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**MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING &
ALLIED DUTIES)**

NOTIFICATION

NEW DELHI, THE 25th JANUARY, 2001

PRELIMINARY FINDINGS

Sub: Anti-Dumping investigation concerning imports of Sports Shoes from People's Republic of China

56/1/2000-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 with regard to the investigation:
 - i. The Designated Authority (hereinafter also referred to as Authority), under the above Rules, received information from reliable sources regarding dumping of Sports Shoes (hereinafter also referred to as subject goods) into India originating in or exported from People's Republic of China (hereinafter referred to as subject country).
 - ii. The Authority on the basis of prima-facie evidence as received decided to initiate the investigation against imports of subject goods from People's Republic of China under Rule 5 (4). The Authority notified the Embassy of People's Republic of China in New Delhi about the receipt of the information before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Rules.
 - iii. The Authority issued a public notice dated 20.11.2000 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods classified under custom Head 6402 to 6405 of

Schedule I of the Customs Tariff Act, 1975 originating in or exported from People's Republic of China.

- iv. The Authority forwarded a copy of the public notice to all the known exporters (whose details were obtained from various sources) and the industry associations and gave them an opportunity to make their views known in writing in accordance with the Rule 6(2):
- v. The Authority forwarded a copy of the public notice to all the known importers (whose details were available from various sources) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter.
- vi. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of subject goods made in India during the past three years, including the period of investigation.
- vii. The Authority provided a copy of the Initiation Notification to the known exporters and the Embassy of the subject country in accordance with Rules 6(3) supra. A copy of the Initiation Notification was also provided to other interested parties, wherever requested.
- viii. The Authority sent a questionnaire to elicit relevant information to the following known exporters/producers in the subject country in accordance with the Rule 6(4):
 - M/s Beijing Daihua Group, Beijing, China
 - M/s Tianjin Wuqing Yangang Shoe Factor, Tianjin, China
 - M/s Anshan Tongxu Rubber Plant, Liaoning, China
 - M/s Jilin Helong Sports Shoes Factory, Jilin, China
 - M/s Pote (Xiamen)Shoe Co. Ltd., Fujian, China
 - M/s Wuzhou Rubber Plant, Guangxi, China
 - M/s Shanghai Huoju Shoe Industrial Co. Ltd., Shanghai, China
 - M/s Tiazhou Jialan Shoes Industrial Co. Ltd., Zhejiang, China
 - M/s Tiazhou Beili Shoes Industrial Co. Ltd. Zhejiang, China
 - M/s Tianjin Xinli Shoe Co. Ltd., Tianjin, China
- ix. The Embassy of the subject country in New Delhi was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from the subject country to respond to the questionnaire within the prescribed time. A copy of the letter, Initiation Notification and questionnaire sent to the exporters was also sent to the Embassy of the subject country alongwith a list of known exporters/producers.
- x. A questionnaire was sent to the following known importers/user associations of the subject goods for necessary information in accordance with Rule 6(4):
 - M/s Reebok India Company

- M/s Bata India Ltd.
 - M/s Adidas India Trading Pvt. Ltd.
 - M/s Alishan India Ltd.
- xi. Response/ information to the questionnaire/notification was not filed by any of the exporters/producers from the subject country. Response was filed by M/s Bata India Ltd. and M/s Reebok India Company.
- xii. Information regarding injury parameters, cost of production was sought from the domestic industry, which was also furnished by the following domestic producers:--
- 1.M/s Relaxo Footwear Ltd. (2 units, namely, M/s Marvel Polymers P Ltd. and M/s Nuwave Shoes)
 - 2.M/s API Associates Ltd.
 - 3.M/s Nikhil Footwear Ltd.
 - 4. M/s Lakhani India Ltd. (2 units, namely, PVC Injected Unit and PVA Sole Unit)
- xiii. The Authority verified the information provided by the domestic industry to the extent considered necessary.
- xiv. The Authority kept available non-confidential version of the information as obtained from various sources furnished by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties;
- xv. ****in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xvi. Investigation was carried out for the period starting from 1.4.2000 to 30.9.2000 i.e. the period of investigation (POI).

B . VIEWS OF DOMESTIC INDUSTRY, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES

No response was received from exporters/producers/User Associations.

2. VIEWS OF THE IMPORTERS

M/s Bata India Ltd. has provided the details of the various brands and the import prices of the subject goods in the POI from the subject country. The importer has also provided for the details of the purchase and the demand procedures.

M/S Reebok India Limited have provided details on the imports and import prices made by them during the POI, costing of the branded shoes procured by them from the domestic suppliers. The importers have indicated that the high priced end shoes imported by them are speciality shoes made from technologies not available with the domestic manufacturers. Anti-Dumping duty is protectionist in nature and that the developed countries adopt consumer driven economic policies and not the industry driven economic policies.

3. **THE DOMESTIC INDUSTRY'S VIEWS**

a. ON PRODUCT UNDER CONSIDERATION & LIKE ARTICLE: The domestic industry has informed that the following goods are being imported from the subject country:

1. PVC injected shoes, sandals with canvas or synthetic uppers.
2. Canvas shoes with upper soles
3. Sports shoes with uppers synthetic or textiles or combination materials and with rubber or EVA sole.

