

Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan,

NOTIFICATION

New Delhi, the 12th August, 2002

Subject: Anti dumping investigation concerning imports of Acrylic Fibre (below 1.5 denier) originating in or exported from Italy - Final Findings.

No. 43/1/2001-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:

2. The procedure described below has been followed with regard to the investigations:-
 - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from the Forum of Acrylic Fibre Manufacturers, New Delhi on behalf of the domestic industry duly supported by the following producers namely M/s. Indian Acrylic Ltd., Chandigarh, M/s. Consolidated Fibre and Chemicals Ltd., Calcutta, M/s. Pasupati Acrylon Ltd., New Delhi alleging dumping of Acrylic Fibre (below 1.5 Denier) (hereinafter referred to as subject goods) originating in or exported from Italy (hereinafter referred to as subject country);
 - ii. The Authority notified the Embassy of Italy in India about the receipt of petition made by the petitioners before proceeding to initiate the investigation in accordance with sub rule (5) of Rule 5 supra;
 - iii. The Authority on the basis of information and evidence available before it decided to initiate anti dumping investigations against imports of subject goods from the subject country;
 - iv. The Authority issued a Public Notice dated **the 28th August, 2001** published in the Gazette of India, Extraordinary, initiating anti dumping investigations concerning imports of subject goods from subject country, falling under

Chapter Heading 5501.3000 & 5503.3000 of Schedule I of the Customs Tariff Act.

- v. The Authority notified preliminary findings vide notification dated **6th December, 2001** on anti-dumping investigation concerning imports of subject goods from Italy and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- vi. 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 from the date of its publication;
- vii. The Authority also forwarded a copy of the preliminary findings to the Embassy of Italy 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 (v) and (vi) above.
- viii. The Authority provided an opportunity to the interested parties to present their views orally on **27.03.2002**. All parties presenting views were requested to file written submissions of their views expressed. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
- ix. The Authority made available the public file to all interested parties containing non-confidential version of evidence submitted by various interested parties for inspection, upon request;
- x. Arguments made 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 these findings;
- xi. In accordance with Rule 16 of the Rules *supra*, the essential facts/basis considered for these findings were disclosed to known interested parties on 10.5.2002 vide a disclosure statement and comments received on the same have also been duly considered in these findings;
- xii. The investigation covered the period from 1st April, 2000 to 31st March, 2001.
- xiii. ***** in this notification represents information furnished by the 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.

3. 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 paragraphs 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 paragraphs herein below. The Authority confirms, in the absence of any response from the exporters in the form and manner prescribed and having made the findings on the basis of the best information available to it as per rule 6(8) supra.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. Product under consideration in the present investigations is Acrylic Fibre below 1.5 denier (1.65 DX). Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile units. Acrylic fibre can be acrylic staple fibre, acrylic tow or acrylic top. Acrylic staple fibre, acrylic tow and acrylic top are known as acrylic fibre in the commercial parlance. Acrylic Fibre is produced in various grades, which are defined in terms of its Denier, however, below 1.5 denier (1.65 DX) is the product under consideration in the present petition as 1.5 to 8.0 denier are already attracting Anti Dumping Duty.

Denier is the international system to differentiate on Fibre type to another and is used in describing acrylic Fibre, silk and man-made filament yarn. Acrylic Fibre is an economical substitute for expensive wool. Acrylic Fibre is classified under Chapter 55 of the Custom Tariff Act under sub-heads 5501.3000, 5503.3000. Custom classifications are, however, indicative only and are in no way binding on the scope of the present investigation.

5. **Like Article:** The petitioners have claimed that the goods produced by them is like articles to the goods produced, originating in or exported from Italy. Therefore, for the purpose of the present investigation, the goods produced by the petitioners are being treated as ‘like article’ of the product involved i.e. Acrylic Fibre (below 1.5 denier) imported from the subject country within the meaning of the Rules supra.

