

No.14/7/2005-DGAD
Government of India
Department of Commerce
Directorate General of Anti-dumping & Allied Duties

Notification

New Delhi the 28th July 2006

FINAL FINDINGS

Subject: Anti-dumping investigation concerning imports of Cellophane Transparent Film (CTF) originating in or exported from China PR – Final Findings.

PROCEDURE:

1. The procedure described below has been followed:

(i) On 27th September 2005, the Designated Authority (hereinafter referred to as Authority), under the above Rules, announced through a public notice (initiation notification) in the Gazette of India, the initiation of an anti dumping investigation with regard to imports of Cellophane Transparent Film (hereinafter referred to as CTF or subject goods) originating in or exported from China PR, (hereinafter referred as subject country). The anti dumping proceeding was initiated following an application received from M/s. Kesoram Rayon, unit of M/s. Kesoram Industries, Kolkatta, (hereinafter referred as applicant) on behalf of the domestic industry representing a major proportion of the domestic production of said product. The application contained evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of the proceedings.

(ii) Before initiation, the Authority notified the Embassy of China PR in India about the receipt of fully documented application made by the applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

(iii) According to sub rule (2) of the rule 6 supra, the Authority forwarded a copy of the said public notice to the known exporting producers, importers, industry associations, embassy of the country concerned and to the applicant and gave them an opportunity to make their views known in writing.

(iv) According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the application to all the known producers/exporters and Embassy of China PR in India. According to sub-rule (4) of Rule 6 supra, the Authority provided a copy of the relevant questionnaire to all the known exporters and Embassy of China PR in India and other interested parties. The Embassy of China PR were also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time

(v) The Authority sent questionnaires, to elicit relevant information, to the following known producers/exporters from China PR.

1. ShangYu Cellophane Co. Ltd. ,Dasanjiao Development Zone, ShangYu City, Zhejiang Province,China. ZIP-312300
2. Yuyao Paper Mill,No. 328 Jiang-Yuan Street, Yuyao City, Zhejiang, China – ZIP 315400
3. Weifang Henglian Cellophane Co. Ltd.,409, Wolong East Street, Weifang, Shandong, China – ZIP 261031

(vi) In response to the above notification none of the exporter has responded to the questionnaire.

(vii) A copy of initiation notification along with the importers questionnaire were also sent to the various importers which were listed in the application with an advise to provide relevant information to the Authority and make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(2). M/s. Gulshan Rai Jain & Sons and M/s. Mukesh Paper Mart filed their submissions in response to the initiation notification alongwith the information in prescribed format. M/s. Jyoti Coaters Pvt. Ltd. also made some arguments but have not provided information in prescribed format.

(viii) The Authority notified Preliminary findings vide its Notification dated the 3rd February, 2006 and requested the interested parties to make their views known in writing within forty days from the date of its publication. M/s. Gulshan Rai Jain & Sons and M/s. Mukesh Paper Mart submitted their comments.

(ix) The Authority made available non-confidential version of the evidence presented by various interested parties through a public file maintained by the Authority and kept open for inspection by the interested parties;

(x) The Authority held a public hearing on 23rd March 2006 to provide an opportunity to the interested parties to present relevant information orally, which was attended by representatives of the Domestic Industry and other interested parties. The parties attending the public hearing were advised to file written submissions of views and information presented orally. The interested parties were allowed to present rebuttal arguments on the views/information presented orally by other interested parties. Designated Authority has considered in this finding the written submissions received from various interested parties. Arguments raised by interested parties before announcing of preliminary findings, which have been brought out in the Preliminary Findings notified earlier have not been repeated herein for sake of brevity. The Authority conducted on-the-spot verification of the domestic industry to the extent considered necessary. Additional details regarding injury were sought from the applicant, which were also received.