The domestic producers are producing the similar type of shoes which are used by the Indian customers interchangeably.

b. ON DOMESTIC INDUSTRY:

The following domestic producers who account for more than 50% of the total domestic production have supported the application:-

- 1. M/s API Polymers P Ltd., New Delhi
- 2. M/s Nikhil Footwear P Ltd., New Delhi
- 3. M/s Footwear (Klick) India P Ltd., New Delhi
- 4. M/s Prem Enterprises, New Delhi
- 5. M/s Welcome shoes, New Delhi
- 6. M/s Galaxy Shoes (I) P Ltd., New Delhi
- 7. M/s Aditi International, New Delhi
- 8. M/s Lakhani Shoes Ltd., Faridabad
- 9. M/s Liberty Group, New Delhi
- 10. M/s Relaxo International, New Delhi

c. ON DUMPING: The domestic industry has indicated that the exporters from the subject country are exporting the product at very low prices and have provided the details on CIF prices and the ocean/air freight which the exporters would have incurred.

- d. **ON INJURY:** The domestic industry has reported that there is no fall in demand of the subject goods and that they have faced material injury on the following account :-
- i. The market share of the domestic industry has declined from 74.09% in 1999-2000 to 57.81% in the POI.
 - ii. The imports from China have increased from 4.68 lakh pairs in 1999-2000 to 5.7 lakh pairs in POI (annualized). Further the imports have also been routed through Hong Kong, Singapore as per the available evidence and thus imports from China are in much higher quantity.
 - iii. The production of the domestic industry has declined by 11.24% in POI as compared to 98-99.
 - iv. The capacity utilization percentage has declined from 62.97% in 98-99 to 60% in 99-2000 and further to 53.26% in POI.
 - v. The profitability of the industry has declined from Rs. *** crores in 1999-2000 to Rs. *** crores in POI.
 - vi. The weighted average profit per pair has declined from Rs. *** per pair in 1999-2000 to Rs. *** per pair in the POI.

C. EXAMINATION BY AUTHORITY

The foregoing submissions made by the interested parties and other interested parties have been examined, considered and dealt with at appropriate places in these findings to the extent these are relevant as per Rules and have a bearing upon the case.

1. **PRODUCT UNDER CONSIDERATION:** The product under consideration is Sports Shoes, a non-leather sports footwear classified under the Custom Head 6402 to 6405. The product covers PVC injected shoes, Canvas shoes with upper soles and Sports shoes with uppers synthetic or textiles or combination materials and with rubber or EVA sole only. The classification is however indicative only and is in no way binding on the scope of the present investigation.
2. **LIKE ARTICLE:** The authority notes that the sports footwear similar to those being imported are also being manufactured by the domestic industry and are being used interchangeably by the customers in India. The goods manufactured by the domestic industry are Like Article to the goods imported from the subject country within the meaning of the Rule 2(d).
3. **DOMESTIC INDUSTRY:** The Authority notes that the domestic producers as indicated below accounting for more than 50% of the total domestic production have supported the investigation:

- M/s API Polymers P Ltd., New Delhi
- M/s Nikhil Footwear P Ltd., New Delhi
- M/s Footwear (Klick) India P Ltd., New Delhi
- M/s Prem Enterprises, New Delhi
- M/s Welcome shoes, New Delhi
- M/s Galaxy Shoes (I) P Ltd., New Delhi
- M/s Aditi International, New Delhi
- M/s Lakhani Shoes Ltd., Faridabad
- M/s Liberty Group, New Delhi
- M/s Relaxo International, New Delhi

None of the domestic producers have opposed the anti-dumping investigation.

Further the following domestic producers have provided the information on injury:

- M/s Relaxo Footwear Ltd.
- M/s API Associates Ltd.
- M/s Nikhil Footwear Ltd.
- M/s Lakhani India Ltd.

The above mentioned producers satisfy the criteria for the domestic industry as per Rule 2(b).

4. NORMAL VALUE & 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 transshipped 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.

Normal value

None of the exporters/producers in China have responded to the Questionnaire sent by the Authority. The information on domestic selling prices and prices to the third countries has, however, been provided by certain reliable sources to the authority. The authority also notes that the cost of production of the subject goods in India has been made available by the domestic industry. In view of no cooperation from the exporters, the Authority considers it appropriate to construct the normal value as per the best available information in accordance with the Anti-Dumping Rules. This has also been co-related with the Domestic selling price of the subject goods in subject country and also its export prices to the third countries other than India on the basis of the information gathered from authentic sources. The constructed normal value of the un-branded sports shoes including low end branded shoes and branded shoes (Nike/Reebok/Adidas) subject goods in the subject country comes to ***Rs./per pair and ***Rs./pair respectively.

