

Report No. 212

Sunset review of the anti-dumping duties on acetaminophen originating in or imported from India: Final determination

The International Trade Administration Commission of South Africa herewith presents its
**Report No. 212: SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON
ACETAMINOPHENOL ORIGINATING IN OR IMPORTED FROM INDIA: FINAL
DETERMINATION**



**Itumeleng Masege
ACTING CHIEF COMMISSIONER**

PRETORIA

15/02/ 2007

1. APPLICATION AND PROCEDURE

- 1.1** This investigation is conducted in accordance with the International Trade Administration Act (Act 71 of 2002) (the "ITA Act") and the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994 (the Anti-Dumping Agreement).
- 1.2** On 27 May 2005, the Commission notified interested parties through Notice No. 779 in *Government Gazette* No.27599 that unless a substantiated request is made indicating that the expiry of the anti-dumping duty on acetaminophen (paracetamol) originating in or imported from India would likely lead to the continuation or recurrence of dumping and material injury, the anti-dumping duty on paracetamol originating in India would expire on 29 June 2006.
- 1.3** A detailed response to the sunset review questionnaire was received from Fine Chemicals Corporation (Pty) Ltd ("Fine Chemicals"), the only manufacturer of paracetamol in the SACU.
- 1.4** The application was accepted by the Commission as being properly documented in accordance with Article 5.2 of the Anti-Dumping Agreement.
- 1.5** The investigation was initiated through Notice No. 609 in *Government Gazette* No. 28798 of 12 May 2006. The investigation period for dumping is from 1 July 2004 to 30 June 2005, and the injury investigation involves evaluation of data for the period 1 July 2002 to 30 June 2005, as well as an estimate of what the situation would be should the duty expire.
- 1.6** The following exporters/manufacturers in India were identified as interested parties:
- (a) Alpha Remedies (Pvt) Ltd
 - (b) Ambalal Sarabhai Enterprises, Ltd

- (c) Bengal Chemicals & Pharmaceuticals Ltd
- (d) Bharat Chemicals
- (e) Chemox Chemical Industries Ltd
- (f) Deepak Chemicals Pvt Ltd
- (g) Dinesh Pharmaceuticals Pvt Ltd
- (h) Dipak Laboratories Pvt Ltd
- (i) Farmson Pharmaceutical Gujarat Ltd.
- (j) G. Amphray Laboratories
- (k) GlaxoSmithKline Pharmaceuticals Ltd
- (l) Granules India Ltd
- (m) Hiranya Chemicals (Pvt) Ltd
- (n) Isekon Chemicals (Pvt) Ltd
- (o) Jamhik Dyechem Industries Pvt Ltd
- (p) Jyochem
- (q) Kajay Chemie
- (r) Maiden Pharmaceuticals Pvt Ltd
- (s) Malviya Chemicals & Pharmaceuticals Pty Ltd
- (t) Meditech Chemicals (Pvt) Ltd
- (u) Metropolitan Eximchem Ltd (Sunbeam Group of Companies)
- (v) Osho Pharma (P) Ltd
- (w) Pan Drugs Limited
- (x) Proven Chemicals Ltd
- (y) Rohini Chemicals Pvt Ltd
- (z) Saboo Medicon Pvt Ltd
- (aa) Sajjan India (Pvt) Ltd
- (bb) Spark Chemicals & Pharmaceuticals (Pvt) Ltd
- (cc) Sri Krishna Pharmaceuticals Ltd
- (dd) Srinivasa Agro Industries & Drugs Ltd (Yani Group)
- (ee) Suly Chemicals
- (ff) Triochem Products Limited
- (gg) Triton Laboratories Limited
- (hh) Unipex Biochem Ltd

- (ii) Vamsi Labs Ltd
- (jj) Vani Chemicals & Intermediates Limited
- (kk) Zoom Organics (Pvt) Ltd

1.7 The following SACU importers were identified as interested parties:

- (a) Adcock Ingram Healthcare (Pty) Ltd
- (b) BeTabs Pharmaceuticals
- (c) Frankel Chemicals (Agents for Mallinckrodt)
- (d) Gulf Drug
- (e) Kirsch Pharma S.A. (Pty) Ltd (Agents for Atabay in Turkey)

