

MINISTRY OF COMMERCE AND INDUSTRY
(Department of Commerce)

NOTIFICATION

New Delhi, the 6th April, 2000

Subject : Anti-dumping investigation concerning imports of Sodium Nitrite from China PR Preliminary 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

1. The procedure described below has been followed with regard to the investigations:
 - i. The Designated Authority (hereinafter referred to as Authority), under the Rules, received written application from M/s Deepak Nitrite Ltd., Nandesari, Baroda; on behalf of the domestic industry, alleging dumping of Sodium Nitrite originating in or exported from China PR ;
 - ii. The Authority, on the basis of sufficient evidence submitted by the Petitioner, decided to initiate investigations against imports of Sodium Nitrite from China PR. The Authority notified the Embassy of China about the receipt of dumping allegation before proceeding to initiate the investigations in accordance with sub-rule 5(5) of the Rules;
 - iii. The Authority issued a public notice dated 4th November, 1999 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of NBR, classified under heading 2834.10 of Schedule I of the Customs Tariff Act, 1975 and No.2834.10 under Indian Trade Classification (Based on Harmonised Commodity Description and Coding System) originating from Taiwan. The classification is, however indicative only and in no way binding on the present investigations;
 - iv. The Authority forwarded a copy of the public notice to the known exporters (whose details were made available by the petitioner) and industry associations and gave them an opportunity to.-make their views known in writing in accordance with the rule 6(2);

- v. The Authority forwarded a copy of the public notice to the known importers of Sodium Nitrite in India and advised them to make their views known in writing within forty days from the date of the letter;
- vi. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of Sodium Nitrite for the past three years, including the period of investigation.
- vii. The Authority provided a copy of the petition to the known exporters and the Embassy of China PR in India in accordance with rules 6(3) supra;
- viii. The Authority sent questionnaire, to elicit relevant information, to the following known exporters, in accordance with the rule 6(4);
 - 1. China National & Chemicals IICC Corpn., China
 - 2. Wuhan Chemicals I/E Corpn. China
 - 3. Yunnan Provincial Chemicals I/E Corporat, China
 - 4. Jiagmen Chemicals I/E Company of Guangdong China, China
 - 5. Kunming Import & Export Corpn., China
 - 6. China Hunan Chemicals Imp. & Exp. Corpn., China
- ix. The Embassy of China PR in New Delhi was informed about the initiation of the investigations in accordance with rule 6(2) with a request to advise the exporters/producers from their country to respond to, the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to them, alongwith the list of known exporters and producer from China PR.
- x. The questionnaire was also sent to the following importers of Sodium Nitrite in India calling for necessary information, in accordance with rule 6(4);
 - 1. M/s. Ahmedabad Chemicals, Ahmedabad
 - 2. Asitic Industries, Ahmedabad
 - 3. Aries Dyechem Inds., Ahmedabad
 - 4. Bakul Aromatics & Chemicals Ltd., Bombay
 - 5. B.I. Mehta, Bombay
 - 6. Caffl Pvt. Ltd., Mumbai
 - 7. Dintex Dyechem Ltd., Ahmedabad.
 - 8. Dynamic Industries Ltd., Ahmedabad
 - 9. Enzel Chem (I) Pvt:Ltd., Bombay
 - 10. Farmson Pharmaceuticals, Baroda
 - 11. Indocol Chem Ltd., Ahmedabad
 - 12. Island Veerchemie, Hyderabad
 - 13. Jansons Ltd., Bombay
 - 14. Ketul Chem Pvt. Ltd., Bombay
 - 15. Metrochem Industries, Ahmedabad

16. Manish Chemicals, Ahmedabad
17. Prima Chemicals, Ahmedabad
18. Parsin Chemicals Ltd.
19. Prabava Exports, Hyderabad
20. Ravi Dyewear Co. Ltd., Bombay
21. Roha Dyechem, Bombay
22. Savakashi Dye-O-Fab, Ahmedabad
23. Su-vi Chemicals Ltd., Solapur
24. Suven Pharmaceuticals Ltd., Hyderabad

- xi. Additional information regarding injury was sought from the petitioner, which was also received;
- xii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xiii. The Authority sought and verified information deemed necessary for the investigation, and to this end investigations were carried out at the premises of Petitioner's head office and works;
- xiv. The Authority also conducted cost investigation and worked out optimum cost of production and cost to make arid sell in India on the basis of Generally Accepted Accounting Principles.
- xv. The investigations covered the period of 1 at April, 1998 to 31st March, 1998 (12 months);
- xvi. ****in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules;

B. Petitioner's Views

2.0 The petitioner has raised following issues in their petition:

1. Imports from China increased significantly in absolute terms. As a direct consequence, the Indian industry lost sales to such an extent resulting in lower capacity utilisation of domestic industry.
2. The market share of China in the total demand of Sodium Nitrite increased significantly from less than 2% in 1996-97 to about 9% in 1998-99. As a direct consequences market share of Indian industry declined from 98% to 90%.
3. The imports from China are causing severe price under cutting. The landed price of import from China is significantly lower than the selling price of domestic industry. The net realisation of domestic industry in 1998-99 has remained more or less stagnant in view of this severe price under cutting the domestic industry is finding it difficult to hold its prices.

C. Views of Exporters Importers and other interested parties:

3.0 Rumit International Mumbai: The importers have stated that they are exclusive indenting agents of M/s. Qingdao Hengchang Chemical Factory, China the manufacturer of Sodium Nitrite. They have submitted that India is manufacturing more than 31200 MT/per annum vide imports are not more than 3000 MT/per annum being hardly 10% of Indian manufacturing capacity. They have also stated that Chinese manufacturer are selling Sodium Nitrite at lower prices than India to countries like Korea, Taiwan and Japan. They have requested the Authority not to impose anti-dumping duty on Sodium Nitrite for imports from China.