- (xi) **** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have been considered below. The investigation of dumping and injury covered the period from 1st April 2004 to 31st March 2005 (Also called the period of investigation or POI). The examination of trends in the context of injury analysis covered the period from 1st April 2001 annually to the end of period of investigation. (also called Injury period).
- (xii) The Authority sought and verified all the information it deemed necessary for the purpose of determination of dumping and resultant injury. The Authority during the course of investigation satisfied itself as to the accuracy of the information supplied by various interested parties upon which these findings are based. For the purpose, the Authority conducted on the spot investigation of the domestic industry to the extent considered necessary. The cost of the production of the domestic industry was also analysed to work out the best cost of the production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the petitioner so as to ascertain if anti Dumping duty lower than dumping margin would be sufficient to remove injury to the domestic Industry.
- (xiii) The Authority provided opportunity to the users of the product under consideration, and to the known representative organisations, to furnish information considered relevant to the investigation regarding dumping, injury and causality. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.
- (xiv) Wherever an interested party has refused access to, or has otherwise not provided, necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded these findings on the basis of the facts available.
- (xv) Information provided by various interested parties on confidential basis were examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted, and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide non confidential version of the information filed on confidential basis.

PRODUCT UNDER CONSIDERATION.

2. The product under consideration is Cellophane Transparent Film also known as Transparent Paper originating in or exported from People's Republic of China. Transparent Film is a re-generated cellulose film of glass clear transparency and sparkle. It is flexible, yet tough and withstands all the beatings in an automatic

packaging operation and shows outstanding machineability as well as dimensional stability. It is made of wood pulp, hence it is non-toxic and biodegradable. TP films can be coloured or white. Transparent Film is available in sheet and Roll forms. Presently various types of TP Films having many Grades are produced. It is an ideal packaging material.

TP Films are classified under Chapter 39, subheading 392071 of the Customs Tariff Act in the category of Plastics and Articles thereof. However Customs classifications are indicative only and in no way binding on the scope of investigation.

3. Petitioner claimed that the product has been reported under varying descriptions and customs classification. Petitioner claimed that this was a deliberate act on the part of the importers to ignore dedicated customs classification and use irrelevant customs classification. Petitioner has requested the Designated Authority to investigate this aspect in detail. They have also requested this aspect to be brought very clearly in the conclusions and duty table to prevent any possible circumvention in due course. The petitioner also alleged that it was quite a strange coincidence that the price at which the product under consideration is being imported under two different customs classifications also significantly varies.

4. On examination, the Authority notes that in fact a large number of imports do not contain the classification meant for the product under consideration and the goods have been imported under customs classification different from what is applicable for the product under consideration. The description of Cellulose film as classified under Chapter 39 of the Customs Tariff Act is quite unambiguous and leaves no scope for any doubt that the product under consideration falls under 392071 only. However, goods have been imported in huge volumes under customs classification 48064090.

5. The responding importers argued at the time of hearing that CTF of less than 30 gms per sqm(GSM) is not produced by the domestic industry. However, in the written submissions, they modified to argue that CTF of less than 25 gms per sqm is not produced by the domestic industry. Information available on the web site of the petitioner company was also relied upon. It was further argued that CTF upto 25 gms/sqm is an entirely different product than CTF above 25 gms/sqm. Relying upon the list of customers for the imported CTF, the importers argued that none of these users are customers for the indigenous CTF. It was further argued that CTF of less than and above 25 gms/sqm are not technically and commercially substitutable and if CTF becomes expensive, the users will shift to other alternate substitutes. However, no evidence was provided to substantiate that CTF below and above 25 gms/sqm are different products.

6. The domestic industry contended at the time of hearing that majority of the production by the domestic industry constituted CTF below 30 gms/sqm. A statement showing GSM wise production over the investigation period was also provided. Domestic industry provided the details of their production during POI in terms of GSM of the output month wise duly certified by Cost Accountant. The production process of the applicant and parameters leading to production of CTF with desired GSM was examined in detail. Production records of the petitioner

company showing production of different GSM CTF was also examined. It is noted that production of CTF with different GSM is achieved at the stage of regeneration by passing viscose of required dosing through two lips of casting head. In terms of production facilities, it was observed that the same production facilities are employed for production of CTF with different GSM. Only the casting heads and dosing of viscose are required to be controlled in order to achieve production of desired GSM CTF.

7. In response to the arguments of the importers, the domestic industry argued that (a) the arguments on these accounts were mere statements, unsubstantiated with an evidence; (b) the importers kept switching their arguments; (c) production of different GSM is a matter of control over production process; (d) majority of the production of the domestic industry is 25 GSM; (e) GSM of the imported product is not established, nor GSM is mentioned on the invoices either by the domestic industry or by the Chinese producers; (f) lower the GSM, higher the associated cost of production, whereas the allegation of the domestic industry has been against significantly lower prices of imported product, which rather gets amplified by the allegation of lower GSM grade imports; (g) the importers have interchangeably argued lower GSM of imported product, inferior quality of imported product and imports of stock-lot.

