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MINISTRY OF COMMERCE & INDUSTRY

(Department of Commerce)

Directorate General of Anti Dumping & Allied Duties

NOTIFICATION

New Delhi, the 2nd January 2001

PRELIMINARY FINDINGS

Subject: Anti-dumping investigation concerning imports of Sodium Ferrocyanide originating in or exported from the European Union - preliminary findings

No.23/1/2000-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

2. 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. Cyanides and Chemicals Company, Mumbai on behalf of the domestic industry, alleging dumping of Sodium Ferrocyanide originating in and exported from the European Union (hereinafter referred to as EU);
 - ii. The Authority notified the Delegation of European Commission 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 13th June, 2000 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Sodium Ferrocyanide originating from EU classified under heading 2837.20 of Schedule I of the Customs Tariff Act, 1975;
 - iv. The Authority forwarded copy of the said public notice to the known exporters, importers, industry associations and to the complainant 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 Delegation of European Commission in India.
- vi. The Authority sent questionnaires, to elicit relevant information, to the following exporters:
 - 1. M/s. Manox Pigment Business, Manchester, Great Britain
 - 2. M/s. Degussa-Huls AG, Frankfurt, Germany
 - 3. M/s. Degussa Huls Ltd., Cheshire SK, Great Britain
- vii. The Delegation of European Commission in New Delhi was also informed about the initiation of investigation and was requested to advise the exporters/producers from their territory to respond to the questionnaire within the prescribed time;
- viii. The questionnaire was sent to the following importers of Sodium Ferrocyanide:
 - 1. M/s. Citurgia Bio-Chemicals, Mumbai
 - 2. M/s/ Seth Chemicals Works Pvt Ltd., Calcutta
 - 3. M/s. Shanti Labs, Bikaner
 - 4. M/s. Sona Inter-Chem, Vapi
 - 5. M/s. Chemical Corporation, Mumbai
- ix. Response to the questionnaire was filed by M/s. Sona Inter-Chem, Vapi, who have stated that they have not made any imports during the period of investigation. Among the exporters, M/s. Degussa Huls AG, Germany have filed response to the questionnaire. The information submitted by them was verified at their premises at Frankfurt, Germany and at works in Manchester, UK.
- x. Additional information regarding injury was sought from the petitioners, which was also furnished;
- xi. 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;
- xii. ***** in this notification represents information furnished by the interested party on confidential basis and so considered by the Authority under the Rules;
- xiii. The Authority sought and verified information given by the domestic industry and to this end investigations were carried out at the premises of the petitioner's head office at Mumbai and works at Surat;
- xiv. The Authority also conducted cost investigation and worked out optimum cost of production and cost to make and sell Sodium Ferrocyanide in India on the basis of Generally Accepted Accounting Principles;

- xv. The investigation covered the period from 1st January 1999 to 31st December 1999.
- xvi. Copies of initiation notice was also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. PETITIONER'S VIEWS

3. The petitioner made the following major points:

- i. The petitioner represents the domestic industry and Sodium Ferrocyanide being produced by the petitioner is a like product to the Sodium Ferrocyanide being imported from EU.
- ii. EU is dumping Sodium Ferrocyanide in India and the petitioner has, therefore, approached the Designated Authority for considering levy of anti dumping duty.
- iii. Sodium Cyanide is a basic raw material going into production of Sodium Ferrocyanide and considering the value of Sodium Cyanide alone, cost of even this single raw material is not being recovered by the exports from EU.
- iv. Regarding the normal value, petitioners made efforts to get information on the domestic prices of sodium ferrocyanide in the EU. However, they could not get a reasonable and authentic evidence of the local prices charged by the manufacturers in the EU or for their exports to other countries. Therefore they constructed the normal value in EU on the basis of the details of cost of production for sodium cyanide which is the basic raw material and prices of utilities etc., on the basis of the industry norms. Sodium cyanide is a vital raw material for production of sodium ferrocyanide and constitutes major part of the total cost of production of sodium ferrocyanide.
- v. The cif export price of sodium ferrocyanide from EU has been worked out on the basis of information available from secondary sources as Director General of Commercial Intelligence and Statistics, Calcutta, which is the official agency for compiling such data in India has not given the information for the year 1999 at the time the petition was filed. Assessable value of imports per unit in US\$ comes to 936.11 PMT. The export prices need to be adjusted for the various expenses such as landing charges @ 1%, ocean freight, marine insurance, commission, inland transportation in the country of export, port handling and port charges for arriving at the net export price which is to be compared with the normal value for arriving at the dumping margin. On the basis of the calculations made by the domestic industry dumping margin as percentage of net export price is more than 100%.
- vi. The imports of Sodium Ferrocyanide from EU have increased steeply from nil in 1998 to 200 MT in 1999.

