

No.14/7/2005-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)
NOTIFICATION

NEW DELHI, the 3rd February 2006

Preliminary Findings

Subject: Antidumping investigation involving import of Cellophane Transparent Film exported from or originating in China PR

1. NO.14/7/2005-DGAD : - Having regard to the Customs Tariff Act 1975 as amended in 1995 and thereafter and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 as amended (hereinafter referred to as the Anti Dumping Rules) thereof:
2. Whereas M/s. Kesoram Rayon, unit of M/s. Kesoram Industries, Kolkatta, (hereinafter referred to as applicant) filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act and the AD Rules alleging dumping of Cellophane Transparent Film (herein after referred to as subject goods) originating in or exported from the People's Republic of China (herein after referred to as "subject country" or China PR) and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods.
3. And whereas, the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 27th September 2005 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject country in accordance with the Rule 6 of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry.
 - A. **Procedure**
4. Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the initiation of the above investigations by the Authority.

(i) The Designated Authority sent copies of initiation notification dated 27th September 2005 to the Embassy of the subject country in India, known exporters from the subject country, importers, users and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the date of initiation notification.

(ii) The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassy of China PR in accordance with Rule 6 supra.

(iii) The Embassy of the People's Republic of China in India, was informed about the initiation of the investigation in accordance with Rule 6 with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters was also sent to them, alongwith the names and addresses of the exporters.

(iv) A questionnaire for according market economy treatment was forwarded to all the known exporters and the Embassy of the Peoples' Republic of China. For the purpose of initiation, normal value had been based on the basis of price of exports from United Kingdom(UK) to India as appropriate estimate of normal value. In an alternate to the price from a market economy third country to India, applicant had also provided estimates of normal value in China as price payable in India in terms of Para 7 of Annexure I to the Rules. Subsequent to initiation, the Authority informed the known exporters that the Authority proposed to examine the claim of the applicant of treating China as non market economy in the light of para (7) & (8) of Annexure-I of the Anti-Dumping Rules as amended. The concerned exporters / producers of the subject goods from China PR were therefore requested to furnish necessary information / sufficient evidence as mentioned in paragraph 8 of Annexure-I to enable the Designated Authority to consider whether market economy treatment could be granted to cooperating exporters / producers who could demonstrate that they satisfied the criteria stipulated in the said paragraph.

(v) The Authority sent a questionnaire, to elicit relevant information to the following known exporters in China PR in accordance with Rule 6(4);

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) Questionnaires were sent to following known importers and users of subject goods in India calling for necessary information in accordance with Rule 6(4).

- M/s Hindustan Lever Ltd
- M/s Mahavir Spinning Mills Ltd
- M/s R P J Packaging Pvt Ltd
- M/s Phoenix Yule Limited
- M/s Indian Chemical Company
- M/s C. Patel & Company
- M/s Harbanslal Malhotra & Sons Ltd
- M/s Zaibe Trading Co
- M/s The Paper Products Ltd
- M/s G D Pharmaceuticals Ltd
- M/s Choice Laboratories
- M/s Kalyan Confectionery Pvt Ltd
- M/s. Reliance Industries Ltd.
- M/s Kamal Bros
- M/s Kquality Rotoprints
- M/s Seth Chemical Works Pvt Ltd
- M/s Tea Packars (India) Pvt Ltd
- M/s EZY Pack
- M/s Threads (India) Limited
- M/s Mysore Scents Company
- M/s Phils Laminations
- M/s Daga Printing & Packaging Industires
- M/s Jyoti Coaters P Ltd
- M/s Trend International

viii) In response to above notification M/s Mukesh Paper Mart and M/s. Gulshan Rai Jain & Sons have filed their submissions.

ix) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigations;

x) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties;

xi) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry. For this purpose, domestic industry was directed to provide its cost of production and income statement with regard to product under consideration duly certified by a practicing cost accountant, which was also verified by the Designated Authority.

xii) *** in this Notification represents information furnished by the applicant on confidential basis and so considered by Authority under the Rules;

xiii) Investigation was carried out for the period starting from 1st April 2004 to 31st March 2005 (POI). The examination of trends in the context of injury analysis covered the period from April 2001-March 2002, April 2002-March 2003, April 2003-March 2004 and the POI.

