

MINISTRY OF COMMERCE & INDUSTRY

New Delhi, the 7th March, 2001

PRELIMINARY FINDINGS NOTIFICATION

Subject:- Anti-dumping investigation concerning imports of Analgin from China PR and Taiwan–Preliminary Findings.

No.66/1/2000-DGAD. - The Government of India having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof:

A. PROCEDURE

1.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 Vani Chemicals and Intermediates Ltd., 1-306 & 307, 3rd Floor, Divyashakti Complex, 7-1-58, Ameerpet, Hyderabad on behalf of the domestic industry, alleging dumping of Analgin originating in or exported from China PR and Taiwan.
- ii. The Authority, on the basis of sufficient evidence submitted by the Petitioner, decided to initiate investigations against imports of Analgin from China PR and Taiwan. The Authority notified Taipei Economic & Cultural Centre and the Embassy of China in India 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 27th December, 2000 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of Analgin, classified under heading 2933.1907 of Schedule I of the Customs Tariff Act, 1975 and No.2933.1907 under Indian Trade Classification (Based on Harmonised Commodity Description and Coding System) originating from China PR and Taiwan. The classification is, however indicative only and in no way binding on the present investigations;
- iv. The Authority forwarded a copy of the public notice to the known exporters (whose details were made available by the petitioner) and industry associations and gave them an opportunity to make their views known in writing in accordance with the rule 6(2);

- v. The Authority forwarded a copy of the public notice to the known importers of Analgin 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 Analgin for the past three years, including the period of investigation.
- vii. The Authority provided a copy of the petition to the known exporters and the Taipei Economic & Cultural Centre and Embassy of China PR in India in accordance with rules 6(3) supra;
- viii. The Authority sent questionnaire, to elicit relevant information, to the following known exporters, in accordance with the rule 6(4);
 - 1. China National Chemical Construction Corpn., China
 - 2. Gunga Dong Chemicals & Import Export Corpn., China
 - 3. Long Hwang Chemicals Co.Ltd., Taiwan
 - 4. Joint Union Enterprises Co.Ltd.,Taiwan.
- ix. The Taipei Economic & Cultural Centre and Embassy of China PR 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 with in the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to them, alongwith the list of known exporters and producer from China PR & Taiwan.
- x. The questionnaire was also sent to the following importers of Analgin in India calling for necessary information in accordance with rule 6(4);
 - 1. M/s. Hoechst Marion Roussel Ltd., Mumbai
 - 2. M/s. Makers Laboratories Ltd., Mumbai
 - 3. M/s. Wyeth Laderle Ltd., Mumbai
 - 4. M/s. Ipca Laboratories Ltd., Mumbai
 - 5. M/s. Apex Pharma Chem., Ahmedabad
 - 6. M/s. Deepen Drugs, Ahmedabad
 - 7. M/s. Hub Pharmaceuticals Ltd., Mumbai
 - 8. M/s. Ajanta Pharma Ltd.,Mumbai
 - 9. M/s. Vinayak Pharmaceuticals, New Delhi.
 - 10.M/s. Pradeep Drug Company Ltd., Chennai
 - 11.M/s. Sell Well Pharmaceuticals, Indore
 - 12.M/s. Vani Chemicals, Chennai
 - 13.M/s. Mount Mettore Pharmaceuticals Ltd., Chennai
 - 14.M/s. Plachem Industries, Mumbai
 - 15.M/s. Prime Pharma, Mumbai
 - 16.M/s. Sipali Chemicals, Chennai

- 17.M/s. Modern Pharmaceuticals Industries, Tirur
- 18.M/s. Castleline Organics Ltd., Madurai
- 19.M/s. Tablets India Ltd., Chennai
- 20.M/s. Kausalya Pharmaceuticals, Chennai
- 21.M/s. Hospital Laghu Udyog, Indore
- 22.M/s. Vikas Pharmaceutical Laboratories, Mumbai
- 23.M/s. Caplin Point Laboratories Ltd., Chennai
- 24.M/s. Alpa Labs (India) Ltd.,Indore
- 25.M/s. Ordeal Laboratoreies, Indore
- 26.M/s. Shilpa Chem, Indore
- 27.M/s. Bafna Pharmaceuticals Ltd., Chennai
- 28.M/s. Bio Medica Laboratories, Indore
- 29.M/s. Pharma Fabrikon, Madurai
- 30.M/s. Atul Drug Agency, Mumbai

