

MINISTRY OF COMMERCE

NOTIFICATION

New Delhi, the 22nd February, 2000

FINAL FINDINGS

Subject: Anti-Dumping investigation concerning imports of Nylon Tyre Cord Fabric- (NTCF) from Indonesia, South Korea, Thailand and Taiwan- Final Findings,

31/1/98-DGAD— Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof:

A. PROCEDURE

1. The Procedure described below has been followed
 - i. The Designated Authority (hereinafter also referred to as the Authority) notified preliminary findings vide notification dated the 5th October, 1999 and requested the interested parties to make their views known in writing within forty days from the date of its publication;
 - ii. The Authority forwarded a copy of the preliminary findings to the known interested parties who were requested to furnish their views, if any, on the preliminary findings within forty days of the date of the letter;
 - iii. The Authority also forwarded a copy of the preliminary findings to the Embassies of Indonesia, Thailand, South Korea and the Cultural and Economic Centre Taiwan in New Delhi with a request that the exporters and other interested parties may be advised to furnish their views on the preliminary findings;
 - iv. The Authority provided opportunity to domestic industry and the other interested parties to present their views orally. All parties presenting their views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
 - v. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties, for inspection, upon request;
 - vi. Argument raised by interested parties before announcing of preliminary findings, which have been brought out in the preliminary findings noticed

earlier have not been repeated herein for sake of brevity. However, arguments raised by the interested parties have been appropriately dealt in the preliminary findings and/or these findings;

- vii. 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 also been duly considered in these findings;
- viii. *** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the rules.

B. VIEWS OF PETITIONERS. EXPORTERS. IMPORTERS AND OTHER

INTERESTED PARTIES AND EXAMINATION BY AUTHORITY

2. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in the relevant paras herein below.

C. PRODUCT UNDER CONSIDERATION:

3. The product under consideration in the present investigation is "Nylon Tyre Cord Fabric (NTCF)" originating in or exported from Indonesia, South Korea, Thailand and Taiwan. The NTCF finds application in different kinds of tyres like Bus & Truck Tyres, 2 wheeler Tyres, Light Commercial Vehicles, Animal Driven Vehicles etc. The NTCF also finds application in the Non-Tyre Industries. The NTCF are of various deniers. It is classified under the Customs Sub-heading 5902.10.00 of Customs Tariff Act. The Classification is however indicative only and is in no way binding on the scope of present investigation.

None of the interested parties have raised any objection with regards to product under consideration and the scope of investigation. In view of the same, Authority holds that the product under consideration is "Nylon Tyre Cord Fabric" as classified under Customs sub-heading 5902 10.00 of the Customs Tariff Act

D. LIKE ARTICLES

4. The petitioner has claimed that NTCF being produced and sold by Domestic Industry and those imported from subject countries, are being used interchangeably by customers in India. The process and technology for manufacturing the product all over the world is similar in terms of machinery, raw materials, manufacturing process except for minor differences such as additives, automation in material handling etc. in

view of the same. Authority held that NTCF being produced by domestic industry and those being imported from the subject countries can be used interchangeably and thus are commercially and technically substitutable and therefore, are Like Articles within the meaning of the Rules

5. ARGUMENTS BY PETITIONER

- i. It has been argued by the exporters and importers that investigation should be restricted to grey fabric. There is no ground to exclude Nylon 66 as the investigation- includes Nylon Tyre Cord Fabric without any qualification as to the grade of Nylon.
- ii. The difference between grey fabric and dipped fabric is only in respect of dipping. But for this difference, both products are technically and commercially substitutable. In case the dipped fabric is excluded from the scope of present investigation, then the object of entire investigation would be defeated and circumvented by substituting import of grey fabric with dipped fabric.

6. ARGUMENTS BY EXPORTERS

Nylon 66 grey Tyre Cord Fabric should be excluded from the investigation and no Anti-Dumping Duty should be imposed on its imports as it is manufactured only by Dupont in India which is neither a member of Association of Synthetic Fibre industry (ASFI) nor has supported or has any interest in the present petition in any way.

