

**MINISTRY OF COMMERCE  
GOVERNMENT OF INDIA  
NOTIFICATION**

**FINAL FINDINGS**

New Delhi the 21st January, 2000.

**Subject:** Anti-dumping investigation concerning imports of Polyester Staple Fibre (PSF) from Korea RP, Thailand, Taiwan & Indonesia

**29/1/98-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 28.9.99 on anti-dumping investigation concerning imports of Polyester Staple Fibre (PSF) from Korea RP, Thailand, Taiwan and Indonesia (herein after referred to as subject countries) 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 Korea RP, Thailand, Indonesia and Taipei Economic and Cultural Centre in New Delhi with a request that the exporters and other interested parties may be advised to furnish their views on the preliminary findings in the time frame as stipulated in ( i ) and ( ii ) above.
- iv. The Authority provided an opportunity to all interested parties to present their views orally on 16.11.99. All parties presenting views were requested to file written submissions of the views expressed. 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 the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for sake of brevity. However, the arguments raised by the interested parties subsequently have been appropriately dealt in the preliminary findings and/or these findings;
- vii. Verification of exporters' data was carried out by the Authority to the extent it was feasible. A team of officers carried out verification of the data at the exporters' premises viz. M/sTeijin Polyester (Thailand) Limited and M/s Kangwal Polyester Co. Limited in December, 1999.
- viii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties on 7.1.2000 and comments received on the same have also been duly considered in these findings.
- ix. The period of investigation (POI) considered is 1.1.98 to 31.12.98.

## **B. VIEWS OF PETITIONERS, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES AND EXAMINATION BY AUTHORITY**

2. The views expressed by various interested parties have been discussed in the preliminary findings and also in the disclosure statement. The views which have not been discussed earlier in the preliminary findings and disclosure statement and those now raised in response to the disclosure statement are discussed in the relevant paras herein below to the extent these are relevant as per rules and have a bearing upon the case. 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 Polyester Staple Fibre (PSF) classified under custom sub-heading 5503.20 of the custom tariff act 1975 i.e. Synthetic Staple Fibre of Polyester not carded, combed or otherwise processed for spinning. PSF is classified under sub-heading no. 5503.20.00 under the harmonised ITC system. The product classified under the custom sub-head 5506.20 of the customs tariff Act, 1975 i.e. Synthetic Staple Fibre of Polyester carded, combed or otherwise processed for spinning is excluded from the scope of investigation.

The PSF under consideration is a synthetic polymer produced by polymerisation process and is used for manufacturing Spun Yarns which could either be 100% polyester yarns or in blends with cotton, viscose and other types of fibres .

PSF is produced and sold in various specifications. The various specifications however, merely depict properties of the fibre and may result in varying end uses. The prices of the various grades of fibres are also reasonably comparable. The Authority has considered weighted average prices for various grades for the purpose of this finding.

## **D) STANDING OF THE PETITIONER AND DOMESTIC INDUSTRY**

4. The authority notices that M/s JCT and M/s IRSL who represent 30.1% of the total domestic production qualify the test of standing as indicated in Rule 5(3)(a) and 5(3)(b) and with no opposition from other domestic producers and explicit support of Association of Synthetic Fibre Industry (ASFI), Bongaigaon Refinery & Petrochemicals Ltd. (BPRL), M/s Indian Organic Chemicals Ltd. (IOCL) and M/s Reliance Industries Ltd. (RIL), therefore, represent domestic industry within the meaning of the Rule 2(b).

5. It has been argued that since M/s RIL did not support the petition initially, the petition is not maintainable. It has also been argued that ASFI is not representative body of producers of polyester fibre. Further in the definition of domestic industry given in Rule 2(b), there is no provision for inclusion of a trade association which becomes an interested party in terms of Rule 2©. Hence the association is not a domestic industry. The authority draws attention to the rule 5(i) of the anti-dumping rules under which initiation can be done upon receipt of a written application by or on behalf of the domestic industry. The Authority notes that ASFI, which besides M/s RIL as its member, also has other PSF producers i.e., M/s IRSL, M/s JCT, M/s J K Synthetics and M/s Modern Petrofils as its members. Since ASFI has supported the petition prior to initiation, the petition is maintainable.

