Polyester Prince Revisited

PARANJOY GUHA THAKURTA

The polyester wars of the mid-1980s that pitted one industry group against another are back with us. On the basis of an investigation begun by the United Progressive Alliance government, the National Democratic Alliance government has imposed an anti-dumping duty on purified terephthalic acid, an important input for production of many polyester products. The user companies argue that there is no evidence of dumping of imports and allege that the duty has been imposed to benefit domestic producers of PTA, of which there are only three and of whom the public sector producer has not complained of dumping.

Paranjoy Guha Thakurta (*paranjoy@gmail.com*) is a senior journalist whose most recent book is *Gas Wars: Crony Capitalism and the Ambanis.*

The Polyester Prince is the title of a biography of Dhirubhai Ambani, founder of the Reliance group of companies, India's biggest private corporate conglomerate, written by Australian journalist Hamish McDonald in 1998. Among other things, the book highlighted how, during the 1980s, the government changed rules relating to imports of raw materials used in the manufacture of polyester fibre to help the group at the expense of its competitors.

Dhirubhai's arch-rival used to be Nusli Wadia, who headed the Bombay Dyeing group which, like Reliance Industries Limited (RIL), manufactures synthetic textiles. The two fought bitterly to influence government policies relating to the manufacture of synthetic fibres and fabrics. Dhirubhai passed away in July 2002. His older son Mukesh Ambani now heads the Reliance group. But some things have not changed. A new version of an old story is being played out all over again.

Anti-Dumping Duty on PTA

In the teeth of opposition from the polyester using industry in India, the central government on 25 July imposed an anti-dumping duty on imports of purified terephthalic acid (PTA), a critical intermediate that is used in the production of various polyester products. This decision will almost entirely benefit only one corporate entity, that is, RIL. The move to impose an anti-dumping duty was staunchly opposed, unsuccessfully, by at least 10 large companies in India, individually and through various industry associations.

These corporate entities include Bombay Dyeing, Indo Rama Synthetics and Garden Silk Mills. In written representations to different government authorities, these firms and associations with which they are affiliated had argued that the imposition of the anti-dumping duty on PTA would be detrimental to the interests of around 20,000 small- and medium-sized industrial units employing hundreds of thousands of workers across the country. These units use PTA to make various polyester products. The views of these companies and associations have been ignored by the government.

A "provisional" anti-dumping duty has been imposed on imports of PTA and its variants – medium quality terephthalic acid and qualified terephthalic acid – entering India from the People's Republic of China, South Korea, Thailand and the European Union (EU). The PTA Users' Association has claimed that the sole beneficiary of this decision to impose the anti-dumping duty – ranging between $19 and $117 per tonne, depending on the quality of the PTA – will be RIL, India's largest integrated polyester fibre manufacturer and the eighth largest of its kind in the world. RIL has installed capacity to produce 2,050 kilo-tonnes per annum (KTA) of polyester fibre.

PTA is the preferred feedstock used to produce high-performance plastics such as polyester which, in turn, is used to manufacture a wide range of products – from textiles and clothing to bottles and film. Polyester accounts for roughly 70% of all synthetic fibres produced in the country. According to the official website of the Chemicals and Petrochemicals Manufacturers' Association of India, roughly two-thirds of PTA used across the world goes into the production of polyester fibre, a little over a quarter is used for the manufacture of polyethylene terephthalate (PET) resin that is used to produce bottles and containers, while the rest is used to make film and other plastic products. PTA is used in making various petrochemicals such as cyclohexane dimethanol, terephthaloyl chloride, co-polyester-ether elastomers, plasticisers and liquid crystal polymers.

