

MINISTRY OF COMMERCE

NOTIFICATION

New Delhi, the 11th March, 1998

PRELIMINARY FINDINGS

Subject: Anti Dumping investigation concerning imports of Vitamin-C from China PR & Japan - Preliminary Findings

No. 10/1/97/ADD- Having regard to the Customs Tariff Act, 1975 as amended 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 present investigation:
 - a. The Designated Authority (hereinafter also referred to as Authority), under the above Rules, received written petition from M/s. Ambalal Sarabhai Enterprises Ltd., alleging dumping of Vitamin C (Ascorbic Acid) originating in or exported from Japan and China PR;
 - b. The preliminary scrutiny of the application revealed certain deficiencies, which were pointed out to the petitioners;
 - c. The Authority, on the basis of sufficient evidence submitted by the petitioner, decided to initiate investigations against alleged dumped imports originating in or exported from Japan and China (hereinafter referred to as the subject countries). The Authority notified the Embassies of the subject countries on receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Rules;
 - d. The Authority issued a public notice dated 26.5.97, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of Vitamin C, originating in or exported from Japan and China.
 - e. The Authority forwarded copy of the public notice to the known exporters/importers (whose details were made available by the petitioner) and gave them an opportunity to make their views known in writing, within forty days, in accordance with the rule 6{2);

- f. The Authority forwarded copies of the public notice to the known Importers of Vitamin C in India and advised them to make their views known in writing within forty days from the date of the letter;
- g. Request was also made to the Central Board of Excise & Customs (CBEC) to arrange copies of all the relevant Bills of Entries for the period of investigation i.e. April to December' 96 No information has, however, been received from the CBEC;
- h. The Authority provided copies of the petition to the known exporters and the Embassies of the subject countries in accordance with rule 6(3) supra,
- i. The Authority sent questionnaires, to elicit relevant information to the following exporters:
 - Takeda Chemicals Industries Ltd., Osaka, Japan
 - Hebei Welcome Pharma Co., Shigiz huang, China
 - National Chemicals and Pharmaceutical Corporation(NCPC), Shigiazhuang China

The following exporters filed responses to the questionnaire within the stipulated/ extended time:

- 1. Takeda Chemicals Industries Ltd., Osaka, Japan. (TCI)
(M/s Takeda Vitamins & Food Asia Pte Ltd, Singapore) (TVFA)
 - 2. Hebei Welcome Pharma Co , Shigiaz huang, China
- j. A number of exporters, importers and consumers requested for extension of time, which was allowed by the Authority till 15.10.97. The Authority holds that there is no provision for obtaining or waiting for responses from all the interested parties or giving any additional time to those interested parties from whom the Authority had not specifically called for information In the first instance
 - k. The Embassies of Japan and China in New Delhi were informed about the initiation of the investigation in accordance with rule 6(2), with request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed lime. A copy of the Setter, along with petition and exporter's questionnaire was sent to the Embassies also along with a list or known exporters/producers;
 - l. The questionnaire was sent to the following known indenting agents and importers of Vitamin C in India, calling for necessary information in accordance with rule 6(4):
 - 1. Anglo French Drugs (Easter) Ltd. Bangalore
 - 2. American Remedies, Madras

3. Bharat Laboratory Suppliers Bombay
4. Crystal Pharmaceuticals, Calcutta
5. C J Shah & Company, Bombay
6. Concepe Pharma Ltd., Bombay
7. Chemie Pharma
8. Dilip Kumar & Company, Bombay
9. Eros Pharma, Bangalore
10. Fourts (I) Labs Pvt. Ltd., Madras
11. Glaxo India Ltd., Bombay
12. Gracure Pharmaceuticals Ltd., New Delhi
13. Khanna Pharma, Delhi
14. K. Seventilal & company Bombay
15. LARK Chemicals & Company, Bombay
16. Lalchand Bhimraj, Bombay
17. Merit Organics Ltd., Bombay
18. Mercury Labs Ltd., Bombay
19. Medley Labs Bombay
20. Medi Pharma Drug House, Bombay
21. Nemi Pharma Pvt. Ltd., Bombay
22. Puja Enterprises, Bombay
23. Pradip Kumar & Company, Bombay
24. Pharmaceutical India, Bombay
25. Recon Ltd., Bangalore
26. Remidex Pharma P Ltd., Bangalore
27. Stride Pharma Ltd., New Bombay
28. Sunways Pvt. Ltd., Bombay
29. Taru Enterprises, Bombay
30. Turakha Bros., Bombay
31. T H Thakore Pharma Labs, Bombay
32. Tablets India Ltd., Madras