7. The present investigation is restricted to Grey Fabric and not Dipped Fabric as is evident from the petition. The grey fabric and dipped fabric are not like articles as defined in Rule 2(d). A clarification is required from the Designated Authority that the dipped fabric is not subject to Anti-Dumping Duty.

7. AUTHORITY POSITION

As regards the arguments for exclusion of Nylon-66 for the scope of like Articles, the Authority notes that the scope of investigation covers "Nylon Tyre Cord Fabric" In all its forms and grades. No distinction has been made by the Authority between different grades and types of NTCF. Therefore, the present investigation covers" Nylon Tyre Cord Fabric including Nylon 66 grade NTCF. As regards the scope of the investigation being limited to Grey Fabric and not Dipped Fabrics, the Authority notes that in the manufacture of Nylon Tyre Cord Fabric, there are two stages i.e. the production of grey fabric and its dipping which requires further processing from the grey stage. The Authority notes further that as compared to total cost in the production of grey fabric the cost of dipping for the dipped fabric is very marginal. The plant & machinery for manufacture of grey fabric and dipped fabric are also identical except

the additional equipments required for dipping in case of dipped fabric. Besides the end use of both grey and dipped fabrics are identical. Thus Authority notes that but for the difference in dipping both grey and dipped fabrics are technically and commercially substitutable. In view of the same, grey fabric and dipped fabric are Like Articles within the meaning of the relevant Rules.

Thus, the Authority holds that NTCF being produced by domestic industry and those being imported from the subject countries are like Articles within the meaning of relevant Rules.

E. DOMESTIC INDUSTRY

8. (i) The present petition for Anti-Dumping investigation has been filed by the Association of Synthetic Fibre Industry (ASFI) on behalf of domestic producers i.e. M/s. SRF Ltd., M/s. Nirlon Ltd., M/s. Century Enka Ltd and M/s. NRC Ltd. The petition has been supported by other domestic producer M/s Baroda Rayon Ltd. It has been claimed by petitioners that the four petitioner companies and the other supporting company M/s Baroda Rayon Ltd. are the only producers of NTCF in India and hence the petition has support of all the domestic manufacturers of NTCF in India and fulfils the requirement of requisite standing as required under the Rules.

(ii) It has been argued by the exporters and other interested parties that M/s SRF Ltd. have imported the subject goods during the period of investigation through a related company M/s SRF Overseas Ltd. They being related to the importers cannot file petition for Anti-Dumping investigation. Similarly M/s Baroda Rayons Ltd are related to one of the exporters M/s. Thai Baroda Industries Ltd which is an exporter under investigation. Therefore, both these companies cannot be the petitioners in Anti-Dumping investigation. Both these companies account for majority of domestic production of NTCF in India and therefore, the petition lacks requisite support from domestic industry as required under the Rules.

(iii) In the Preliminary Findings, the Authority held that imports by M/s SRF Ltd represented 0.24% of the total imports from subject countries during the POI. Besides, the imports by M/s SRF Ltd. represented only 0.08% of total production of NTCF of domestic industry during the POI. There is no evidence of any other imports by M/s SRF Ltd. from its related company M/s SRF Overseas Ltd during the POI. The Authority notes that the quantum of imports by M/s SRF Ltd from its related company M/s SRF Overseas Ltd., Dubai were in very insignificant quantities and would not justify the exclusion of M/s SRF Ltd from the scope of domestic industry. As regards, M/s Baroda Rayon Ltd., the Authority noted that M/s Baroda Rayon Ltd. was related to M/s Thai Baroda Industries Ltd who themselves were exporters of the subject

goods and are subject to investigation in the present case. However, the present petition has been filed by four producers representing the domestic industry. M/s Baroda Rayon Ltd have merely supported the petition filed by other producers representing the domestic industry and as such M/s Baroda Rayon Ltd. is not an active applicant in the present petition.

