMINARY FINDINGS

Subject: Anti-dumping investigation concerning imports of Potassium Carbonate from the European Union(EU),China PR,Korea RP and Taiwan - Preliminary Findings

No. 14/42/2002-DGAD - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof;

A. PROCEDURE

1. 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 Gujarat Alkalies & Chemiclas Ltd, Vadodra(GACL) on behalf of the domestic industry, alleging dumping of Potassium Carbonate (hereinafter referred to as subject goods) originating in and exported from European Union(EU),China PR,Korea RP and Taiwan (hereinafter referred to as subject countries);
- ii. The Authority notified the Embassies/Representative of the subject countries in India about the receipt of dumping application 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 19.12.2002 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Potassium Carbonate originating in or exported from the subject countries falling under Customs Sub-heading 28 36 40 under Chapter 28 of the Customs Tariff Act, 1975.
- iv. The Authority forwarded copy of the said public notice to the known exporters, importers, users, industry associations and to the complainants and gave them an opportunity to make their views known in writing.

- v. According to sub-rule (3) of Rule 6 *supra*, the Authority provided a copy of the petition to all the known exporters and Embassies/representatives of subject countries in India.
- vi. The Authority sent questionnaires, to elicit relevant information, to the following exporters from the subject countries:
- MM/s.Creanova Spezialchemie GmbH. Germany
 - M/s. Dr.Paul Lohmann GmbH KG Chemische Fabrik,Germany
 - M/s. Merk KgaA, Germany
 - M/s .Unid Co.Ltd., Korea
 - M/s. Oriental ;Chemical Industries, Korea
 - M/s. Lixian Chemical Factory, China
 - M/s. Panjin Chemical Fertilizer Plant, China
 - M/s. Tinajin City Lixin Chemical Factory, China
 - M/s. Taiwan Pulp & Paper Corpn.Ltd. Taiwan
 - M/s. Green Mountain Co.Ltd., Taiwan
 - M/s. Gremont Chemical Co.Ltd.,Taiwan
 - M/s. Yee Fong Chemical &Industrial Co.,Taiwan
 - The response was, however, filed by
 - M/s. UNID, Korea
 - M/s. DEGUSSA, Germany
 - M/s. MERCK KgaA,Germany
 - M/s. Taiwan Pulp & Paper Corpn.,Taiwan
 - M/s. Jiande Dayang Chemical Manufacture Ltd(Jiande)
 - M/s. Shanghai Wenton Co.Ltd. (SWC)
 - M/s. Chengdu Chemical Co.Ltd. (CCL)
 - M/s. Zhengzhou Fang Tai Chemical Co.Ltd. (ZFT)
- vii. The Embassies/representative of subject countries in New Delhi were also informed about the initiation of investigation and were requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time;
- viii. The questionnaire was sent to the following known users/importers of subject goods in India calling for necessary information in accordance with Rule 6(4):
1. M/s.Aurobindo Pharma Ltd, Hyderabad
 2. M/s.Videocon International Ltd, Bombay
 3. M/s.Videocon Narmada Glass, Bharuch - 392 002
 4. M/s.Anus Labs Ltd, Andhra Pradesh - 509 216
 5. M/s.Tanfac Industries Ltd, Kudikadu Post
 6. M/s.Vorin Labs Ltd, Secunderabad Medak
 7. M/s.Gujarat Insecticides Ltd, Ankleshwar-393 002, Gujarat

8. M/s.ICI India Ltd, Madras
9. M/s.Aarti Drugs Ltd, Bombay
- 10.M/s.KDL Biotech Ltd,Bombay
- 11.M/s.Bharat Jyoti,Bombay
- 12.M/s.National Organic Chemicals Ltd,Thane
- 13.M/s.Bio Chemical Synthetic Product, Hyderabad
- 14.M/s.Bakul Pharama Pvt Ltd
- 15.M/s.Glochem Industries Ltd,Hyderabad
- 16.M/s.APL Chemi Naatural Ltd, Hyderabad
- 17.M/s.Meck Lubricants & Petrochemicals
- 18.M/s.Baker Hughes Singapore Pvt Ltd, Bombay
- 19.M/s.Keerthi Bangalore Pvt Ltd, Bangalore
- 20.M/s.MFPL Fluorine Products, Madras
- 21.M/s.Max Atotech Ltd
- 22.M/s.Ranbaxy Labs Ltd New Delhi
- 23.M/s.Amoli Organics Ltd, Bombay
- 24.M/s.Khushbu Chemicals
- 25.M/s.Recon Ltd,Bangalore
- 26.M/s.Alpha Drugs India Ltd,Chandigarh
- 27.M/s.S.D.Fine Chem Ltd,Bombay
- 28.M/s.Westman Chemicals Pvt Ltd
- 29.M/s.Bayer India Ltd, Madras
- 30.Dr.Reddy's Lab.,Hyderabad
- 31.M/s.C.J.Shah & Co.,Bombay
- 32.M/s.Tribology India Ltd, Madras

The response was filed by:

- i. M/s. Videocon Narmada Glass, Bharuch
- ii. M/s. Alpha Drug India Ltd., Distt. Patiala

- ix. 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;
- x. *** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
- xi. The investigation covered the period from 1st April, 2001 to 30th September, 2002(18 months).
- xii. Additional details regarding injury were sought from the petitioner, which were also furnished.