D. DOMESTIC INDUSTRY:

6. As per Rule 2(b) of the Anti Dumping Rules, “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.”

The definition of domestic industry given above is further clarified by Article 5.4 of WTO Anti Dumping Agreement which reads as follows:

“.....The application shall be considered to have been made ‘by or on behalf of the domestic industry’ if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25% of the total production of the like product produced by the domestic industry. “

The petition has been filed by Forum of Acrylic Fibre Manufacturers, New Delhi duly supported by the following producers namely M/s. Indian Acrylic Ltd., Chandigarh, M/s. Consolidated Fibre and Chemicals Ltd., Calcutta and M/s. Pasupati Acrylon Ltd., New Delhi. on behalf of the domestic industry. The examination of the production figures of the petitioners by the Authority has determined that the petitioners account for more than 50% proportion of total Indian Production and therefore have a standing to file the petition on behalf of domestic industry under the Rules above said.

E. DUMPING

- 7. Normal Value:** As brought out in the preliminary findings, the Designated Authority sent questionnaires to known exporter of the subject goods in Italy. The Authority wrote to the Embassy of Italy in India also with a request to advise the exporter from Italy to respond to the Authority. The exporter from Italy did not respond to the Authority and has not furnished any further information after preliminary findings and the disclosure statement. The Authority recalls its preliminary findings as regards normal value. The exporter, M/s. Monte Fibre, Italy had merely filed a statement showing transaction-wise exports of the subject goods in the investigation period. No information had been furnished in respect of Annexures - 1, 3, 4, 5, 6, 7, 8, 9 & 10 of the Exporter Questionnaire. In the absence of information relating to sales of subject goods in the home market of the exporter and whether such domestic sales are in the ordinary course of trade, the Authority has to rely on the best available information as per Rule 6 (8) of the Anti Dumping Rules. No response has been received from The international Rayon & Synthetic Fibers

committee by the name “COMITE INTERNATIONAL DE LA RAYONNE ET DES FIBERS SYNTHETIQUES’ (CIFRS) after preliminary findings and the disclosure statement. Thus the exporter from Italy has preferred non-cooperation with the Designated Authority in this case. Thus Rule 6(8) is attracted and the Designated Authority is fully justified in proceeding with the best information available. The Authority, therefore, holds that the exporter from Italy has not cooperated with the Authority as envisaged under the Rules. The domestic industry has furnished information with regard to the normal value in Italy based on the selling price at which subject goods have been sold in the domestic market of the exporter’s country. In view of non-cooperation/insufficient information produced by the exporter from Italy, the Authority has determined normal value in Italy on the basis of available information with regard to selling price in the home market of the exporter.

8. **Export Price:** The exporter M/s. Monte Fibre, Italy has filed information with regard to its exports to India. Analysis of this information shows that the information is reasonably sufficient, at least for the purpose of arriving at export price, even though the authority notes that the exporter has not disclosed any adjustments with regard to inland freight and port expenses. The exporter has sold ***** MT Acrylic Fibre of subject description in the investigation period at an average CIF price of *****. The exporter has shown adjustments on account of ocean freight, insurance and commission. The authority has determined ex-factory export price on the basis of the information provided by the exporter. Adjustments claimed by the exporter have been allowed. Adjustment on account of inland freight @ 1% in the Export Price have also been allowed.
9. **Dumping Margin:** The principles governing the determination of normal value, export price and the dumping margin as laid down in the Custom Tariff Act and the Anti Dumping Rules are elaborated in Annexure-I to the Rules. The normal value works out to US\$ ***** per Kg. The net export price worked out as above comes to US\$ *****per Kg. The authority confirms the preliminary findings regarding

determination of dumping margin for other non-cooperating exporters based on the normal value assessed for the responding exporter and the lowest export price admitted by the exporter. The dumping margin for exports of the subject goods from Italy in respect of M/s Montefibre comes to 25.07% and for all other exporters/producers from Italy comes to 34.45%.