F. The interested parties have made the following arguments on preliminary findings with regards to the standing of Domestic Industry.-

9. ARGUMENTS BY PETITIONER

- i. M/s. SRF Limited, M/s. Nirlon Limited, M/s Century Enka Limited and M/s NRC Limited constitutes the domestic industry in the present case. The imports by M/s. SRF from M/s. SRF Dubai does not amount to imports of allegedly dumped articles and consequently the question of excluding M/s. SRF from the scope of domestic industry does not arise. This position would apply keeping in view the definition of the domestic industry as it existed prior to the amendment in July, 1999.
- ii. Without going into the question whether the July, 1999 amendment is retrospective or prospective, in either case there is no warrant to exclude M/s. SRF from the domestic industry.
- iii. The argument that if M/s. SRF and M/s Baroda Rayon Corporation are eliminated, the remaining producers will account for less than 50% of the domestic production of NTFC and hence they cannot maintain an application is also incorrect. In such case, the remaining producers would constitute 100% of the eligible domestic production and would be entitled to maintain the application in their own right.

10. ARGUMENT BY EXPORTERS

- i. The Designated Authority ought to have applied the non amended definition of domestic industry which was applicable at the time of initiation of present investigation. As per these Rules there is mandatory exclusion from domestic industry of certain domestic producers. The Authority has arrived its provisional findings that M/s. SRF is related M/s. SRF Overseas Limited, a known exporter of subject goods and also that it has imported the subject goods during the period of investigation from its related company. The exclusion of M/s. SRF from the scope of domestic industry is mandatory and not discretionary. The import of subject goods irrespective of its quantity is enough to invoke exclusion of M/s. SRF Limited from the scope of domestic industry.
- ii. Besides, M/s. SRF, M/s. Baroda Rayon Corp. are also related to M/s Thai Baroda Industries Limited. The exclusion of M/s. SRF and M/s Baroda Rayon

Corporation, would have the significance of eliminating domestic producers together accounting for more than 50% of Indian domestic production of subject goods from the purview of domestic industry. As such the balance domestic producers together account for less than 50% of Indian domestic production and they cannot constitute domestic industry for the purpose of Rule 2(b) As such the application filed on behalf of domestic producers other than M/s. SRF and M/s Baroda Rayon Corporation cannot be an application on behalf of domestic industry. Therefore, the present investigation is not maintainable and must be terminated.

11. EXAMINATION BY AUTHORITY

- i. The issue with regard to the standing of the petitioner has been examined by Designated Authority. Rule 2(b) and Rule 5(3)(a) of the Anti-Dumping Rules are relevant in this regard.
- ii. The Anti Dumping Investigations in the matter were initiated by the Designates Authority on 26.2.99 The petition has been filed by four of the domestic producers of NTCF in India, i.e. M/s SRF Ltd., M/s Nirlon Ltd., M/s Century Enka Ltd. and M/s NRC Ltd Further, the petition has been supported by another domestic producer of NTCF M/s Baroda Rayon Carp.
- iii. Thus, based on the evidence available on record, the petition was filed by four of the domestic manufacturers and was supported by one other manufacturer. None of the domestic manufacturers of the subject goods had opposed the petition. Hence, the petition had requisite support of domestic industry for initiation of investigation as required under Rule 5(3) (a) of the Anti-Dumping Rules as were prevalent on 26.02.1999.
- iv. During the course of investigation, it was brought to the notice of Designated Authority that M/s SRF Ltd., one of the petitioners in present investigation had imported on insignificant quantity of NTCF from M/s SRF Overseas Ltd. a related company It was further brought to the notice of Designated Authority that M/s Baroda Rayon Ltd., one of the domestic producers are related to M/s Thai Baroda Industries Ltd , against whom the investigation have been initiated.
- v. The Anti Dumping Rules (Rule 2(b) had been amended on 15th July, 1999 inter-alia with regards to the status of the domestic industry. Hence at the point of time of examining these facts that was brought to the notice of the Designated Authority. The Authority observed in its preliminary findings that since the imports by M/s SRF Ltd represent only 0.24% of the total imports from the subject countries during the Period of Investigation (POI), under the revised Rule 2(b), such insignificant quantum of imports would not justify exclusion of M/s SRF Ltd. from the scope of domestic industry.