m. Information regarding the domestic industry was sought from the petitioners, M/s Ambalal Sarabhai Ltd., Baroda and the other non-petitioner M/s Jayant Vitamins Ltd. Information deemed necessary was verified by the Authority.

n. No information was furnished by M/S Jayant Vitamins Ltd.

o. Cost Investigations were also conducted for the purpose of Preliminary Findings to work out optimum cost of production and cost to make and sell Vitamin C 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 enough to remove injury to the domestic industry.

- p. The investigation covers the period starting from 1st April, 1996 to 31st December 1996.

B PETITIONERS' VIEWS

2. The petitioners have raised the following major of issues in their petition and in their subsequent submissions to the Designated Authority:

On Dumping:

- i. In China, with no labour and power cost charged to units, they could afford to slash the prices and dump goods for quick hard currency and gain world wide market share;
- ii. Chinese exporters increased market share from under 1% in 1980 to approximately to 20% in the year 1996;
- iii. Prices of Vitamin C imported from China declined from Rs 424 per kg to Rs. 256 per kg in a year;

On Injury:

- i. Vitamin C is a drug, the prices of which are controlled under Drug Price (Control) Order and the price control has been in force from the year 1970 onwards;
- ii. Import of Vitamin C in to the country is permitted under the Import Trade Policy under OGL;
- iii. General reduction in the custom tariff from 65% to 40% in the month of February, 1996 has helped the exporters to sell the said product at low prices to India;
- iv. M/s Jayant Vitamins Ltd., producer of Vitamin C have suspended operations from September, 1996;
- v. M/s Jindal (2000 t) and NATCO(4000 t) have abandoned their new projects;

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

3. The views expressed by exporters, importers and other interested parties who have responded to the Authority are as under-

EXPORTERS

1. M/s T C I, Japan

No views have been expressed directly by the manufacturer. However, the views expressed by M/s Takeda Vitamins and Food Asia Pte. Ltd., Singapore, a wholly owned subsidiary of Takeda Chemicals Industries Ltd. Japan , are:-

- TCI in Osaka have nothing to do with the trade to India;
- TVFA was assigned to cover all Asian countries except Korea, Thailand and Japan for sale of Vitamin 'C' and food additives manufactured by TCI, Japan;
- TCI must be indemnified from charge of dumping and investigation;
- Due to continued imbalance in demand and supply of Vitamin C, the prices are tending to tall sharply;
- The prices of Vitamin C have been falling steadily since 1995 and their prices have always been in tune with the international prices.
- The total demand for Vitamin C is more than that produced locally;
- China has emerged as a largest supplier of Vitamin C in the world market;
- In case the domestic Industry feels that there is dumping of Vitamin C, they should be in a position to export the material at prices higher than that prevailing in international market, to prove their claim;

2 M/s. Hebei Welcome Pharma Co., China

M/s Hebei Welcome Pharma Co., China haw attached some invoices pertaining to exports to India during 1996, duly certified by Indian embassy in Beijing They have also stated that the products were exported to India at the same price as that sold in Chinese domestic market.