- xiii. The Authority conducted on-the-spot verification of the domestic industry to the extent considered necessary.
- xiv. The cost of production of the domestic industry was also analysed 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) based on the information furnished by petitioner so as to ascertain if anti dumping duty lower than dumping margin would be sufficient to remove injury to domestic industry.
- xv. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

2.0 PETITIONER'S VIEWS

The petitioners have made the following major points in their submissions:

- i. They are major producers of the subject goods in India;
- ii. Exporters from EU, China, Taiwan & South Korea are dumping Potassium Carbonate in the Indian market.
- iii. China is a 'non-market economy' country. Determination of normal value in China is to be done in accordance with the rules relating to non-market economy.
- iv. Cumulative assessment of the effect of import is appropriate in light of the conditions of competition between the imported articles and like domestic articles.
- v. Indian industry has suffered material injury from exports of subject goods from subject countries. This may be immediately checked by imposition of interim duties first and followed by definitive duties.

C. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES:

EXPORTERS

3.1 M/s.Degussa AG MARL, Germany

The exporter has furnished information in the exporters questionnaire and has furnished sample documents with respect to Domestic Sales in EU, Export Sales to India. Authority notes that some of the documents have been translated/ partly translated, complete translation in English is desirable. Deficiency letter dated 25.2.2003 was issued and the exporters have furnished supplementary information

vide their letter dated 3.3.2003. The information furnished has been accepted for the purpose of preliminary determination pending verification.

The exporters have stated the following:

1. It is seen from the initiation notice that the petitioner has claimed normal value with regard to EU based on EUROSTAT internal and external trade of EU. This statement appears to suggest that the normal value is based on the prices prevailing in EU.
2. Contrary to the claims made in the petitioner as well as in the initiation notice, the normal value in EU is based on constructed value and not based on the domestic prices prevailing in EU.
3. EUROSTAT data is stated to have been furnished, it has not been relied upon for arriving at the dumping margin. The initiation is violative of Rule 5(3)(b).
4. Without prejudice to the above contention that the initiation is bad, Degussa AG, Germany submits a complete response to the exporter's questionnaire prescribed by the authority together with all evidences.
5. Potassium Carbonate is sold in Granular as well as powder form. The granules are pulverized to make it into powder. The cost of conversion from granular to powder form is very marginal.

3.2 M/S. MERCK, GERMANY

The exporter through their Fax dated 22.1.2003 requested for additional time to furnish information, which was considered by the Authority and was allowed to furnish information latest by 12.2.2003. Vide their fax dated 13.2.2003, they stated that they could not fax the response and indicated that they courier the documents which was finally received only on 24.2.2003.

While examining the response to the questionnaire it was observed as under:

1. The reply to the questionnaire isn't in the form and manner prescribed by the Authority-- for instance, Appendix 2,4 &5.
2. Appendix A and Appendix B not furnished
3. Appendix 3 has been indicated NA and reply to Appendix 6,7,8,9 & 10 not furnished;
4. From the response it appears that M/s Merck, Germany is operating as 'Trading House' and there seem to no response from the manufacturers of the subject goods;
5. Whether M/s Merck Ltd, India are sole importers of the product from Merck Germany may be clarified;
6. The above information/clarification was to be furnished latest by 17.3.2003

Authority notes that no communication has been received from the exporter and the information furnished earlier by the exporter is grossly inadequate to determine the dumping margin hence the response has not been considered for the purpose of Preliminary findings.

3.3 Exporters from CHINA PR

- M/s.Jiande Dayang Chemical Manufacture Ltd.(Jiande), China
- M/s. Shanghai Wenton Company Ltd. (SWC) China
- M/s.Chengdu Chemical Co.Ltd (CCL), China
- M/s. Zhengzhou Fang Tai Chemical Co.Ltd,(ZFT), China
- M/s.China Petroleum & Chemical Industry Association

Deficiency letter dated 25.2.2003 was issued to M/s ILP on the following:-

1. The response in general is not in form and manner prescribed by the Authority;
2. Exporters Questionnaire A-General, B-Sales, C-Price Structures and Sales arrangement, D-Cost of Production, E-Profit Determination, F-Financial Information G-Customer Information H-Third Country Information has not been completed. Which may be answered elaborately;
3. Appendix 1-10 are grossly deficient, all columns, rows may be completed;
4. Balance Sheet and Profit & Loss Accounts has not been appended to the respective exporters response. English version of the same may be submitted;
5. Attention was invited to the Indian Law which clearly provides that the companies operating in China can be treated as Market Economy if they satisfy the conditions laid down under the Rules.

With the onus shifted on the party claiming the market economy status, the Indian law, clearly prescribed the criteria prior to any company/entity getting market economy status from a Non-Market economy. No information has been provided in the response. The Exporters were requested to provide all relevant information on this issue for consideration.