6. It has repeatedly been argued that M/s RIL having imported the product under consideration during the period of investigation cannot be considered a part of the domestic industry. The authority draws its attention to para 3 of the Preliminary Findings dated 28.9.99 and reiterates that M/s RIL has imported 17 MT of PSF for development purposes in two consignments. These imports when compared to the total production of M/s RIL in the period of investigation comprise .007% of the total production of M/s RIL, which is insignificant and miniscule. The Authority notices that these imports by M/s RIL do not appear to be for commercial purposes. In view of this, the Authority considers it appropriate not to exclude M/s RIL from the scope of domestic industry under Rule 2(b) as amended on 15.7.99 and reiterates the findings of para 3 of Preliminary Finding as also indicated in the Disclosure Statement dated 7.1.2000.

7. It has repeatedly been argued that M/s IRSL is related to M/s PT. Indorama Synthetics Tbk, Indonesia. The authority while examining the relationship of M/s IRSL with M/s PT. Indorama Synthetics Tbk, Indonesia, notices that there is a mention regarding affiliation of the two companies from the Annual Reports. The commonality of two Directors in the two organisations and the investments made by M/s Indo-Rama International Finance Inc. in M/s IRSL and M/s PT. Indorama Synthetics Tbk, Indonesia also indicate that there could probably be operational linkages. However, no specific instances are noticed which suggest of conclusive operational linkages and a consequential bearing on the investigation. The Authority in view of no conclusive material evidence, has not considered it appropriate to exclude M/s IRSL from the scope of domestic industry and reiterates the findings of para 3 of Preliminary Finding as also indicated in the Disclosure Statement dated 7.1.2000.

8. The Authority also notes that even if M/s RIL and M/s IRSL were deemed not to form part of domestic industry in accordance with Rule 2(b), then M/s JCT would solely constitute "domestic industry". Under the circumstances the Authority in its discretion and in view of position in paras D(6) and (7) as one has considered M/s IRSL and M/s JCT supported by M/s RIL representing the domestic industry within the meaning of the Rule 2(b).

## **E) LIKE ARTICLE**

9. The Authority holds that the PSF produced by the domestic industry a Like Article to the PSF exported from Indonesia, Korea RP, Thailand and Taiwan after considering characteristics such as physical characteristics (denier, lustre, length, tenacity), manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods.

10 It has been argued by M/s Teijin Polyester (Thailand) Ltd. that super high tenacity fibre manufactured by them are of different specification and has a different manufacturing process. The fibres manufactured by M/s JCT and M/s RIL do not conform to the specification of M/s Teijin and that M/s Madura Coats Ltd., the user of their SHT fibre has to meet certain minimum quality standard associated with the product brand and that use of their product is essential.

11. The Authority notes that the difference pointed out by certain exporters is with reference to technology and quality. Even if, there is difference in quality, it does not imply that the two goods are not interchangeable. Mere difference in quality would call for price adjustment for the purpose of fair comparison. No price adjustment is however, feasible under the present circumstances in view of unquantified claim. The

Authority, therefore, holds that the goods exported from subject countries and goods produced by the petitioner have characteristics closely resembling each other and that the two are technically and commercially substitutable. The goods produced by the domestic industry are a Like Article to the goods exported from subject countries within the meaning of the Rule 2(d).

12. The authority in view of the above confirms the findings of para 2 of the preliminary finding dated 28.9.99 on like article.

## **NORMAL VALUE AND EXPORT PRICE**

**Under Section 9A(1)(c), normal value in relation to an article means:**

- i. the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the Rules made under sub-section (6); or
- ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:-
  - a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the Rules made under sub-section (6); or
  - b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the Rules made under sub-section(6);

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

The Authority provided opportunity to the known exporters to furnish information in accordance with section cited above. The following exporters who responded have been assessed separately.