During the tenure of the United Progressive Alliance government when Anand Sharma was union minister of industry and commerce, the directorate general of anti-dumping and allied duties (DGAD) in the Department of Commerce, Ministry of Industry and Commerce, had initiated investigations on 8 October 2013 into whether the PTA imports were causing "injury" to the domestic industry on the basis of an application submitted by RIL and another company, Mitsubishi Chemical Corporation PTA India (MCPI). (See the initiation notification of the DGAD issued by the designated authority in the Department of Commerce: http://commerce.nic.in/writereaddata/traderemedies/adint_PTA_ChinaPR_EU_KoreaRP_Thailand.pdf)

Arguments against Duty

Earlier this year, on the last day of March, exactly a week before the general elections began on 7 April, the department reportedly decided to impose an anti-dumping duty on PTA imports from China, South Korea, Thailand and the EU. A month earlier, PTA users had sensed that the anti-dumping duty may be in the offing and had started lobbying against its imposition. On 25 February, the PHD Chamber of Commerce and Industry (earlier known as the Punjab, Haryana, Delhi Chamber) issued a press release stating that an anti-dumping duty on PTA imports was "uncalled for".

Pointing out that there was a mismatch between the annual demand for and domestic supply of PTA – 40,96,952 metric tonnes and 34,20,000 tonnes respectively – the chamber's executive director Saurabh Sanyal claimed that domestic manufacturers of PTA were acting in an "unreasonable manner" to place an "additional burden" on the user industry "with the sole objective of earning super normal profits" which would work to the detriment of a large number of small and medium enterprises.

In his representation to the government, Sanyal pointed out that PTA is the major material used in the production of polyester filament yarn (PFY), polyester staple fibre (PSF) and polyester film. Sanyal added that in December 2013, both Egypt and the EU had initiated anti-dumping investigations against imports of PSF from India. He asserted that imported PTA was not causing any "injury" to domestic producers. The PHD Chamber representative said it should be noted that a leading public sector company, Indian Oil Corporation, which manufactures PTA, had not sought the imposition of an anti-dumping duty.

A little more than a month after the PHD Chamber issued its press release, on 31 March, the day the commerce department decided to impose the anti-dumping duty, another apex industry association, the Associated Chambers of Commerce and Industry of India (Assocham) urged the government not to impose the duty as the "domestic user industry is struggling to survive" due to the "wide gap" between demand and availability of PTA, adding that this would "severely" impact exports.

In a note submitted to the government, Assocham's secretary general D S Rawat stated that capacity utilisation by domestic PTA manufacturers (without mentioning Reliance by name) was more than 100% and that the gap between demand and supply of PTA had to be filled by imports. He put out a slightly different set of statistics than the PHD: during 2012-13, total domestic production stood at 34,76,144 tonnes, imports were 6,47,959 tonnes against a demand of 41,24,103 tonnes, excluding consumption by PTA producers.

Rawat said that if an anti-dumping duty was imposed, the more expensive imported PTA would render the "user industry in India...uncompetitive". The Assocham representative apprehended that India's exports of PFY, PSF and synthetic textiles to EU would be affected, pointing out that the country exported 63,241 tonnes of PSF to EU during the calendar year 2012.

It was further stated that there was an absolute as well as a proportional decline in India's imports of PTA from China, EU, South Korea and Thailand in each of the three years between 2010-11 and 2012-13 and that the landed value of PTA from these countries had gone up "substantially" in the four-year period between 2009-10 and 2012-13. Again, without mentioning Reliance, Rawat said a "domestic producer" was indulging in "double profit booking" by producing naphtha and PX in one plant and then selling PX at "artificially high rates" to another plant (of the same company) for the manufacture of PTA. Sanyal of PHD claimed that during 2011-12 and 2012-13, the rise in the price of naphtha (used to produce paraxylene or PX) was slower than the rise in the price of PX. The rise in the prices of naphtha and PTA were, however, commensurate with each other, he added.

As already mentioned, these representations had no impact on the government. The imposition of the anti-dumping duty on the basis of "preliminary findings" was recommended on 19 June through a notification [No 14/7/2013-DGAD] and issued by the Department of Revenue, Ministry of Finance, six days later through another notification [No 36/2014-Customs (ADD)]. The imposition of the anti-dumping duty will not exceed a period of six months from the date of imposition, that is, 25 June, unless revoked, amended or superseded.