Vide letter dated 3.3.2003 it has been stated that Jinde and SWC are private companies registered under PRC Company Law and further furnished one page extracts of profit and loss accounts for the period 1.4.2001– 31.12.2001 and 1.1.2002 – 30.9.2002. Further they have mentioned that the above only one company has exported the subject goods to India. Further they have stated that M/s.SWC, CCL and ZFT have not exported subject goods during the period of investigation and are interested in exports to Indian markets and have stated that they would cooperate with the investigation.

3.4 M/s. Jiande

Vide their submissions dated 12th February, 2003, the company has furnished :

1. Copies of invoices showed the prices charged to Indian customers;
2. Copies of invoices reflect the prices charged for export to countries other than India
3. Copies of invoices from the Inland Revenue
4. Copies of contracts

3.5 M/s. SWC

- i. Copies of invoices reflect the prices charged for export to countries other than India
- ii. Copies of invoices from the Inland Revenue
- iii. Copies of contracts

These invoices, contracts have showed the prices charged to customers home and abroad by Wentong Chemicals Co.Ltd. are within the line of market prices

3.6 M/s. China Petroleum & Chemical Industry Association:

They have submitted that

- a. The Association represents the Petroleum & Chemical Industry to the extent of 71% of the whole industry in China PR.
 - b. The trade disputes within the chemical area have become priority issue to be resolved between industries of two countries. The Association believes that those disputes have arisen due to lack of understanding of Chinese industry by Indian industry concerned. The association has encouraged Chinese entities to cooperate with their Indian counterpart within the fields of trade technology, research and development, information and investment,
 - c. The economic exchange and trade between both countries have a long history and have developed rapidly. Trade between two countries developed from 2.5 million US dollars in 1978 to 4 billion dollars in the year 2002.
 - d. The association opposes the dumping of products of any kind to other countries and encourages its members to behave themselves in international trade arena.
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- i. Dumping does not exist with regard to Chinese potassium carbonate exported to India. Potassium carbonate is sold in China for around 424USD per metric ton compared with 475USD exported to India CIF (447USD FOB) in the year 2002.

- ii. The total quantity China exported to India was very small. In 2001 imported 6500 metric tones of potassium carbonate in total while China exported 172 metric tones only. It only contributed 2.646% of the total product Indian imported and should be ignored.
- iii. Demand and production of potassium carbonate in China is in balance. The output of the product was, in 2002, about 20000 metric tones. The domestic need for the product was around 18000 metric tones. ; The surplus was not significant and Chinese potassium could never damage or threaten to damage the like product in India.
- iv. The Indian petitioner application for anti-dumping investigation was not based on truthful and objective information. First of all, the few companies it cited, M/s. Lixian Chemical Factory, M/s. Panjin Chemical Fertilizer Plant and M/s. Tianjin City Lixin Chemical factory have either ceased production or transferred into different business rather than producing potassium carbonate, or became very small producer of the subject product. For the above reasons, none of them have been able to join, either as cited parties or as interested parties, for the submissions with the current 4 companies. Secondly, according to Chinese Customs data, in 2001, 172 metric tones of potassium carbonate were exported to India and 100 metric tones in 2002. The quantity has been significantly reduced.
- v. Potassium carbonate is not important enough to be categorized as protected industry by the government's economic policy. It has become a market economy in its own right.

3.7 M/S. TAIWAN PULP & PAPER CORPORATION, TAIWAN

1. There is a basic process difference in the energy sources used as their process uses steam and power cost as compared to natural gas used by petitioner GACL that is much expensive.
2. They produce only granular type and do not yet produce powder type, which saves the cost of milling process, which make difference of approximately USD 50/MT.
3. The information provided by the petitioner in Annexure 1.5 is wrong and misleading.
4. Their export to Indian customers cannot create any injury to domestic industry.
5. They do not have excess capacity and have no intention to sell material below normal value.

3.8 The exporter, vide their submission dated 27.1.2003, have furnished information in the questionnaire prescribed for the exporters. Deficiency letter dated 25.2.2003 was issued to M/s Pacific Agencies on the following:-

1. Exporters Questionnaire A6, B-Sales, C- Price Structures and sales arrangements, D-Cost of production, E- Profit Determination, F-Financial Information G Customer Information H- Third Country Information has not completed. Which may be furnished;
2. Information with respect to previous years as envisaged in App 3 may be furnished;
3. Reference to App 4 , element wise break-up under 'Before FOB' cost viz. Packing, handling etc may be furnished;
4. Information in App 7 is grossly inadequate, may furnish complete information for product under consideration and other products;
5. All columns in App 8 ,9 & 10 may also completed as per format;
6. Only extract of Balance Sheet and Profit and Loss account has been furnished. Completed set of printed English version covering POI and previous two years may be furnished;

Vide their response dated 26.3.03 received on 7.3.03 have reproduced the annexures already submitted alongwith one page extracts of Balance sheet and Statement of Income for the period ending December,2000 and 2001, which covers only part of the period of investigation.

3.9 M/s UNID LTD , Korea

The exporter has furnished information in the exporters questionnaire and has furnished sample documents with respect to Domestic Sales in Korea RP and Export Sales to India. Authority notes that only some of the documents have been translated/ partly translated, complete translation in English is desirable. Deficiency letter dated 25.2.2003 was issued and the exporters have furnished supplementary information vide their letter dated 3.3.2003. The information furnished has been accepted for the purpose of preliminary determination pending verification.

