

# MINISTRY OF COMMERCE AND INDUSTRY

## NOTIFICATION

New Delhi, the 3rd November, 2000

### Final Finding Notification

**Subject:** Anti-Dumping Investigation concerning imports of Sodium Nitrite from China PR - Final Findings.

**No. 39/1/99-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

The procedure described below has been followed with regard to the investigations:

- i. The Designated Authority (hereinafter referred to as Authority), notified Preliminary Findings vide notification dated 6<sup>th</sup> April, 2000 and requested the interested parties to make their views known in writing within 40 days from the date of its publication.
- ii. The Authority forwarded a copy of Preliminary Findings to the known interested parties who were requested to furnish their views, if any, on the preliminary findings within 40 days of the date of the letter
- iii. The Authority also forwarded a copy of the preliminary findings to the Embassy of China PR with a request that exporters and other interested parties may be advised to furnish their views on the preliminary findings.
- iv. The Authority provided an opportunity to all interested parties to present their views orally on 18th July, 2000. Further, all the parties presenting views orally were requested to file written submission of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any.
- v. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties. All interested parties who made request for inspection, in writing, were allowed to inspect the public file;
- vi. Arguments raised by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have

not been repeated herein for sake of brevity. However, the arguments raised by the interested parties have been considered in the preliminary findings and/or these findings.

- vii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have also been duly considered in these findings.
- viii. The investigations covered the period of 1st April, 1998 to 31st March, 1999 (12 months);
- ix. In this notification represents the information furnished by an interested party on confidential basis and so considered by the Authority under the rules.

## **B. VIEWS OF THE PETITIONERS**

### **2.0 VIEWS OF DOMESTIC INDUSTRY ON PRELIMINARY FINDINGS:**

They have submitted that the cost of production of Sodium Nitrite has increased significantly after the investigation period, which has resulted in intensify injury to the domestic industry.

2.2 Exports from China PR have been increasing and are causing severe injury to domestic industry.

2.3 In response to the Preliminary Findings two other producers, namely, M/s.Punjab Chemical and Pharmaceuticals ( PCPL) and M/s. Rashtriya Chemicals & Fertilizers (RCF) have extended their support to the petition filed by Deepak Nitrite and have conveyed their willingness to provide all information considered relevant and necessary by the Designated Authority for the investigation.

2.4 It has been claimed by some interested parties that there are two more producers of Sodium Nitrite, namely, Omega Chemicals and M/s. Punjab Nitrate. It has been submitted that to best of their knowledge there are no manufacturers of Sodium Nitrite by these names. It is understood that Ws. Omega Chemicals is a trader, who earlier tried to make Sodium Nitrite through direct neutr4ajation of Soda Ash and Nitric Acid.

2.5 With regard to information provided by the trader on normal value, the petitioners has submitted that mere E-mail information with regard to prices in the 3rd market does not constitute evidence of normal value. The information in this regard required to be provided by those producers who are holding the relevant information. The petitioners have submitted that the export price from China has declined continuously and has resulted in intensify dumping. They have submitted that the final duties may

be recommended in Variable form in terms of US Dollars so that erosion of the quantum of protection does not take place on account of changes in the exchange rate.

2.6 Drawing attention to the amendments to the anti-dumping rules, the petitioners have requested that the Designated Authority may consider recommending anti-dumping duties up to the dumping margin.

### **C. VIEWS EXPRESSED BY THE EXPORTERS, IMPORTERS AND INTERESTED PARTIES**

1. **Exporters:** None of the exporters from China PR have responded to these investigations.
2. **Importers:** M/s. Runit International, Bombay: They have stated that they are exclusive indenting agent of M/s. Qingdao Hengchang Chemical Factory, Chip, manufacturers of Sodium Nitrite in China.
3. They have stated that in addition to four major producers of Sodium Nitrite, there, are additional capacities, namely, Punjab Nitrate Ltd. (5000 MT per year) and M/s. Omega Chemical (200MT per year). They have stated that Chinese exporters are selling the product at a lower price than India to countries like Korea, Taiwan & Japan.
4. They have further requested the Authority not to impose anti-dumping duty on Sodium Nitrite originating from China.
5. The importers have drawn attention to the production of Sodium Nitrite as a by-product in the manufacture of fertilizers and the cost of by-product would be lower than M/s. Deepak Nitrite.
6. They have stated that the rate of sales tax in Gujarat and other States vary widely and this affects the price of the product under consideration- They have stated that the market share, or domestic industry has increased from 85% to 89.9%, whereas import from china has declined from 11.6% in 1997-98 to 8.04% in 1998-99.
7. Deepak Nitrite can be labeled as the monopoly under MRTP Act. The production figures given by the petitioners indicate that there has been an increase in production of Sodium Nitrite in absolute terms:
8. M/s Colour-Chem 'Clariant':