- 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. The Authority sought and verified information deemed necessary for the investigation.
- xiv. The Authority also conducted cost investigation (based on the information received) and worked out optimum cost of production / cost to make and sell in India on the basis of Generally Accepted Accounting Principles.
- xv. The investigations covered the period of 1st April, 1999 to 30th September, 2000 (18 months);
- xvi. *** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules;

B. Petitioner's Views

2.0 The petitioner has raised following issues in their petition:

2.1 Imports from China PR and Taiwan increased significantly in absolute terms.

2.2 Almost all imports of Analgin are only from the subject countries in 1999 & 2000.

2.3 The export price from subject countries has declined significantly;

2.4 The landed price of imports from the subject countries is below the selling price of the domestic industry, resulting in severe price undercutting.

2.5 A number of producers in India have suspended their production. The petitioner may be forced to suspend the production, should be position remain the same.

C. Views of Exporters, Importers and other interested parties:

3.0 Exporters:

3.1 M/s. Joint Union Enterprise Co.Ltd., Taiwan:

The Company has stated that they have never exported the subject item to India during the period of April 1999 to September, 2000. They have requested to delete their company's name from the anti-dumping investigations.

3.2 Taipei Economic and Cultural Centre, New Delhi (TECC):

TECC has indicated that as per the record of import-export statistics of Director General of Customs in Taiwan, there is no record of export of Analgin to India during the period April,1998 to March,1998 nd even during the period April,999 to September,2000. According to their record, a small quantity of the said item had been exported to Pakistan only. Considering the above fact they have requested that the anti-dumping investigations against Taiwan be dropped.

Vide their submissions dated 14th February, 2001, TECC have submitted that according to import statistics provided by DGCI&S, Calcutta Analgin imported from Taiwan during the period April, 1999 to March 2000 and April to Sept. 2000 valued only Rs. 916398 and Rs.1661134 respectively, which is far less than import value from China PR which is Rs.33573478 and Rs.30555856 respectively. They have submitted that since the import value from Taiwan is so small they believe that the imports would cause any injury to domestic industry in India.

4.0 IMPORTERS

They have stated that their business is localised and they do not import or export the subject material

D. Examination of issues raised:

4.0 The submissions made by the exporters, importers petitioners and other interested parties have been examined, considered and have been dealt with at appropriate places therein.

E. Product under consideration:

5.0 The product under consideration in the petition is Analgin originating in or exported from China and Taiwan. The product is classified under Customs Tariff heading 2933.1907. The classification is, however, indicative only and in no way binding on the present investigations. Analgin is a white crystalline powder with scarcely perceptible yellowish tinge. It is an anti-inflammatory and anti-pyretic drug used in analgesic and anti-pyretic purpose. The petitioners have also stated that the product is known by various synonyms of Analgin Viz. Metamizol, Methampyrone etc.

F. Like Article:

6.1 Definition of Like Article states as under:

"Like Article means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation."

6.2 The Authority finds that Analgin produced by the petitioners and the subject product imported from China & Taiwan are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, function and uses, products specifications etc. The two are technically and commercially substitutable.

6.3 In light of the foregoing, Authority concludes that Analgin produced by the petitioner is a Like Article to the Analgin imported from China PR and Taiwan.

G. Domestic Industry:

7.1 The petition has been filed by M/s. Vani Chemicals & Intermediates Ltd.,Hyderabad on behalf of domestic industry. There were more than 15 producers of Analgin in India about 2-3 years back. However, except Vani Chemicals, all of them have either suspended their production or completely closed their operations relating to Analgin due to unviable operation. The petitioner is the only producer of Analgin in India. The company thus accounts for 100% of Indian production of Analgin. The petitioner thus satisfies the standing to file the present petition and constitutes domestic industry under the Rules.

7.2 In light of the foregoing, the Authority concludes that the petitioner has the standing to file the petition on behalf of the domestic industry under the rules.

H. Dumping:

8.0 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".

Normal Value:

8.1 The petitioner claims that it is not feasible for them to obtain normal value prevailing in China PR and Taiwan in view of the market condition in those countries. The normal value has been constructed on the basis of cost of production of subject goods duly adjusted to include selling, general and administrative expenses and a reasonable profit margin.

