

MINISTRY OF COMMERCE

NOTIFICATION

New Delhi, the 11th June, 1997

Subject: Anti dumping investigation concerning imports of newsprint from USA, Canada and Russia - Preliminary Findings

No. 21/ADD/96:--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

I. The procedure described below has been followed with regard to the present investigation:

- a. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received written petition from Indian Newsprint Manufacturers Association alleging dumping of newsprint originating in or exported from the USA, Canada and Russia;
- b. The preliminary scrutiny of the application revealed certain deficiencies, which were pointed out to the petitioners;
- c. The Authority, on the basis of sufficient evidence submitted by the petitioner, decided to initiate investigations against alleged dumped imports originating in or exported from the USA, Canada and Russia (hereinafter referred to as the subject countries). The Authority notified the Embassies of the subject countries about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Rules;
- d. The Authority issued a public notice dated 20-12-1996, published in the Gazette of India, extraordinary, initiating anti-dumping investigation concerning imports of newsprint, classified under chapter 48 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from USA, Canada and Russia;
- e. The Authority forwarded copy of the public notice to the known exporters (whose details were made available by the petitioner) and industry associations and gave them an opportunity to make their views known in writing, within forty days, in accordance with the rule 6(2);

- f. The Authority forwarded copies- of the public notice to the known importers of newsprint in India and advised them to make their views known in writing within forty days from the date of the letter;
- g. Request was also made to the Central Board of Excise & Customs (CBEC) to arrange copies of all the relevant Bills of Entries for the period of investigation. No information has, however, been received from the CBEC;
- h. The Authority provided copies of the petition to the known exporters and the Embassies of the subject countries in accordance with rule 6(3) supra;
- i. The Authority sent questionnaires, to elicit relevant information to the following exporters:

- Abitibi Price Inc., Canada,
- Abitibi Price Sales Corp., USA,
- Bowater Mersey Paper Co. Ltd., Canada,
- Soucy Champion Inc., Canada,
- Daishowa Forest Products Ltd., Canada,
- Stora Forest Industries Ltd., Canada,
- Skytyvkar Forest Complex, Russia,
- Kondopoga Pulp & Paper Combinat, Russia,
- Sol! Kamsk Pulp & Paper Combine, Russia,
- Balakhna Pulp & Paper Combine, Russia,

The following exporters filed response to the questionnaire within the extended time: ,

*Abitibi-Price Inc. (hereinafter referred as Abitibi);

*Stone Consolidated Corp., USA (hereinafter referred as Stone Consolidated).

- j. A number of exporters, importers and consumers requested for extension of time, which was allowed by the Authority till 28.2.1997;
- k. The Embassies of USA, Canada and Russia in New, Delhi were informed about the initiation of the investigation, in accordance with rule 6(2), with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and exporter's questionnaire was sent to the Embassies also alongwith a list of known exporters/producers;
- l. The questionnaire was sent to the known indenting agents and importers of newsprint in India, calling for necessary information in accordance with rule 6(4);
- m. A number of importers/ consumers of newsprint in India requested for copies of the initiation notification, questionnaire and/or extension of time for filing response. The extension of time was allowed upto 28th Feb., 1997. The

Authority, however, holds that there is no provision for obtaining or waiting for responses from all the interested parties or giving any additional time to those interested parties from whom the Authority ;ad :not called for information in the first instance.

Information regarding the domestic industry was sought from the petitioners. The petitioners furnished information in respect of the following:

- Mysore Paper Mills Ltd. (MPM),
- Nepa Ltd (Napa).,
- Tamil Nadu Newsprint and Paper Ltd. (TNPL),
- Hindustan Newsprint Ltd. (HNL).
- Information deemed necessary for the purpose of preliminary findings was verified by the Authority;

Cost investigations were also conducted for the purpose of preliminary findings to work out optimum cost of production and cost to make and sell newsprint in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioner so as to ascertain if anti dumping duty lower than the dumping margin would be enough to remove injury to the domestic industry;

The investigation was carried out for the period starting from 1st April, 1996 to 31st Oct., 1996;

PETITIONERS' VIEWS

The petitioners have raised the following major issues in their petition and in their subsequent submissions:

On dumping:

The newsprint industry is passing through an unprecedented crisis due to large scale dumping of newsprint from USA, Canada and Russia;

The dumping of newsprint coupled with the fall in the international' prices has injured the Indian newsprint industry;

- With the changes in the Government policies, the North American and Russian manufacturers of newsprint reduced their prices drastically;
- The normal value of newsprint in the North America is established by the prices confirmed by a producer in Canada. The petitioner furnished a number of quotations in the domestic market of Canada and USA. The petitioner

claimed that the same level of normal value should be considered in case of USA. and Canada and the two may be considered as a territory.