The importers have stated that due to certain commitments they could not attend the public hearing on 18<sup>th</sup> July, 2000. They have submitted that they have not imported Sodium Nitrite till date and have purchased only from domestic manufacturers, namely, M/s. Deepak Nitrite and M/s. RCF. Effective from 15<sup>th</sup> May, 2000 Deepak Nitrite have already increased the prices of Sodium Nitrite by Rs.1500/-PMT due to increase in price of Ammonia.

The domestic manufacturers by increasing. the price of Sodium Nitrite is only making it difficult for domestic pigment manufacturers to operate their plant and have submitted that if anti-dumping duty- is levied on imports of Sodium Nitrite similar protection should be given to the consumer industries, namely, Dyes and Pigments in which Sodium Nitrite is consumed.

## **D. EXAMINATION OF ISSUES RAISED**

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

## **E. PRODUCT UNDER CONSIDERATION:**

5.1 The product under consideration in the present investigation is Sodium Nitrite originating in or exported from China. The product is classified under Customs Tariff heading, 2834.10. The classification is, however, indicative only and in no way binding on the present investigations. The petitioner has stated that the product is under ©GL category as per the import policy and' is an oxidizing as also a reducing agent. It is a white crystal powder mostly used in pharmaceutical industries, dye industry, lubricants, construction chemicals, meat processing, textiles etc.

5.2 The Authority notes that none of the interested parties have raised any contrary arguments with regard to product under consideration. Para E, of the Preliminary findings is confirmed.

## **F. LIKE ARTICLE:**

1. The Authority finds that Sodium Nitrite produced by the petitioners and the subject product imported from China 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.
2. Authority also notes that none of the interested parties have raised any contrary arguments on the preliminary findings with regard to like article. Para F of the preliminary finding is confirmed.

## **G DOMESTIC INDUSTRY.**

- i. M/s. Deepak Nitrite Ltd., Baroda on behalf of domestic industry, has filed the petition There are three other petitioners who have created capacities for

production of Sodium Nitrite, namely, M/s. Punjab Chemicals and Pharmaceuticals Ltd., M/s. National Fertilizers Ltd. and Rashtriya Chemicals and Fertilizers Ltd. The petitioner accounts for around 64% of production of domestic industry during the period of investigation.

- ii. One importer has alleged that M/s. Punjab Nitrate Ltd. (5000 MT per year) and Omega Chemicals (200 MT per year) are also producers of Sodium Nitrite. Authority notes that none of the capacities existed as per the available information on records.
- iii. Authority notes that no contrary argument has been made by any interested party in this regard after the preliminary finding notification was issued and, therefore, Authority confirms the preliminary findings in this regard.

### **EXAMINATION BY THE AUTHORITY:**

7.4 Authority notes that apart from M/s. Deepak Nitrite, the petitioners, two other producers namely, M/s. PCPL and M/s. RCF have supported the anti-dumping petition and conveyed their willingness to provide all relevant information necessary for the investigation. Authority called for relevant information and conducted verification to the extent deemed necessary.

7.5 As regards to additional production facilities like Punjab Nitrite Ltd. (5000 MT/Per year) and M/s. Omega Chemicals (200 MT/Year) the Authority notes that importer has just alleged about the production facilities and have not substantiated with any evidence. The concerned administrative ministry has also not confirmed about the above mentioned production facilities of Sodium Nitrite. In the circumstances. Authority rejects the contention of the importer.

6. As regards to rates of sales tax in Gujarat and other States, which vary widely and affects the price of the product under consideration, the Authority notes that the non-injurious price is assessed at ex-works level for computing injury margin and the same is consistently followed by the Authority.

7. As regards the argument that market share of import from China has declined from 11.6% (97-98) to 8.04% (98-99) and the share of domestic industry has increased from 85.4% (97-98) to 89.9% (98-99), the Authority notes that the market share of import from China in total demand in India, which was as low as 2.7% in 96-97, registered an increase in 1998-99 and stood at 7.8%. Similarly, the market share of domestic industry, which was 96.5% in 96-97, declined to 90.2% in 98-99.

8. As regards to M/s. Deepak Nitrite labeled as monopoly under MRTP Act, the Authority notes that it has carried out investigations in accordance with anti dumping rules in the instant case.