IMPORTERS

3.10 M/S. VIDEOCON INTERNATIONAL, BHARUCH

The importers have furnished information in the prescribed format. They have stated as under:

1. There are misleading statement made by petitioner, namely, M/s. GACL in the petition.
2. Petition is not maintainable on the grounds that the Government of India has provided for concessional rate of duty of 5% for import of the product by electronic sector. The complaint covers all countries in the world, GACL is a

multiproduct company involved in the production of various chemicals. In the absence of separate record, it not possible to make any finding on causal link and for that reason the complaint is not maintainable.

3.11 M/s. ALPHA DRUG INDIA LTD., PATIALA

The users have stated that they are no more using Potassium Carbonate in their production activity and they may not be treated as interested party in the present anti dumping investigation.

D. EXAMINATION AND FINDINGS BY AUTHORITY

4.0 The submission made by the importers, exporters, users, domestic industry and other interested parties have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

The cases of new exporters or those stated to be willing to give price undertaking shall be considered, on request, by the Authority in accordance with the Rules supra.

E. PRODUCT UNDER CONSIDERATION

5.0 Product under consideration in the present investigations is Potassium Carbonate, a white, deliquescent inorganic compound, available in powder and granules form, soluble in water and insoluble in alcohol, having chemical formula K_2CO_3 , and chemical properties as given below, used primarily in manufacturing of TV Picture Tubes, GLS Lamp & Ophthalmic Glasses, Fertilizer Industry, Rubber Industry, Pesticide industry, Drug & Pharmaceuticals, Dyes and Potassium based chemical industries.

Various chemical properties used to describe the product are assay as K_2CO_3 (on dry basis), Chlorides (as Cl), Chlorides (as KCl), Heavy Metals as Pb, Iron (as Fe^{+++}), Bi Carbonate as $KHCO_3$, Free ALK as KOH and Moisture.

Potassium Carbonate is produced by reacting caustic potash lye solution with carbon dioxide. Most the producers of Potassium Carbonate produce their own caustic potash lye, which in turn is produced from using potassium chloride, a natural resource. Petitioner claims that potassium chloride is produced in a limited number of countries. Petitioner has further claimed that the source of potassium chloride in respect of Indian Producers and producers in the subject countries is the same. The product is first produced in granular form and thereafter converted into powder form.

Potassium Carbonate is classified under Chapter 28 of the Customs Tariff Act and is described as under: -

Subheading No.	Description
Chapter 28	Organic and Inorganic Chemicals
Four digit 28.36	Carbonates: Peroxocarbonates (Percarbonates)
Six digit 2836.40	Potassium Carbonate

The classification is, however, indicative only and is in no way binding on the scope of the present investigation. The normal customs duty on the product was 35% (2001-02) and 30% (2002-03). The product is, however, attracting concessional customs duty was 5% when imported by the Electronic Sector. The product falls under Open General License Policy of the Govt. of India.

Authority notes that granular and powder forms are with in the scope of investigation and propose duty on both. Both granular and powder form are being imported and are being produced by domestic industry in significant volumes and the two are technically and commercially substitutable.

In view of the arguments forwarded by an exporter that the cost of conversion from granular to powder form is very marginal and the claims of domestic industry that both granular and powder form are being produced, the Authority holds that for the purposes of preliminary findings both forms of potassium carbonate are treated as one and no adjustments has been made for granular form to powder form.

Authority notes that no arguments have been raised by any interested parties disputing that Potassium Carbonate produced by the petitioners and the Potassium Carbonate produced and exported by the exporters are different with regard to product under consideration.

F. Like article

6.0 Rule 2(d) of the Anti Dumping Rules specifies that "Like Articles" means an Article which is identical or alike in all respects to the product under investigation or in the absence of such an Article, another article, having characteristics closely resembling those of the articles under examination.

Potassium Carbonate produced by the domestic industry is like article to the Potassium Carbonate imported from the subject countries. In order to establish that the two products are like article, the Designated Authority considered such product characteristics as physical and chemical properties, product specification, production technology & manufacturing process, plant & equipment, functions & uses, pricing

and tariff classification. Authority held that the goods produced by the domestic industry and imported from the subject countries are technically and commercially substitutable.

It has been argued that imported Potassium Carbonate is in granular form whereas the domestic Potassium Carbonate is in powder form. However, at the time of verification, it was shown to the Authority that the Potassium Carbonate in 'powder form' is produced from granular Potassium Carbonate and additional milling process is required to produce powder form of Potassium Carbonate. Not only that the petitioner has such milling facilities, but also that the petitioner has produced and sold such powder form Potassium Carbonate. Petitioner has for the purpose provided copy of the invoices in respect of sales to electronic sector, which claims to be using powder form of Potassium Carbonate.

Authority notes that granular and powder forms are within the scope of investigation and propose duty on both. Both granular and powder form are being imported and are being produced by domestic industry in significant volumes and the two are technically and commercially substitutable.