- The petitioner furnished a number of quotations to establish export price in support of its allegation of dumping. The quotations with regard to prices in the domestic market and export price to India were at nearly the same point of time .(the time lag in the quotations is as low as one day);
- There is dumping of newsprint by the North American producers to an extent of US \$ 250 per MT;
- In case of Russia it was submitted that the Authority should consider the normal value based on cost of production constructed for Russian producers, on the basis of international prices of Pulp;
- In spite of reduction in the selling prices by the domestic producers, there was a sharp increase in the quantum of imports from these countries, resulting in very poor sales and capacity utilisation of the domestic producers;
- Some of the Indian producers have been forced to completely stop or significantly curtail production of newsprint;
- The increase in imports in absolute terms, market share of imports vis-e-vis domestic share, and the fall in the capacity utilisation are a direct consequence of injury to the Indian industry caused by the dumped imports.

C. VIEWS OF EXPORTERS. IMPORTERS AND OTHER INTERESTED PARTIES

3. The views expressed by exporter, importers and other interested parties, who have responded to the Authority, are as under:

1. Canadian High Commission :

i) On dumping

- a. The evidence of dumping provided- by the petitioner is uncertain and not clear of . The complaint shows that, world-wide, . the prices for pulp and paper products are declining. The fact that prices in the North American domestic market and exports to India are declining is an indication that dumping may not be occurring.
- b. There are discrepancies between the normal value used in various places in the complaint.
- c. The petitioner has assumed that the prices prevailing in the exporters' domestic market do not warrant adjustments.

- d. There is no information in the petition relating to selling prices in the Canadian market. The complaint generally refers to a North American market, rather than the two independent countries in North America.

ii) On injury and causal link

- a. There is little evidence in the petition to show that the injury suffered is being caused by dumping.
- b. The export prices from Canada are still higher than prices in 1994-95. This fact does not support the allegation that the foreign suppliers drastically reduced their prices after Jan., 1996. The complainants have lost sales and market share for reasons other than dumping.
- c. There is evidence in the petition that injury may have been caused by other factors. For instance, various import restrictions were lifted over the years, enabling the foreign suppliers to enter the market. The consumers may have shifted to foreign producers for other reasons, such as quality, timeliness, dependability of supply. One producer had its annual shut down in July, which might have caused supply problem for customers.
- d. The fact that some companies in India have closed is an indicator of injury, not necessarily linked to dumping. The closure could be inability of these producers to compete with fairly traded foreign goods. The consumers might have moved to foreign supply as the same were stable, long-term source.
- e. The standing of the Authority with regard to confidentiality of information is not clear.

Abitibi-Price Inc:

- a. The export price to India were not materially lower than the range of domestic ex-works prices or export-price to other world markets;
- b. The cost and profitability for Abitibi's Chandler Mill regarding exports to India and sales in the home market are nearly identical and higher than profitability on exports to rest of the world;
- c. The cost and profitability for Abitibi's Grand Mill are difficu't to be compared for exports to India and domestic sales, as there were no domestic sales;
- d. Abitibi's price adjustments during the investigation period were in response to market demand from the customers;
- e. There will be some variations in the profitability levels achieved by the company on mill by mill basis.

III. Stone Consolidated Corpn.. Canada: The exporter was not originally addressed by the Authority. It requested for a copy of the petition and questionnaire and filed its response. The views expressed are:

- a. Newsprint has been shipped from European countries at dumped prices;
- b. USA and Canada are separate countries and should be treated separately;
- c. The petitioner has indicated ocean freight and inland freight both as US \$ 130 per MT, which is incorrect and extremely high;
- d. The petitioner has based evidence of dumping on list prices, which is not the price at which the business is transacted;
- e. There are various contradictions in the petition.
- f. The petitioner has not brought out how the domestic industry has suffered injury as a result of alleged dumping. There is no reference to causal link in the petition;
- g. Imports of newsprint in India were largely controlled and were subjected to quantitative restrictions;
- h. The prices of newsprint declined in the international market;
- i. The newsprint industry has cyclical rise and fall in the prices;
- j. The Government of India has imposed 10% import duty on newsprint;
- k. The low capacity utilisation is a direct consequence of inability of the domestic industry to compete on the basis of international prices;
- l. The Indian industry was holding high level of stock subsequent to decontrol of imports in May, '95 and even in Feb., '96, when the prices were very high.

IV. Mekor International Consortium Russia (Mekor): While expressing concern at the lower prices of newsprint prevailing in the Indian market, the exporter has given only a brief history of newsprint market in India.

V. Importers/Consumers/Other interested parties:

i. On dumping:

- a. The prices of newsprint started declining world-wide from April, '96 due to forces of demand and supply;
- b. Even after decontrol of imports, prices of newsprint increased in the Indian market.
- c. The prices of newsprint during the investigation period declined continuously. A month-by-month comparison clearly establishes link between the US prices with the import prices;

ii. On injury :

- a. Increased imports of newsprint are related to other factors, such as quality, dependability and timely supply;

- b. The petitioner has neither quantified injury nor presented any descriptive account of the injury suffered. Normal price variations do not tantamount to injury;
- c. The Indian industry has made healthy profits even in the investigation period;

iii) Others

- a. Provisions of the Anti-dumping Act and Rules do not apply. The said provisions are ultra-vires, imposes restrictions on the right of the consumers to carry on trade and business and discriminates between the newsprint producers and consumers;
- b. The consumers would try to purchase at prices which would lower their production costs;

EXAMINATION OF THE ISSUES RAISED

The submissions made by the exporters, importers, petitioner, consumers and other interested parties have been examined and considered and have been dealt at appropriate places in this notification.