According to the preliminary findings of the DGAD, PTA imports from the three Asian countries of China, South Korea and Thailand as well as EU were found to be below their "normal" value and could thus be construed as a case of "dumping". The normal value is the comparable price at which goods are sold in the ordinary course of trade in the domestic market of the exporting country or territory. Dumping is said to have occurred when goods are exported by a country to another at a price lower than this normal value. Since it results in material injury to domestic industry, it is considered an unfair trade practice.

Fear of Impact

After the imposition of the anti-dumping duty, one of the aggrieved companies, Indo Rama Synthetics (India), put out a press release which stated that the recommendation to impose an anti-dumping duty was "done in a hurry (and) without understanding" its implications. According to the company, the per tonne duty on imported PTA from China works out to $62.82; $117.09 in the case of PTA imported from South Korea and $99.51 in the case of imports from other countries (including Thailand) "highly impacting the polyester fibre chain". After the imposition of an anti-dumping duty, domestic PTA producers have started charging between $30 and $40 per tonne over and above the FOB (freight-on-board or free-on-board) prices of imported PTA. Indo Rama's press release pointed out that the pleas and representations made by associations such as the Federation of Indian Chambers of Commerce and Industry (FICCI), the Confederation of Indian Industry (CII), the Confederation of Indian Textile Industry (CITI), the All Indian Spinners Association and the PTA Users' Association (over and above the two already mentioned), "had not made any impact on the authorities".

Arguing that the anti-dumping duty would retard the growth of the polyester fibre industry and increase the price of the "poor man's fabric", Indo Rama highlighted what it claimed were the economics of the business: domestic producers of polyester are at a "cost disadvantage" of approximately $100 per tonne of PTA on account of the impact of a 5% customs duty which works out to around $50 per tonne, freight differential of between $35 and $40 a tonne and an additional $10 a tonne on account of port handling charges and miscellaneous expenses.

Unlike the press releases by the PHD Chamber and Assocham, the Indo Rama release did not pull any punches by directly naming RIL. "It may be noted that there are no integrated polyester fibre players except Reliance Industries Ltd and this move will solely benefit (RIL) the major producer of PTA. The Indian polyester industry will become less competitive..." The release stated that this "untimely and undesirable" decision would make it difficult to achieve the $60 billion target for exports by increasing the prices of Indian exports of synthetic fibre, yarns, fabrics and ready-made garments.

The company's release pointed out that the government notification had categorically stated the following on page 60, paragraph 95(d): "None of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry". If this was indeed the case, Indo Rama wondered why "RIL is putting up a 2.4 million tonnes (per annum capacity) PTA plant in India", adding that changes in technology had indeed made the establishment of bigger PTA plants economically viable.

The company claimed that the "protection" already being provided to domestic PTA producers was "reasonable". This was in the form of duty-free imports of PX and a 5% customs duty on PTA. The anti-dumping duty would be "highly detrimental to the polyester fibre industry" which is currently utilising 60%-70% of its installed capacity due to shortages in the supply of PTA. Producers of polyester fibres were already financially burdened by high debts and low profit margins, Indo Rama argued, claiming that the impending closure of many of the 20,000-odd small and medium sized textile units in the country would render many workers unemployed.

Criticism of Findings

There are other dimensions to this story which are revealed in the 28 July representation made to the DGAD in the Department of Commerce by the PTA Users Association, an umbrella body of major importers of PTA, including Filatex India, Indo Rama Synthetics, Bombay Dyeing, and Garden Silk Mills.

The association argued that the DGAD's investigations and subsequent findings were "erroneous" and should not be implemented as there was no evidence of injury and that no causal link between injury and imports of PTA had been established. The PTA Users' Association claimed its members are upset because the DGAD had not cited any "cogent reasons" to impose the anti-dumping duty and described the preliminary findings as "bad in law".

The association accused the DGAD of making "inaccurate" statements and not applying its mind because its preliminary findings claimed that production and sales of RIL and MCPI had not increased in proportion to demand. The association, however, claimed that in the two years 2010-11 and 2011-12 (the period of investigation or POI), production of PTA rose by 12.21% and then fell by 0.03%, domestic sales increased by 12.49% and then declined by 0.77% and demand went up by 14% and then decreased by 1.9%. This meant that during the POI, production rose by 6.46%, domestic sales went up by 6.1% while demand increased by 6%.