- vi. The issue with regard to the standing of the domestic industry was also examined by the Authority with reference to the Rules as it existed prior to 15th July, 1999. The Rule 2(b) provides that the domestic industry shall be deemed to exclude such domestic producers who are related to the exporters or importers of the alleged dumped articles or are themselves importers thereof. These provisions have to be read with provisions of Rule 5(3) (a) of the relevant Rules. Even, considering that M/s SRF Ltd and M/s Baroda Rayan Ltd are related to the importers or are themselves importers, as per Rule 2(b) of the Rules, as existing prior to 15th July, 1999, the domestic industry would be represented by only M/s Nirlon Ltd., M/s Century Enka Ltd. and M/s NRC Ltd. In such an eventuality the petition had the support of 100% of the domestic producers of NTCF.
- vii. Thus, the domestic producers had the requisite standing to represent the domestic industry as required under the Rules even prior to the amendment in the Anti Dumping Rules on 15th July, 1999.
- viii. In view of the foregoing, Authority holds that the Petitioners had requisite standing to file the petition, as required under the rules and the present petition has been filed on behalf of domestic industry.

G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN:

12. The submissions made by petitioners and other interested parties with regards to Normal Value, Export Price and Dumping Margin and its examination by the Authority is discussed, herein under:-

13. ARGUMENT BY THE PETITIONER:

- i. It has been claimed by the exporters that dipped fabric is being sold in the domestic market and only grey fabric has been exported to India. The Authority has accepted the claims of exporters and determined the normal value based on constructed cost of production of grey fabric with the addition of selling, General Administration cost and profits. As requested under the Rules the selling price and cost of production of dipped fabric should be examined by the Authority in order to determine the SGA and profit margin earned on sale of dipped fabric. The SGA cost and profit margin on dipped fabric should be added to the cost of production of grey fabric in order to arrive at Normal Value.
- ii. While determining the Constructed -Cost of Production of grey fabric, the Authority has allowed deduction on account of packing charges commission on sales and inland freight in one case and packing cost and, clearance and

handling cost in respect of other. The deduction from the normal value towards packing charges should not be allowed in view of the fact that similar deduction from export price have not been sought / allowed. The deduction on this account should be made only if these expenses are already part of cost of production.

- iii. As noted by the Authority in its primary determination, exporter M/s. Hyosung, Korea did not made available the details of cost of production for verification. The Authority has, therefore, considered normal value based on constructed cost of production provided at the time of initiation with appropriate adjustments. In view of the non-cooperation by exporter from Korea, Normal Value should be based on Constructed Cost provided by domestic industry without any adjustments.
- iv. In case of non-cooperating exporters, the export price should be based on the lowest export price reported by the cooperative exporter.

14. ARGUMENT BY EXPORTER:

- i. For determination of Normal value, Export price and Dumping margin, no disclosure has been made of actual figures in respect of exporters M/s. Formosa Taffeta Co. Ltd , M/s. Hyoswg Corp. and M/s. Thai Baroda Industries Ltd. and methodology adopted for the same.
- ii. While arriving at the Normal Value, the Authority seems to have taken a vary high margin which cannot be reasonable in stead at figures of margin disclosed by exporter which is much lower. No reason as to why this margin as given by exporters is not reasonable has been assigned by Authority when it accepted the exporters cost of production.
- iii. The Authority has arrived at weighted average price without taking into consideration the differences between NTCF of different deniers or ply or width which results in significant differences in prices of these goods as well as their use and interchangeability.
- iv. The dumping margin in case of M/s. Formosa Taffeta may please be re-assessed based on export sales of all the deniers and based on the information verified by the Designated Authority.

H. EXAMINATION BY THE AUTHORITY:

15. The issues raised by the interested parties and the Normal Value. Export Price and Dumping Margin in respect of individual exporters are discussed herein under:-

(a) **M/S. PTGT PETROCHEM INDUSTRIES, INDONESIA:**

The determination of Normal Value, Export Price and Dumping Margin in the Preliminary determination has not been contested by M/s. PTGT Petrochem Industries, Indonesia. In view of the same. the Authority confirms the Normal Value in respect of M/s. PTGT Petrochem Industries at US\$ **** Per Kg and Ex-factory Export Price at US\$ **** Per Kg. Thus, the Authority assesses the dumping margin in respect of M/s PTGT Petroleum Industries at US\$ ****Per Kg or 9.26%.