8.2 In absence of cooperation of any of the exporters, Authority relies upon the claims made by the petitioners with regards to constructed normal value in ChinaPR & Taiwan and the best available information on record. The normal value accordingly arrived at US \$ *** per MT and US \$ *** PMT for China PR and Taiwan respectively .

Export Price:

8.3 Export Price: The petitioners have provided the export price as per the Director General of Commercial Intelligence and Statistics (DGCI&S), Calcutta for the period 1998-99 and also for the period April,99 to September,2000 , and claimed export price based on above. The petitioners have indicated following adjustments to the CIF prices to arrive at the ex-factory export price i.e. Ocean Freight , Marine Insurance, Commission, Inland transportation, and Port handling charges totaling to US \$ *** per MT.

8.4 The Authority relies upon the DGCI&S import statistics for the period of investigation and the export price (ex-factory level) has been accordingly arrived at after adjustments.

8.5 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".

8.6 Dumping Margin:

Considering the normal value and export price as discussed above, the dumping margin as assessed would be as under :

US\$ per kg.	China	Taiwan
Normal value	***	***
Export price	***	***
Dumping margin	***	***
Dumping margin as a % of export price	115%	105%

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. The normal value and export prices determined as detailed above are at ex-works level.

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 of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree;

Rule (iii) of the Annexure II to the Rules requires that in case imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, The Authority will cumulatively assess the effect of such imports. Such assessment can be, however, made only if it is determined that:

- a. the margin of dumping 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 import of the like article in India, and
- b. the cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

9.1 The Authority notes that the margin of dumping and quantum of imports from subject country are more than the limits prescribed above. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject country were directly competing with the prices offered by the domestic industry in the Indian market.

9.2 For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry such as quantum of Imports production, capacity utilisation, sales quantum, stock market share, profitability, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the rules supra.

	1997-98	1998-99	1999-00	4/00 –9/00	POI (18mth)	Annualised
Imports from China PR (MT)	58000	6700	196527	162699	359226	239484
Imports from Taiwan (MT)	-	-	191952	9000	20952	13968
Imports from Other countries (MT)	6100	-	-	-	-	
Total Imports from all countries	64100	6700	388479	171699	380178	253452
(%)Share of in total imports						
China	90.48%	100%	50.58%	94.75%	94.48%	
Taiwan	--	--	49.41%	5.24%	5.51%	
Others	--	--	--	--	--	
Total Dom Production (B)	@ 181	130	146	27.50 (3mths)	173.5 (15 mth)	139
Total Demand in the Country(MT)	64281	6830	388625	171726	380351	
Market Share in Demand						
China PR & Taiwan	90.22%	98.09%	99.96%	99.98%		
Other Countries	9.48%	--	--	--		
Domestic Industry	0.28%	1.91%	0.04%	0.02%		

@ includes production of other producer

It is evident from the table above that the imports from China and Taiwan have increased in absolute terms from 6700 MT during 1997-98 to 239484 MT during p.o.i (Ann). The market share of import from China PR in the total demand in India, which was as low as 90.22% in 1997-98 registered increase and stood at 99.98% during p.o.i. The market share of domestic industry, which was 0.28 % in 1997-98 declined to 0.02 % in the period of investigation.

9.3 Production & Capacity Utilisation of petitioner:

Volume/MT	1997-98	1998-99	1999-2000	POI
Installed Capacity	480	480	480	720
Production	92	130	146	173.5 (15 mth)
Capacity Utilisation	19%	27%	30%	

Though the production and capacity utilisation of the petitioner has increased in 98-99 and 99-00, the same is a result of dedicated efforts by the company. The increase in production, capacity utilisation and sales by the petitioner, the company was not able to earn reasonable profits. Further, the production has fallen very drastically in the year 2000-2001(after June,2000)

9.4 Sales Volume:

	1997-98	1998-99	1999-2000	2000-01 (Apr –Jun)	2000-01 (Ann)
Sales (MT)	100	127.37	133.02	31.00	124.00

The sales volume of the petitioner has increased as a result of suspension of the production by a number of other producers in the country.