B. Product under consideration & like article

5. The product under consideration is Cellophane Transparent Film also known as Transparent Paper or TP film, 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 machine ability as well as dimensional stability. It is made of wood pulp, hence it is non-toxic and biodegradable.
6. 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. All grades are within the scope of product under consideration. It is an ideal packaging material.
7. 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.

Comments from importers

8. The sole responding importer claimed that imported product is of lower quality and is neither a like product to the domestic industry nor could have caused injury to the domestic industry. The importer has claimed the imported product as not

being a like product on the basis of a number of parameters, which includes degree of commercial interchangeability, functions and end users of the merchandise, pricing, quality, channels of distribution, customer and producer perceptions of the products, commercial prestige, machinability of the products.

9. It has been argued by the importers that three grades of TP is manufactured and only grade III is imported which is not comparable to other superior grades. Further grade III is produced by DI in insignificant quantity.

Views of domestic industry

10. Applicant has claimed that there is no significant difference between the Cellophane Transparent Film produced by the domestic producers and the products imported from subject country. They are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Applicant claims that the two are technically and commercially substitutable. The consumers are using the two interchangeably. .
11. Applicant either directly or through its dealers competes with these traders/resellers for the same general category of consumers. Significant volume of sales by the applicant companies is also through resellers. All resellers, whether dealing in the domestic or import product are supplying the product to the same general category of customers.

Examination by the Authority

12. Rule 2(d) of AD Rules defines Like Article as

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

13. The product for which application for imposition of anti dumping duty was filed by the domestic industry is "Cellophane Transparent Film also known as Transparent Paper". Anti dumping investigation was initiated accordingly defining the product under consideration. The applicant had claimed that goods produced by them are like article to the goods originating or exported from China PR . The importer in their submissions has claimed that the goods imported by them are of inferior quality. However, difference in quality does not render the product as different from Cellophane Transparent Film. The product still remains Cellophane Transparent Film also known as Transparent Paper, as the product contains the same basic physical and chemical characteristics and has the same functions & uses. Such being the case, it can not be said that mere difference in

quality renders the product imported by the importer as different from "Cellophane Transparent Film also known as Transparent Paper", the product under consideration.

14. The goods produced by the domestic industry are like article to the imported product under consideration. The alleged difference in the quality may result in difference in prices. However, possible differences in physical characteristics arising as a result of difference in quality require a price adjustment. As pointed out by domestic industry, Para 6(i) of Annexure-I dealing with principles governing determination of normal value, export price and dumping margin in fact provide for a possible price adjustment on account of difference in physical characteristics. However, the importer has not claimed such a price difference with quantifiable evidence. Further, such an adjustment can generally be claimed by a producer in China only. Since none of the producers in China have responded to the Authority, no such price adjustment is feasible.
15. After examining the above claim, it is provisionally concluded that there is no difference in the product imported from China and produced by the domestic industry, except with regard to alleged difference of quality. Even if it is assumed that the imported product is of lower quality, this difference in quality can not render the imported and domestic product different product within the meaning of the Rule 2(d). It is also relevant to point out that the difference in quality is not a conscious business decision of any producer. The product is classified into different grades based on perceptible quality differences in the product after it is manufactured. Therefore , the cost of production per unit of different grades remains the same.
16. In view of the above, for the purpose of preliminary findings the Authority holds that the goods produced by the domestic industry are like article to the goods imported from ChinaPR within the meaning of the Rules.

C. Domestic Industry

17. Rule 2(b) defines domestic industry as under:-

(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers shall be deemed not to form part of domestic industry:

Application for imposition of anti dumping duty was filed by M/s Kesoram Rayon, (a unit of Kesoram Industries Limited). Applicant claimed itself as the

sole producer of the product in India. The responding importer also has not disputed the fact that the applicant is the sole producer of the product in India. Investigation also has not revealed existence of any other producer in the Country. In view of the same, Authority holds that applicant constitutes the domestic industry for the purpose of this anti dumping investigation.