(b) M/S. FORMOSA TAFFETA CO. LTD., TAIWAN.

The exporter M/s. Formosa Taffeta Co. Ltd. requested for re-assessment of Dumping Margin keeping in view of the information made available by the exporter and verified by the Authority. The exporter specifically requested that the dumping margins be re-assessed based on the weighted average export price for all the grades/deniers of NTCF. Based on information made available to the Authority, Normal Value in case of M/s. Formosa Taffeta Co. Ltd., based on its average cost of production for different deniers of NTCF, is assessed by Authority as US\$ *** per Kg. after allowing deduction on account of packing and clearing and handling charges, The export price in case of M/s. Formosa Taffeta Co. Ltd. has been considered by Authority based on the weighted average export price for different deniers during the POI. The company exported 3095 MT of NTCF at an average CIF Price of US\$**** per kg. After allowing the expenses on account of Ocean Freight, Insurance, Commission, Inland Freight, Packing, Clearing and Handling, the Ex-factory price in case of M/s. Formosa Taffeta Co. Ltd. is assessed by Authority at US\$*** Per Kg. Thus, the Dumping Margin for M/s. Formosa Taffeta Co. Ltd. is assessed at US\$**** or 2.06%.

(c) M/S. HYOSUNG CORPORATION, SOUTH KOREA:

The Normal Value in case of M/s. Hyosung Corporation, South Korea was determined by Authority based on constructed cost of production for the exporter on the basis of information furnished by petitioner, as the requisite details on actual cost of production was not made available by the exporter. Subsequent to the Preliminary determination, although the exporter claimed de-minimus dumping margin and has requested for separate denier-wise assessment of the dumping margin, no other additional information has been furnished by the exporter. As observed in the Preliminary Findings, the Authority verified the information on cost of production furnished by the exporter. During verification, Authority solicited additional information with regards to cost of production like prices of raw materials, basis of allocation of expenses duly reconciled with Audited Accounts along with supporting evidence etc. These details along with the supporting evidence has not been furnished by the exporter. The Authority has, therefore, constructed the cost of production in case of M/s. Hyosung Corporation, South Korea based on the information furnished

by petitioner. Further since subsequent to Preliminary Findings also, no additional information, as requested by the Authority during verification, was furnished, Authority has considered the Normal Value in case of M/s Hyosung Corporation, as claimed by the petitioner, Accordingly the Normal Value in case of M/s. Hyosung Corporation is assessed by Authority at US\$ *** Per kg.

The Authority has considered the export price in case of M/s. Hyosung Corporation, South Korea based on the average CIF price of various grades of NTCF exported by it during POI, after allowing adjustments for Credit cost, Overseas freight, Insurance, Commission and Inland freight, Thus the export price in case of M/s. Hyosung Corporation has been considered by the Authority as US\$ **** per kg.

Thus the Dumping margin in case of M/s. Hyosung Corporation, South Korea is assessed by Authority at US\$ *** per kg. or 38.64%.

(d) M/S. THAI BARODA INDUSTRIES LTD., THAILAND

The Authority had considered normal value in case of M/s Thai Baroda Industries Ltd. based on its actual cost of production of subject goods during POI. The exporter requested for separate assessment for different deniers of NTCF. The Authority notes that the manufacturing process and manufacturing facilities for different deniers identical. Moreover, there is no significant variance in the manufacturing cost of these deniers. Therefore, the Authority has considered average cost of production and average export price for all the deniers for assessment of dumping margin. The normal value based on cost of production of M/s. Thai Baroda Industries Ltd. had therefore, been considered by the Authority at US\$ ****per kg. The ex-factor export price after considering adjustment for ocean freight including trucking charges, customs services port charges and shipments expenses, as per actual has been considered by the Authority at US\$ **** per kg. Thus, the dumping margin in case of M/s. Thai Baroda Industries Ltd. has been considered by the Authority at US\$ *** per kg. or 67.33 %.