9. With regards to the argument that anti-dumping duty if levied on Sodium Nitrite, similar protection should be extended to the consumer industry products like Dyes and pigments, the Authority notes that the levy of anti-dumping duty to dyes and pigments is beyond the scope of this anti-dumping investigation.

## **DUMPING**

1. The petitioner has claimed that it is difficult for them to obtain normal value prevailing in China PR in view of the market condition in that country. The normal value has been constructed on the basis of cost of production. The petitioners have stated that raw material, utilities and packing material cost constitute around 65% of the total cost of production of Sodium Nitrite. Hence, the constructed cost of production is a good indicator for normal value of Sodium Nitrite on this account.
2. The Authority wrote to the exporters from China for providing factual information. However, none of the exporters in China responded and provided necessary information.
3. 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 China and the best available information on record. The normal value claimed at US \$ \*\*\*\* per MT has been accepted.

## **Export Price:**

4. The petitioners have provided the export price as per the Directorate General of Commercial Intelligence and Statistics (DGCI&S), Calcutta for the period 1997-98 and also as per the Chemicals Intelligence Trade Magazine for the period of 1998-99. The petitioners have also furnished latest OGCI&S imports statistics for 1998-99, and claimed c.i.f export price at Rs. 13033 PMT. The petitioners have claimed adjustments to the c.i.f price to arrive at the ex-factory export price on account of Ocean Freight, Marine Insurance, Commission, Inland transportation, and Port handling charges.

5. 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.

## **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".

6. 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. The comparison of normal value (\*\*\*\*per MT) and export price (\*\*\*\* per MT), works out to a dumping margin of \*\*\*\* per MT. The dumping. margin expressed as a percentage of export price for China PR works out to 75.78%.

7. Authority notes that no other argument has been made by any interested party in this regard after the preliminary finding notification was issued and. therefore, Authority confirms the preliminary findings in this regard.

## **INJURY AND CAUSAL LINK**

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

### **9.1 Volume of Imports:**

The volume of imports have been as under:

1996-97 1997-98 1998-99

Imports from China (MT) 611 3095 2024

Share of China in total imports (%) 76.7 78.9 79.7

imports from Other countries (MT) 186 830 517

Total Imports (MT) 797 3925 254

Sale of Indian Producers 21586 23399 23464

Total Demand in the Country(MT) 23170 27324 26005

Market Share in Demand

China 2.7 11.41 7.8

Other Countries 0.8 3.0 2.0

Domestic Industry 96.5 85.6 90.2

It is evident from the table above that the imports have increased from China in absolute terms. It increased from 611 MT (1996-97) to 2024 MT in 1998-99. The market share of import from China in the total demand in India, which was as low as 2.7% in 1996-97 registered manifold increase and stood at 7.8 % in 1998-99. The market share of domestic industry, which was 96.5% in 1996-97 declined to 90.2 % in 1998-99.

## 9.2 Value of Imports from subject country:

The CIF value of imports from China has been as under:

Qty	Value (Rs)	CIF Value	Rs/MT
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1996-97	611.0	8934948	14623
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1997-98	3095.3	41619120	13446
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1998-99	2024.49	26384470	13033
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Source: DGCI &S

As seen from the above the CIF rate per MT has declined from Rs. 14623/MT to Rs. 13033/MT.

**9.3 Production :** As per the petitioners, there are four producers of Sodium Nitrite in India including Deepak Nitrite Ltd. The Ministry of Chemicals & Petrochemicals has indicated production and capacity details for period of investigation and past years. They have indicated production figures only for DNL , NFL & RCFL as shown below. The production figures for PCPL as given by the company are also shown below.

PRODUCERS 1996-97 1997-98 1998

Volume/MT Volume/MT Volume/MT

PETITIONER

DEEPAK NITRATE LTD 14622 17533 16718

SHARE % 62.33 65.43 63.98

OTHERS

PCFL 3955 4620 4913

NFL 2411 3160 2975

RCFL 2470 1485 1526

OTHERS

TOTAL 8836 9265 9414

SHARE % 37.67 34.57 36.02

GRAND TOTAL 23458 26798 26132

As it is evident from the above the petitioner M/s. DNL represents 63.98% production of total domestic production in 1998-99. Further, the production of petitioner has declined in 1998-99 as compared to 1997-98, though the production increased in 1997-98 compared to 1996-97. The increase in production has been attributed to investment of 7crores in 1996-97 for upgradation and modernisation of the plant by the petitioners i.e. DNL.