D. Normal value

Claims of applicant

18. Applicant claimed that China is a non-market economy. No country has granted market economy country status to China after following detailed evaluation procedure, examination and evaluation. Even China agreed in the accession treaty that WTO Members could use an NME antidumping methodology through December 11, 2016. China has been treated as non-market economy by European Commission and United States in the past three years. European Union and United States are members of World Trade Organization. In India also, the Designated Authority has treated China as non-market economy. The Designated Authority has treated China as non-market economy in practically all the investigations initiated against China after the amendment dated 31st May, 2002. Even after the amendment dated 4th Jan., 02, the Designated Authority have treated China as a non-market economy. With regard to treatment of China as non-market economy by other WTO member's countries, European Commission and USA have treated China as a non-market economy country in a number of investigations.
19. Further the domestic industry has pointed out that the sole responding importer claimed that China should be given market economy status, as has been done by the Authority in some other investigations. The Authority may note in this regard that the Rules provide that a Chinese exporter can 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 the concerned Chinese producers. However, no such claim has been made by any Chinese producer and therefore the Authority is unable to apply Para 8 of Annexure I to the Rules.

Claims of importers

20. The responding importers claimed that China should be accorded market economy treatment. They further claimed that UK was not an appropriate market economy third country in view of the facts that (a) imports from UK are coated films or Tape-base films, manufactured by Innovia Films-these are not the same as CTF from China, (b) prices in UK are higher, (c) prices in UK differ significantly as per the data given in the petition itself, (d) Indonesia, Thailand, Malaysia are more appropriate surrogate country as cost of production is low in these countries.

Examination by the Authority

21. In anti dumping investigations concerning imports from non market economy countries, normal value has to be determined in accordance with paragraphs 7 & 8 of the Annexure 1 of the AD Rules.
22. The Authority notes that none of the Chinese producers have responded in the form and manner prescribed. None of the Chinese producers have claimed that they should be granted market economy status. Under the circumstances, the Authority is not in a position to apply para 8 of Annexure 1 to the Rules and has to therefore proceed in accordance with para 7 of Annexure 1 to the Rules. According to these Rules, the normal value in China can be determined on any of the following basis:
 - (a) *the price in a market economy third country,*
 - (b) *constructed value in a market economy third country,*
 - (c) *the price from such a third country to other countries, including India.*
 - (d) *the price actually paid in India, adjusted to include a reasonable profit margin.*
 - (e) *the price actually payable in India, adjusted to include a reasonable profit margin.*
23. Applicant proposed consideration of import price from UK to India an appropriate benchmark for determination of normal value. Applicant 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 sole responding importer has objected to consideration of UK prices as an appropriate bench mark on a number of grounds.
24. The Authority notes that applicant provided an evidence of price in a market economy third country viz UK . While the responding importers disputed the claim and submitted that UK is not an appropriate market economy third country, no verifiable evidence has been provided by them suggesting some other market economy third country. Under the circumstances, the Authority has provisionally determined normal value considering price actually payable in India for the like product, duly adjusted, to include a reasonable profit margin, pending further investigations, in accordance with provisions under Annexure-I of the Rules. The normal value is thus provisionally determined as **Rs.*** per KG** .

E. EXPORT PRICE

25. In the application submitted for initiation of investigation , applicant had worked out export price based on transaction wise data provided by the DGCI&S and IBIS. Applicant 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 classification. Applicant claimed that the imports have

been reported under different customs classification nos. 39207111, 39207119, 39207129, 39209929 and 48064090. Applicant further claimed that in fact, imports from other countries have been reported in some other classification also.

26. There is no denial of the claim of the applicant by the sole responding importer. Information submitted by the importer on record shows that the goods have been reported in different customs classifications as mentioned above. In view of the above, the export price has been determined on the basis of transaction wise imports data after including imports reported in customs classifications no. 392071 and other customs headings. The average import price comes to Rs.26.43 per kg (US \$ 0.58 per kg). After considering price adjustments claimed by the domestic industry on account of inland freight, marine insurance, commission, ocean freight, bank charges & port expenses, the ex-factory export price comes to **Rs.*** per KG (US \$ *** per KG).**

F. DUMPING MARGIN

27. Authority notes that the comparison made 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 the normal value and export price pertains to the same period. Both the prices are free of taxes. Thus, the Authority considers that the comparison made constitutes a fair comparison. Considering the normal value and export price determined as detailed above, dumping margin has been determined, which comes to **Rs.*** per KG (US \$ *** per KG)** which works out as 369% of net export price.