- vii. The total imports during the year 1999 into India of Sodium Ferrocyanide were 298 MT.
- viii. The exports of Sodium Ferrocyanide from EU to India have led to substantial decline in the sales of domestic industry in 1999 as compared with 1998 and hence a fall in domestic production and capacity utilisation.
- ix. A situation of price undercutting and sales decline prevailed in the Indian market in view of dumping from EU.
- x. Indian industry has suffered material and real injury directly caused by the dumped imports.

C. IMPORTERS AND EXPORTERS' VIEWS

4. M/s. Sona InterChem Pvt Ltd., Vapi, one of the importers in reply to the notification have stated that they have not imported any quantity of the product during the last four years and hence they are not submitting any information on the questionnaire.

5. M/s. Degussa Huls, AG, exporter from the EU made a request for extension of time for filing the reply to the questionnaire addressed to them till 11.8.2000 which was accepted by the Designated Authority and the reply was filed by them through their legal representatives on 11.8.2000. Subsequently further submissions were made by them vide their letters of 14th and 18th September 2000 clarifying certain issues submitted in their earlier submissions. The information submitted by them was verified by the Designated Authority at their premises in Frankfurt, Germany and at their works in Manchester, UK. The points made by the exporters in their submissions are briefly stated as follows:-

- i. All the quantities exported to India during the period of investigation i.e., Jan-December 1999 have been to only one customer. Even though the individual shipments are of smaller quantities they are against one single order for a total supply of ***MTS per year shipped as per the delivery instructions of the customer in India.
- ii. As compared to the above supply to India they had supplied the said product to a number of customers in EU and only very few of these customers had ordered and were supplied quantities in excess of *** MTS. Requirements of other customers were relatively small as compared with the quantities ordered by the Indian customer in the above said order. In terms of para 6(i) of Annexure I of the Anti Dumping Rules a fair comparison shall be made between the export price and the normal value and the comparison shall be at the same level of trade and in respect of sales made at as nearly as possible the same time. Due allowances are required to be made for differences which affect price

comparability. One factor which has specifically been mentioned is difference in quantities. It is therefore submitted that the normal value corresponding to the exports to India should be weighted average price to those customers in the EU who were supplied quantities in excess of *** MTS.

- iii. As per the submissions made by the petitioners, the normal value of sodium ferrocyanide in the EU has been constructed by taking the normal value of sodium cyanide, which is the major raw material, as determined by the Authority in an earlier anti dumping investigation on sodium cyanide from the EU. Sodium cyanide is produced and sold by one division of Degussa Huls in Germany whereas sodium ferrocyanide is manufactured in another division in Manchester, UK. This division does not buy sodium cyanide from within the Group whereas the petitioners have assumed to be so. This is prima facie fallacy in their case. Division manufacturing sodium ferrocyanide which is in UK sources sodium cyanide solution at a price of US\$ *** per MT and on the basis of the usage of sodium cyanide for manufacture of one MT of sodium ferrocyanide the actual cost of sodium cyanide used in the manufacture of sodium ferrocyanide is only US\$ *** per MT as against US\$ *** per MT claimed by the petitioner. The cost of sodium cyanide has been inflated by the petitioner by more than 50%. The required evidence regarding this has been enclosed in the confidential version.
- iv. The above mentioned single factor is enough to convince the Authority that their cost of production is correct and the petitioner has justified the dumping only as a result of inflating the constructed cost of sodium ferrocyanide and the authority is therefore requested to discard the information given in the petition and to determine the dumping if any based on the information contained in the questionnaire response.
- v. The alleged material injury from the decline in profitability is not due to EU as exports of sodium ferrocyanide started only in 1999 whereas the domestic industry was suffering losses even in 1997 and 1998. The prices of M/s Degussa Huls did not affect the prices of domestic industry and in fact they ensured that their prices were at the same level as that of the domestic industry. Further if at these prices the domestic producer was not able to meet its cost and make a profit, blame cannot be put on Degussa Huls. Thus the inability of petitioner to cover its cost is due to historical factors and not caused by export from EU.

