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Ministry of Commerce and Industry
(Department of Commerce)
Directorate General of Anti-Dumping and Allied Duties

Notification

New-Delhi, the 16th April, 2001

Subject: Anti-Dumping investigations concerning imports of Paracetamol from China and Taiwan... Preliminary Findings.

60/1/2000-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 Triton Laboratories Ltd., Hyderabad, M/s Vamsi Labs Ltd., Solapur, M/s Srinivasa Agro Industries & Drugs Ltd., Vijaywada and M/s Sri Krishna Pharmaceuticals Ltd., Hyderabad alleging dumping of Paracetamol originating in or exported from China and Taiwan.
 - 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 Paracetamol originating in or exported from China and Taiwan. The Authority notified the Embassies of the subject countries about the receipt of dumping allegation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rules.
 - iv. The Authority issued a Public Notice dated 30th January 2001, published in the Gazette of India Extraordinary initiating anti-dumping investigations concerning imports of Paracetamol classified under customs sub-heading no. 2922.2914 of Chapter 29 of the Customs Tariff Act, 1975, originating in or exported from China and Taiwan.

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

China

- Wenzhou Pharmaceutical Factory,
Room No. 504, 5/F Kangle Building,
No: 112 MA Anchi Road (West),
Zhejiang Province.
- Huzhou Beigang Enterprises Group Corp,
4th Floor, Wuxie Building, South Street,
Huzhou, Zhejiang.
- Wuxie Zhong Che Pharma,
150, Tong Hui Road (West),
Wuxi, Jiangsu Province.
- Weifang No: 4 Pharmaceutical Factory,
Xiadheya, Anqio City,
Shandong Province.
- Anhui Huainan No: 3 Pharm,
Tiantong Road, Tianjiaan,
District Hunan, Anhui Province.
- Changshu Huagang,
Yaluji South, Changshu City,
Jiangsu Province.

Taiwan

- Long Lwang Chemical Company Ltd.,
P.O. Box 1494,
Kaohsiung.

- Joint Union Enterprises Company Ltd.,
201-28, Tun Hwa North Road,
Taipai 10591.

The exporters did not respond to the questionnaire.

The Embassy of China and the Taipei Economic and Cultural Centre 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.

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

- M/s Bafra Pharmaceuticals,
Chennai
- M/s Fourts (India) Labs Pvt.
Kelambakkam,
Tamilnadu
- M/s Medo Pharma,
Chennai
- M/s Bal Pharma Ltd.,
Bangalore
- M/s Bangalore Pharmaceuticals & Research,
Bangalore
- M/s Eros Pharma Ltd.,
Bangalore
- M/s Kemwell Ltd.,
Bangalore
- M/s Kerala State Drugs & Pharmaceuticals Ltd.,
Kalavoor, Alappuzha
- M/s Medrich Sterilab Ltd.,
Bangalore
- M/s Micro Labs Ltd.,
Hosur
- M/s Smithkline Beechem Pharmaceuticals Ltd.,
Mysore
- M/s Burroughs Wellcome (India) Ltd.,
Mumbai
- M/S Concept Pharmaceuticals Ltd.,
Aurangabad

- M/S Nicholas Pirmal India Ltd.,
Dhar Dist
- M/S Petro Solv India Ltd.,
Mumbai
- M/S Shalina Laboratories (P) Ltd.,
Mumbai
- M/S Tridoss Lab Ltd.,
Nanidhaman
- M/S Wockhardt Ltd.,
Mumbai
- M/S P & G Hygine and H.C. Ltd.,
Mumbai
- M/S S.G. Pharmaceuticals,
Baroda
- M/S Wings Pharmaceuticals 9P) Ltd.,
Delhi

No response was filed by the importers/user industry.

- 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 April, 1999 to 30th September, 2000 (18 months).