1.8 Exporter and importer review questionnaires were sent to various known interested parties. Responses were received from one exporter in India, Sri Krishna and also from a SACU importer, Kirsch Pharma. Both are represented by Xikhovha Advisory (Pty) Ltd, based in South Africa. Xikhovha stated that Sri Krishna's exports into the SACU only commenced in May 2005 giving a very small window of overlap with the period of investigation. On 03 August 2006 Kirsh Pharma was verified and Sri Krishna was subsequently verified on 22 August 2006.

1.9 Another SACU importer, Adcock Ingram Healthcare (Adcock), also responded to the Commission's sunset review importer questionnaire. However, the information it submitted was deficient as they did not import the subject product from India during the period of investigation. The information submitted was therefore not taken into account for purposes of the preliminary determination. Adcock Ingram's imports into the SACU only commenced in February 2006, which is outside the scope of the period of investigation. They however requested that all of their information be considered as they have been importing into SACU since then and this information is far more meaningful than to try to disprove an intention to dump, when there was no trade with South Africa during that period.

- 1.10** On 25 October 2006, the Commission made a preliminary determination that there was sufficient evidence that the expiry of the anti-dumping duties against paracetamol originating in or imported from India would not likely lead to the continuation of dumping and material injury. The Commission considered recommending to the Minister of Trade and Industry that the anti-dumping duties with regard to India be withdrawn.
- 1.11** Letters were sent to known interested parties, informing them in terms of Section 37 of the International Trade Administration Anti-Dumping Regulations and Article 6.9 of the Anti-Dumping Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of the “essential facts” which were being considered by the Commission. The Commission invited comments from interested parties on these “essential facts” being considered by the Commission.
- 1.12** On 17 January 2007, the Commission made a final determination that there was sufficient evidence to indicate that the expiry of the anti-dumping duties against paracetamol originating in or imported from India would not likely lead to the continuation of dumping and material injury. The Commission, therefore, decided to recommend to the Minister of Trade and Industry that the anti-dumping duties with regard to India be withdrawn.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The subject product is described as Acetaminophenol (*scientific name*), commonly identified or referred to as APAP (*common name*), and is sold under the name Paracetamol.

2.1.2 Country of origin/export

The subject product is imported from India.

2.1.3 Other applicable duties and rebates

The subject product is subject to the following anti-dumping duties:

Table 2.1.3: Other applicable duties

Tariff Heading	Description	Originating in or imported from	Rate of Anti-Dumping Duty	Date Imposed
2924.29.05	Acetaminophenol	United States of America	2,371c/kg	15 July 2005
2924.29.05	Acetaminophenol	People's Republic of China	2,573c/kg	15 July 2005
2924.29.05	Acetaminophenol	France	58c/kg	15 July 2005
2924.29.05	Acetaminophenol	India	434c/kg	29 June 2001

No rebate provisions exist in terms whereof the subject product can be imported subject to rebate of the duty.

2.1.4 Negligibility test

The following table shows the alleged dumped imports as a percentage of the total imports:

Table 2.1.4 Import volumes

Kilograms	Import volumes (2003 – 2005)	Volume as a percentage of total import volume
Alleged dumped imports	28 200	2.7%
Total imports	1 042 656	

The alleged dumped imports amount to 2.7% of total imports of the subject product. The Commission found that the alleged dumped imports are negligible.

1.1 SACU PRODUCT

2.2.1 Description

The product concerned is Acetaminophenol, commonly referred to as APAP, and sold under the name Paracetamol.

2.2.2 Statutory or other standards/specifications

The Applicant stated that in South Africa, acetaminophenol must comply with either of the following two common prescribed standards, namely the British Pharmacopoeia ("BP") or the United States Pharmacopoeia ("USP") as enforced by the South African Medicines Control Council ("MCC").