I. DUMPING MARGIN IN CASE OF NON-COOPERATING EXPORTERS

16. ARGUMENTS BY PETITIONERS

Even though Authority has determined a high Dumping Margin for other non-cooperative exporters, the rate of duty recommended is the same for both cooperative and non-cooperative exporters. In order to ensure that there is no premium on non-cooperation, the actual Anti-Dumping Duty recommended in case of non-cooperative exporters should also be higher than that for cooperative exporters. Therefore the

export price in case of non-cooperative exporters should be based on the export price for cooperative exporters.

17. EXAMINATION BY AUTHORITY

The Authority assessed dumping margins in case of non-cooperative exporters based on the best available information. Accordingly, in case of non-cooperative exporters, the Authority considered normal value based on the information made available by the petitioner. The export price in case of non-cooperative exporters was assessed by the Authority based on the export prices, in case of cooperative exporters. The Authority agrees that there should be no premium to the non-cooperative exporters and there should be differential duty between the cooperative and the non-cooperative exporters. Therefore, the Authority has reassessed the dumping margins in case of non-cooperative exporters from the subject countries. Accordingly, the normal value in case of non-cooperative exporters has been assessed by the Authority, as claimed by the petitioners. For the purpose of export price, the Authority has considered the lowest GIF price transaction of cooperative exporters during the period of investigation. The deduction have been allowed by Authority from GIF prices based on actuals in case of cooperative exporters from subject countries to arrive at Ex-factory export price.

ii. Based on the above, the Dumping Margin from individual exporters from subject countries are assessed by Authority as under –

S. No.	Countries/Exporters	Normal Value per Kg (US\$)	Export Price Per kg (US\$)	Dumping Margin %
1.	<u>South Korea</u>			
	(i) M/s. Hyosang Corporation	****	****	38.64
	(ii) All Other Exporters	****	****	54.28
2.	<u>Indonesia</u>			
	(i) M/s. PTGT Petrochem Industries	****	****	9.26
	(ii) All Other Exporters	****	****	92.54
3.	<u>Thailand</u>			
	(i) M/s. Thai Baroda Ltd.	****	****	67.33
	(ii) All Other Exporters	****	****	17.28
4.	<u>Taiwan</u>			
	(i) M/s. Formosa Taffeta Co. Ltd.	****	****	2.06
	(ii) All Other Exporters	****	****	86.51

J. INJURY AND CAUSAL LINK:

18. ARGUMENT BY EXPORTERS:

- i. In the Preliminary Findings, the Authority has not disclosed any actual figures for change in market share, profit, prices, sales, utilisation of capacity and closing stocks. By not disclosing actual figures for this data the Preliminary Findings have failed to disclose the manner in which material injury has been allegedly caused to the domestic industry by imports from subject countries.
- ii. The quantum of imports of subject goods to India are much lower than the quantum of production of subject goods in India. As such it cannot be suggested that on account of such imports there is any material injury to domestic Industry.
- iii. The total domestic production is less than total domestic demand of subject goods. As a result the short fall in demand per force has to be met through imports. In view of this fact, no allegation can be made that the imports from subject countries are causing material injury to the domestic industry.
- iv. Imports of subject goods into India are on the decline and the volume of imports in the POI have fallen by about 2% in comparison with the volume of imports made the same period in the previous year. Similarly, the capacity utilisation and the production by Indian domestic producers have increased As such there is no material injury to domestic industry.
- v. M/s. SRF Limited which is a major producer of subject goods accounting for over 45 % of the domestic production cannot be said to be suffering any material injury as it is making very high profits on the subject goods. The company has earned very good returns on capital employed . The profitability on account of subject goods is likely to be similar for other Indian domestic producers since the prices of subject goods is similar for other manufacturers also. Some of the companies that are not showing such profits in their balance sheet on an overall basis are not doing well on the other products in spite of good profitability from the subject goods.
- vi. The Anti-Dumping Duty is imposed to remove injury caused or threat of any injury to domestic industry and is not to ensure high rates of profits to domestic industry.