D. EXAMINATION AND FINDINGS BY AUTHORITY

4. The submissions made by the exporters, importers, petitioner and other interested parties have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

E. LIKE ARTICLE AND PRODUCT UNDER CONSIDERATION

5. Sodium Ferrocyanide is an Inorganic chemical and is manufactured out of Sodium Cyanide, having application for production of fencycine, pigments, photographic fixing agents in electroplating industry, for fermentation processes of fruits acids and pharmaceutical/chemical industry etc. Sodium Ferrocyanide is classified under custom code 2837.20 of Schedule I of the Customs Tariff Act, 1975.

6. Sodium Ferrocyanide being imported from EU has characteristics closely resembling to the Sodium Ferrocyanide being produced by the domestic industry and, therefore, the two are considered as like article in accordance with Rule 2(d) supra. The product, Sodium Ferrocyanide is, therefore, covered under the scope of this investigation.

F. DOMESTIC INDUSTRY

7. The petition has been filed by M/s. Cyanides and Chemicals Co., (a unit of Hindustan Development Corporation) 65 Free Press House, Nariman Point, Mumbai. M/s. Gujarat Alkalies and Chemicals Ltd., is also producing Sodium Ferrocyanide. Production of the petitioners, however, accounted for more than 80% of the total Indian production and, therefore, the petitioner constitutes domestic industry in accordance with Rule 2(b) supra.

G. DUMPING

Normal value

8. The domestic industry in their submissions have requested use of constructed normal value in the absence of information regarding the evidence of the domestic sale prices of the manufacturers of EU. However, in view of the response given by M/s. Degussa Huls, one of the manufacturers in the EU, sufficient information has been furnished regarding the domestic prices. The Authority intends to use the information provided by the exporters on the domestic sale price in the EU for arriving at normal value.

9. The Authority accepts the argument given by the exporter that the calculation of normal value shall be based on the sale price to those customers in EU who have supplied quantities in excess of *** MTS as the order against which supplies have been made to the customer in India was also for a total supply of *** MTS. However, while using this information the Authority has decided to ignore the transactions of

domestic sales which are below cost of production as not being in the ordinary course of trade by reason of prices, in terms of para 2 of Annexure I of Anti Dumping Rules. The Authority observes that in the case of some customers, supplies have been made at prices below the cost of production per unit. These supplies have been made in substantial quantities throughout the year and hence do not provide for the recovery of all costs within a reasonable period of time. Normal value has been determined in accordance with section 9A(I)© of the Customs Tariff Act. An adjustment of *** % has been claimed as discount/commission by the exporters in the export price which has been accepted and allowed after verification.

Export Price

10. The petitioner had furnished information regarding the export price on the basis of the secondary evidence and claimed adjustments on account of landing charges, ocean freight, marine insurance, commission etc. However in their submissions the exporters have given complete information regarding export price from India and furnished invoices and other documents in support of their claim for export price and adjustments on account of landing charges, ocean freight, marine insurance, commission etc. The information furnished by the exporters has been verified and accepted.

Dumping Margin

11. 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. For the purpose of fair comparison between the normal value and export price, the Authority has made calculations on the basis of parameters mentioned in paragraphs above. Based on the fair comparison of the normal value and export price so worked out, the margin of dumping in respect of exports made by Degussa Huls comes out to be 60% of the export price. The Authority intends to use the same dumping margin for all the exports from EU as there does not seem to be any other manufacturer-exporter from the EU of the product.

H. INJURY

12. 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 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. Also the effect of dumped imports on the volume of sales by the domestic industry needs to be looked into to determine injury being caused.

13. For the examination of the impact on the domestic industry in India, the Authority considered such further indices having a bearing on the state of industry as production, capacity utilization, sales, stock, profitability, net sales realisation etc.

(a) Volume and market share of dumped imports

Imports of Sodium Ferrocyanide from EU were nil till 1998 which have increased to 200 MTS in 1999 which signifies a very sharp increase in the imports in the total market size of approximately 900 MTS. The market share of imports from the territories of EU in Sodium Ferrocyanide in India has also thus increased from nil to approximately 30% of the total domestic demand in 1999. The increase in absolute terms as well as percentage terms of imports of Sodium Ferrocyanide from EU is matched by fall in the share of domestic industry in the total sales from approximately 99% in 1998 to 66% in 1999.

(b) Production capacity utilisation

There has been a fall in production of the petitioner from *** MTS to *** MTS between 1998 and 1999 and as a result there has been a significant fall in the capacity utilisation of the domestic industry as well.

(c) Sales in absolute terms

Because of the increased imports, the sales of the domestic industry has fallen from *** MTS in 1998 to *** MTS in 1999.

(d) Average sales realisation and price under cutting

The Authority finds that the unit sales realisation for the domestic industry during three year period ending 1999 has almost remained constant and much lower than the optimum cost of production resulting in significant losses to the petitioner.