The association also challenged the DGAD's claims that the domestic manufacturers of PTA witnessed declining production, sales, capacity utilisation, profits, return on capital employed and market shares. It argued that the two companies, RIL and MCPI, only witnessed a reduction in profits and return on capital during the POI, that too, on account of two factors: technical problems in MCPI's second PTA plant and a substantial increase in installed capacity to 3.42 million tonnes resulting in higher fixed costs, and not on account of alleged dumping of cheap imported PTA.

It was then argued that the "injury margins" and anti-dumping duty rates were not proportionate to the landed value of imports. The association said if RIL and MCPI are claiming losses on PTA sales, this was not borne out by the records maintained by the central excise authorities in the Ministry of Finance. More substantive arguments were thereafter forwarded by the PTA Users' Association.

Foreign or Indian Company?

According to the association, RIL's competitioner MCPI cannot be held to be a constituent of domestic industry in India since Mitsubishi Chemical Corporation (MCC) of Japan, the world's second largest producer of PTA, is a majority (66%) shareholder in MCPI and also holds a controlling (40%) stake in Samnam Petrochemicals, one of the suppliers of PTA from South Korea. The other shareholders of Samnam are Samyang Corporation (40%) and GS Caltex (20%), both based out of South Korea. Samnam has been described as one of MCC's "overseas subsidiaries".

Thus, the association argued that MCPI's stake in Samnam is significant and falls under the definition and scope of "control". In MCPI, besides MCC, four foreign companies held 29% of the company's shares: 10% by Mitsubishi Corporation, 8% by Sojitz Corporation, 6% by Marubeni Corporation and 5% by Toyota Tsusho. The remaining 5% of MCPI's shares was held by the West Bengal Industrial Development Corporation. Thus, in short, the association argued that MCPI should have been disqualified from being considered as a constituent of the domestic PTA manufacturing industry.

MCPI, which has its PTA manufacturing facilities in Haldia, West Bengal, has been declared a sick industrial unit and referred to the Board for Industrial and Financial Reconstruction (BIFR). In its annual report for 2012-13, MCPI mentions the unstable intermittent operation of its plant: "The below par financial performance of the company during the year under review, inter alia, was owing to several constraints and deterrent factors like abysmally low PTA-PX (paraxylene) spread, persistent inflationary trends, acute rigidity and inflexibility in the market, unstable, intermittent operation at its… PTA manufacturing facility…"

The association has made out that MCPI's losses have been crucial in making out a case of injury in the anti-dumping investigation. However, RIL's PTA plants are reportedly operating at above 100% capacity. Claiming that it was "highly likely that RIL would have satisfied the definition of domestic industry on its own", the association claimed that MCPI was not eligible to be investigated by the DGAD.

RIL accounted for around 60% of domestic production in PTA production in 2012-13, while MCPI manufactured a little under a quarter of total production, the balance being taken up by Indian Oil. According to the estimates made by the DGAD in its preliminary findings, between MCPI and RIL, a significant capacity expansion took place in 2010-11 from 2.59 million tonnes to 3.42 million tonnes, or an increase of 32%. In addition, capacity utilisation improved from 81% to 86% after the capacity expansion (Table 1). According to the association, actual manufacturing capacity for PTA installed is lower than what has been claimed. The PTA Users' Association has claimed that actual capacity is 3.24 million tonnes – RIL: 2.05 million tonnes and MCPI: 1.19 million tonnes – and consequently, capacity utilisation during 2012-13 was 102% in the case of RIL and 70% in the case of MCPL.

The association has further claimed that RIL will earn extra-normal profits on account of the imposition of the anti-dumping duty. Its plant that produces naphtha, which is used to manufacture PX – in the first two stages towards the production of PTA – effects a sale of PX to the plant producing PTA which is used to report losses on the manufacture of PTA. Besides RIL, companies like Indian Oil consume the PX that is manufactured from naphtha. RIL also sells naphtha in the open market. Incidentally, as already stated, Indian Oil has neither supported RIL's application for imposition of anti-dumping duty nor reported any losses in the PTA business.

