

Ministry of Commerce and Industry (Department of Commerce)

Notification

New-Delhi, the 30th April, 2002

Subject: Anti-Dumping investigations concerning imports of Vitamin A Palmitate from European Union, Singapore and Georgia... Preliminary Findings.

65/1/2001-DGAD – Having regard to the Customs Tariff Act 1975 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 given below has been followed with regard to the investigations:
 - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s Nicholas Piramal India Ltd., Vitamin & Fine Chemicals Division, alleging dumping of Vitamin A Palmitate originating in or exported from the European Union, Singapore and Georgia .
 - ii. The preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was thereafter considered as properly documented.
 - iii. The Authority on the basis of sufficient evidence submitted by the petitioner decided to initiate investigations against alleged dumping of imports of Vitamin A Palmitate originating in or exported from the European Union, Singapore and Georgia.
 - iv. The Authority notified the Embassies of the subject countries/territory about the receipt of dumping allegation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rules.
 - v. The Authority issued a Public Notice dated 24th January 2002, published in the Gazette of India Extraordinary initiating anti-dumping investigations concerning imports of Vitamin A Palmitate classified under customs sub-heading no. 2936.21 of Chapter 29 of the Customs Tariff Act, 1975, originating in or exported from European Union, Singapore and Georgia.
 - vi. 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 within forty days from the date of the letter.

- vii. The Authority forwarded a copy of the Public Notice to the known importers (whose details were made available by the petitioner) of Vitamin A Palmitate and advised them to make their views known in writing within forty days from the date of the letter.
- viii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of Vitamin A Palmitate.
- ix. The Authority provided copies of the non-confidential Petition to the known exporters in accordance with Rule 6(3) supra.
- x. The Authority sent a questionnaire, to elicit relevant information to the following known exporters in European Union, Singapore and Georgia in accordance with Rule 6(4);

European Union

- BASF Aktiengesellschaft
Carl – Bosch – Strabe, 38
67056, Ludwigschafen,
Germany
- Rhone Poulence SA (AVENTIS)
Quai Paul Doumer, F-92408,
Courbevoie Cedex,
France

Singapore

- BASF South East Asia Pte. Ltd.
7, Temasek Boulevard,
35-01, Suntec Tower One,
Singapore – 038987
- Aventis Animal Nutrition Asia Pacific Pte. Ltd.
1, Loyang Way 4,
Singapore – 507028

Georgia

The Delegation of the European Commission in India, the Singapore High Commission, and the Honorary Consulate of the Republic of Georgia, were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters was also sent to them, alongwith the name and addresses of the exporters.

A questionnaire was sent to the following known importers/users of Vitamin A Palmitate calling for necessary information in accordance with Rule 6(4);

- Sundar Chemicals Pvt. Ltd., Chennai
- Lalchand Bhimraj & Co., Chennai
- Sheetal Pharma, Mumbai
- BASF (India) Ltd., Mumbai
- Aventis Animal Nutrition Pvt. Ltd., Mumbai

Only BASF (India) Ltd., Mumbai, filed a response to the importers questionnaire.

- xi. The Authority made available the 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.
- xii. Cost investigations were conducted 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) on the information furnished by the petitioner so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xiii. *** In this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xiv. Investigations were carried out for the period 1st January 2001 to 30th September 2001 (9months).

PETITIONERS VIEWS

2. The petitioner has raised the following major issues in their petition and in their subsequent submissions:

- i. Vitamin A Palmitate is an orange yellow to yellowish red oily liquid, which may crystallize below 20 C. It contains a mixture of Vitamin A Palmitate and Vitamin A Acetate, having a content of not less than 90% Vitamin A Palmitate and not more than 10% Vitamin A Acetate. Vitamin A Acetate is present on account of the chemical process of manufacture. It contains BHA and BHT as anti oxidants. Vitamin A Palmitate is used in pharmaceutical preparations. No viable substitute exists for the product.