8. In their comments on disclosure statement, the responding importers reiterated that the product under consideration should be restricted to plain/uncoated cellophane transparent film from 25 GSM – 40 GSM. The responding importers reiterated their clam that:

- a) The imported products were of inferior quality
- b) Only Grade III material were imported from China
- c) Imported product is different from what is produced by the domestic industry.

9. Authority examined these contentions in detail during the course of the investigations. The Authority holds that mere difference in quality does not render the imported product different than what is produced and sold by the domestic industry. The Authority holds, having regard to submissions made by various interested parties, evidence on record and verification conducted at the petitioner's premises, that production of GSM is only a matter of control over the production process and can be achieved by controlling the process parameters and flow of viscose. It is also noted that the interested parties have not been able to establish that CTF above and below 25 GSM are different products.

10. As regards information available on the web site of petitioner company, the Authority notes that the petitioner confirmed not having updated its web site for a long period. In any event, verified evidence in the form of records maintained by the company establishes that the information posted on the web site is not factually correct.

Accordingly, the Authority confirms the scope of the product under consideration stated in the preliminary findings, i.e., the product under consideration is

Cellophane Transparent Film also known as Transparent Paper originating in or exported from People's Republic of China.

LIKE ARTICLE.

11. With regards to like article, the Authority notes that Rule 2(d) relating to the definition of like article specifies that like article means an article that is 'identical' or 'alike' in all respects to the articles under investigation or in the absence of such an article, another article having characteristics closely resembling those of the article under investigation. In order to establish that subject goods produced by the domestic industry is a Like Article to that exported from subject country, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority in the preliminary findings. On basis of the examination, it was noted in the preliminary findings that subject goods produced by domestic industry has characteristics similar to those imported from subject countries.

12. The responding importers claimed that (a) the goods imported by them are of inferior quality, (b) represented a product different than what is sold by domestic industry and (c) various grades of CTF differ significantly with regard to a number of parameters, including degree of commercial substitutability, ability to be used for mechanical packing & other operations, utility/end user of the goods, pricing and quality, customer and producer perception, channels of distribution in market segment etc. It was contended that the domestic industry has not categorically addressed the issue of viable substitute for the product, nor provided information about the substitutes and their degree of substitution. It was also argued that existence of different grades implied that the consumers could not have switched over from one type to other type. Had the various types been interchangeable, the consumers would have substituted expensive grade with cheaper grades. It is also the argument of the importer that the imported product cannot be used for mechanized packaging operations. The Authority however noted that the responding importers provided no technical or material evidence in support of their arguments .

13. The applicants claimed that goods produced by them are like articles to the goods originating in or exported from subject country, there is no significant difference in the subject goods produced by the applicants and those exported from subject country and the mere difference in quality does not render the imported and domestic product different. Petitioner either directly or through its dealers competes with these traders/resellers for the same general category of consumers. Significant volume of sales by the petitioner company is through resellers.

14. The Authority examined various contentions of the interested parties. The Authority considers that mere difference in quality or the fact that imported product is a stock lot does not render a domestic product different from the imported product. The product still remains Cellophane Transparent Film, as the product contains essentially the same basic physical and chemical characteristics, is produced from the same raw materials, using the same technology, manufacturing process, and is used for the similar functions & uses. Such being the case, it can not be said that mere difference in quality renders the product imported by the

importers as different from "Cellophane Transparent Film" also described as "Transparent Paper", the product under consideration. It is also noted that the difference in quality is not a conscious business decision of any producer. The product is classified after production into different grades based on perceptible quality differences in the product. However, the associated cost of production of different grades remains the same.

In view of the above the Authority holds that CTF produced by the domestic industry is like article to CTF imported from the subject country within the meaning of the Rules.

DOMESTIC INDUSTRY

15. The application has been filed by Kesoram Rayon (the applicant) who is the sole producer of the like article. The applicant has provided information relevant to the present investigations and has participated in the present investigations. It is the sole producer of the product under consideration. The Authority after examining determined that the applicant constituted domestic Industry within the meaning of the rule 2(b) read with 2(d) and it satisfied the criteria of standing to file the petition in terms of Rule 5(3)(a) of the Rules supra.