In view of the arguments forwarded by an exporter that the cost of conversion from granular to powder form is very marginal and the claims of domestic industry that both granular and powder form are being produced, the Authority holds that for the purposes of preliminary findings both forms of potassium carbonate are treated as one and no adjustments has been made for granular form to powder form.

In view of the above, the Authority holds that the goods produced by the domestic industry are like article to the goods imported from the subject countries, within the meaning of the Rules.

G. Domestic industry

7.0 Petition was filed by M/s. Gujarat Alkalies & Chemicals Ltd. The petitioner commands more than 70% of Indian Production. Furthermore, M/s. Standard Alkalies is the only other producer of the subject goods and has supported the petition. The company has filed information relevant to injury determination as also costing information relevant for the investigation. Thus, petitioner alongwith supporter commands total Indian Production.

In view of the above, the Authority holds that the petitioner satisfies the requirements of standing and constitute domestic industry within the meaning of the Rules.

H. NORMAL VALUE, EXPORT PRICES & DUMPING MARGINS

8.0 Under Section 9A(1)© 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);

The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). the exporters from European Union(EU),China PR,Korea RP and Taiwan have cooperated with the Authority as envisaged under the Rules and Rule 6(8) *supra*, is attracted in their case.

8.1 M/s Deggussa ,Germany.

The exporter has furnished information in the exporters questionnaire and has furnished sample documents with respect to Domestic Sales in EU, Export Sales to India. Authority notes that some of the documents have been translated/ partly translated, complete translation in English is desirable. Deficiency letter dated 25.2.2003 was issued and the exporters have furnished supplementary information vide their letter dated 3.3.2003. The information furnished has been accepted for the purpose of preliminary determination pending verification.

Normal Value

The exporter has furnished transaction wise details for sale in the domestic market during the period of investigation along with Sales Price structure in App 5, cost of production in App 9. It is found that more than 20% sales in the domestic market are

below cost of production. Therefore, volumes of transactions, which are in ordinary course of trade, have been relied upon for determination of normal value. Adjustments claimed on account of inland freight, which has been allowed for the purpose of preliminary determination, pending verification.

Export Price

The exporter has furnished transaction wise details for export sales to India during the period of investigation along with Sales price structure in App 4. Adjustments have been claimed on account of discounts/commission, inland freight, overseas freight and insurance, which have been allowed for the purpose of preliminary determination, pending verification. However, for packing expenses the exporter has indicated that the same has been included in cost of production. Authority based on best available information has adjusted a nominal expense towards packing while determining the export price.

8.2 M/s Unid, Korea

The exporter has furnished information in the exporters questionnaire and has furnished sample documents with respect to Domestic Sales in Korea RP and Export Sales to India. Authority notes that only some of the documents have been translated/partially translated, complete translation in English is desirable. Deficiency letter dated 25.2.2003 was issued and the exporters have furnished supplementary information vide their letter dated 3.3.2003. The information furnished has been accepted for the purpose of preliminary determination pending verification. Since a number of companies are involved some of whom are related, while others are non-related, the Authority notes that complete response by these company is vital to establish the export price.

Normal Value

The exporter has furnished transaction wise details for sale in the domestic market during the period of investigation along with Sales Price structure in App 5, cost of production in App 9. It is found that more than 20% sales in the domestic market are below cost of production, therefore, volumes of transactions which are in ordinary course of trade has been relied upon for determination of normal value. All adjustments claimed for expenses before and after FOB have been allowed for the purpose of preliminary determination, pending verification. Authority notes that the information furnished in support of evidence of sale in home market, the name of the party to whom the product is sold is not indicated /not translated, which is desirable.

Export Price

The exporter has furnished transaction wise details for export sales to India during the period of investigation along with Sales price structure in App 4.

It has been stated that exports to India has been made through:

- a. M/s Daewoo Corporation, an unrelated company in Korea and M/s Unid does not have the resale invoices by M/s Daewoo to Indian buyers.
- b. M/s OCI Corporation, an related company in Korea, the information with regard to resale invoice to Indian customer has been made available.
- c. An Indian agent viz. M/s ITOCHU Corporation, India.

Authority notes that the information furnished is grossly inadequate and the links in the sale chain is missing. M/s Unid has not furnished first stage sale invoice to M/s OCI Corporation, Korea. The sample invoice submitted indicate that Unid exports through M/s ITOCHU ,Tokyo, and the exporters have not furnished sales invoice to M/s ITOCHU, Tokyo/ M/s ITOCHU Corporation, India. In the circumstances, the export price has been determined based on import statistics from DGCI & S, Kolkatta. All adjustments claimed by the exporter for expenses before and after FOB have been allowed for the purpose of preliminary determination, pending verification. However, for packing expenses the exporter has indicated that the same has been included in cost of production.

8.3 M/s Jiande , China

The translated extracts of Profit & Loss statement and Balance Sheet for the period ending 2000 and 2001 has been furnished , which doesn't cover whole of period of investigation i.e. up to Sep 2002.

Normal Value

The volume of domestic sales indicated in Appendix 1 does not match with information given in Appendix 3. The sales price structure given in Appendix 5 is also grossly deficient. The columns in Appendix 7 are incomplete and misleading. The Ex-factory cost furnished in Appendix 8 is not matching with the Unit cost . In the circumstances, the Authority is constrained not to accept the information on Normal value and also notes that Indian Law, prescribed the criteria prior to any company/entity getting market economy status from non-market economy. No information has been furnished in this regard. In view of this normal value has been determined on the basis of constructed normal value, as provided in the petition.