### **14. KOREA RP**

**M/s Saehan Industries Inc.**

i) Normal Value

The exporter has claimed Normal value separately for 1.2SB, 1.2SD, 1.4SD grades of PSF on the basis of average of selling price to customers in domestic market. The exporter has claimed adjustments on average actual inland freight and difference in merchandise of trade for 1.2 SB domestic model. No explanation for difference in manufacturing cost between export model and comparable domestic model has been provided by the exporter. The Authority considers it appropriate to disallow the adjustment claimed for difference in merchandise and allow adjustment on inland freight to an extent of .017\$/kg., as claimed by the exporter. The exporter has provided transaction wise details of all sales made in the domestic market separately for all grades. The Authority notes that the exporter has furnished its cost of production for the subject goods separately for each grade. Scrutiny of the same reveals that same is above the selling price in a number of transactions. The Authority has, therefore, disregarded all these transactions which were found to be at a loss. The Authority notes that the remaining transactions are significant and representative for the purpose of determination of Normal Value. The authority further notes that there is no argument on normal value by any of the interested parties and, therefore, proposes to confirm the above methodology as also adopted in the preliminary determination. The Weighted Average Normal value for all grades comes to .8717\$/kg.

ii) Export Price

The exporter has claimed export price on the basis of average of selling price to M/s Samsung Corporation. It has been argued that the price at which the producer has sold goods to the trading firm becomes relevant and should be relied upon for determination of dumping margin. The authority has considered this argument for working out the export price. The authority notices that the exporter has claimed adjustments on inland freight, handling, credit and duty draw back. The authority has allowed these adjustments as claimed as .01067, .00028, .00108 & .02152\$/kg respectively for the purpose of determining export price. The weighted average export price thus for all grades comes to .8260\$/kg.

**15. THAILAND**

**a) M/s Teijin Polyester (Thailand) Ltd.**

i) Normal Value

The exporter has claimed normal value separately for high tenacity and regular fibre of PSF on the basis of average of selling price to customers in domestic market. The

exporter has claimed adjustment on transportation and commission. A team of officers from the Anti-dumping Directorate had visited the premises of the exporter in Dec.,99 and had verified the claims on normal value and adjustments thereof. The authority allows the adjustments on transportation and commission as claimed to an extent of .004 & .004\$/kg respectively by the exporter. The exporter has provided month wise details of all sales of normal tenacity fibre PSF sold in the domestic market and transaction-wise details of super high tenacity fibre PSF sold in the domestic market in the POI. The exporter has furnished cost of production for the subject goods separately for the two grades month-wise. Scrutiny of the domestic transactions reveals that the cost of production for the two grades exported by the exporter is above the selling price of the concerned grade in a number of transactions. The Authority has, therefore, disregarded all the transactions which were found to be at a loss. The Authority notes that the remaining transactions are significant and representative for the purpose of determination of Normal Value.

It has been argued that due allowance be given to the Teijin's high quality standards of super high tenacity fibre. The authority notes that no quantification on account of said high quality standards have been provided by the exporter and therefore, disregards the claim. The Weighted Average Normal value for the two grades comes to .9034\$/kg.

#### ii) Export Price

The exporter has claimed export price on the basis of average of selling price to M/s ITOCHU and also certain direct exports made to customers in India. The exporter has claimed adjustments on ocean freight, ocean insurance, transportation and tax refund. A team of officers from the Anti-dumping Directorate had visited the premises of the exporter and verified the claims. The authority allows the adjustments on ocean freight, ocean insurance and transportation as claimed by the exporter to an extent of .023, .001 & .013\$/kg for regular fibre and to an extent of .002, 0 & .014\$/kg respectively for super high tenacity fibre respectively. The adjustments on tax refund has been allowed to an extent of .0227 and .0299\$/kg. for regular and SHT fibre respectively on the basis of the actual tax refund as verified from the records of the exporter. It has been argued that in case the exporter has not directly exported the goods and the same have been exported through third company, the price at which the producer has sold goods to the trading firm becomes relevant and should be relied upon for determination of dumping margin. The Authority has taken into account the above argument while calculating the export price. The authority notes that the adjustments on account of commission to M/s ITOCHU, export credit extended by M/s ITOCHU to customers in India, bank and port charges incurred by M/s ITOCHU are subsequent to the sales made by the exporter to M/s ITOCHU and they have been

appropriately considered. The weighted average export price thus for the two grades comes to .7718\$/kg.