G. Injury to the domestic industry

Import volumes and market share

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

| | 2001-02 | 2002-03 | 2003-04 | POI |
|-------------------------------------|---------|---------|---------|-------|
| Import volumes (MT) | | | | |
| From China | 88 | 171 | 237 | 508 |
| Total imports | 229 | 500 | 448 | 692 |
| Share of China in imports % | 38.7 | 34.17 | 52.96 | 73.37 |
| Demand/ Consumption (MT) | 2011 | 2333 | 2159 | 2633 |
| Share of China in Demand in India % | 4.40 | 7.32 | 10.99 | 19.28 |
| Imports in relation to production % | 4.55 | 7.92 | 11.86 | 20.67 |

- a) It is found that the 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 in relation to total imports of the product under consideration in India increased from 39% to 73% over the injury period excepting the year 2002-03.
- c) Imports from China PR in relation to production in India increased from 4.55% (2001-02) to 20.67% (2004-05).
- d) Imports from China PR in relation to demand also increased from 4.40% to 19.28% over the period.

From the above, it is evidently clear that imports from subject country have shown an increase during the injury period both in absolute terms and also relative to domestic production and consumption.

Price effect of imports

29. 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:-

| | 2001-02 | 2002-03 | 2003-04 | POI |
|----------------------------------|---------|---------|---------|-------|
| CIF export price (Rs./kg.) | 64.51 | 94.76 | 30.36 | 26.43 |
| % decline over Previous Year | | (46.89) | 67.96 | 12.94 |
| Landed price of imports (Rs./KG) | 84.06 | 123.47 | 38.02 | 31.77 |
| % decline over Previous year | | (46.89) | 69.21 | 16.44 |
| Net sales realisation (Indexed) | 100 | 98 | 81 | 83 |
| Price Undercutting (Indexed) | 100 | 15 | 142 | 158 |
| Cost of production (Indexed) | 100 | 95 | 97 | 96 |

30. It is noted 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 price 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.

It is evident from the above table that the effect of dumped imports on the domestic industry has been adverse.

Economic parameters relating to the domestic industry

31. Table below shows capacity, production, capacity utilization and sales.

| | 2001-02 | 2002-03 | 2003-04 | POI |
|----------------------------|---------|---------|---------|-------|
| Capacity (MT) | 3600 | 3600 | 3600 | 3600 |
| Production (MT) | 1945 | 2156 | 2000 | 2456 |
| Plant utilization(%) | 54.04 | 59.89 | 55.55 | 68.22 |
| Domestic Sales (MT) | 1783 | 1833 | 1711 | 1941 |
| Export Sales (MT) | 298 | 330 | 347 | 653 |
| Demand (MT) | 2011 | 2333 | 2159 | 2633 |
| Market share in Demand (%) | 88.64 | 78.58 | 79.26 | 73.72 |

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%;
- c) Even when demand increased by about 31% (and increase in production was less than this increase in demand), sales increased only by 9%.

32. 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 |

It is noted that level of average inventories has reduced during the injury period reflecting improved off-takes.

33. Market share of the domestic industry and of China PR in demand in India was as under over the period:-

| % share | 2001-02 | 2002-03 | 2003-04 | POI |
|---------|---------|---------|---------|-----|
| | | | | |

| | | | | |
|----------------------------|-------|-------|-------|-------|
| Share of domestic industry | 88.64 | 78.58 | 79.26 | 73.72 |
| Share of China | 4.40 | 7.32 | 10.99 | 19.28 |

It is seen that the market share of the domestic industry in demand in India declined. 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.

34. 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 | -2436 | -2268 |
| Per unit | -100 | 358 | -2547 | -2090 |
| Profit before interest & taxes | 100 | 119 | -357 | -325 |

It is seen that the losses of the domestic industry for the subject goods have been increasing significantly over the injury period.

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

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

36. The no. 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.

| 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, as would be seen from the table above.

37. Return On Investment has been calculated by considering capital employed on cellophane transparent film and profit before interest on domestic sales, which shows 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 shows decline, profit before interest & taxes declined very significantly. Resultantly, return on capital employed declined very significantly to such an extent that the same became negative from a situation of positive.

38. 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 of the domestic industry over the injury period have been as under:-

| | | | | |
|---------------------|---------|---------|---------|--------|
| Indexed (Rs. Lacs) | 2001-02 | 2002-03 | 2003-04 | POI |
| Profit before taxes | -100 | 367 | -2436 | -2268 |
| Cash profits | 100 | 2547 | -11304 | -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. This deterioration in cash profits is directly attributable to decline in the selling prices in response to landed price of imports.

39. 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) | 100.00 | 162.89 | 134.91 | 151.89 |

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

40. Growth :- There is positive growth in sales volumes, production 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 and production is a clear result of significant reduction in the per unit net sales realisation by the domestic industry. The reduction in selling prices

has led to an adverse impact on the profits, cash flow and ROI of the domestic industry.