B. PETITIONERS VIEWS

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

- i. Paracetamol is an odorless white crystalline powder. Its chemical formula is $C_8H_9NO_2$. Paracetamol is a bulk pharmaceutical active ingredient, displaying analgesic and antipyretic properties. It is classified under custom sub- heading 2922.2914 of the Customs Tariff Act, 1975.

- ii. Paracetamol can be produced by two production processes- by acetylation of paraminophenol (PAP) using acetic anhydride as acetylation agent and by applying "Backman transportation" to Hydroxy-4-acetophenone oxime. The exporters in China and Taiwan and Indian producers are producing the product through the first process, i.e., by acetylation of PAP.
- iii. The producers-exporters in China PR and Taiwan have been exporting Paracetamol to India for quite sometime. However, dumping has intensified recently. The export price from the subject countries is continuously declining. Information compiled from secondary sources show that imports of Paracetamol are being reported under a number of other Customs sub-headings other than the one meant for the subject goods.
- iv. There were more than 40-45 producers of Paracetamol in the country. However, a number of producers have either suspended their production or completely closed their operations relating to Paracetamol. The collective output of the four petitioners represent a major proportion of the production of Paracetamol in India. The petitioners therefore constitute domestic industry within the meaning of the rules.
- v. There is no known significant difference in Paracetamol produced by the Indian industry and Paracetamol exported from China and Taiwan which can have an impact on price. Paracetamol produced by the Indian industry and imported from the subject countries is comparable in terms of physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods. The two are technically and commercially substitutable. Consumers have used the two interchangeably.
- vi. Some of the petitioners are exporting Paracetamol to a number of countries. M/s Srinivasa has exported to UK and Yemen in 99-00. (Prices Rs ***/kg and ***/kg respectively). Sri Krishna has exported to Mexico (98-99) and UK (99-00) . (Prices –Rs ***/kg and ***/kg respectively).

C. VIEWS OF IMPORTERS, EXPORTERS AND OTHER INTERESTED PARTIES

3. Importers views

None of the importers/users of the subject goods responded to the questionnaire forwarded by the Authority.

4. Exporters Views

(A) China

The exporters from China did not respond to the questionnaire forwarded by the Authority.

The exporters questionnaire and a copy of the non-confidential petition were forwarded on request to the China Chamber of Commerce of Medicines & Health Products Importers & Exporters, 8F, 12 Panjiayuan Nanli, Beijing-100021. However no response was received by the Authority.

(B) Taiwan

1. **Joint Union Enterprise Co., Ltd. Taipei**, in a letter to the Authority stated that Joint Union did not export Paracetamol to India during 1st April 1999 to 30th September 2000. They have requested for deletion of the company's name.

2. **Long Hwang Chemical Co. Ltd., Taiwan**

This exporter has stated that Long Hwang did export this item to India in 1999-2000. They have requested for deletion of the company's name from the anti-dumping investigations.

D. 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.

E. PRODUCT UNDER INVESTIGATION

6. Paracetamol is an odorless white crystalline powder. Its chemical formula is $C_8H_9NO_2$. Paracetamol is a bulk pharmaceutical active ingredient, displaying analgesic and antipyretic properties. It is used in a number of Rx and OTC drug formulations in the form of powders, granules, injectibles and tablets. Paracetamol is an organic chemical and is classified under custom sub-heading 2922.2914 of the Customs Tariff Act, 1975.

F. LIKE ARTICLES

In order to establish that Paracetamol produced by the domestic industry is a Like Article to that exported from China and Taiwan, 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 Paracetamol produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by Paracetamol imported from the subject country both commercially and technically. Paracetamol produced by the domestic industry has been treated as Like Article to the product exported from China and Taiwan within the meaning of Rule 2(d).

G.DOMESTIC INDUSTRY

The petition has been filed by alleging dumping of Paracetamol originating in or exported from China and Taiwan.