**b) M/s Kangwal Polyester Co. Ltd.**

i) Normal Value

The exporter has claimed normal value for the SD Grade A PSF on the basis of average of selling price to customers in the domestic market. The exporter has not claimed any adjustments. It has been argued by one of the interested parties that the selling prices of the SD grade are lower than other fibres and also that it is not known whether the selling prices are above cost of production or not. A team of officers from the anti-dumping Directorate had visited the premises of the exporter in Dec.,99 to verify the claims on normal value and cost of production. The authority notices that the domestic selling prices of the exporter are below the cost of production in the POI. The authority, therefore, dis-regards the domestic selling prices as they are not in the normal course of trade. The authority references the normal value of M/s Teijin Polyester (Thailand) Ltd. as the ordinary value for the exporter. It has been argued that the normal value should be based on the provisions of Section 9A(1)c(ii), since the cost of production of the company may be still higher. The authority considers referencing of the domestic selling prices of the other exporter in the same country as a reasonable basis of normal value for this exporter also, since the subject country is a market economy and such a referencing would be reasonable and realistic. The average Normal value comes to .9034\$/kg.

ii) Export Price

The exporter has claimed export price on the basis of average of selling price to customers in India. The exporter has claimed adjustments on inland freight, storage, handling, commission, ocean freight, ocean insurance, shipping charges and bank fee to an extent of .01, .003, .003, .018, .056, .001, .01 & .01\$/Kg respectively. A team of officers from the anti-dumping Directorate had visited the premises of the exporter in Dec.,99 and verified the CIF export prices. The authority notes that no arguments have been raised on the adjustments on the export price. The authority allows all adjustments except that on storage in view of its consistent policy to consider adjustments upto ex-factory level only. The average export price comes to .506\$/kg.

**16. TAIWAN**

**M/s Far-Eastern Textiles Ltd., Taiwan**

i) Normal Value

The exporter has claimed normal value separately for PSF for spun yarn and non spun yarn on the basis of average of selling price to customers in domestic market. The exporter has claimed adjustments on discounts, inland freight and interest to an extent of .01397, .01248 & .02006\$/kg respectively. The authority has allowed the adjustments as claimed. The exporter has provided transaction wise details of all sales made in the domestic market separately for the spun and non-spun categories. The authority notes that the exporter has furnished its cost of production for the subject goods separately for the two categories. Scrutiny of the same reveals that the same is above the selling price in a number of transactions. The Authority has, therefore, disregarded all these transactions which were found to be at a loss. The Authority notes that the remaining transactions are significant and representative for the purpose of determination of Normal Value. It has been argued that the normal value may be assessed in accordance with the notification no. 44/99-Cus(NT) dt. 15.7.99. The authority notices that adequate details on domestic selling price have been provided and the authority considers it appropriate and a reasonable basis to reference the response of the exporter for determination of the normal value. The Weighted Average Normal value for PSF used for spun yarn comes to .8667\$/kg.

ii) Export Price

The exporter has claimed export price separately for PSF spun yarns and non-spun yarn on the basis of average of selling price to customers in India. The exporter has claimed adjustments on ocean freight, ocean insurance, commission, inland freight, shipping charges, clearance and handling and bank charges to an extent of .07486, .00075, .01682, .00749, .0039, .00446 & .0009\$/kg respectively. The authority notes that there are no arguments on the methodology for computation of export price. The average export price after allowing all adjustments as claimed for PSF used for spun yarn comes to .80196\$/kg.