Malaysian Subsidiary

What is particularly noteworthy is the fact that while RIL and MCPI applied for imposition of an anti-dumping duty on imports of PTA from China, South Korea, EU and Thailand, the applicants did not ask for a similar duty on PTA imported from Malaysia. Why? The association points out that in September 2012, Reliance Global Holdings (part of the Reliance group) bought BP Chemicals (Malaysia) Sdn Bhd (BPCM) from the British Petroleum (BP) group for $230 million. BPCM's PTA plant was commissioned in 1996 and has an annual production capacity of 6,10,000 tonnes.

The PTA Users' Association drew an "inference...that the raw material for the production of PTA (PX) was sent to Malaysia, converted into PTA and then re-imported and sold in India". The quantum of PTA imported into India from the Reliance group's PTA plant in Malaysia was 19,228 tonnes between December 2012 and July 2013, the association stated.

All these arguments did not convince the DGAD that it should not impose an anti-dumping duty on imports of PTA. The DGAD uses several tools to determine whether material interest has been harmed and injury has been caused. The directorate in the department of commerce examines the extent to which there could have been a significant increase in the volume of dumped imports, either in absolute terms or in relation to production or consumption in India, and its effect on the domestic industry. The DGAD also looks at the existence of price undercutting and the extent to which the dumped imports are causing price depression or preventing appreciation of the price for the goods (which otherwise would have occurred).

Table 1: Production, Capacity and Capacity Utilisation of Indian Manufacturers of PTA

	Unit	2009-10	2010-11	2011-12	POI
Production of IOC*	Metric Tonnes	5,30,604	4,31,000	5,54,084	5,54,084
Capacity of IOC**	Metric Tonnes	5,50,000	5,50,000	5,50,000	5,50,000
Capacity utilisation of IOC	%	96	78	101	101
Production of RIL*	Metric Tonnes	20,48,512	20,33,169	20,72,998	20,89,083
Capacity of RIL**	Metric Tonnes	20,50,000	20,50,000	20,50,000	20,50,000
Capacity utilisation of RIL	%	99.9	99.17	101	102
Production of MCPI*	MT	4,06,971	7,24,023	6,79,834	8,32,977
Capacity of MCPI**	MT	5,45,000	11,90,000	11,90,000	11,90,000
Capacity utilisation of MCPI	%	75	61	57	70

IOC: Indian Oil Corporation; RIL: Reliance Industries Ltd; MCPI: Mitsubishi Chemical Corporation PTA India.
POI: Period of Investigation.
*: Petition filed by the applicants, RIL and MCPI. **: As per the understanding of the PTA Users' Association.

Negative Impact on Textile Imports

Polyester fibre makers in India import substantial quantities of PTA because demand exceeds supplies made by domestic manufacturers. Demand for PTA is predicted to go up by around 20% a year in the near future. India is the second largest consumer of PTA in Asia after China. In 2013-14, the country exported textiles worth $40 billion, of which roughly a quarter was in the form of synthetic textiles. The Department of Commerce wants to increase this figure to $50 billion during the current financial year but this may not happen if the higher costs of PTA make Indian fabrics, textiles and garments relatively expensive.

The imposition of anti-dumping duties on imported PTA from a select group of countries (excluding Malaysia) will clearly prove detrimental to the users of the material, including exporters of synthetic fabrics and garments from India, while benefiting one company the most, which is RIL.

On 3 August, this writer emailed a detailed questionnaire to the corporate communications department of RIL. The email was followed up by telephone calls to two representatives of the company.

Written responses were solicited to the claims and arguments that had been made by companies and different associations against RIL. These include the claim that the government's decision to impose an anti-dumping duty is against the interests of users of PTA and exporters of synthetic yarn, fabrics and garments, while primarily benefiting one company; that RIL is earning "super-normal" profits through pricing of internal transfers of raw materials and intermediates; and that RIL and MCPI did not deliberately seek the imposition of an anti-dumping duty on PTA imports from Malaysia where the Reliance group has interests in a PTA plant. More than two weeks later, there was no response to the questionnaire at the time of completing this article on 18 August.