F. INJURY AND CAUSAL LINK

10. The Authority took into account all indices regarding injury while doing the final determination. This involved all relevant parameters viz., volume of dumped imports and their effect on price in the domestic market and its consequent effect on domestic producers in terms of parameters mentioned in Annexure II para 4 of the Rules such as natural and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments etc. While determining the non-injurious price for the like article for the domestic industry, the Authority considered the optimum cost of production for the domestic industry taking into account the normated best consumption norms and the actual price of the raw materials during the POI which went into the production of the product under consideration. Also, while arriving at the injury margin, the Designated Authority took into account optimum capacity utilization for arriving at a fair selling or non-injurious price. Authority also holds that analysis of various parameters affecting domestic industry would be more appropriate by comparing performance in the investigation period with reference to immediate preceding years, particularly when the imports have started in the investigation period itself. The Authority has carried out a detailed examination of the domestic industry to arrive at non injurious price. While arriving at non injurious price, the Authority has done appropriate analysis of the relevant factors such as usage of raw material and utilities, expenses incurred by the domestic industry during the period of investigation. Verification at premises of the domestic industry has been done to the extent required.

With regard to injury to the domestic industry, the Authority have examined detailed information provided by the domestic industry during the course of the investigation, which shows that the domestic industry has suffered material injury from the dumped imports of the product under consideration from Italy. While the Authority has examined all parameters mentioned in Annexure II of the Rules, however, some of the relevant parameters, which shows injury are discussed in detail as under:

- i. The capacity utilization of the domestic industry has declined from 93.07% in 1999-2000 to 84.03% in the investigation period due to decline in production.
- ii. Acrylic Fibre is being dumped in India by a number of countries, which includes Italy. The Authority is conducting investigation against Italy, separate investigation against UK, Germany, Brazil and Bulgaria and Sunset review investigation against USA, Korea RP and Thailand. The investigation period in these three investigations is same. Annexure II of the Rules clearly provide

about cumulation of Injury in case, the injury to the domestic industry is being caused from more than one source at the same time. therefore, the injury is being examined cumulatively in accordance to the Rules.

- iii. Till 1999-2000, sales volume of the domestic industry has been increasing. However, sales volume declined from 70591 MT in 1999-00 to 59119 MT in the investigation period. Further, the domestic industry has been selling its material at a price, which do not permit recovery of even cost of production.
- iv. Since last few years, the domestic industry has not been able to make profits due to dumping of the product from one after another countries, which includes subject countries also. The losses of the domestic industry steeply increased in the investigation period from -100 (indexed) in 1997-98 to -373 (indexed) in the investigation period.
- v. The imports shown from all countries are imports of below 1.5 denier as well as above 1.5 denier. The domestic industry had earlier complained about dumping from Italy, which resulted in imposition of anti dumping duty on imports from this Country. This resulted in decline in the import volumes from Italy. However, with the imposition of anti dumping duty on acrylic fibre above 1.5 denier, dumping of acrylic fibre below 1.5 denier has started which resulted in increase in market share again from 0.55% (99-00) to 1.03% (2000-01). The entire imports from Italy are now that of acrylic fibre below 1.5 deniers to circumvent the duty.
- vi. The productivity per employee declined in comparison to previous year, in the investigation period due to steep decline in the production, in spite of reduction in the number of employees.
- vii. The return on investment declined in the investigation period due to losses faced by the domestic industry in this period. The return on investment for the domestic industry continues to remain negative in spite of imposition of anti dumping duty on a number of sources.
- viii. The landed value of imported material from various sources including Italy is significantly below the selling price of the domestic industry causing severe price undercutting in the Indian market. The domestic industry has been forced to match the lowest price of imports in the market
- ix. The landed value of the imported material is below cost of the domestic industry causing severe price suppression and depression in the Indian market.
- x. The cash flow was negative in 98-99 which became positive in 99-00 . However, the cash flow was again negative in the investigation period.
- xi. The level of stocks with the domestic industry increased during POI in comparison to previous year in spite of reduction in production by the domestic industry.
- xii. The domestic industry is being forced to resort to curtailment of employment due to continued financial losses and negative cash flow.

- xiii. Due to the prevailing regulations, the domestic industry has to increase the wages causing further impact on profits.
- xiv. Enhancement of capacity by de-bottlenecking with a view to reduce the incidence of fixed costs has not helped the domestic industry during the period of investigation.

All above parameters cumulatively show that the domestic industry has suffered material injury from the dumping of subject goods from Italy.