## 17. INDONESIA

a) **M/s PT. Indorama Synthetics Tbk, Indonesia**

i) Normal Value

The exporter has provided grade-wise details of domestic sales transactions. It has been argued that the total adjustment on freight, interest and discounting charges may be indicated in case the authority does not propose to verify the information filed by the exporters. The authority has followed its consistent policy of disclosing the dumping margin and the methodology on calculation of normal value and carries out verification of exporters data wherever it is feasible and desirable. The authority allows the adjustments on freight and bank interest and discounting charges to an

extent of 2.485% ( discounting/bank charges) of domestic selling price and .355% (freight) of domestic selling price as claimed by the exporter.

The petitioner has provided its cost of production for 3 different grades/categories separately. Scrutiny of the same reveals that the same is above the selling price in a number of transactions. The Authority has, therefore, disregarded all these transactions which were found to be at a loss. The Authority notes that the remaining transactions are significant and representative for the purpose of determination of Normal Value. The weighted average normal value comes to .717243\$/kg.

ii) Export Price

Exporter has provided details on export transactions and has claimed adjustments on ocean freight, inland freight, insurance, bank interest, bank charges and commission to an extent of .09428, .00608, .001576, .00344, .00758 & .0166\$/kg respectively. It has also been argued that no adjustment seems to have been disclosed in respect of commission and port expenses. The Authority allows the adjustments as claimed by the exporter. The authority also takes into account an adjustment @ 2% of CIF towards port expenses as argued by the domestic industry. The average export price for the dumped transaction(s) is .70493\$/kg.

**b) M/s P.T. Teijin Indonesia Fiber Corporation Tbk, (TIFICO), Indonesia**

i) Normal value

The exporter has claimed normal value on the PSF exported on the basis of the month-wise sales made in the domestic market. The exporter has claimed adjustments on inland freight only to an extent of .02\$/kg. The authority has considered the adjustment as claimed by the exporter. The weighted average normal value comes to .6923\$/kg.

ii) Export Price

The exporter has claimed export price on the basis of export prices to customers in India. The exporter has claimed adjustments on inland freight, overseas freight, overseas insurance and adjustments claimed as "other adjustments" and commission to an extent of .00539, .1616, .00479, .0112 & .013394\$/kg respectively. The authority has allowed the adjustments as claimed by the exporter. The weighted average export price comes to .75\$/kg.

## G. DUMPING - Comparison of Normal Value and Export Price

18. The rules relating to comparison provides as follows:

"While arriving at margin of dumping, the designated authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability."

For the purpose of fair comparison between the normal value and the export price, the Authority has considered taking into account the information furnished by the exporters, and other information available with the Authority. The normal value and export price determined, as detailed above, are at ex-works level and, therefore, the comparison of normal value with weighted average export price has been considered. The authority has as per rules contained in Annexure –I of the anti-dumping rules carried out comparison on the basis of weighted average normal value to weighted average export price and also on the basis of weighted average normal value and export price on a transaction to transaction basis to the extent, it was feasible and the information was available.

19. The dumping margin for exporters comes as under:

Exporter	Normal value(\$/kg)	Export price(\$/kg)	Dumping margin in % terms of ex-factory export price
<b>Korea RP</b> M/s Saehan Industries Inc.	*****	*****	5.53%
Any other exporter	*****	*****	44.7%
<b>Thailand</b> M/s Teijin Polyester (Thailand)Limited	*****	*****	17.05%
M/s Kangwal Polyester Co. Limited	*****	*****	78.5%
Any other exporter	*****	*****	78.5%
<b>Taiwan</b> M/s Far Eastern Textiles Limited,	*****	*****	8.06%
Any other exporter	*****	*****	13.87%
<b>Indonesia</b> M/s PT. Indorama Synthetics Tbk	*****	*****	Deminimus
M/s PT Teijin Indonesia Fiber Corporation Tbk (TIFICO)	*****	*****	Deminimus (Nil)
Any other exporter	*****	*****	11.43%

20. The Authority notes that the Rule 22 is attracted in case of the following exporters who have responded mentioning that they have not exported any PSF to India during the investigation period.