Vitamin A Palmitate is normally produced by the petitioner in the following two strengths:

- Vitamin A Palmitate 1.0 MIU/g
- Vitamin A Palmitate 1.7 MIU/g

Since Vitamin A Palmitate of various strengths have the same end use, the present investigations shall cover the subject goods in all its strengths and forms.

Vitamin A Palmitate is classified under Customs sub-heading no. 2936.21 of the Customs Tariff Act, 1975. The classification is however indicative only and in no way binding on the scope of the present investigations.

- ii. Vitamin A Palmitate has started coming into the country from 1999 onwards. The dumping has started January, 2001. Currently Vitamin A Palmitate used by pharmaceutical manufacturers is coming to the country at an average rate of 1 ton per month. BASF, Germany is importing and doing stock-and-sale of the items from January, 2001. The other player in this market is Rhone Poulenc, France who also have their office in Mumbai and import their Vitamin A via their Singapore office. The subject goods are also transhipped through Singapore to India.
- iii. Currently this product is price controlled by NPPA. Due to dumping of the imported subject goods at below its normal value, it has prevented any price increase in the market and due to the price pressure from competition, the petitioner is selling the product much below the DPCO price due to which their margins are under severe pressure and they are suffering huge losses. The petitioner faces a major threat since their very existence is at stage where they are currently supporting and feeding 300 plus families.
- iv. M/s Nicholas Piramal India Ltd. is the only manufacturer of Vitamin A Palmitate in the country.
- v. There is no difference in the petitioners product and the alleged dumped product Vitamin A Palmitate produced by the petitioner and that imported from the subject countries have similar technical characteristics and is being used interchangeably by the consumers. There is no significant difference in the production process which calls for difference in the selling price.
- vi. The petitioner has never imported the subject goods.
- vii. Though the subject goods are imported at present only in 1.7 MIU/g strength, the imports have affected the sales of both 1.7 MIU/g and 1.0 MIU/g as various strength of the subject goods are used interchangeably by the user industry. The availability of higher strength at lower prices proportionately reduces the price of lower strength and as such the user prefers to buy higher strength to reduce on its cost.

B. VIEWS OF IMPORTERS, EXPORTERS AND OTHER INTERESTED PARTIES

3. Importers views

BASF India Limited, Mumbai.

1. BASF India is an importer on own account and for stock, sale and marketing.
2. BASF Aktiengesellschaft is the owner/principal shareholder.
3. BASF India has been sourcing Vitamin A Palmitate 1.7MIU from BASF Germany. Their orders are placed on BASF South East Asia Pvt. Ltd., Singapore which is the invoicing company. The goods are despatched from Germany to Mumbai by air-freight in lots of around ***kgs.
4. The invoices are raised in Singapore and also negotiated through bank in Singapore.
5. There are no discounts/rebates/commissions applicable or payable to BASF India Ltd.
6. The quantity imported by them during the period of investigation is ***kgs having a total value of USD ***.

Examination by Authority

1. The Authority notes that the export price of BASF AG to BASF India is unreliable because of association or a compensatory arrangement between the exporter and importer which is an affiliated company. Although some information was subsequently given by BASF India in response to a deficiency letter issued by the Authority, on sales made by them of the subject goods to customers in India, the said information can not be accepted for the purpose of these preliminary findings. BASF India has not given details of costs incurred by them between importation and resale (selling, general and administrative costs and profits etc.). As per Annexure I 6(ii) of the Anti-Dumping Rules, in cases where the export price is a constructed price, the comparison shall be only after establishing the normal value at equivalent level of trade. However, in view of the incomplete response of BASF AG which is not in accordance with the prescribed format in the exporters questionnaire (as detailed below), the Authority was unable to arrive at the cost of production (for both domestic and export sales) and normal value of BASF AG and hence rejected their information.
2. No information has been provided against Annexure 3, 4 & 7 of the importers questionnaire.