19. EXAMINATION BY THE AUTHORITY:

- i. In the assessment of injury to Domestic Industry From Dumped imports, the Designated Authority makes an evaluation of all the relevant economic parameters having a bearing on the state of the Domestic Industry. The Authority considered various parameters of injury like quantum of imports, its impact on the market share, the profitability of Domestic Industry from subject goods, the sales volumes, sales realisation, production. An analysis of these parameters collectively indicate material injury to Domestic Industry. Some of the parameters on injury to Domestic Industry have been claimed by petitioners

to be of confidential nature and have been so considered by Authority, as required under the Rules. However, a non- confidential summary of all the confidential data was furnished by petitioners for reference and comments by other interested parties. As regards the arguments by the exporters that the total domestic production is less than the demand of the subject goods and the shortfall has to be met through imports, Authority holds that the purpose of Anti-Dumping Duty is not to curb any fair imports of the subject goods. The Authority considers for imposition of Anti-Dumping Duty only if the subject goods are exported at an unfair price causing injury to the Domestic Industry.

- ii. As regards the profitability of one of the major producer of NTCF in the Domestic Industry i.e. M/s. SRF Ltd., the Authority notes that the investigation have been limited to the performance of the Domestic Industry during the POI. The exporters have referred to subsequent improvement in the performance and profitability of M/s. SRF Ltd , which is not relevant to the present investigation. The improvement in profitability of M/s. SRF Ltd. during 1998-99 has been noted by the Authority to be on account of financial restructuring through induction of fresh equity, repayment of borrowings and corresponding decline in incidence of interest cost. In case of a multi-product company, the improvement in profitability from the product under consideration is a more relevant factor, as far as Anti-Dumping investigations are concerned. The Authority notes that M/s. SRF Ltd. is a mufti-product company and has incurred losses for operation from subject goods during the POI.
- iii. An analysis of the parameters of injury reveals that there has been a increase in the quantum of imports from subject countries, the subject goods have been exported to India at a price below its Normal Value, the market share of domestic industry has declined, there has been a decline in the profitability of Domestic industry from subject goods. The production capacity utilisation and sales realisation of the domestic industry has also declined. All these factors collectively indicate that the domestic industry has suffered injury due to dumped imports from the subject countries.

K. OTHER ISSUES RAISED BY INTERESTED PARTIES:

20. ARGUMENT OF PETITIONERS:

The Fair Selling Price(FSP) should be based on weighted average coat of production of domestic producers without any adjustments and profit margin should be added not on actual basis but a margin which domestic industry would have earned but for dumping.

21. INATION BY AUTHORITY:

The Authority has assessed the Non-injurious Selling Price for Domestic industry based on actual cost of production of Domestic industry during the POI based on the Generally Accepted Accounting Principles. In the determination of Non-injurious selling price for Domestic industry, the Authority has made appropriate analysis of all the relevant factors and the profits/returns have been allowed on the capital employed on reasonable basis.

22. ARGUMENT OF PETITIONERS:

The landed values should be equal to GIF price plus 1% thereto towards landing charges and 40% Custom duty. The additional 2% handling charges is not warranted and has resulted in under statement of injury margin.

23. EXAMINATION BY AUTHORITY:

The Authority follows a consistent practice of adding 1% towards landing charges - and 2% handling charges in determination of landed value of exports in all cases. Further, in the instant case, none of the interested parties have submitted information on actual landing or handling charges.

24. ARGUMENT BY EXPORTERS AND IMPORTERS:

(i) The petition is not maintainable, as this has been filed by the Association of Synthetic Fibre industry (ASFI). The present application is not an application filed by or on behalf of domestic industry and such an application cannot form the basis for Initiation of investigation under the Rules. In the absence of any express authorization and express support ASFI cannot file an application purport to be either by or on behalf of domestic industry.

EXAMINATION BY AUTHORITY:

The Anti-Dumping Rules requires that the Designated Authority shall initiate an investigation to determine the existence, degree and effect of any alleged dumping upon receipt of a written application by or on behalf of the Domestic industry. In the instant case, the petition has been filed on behalf of the Domestic industry by the Association of Synthetic Fibre Industry(ASFI).