4. Capacity Utilisation: Production and capacity utilisation of the M/s DNL, M/s PCPL and M/s RCF is as under:-

Sodium Nitrite 1996-97 1997-98 1998-99

Capacity Achievable 27580 27580 27580

Production 23458 26798 26132

Capacity Utilisation % 85.05 97.16 94.74

As it is evident from the above that the capacity utilisation which was 97.16% in 1997-98 declined to 94.74% in 1998-99. The production and capacity utilisation have increased in 1997-98 as a result of additional investments during 1996-97.

#### **5. Sales Volume:**

Sales volume in respect M/s DNL, M/s PCPL and M/s RCF is as under:-

1996-97 1997-98 1998-99

Sales (MT) 21586 23399 23464

The sales volume has marginally increased during 1998-99 compared to 1997-98 by 65MT in absolute terms.

#### **6. Selling Price and Price Undercutting:**

The net sales realisation for one of the largest producers in the domestic industry i.e. M/s. DNL for three years is as under:-

Period Selling price

(Rs. Per MT)

1996-97 19180

1997-98 18648

1998-99 1st QTR 18787

1998-99 2nd QTR 19564

1998-99 3rd QTR 19115

1998-99 4th QTR 18546

9.6.1 The material injury suffered by the petitioner is noticed from the steep reduction in the selling price of Sodium Nitrite in the domestic market. The average Sales Realisation of DNL, which was 19180 MT in 1996-97, declined to 18648 PMT in 1997-98. The petitioner was able to increase the price marginally in the beginning of second quarter of 1998-99 but was forced again to reduce the prices during the fourth quarter due to alleged dumped imports.

9.6.2 The Authority notes that imports were undercutting the prices of the Indian Industry to a significant degree. This has prevented the industry from increasing their selling price. The cost of production of the industry increased, in spite of which the industry could not increase its selling prices proportionate to the extent of the increase in the cost of production.

9.6.3 The profitability of the domestic industry has remained sub-optimal . One of the companies has been forced to significant losses while the others were also prevented from recovering their fair non-injurious price during the period of investigation.

## **10.0 Conclusion on Injury:**

The Authority thus observe that:

- The volume of imports from China has increased sharply during the period of investigation.
- The CIF import price has been declining.
- The production and capacity utilisation has shown a decline in period of investigation compared to previous year.
- The market share of imported goods from China has gone up whereas the share of petitioner in total demand has come down.
- The cost of production have gone up, during the period of investigation but the realisation have gone down in the later part of the POI and thus the domestic industry has suffered losses during period of investigation.
- Imports from subject country resulted in price under cutting in Indian market;
- The Authority, after considering the above, concludes the domestic industry has suffered material injury from the imports of Sodium Nitrite originating from China.

## **11.0 Causal Link:**

11.1 Imports of Sodium Nitrite from other countries was around 21% to 23% in the past three years. Further more, the exporters from other countries are exporting Sodium Nitrite into India at a significantly higher price. The imports from other countries are, therefore, not causing any injury to domestic industry. The petitioner is producing Sodium Nitrite for past three decades. The technology adopted by the company is comparable to the technology adopted by other player's world over- There is no significant difference in manufacturing process. Imports volume from China PR has increased in absolute terms from 611 MT (95-96) to 2024 MT (98-99).

11.2 Market share of China; in the total demand of Sodium Nitrite increased from around 3% (96-97) to 8% (98-99). , As a direct consequence, share of domestic industry defined from around 96% (96-97) to 90% (98-99).

11.3 The landed value of imports from China is lower than the selling prices of domestic industry indicating price under cutting. As a direct consequence, the net sales realisation of domestic industry in 1998-99 has remained more or less stagnant and the industry is finding difficult to hold its prices.

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

## **12. 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 Gave 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 gainer! by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of sodium nitrite. 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 Sodium Nitrite 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 CONCLUSIONS;**

The Authority, after considering the foregoing, concludes that:

- Sodium Nitrite originating in or exported from China PR 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 country. It is considered necessary to impose definitive anti-dumping duty, on

all imports of Sodium Nitrite originating in or exported from the subject country.

14.0 Authority considered 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, and the date of commencement of such duty (clause (d) Rule & supra as amended).

15.0 Accordingly, the Authority recommends definitive Anti-dumping Duty. The Anti dumping Duty shall be the difference between US\$524.63 per MT and the landed price of imports per MT on all imports of Sodium Nitrite originating in or exported from China PR falling under Chapter 28 of the Customs Tariff Act.

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, 9 and 9A of the Customs Tariff Act, 1975.

17.0 Subject to above , the Authority confirms the preliminary findings dated 6.4.2000.

18.0 An appeal against this order shall lie to the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act Supra.

**L. V SAPTHARISHI..**  
Designated Authority