4. Exporters Views (A) European Union

BASF Aktiengesellschaft, Ludwigshafen

1. This company filed a confidential and non confidential response to the exporters questionnaire. They have stated that the majority of their shipments

of the product under investigation went into the UNICEF program against Vitamin A deficiency among children. World wide sales under this program enjoy a price reduction on the normal list price.

2. During the period of investigation BASF AG did only deliver 1.7 BHT to India. Invoicing party to the Indian customer was in every case BASF South East Asia.
3. Due to the different concentrations of the 1.7 and 1.0 VAP's their volume and prices are not comparable.
4. Information relating to sales in the home market have been furnished in Appendix I. Information has been furnished in respect of VIT: AP 1.0 BHT; VIT: AP 1.0 TOC : VIT:AP 1.7 BHT; VIT: AP 1.7 TOC and VIT: AP 1.7 UNSTAB.
5. The company has furnished sample invoices of BASF AG to end customer within the domestic market (according to Appendix 1). Sample invoices from subsidiaries to end customer within the domestic market (according to Appendix 1) have also been furnished.
6. Information relating to exports to India have been furnished as per Appendix 2. Sample BASF AG invoices, freight invoice and airway bill have been furnished (according to Appendix 2).
7. Sales of goods to a company for the period of investigation and preceding two years have been furnished in Appendix 3 for various grades. Sample BASF AG invoices to end customers (exports to other countries) have been furnished according to Appendix 3
8. The company has furnished the sales price structure for exports to India as per Appendix 4; The sales price structure for domestic sales as per Appendix 5 and the sales price structure for exports to countries other than India in Appendix 6 for various grades.
9. Information has also been furnished showing the licensed and installed capacities, production and sales in Appendix 7.
10. The factory cost and profit of exports to India, factory cost and profit of domestic sales and factory cost and profit of exports to other countries have been furnished in Appendices 8,9,10 respectively for various grades.
11. Information on main raw material for production of Vitamin A Palmitate 1.75 has been given in Appendix 11.

Examination by Authority

1. The Balance Sheets , Profit and Loss Accounts and Annual Reports of BASF AG for the period of investigation and the preceding two years were made available in a response dated April 3, 2002 to a deficiency letter.

2. Appendix 8 and 9 of BASF AG's response namely, Factory Cost and Profit of Export to India and Factory Cost and Profit of Domestic Sales, respectively are not in accordance with the format prescribed in the exporters questionnaire. The total quantity produced has not been given. Under raw materials, each raw material and its ratio in the final product as not been provided. Details of utility have not been given. Details of overheads namely manufacturing overheads, depreciation, financing costs, interest costs, packing costs and selling and administration costs have not been furnished. Break up of costs have not been given. The net profit has been provided in the form of percentage only. The information on unit, quantity, rate, total cost and cost per unit for each of these heads has not been given. The system of cost accounting used has not been described. The subsequent information furnished vide letter dated April 3, 2002 is again not as per the format prescribed. The information as per Appendix 9 suffers from the same inadequacies and is again not as per the format prescribed in the exporters questionnaire. The total quantity produced has not been given. Under raw materials, each raw material and its ratio in the final product as not been provided. Details of utility have not been given. Details of overheads namely manufacturing overheads, depreciation, financing costs, interest costs, packing costs and selling and administration costs have not been furnished. Break up of costs have not been given. The net profit has been provided in the form of percentage only. The information on unit, quantity, rate, total cost and cost per unit for each of these heads has not been given. The system of cost accounting used has not been described. Information is hence rejected by the Authority for the purpose of the Preliminary Findings. No meaningful analysis could be made from the information furnished vide letter dated 3rd April, 2002 and most of the entries therein were illegible.
3. In Appendix 7, the information on licensed capacity, installed capacity, production and sales does not show the values of the product under investigation and other products. This statement is again not as per the prescribed format.
4. Appendix 11, the production cost of VAP is indicated in percentages only and no actual figures are given.

4. (B) Singapore

BASF South East Private Ltd.