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

Arguments of importers on injury to the domestic industry

42. a) It has been argued by the importer that 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 substitutes which have emerged for packaging a paper. In support of its contention, the importer has referred a publication from "Free Donia Group" published in Feb., 2004, which states that Cellophane Film will continue its volume declines because of competition from oriented polypropylene.

Authority notes that annual reports of the applicant company also mention competition from alternate products. However, it is noted that the competition from alternate products is not a new phenomena in this industry. It is noted from the annual reports of the applicant as also claim of the importer 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 much better 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.

- b) The responding importer has claimed that Cellophane Film is a dying item and the world-wide production and demand is going down. The importer has also referred to Global Industry Report provided by the petitioner in this regard.

The Authority considers that the issue is entirely irrelevant to the present investigations. The Report shows a significant decline in the world demand, whereas the demand in India has shown an increase over the injury period, as discussed hereinabove. 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 assumed that the product is a dying product in the world market, demand of the product is rising in the Indian market. The lack of demand does not appear to be the major reason for deterioration in performance of the domestic industry.

- c) 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.

In reply to the submissions of the importers the applicant has claimed that

- (i) entire imports are not of sub-standard quality;
- (ii) the imported product has had adverse impact on the average selling price of domestic industry. The responding importer itself has claimed that significant sales of the domestic industry are of good quality material. Such being the case, there is no reason, but for the dumped imports, for the net sales realization of the domestic industry to decline. Adverse impact of dumped imports on the prices of the domestic industry is evident, regardless of the quality of the imported product;
- (iii) the difference in quality is question of price adjustment, for which the Chinese producer or some interested party is required to raise quantifiable adjustment for the purpose of comparison with the prices of the domestic industry;
- (iv) the imported product affected its prices of all kinds of films, even if the landed price of imports are compared with the selling price of the domestic industry in respect of 3rd quality product, the undercutting is significantly positive.

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 above, 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.

Conclusions

- 43. There has been significant increase in the volume of dumped imports from the subject country in absolute terms and also in relation to imports, production and demand of the subject goods in India. Consequently, market share of the domestic industry has significantly declined. There has been significant adverse price effect by dumped imports, as the imports are causing significant price undercutting, which has resulted in significant suppressing effect on the prices of the domestic industry. In spite of reduction in the prices by the domestic industry, the price undercutting continues to be significant, which resulted in continuous increase in import volumes and their market share.
- 44. As regards performance of the domestic industry, increase in sales volumes less than increase in production, decline in market share of the domestic industry, decline in sales values in spite of increase in sales volumes, significant decline in the prices, decline in profits from a situation of profits to significant financial losses, deterioration in cash flow & return on investment from a situation of positive to negative, persistent adverse effect on the domestic prices, decline in employment collectively and cumulatively establish that the domestic industry has suffered material injury.

45. Even though production, capacity utilization, productivity, wages showed positive trend, decline in market share of the domestic industry and significant financial losses suffered by the domestic industry in its operations of the subject goods establish existence of material injury. It is thus provisionally concluded that the domestic industry has suffered significant material injury.

H. Causal link

46. Authority examined whether other parameters could have contributed to injury to the domestic industry. It was found that:
- a) Imports from Third Countries: - Imports of Cellophane Transparent Film from other countries are either negligible (de minimus) or the export price is significantly higher. Imports from other countries do not appear to have caused injury to the domestic industry.
 - b) Contraction in Demand: - Demand for the subject goods have increased. Possible contraction in demand does not appear to have caused injury to the domestic industry. Even though it has been argued that the product under consideration is a dying product and is competing with alternate products, the Authority notes that such alternate products existed for a fairly long period (about a decade) and there has been no such material change in the market situation relating to this product vis-à-vis such alternate products. Further, since the demand has shown positive trend, the fact whether or not the product is dying product is neither factually correct nor relevant with reference to the Indian market. In fact, reliance in this regard has been placed on some very old report relating to the US market which may not be applicable to the Indian market.
 - c) Pattern of consumption: - No significant change in the pattern of consumption has been noticed. As regards possible competition from alternate products, as noted in the previous paragraph, demand for the product under consideration has in fact shown an increase and it does not appear that the pattern of consumption has caused injury to the domestic industry.
 - d) Conditions of competition: - No evidence of conditions of competition or trade restrictive practices having caused injury to the domestic industry has been brought to the knowledge of the Authority.
 - e) Developments in technology:- There is no significant change in technology over the injury period which could have caused injury to the domestic industry.
 - e) Export performance of the domestic industry:- Export performance of the applicant has not deteriorated. In fact, export volumes of the applicant shows an