12. **Causal Link:** In determining whether material injury to the domestic industry was caused by the dumped imports, the Authority took into account the following facts:-

- i. Exports of Acrylic Fibre below 1.5 denier after imposition of Anti dumping Duty on imports of acrylic Fibre above 1.5 denier indicates an attempt to continue dumping in the Indian market even after imposition of Anti Dumping Duties.
- ii. Significant increase in imports of subject goods from Italy at dumped prices, coupled with dumped exports from Other Countries being investigated by the Authority, prevented the domestic industry from effecting legitimate price increases, resulting in significant increase in losses in the investigation period.
- iii. Exports of acrylic Fibre from Other Countries are also at low prices. However, the Authority is separately investigating these exports to examine whether these were also at dumped prices and caused material injury to the domestic industry. There is no other parameter other than dumped imports from Subject Countries and Other Countries brought to the notice of the Authority which would have caused material injury to the domestic industry.
- iv. The landed price of imports from Italy was below the selling price of the domestic industry. As a direct consequence, the domestic industry was forced to reduce the prices.
- v. The imports from Italy forced the domestic industry to sell the product at prices below its cost of production and non-injurious price.
- vi. The price undercutting which the domestic industry has faced from the dumped imports has directly resulted in significant financial losses to all domestic industry.
- vii. Demand of the product has not shown a declining trend. Further, no arguments with regard to technological upgradation, etc. have been brought out by any opposing interested party.

13. The substantial increase in import of subject goods from Italy at low price which is not sufficient to recover full cost of production resulting in severe price undercutting clearly establishes the causal link between the injury already

suffered as well as threat of further injury being faced by the domestic industry with the phenomena of dumping of subject goods from Italy in a very short period. The Authority, therefore, confirms its conclusion in preliminary findings that there is an obvious causal link between the dumping of subject goods from Italy and the injury being caused to the domestic industry during the period of investigation.

G. INTEREST OF INDIAN INDUSTRY AND OTHER ISSUES:

14. It has been argued by some of the importers and users that the interest of the users of Acrylic Fibre (below 1.5 denier) should be taken into account while imposing anti dumping duty. They have requested to reconsider the imposition of anti dumping duty on Acrylic Fibre (below 1.5 denier) from Italy since the threat of imports serves as a check on the prices of the local producers.
15. In this context the Authority reiterates paragraphs 30 and 31 of its preliminary findings wherein it is stated that the purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market which is in the general interest of the country. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using Acrylic Fibre (below 1.5 denier) and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from Italy in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.
16. Evidently, imposition of anti dumping duty would not adversely affect the consumers/users of Acrylic Fibre (below 1.5 denier) in India in the long run. It would rather lead to survival of domestic industry and keep wider choice to the consumers in India. The very purpose of the imposition of anti dumping duty is to create situation of fair competition in the Indian market in which both domestic producers and foreign producers can compete. Imposition of anti dumping duty would not lead to restriction on imports in any way.

H. FINAL FINDINGS

17. The Authority has, after considering the foregoing, come to the conclusion that :

- i. Acrylic Fibre (below 1.5 denier) has been exported to India from Italy below its normal value;
- ii. The Indian industry has suffered injury;
- iii. The injury has been caused by the dumped imports from Italy;

18. The Authority proposes to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed price of imports has been compared with the non injurious selling price of the petitioner companies determined for the period of investigation. Landed value of imports for the purpose has been determined as the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

19. The Authority recommends imposition of definitive anti dumping duty on all imports of Italy Acrylic Fibre (below 1.5 denier) from Italy falling under Custom Heading 55. The anti dumping duty shall be as in Col 3. in the following table:

| Sl.No | Exporter/Producer | Anti Dumping Duty US \$ per Kg |
|-------|---|--------------------------------|
| (1) | (2) | (3) |
| 1. | Montefibre, Italy | 0.32 US \$ per Kg. |
| 2. | All Other Exporters/ producers from Italy | 0.41 US \$ per Kg. |

20. Subject to the above, the Authority confirms the preliminary findings dated 6th December, 2001.

21. An appeal against this order shall lie before the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act, *supra*.

L. V. SAPTHARISHI,
Designated Authority