1. BSEA is a private limited company registered in Singapore for the purpose of (a) providing services to the holding company and affiliates and (b) undertaking trading activities. It is a wholly owned subsidiary of BASF Aktiengesellschaft, Germany.

2. There are no factory producing Vitamin A Palm Oil 1.7 MIU BHT in Singapore.
3. In Appendix 1, (Information relating to sales in the home market), the company has stated that there were no sales conducted in the home market in Singapore.
4. In Appendix 2 (Information relating to exports to India), BSEA had exported ***kg to India during the POI. A quantity of ***kg was exported to BASF India Ltd. No commission was paid to BASF India Ltd. as per Note 1 of Appendix 2. There was direct shipment from Germany to India; no freight and insurance cost was incurred in Singapore.
5. In Appendix 3, (Sales of Goods of the Company), the company has stated that for all the transactions of this product in India, BSEA is only carrying out the coordination and invoicing services. The product is physically shipped from BASF Germany to India.
6. In Appendix 4 (Sales price structure for export to India) and Appendix 6 (sales price structure for sales export to countries other than India) information has been provided in the form of indexed prices and not actual prices.

Examination by the Authority:

1. In the sales price structure for exports to India (Appendix 4). The information provided is in indexed form and not as per the format prescribed in the exporters questionnaire. The same deficiencies are noted in the sales price structure for exports to countries other than India (Appendix 6).
2. The balance sheets, profit and loss account and annual reports have not been made available by this company.
3. The Authority notes that although the exporter has stated in Appendix 2 note 1, that no commission was paid to BASF India Ltd., Appendix 4 has stated (in indexed form) the commission paid to BASF India Ltd. There is, therefore, a discrepancy evident in the information submitted by BASF South East Asia Pvt. Ltd.

4 © Georgia

1. The exporters/producers from Georgia did not respond to the questionnaire forwarded by the Authority.

C. Views of other Interested Parties

Honorary Consulate of Georgia

The Honorary Consulate of Georgia has stated that enquiries made in Georgia have shown no light on the existence of any such Georgian company, which might have exported Vitamin A Palmitate to India either directly or through third country.

EXAMINATION OF THE ISSUES RAISED

5. The submissions made by the petitioner and importers to the extent they are relevant under the Rules and have a bearing upon the case, have been examined and dealt with at appropriate places hereunder.

PRODUCT UNDER INVESTIGATION

6. The product under investigation in the present case is Vitamin A Palmitate. It is an orange yellow to yellowish red oily liquid, which may crystallize below 20 C. It contains a mixture of Vitamin A Palmitate and Vitamin A Acetate, having a content of not less than 90% Vitamin A Palmitate and not more than 10% Vitamin A Acetate. Vitamin A Acetate is present on account of the chemical process of manufacture. It contains BHA and BHT as anti oxidants.

Vitamin A Palmitate is used in pharmaceutical preparations.

Vitamin A Palmitate is normally produced by the petitioner in the following two strengths:

- Vitamin A Palmitate 1.0 MIU/g
- Vitamin A Palmitate 1.7 MIU/g

Since Vitamin A Palmitate of various strengths have the same end use, the present investigations shall cover the subject goods in all its strengths and forms.

Vitamin A Palmitate is classified under Customs sub-heading no. 2936.21 of the Customs Tariff Act, 1975. The classification is however indicative only and in no way binding on the scope of the present investigations.

E. LIKE ARTICLES

In order to establish that Vitamin A Palmitate produced by the domestic industry is a Like Article to that exported from European Union, Singapore and Georgia, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority.

The Authority also finds that there is no argument disputing that Vitamin A Palmitate produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by Vitamin A Palmitate imported from the subject country both commercially and technically. Vitamin A Palmitate produced by the domestic industry has been treated as Like Article to the product exported from European Union, Singapore and Georgia within the meaning of Rule 2(d).