increase. Applicant however claimed that these exports are avoidable exports and were made due to inability of the domestic industry to sell the material in the domestic market as a result of dumped imports. Further, while the applicant claimed that the price injury and profit injury caused to the domestic industry on account of exports is clearly an injury suffered by the domestic industry on account of dumped imports and is not required to be segregated and removed while assessing injury for product concerned, the Designated Authority has considered information relevant only to domestic operations while assessing the present injury to the domestic industry.

- f) Productivity: - Productivity of the domestic industry has increased as a result of increase in production. Possible deterioration in productivity is therefore not a possible reason for injury to the domestic industry.

Factors establishing causal link

- 47. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from subject country. This is established by the following:-
 - a) Import prices and consequently the landed price of imports from the subject country declined steeply causing significant price undercutting. As a direct consequence, the domestic industry was forced to reduce the prices.
 - b) Reduction in the selling prices by the domestic industry adversely affected the profits, cash flow and return on investments of the company.
 - c) In spite of reduction in prices by the domestic industry, the imports were cheaper. Resultantly, the volume of dumped imports increased in spite of reduction in prices by the domestic industry. This has directly resulted in continuous increase in import volumes.
 - d) Significant positive price undercutting resulted in increase in market share of imports from the subject country. As a direct consequence, while the market share of dumped imports in demand in India increased, that of domestic industry declined.
 - e) Existence of significant price undercutting and consequent decline in market share of the domestic industry resulted in a situation where the domestic industry was not able to increase its sales volumes in spite of increase in production and capacity utilization.
 - f) Decline in selling prices resulted in a situation where even though the sales volumes increased, sales values declined.

- g) In spite of increase in market demand and reduction in selling prices by the domestic industry, market share of the domestic industry declined due to significant reduction in landed price of imports and consequent increase in import volumes. This adversely affected the domestic industry.

It is thus concluded that the domestic industry has suffered material injury due to dumped imports from subject country.

I. Other issues

48. The sole responding importer argued that India Ranks poorly in the latest 2005 Economic freedom Index of Heritage Foundation and therefore anti dumping action should be used sparingly. It has also been claimed that Cellophane Film is a small part of the total turnover of the applicant and hence deserves no merit for consideration of levy of anti dumping duty, more so keeping in mind India's poor standing in International Trade Community.

The Authority considers that anti dumping investigations are product specific and also the share of the product in applicant's total business is irrelevant to decide whether the product is being dumped and is causing injury to the domestic industry.

J. Indian industry's interest & other issues

49. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

K. Conclusions

50. The Authority has, after considering the foregoing, come to the conclusion that:
- a) The subject goods have been exported to India from the subject country below its normal value;
 - b) The domestic industry has suffered material injury;
 - c) The injury has been caused by the dumped imports from subject country.

L. Recommendations

51. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted an investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having provisionally established positive dumping margin against the subject country, as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury pending completion of the investigation.
52. Therefore, Authority considers it necessary and recommends provisional anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.
53. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty equal to the amount indicated in Col 9 of the table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject country.

Duty Table

| Sl. No | Sub-Heading Or Tariff Item | Description Of Goods | Specification | Country of Origin | Country of export | Produce r | Exporte r | Amount | Unit of Measurement | Currency |
|--------|----------------------------|---|---------------|-------------------|-------------------|-----------|-----------|--------|---------------------|----------|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) | (11) |
| 1. | 3920 | Cellophane Transparent Film (also known as Transparent Paper) | All Grades | China PR | Any | Any | Any | 1.90 | Kgs. | US \$ |
| 2. | 3920 | - do - | -do- | Any | China PR | Any | Any | 1.90 | Kgs. | US \$ |

M. Further Procedures

54. The following procedure would be followed subsequent to notifying the preliminary findings:-

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final finding;
- (b) Exporters, importers, applicants and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- (c) The Authority would conduct further verification to the extent deemed necessary;
- (d) The Authority would disclose essential facts before announcing final findings.

(Christy L. Fernandez)
Designated Authority