Export Price

The information in Appendix 2 has not been completed. However, the exporter has furnished information on export price by attaching sales invoice to India. The sales price structure for exporters to India has been furnished and the exporter has claimed adjustment on Inland Freight, Inland insurance, taxes before FOB and against Shipping charges after FOB. All adjustment claimed has been accepted pending verification for the purpose of preliminary finding. Accordingly, the export price has been determined.

8.4 M/s SWC, China, M/s CCL, China & M/s ZFT, China

As per the information furnished the above exporters have not exported the subject goods to India during the period of investigation. Authority notes that these exporters who have not exported during the period of investigation fall under New Shipper - Rule 22 supra

8.5 M/S. TAIWAN PULP & PAPER CORPORATION, TAIWAN

Normal Value.

The domestic price structure has been furnished wherein adjustments for discounts and inland freight has been claimed. The Authority has accepted the claims, for the purpose of preliminary findings, pending verification. Accordingly the normal value has been determined.

Export Price

The Sales price structure for exports sales to India has been furnished wherein adjustments for discounts/commission, inland freight, Overseas freight, insurance, shipping charges, duty, clearance and handling has been claimed. The Authority has accepted the claims, for the purpose of preliminary findings, pending verification. Accordingly the export price has been determined.

8.6 M/s Merck, Germany

The response filed by the exporter is grossly deficient as detailed herein above. The Authority notes that the information provided is insufficient to determine normal value under the circumstances, the Authority could not rely upon the response filed by the exporter for the purpose of preliminary findings. Accordingly, normal value and export price has been determined on the basis of best information available.

8.7 Other non-cooperative exporters from subject countries

Normal value has been determined based on information furnished by exporters as detailed in respective paras hereinabove. For other non-cooperative exporters, the same is based on best available information. Export price has been determined on the basis of data released by DGCI&S correlated with information furnished by responding and cooperative exporters.

8.8 The principles governing the determination of normal value, export price and the dumping margin as laid down in the Custom Tariff Act and the Anti Dumping Rules are elaborated in Annexure I to the Rules.

8.9 DUMPING MARGIN.:

The Rules relating to comparison provides comparison of normal value and export price provides as follows:

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

8.10 For the purpose of fair comparison between normal value and export price the Authority took into account the information furnished by the petitioner and other published information available with the Authority.

Electronic Sector & Others					
	Exporters Name	NV	EP	DM	D M %
Taiwan	M/s Taiwan Pulp & Paper	***	***	***	19.2%
	Other Exporters	***	***	***	48.5%
Korea RP	M/s UNID	***	***	***	17.3%
	Other Exporters	***	***	***	38.7%
China PR	M/s Jiande,China	***	***	***	23.4%
	Other Exporters	***	***	***	36.7%
EU	M/s Deggusa,	***	***	***	4.5%
	Other Exporters	***	***	***	18.6%

I. INJURY

9.0 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 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.

9.1 For the examination of the impact on the domestic industry in India, indices having a bearing on the state of industry as production, sales, stock, profitability, net sales realization, the magnitude and margin of dumping, etc., have been considered in accordance with Annexure II(iv) of the rules supra.

9.2 CUMULATIVE ASSESSMENT OF INJURY

Annexure II (iii) under Rule 11 supra further provides that " in case where imports of a product from more than one country are being simultaneously subjected to Anti Dumping investigation, the Designated Authority will cumulatively assess the effect of such imports, only when it determines that the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual country is less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article and cumulative assessment of the imports is appropriate in light of the conditions of competition between the imported article and the like domestic article".

9.3 The Authority notes that the margin of dumping and quantum of imports from subject countries are more than the limit prescribed above. Cumulative assessment of the effect of the imports from European Union(EU),China PR,Korea RP and Taiwan are appropriate since the export prices from these countries were directly competing with the prices offered by the Domestic Industry in the Indian market and displacing domestic producers here.

Country/ Year	1999-00	2000-01	POI 4/2001 to 9/2002 (18 months)	POI Annulised
Qty in Kg				
EU	705334	493225	1266849	845000
ChinaPR	17000	0	404180	269000
Korea RP	1624525	2735321	7662061	5108000

Taiwan	0	20000	990000	66000
Subject countries	2346859	3248546	10323090	6882000
Other Countries	107500	170500	252565	54000
Total Imports	2454359	3419046	10575655	6936000
Domestic Sales	10226000	8745000	14901000	9934000
Demand	12680000	12164000	25305000	16870000
Share in Total Imports				
EU	28.73	14.42	11.98	11.98
ChinaPR	0.69	0.00	3.82	3.82
Korea RP	66.20	80.00	72.45	72.45
Taiwan	0.00	0.58	9.36	9.36
Subject Countries	95.62	95.00	97.61	97.61
Others	4.38	5.00	2.39	2.39
Share in Total Demand				
Subject Countries	18.51	26.7	40.79	40.79
Domestic Industry	80.65	71.89	58.89	58.89
Other countries	0.84	1.41	0.32	0.32

9.4 Imports increased in absolute terms

The imports of the subject goods from subject countries have increased in absolute term. Imports from subject countries, which were 2347 MT in 1999-00 increased to 10323 MT in period of investigation (6882 MT on annualized basis).