The Authority notes that even though there are arguments for exclusion of some types of product under consideration, or on domestic product being different from the imported product, or that the product under consideration is a small proportion in applicant's total business, there is no dispute that the applicant was the sole producer of the product concerned in India. As stated before, the applicant produces goods which are like article to the imported product. The Authority therefore confirms the preliminary findings regarding standing of the applicant to file the application for initiation of anti-dumping investigation and holds that the applicant constitutes domestic industry within the meaning of the Rules.

DUMPING

Normal Value:

16. In terms of para 7 & 8 of Annexure I of A D Rules, applicant claimed that Chinese producers should be treated as non market economy and no country has granted market economy country status to China after following detailed evaluation procedure, examination and evaluation as mentioned in the Rules. Petitioner also proposed consideration of import price from UK to India an appropriate benchmark for determination of normal value. The responding importers objected to consideration of UK prices as an appropriate bench mark on the grounds that (a) prices are higher in UK; (b) prices in UK differ significantly as per the data given in the petition itself (c) Indonesia, Thailand, Malaysia are more appropriate surrogate country (as cost of production is low in these countries). In response domestic industry pointed out that existence of possible higher prices in UK is not a parameter relevant to appropriateness of a surrogate country. In fact, Europe and

US have been treated as an appropriate surrogate country for the Chinese producers by other investigating authorities.

17. The Authority notes that the claim of the responding importers that China should be given market economy treatment (MET) cannot be considered on the grounds that such MET can only be granted after the claimant establishes compliance with the parameters listed in para 8 of Annexure 1 of AD Rules. The Rules provides that a party can only claim market economy status on the basis of verifiable positive evidence. The Authority has in fact granted such status to Chinese companies in the past. Such a claim is required to be made by, or on their behalf, the concerned Chinese producers. However, no such claim has been made by any Chinese producer. The responding importers also have provided no information and evidence to establish compliance with the laid down criteria. The Authority can not therefore grant market economy status to any producer of subject goods in China in terms of Para 8 of Annexure I to the Rules.

18. Petitioner supplemented its claim of normal value based on import price from UK with the estimates of cost of production in India, duly adjusted to include selling, general and administrative expenses and reasonable profit. The estimate of cost of production was after adjusting the input prices for the customs duties in India. While disputing the claim of the domestic industry to treat Chinese producers as non market economy, the interested parties have not advanced any evidence either with regard to price or constructed value in a market economy third country. Under the circumstances, the Authority has determined that only option available for the purpose of final findings is to determine normal value considering price payable in India for the like product, duly adjusted, to include a reasonable profit margin. Price actually paid in India has not been considered for the reason that the same were depressed due to dumping. Thus, the Authority has constructed the normal value by taking into account cost of production in India, duly adjusted, to reflect international raw material prices and optimum conversion costs, selling, general & administrative expenses and reasonable profit. The normal value is thus determined as Rs. *** per Kg.

Authority also notes that since none of the exporters/producers in China have responded to the Authority, individual dumping margin for different exporters can not be determined. The Authority has therefore determined one dumping margin for all Chinese producers.

Export price

19. Petitioner determined export price based on transaction wise data provided by the DGCI&S and IBIS. Petitioner had claimed that the transaction wise data provided by DGCI&S does not include all imports reported in India, as the imports have been reported in a number of customs classifications, that is, 39207111, 39207119, 39207129, 39209929 and 48064090. Information filed by the responding importers confirmed that huge volumes have been imported under Chapter 4806. As the importer have enclosed copies of bills of entries evidencing import of item under chapter 4806, the Authority considers that these imports are

required to be included within the scope of the product under consideration. It is also noted that none of the Chinese exporters have responded to the Authority even after the preliminary findings.

The average import price comes to Rs 25.84 per kg (US \$ 0.57 per kg). After considering price adjustments on account of inland freight, marine insurance, commission, ocean freight, bank charges and port charges, the ex factory export price comes to Rs ***per kg (US \$ *** per kg).