1.2 LIKE PRODUCT ANALYSIS

In determining the likeness of products, the Commission used the following criteria:

Table 2.3: Like product determination

	Imported product	SACU product
Raw materials	Para-Aminophenol Acetic Anhydride Charcoal F/A Hyflo Supercel Sodium Bicarbonate Sodium Hydro-sulphite Sodium Metabisulphite Packaging Materials (various)	Para-Aminophenol Acetic Anhydride Charcoal F/A Hyflo Supercel Sodium Bicarbonate Sodium Hydro-sulphite Sodium Metabisulphite Packaging Materials (various)
Technical characteristics	White crystalline powder.	White crystalline powder.
Application/end use	Used in the manufacture of Analgesics (Pain Killer).	Used in the manufacture of Analgesics (Pain Killer).
Categories of users	Used by a full spectrum of the population for pain relief. Pharmaceutical companies purchase the active Paracetamol for use in their products, e.g Grandpa, Panado, Stopayne, Paramed, etc	Used by a full spectrum of the population for pain relief. Pharmaceutical companies purchase the active Paracetamol for use in their products, e.g Grandpa, Panado, Stopayne, Paramed, etc
Tariff classification	2924.29.05	2924.29.05
Production process	Acetylation of para-aminophenol in acetic anhydride using stainless steel reactor vessels. The reaction of para-aminophenol with acetic anhydride produces a crude acetaminophenol. The exporter stated that this crude product is isolated by crystallisation. It is then purified dried <i>via</i> fluid bed dryers, milled, screened and packed. A Quality Control Department of 38 people in total manage in-process and final testing for the various grades of material produced while a Quality Assurance Department of 8 are responsible for final approval of all product produced.	Acetylation of para-aminophenol in acetic anhydride using stainless steel reactor vessels. The reaction of para-aminophenol with acetic anhydride produces a crude acetaminophenol.

After considering all the above factors, the Commission was satisfied that the SACU product and the imported product were “like products” for purposes of comparison in this investigation, in terms of Article 2.6 of the Anti-Dumping Agreement.

3. INDUSTRY STANDING

3.1 INDUSTRY STANDING

The Applicant is the only manufacturer of the product in the SACU. The application is therefore supported by 100 per cent of the SACU industry.

The Commission decided that the application can be regarded as being made “by or on behalf of the domestic industry” under the above provisions of the Anti-Dumping Agreement.

4. DUMPING

4.1 METHODOLOGY IN THIS INVESTIGATION FOR SRI KRISHNA PHARMACEUTICAL LIMITED OF INDIA

4.1.1 NORMAL VALUE

Type of economy

India is considered to be a country with a free market economy and therefore the definition of section 32 (2)(b)(i) of the ITA Act was applied as a basis to determine the normal value.

Calculation of normal value

Like products to those exported to the SACU were sold in the domestic market in India during the period of investigation, in the ordinary course of trade. Goods are normally supplied from stocks and direct sales to end consumers, resellers/wholesalers and through consignment agents. This could be regarded as being at the same level of trade as that of its SACU exports. The normal value was based on sales made to customers in the domestic market.

Adjustments to the normal value

The following adjustments to the normal value were claimed by the exporter and allowed by the Commission as it was shown that there was a difference in costs which was demonstrated to have affected price comparability at the time of setting the prices:

(i) Cost of payment terms

Payments were made against purchases as receipt of payments matched the payments on the bank statements of the company for the specific period. Different payment terms were granted to Sri Krishna's domestic clients ranging from 15 days to 90 days. The agent negotiates the terms of payment with the client and then collects the money on behalf of the company. These

were done on a transaction-by-transaction basis. The interest rate used to calculate the “financing cost” of the payment terms was verified and an average unit cost was calculated.

(ii) Discounts and rebates

The agent collects the consignment for clients in a specific area in the domestic market. When the agent collects the consignment, a selling price is given to him by Sri Krishna. The agent may sell either below or above the given selling price, depending on the market conditions in that area. The selling rate may also fluctuate depending on the quantity required by clients and also the payment terms.

If the agent sells below the given selling price, the manufacturer regards the difference as a discount. If the agent sells above the given price, then the difference is regarded as a rebate. The agent will then submit an invoice to the company, which will show as either discount or rebate in their books. An average unit cost was calculated from the total net cost.