Factors / Trends of domestic industry		1999-00	2000-01	POI	POI Annualized	
		Qty	Qty	Qty		Qty
Capacity	MT	18,700	18,700	28,050		18,700
	Indexed	100	100	100		100
Production	MT	20,467	16,634	21,987		14,658
	Indexed	100	81	72		72
Capacity Utilization	%	109	89	78		78
	Indexed	100	81	72		72
Captive Consumption	MT	5,919	4,814	5,478		3,652
	Indexed	100	81	62		62
Sales domestic	MT	15,965	13,533	20,327	13,551	13,551
	Indexed	100	85	85		85
Sales Exports	MT	2,814	4,877	1,341		894
	Indexed	100	167	29		29
Opening Stock	MT	241	1,848	144		75
	Indexed	100	767	64		64
Closing Stock	MT	1,848	144	641		641
	Indexed	100	8	35		35
Average Stock	MT	1,045	996	393		358
	Indexed	100	95	38		38

Cost of Production	Rs. MT	27,347	29,722	31,681		31,681
	Indexed	100	109	116		116
Net Sales Realization	Rs. MT	23,733	22,848	25,482		25,482
	Indexed	100	96	104		104
Profit/Loss	Rs. MT	(3,614)	(6,874)	(6,199)		(6,199)
	Indexed	(100)	(286)	(273)		(273)
Employees	Nos	161	161	161		161
	Indexed	100	101	101		101
Production per day	MT	57	46	41		41
	Indexed	100	81	72		72
Profit/Loss from Product	Rs. Lacs	(471)	(936)	(1,007)		(671)
	Indexed	(100)	(278)	(209)		(209)
Capital Employed	Rs. Lacs	7,697	7,577	7,425		7,425
	Indexed	100	98	96		96
Return on Capital Employed	%	(6)	(12)	(14)		(9)
	Indexed	(100)	(282)	(216)		(216)
Productivity per Employee	MT	127	103	91		91
	Indexed	100	81	71		71
Wages	Rs. Lacs	74	81	124		83
	Indexed	100	109	168		112
Growth	%		(17)	(3)		(3)
Cash Profit		(352)	(816)	(821)		(547)
Trend of domestic industry	Indexed	(100)	(232)	(156)		(156)
		China	Taiwan	European Union		Korea RP
Price Undercutting	%	*****	*****	*****	*****	*****
Price Suppress/Depression	%	*****	*****	*****	*****	*****

9.5 Imports increase in relation to production:

Imports of subject countries have increased in relation to production of the domestic industry also. Imports from subject countries were just 11.47% in 1999-00 in relation to production increased to 46.95% in period of investigation.

9.6 Imports increase in relation to consumption:

Imports of subject countries have increased in relation to consumption of subject goods in India also. Imports from subject countries were just 18.51% in 1999-00 in relation to consumption increased to 40.79% in period of investigation.

The above is very sufficient to show volume injury to the domestic industry.

9.7 Other economic parameters related to the industry are discussed hereunder:

1. **Production:** It is clear that the production of the domestic industry have declined over the years. The production, which was 100 (indexed) in 1999-00 declined to 71.62 in the period of investigation. Capacity of the domestic industry remains the same during the period, resulting into decline in capacity utilization also.
2. **Sales:** It is evident that sales volume of the domestic industry has declined over the years. However, decline in sales is lower than decline in production of the domestic industry, which is a result of the domestic industry efforts to sell more and produce even at loss to keep dumped imports out. However, this has resulted into financial losses to the domestic industry as also discussed separately.
3. **Inventories:** It is evident that the average stocks with the domestic industry have declined significantly. This decline in inventories is a result of the dedicated efforts of the domestic industry to sale its produce.
4. **Profit/Loss:** It may be seen that the domestic industry is making loss on each unit of material being sold in the domestic market. This is inspite of the efforts being made by the domestic industry to sale its produce more and more.
5. **Employee:** Employment level of the domestic industry remained constant during the period as constituents of the domestic industry are multi product companies and the industry has policy to retain its people in tough conditions also.
6. **Production per day:** It may be seen that per day production of the domestic industry decline significantly to the extent of about 29%.
7. **Return on Capital Employed** It may be seen that the domestic industry, which is supposed to make reasonable return on its investments are in fact making losses and return on capital employed remains negative only.
8. **Productivity :** It may be seen that productivity per employee over the years has declined.
9. **Price effect:** It may be seen that the landed value of imported material (considering concessional rate of duty for electronic sector) is significantly below the selling price (which is lower than even cost of production) of the domestic industry as well as cost of the domestic industry, causing severe price under cutting and suppression /depression in the Indian market.
10. **Dumping margin:** Dumping margin from the all subject countries is not only more than deminimus but also substantial.
11. **Wages per employee:** It may be seen that average wage per employee of the domestic industry have increased. The domestic industry have no option but to increase wages as per prevailing rules in the country.
12. **Growth :** Sales of the domestic industry have declined, which shows negative growth of the domestic industry.