Dumping Margin:

20. The Authority notes that the comparison between normal value and export price must be fair comparison. Authority has therefore determined both the normal value and export price at ex factory level. Both pertain to the same period. Both the prices are free of taxes. Thus the Authority considers that the comparison made is a fair comparison. Considering the normal value and export price determined as above, dumping margin has been determined, which comes to Rs *** per kg (US \$ *** per kg.) which works out as 380% of net export price.

INJURY AND CAUSAL LINK

21. Arguments by the domestic industry

- a) The product is being dumped for a long period and in fact throughout the injury period.
- b) Import volume have shown an increasing trend and have remained quite significant and have increased in absolute terms, relative to production & consumption in India. Market share of the Chinese imports increased at the cost of market share of the domestic industry.
- c) Dumped imports were significantly undercutting the domestic prices. As a direct consequence, the domestic industry was forced to reduce the selling prices and yet lost market share. The imports were depressing the prices of the domestic industry.
- d) Production, sales and capacity utilisation increased, inspite of which, the profit position deteriorated thus clearly showing adverse effect on account of dumping. The capacity utilisation of the domestic industry was below optimum levels.
- e) Profits declined even when cost of production declined. Consequently, cash profits and return on investment declined. Cash profits and return on investment declined from positive to negative. Decline in profits was in spite of decline in conversion costs. Profit before interest, depreciation & taxes and profit before interest & taxes, which were positive in 2000-01 and 2001-02 became negative from 2003-04 onwards
- f) Decline in inventories was due to exports, which were undertaken in view of piling up of inventories due to sluggish sales.

- g) Number of employees shows a deterioration. While total wages paid increased, wage cost per unit of production has not increased. Whereas productivity improved, profitability deteriorated.
- h) Growth was positive in terms of sales volumes, production and demand and negative in terms of selling prices, sales values, market share, profits, cash flow, ROI.
- i) Causal link is established by the followings:-
 - i) Persistent price undercutting forced domestic industry to reduce prices.
 - ii) Deterioration in profits, cash flow and return on investments is due to reduction in prices.
 - iii) Whereas market share of the dumped imports increased, that of domestic industry declined.
 - iv) Decline in market share prevented the domestic industry from increasing its capacity utilisation and consequently production.

Arguments of the other interested parties

22. Responding importers have disputed that the domestic industry has suffered material injury. Arguments advanced by the importers and views of the Authority thereon are given below:-
- (i) The domestic industry is suffering injury from alternate products. It is claimed that demand for the subject goods has been going down over the last several decades. There are several substitute which have emerged as packaging paper. In support of its contention, the importer has referred to a publication from "Free Donia Group" published in February 2004, which states that Cellophane Film will continue its volume declines because of competition from oriented polypropylene.
 - (ii) The responding importer has claimed that Cellophane Film is a dying item and the worldwide production and demand is going down. The importer has also referred to Global Industry Report provided by the petitioner in this regard.
 - (iii) Importers have claimed that the goods being imported from China are of sub-standard quality and could not have caused injury to the domestic industry and different quality grades are not interchangeable.
 - (iv) In their comments to disclosure statement, the responding importers submitted as follows:-
 - a) The statistical information given by the petitioner was highly misleading and pertain to entire group for a multi product company.

- b) Decline in market share is irrelevant particularly when production, capacity utilisation, domestic sales and export sales have increased.
- c) The plant of the petitioner company was under a lock out for more than five months.

Examination by Authority

23. The views expressed by the responding importers were examined by the Authority and the same are discussed below.

With regard to production suspension by applicant, the Authority notes that the petitioner has confirmed recommencement of production and has pleaded that the plant was shut down for the reasons beyond their control.

With regard to quality issues, the Authority notes that the difference in quality does not imply that the domestic product is not a like article to the imported product. Moreover, as noted below, the performance of the domestic industry materially deteriorated. Even if it is assumed that the imported product is of poor quality, it is evident that the domestic industry has suffered material injury as a result of dumped imports in the market.

With regard to viable substitutes, Authority notes that the competition from alternate products is not a new phenomena in the industry. It is mentioned in the Annual Reports of the applicant that the alternate products have been competing with the product under consideration for past several decades. It is, however, noted that the performance of the domestic industry in the past was good in spite of such competition from alternate products. The performance materially deteriorated over the injury period, with the increase in dumped imports and consequent significant price undercutting caused by such dumped imports.