(ii) The subject goods are being imported to India from various countries other than the subject countries mentioned in the Initiation Notification. As required under the Rules, Anti-Dumping Duty shall be imposed on a non-discriminatory basis and applicable to all imports of such articles from whatever sources found to be dumped.

EXAMINATION BY AUTHORITY:

The Authority had initiated Investigations against exporters from specified countries alleged to be dumping the subject goods. Based on present investigation, wherever the dumping of subject goods has been substantiated based on the evidence made available to the Authority, the Authority has recommended for imposition of Anti-Dumping Duty. Therefore, the recommendations for imposition of Anti-Dumping Duty is not discriminatory as stated.

(iii) The duties recommended for different exporters are disproportionate and contradictory to the respective percentage of dumping.

EXAMINATION BY AUTHORITY:

The Anti-Dumping Rules, requires, the Authority to recommend the amount of duty equal to Dumping Margin or less, which if levied, would remove injury to domestic industry for this purpose. The Landed Value of imports of subject goods was compared with the Non-injurious selling price of petitioner companies. Therefore, in the instant case, Authority has recommended for levy of Anti-Dumping Duty equal to lower of Dumping Margin or Injury Margins.

(iv) The reasonable selling price or NTCF in India for domestic industry is stated to be obtained by considering the optimum cost of production for domestic industry. However, no opportunity was provided to examine the basis for taking such reasonable selling price into account or for challenging the methodology for calculating the same.

EXAMINATION BY AUTHORITY:

The Authority had called for information on cost of production from Domestic Industry. The cost data was made available by Domestic Industry on confidential basis and was verified by Designated Authority and has been considered to be confidential.

L. FINAL FINDINGS:

25. The Authority, after considering the foregoing, concludes that:

- a. Nylon Tyre Cord Fabric (NTCF) originating in or exported from subject countries has been exported to India below its normal value, resulting in dumping;
- b. The domestic industry has suffered material injury;

- c. The injury has been caused to the domestic industry by the dumping of the subject goods originating in or exported from subject countries.

26. To ascertain the extent of anti-dumping duty necessary to remove the injury to the petitioner companies, the Authority has relied upon Non-injurious seeing price of NTCF in India for the petitioner companies, by considering the optimum cost of production at optimum level of capacity utilisation for the petitioner companies.

27. The landed value has been determined on the basis of export price of NTCF from subject countries determined as detailed above in the para relating to dumping, after adding the prevailing level of customs duties and one percent landing and two percent handling charges.

28. The Authority considered to recommend the amount of Anti-Dumping Duty equal to the margin of dumping or less, which if levied, would remove the injury to domestic industry. The average landed price of the imports, for the purpose, was compared with the Non-injurious selling price of the petitioner companies, determined for the period of investigations. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, the Authority confirms the preliminary findings and recommends for imposition of definitive Anti-Dumping duties, on all imports of NTCF originating in or exported from South Korea, Indonesia, Thailand and Taiwan. The anti-dumping duty shall be the amounts indicated in the table below on all the imports of Nylon Tyre Cord Fabric falling under Chapter 59 of the Customs Tariff, originating in or exported from the countries mentioned below :-

S. No.	Countries/Exporters	Amount Duty (Rs. Per Kg)
1.	South Korea	
	M/s. Hyosang Corp.	4.30
	Other Exporters	25.02
2.	Indonesia	
	M/s. PTGT Petrochem Industries	1.77
	All Other Exporters	9.47
3.	Thailand	
	M/s. Thai Baroda Industries Ltd.	4.22
	Other Exporters	28.91
4.	Taiwan	
	M/s. Formosa Taffeta Co. Ltd.	2.39
	Other Exporters	20.57

29. Landed value of imports for the purpose shall be the assessable value as determined by the customs under the Customs Act, 1962 and all duties of customs

except duties levied under Section 3, 3A, 8B, 9 or 9A, as the case may be of the Customs Tariff Act, 1975..

30. Subject to above, the Authority confirms the preliminary findings dated 5.10.1999.

31. An appeal against this order shall lie to the Customs. Excise and Gold (Control) Appellate Tribunal in accordance with the Act supra.

RATHI VINAY JHA...
Designated Authority