13. Cash profit : It may be seen that the domestic industry is not able to make even cash profit, leave aside profit.

All the above parameters, collectively and cumulatively, establish that the domestic industry has suffered material injury.

J. CAUSAL LINK

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

Imports from other countries are either de-minimus or the export prices are significantly higher. Imports from other countries are not causing any injury to the domestic industry.

There is a continuous increase in demand of Potassium Carbonate, increase in demand is, therefore, not a possible reason for injury to the domestic industry.

There is no change in the technology. Material injury has been caused to domestic industry from imports from subject country. There are no other factors for this injury but for the dumping from this country, which is required to be immediately checked by imposition of interim duties first followed by definitive duties. Factors such as trade restrictive practices or competition between the foreign and domestic producers, development in technology, export performance, etc. have not caused material injury to the domestic industry.

K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:

11.0 The purpose of anti dumping duties 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.

11.1 The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using 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. 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 subject goods. The Authority notes that the imposition of anti dumping measures

would not restrict imports from Subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

L. CONCLUSIONS

12.0 It is seen, after considering the foregoing, that:

- a. Potassium Carbonate originating in or exported from European Union(EU),China PR,Korea RP and Taiwan have been exported to India below Normal Value, resulting in dumping;
- b. the Indian industry has suffered material injury from exports of subject goods from European Union(EU),China PR,Korea RP and Taiwan;
- c. The injury has been caused cumulatively by the dumped imports from European Union(EU),China PR,Korea RP and Taiwan.

12.1 It is considered necessary to impose anti-dumping duty, provisionally, pending final determination, on all imports of Potassium Carbonate originating in or exported from European Union(EU), ChinaPR, Korea RP and Taiwan.

13.0 Authority considered whether a duty lower than the dumping margin would be sufficient to remove the injury. The average landed value of the imports, for the purpose, was compared with the non-injurious price for the petitioner company, determined for the period of investigation. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended.

14.0 Accordingly, it was decided to recommend that provisional Anti Dumping Duty as indicated in the table below be imposed from the date of notification to be issued in this regard by the Central Government on Potassium Carbonate falling under Chapter 28 of the Customs Tariff, originating in or exported from European Union(EU), China PR, Korea RP and Taiwan, pending final determination.

S No	Sub Heading	Descrption Of goods	Specification	Country of origin	Country Of export	Producer	Exporter	Amount	Unit of measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	28 36 40	Potassium Carbonate	Any Specification	Taiwan	Any country	M/s Taiwan Pulp & Paper Corporation, Taiwan	Any exporter	70.45	per MT	US \$
2	28 36 40	Potassium Carbonate	Any Specification	Taiwan	Any country	Any producer except M/s Taiwan Pulp & Paper Corporation, Taiwan	Any exporter	150.71	per MT	US \$

3.	28 36 40	Potassium Carbonate	Any Specificatio n	Any country except KoreaRP, China PR,EU	Taiwan	Any producer except M/s Taiwan Pulp & Paper Corporation,Tai wan	Any exporter	150.71	per MT	US \$
4.	28 36 40	Potassium Carbonate	Any Specificatio n	Korea RP	Any country	M/s UNID	Anyexport er	58.84	per MT	US \$
5.	28 36 40	Potassium Carbonate	Any Specificatio n	Korea RP	Any country	Any producer except M/s UNID	Anyexport er	128.29	per MT	US \$
6.	28 36 40	Potassium Carbonate	Any Specificatio n	Any country except Taiwan, China PR,EU	Korea	Any producer except M/s UNID	Any exporter	128.29	per MT	US \$
7.	28 36 40	Potassium Carbonate	Any Specificatio n	China PR	Any country	M/s Jiande, China	Any exporter	60.00	per MT	US \$
8	28 36 40	Potassium Carbonate	Any Specificatio n	China PR	Any country	Any producer except M/s Jiande, China	Any exporter	108.59	per MT	US \$
9.	28 36 40	Potassium Carbonate	Any Specificatio n	Any country except Taiwan, Korea RP, EU	China PR	Any producer except M/s Jiande	Any exporter	108.59	per MT	US \$
10	28 36 40	Potassium Carbonate	Any Specificatio n	EU	Any country	M/s Degussa	Any exporter	18.58	per MT	US \$
11	28 36 40	Potassium Carbonate	Any Specificatio n	EU	Any country	Any producer except M/s Degussa	Any exporter	67.64	per MT	US \$
12	28 36 40	Potassium Carbonate	Any Specificatio n	Any country except Taiwan, Korea RP,China PR,	EU	Any producer except M/s Degussa	Any exporter	67.64	per MT	US \$

15.0 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 Additional duty of Customs levied under section 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

N. FURTHER PROCEDURE

16.0 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 preliminary findings. 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 provide opportunity to all the interested parties for making oral submissions, which have to be rendered thereafter in writing;
- d. The Authority would conduct further verification to the extent deemed necessary;
- e. The Authority would disclose essential facts before announcing final findings.

L.V. Saptharishi,
Designated Authority