IMPORTERS

(1) M/s Dilip Kumar and Company have stated that:

- M/s Ambalal Sarabhai are the only manufacturer of Vitamin C in India and their total capacity is less than 20% of total Indian demand.
- Huge manufacturing capacities of Vitamin C in Germany, Swiss, Japan & China tend to affect the supplies and the international price of the product;
- That the Japanese material is costlier compared to prices of Chinese material and they strongly oppose not to enforce any anti- dumping duty on Japanese material.
- It is well known fact that Swiss & German material are also available at the same level as Japanese material in International Market;
- The Authority may charge anti-dumping duty on Chinese material as cif prices are too low, and may be affecting Indian manufacturers;

(2) GLAXO:

The company have submitted that the capacity of two Indian manufacturers is far below requirement and the majority of the requirements is to be met by imports. As long as the supplies from the two indigenous manufacturers were reasonably regular, their purchases has been totally with them. Their first import in March, 96, was at a landed cost of Rs. 631/kg as against the prevailing local price of Rs. 539/-kg. The price drop has been not only in relation to supplies from China and Japan but also the other European suppliers like Toche Hoffman, E. Merck and BASF.

D. EXAMINATION OF THE ISSUES RAISED

4. The statement made by the exporters, importers, petitioners, consumers and other interested parties have been examined and considered and have been dealt with at appropriate places in this notification.

E. PRODUCT UNDER CONSIDERATION AND SCOPE OF INVESTIGATION

5. The product considered in the present investigation is Vitamin- C/ Ascorbic Acid originating in or exported from China or Japan. The product is classified under heading 2936.27 of Custom Tariff Act. The classification is, however, indicative only and is in no way binding on the scope of the present investigations

F. LIKE ARTICLES

6. The article i.e. Vitamin C (manufactured) by the domestic industry is a like article to the product under consideration. The petitioners have claimed that the basic manufacturing process of this product in the domestic industry in India is also almost the same as that of the foreign producers. The Vitamin-C produced and sold by the domestic industry is, therefore, considered as like article to the Vitamin C imported from the subject countries within the meaning of rule 2(d).

G. DOMESTIC INDUSTRY

7. The petition has been filed by M/s Ambalal Sarabhai Enterprises Ltd. on behalf of the domestic industry. The petitioners having produced 344 MT account for around 76% of the total production of 454 MT during the period of investigation M/s Jayant Vitamins Ltd, who also manufacture Vitamin C have produced only 110 MT during April-September, 1996 have however, closed down their plant in September 1996 and are non- petitioners. Being the only producer of Vitamin C in the country, the petitioner constitute domestic industry in accordance with rule 2(b) supra.

H. NORMAL VALUE

8. The Authority had sent the questionnaire to the exporters to furnish information so that Normal Value could be worked. M/s TCI, Japan have not submitted any information directly on the grounds that TCI has nothing to do with the trade in India. However, M/s Takeda Vitamin and Food Asia Pte. Ltd., Singapore, (TVFA) the wholly owned subsidiary of TCI, Japan has filed response in capacity of a subsidiary company of TCI. The Authority observes that TVFA has submitted information only with regard to domestic market of Singapore and not with respect of Japan. Further, information regarding price structure and sales arrangement has also not been furnished claiming confidentiality of agreement with their contractors. Takeda has also not submitted the cost of production on the grounds that they are traders/exporters and do not manufacture the product themselves. TVFA has submitted some extracts of their P&L Account but no financial information of TCI, Japan has been submitted. It may also be noted that information with regard to costs incurred after the removal from the factory has also been claimed confidential and not included in the response to the questionnaire

The Authority notes that the information submitted by Takeda is selective and sketchy, and would not render any assistance in determination of a comparable Normal Value in the domestic market of the exporting country. While some information has been provided in respect of domestic prices in Singapore, the Authority observes that the Normal Value is required to be determined on the basis of the price prevailing in the country of origin in terms of proviso to Section 9A(1) c if the goods are merely transshipped through the country of export.

- i. Based on the above, the Authority considers that TCI has not cooperated in the present investigations. The Authority has proceeded with the determination of Normal Value on the basis of evidence available on record in terms of rule 8 supra.
- ii. M/s Habei Welcome Pharma Co., China:- Apart from furnishing three invoices pertaining to export, company has furnished details of exports to India month-wise for the period of investigation. Similarly, another statement showing prices in domestic market has been furnished which lacks supporting details of consignment/bills sold to domestic market. The company has not furnished total cost of production along with reconciliation with financial accounts.
- iii. The Authority notes that the response is not as per the prescribed Exporter's Questionnaire. The company has not furnished supporting documentary evidence regarding their domestic sale for the period of investigation and have not claimed any adjustments for the domestic price. Hence, normal value has been assessed based on the constructed cost of production of Vitamin C in the

country of origin along with reasonable addition for administrative, selling & general costs and profits as determined in accordance with the Rules made under sub- section (6).