The production of Paracetamol by the petitioner has been as under:-

	1997-98	1998-99	1999-2000	POI
Petitioners	55,79,642	61,50,329	66,89,579	100,39,757
Other producers	26,25,560	34,20,165	42,79,073	58,72,775
Total Indian production	82,05,202	95,70,494	109,68,652	159,12,532

The petitioners account for 63.09% of the total production in the POI. The Authority notes therefore that the petitioner constitutes "domestic industry" and has the required standing to file the present petition under the Rules.

H. DUMPING

7. The Authority sent questionnaires to the known exporters from the subject country in terms of section 9 A (1). However, the exporters did not respond with the information called for. Therefore there are no claims made by the exporters 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.

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

(i) NORMAL VALUE

8.The Authority observes that the exporters from China and Taiwan 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 petitioners have requested that the normal value in China and Taiwan be accepted on the basis of constructed cost of production of Paracetamol . In the circumstances the Authority has been constrained to determine the constructed cost.

The normal value in China and Taiwan is therefore considered to be USD ***/kg or Rs ***/kg at an average exchange rate during POI of 1USD=Rs 43.70.

(ii) **Export Price**

9. The cif price as per the information available with the Authority is determined at Rs***/kg for China and Rs ***/kg for Taiwan. The ex-factory export price has been determined after taking USD 0.05/kg as ocean freight (based on petitioner's information), 0.5% as marine insurance charges, commission @3% for the agent in the exporting countries, 2% for inland transportation and 2% for port handling and port charges as per the Indian experience. However, commission @3% for the Indian indenting agent as claimed by the petitioner is not allowed by the Authority for want of documentary evidence. After adjustments on these accounts the ex- factory fob export price is estimated to be Rs ***/kg or USD ***/kg for China, and Rs ***/kg or USD ***/kg for Taiwan at an average exchange rate.of Rs 43.70=1USD.

(iii) **Dumping margin**

10. China

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 47.3% of export price).

Taiwan

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 50.3 % of export price).

J. INJURY

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

Quantity (kg.)

Countries	1997-98 (as per DGCIS)	1998-99 (as per DGCIS)	1999-2000 (as per DGCIS)	Apr-Sep'00 (as per Chemical Intl.)	Apr'99-Sep'2000 (18 months)
Total imports	887,958	11,61,630	11,68,071	6,56,230(annl. 13,12,460)	18,24,301
China	631,943	9,11,390	7,81,914	5,80,130 (annl. 11,60,260)	13,62,044
Taiwan	24,559	---	84,300	---	84,300

The increase in the total imports of Paracetamol was 30.8% in 1998-99 over that of 1997-98. Imports increased marginally in 1999-2000 over 1998-99 and significantly by 12.36% in Apr-Sep'00 (annualised) over 1999-2000.

The quantum of imports from China went up by 23.7% in 1998-99 over 1997-98. Imports in 98-99 were largely from China. Imports increased significantly by 48.3% in Apr-Sep'00 (annualised) over 1999-2000. The share of China in total imports was 71%, 78.4%, 66.9%, 88.4% and 74.66% in 97-98, 98-99, 1999-2000 and the POI respectively.

The quantum of imports from Taiwan went up by 243% in 1999-2000 over 1997-98. The share of Taiwan in total imports was 2.7%, 7.2% and 4.6% in 97-98, 1999-2000 and the POI respectively.

(b) Production and Capacity Utilisation

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

Petitioners	1997-98	1998-99	1999-2000	POI (18 months)
Installed Capacity (MT)	92,00,000	104,00,000	104,00,000	156,00,000
Production (MT)	55,79,642	61,50,329	66,89,579	100,39,757 (annl. 66,93,171)
Capacity Utilisation%	60.65	59.14	64.32	64.35

(c) Sales and Market Share

	1997-98	1998-99	1999-2000	POI
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Sales (kg) of petitioners	55,68,952	62,29,140	66,49,438	98,53,747
Sales (other producers)	25,15,260	33,63,630	47,29,896	62,20,846
Demand	89,72,170	107,54,400	125,47,405	160,74,593
Share of imports%	9.8	10.8	9.3	11.3
Share of dumped imports %	7.3	8.4	6.9	8.9
Share of petitioner %	62.06	57.9	52.9	61.3
Share of Production volume%	62.18	57.18	53.31	62.4