(iii) Delivery charges

Delivery is dependent upon location and the prevailing national cost rates. For local distributors, the delivery is by road and there is no insurance coverage.

The delivery price is normally included in the selling price. The company has a group of transporters it uses. The delivery payments were made ex-factory. An average unit cost was calculated from the total cost.

(iv) Packaging costs

Packaging in the domestic market differs from the packaging used for the exports to the SACU. Domestic goods are packed in bags. Two types of bags are used, the inner one (LDPE bag which is clear plastic), which is supplied in units of kilograms and the outer one (HDPE bag which is white)

which is supplied in numbers, i.e per bag basis. The bags were sourced from different suppliers, locally. An average unit cost was calculated from the total cost.

(v) Commission

The indenting agent who negotiates the terms of payment with the client and also collects money on behalf of the company, is paid commission based on the invoice amount. The rate was determined and an average unit cost was calculated.

Ex-factory selling price

After taking the above adjustments into consideration the ex-factory price was calculated.

4.1.2 EXPORT PRICE

Calculation of export price

Like products to those sold in the domestic market in India were exported to the SACU area during the period of investigation and the export price was therefore determined using section 32(2)(a) of the ITA Act (Act of 2002) as a basis.

The export sales were calculated based on the average of the individual export transactions to the SACU area during the period of investigation. The export transactions also showed the basis of export as being on a CIP or CIF basis. Export shipment payments were made against lines of credit offered by the company. Product costs for both the domestic and export products were similar. The company does not pay customs duties on the inputs imported for production of export product.

Export sales were invoiced in US Dollar values and converted into Indian Rupees using the average exchange rate of 43.2:1.

An average export price was calculated by dividing the export value by the export volume

Adjustments to the export price

The Commission made the following adjustments to the export price as verified by the investigators, for purposes of calculating the ex-factory export price:

(i) Cost of payment terms

Payments were made against purchases as receipt of payments matched the payments on the bank statements of the company for the specific period. The interest rate applicable was determined and an average unit cost was calculated.

(ii) Discounts and rebates

This is the charge of the export documents by the bank to the company. On receipt of payment from the SACU, the bank will charge the company commission for collecting the money on its behalf. The difference between the two amounts is recorded as a discount or a rebate depending on whether the amount is positive or negative. An average unit cost was calculated.

(iii) Delivery charges

Sri Krishna services its clients on a CIF basis. This included service, handling charges and freight charges. An average unit cost was calculated.

(iv) Packaging costs

The subject product exported to SACU was packaged in drums. An average unit cost was calculated.

(v) Exchange rate fluctuations

This happens due to differences in conversion rates at the time of booking

the entries and releasing the amounts of payment. The conversion rates can fluctuate between the time of booking the entry and the time the payment is released. An average unit cost was calculated.

4.1.3 Exports to third countries

Sri Krishna exported only two line items to the SACU area during the period of investigation. The investigators believed that this was a small consignment and requested sales to third countries. However, in its comments to the verification report, Xikhovha indicated that it was a full container load business, which is quite significant in terms of business volumes in this trade and is clearly representative of the price at which goods were sold by the company. It further indicated that it is relevant to note that the Applicant had considered this volume of export as quite significant and representative and based their assessment of dumping on the same.

It was decided for further determination of the existence of a likelihood that Sri Krishna may export goods at dumped prices to the SACU area, that sales to third countries be submitted for consideration.

4.1.4 MARGIN OF DUMPING

A margin of dumping, expressed as a percentage of the fob export price was calculated for Sri Krishna and found to be negative.

4.2 RESIDUAL DUMPING MARGIN

As there are other manufacturers/exporters of the subject product in India and they did not respond to the Commission's exporter review questionnaire, a residual dumping margin was calculated for the rest of India. The highest normal value before adjustments was compared to the lowest adjusted export price to calculate the residual dumping margin. A negative residual margin of dumping was calculated.