I. EXPORT PRICE

9. The petitioner has submitted copy of Chemical Weekly for the period of investigation to show the export price of the product from Japan and China. The Authority has, however, relied upon Government Statistics available for the period April -Dec 96, from DGCIS, Calcutta. The CIF prices works out to Rs 319.89/kg for Japan and Rs 296.26/kg for China. W/s TVFA has furnished adjustments “after FOB price” for overseas freight, insurance, shipping charges, handling etc. The Authority has allowed adjustments on the basis of the claims made by TVFA.

Similarly, the adjustments in respect of overseas freight (from Xingang to Mumbai), and clearance charge as furnished by the Chinese Exporter have been allowed to work out the FOB price.

J . COMPARISON

10. For the purpose of fair comparison between the normal value and the export price, the Authority took into account the information furnished by the petitioner, exporters, importers and the best information available with the Authority in the absence of complete response in the prescribed form and manner from the exporters. The Authority has. compared normal value with weighted export price (both at ex-factory level) for individual exporter and has arrived at the following dumping margins:

Rs./Kg.

Country	Dumping Margin
Japan (All Exporters)	58.10
China (All Exporters)	48.75

** percentage of export price

K. INJURY

11. 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 the prices in the domestic market for like articles and the consequent effect of such

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

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, however, be made only if it is determined that the volume of the imports from each country is three per cent of the import of the like article in India, and

In the present case, the dumping margin in respect of each exporter as also each country is more than the limits prescribed. Further, cumulative assessment of the effect of imports is appropriate in the light of the conditions of competition between the imported article and the like domestic article. The Authority has, therefore, cumulatively assessed the effects of these imports on the domestic industry.

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

a) Volume of dumped Imports:

Imports from China increased from 44.8 MT {1994-95} to 59.7 MT (1995-96) and were 294 MT (392 MT on annualized basis) during the investigation period (April-December, 1996) and in case of Japan imports increased from zero level (1994-95) to 0.7 MT (1995-96) and upto 101.06 MT (135 MT on annualized basis) in the investigation period. The percentage increase in import of the product during the year 1996-97 (Annualized) is around 656% in respect of China & 19668 % in respect of Japan. The above trend would reveal that there is significant increase in the volume of imports from the said countries.

The market share of Japan to the total demand in the country increased from 0.08% In 1995-96 to 10.61 % during the period of investigation. In case of China, increase was from 6.49% in 1995-96 to 29.41% during the period of investigation.

b) Factors affecting domestic Industry:

(i) Production

Production of the domestic industry during 1994-95 was 1030.6 MT (469 MT of Ambalal Sarabhai Enterprises and 561.6 MT of Jayant Vitamins Ltd). The production decreased in 1995-96 to 918.4 MT (486 MT in case of Ambalal Sarabhai Enterprises and 432.4 MT in case of Jayant Vitamins Ltd.). The combined production reduced to 496.3 MT during the period of investigation (386 MT in case of Ambalal Sarabhai Enterprises and 110.3 MT in case of Jayant Vitamins Ltd). Domestic industry lost market share from 91.2% in 1995-96 to about 48% during the period of investigation. M/s Jayant Vitamins Ltd. was forced to suspend their production activity w.e.f October 1996 due to dumping of the said product and did not participate in the anti-dumping investigations.

(ii) Price Undercutting:

It has been contended by the Petitioner that from April, 1996 the subject countries have been dumping the material into the country at exceptionally low prices ranging from Rs. 296/kg - 32D/kg.(cif), with a view to eliminate local competition. The landed prices after considering the duty works out to 431/kg. to 465/kg as against the average selling price of Rs 537/kg during the P O I, clearly indicating the price undercutting. As a result there is a drop in the sales volume also.