Export price

The Directorate has on the basis of the information provided by the domestic industry and certain importers after co-relating the same with the DGCI&S data evaluated the ex-factory export price by allowing adjustments on ocean freight, ocean insurance, commission, port expenses, inland freight etc. to an extent of ***,***,***,***& ***Rs./pair on the basis of the best available information from the domestic industry and the importers and the consistent practice adopted in such cases. The weighted average ex-factory export price of the unbranded sports shoes including low end branded shoes and branded shoes (Nike/Reebok/Adidas) subject goods comes to ***Rs./pair and ***Rs./pair respectively.

5. DUMPING-Comparison of Normal Value & Export Price

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."

The authority has carried out comparison of weighted average normal value with the weighted average ex-factory export price for evaluation of dumping margin.

<u>Exporter/Producer</u>	<u>Normal value (Rs./pair)</u>	<u>Export price (Rs./pair)</u>	<u>Dumping margin (%)</u>
All exporters/ producers			
a) Unbranded & low end branded excluding Nike/Reebok/Adidas	*****	*****	67.61
b) Branded category (Nike/Reebok/Adidas)	*****	*****	126.80

The dumping margin for exporters for the two categories as indicated above comes to 67.61% and 126.80% respectively.

6. INJURY AND CAUSAL LINK

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.

For the examination of the impact of the dumped imports on the domestic industry in India, 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. have been considered in accordance with Annexure II(iv) of the rules supra.

The Authority observes the following

- The market share of the domestic industry has declined from 74.09% in 1999-2000 to 57.81% in the POI.
- The imports from China have increased from 4.68 lakh pair in 1999-2000 to 5.7 lakh pair in the POI (annualized). Further the imports have also been routed through Hong Kong and Singapore as per the available evidence.
- The production of the domestic industry has declined by 11.24% in POI as compared to 98-99.
- The capacity utilization percentage has declined from 62.97% in 98-99 to 60% in 1999-2000 and further to 53.26% in POI.
- The profitability of the industry has declined from Rs.*** crores in 1999-2000 to Rs.*** crores in POI.
- The weighted average profit per pair has declined from Rs. *** per pair in 1999-2000 to Rs. *** per pair in POI.

The authority notes that the demand of the subject goods have increased to 5.6 lakh pair in POI (annualised) from 5.0 lakh pair in 1999-2000 and about 5 lakh pair in 98-99.

The above economic indicators collectively and cumulatively indicate that the domestic industry has suffered material injury to the dumped imports. In establishing that the material injury to the domestic industry has been caused by the dumped imports from the subject country, the Authority holds that the dumped exports of subject goods from the subject country have depressed the prices of the subject goods in the domestic market and, therefore, forced the domestic industry to sell at unremunerative prices resulting in decline in profitability and financial losses to the domestic industry. Since the demand of the subject goods has been rising, it has not been a contributing factor to the injury caused to the domestic industry.

7. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

Certain interested parties have submitted that the anti-dumping duties are protectionist in nature. The authority recognises that though the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products, however, fair competition in 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 the dumping practices and would prevent the decline of the domestic industry and help maintain availability of wider choice of the subject goods to the consumers. Imposition of anti-dumping measures would also not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

8. LANDED VALUE

The landed value has been determined after adding applicable level of custom duties (except duties levied under Section 3, 3A, 8B. 9, 9A) and one percent towards landing charges for the purposes of preliminary determination pending final investigation.

D. CONCLUSIONS:

It is seen, after considering the foregoing, that:

- a. The subject goods in the forms as indicated in the foregoing Para C(1) originating in or exported from the subject country have been exported to India below its normal value.
- b. The domestic industry has suffered material injury by way of decline in its market share and financial losses due to depressed Selling prices on account of price depression caused by low landed prices of the dumped subject goods.
- c. The injury has been caused to the domestic industry by dumping of the subject goods originating in or exported from the subject country. The authority recommends anti-dumping duty on imports of subject goods falling under Chapter 64 originating in or exported from the subject country.
- d. It was considered to recommend amount of anti-dumping duty equal to margin of dumping so as to remove injury to the domestic industry. Accordingly, it is proposed that anti-dumping duties be imposed, on all imports of Sports Shoes originating in or exported from the subject country i.e. Peoples Republic of China falling under chapter 64 (Custom head 6402 to 6405) of the Customs Tariff. The subject goods are PVC injected shoes, canvas shoes with upper soles and Sports shoes with uppers synthetic or textiles or combination materials and with rubber or EVA sole only as also indicated in foregoing para C(1). The anti-dumping duty shall be the difference between the amounts mentioned in column 3 below and the landed value of imports in \$/pair.

S. No.	Name of the exporter/producer	Amount (US\$/pair)
1.	All exporters/ producers a) Unbranded & low end branded excluding Nike/Reebok/Adidas b) Branded category (Nike/Reebok/Adidas)	6.277 18.44

E. FURTHER PROCEDURE

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

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings. Any evidence submitted at this stage by any interested parties will also be considered.-
- b. Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the despatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- c. The Authority would conduct verifications to the extent deemed necessary;
- d. The Authority would provide opportunity to all interested parties for oral submissions, for which the date and time shall be communicated to all known interested parties separately;
- e. The Authority would disclose essential facts before announcing final findings.

(L V SAPTHARISHI),
Designated Authority