- i. M/s Shin Kong Synthetic Fiber Co. (SSFC), Taiwan
- ii. M/s Tung Ho Spinning Weaving & Dyeing Co. Ltd., Taiwan
- iii. M/s Nan Ya Plastics Corporation, Taiwan
- iv. M/s P.T. Sulindafin, Indonesia
- v. M/s PT Branta Mulia Tbk, Indonesia
- vi. M/s Indo Poly (Thailand) Ltd.
- vii. M/s P.T. INDONESIA, TORAY SYNTHETICS, Indonesia

## **21. Assessment of Non-cooperative exporters for normal value and export price**

### a) Korea RP

The normal value of M/s Saehan Industries Inc. without allowing adjustments viz. Inland freight to an extent of .017\$/Kg has been referenced as the normal value for the non-cooperative exporters. The weighted average normal value comes to .8887\$/Kg.

The export price has been considered on the basis of the average CIF price as furnished by the importers with adjustments allowed on ocean freight, ocean insurance, commission, inland freight, port expenses and credit cost to an extent of .085, 0.5% of CIF (0.77) i.e. .00385, 3% of CIF i.e. .0231, .015, @1% of CIF i.e. .0077 & 2.75% of CIF i.e. .021175\$/kg on the basis of the data furnished by the importer and the petitioner. The export price comes to 0.614175\$/kg. The dumping margin comes to 44.7%.

### b) Thailand

The weighted average normal value of M/s Teijin Polyester (Thailand) Ltd. without allowing adjustments has been referenced as the normal value for the non-cooperative exporters. The weighted average normal value comes to .9114\$/kg.

The weighted average export price of non-cooperative exporters was proposed to be considered on the basis of the weighted average export price of M/s Teijin Polyester (Thailand) Ltd. and M/s Kangwal Polyester Co. Ltd. The weighted average export price was, therefore, referenced as 6.76\$/kg. The dumping margin was proposed to 19.92%. The authority considers the argument of one of the interested parties to reference highest dumping margin for the non-cooperating exporters and, therefore, references the export price of M/s Kangwal Polyester Co. Ltd. for the non-cooperating exporters. The dumping margin comes to 78.5%.

c) Taiwan

The normal value of M/s Far Eastern Textiles Co. Ltd. without adjustments has been referenced as normal value for the non-cooperative exporters. The normal value comes to .9132\$/kg. The lower of the the export price of M/s Far Eastern Textiles Co. Ltd. and DGCI&S data i.e. .80196& (CIF ) ex-factory export price with adjustments of Far Eastern (i.e. 0.10918 \$/kg respectively has been referenced as the export price for the non-cooperative exporters. The export price comes to .8019\$/kg. The dumping margin comes to 13.87%.

d) Indonesia

The normal value of the non-cooperative exporters has been referenced to one of the grades viz. 1.0D-A which has the highest domestic selling price i.e. 0.78\$/kg in Indonesia during the POI. The normal value comes to 0.78\$/kg.

The lowest export price on the basis of the response by the cooperating exporters and DGCI&S data i.e. 0.70473 (M/s P T Indorama), 0.75 (TIFICO) & .9009\$/Kg (CIF with adjustments as claimed by M/s P T Indorama)(i.e. 0.1296) Export price comes to .77133\$/kg has been referenced as export price for the non-cooperative exporters. The export price comes to \*\*\*/kg.

The dumping margin comes to 11.43%.

**22. Landed value**

a) The landed value has been determined on the basis of weighted average export price of PSF from Korea RP, Thailand, Taiwan and Indonesia determined separately for the exporters after adding the prevailing level of customs duties i.e. basic and special, one percent towards landing charges, and two percent handling charges.

**b) KOREA RP**

M/s Saehan Industries Inc., Korea

The authority notices that the exporter has exported to India through a trading house viz. M/s Samsung Corporation. The authority has referenced the average CIF prices as furnished by one of the importers for the purpose of computing the landed value, as defined in para 22( a).

**c) THAILAND**

i) M/s Teijin Polyester (Thailand) Ltd.