D. Examination of issues raised:

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

E. Product under consideration:

5.0 The product under consideration in the petition is 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 OGL 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.

F. Like Article:

6.1 Definition of Like Article states as under:

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

6.2 The Authority finds that 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.

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

G Domestic Industry:

7.1 The petition has been filed by M/s. Deepak Nitrite Ltd., Baroda on behalf of domestic industry. 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.

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

H Dumping:

8.0 Under Section 9A (1)(c), normal value in relation to an article means:

- i. "the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
- ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-
 - a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
 - b. the cost of production of the said article in the country of origin alongwith reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no

comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin". .

Normal Value:

8.1 The petitioner has claimed that it is not feasible 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.

8.2 In absence of cooperation of any of the exporters, Authority relies upon the claims made by the petitioners with regards to constructed normal value in China and the best available information on record. The normal value claimed at US \$ ***** per MT has been accepted.

Export Price:

8.3 The petitioners have provided the export price as Per the Director 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 DGCI&S imports statistics for 1998-99, and claimed export price at US \$***** MT. The petitioners have indicated following adjustments to the CIF prices to arrive at the ex-factory export price i.e. Ocean Freight, Marine Insurance, Commission, Inland transportation, and Port handling charges.

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

8.5 **Dumping Margin:** The Rules relating to comparison provides comparison of normal value and export price provides as follows:

"While arriving at margin of dumping Designated Authority shall make a fair comparison between the export price and the normal value. A comparison shall be made at the- same level of trade, normally at ex-works level and in respect of sales made and as nearly possible the same time. Due allowance shall be made in each case on its merits, for differences which occur price comparability including differences in conditions and terms and sales, taxation, levels of trade quantities, physical

characteristics and any other differences which are demonstrated to affect price comparability".

8.6 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, the dumping margin for China PR works out to **** per MT. The dumping margin expressed as a percentage of export price for China PR works out to 75.78

Injury :

9.0 Under Rule 11 supra, Annexure-II, When a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles" In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree;

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

a) the margin of dumping in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the import of the like article in India, and

b) the cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

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

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

1996-97 1997-98 1998-99

Imports from China MT 611 3095 2024

Share of China in total imports % 76.7 78.5 79.7

Imports from Other (MT) 186 830 517

Total Imports (MT) 797 3925 2541

Total Demand in the Country(MT) 22191 26798 25176

Market Share in Demand

China 2.7 11.6 8.04

Other Countries 0.8 3.1 2.06

Domestic Industry 96.5 85.4 89.90

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 8.04 % in 1998-99. The market share of domestic industry, which was 96.5% in 1996-97 declined to 89.9 % in 1998-99.

9.3 Production : As per the petitioners, there are four producers of Sodium Nitrite in India including Deepak Nitrite Ltd. . A letter was addressed to the Administrative Ministry, namely, Chemicals & Petrochemicals calling for 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 PCFL as given by the petitioner is also shown below.

PRODUCERS 1996-97 1997-98 1998-99

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 7 crores in 1996-97 for upgradation and modernisation of the plant.

9.4 Capacity Utilisation: Production and capacity utilisation of the petitioner is as under:-

Sodium Nitrite 1996-97 1997-98 1998-99

Capacity Achievable 19380 19380 19380

Production 14622 17533 16718

Capacity Utilisation % 75.45 90.46 86.26

As it is evident from the above that the capacity utilisation which was 90.46% in 1997-98 declined to 86.26% in 1998-99. The production and capacity utilisation have increased in 1997-98 as a result of additional investments during 1996-97.

9.5 Sales Volume:

1996-97 1997-98 1998-99

Sales (MT) 12438 14231 13978

The sales volume has declined during 1998-99 compared to 1997-98 by 253 MT.

9.6 Selling Price and Profitability:

The net sales realisation of M/s. DNL for first 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 selling price which was 19180 MT in 1996-97 declined to 18648 PMT in 1997-98.

9.6.2. The petitioner was able to increase the price marginally in the beginning of second quarter of 1998-99 but however was forced again to reduce the prices due to alleged dumped imports.

9.6.3. Petitioners have stated that Sodium Nitrite has been traditionally making reasonable profits for the company. However, the profitability of the company has deeply declined in 1998-99. Though the company as a whole is making profits due to diversified product.

9.7. Employment:

YEAR NO.OF EMPLOYEE INCREASED/DECREASE

1996-97 77 -

1997-98 78 +1

1998-99 60 -18

The petitioners have stated that their company has reduced employment from 77% employees in 1996-97 to 60 employees in 1998-99.

10.0 Conclusion on Injury:

The Authority thus observe that:

- The imports from China have increased sharply during the period of investigations.
- The production and Capacity utilisation has shown a decline in period of investigation compared to previous year.
- There is a decrease in sales and consequently increase in closing stock.
- 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 petitioner has suffered losses in the later part of POI. Though in the earlier part, they have earned profit.
- 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 pace. The imports from other countries is, 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 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.

12.0 Indian Industry's Interest and other issues:

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

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

14.0 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 anti-dumping duty, provisionally, pending final determination, on all imports of Sodium Nitrite originating in or exported from the subject country, pending investigations.

15.0 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 4 supra as amended).

16.0 Accordingly, the Authority recommends provisional Anti-dumping Duty. The Anti dumping Duty shall be the difference between Rs. 22,625/- per MT and the landed price of imports per MT, from the date of notification to be issued in this regard by the Central Government, on all imports of Sodium Nitrite originating in or exported from China PR falling under Chapter 28 of the Customs Tariff, pending final determination.

17.0 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.

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

RATHI VINAY JHA...
Designated Authority