The Authority considers that the Report stating that the product is dying is not relevant to the facts of the present case. The Report shows a significant decline in the world demand, whereas the demand in India has shown an increase over the injury period. Further, the applicant had been making profits in the past and is now faced with significant financial losses, which coincides with the increase in imports and significant price undercutting. Even if it is assumed that the product is a dying product in the world market, demand of the product is rising in the Indian market. Lack of demand does not appear to be the major reason for deterioration in performance of the domestic industry.

Import volumes and market share

24. The volume of dumped imports, and their share in imports from various countries and production & consumption in India are given in the table below:

Import Volumes (MT)	2001-02	2002-03	2003-04	POI
From China	243	501	463	545
Total Imports	383	830	673	729
Share of China in Imports %	63.47	60.35	68.72	74.73
Demand/ Consumption (MT)	2166	2663	2384	2670
Share of China in Demand in India %	11.24	18.80	19.41	20.40
Production(MT)	1945	2156	2000	2456
Imports from China in relation to domestic production(%)	12.49	23.22	23.14	22.18

The Authority notes that

- a) imports from China PR increased over the period in absolute terms and also in relation to imports into India, production in India and consumption in India.
- b) imports from China PR increased from 63% to 75% over the injury period in relation to total imports of the product under consideration in India.
- c) Imports from China PR in relation to production in India increased from 12% (2001-02) to 22% (2004-05).
- d) Imports from China PR in relation to demand also increased from 11% to 20% over the injury period.

The Authority concludes that the imports of the product under consideration from China PR increased in absolute terms as also in relation to production and consumption in India.

Price effect of imports

25. Net sales realization of the domestic industry has been arrived at by considering selling price, excluding taxes & duties, rebates, discounts & commissions and freight & transportation. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty. The trend of various prices is as given in the table below:

	Unit	2001-02	2002-03	2003-04	POI
CIF export price	Rs./KG	41.80	48.83	24.65	25.84
Landed price of imports	Rs./KG	54.89	64.11	31.12	31.32
Sales Realisation (indexed)	Index	100	98	81	82
Price undercutting (indexed)	Index	100	138	162	165
Cost of production (indexed)	Index	100	95	97	96

From the above it is observed that:

- a) CIF export price into India from China has declined significantly.
- b) As a result of decline in CIF import price, landed price of imports from China PR also declined significantly.
- c) Landed prices of imports from China have been significantly below the net sales realization of the domestic industry, resulting in significant price undercutting.
- d) Imports are depressing the prices of the domestic industry in the market.

The Authority concludes that the imports of the product under consideration from China PR have caused significant price undercutting and have depressed the prices of the domestic industry in the market.

Economic Parameters relating to the domestic industry

26. Annexure II to the Anti dumping Rules requires that a determination of injury shall involve an object examination of the consequent impact of these imports on domestic producers of such products. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments.

Production, sales volumes, capacity and capacity utilization - Status of the domestic industry with regard to production, sales volumes, capacity and capacity utilization showed as under:-

	2001-02	2002-03	2003-04	POI
Capacity (MT)	3600	3600	3600	3600
Production (MT)	1945	2156	2000	2456
Plant utilisation (%)	54.04	59.89	55.55	68.22
Domestic Sales (MT)	1783	1833	1711	1941
Export Sales (MT)	298	330	347	653
Demand (MT)	2166	2663	2384	2670
Market share in Demand (%)	82.30	68.85	71.76	72.70

It is seen that:

- a) Production of the domestic industry increased in absolute terms by about 26% over the period. As a direct consequence, capacity utilization increased.
- b) Though production increased by about 26%, domestic sales did not increase proportionately. In fact, increase in sales volumes was only about 9%.

The Authority thus concludes that even though the domestic industry has been able to improve its performance in terms of these parameters, improvement in terms of sales volumes has been clearly quite below the improvements in other parameters.

Stocks - The inventories with the domestic industry have been as shown below:-

Inventories (MT)	2001-02	2002-03	2003-04	POI
Opening Stock	512	376	367	308
Closing Stock	376	367	308	170
Average Stock	444	372	338	239
Export volumes	298	330	347	653

It is noted that level of average inventories has reduced during the injury period. This is due to significantly higher volume of exports made by the domestic industry during the investigation period, as may be seen from the level of exports during the period.