4.3 CONCLUSION - DUMPING

For purposes of its final determination, the Commission found that the expiry of the anti-dumping duties on paracetamol originating in and imported from India would not likely lead to the continuation or recurrence of dumping.

5. MATERIAL INJURY

5.1 DOMESTIC INDUSTRY – MAJOR PROPORTION OF PRODUCTION

The following injury analysis relates to Fine Chemicals (Pty) Ltd, the Applicant, which constitutes 100% of the total domestic production of the subject product.

The Commission decided that this constitutes “a major proportion” of the total domestic production, in accordance with Article 4.1 of the Anti-Dumping Agreement.

5.2 CUMULATIVE ASSESSMENT

It was found in Section 4 of this report that the margin of dumping from India is negative. It was further found in paragraph 2.1.4 of this submission that the volume of imports from India are negligible.

The Commission found that the subject product competes directly with the other imported products and with the SACU manufactured product.

Based on this information, the Commission decided to cumulatively assess the effect of the subject products.

5.3 IMPORT VOLUMES AND EFFECT ON PRICES

Basic Data Set

Year	Subject Imports in kg	Other Imports in kg	Applicant's Production (units/employee in kg)	Inventories	Applicant's sales volumes in kg
2003	14 200	635 901	100	100	100
2004	0	297 953	147	193	180
2005	14 000	94 602	174	129	242
Applicant's estimate if duty expires			0	0	0

The information in this table was indexed due to confidentiality using 2003 as the base year.

Examination under Article 3.2

Growth of Subject Imports

Variable	Unit of Measurement	Year			Change
		2003	2004	2005	2003/2005
Subjects imports/domestic production	%	4.1	0	1.9	-2.2
Subjects imports/domestic consumption	%	1.5	0	1.5	0

Price Effects of Subject Imports

Variable	Unit of Measurement	Year			Applicant's estimate if duties expire
		2003	2004	2005	
Average import price (fob)	R/kg	100	100	243	191
Average price of domestic product (ex-factory) (price depression)	R/kg	100	81	83	65
Price undercutting	%	100	86	(10)	(11)
Cost as % of selling price (Suppression)	%	100	109	113	114

The information in this table was indexed due to confidentiality using 2003 as the base year.

5.4 CONSEQUENT IMPACT OF THE DUMPED IMPORTS ON THE INDUSTRY

Examination under Article 3.4

Variable	Unit of Measurement	Year			Applicant's estimate if duties expire
		2003	2004	2005	
Sales:					
Quantities	kg	100	180	242	0
Inventories (quantities)	kg	100	193	129	0
Output (quantities)	kg	100	172	212	0
Market share of Applicant	%	100	197	248	0
Market share of alleged dumped imports	%	100	52	27	149

Market share of other imports	%	100	53	13	0
Capacity utilization	kg	100	172	212	0
Employment	Units	100	100	120	0
Productivity (output/worker)	Units per worker	100	147	174	0
Gross Loss	Rand	100	265	497	1 701
Magnitude of the margin of dumping	Negative				

The information in this table was indexed due to confidentiality using 2003 as the base year.

5.5 CONCLUSION - MATERIAL INJURY

After considering all relevant factors, the Commission made a final determination that the expiry of the anti-dumping duty is not likely to lead to the continuation or recurrence of material injury, as no dumping was found.

6. SUMMARY OF FINDINGS

6.1 Dumping

The Commission found that the expiry of the anti-dumping duties on acetaminophenol (paracetamol) originating in and imported from India would not likely lead to the continuation or recurrence of dumping.

6.2 Material injury

After considering all relevant factors, the Commission made a final determination that the expiry of the anti-dumping duty is not likely to lead to the continuation or recurrence of material injury, as no dumping was found.

7. FINAL DETERMINATION

The Commission made a final determination that:

- the expiry of the duty is not likely to lead to the continuation or recurrence of dumping; and
- the expiry of the duty is not likely to lead to the continuation or recurrence of material injury, as no dumping was found.

The Commission therefore decided to recommend to the Minister of Trade and Industry that the present anti-dumping duty structure on acetaminophenol (paracetamol) originating in or imported from India, be withdrawn.