9.5 STOCKS

The stocks of Analgin with the petitioner has increased significantly over the period as is evident from the table below:

	1997-98	1998-99	1999-2000	2000-01 (Apr –Jun)	2000-01 (Ann)
Stocks (MT)	0	12.37	25.37	24.69	98.76

9.6 Selling Price and Price Undercutting:

The selling price of petitioner, Drug Price Control Order (DPCO) price and landed price of imports have been as under:

Rs/Kg	1997-98	1999-99	1999-00	2000-01
Selling Price	100	107..89	124.34	124.34
DPCO notified price	100	124.34	124.34	124.34
Landed Price of Imports	100	91.45	84.54	76.64

Note : Indexed figures considering 1997-98 as 100

The petitioner has stated that it could increase the selling price of Analgin as result of increase in the DPCO price. The DPCO price earlier fixed was on significantly lower side with the followup action there was upward revision of prices. Further, it has been stated that the landed price of imports have all along been lower than the DPCO prices. The imports are thus severely undercutting the prices in the domestic market.

9.7. Employment:

The petitioners have stated that there is no significant change in the employment levels in line with the company's policy to retain its people even in tough bad periods. However, a number of other Analgin producers in the country have suspended their production, which has resulted in direct loss of employment to the industry as whole.

9.8 Profitability:

Though the selling prices has increased, the cost of production has also increased. Further, the increase in the selling prices is a result of upward revision of DPCO notified prices. However, the petitioner is not able to earn any profits. Further, the petitioner is finding it extremely difficult to sell the material at the DPCO prices in the view of the dumped imports, which are available at prices significantly below DPCO

prices. The import price in the current year have declined further, which has resulted in further pressure on prices and the petitioner is finding it difficult to sell the product.

10.0 Conclusion on Injury:

The Authority thus observe that:

- The imports from China & Taiwan have increased in absolute terms.
- Most of the imports are only from the subject countries during poi and previous year;
- The exports price from the subject countries has declined significantly;
- The landed price of imports from the subject countries is below the selling price of the domestic industry, resulting in severe price undercutting;
- The market share of imported goods from China & Taiwan has gone up whereas the share of petitioner in total demand has come down.

The Authority, after considering the above, concludes the domestic industry has suffered material injury from the imports of Analgin originating from China & Taiwan.

11.0 Causal Link:

11.1 Imports from other countries is below de-minimus limits. Imports from other countries is, therefore, not causing injury to the domestic industry.

11.2 The demand of Analgin has increased between 1998-99 and 1999-2000, even though it has declined as compared to 1997-98. However, assuming that the demand has declined, it is evident from the rising imports and falling sales of the petitioner that the exporters from subject countries have been able to manage higher market share in the "declined" demand. The imports have caused further contraction in the market for the Indian industry, thus evidencing causal link between dumping and injury.

11.3 Reduction in the prices by the Chinese and Taiwanese producers/exporters is the sole cause for the injury to the domestic industry. There is no other factor such as trade restrictive practices or export performance which has caused injury to the domestic industry

11.4 In view of the above, Authority notes that the injury to domestic industry has been caused by the dumped imports.

12.0 Indian Industry's Interest and other issues:

12.1 The purpose of anti dumping duties, in general, is to eliminate dumping which is in general interest of the country. It is recognised that the imposition of anti dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures, particularly if the levy of the anti dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of Analgin. Imposition of anti dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

12.2 To ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry, the Authority relied upon reasonable selling prices of Analgin in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilisation for the domestic industry.

13.0 Landed Value:

The landed value of imports from China PR & Taiwan have been determined on the basis of weighted average export price of Analgin from China PR and Taiwan, after adding the prevailing level of customs duties and one percent landing charges.

14.0 CONCLUSIONS:

The Authority, after considering the foregoing, concludes that:-

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

It is considered necessary to impose anti-dumping duty, provisionally, pending final determination, on all imports of Analgin originating in or exported from the subject countries, pending investigations.

15.0 Accordingly, the Authority has therefore, decided to recommend provisional Anti-dumping Duty equal to the margin of dumping, on Analgin from China PR and Taiwan. The Anti-dumping Duty shall be the difference between the amounts mentioned in column 3 below and the landed value of imports in US \$ /MT and from

the date of notification to be issued in this regard by the Central Government, on all imports of Analgin originating in or exported from subject countries falling under Chapter 29 of the Customs Tariff, pending final determination.

Country	Exporters	Amount (US \$ /Kg)
China PR	All Exporters	9.778
Taiwan	All Exporters	9.875

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

17.0 Exporters, importers, petitioners and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings.

(L V SAPTHARISHI)
Designated Authority