G. DOMESTIC INDUSTRY

The petition has been filed by M/s Nicholas Piramal India Ltd. , Mumbai M/s Nicholas Piramal India Ltd., Mumbai is the only manufacturer of Vitamin A Palmitate in the country. The Authority notes therefore that the petitioner constitutes "domestic industry" and has the required standing to file the present petition under the Rules.

The production of Vitamin A Palmitate by the petitioner has been as under:-

Vitamin A Palmitate: 1.0 MIU/g

Year	Production (MT)
1999-2000	7.18
Apr.2000-Dec.2000	3.50
Jan 2001-Sept.2001	3.00

Vitamin A Palmitate: 1.7MIU/g

Year	Production (MT)
1999-2000	18.81
Apr.2000-Dec.2000	19.70
Jan 2001-Sept.2001	20.88

H. DUMPING

7. The Authority sent questionnaires to the known exporters from the subject countries/territory in terms of section 9 A (1). BASF AG and BSEA furnished an incomplete response to the questionnaire. In view of the observations at para 4(A) the Authority has been constrained to reject the response of BASF AG and has proceeded on constructed price and best available information with regard to normal value and export price respectively. The exporters in Georgia did not respond with the information called for. The Authority sent a letter to M/s Sundar Chemicals Pvt. Ltd., Chennai a known importer of Vitamin A Palmitate from Georgia and requested them to provide the names and complete addresses of the producers/exporters in Georgia. However no information was received from them. Therefore there are no claims made

by the exporters in Georgia with regard to Normal Value and Export Price. The Authority has therefore been constrained to rely upon constructed price and best available information with regard to Normal Value and Export Price respectively.

8. EXAMINATION OF NORMAL VALUE AND EXPORT PRICE BASED ON CONSTRUCTED VALUE AND ON AVAILABLE INFORMATION WITH THE AUTHORITY

(i) NORMAL VALUE

1. European Union

The petitioners have requested that the normal value in European Union be accepted on the basis of constructed cost of production of Vitamin A Palmitate. In the circumstances already stated, the Authority has been constrained to determine the constructed cost.

The normal value has been constructed based on the information provided in the petition. This is based on the estimated cost of production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments.

The normal value in European Union is therefore considered to be USD ***/kg or Rs ***/kg at an average exchange rate during POI of 1USD=Rs 47.32 .

2. Singapore

BASF South East Private Ltd. has stated that there is no factory producing Vitamin A Palm Oil 1.7 MIU BHT in Singapore. The company has stated that there were no sales conducted in the home market in Singapore.

The company has stated that for all the transactions of this product in India, BSEA is only carrying out the coordination and invoicing services. The product is physically shipped from BASF Germany to India; no freight and insurance cost was incurred in Singapore.

Since the subject goods are not manufactured in Singapore and the goods have been physically shipped directly from Germany to India the Authority has not determined the normal value for the subject goods in Singapore for the purpose of these preliminary findings.

3. Georgia

8. The Authority observes that the exporters from Georgia have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers the exporters to be non-cooperative and has proceeded on best available information.

The petitioner has stated that they they have not been able to get any reasonable and authentic evidence with regard to prices prevailing either in the home market or prices charged by them for export to other countries. As such they have calculated the normal value on similar basis as has been done for the European Union. The petitioners have requested that the normal value in Georgia be accepted on the basis of constructed cost of production of Vitamin A Palmitate. In the circumstances the Authority has been constrained to determine the constructed cost.

The normal value in Georgia is therefore considered to be USD ***/kg or Rs ***/kg at an average exchange rate during POI of 1USD=Rs 47.32.

(ii) Export Price

1. European Union

9. The weighted average cif price as per the information available with the Authority is determined at Rs ***/kg for the European Union. The ex-factory export price has been determined after taking USD ***/kg as ocean freight, ***% as marine insurance charges, commission @ **%, USD ***/kg for inland transportation and USD ***/kg for loading, unloading and port expenses as per the petitioners information. After adjustments on these accounts the ex- factory fob export price is estimated to be Rs ***/kg or USD ***/kg for the European Union at an average exchange rate of 1USD=Rs 47.32.