The Authority notes that the exports have been made by M/s Teijin Polyester (Thailand) Ltd. to India mainly through M/s ITOCHU and some directly. The Authority has considered the weighted average CIF price of the dumped transactions of subject goods, on the basis of the information as available from one of the importers of subject goods from M/s Teijin Polyester (Thailand) Ltd. for the purposes of landed value. The CIF prices have been adjusted with commission of M/s ITOCHU, credit extended by M/s ITOCHU L/C switching charges, shipping and handling expenses, inland freight, duty refund, ocean freight and ocean insurance to an extent of .023, .03, .012, .02, .013, .0227, .0009 & .0435\$/kg for regular fibre and .024, .032, .012, .02, .014, .0299, .04689 & .0010\$/kg for super high tenacity fibre to arrive at ex-factory export price for determining the dumped transactions as also argued by the domestic industry. The shipping and handling charges have been considered @ 2.58% of the ex-factory export price on the basis of the data furnished by M/s Kangwal Polyester Co. Limited. The landed value has been computed as defined in para 22(a).

It has been argued that SHT and NT fibre may be compared separately for injury and dumping purposes. The authority notes that there are various grades of PSF with different technical properties and it may not be practical and feasible to take into account various combinations of PSF grades separately and, therefore, it is reasonable, appropriate and representative to consider the weighted average basis of comparison in such a case.

ii) M/s Kangwal Polyester Co. Ltd.

The Authority has considered the weighted average CIF price on the basis of information provided by the exporter to compute landed value as defined in para 22(a).

d) **TAIWAN**

M/s Far Eastern Textiles Ltd.

The authority notes that the exporter has provided information on customer wise export transactions to India. The Authority has considered weighted average CIF price of the dumped transactions for the purpose of computation of the landed value as defined in para 22(a).

e) **INDONESIA**

i) M/s PT. Indorama Synthetics Tbk

The Authority has considered the CIF price of the dumped transactions on the basis of information provided by the exporter for computation of the landed value as defined in para 22(a).

ii) M/s P.T. Teijin Indonesia Fiber Corporation Tbk,(TIFICO)

The Authority has considered the CIF price of the dumped transactions on the basis of information provided by the exporter for computation of the landed value as defined in para 22(a).

**f) Landed value for the Non-cooperating exporters from the subject countries have been assessed as under:**

i) Korea RP

The lowest of the weighted average CIF price on the basis of information available from one of the importers from Korea RP i.e 0.77\$/kg and as per DGCI&S i.e. 0.8947\$/kg have been referenced for working out the landed value as defined in para 22(a).

ii) Thailand

The lowest of the weighted average CIF export price of the dumped transactions determined for the cooperating exporters separately i.e. 9.817\$/kg for M/s Teijin Polyester (Thailand) Limited and 0.6144\$/kg for M/s Kangwal Polyester Co. Limited as per DGCI&S i.e. 0.8759\$/kg has been referenced for working out the landed value as defined in para 22(a).

iii) Taiwan

The lowest of the CIF export price as worked out for M/s Far Eastern Textiles Ltd., i.e. 0.868\$/kg and that on the basis of DGCI&S data i.e. 0.931\$/kg has been adopted for computation of landed value as per para 22(a).

iv) Indonesia

The lowest of the weighted average CIF export price of the dumped transactions for the cooperating exporters i.e. 0.83 & 0.99\$/kg for M/s PT. Indorama Synthetics Tbk and M/s P.T. Teijin Indonesia Fiber Corporation Tbk (TIFICO) respectively and that as

per DGCI&S i.e. 0.9009\$/kg has been referenced for working out the landed value as defined in para 22(a).

## **H. INJURY, CAUSAL LINK AND DETERMINATION OF DUTY**

23.( i) Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, ".....taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

(ii) For the examination of the impact of the imports on the domestic industry in India, we may consider such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II(iv) of the Rules supra.