It is seen that total and dumped imports have increased in absolute terms. The market share of imports from the subject countries have also increased in terms of production and consumption in India. The share of the domestic industry has declined in demand as also compared to their production volumes. The Authority notes that while demand has increased by 19.4%, production of the domestic industry has increased by 19.95% which shows that domestic industry can meet the requirements of demand. However, dumped imports from the subject countries have increased by 47%, while sales of the domestic industry have increased only by 17.96% which shows that domestic industry has not been able to increase their sales in the face of significant increase in dumped import volumes.

(d) Price undercutting and price depression

Rs/kg

Year	Sales Realisation	Landed Price of Imports China Taiwan Others		
1997-98	***	158.7	154.4	161.46
1998-99	***	170.3	---	175.8
1999-2000	***	143.62	138.7	163
POI	***	141.6	138.8	165.23

It is evident from the above table that the exporters have been consistently reducing their prices that reduced significantly in 1999-2000 and in the POI. The landed prices have also varied considerably with the lowest ranging between Rs 98.63/kg and Rs 130.8/kg during January-February and April-May 2000. The domestic industry has been forced to reduce its selling prices consistently and respond to the lowest import prices in the market. The petitioners have claimed that the exporters are offering the material at much higher credit which has forced the domestic industry to reduce its prices further in spite of which it has continued to lose market share.

(e) Profitability:-

The domestic industry has been forced to reduce its selling prices below its cost of production, resulting in substantial financial losses. The profitability of the domestic industry has declined significantly as evident from the per unit profit/loss made by the

industry from sales in the domestic markets. Some of the companies have been forced to a situation of losses from a situation of profits.

Petitioners	1997-98	1998-99	1999-2000	(POI)
Triton				
COP	---	***	***	***
Selling Price	***	***	***	***
P/L	---	0.84	5.41	(14.22)
Srinivasa Agro				
COP	---	***	***	***
Selling Price	***	***	***	***
P/L	---	(12.79)	(23.84)	(22.17)
Vamsi Labs				
COP	---	***	***	***
Selling Price	***	***	***	***
P/L	---	(5.27)	2.38	1.82
Sri Krishna				
COP	---	***	***	***
Selling Price	***	***	***	***
P/L	---	15.67	3.55	2.13

K. CONCLUSION ON INJURY

11. In view of the foregoing it is observed that:-

- a. the quantum of imports from the subject countries have increased in absolute terms and in relation to production and 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 fair selling price resulting in losses;
- d. imports have undercut the prices of the domestic industry.

L. CAUSAL LINK

12. The Authority holds that the material injury to the domestic industry has been caused by imports from the subject countries that are major exporters of Paracetamol to India. The increase in the market share of imports from China and Taiwan resulted in the decline in the market share of the petitioner. Dumped imports from the subject countries increased by 47%, while sales of the domestic industry increased only by 17.96% which shows that domestic industry has not been able to increase their sales in the face of significant increase in dumped import volumes. Hence the dumped

imports have had volume effect on the domestic industry. In examining the price effect, the Authority notes that import prices from the subject countries have undercut the prices of the domestic product forcing 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.

M. 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 Paracetamol. 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 Paracetamol in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilisation for the domestic industry.

N. LANDED VALUE

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

O. CONCLUSIONS

17. It is seen after considering the foregoing that:

- a. Paracetamol described under para 6 originating in or exported from China and Taiwan 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.

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 Paracetamol originating in or exported from China and Taiwan, falling under customs sub-heading no. 2922.2914 of the Customs Tariff Act, 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)
CHINA	All producers/exporters	3.26
TAIWAN	All producers/exporters	3.26

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