2. Singapore

10. Since the subject goods have been physically shipped directly from Germany to India the Authority has not determined the export price for the subject goods in Singapore for the purpose of these preliminary findings.

3. Georgia

11. The weighted average cif price as per the information available with the Authority is determined at Rs ***/kg for Georgia. The ex-factory export price has been determined after taking USD ***/kg as ocean freight, ***% as marine insurance charges, commission @ **%, USD ***/kg for inland transportation and USD ***/kg for loading, unloading and port expenses as per the petitioners information. After

adjustments on these accounts the ex-factory fob export price is estimated to be Rs ***/kg or USD ***/kg for Georgia at an average exchange rate of 1USD=Rs 47.32.

(iii) Dumping margin

European Union

Considering the constructed normal value at USD ***/kg and the ex-works export price at USD ***/kg, the dumping margin determined by the Authority comes to USD ***/kg (which is 79.71% of export price).

Georgia

Considering the constructed normal value at USD ***/kg and the ex-works export price at USD ***/kg, the dumping margin determined by the Authority comes to USD***/kg (which is 61.54% of export price).

I. INJURY

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 article..." 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 increase, which otherwise would have occurred, to a significant degree.

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 investigations, 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 per cent expressed as a percentage of export price and the volume of the imports from each country is three per cent of the imports of the like article or where the export of the individual countries is less than three per cent, the imports cumulatively account for more than seven per cent of the imports of the like article, and 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.

The Authority notes that the margin of dumping and quantum of imports from the subject countries are more than the limits prescribed in Rule 11 Supra.

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 as production, capacity utilisation, quantum of sales, stock, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the rules supra.

(a) Quantum of Imports

Source: International Data Services, Mumbai

Quantity (kg.)

Countries	1999-2000	Apr - Dec 2000	Jan-Sep2001 (POI)
Total imports	5	2950	4900
European Union	---	2950	4100
Singapore	---	---	---
Georgia	---	---	550

The increase in the total imports of Vitamin A Palmitate from the subject countries was significant in Apr-Dec 2000 and in the POI as compared with the quantum of imports in 1999-2000.

The share of EU in total imports was 100% in Apr-Dec 2000 and 83.67% in the POI while the share of Georgia was 11.22% in the POI.

(b) Production and Capacity Utilisation

The production capacity, actual production and capacity utilisation of the petitioners was as follows: -

Petitioners	1999-2000	Apr-Dec 2000	Jan-Sep 2001 (POI)
Installed Capacity (MT)	110	110	82.49
Production (MT)	25.99	23.20	23.88
Capacity Utilisation%	23.62	21.09	28.94

(c) Sales and Market Share

	1999-2000	Apr-Dec 2000	Jan-Sep 2001 (POI)
Sales (MT) of petitioners	24.80	19.23	13.20 (annualised 17.60)
Demand	24.805	22.180	18.100

			(annualised 24.13)
Share of imports %	0.02%	13.30 %	27.07%
Share of dumped imports %	---	13.30%	22.65%
Share of petitioner %	99.97%	86.69%	72.93%

It is seen that total and dumped imports have increased in absolute terms. While the market share of imports from the subject countries have increased in demand the share of the domestic industry has declined in demand.

(d) Price undercutting and price depression

Rs/kg

Year	Sales Realisation (Rs/kg)		Landed Price of Imports EU Singapore Georgia Others			
1997-98	***	***				
1998-99	***	***	---	---	---	
1999-2000	***	***	***	---	---	---
POI	***	***	***	---	***	***

It is evident from the above table that the exporters from EU have reduced their prices significantly in the POI. The domestic industry has been forced to reduce its selling prices to respond to the low import prices in the market. Currently this product is price controlled by NPPA and Rs ***/kg is the price for Vitamin A Palmitate 1.7MIU/g. In spite of the fact that the increase in cost of production was accepted by the Drug Price Control Authorities and consequently the DPCO price was revised upwards, the petitioner could not get much benefit from it because of the dumping of goods at lower prices. The dumping of the subject goods prevented the petitioner from realising the DPCO price.