Market share - Market share of the domestic industry and China in demand of the product under consideration in India was as under over the period:-

% Share	2001-02	2002-03	2003-04	POI
Share of domestic industry	82.30	68.85	71.76	72.70
Share of China	11.24	18.80	19.41	20.40
Market share lost by domestic industry				9.60
Market share gained by China				9.16

It is seen that the market share of the domestic industry in demand in India declined and that of imports increased. Thus, even when sales grew, the increase in sales volumes was far less than increase in production and demand in India. Resultantly, the domestic industry lost market share to imports from China PR.

Profits - Profits earned by the domestic industry from the sales of the subject goods in the domestic market are as follows:-

Indexed Rs. In Lacs	2001-02	2002-03	2003-04	POI
Profit before tax (Total profit)	(100)	367	(2,436)	(2,268)
Profit before tax (Profit per unit)	(100)	357	(2,538)	(2,083)

Profit before interest & taxes	100	119	(357)	(325)
Landed price of imports Rs./kg.	54.89	64.11	31.12	31.32

It is seen that the losses of the domestic industry for the subject goods have been increasing significantly over the injury period. It is found that both PBT and PBIT have deteriorated over the period. It is seen that the trends in profits directly correlate with the trends in landed price of imports.

Wages - Wages paid by the company and incidence of wage per unit of production has been as under:

Rs. In Lacs (Indexed)	2001-02	2002-03	2003-04	POI
Wages (Rs. Lacs)	100	98	95	123
Wages per unit of production (Rs./kg)	100	88	93	97

It is found that wages have shown some increase. However, incidence of wage cost per unit of production has declined, in spite of which the profits of the domestic industry have deteriorated.

Employment - The number of employees for the subject goods has been arrived in the ratio of salary and wages for the subject goods (as per the cost audit report) as compared to total salary and wages of the unit and the same is as under:-

Indexed	2001-02	2002-03	2003-04	POI
No. of employee	100	68	76	83

Whereas employment should have increased, given increase in production and sales volumes, employment has in fact declined.

Return on investment - Return on investment has been calculated by considering capital employed on cellophane transparent film and profit before interest on domestic sales, which is as under:-

Indexed	2001-02	2002-03	2003-04	POI
Capital employed (Rs. In Lacs)	100	85	91	87
Profit before interest & taxes (Rs. In Lacs)	100	119	(357)	(325)
Return on investment (%)	100	140	(391)	(375)

It is seen that whereas the capital employed showed decline, profit before interest & taxes declined very significantly. Further, return on capital employed declined very significantly to such an extent that the same became negative from a situation of positive.

Effect on Cash flow - Since the applicant company is a multi product company and even the division relating to the product is not dedicated to the product alone, it is considered more appropriate to determine cash profits in order to determine trends in cash flow. Status of cash profits earned by the domestic industry over the injury period have been as under:-

Indexed (Rs. In Lacs)	2001-02	2002-03	2003-04	POI
Profit before taxes	(100)	367	(2,436)	(2,268)
Cash profits	100	2,547	(11,304)	(10930)

It is seen that the cash profits of the domestic industry have declined significantly over the injury period to such an extent that the domestic industry is now faced with cash losses.

Productivity - Productivity of the domestic industry for subject good has increased, as is evident from the table below:-

Indexed	2001-02	2002-03	2003-04	POI
production per employee (MT)	100	163	135	152

Productivity of the domestic industry shows same trend as that of production. Productivity shows improvement as a result of increase in production coupled with fall in employment as mentioned above. However, in spite of significant increase in productivity, the profitability declined as per data given above.

Growth - There is positive growth in sales volumes, production, inventories, and demand. However, growth in selling prices, sales values, market share, profits, cash flow, ROI has been negative. Negative growth in sales values despite positive growth in sales volumes is a clear result of significant reduction in selling prices, which adversely affected profits, cash flow and ROI of the domestic industry. Further, even though production and sales volumes had positive growth, the same was far less than growth in demand .

Ability to raise fresh/ capital investments - The company is suffering financial losses and has not made any fresh investments in the product. Applicant claimed that it would be difficult for them to raise investments.

After considering the above and evidence on record, the Authority concludes that the domestic industry has suffered material injury.