(iii) Decline in sales volume

There are only two manufacturers of Vitamin-C in the country namely, Ambalal Sarabhai Enterprises Ltd and Jayant Vitamins Ltd. (who have suspended production from October 96). The petitioner has been producing Vitamin-C at the normal rate of 40-45 tonnes per month. The volume of sale in respect of petitioner which was 42.96 MT during April 96 declined to 28.45 MT in Dec 96.

(iv) Sales Realisation:

Sales realisation during the period of investigation, which was Rs.544.25/kg in April 96 declined to Rs.538.29/Kg in Dec 96, though the same marginally increased from 533/-{95-96} to Rs. 537 (POI)

(v) Stocks:

Stocks of vitamin C with the petitioner increased from nil (1994-95) to 0.67 MT (1995-96) and 16.93 MT (investigation period). Even though the domestic industry increased its production in the investigation period as compared to the previous year, it could not sell the increased volumes resulting in steep increase in stocks.

c) Profit/loss

M/s Ambatal Sarabhai Enterprises is a multi-product company. Audited Balance Sheet of the company as a whole shows that there is a steep decline in profits. The company which registered a profit of Rs. 1007.25 lakhs during 94-95, declined to Rs. 430.51 lakhs during 95-96. The operating results for only Vitamin C, which registered a profit of Rs. 252.65 lakhs during 94-95, declined to Rs. 131.52 lakhs during 96-96 and posted a loss of Rs. 93.98 lacs during the period of investigation. Further, the cost of production increased from Rs. 533.20/Kg during 95-96 to Rs. 562.68/Kg during the period of investigation.

12. Authority notes from the foregoing that:

- i. The imports from the subject countries have increased in absolute terms;
- ii. The exporters entered into contracts for supplies of Vitamin C at increasingly lower rates for deliveries to be made in the subsequent months. This forced the Indian industry to drastically cut down their production resulting in an increase in cost of production. This has also eroded the profitability of the domestic industry;
- iii. The imports from the subject countries resulted in price undercutting in the Indian market;
- iv. Sales of the domestic industry declined steeply in the investigation period;
- v. Stocks of subject goods with the domestic industry increased during the period of investigation;

Authority notes that the domestic industry has suffered material injury from imports of vitamin C originating from the subject countries.

CAUSAL LINK

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

- i. The imports of the product from the subject countries increased significantly in absolute terms and relative to the production and consumption of the product in India. The share of the subject countries in the total imports also increased significantly. As a direct consequence, the domestic industry lost market to a significant level, resulting in a steep increase in inventory level.
- ii. The substantial imports of Vitamin-C from the subject countries at dumped prices forced the domestic industry to sell at prices significantly below cost of production, resulting in financial losses.

The Authority has thus arrived to the conclusion that material injury to the domestic industry was caused by the dumped imports from the subject countries.

INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

14. 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.

15. It is recognized that the imposition of anti dumping duties might affect the price levels of the products manufactured using Vitamin-C and consequently might have some influence on relative competitiveness of this product. However, fair competition on the Indian market will not be reduced by anti dumping measures, particularly, if the levy of the anti dumping duty is limited to the amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti dumping measures would remove 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 the subject goods. The Authority notes that the 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.

16. 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 Vitamin-C in India for the domestic industry, by considering the optimum cost of production and reasonable profit for the domestic industry.

17. The import duty imposed by the Government of India has relevance in determination of the extent of injury suffered by the domestic industry and has been accordingly taken care of.

CONCLUSIONS

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

- i. Vitamin-C originating in or exported from Japan and China has been exported to India below its normal value, resulting in dumping;
- ii. Imports of Vitamin-C from these countries have caused material injury to the domestic industry.
- iii. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. The weighted average landed price of the imports for each exporter, for the purpose, was compared with the fair selling price of the domestic industry determined for the period of investigation.

Whenever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, the Authority recommends that provisional anti dumping duties, as set out below, be imposed, from the date of notification to be issued in this regard by the Central Government, on all imports of Vitamin-C, falling under Customs Tariff Heading 2936.27 of the Customs Tariff Act, originating in or exported from these countries, pending final determination.

Rs./Kg.

Product originating or exported from	Amount of Duty
Japan	27.59
China	61.96

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

RATHI VINAY JHA,
Designated Authority