(e) Profitability:-

Vitamin A Palmitate 1.0

Petitioner	Apr-Dec 2000	Jan-Sep 01
COP	***	***
Selling Price	***	***
P/L	***	(***)

Vitamin A Palmitate 1.7

Petitioner	Apr-Dec 2000	Jan-Sep 01
COP	***	***
Selling Price	***	***

P/L	***	***
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(f) Closing stocks:-

(Kg)

	Apr.1999- Mar., 2000	Apr. -Dec. 2000	Jan-Sept. 2001 (POI)
Petitioner	15	-	498

J. CONCLUSION ON INJURY

In view of the foregoing it is observed that:-

- a. the quantum of imports from the subject countries/territory have increased in absolute terms and in relation to consumption in India;
- b. the market share of the petitioner has gone down while that of imports has increased;
- c. the petitioners have been forced to sell at prices below their non-injurious price and DPCO price.

K. CAUSAL LINK

12. The Authority holds that the material injury to the domestic industry has been caused by imports from the subject countries. The subject countries are major exporters of Vitamin A Palmitate to India. The increase in the market share of imports from EU and Georgia resulted in the decline in the market share of the petitioner. Due to dumping of the subject goods and due to price pressures from competition the petitioner has been forced to sell the product much below the DPCO price due to which their margins are under severe pressure. Import prices from the subject countries forced the domestic industry to sell below its non-injurious price which resultantly, the domestic industry was unable to recover. The material injury to the domestic industry was therefore caused by the dumped imports from the subject countries.

L. INDIAN INDUSTRY’S INTEREST & OTHER ISSUES

13. 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.

14. 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 in 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 Vitamin A Palmitate. 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.

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

M. LANDED VALUE

16. The landed value of imports is determined on the basis of export price of Vitamin A Palmitate determined as detailed above in the para relating to dumping, after adding the prevailing level of customs duties and one per cent landing charges.

N. CONCLUSIONS

17. It is seen after considering the foregoing that:

- a. Vitamin A Palmitate described under para 6 originating in or exported from EU and Georgia has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered injury;
- c. injury has been caused by imports from the subject countries/territory.

18. It was decided to recommend the amount of anti-dumping duty equal to the margin of dumping or less which if levied, would remove the injury to the domestic industry. Accordingly, it is proposed that provisional anti-dumping duties be imposed, from the date of notification to be issued in this regard by the Central Government, on Vitamin A Palmitate originating in or exported from EU and Georgia, falling under customs sub-heading no. 2936.21 of Chapter 29 of the Customs Tariff Act, 1975, and ITC (HS) Code No. 29362100 pending final determination. The anti-dumping duty shall

be the difference between the amount mentioned in Col.3 and the landed value of imports.

Country	Name of the producer/exporter	Amount (USD/kg)
European Union	All producers/exporters	113.84
Singapore	All producers/exporters	Nil
Georgia	All producers/exporters	113.84

As noted by the Authority, the subject goods are available in different strengths which have the same end use and are used interchangeably. The amount set out in the table above at col 3 of para 18 is recommended for Vitamin A Palmitate 1.7MIU/g strength. The amount for the purpose of col 3, for any other strength of the subject goods would be determined by dividing USD113.84/kg (as recommended at col. 3 above) by 1.7 and multiplying the quotient by the particular strength of the subject goods that is imported (eg amount for Vitamin A 1.0 MIU/g would be USD 66.96/kg). The anti-dumping duty shall be the difference between the amount so calculated and the landed value of the particular strength of the subject goods.

19. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

P. FURTHER PROCEDURE

20. 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 of the despatch of this notification. 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 interested parties for oral submissions.
- d. The Authority would disclose essential facts before announcing the final findings.

L.V. SAPTHARISHI
DESIGNATED AUTHORITY