CAUSAL LINK

27. In order to reach conclusions on the cause of the injury suffered by the domestic industry and in accordance with Article 3.5 of Agreement of Anti Dumping and as per para (v) of Annexure II of AD Rules, the Authority examined the impact of all known factors and their consequences on the situation in that industry. Known factors other than the dumped imports, which could at the same time have injured the domestic industry , were examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

Effect of dumped imports

(i) Significant increase in the volume of dumped imports has resulted in significant decline in market share of the domestic industry. Decline in market share of the domestic industry as a consequence of increase in the market share of the dumped imports from subject country prevented the domestic industry from increasing their sales commensurate with the increase in the demand in the market.

(ii) Significant price undercutting prevented the domestic industry from increasing its prices to a fair level. On the contrary, profits, cash flow and return on investment of the domestic industry deteriorated significantly.

(iii) Decline in market share in spite of increase in demand resulted in increase in sales volumes far lower than the increase in production volumes. Further, the increase in production volumes was far lower than the increase in demand. Thus, dumped imports prevented the domestic industry from increasing its production, sales & capacity utilisation.

Performance of Other Domestic producers: There are no other producers of the subject good in the Country. Petitioner is the sole producer of the subject good in India.

Contraction in demand or Changes in the pattern of consumption: The Authority notes that there is no contraction in the overall demand during the period under consideration. On the contrary, the overall demand has increased significantly during the injury period. The Authority also concludes that there is no apparent change in the pattern of consumption or contraction in demand that could have caused injury to the domestic industry.

Volume and Prices of imports not sold at the dumped prices: According to the available information, import prices from other countries are at prices significantly higher than the prices at which goods were being imported from China. Imports from other countries could not have caused injury to the domestic industry.

Trade Restrictive practices of and competition between foreign and domestic producers: The Authority notes that there is a common market for the subject goods where dumped imports from the subject country compete directly with the subject goods produced by the domestic industry. The Authority further notes that the imported product is sold to meet the similar requirement as domestically produced subject goods. It is further noted that the imported subject goods and domestically produced goods are like articles and are used for similar functions & uses.

Developments in Technology, Export performance and productivity of the Domestic Industry: On the basis of the examination of the records of the petitioner, the Authority holds that developments in technology does not appear to be a relevant factor for injury to the domestic industry.

With regard to the export performance of the domestic industry, the Authority notes that there has been improvement in the exports of the domestic industry during the period under consideration.

As regards trends in productivity, the Authority notes that during the period under consideration, the productivity measured as output per person employed per year has rather improved during the injury period. On the basis of the examination, the Authority holds that possible deterioration in productivity per se is not the cause for the injury to the domestic industry.

After considering the above and evidence on record, the Authority concludes that material injury to the domestic industry has been caused by dumped imports.

INTEREST OF INDIAN INDUSTRY AND OTHER ISSUES

28. The Authority holds that 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. The Authority also recognizes that the imposition of anti-dumping duties might affect the price levels of the products manufactured using 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. 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 subject goods. The Authority notes that the imposition of anti-dumping measures would not restrict imports from China PR in any way, and, therefore would not affect the availability of the product to the consumers.

CONCLUSION

29. After considering the foregoing, the Authority concludes that:

- a) The subject goods originating in or exported from China have been exported to India below its normal value, resulting in dumping.
- b) The domestic industry has suffered material injury.
- c) Injury to the domestic industry has been caused by imports of subject goods from China PR.
- d) It is considered necessary to impose definitive anti-dumping duty on imports of subject goods originating in or exported from China PR.
- e) It is considered to recommend the amount of anti-dumping duty equal to the margin of dumping or lower so as to remove the injury to the domestic industry accrued on account of dumping. Accordingly, it is proposed that definitive anti-dumping duties equal to the amount indicated in column 9 of the table below be imposed by the Central Government, on all imports of subject goods originating in or exported from subject country.

Sl. No	Sub-heading	Description of goods	Specification	Country of origin	Country of export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	3920 or 4806	Cellophane Transparent Film (also known as Cellophane Transparent Paper)	All grades or specifications	China PR	Any	Any	Any	1.91	Kgs.	US \$
2	3920 or 4806	- do -	- do -	Any	China PR	Any	Any	1.91	Kgs.	US \$

- f) Subject to above, the Authority confirms the preliminary findings dated 3rd Feb., 2006.
- g) An appeal against this order shall lie to the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Act supra.

(CHRISTY L. FERNANDEZ)
Designated Authority