(iii) It has been argued by interested parties that imports from subject countries have declined and constitute insignificant percentage of total consumption, production, sales and capacity utilization of petitioner (s) have also increased. It has been argued by one of the exporters from Taiwan that their volume of exports to India is quite small and that 50% of it is non-spun yarn and further for determining injury the total exports from Taiwan should be considered. The authority has considered the argument and have applied the deminimus threshold on the quantum of imports from the subject countries as per rule (iii)-Anexure II of anti-dumping rules. The dumped transactions of PSF for spun yarn have been considered for determination of landed value. It has also been argued that imports under Advance Licence be excluded from total imports from subject countries to assess injury. In this regard, references have been made to Annual Reports of producers, wherein there is mention of reasons other than dumping for causing injury to domestic industry. The petitioners have argued that threshold of 25% constitutes a major proportion for the domestic industry. The Authority has considered all these arguments and assessed injury cumulatively by examining various injury indices as per the consistent practice of looking at 'a major proportion' of the total production as stipulated in Rule 2(b).

iv) The Authority holds that though imports under Advance Licences does not attract anti-dumping duty, these imports depress the domestic prices thus leading to causation effect. The de minimus threshold on the quantum of imports from subject countries has been considered as per the rules.

v) The authority notes that the demand of PSF during 96-97, 97-98 and the POI has been rising very slightly, however, the Net Sales Realisation (NSR) for the product under consideration for the domestic industry in the POI has been below the non-injurious price (NIP) on account of matching of the selling prices with the landed value of imports, thus leading to financial losses. The NSR for all the three producers has declined from 96-97 to 97-98 and in POI as indicated below:--

NSR (in Rs/Kg) JCT IRSL RIL

96-97 53.83 52.06 52.60

97-98 42.82 45.5 40.7

POI 38.02 42.20 38.35

The authority thus, concludes that imports from the subject countries have led to depression in the selling prices of the product under consideration in the domestic market leading to financial losses.

## **I. FINAL FINDINGS**

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

- a. PSF originating in or exported from the subject countries as indicated in foregoing para. G(19) has been exported to India below its normal value. It has been argued by one of the interested parties that Section 9A(i) only gives jurisdiction to impose anti-dumping duty on the basis of the country of export. In the context of the initiation of investigation references are made to the exporting country but no reference is made to the originating country. The Authority draws attention to the sub-Rules 2(c) and 17(3) of anti-dumping Rules wherein both exporter or producer concerned of the article under investigation are covered. The Authority has clearly indicated in para 10 of the initiation Notification dated 25.1.99 that the investigation is into the existence, degree and effect of alleged dumping of the subject goods originating in or exported from subject countries.
- b. The domestic industry has suffered material injury;

- c. The injury has been caused to the domestic industry by dumping of the subject goods originating in or exported from Korea RP and Thailand.
- d. The Authority recommends imposition of definitive anti-dumping duty on all imports of PSF falling under chapter 55 (Custom head 5503.20) originating in or exported from Korea RP and Thailand excluding PSF falling under sub-heading 5506.20.
- e. 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 and 9A, as the case may be of the Customs Tariff Act, 1975.
- f. It was 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. Landed value of the imports for individual exporters, for the purpose, were compared with the non-injurious selling price (NIP) of the domestic industry, determined for the period of investigation. Wherever the difference was less than the dumping margin, a duty lower than that of the dumping margin is recommended. In case of Indonesia and Taiwan, the landed value is above the NIP both for cooperating and non cooperating exporters and hence it is noted that no injury has been caused to the domestic industry.
- g. Accordingly, it is proposed that anti-dumping duties be imposed, from the date of notification to be issued in this regard by the Central Government, on all imports of PSF originating in or exported from the subject countries i.e., Korea RP and Thailand except M/s Teijin polyester (Thailand) Limited falling under chapter 55 (Custom head 5503.20) of the Customs Tariff excluding Polyester Staple Fibre (PSF) falling under sub-heading 5506.20. The anti-dumping duty shall be the difference between the amounts mentions in column 3 below and the landed value of imports in Rs./MT.

SI No.	Name of the Company	Amount (Rs./MT)
1.	<b><u>Korea RP</u></b>	
2.	M/s Saehan Industries Inc.	46215
	Any other exporter	46607
3.	<b><u>Thailand</u></b>	
4.	M/s Kangwal Polyester Co. Limited	46607
	Any other exporter (excluding M/s Teijin Polyester (Thailand) Ltd.)	46607

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 & Additional Secretary