(e) Price Suppression

The Authority finds that import of large quantities from EU in 1999 at low prices resulted in a situation of price suppression in the Indian market, which prevented the domestic industry to sell at prices commensurate with its cost of production.

(f) Profit/Loss

The petitioner is a part of multi-unit organisation engaged in multi product activities and no conclusion can be drawn from the printed annual accounts about the financial position of the company for the product under consideration. The Authority has, however, relied upon the profitability of the petitioner from the product under consideration after considering allocation and apportionment of expenses on the basis of Generally Accepted Accounting Principles. The Authority noted that the average sales realisation to the petitioner is less than the cost of production resulting in losses from the sale of Sodium Ferrocyanide.

(g) Conclusion of the injury

The Authority is led to the conclusion that all the relevant factors, cumulatively and collectively establish that the domestic industry has suffered material injury during the period of investigation.

I. CAUSAL LINK

14. 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 EU increased significantly in absolute terms and relative to the production and consumption of the product in India. The share of EU in the total imports also increased significantly. As a direct consequence, the domestic industry lost its market share to a significant level resulting in fall in its sales volume.
- ii. The substantial imports of Sodium Ferrocyanide from EU at dumped prices forced the domestic industry to keep its selling prices at un-remunerative level which resulted in a situation of price undercutting in the Indian market.
- iii. The imports from EU suppressed the prices of the product in the Indian market to such an extent that the domestic industry was prevented from recovering its full cost of production and earn a reasonable profit from the sales of Sodium Ferrocyanide in India.
- iv. It has been argued above by the exporters that they matched the prevailing price of the domestic industry and did not undercut and that there was no export of Sodium Ferrocyanide to India from EU during the years 1997 and 1998. Further the domestic industry was making losses even during this period and

hence the export from EU were not the cause of injury to the domestic industry. Here it may be mentioned that prior to 1999 there had been substantial imports from China despite the anti dumping duty being there in place. In 1997, 100 tonnes of Sodium Ferrocyanide was imported from China. On account of this continued dumping, the Designated Authority in the mid-term review of anti dumping duties against China, issued a finding on 11.7.2000 recommending enhanced anti dumping duty to US\$ 615 PMT on all imports of Sodium Ferrocyanide into India originating in or exported from the People Republic of China. The fall in imports from China has been more than matched by increased imports from EU resulting in continued price suppression and financial losses for the domestic industry. Hence the contention of the exporter that imports from EU have not caused material injury to the domestic industry is not correct.

J. INDIAN INDUSTRY'S INTEREST

15. 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.

16. The Authority recognised that the imposition of anti dumping duties might affect the price levels of the products manufactured using Sodium Ferrocyanide 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 Sodium Ferrocyanide. The Authority notes that the imposition of anti dumping measures would not restrict imports from EU in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

17. Injury being caused to the petitioner from factors other than dumping from EU have not been considered by the Authority while recommending the amount of anti dumping duty.

18. The Authority notes that the petitioner as well as the other producer have been forced by the importer to reduce the prices of Sodium Ferrocyanide which clearly establish a situation of price undercutting prevailing in the Indian market and also there is fall in sales volume of domestic industry as a result of dumping from EU.

K. CONCLUSIONS

19. The Authority has, after considering the foregoing, come to the conclusion that:

- i. Sodium Ferrocyanide of EU origin has been exported to India below its normal value;
- ii. the Indian industry has suffered material injury;
- iii. the injury has been caused by the imports from EU.

20. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of Sodium Ferrocyanide originating from EU in order to remove the material injury to the domestic industry. The margin of dumping for known exporter determined by the Authority are indicated in para 11.

21. 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 Sodium Ferrocyanide falling under customs code 2837.20 originating from EU pending final determination. The anti dumping duty shall be the difference between the amount mentioned in column 3 and landed price of import per MT.

| Territory/Country | Name of Producer/Exporter | Amount in US\$ per MT |
|---------------------------------------|---|------------------------------|
| European Union (all member-countries) | M/s. Degussa Huls and all other producers/exporters | 1535 |

22. 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 under section 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

L. FURTHER PROCEDURE

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

- i. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- ii. 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 despatch of the letter.

Any other interested party may also make known its views within forty days from the date of publication of these findings;

- iii. The authority would provide opportunity to all the interested parties for oral submissions to be rendered thereafter in writing;
- iv. The Authority would conduct further verification to the extent deemed necessary;
- v. The Authority would disclose essential facts before announcing final findings.

L.V. Saptharishi,
Designated Authority