PRODUCT UNDER CONSIDERATION & SCOPE OF INVESTIGATION

The product considered in the present investigation is newsprint. Newsprint is an uncoated paper of a kind used for printing of newspaper, of which not less than 65% by weight of the total fiber content consists of wood fiber obtained by a mechanical or chemi-mechanical process, unsized or very lightly sized, having a surface roughness Parker Print Surt (1 Mpa) on each side exceeding 2.5 micro meter (micron), weighing not less than 40 gsm and not more than 65 gsm. Newsprint is classified under chapter 48 of Schedule I of the Customs Tariff Act, 1975. The classification is, however, indicative only and is in no way binding on the scope of the present investigation.

F. LIKE ARTICLES

6. Some of the interested parties have argued that the newsprint has been imported from the said countries on account of its better quality. It is, however, not disputed by these interested parties that the newsprint produced and sold by the domestic industry and imported from these countries have been used interchangeably. The pattern of imports from these countries and sales by the domestic industry clearly establish that the newsprint imported from the subject countries substituted newsprint produced and sold by the domestic industry -both technically and commercially. The newsprint produced and sold by the domestic industry is, therefore, considered as like article to the newsprint imported from the subject countries within the meaning of the rule 2(d).

G. DOMESTIC INDUSTRY

7. The petition has been filed by Indian Newsprint Manufactures Association (INMA), D-165, Defence Colony, New Delhi-110024. The petition is, therefore, considered as having being made on behalf of the domestic industry. The Association has furnished information with regard to the domestic industry in respect of units which account for a major proportion of the total domestic production of newsprint in India during the investigation period. These units collectively constitute domestic industry in accordance with Rule 2(b) supra.

H. NORMAL VALUE

9. 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 mace 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.

10. Argument has been raised that there was no proper evidence in the petition and the very basis on which the investigations were initiated was not proper. The Authority observes that the onus on the petitioner is to establish a prime facie case. The petitioner is obliged to furnish evidence as is reasonably available to it. In the instant case, the petitioner furnished evidence of normal value on the basis of prices

prevailing in the territory. The petitioner has furnished evidence of the prices prevailing in the territory on the basis of prices published in a leading journal. The same are not on the basis of list prices. It is appreciated that the prices published in the journal need not be exworks realisations and may warrant adjustments. However, the Authority found that the differences in the normal values calculated on the basis of the published prices and export prices on the basis of exworks realisations were significant enough to take into account expenses which the exporters may have to incur on sales in home market. The Authority, therefore, holds that there was sufficient prime facie evidence before the Authority with regard to normal value to justify investigations. The Authority has determined for the purpose of these preliminary findings, as detailed herein below, normal value in case of Canada based on the actual net realisations by the exporters from Canada on the basis of the information furnished by these exporters.

11. Argument has been raised that the petitioner has claimed incorrect and extremely high adjustment on account of ocean freight and inland freight in the exporting country(ies). Since the adjustment with regard to ocean and inland freight are being allowed on the basis of amounts claimed by the exporters, the amounts claimed by the petitioner are irrelevant.

12. The Authority sent questionnaire to the exporters to furnish information in accordance with the section cited above so that the normal value could be worked out. The normal value in case of those exporters who have furnished information has been worked out on the basis of information furnished by them and the same is explained herein below:

(I) Abitibi:

- i. Abitibi filed separate response in respect of its Mills in USA and Canada. The exporter argued that:
 - a. The cost, and profitability for Abitibi's Chandler Mill on exports to India and sales in the home market are nearly identical and higher than profitability on exports to rest of the world;
 - b. The cost and profitability for Abitibi's Grand Mill are difficult to be compared for exports to India and domestic sales, as there were no domestic sales;
 - c. Abitibi's price adjustments during the investigation period were in response to market demand from the customers;
 - d. There will be some variations in the profitability levels achieved by the company on mill by mill basis.

The Authority observes that the exporter has pleaded no dumping on the grounds of cost and profitability. The argument of the exporter is not tenable in view of the relevant provision of law. For dumping, only the normal value in the exporter's domestic market and the export price to India are relevant.

- ii. The argument of the exporter that there may be some variations in the Mill by Mill profitability is also not tenable. The normal value has to be determined in accordance with the prices of the Mill in question in the two markets. Since the exporter has distinctly separate pricing in Canada and USA, the exports made from USA and Canada have to be treated separately. Therefore, in case of Abitibi, Normal values and export prices have been determined separately for Canada and USA in the following paragraphs.
- iii. The exporter has furnished detailed information with regard to its selling prices in the domestic market. The information has been furnished on month to month basis, as requested by the Authority. Since the exporter has furnished its selling prices in the domestic market, the normal value has been arrived at in accordance with Section 9A(1)c(i).
- iv. Abitibi has been claimed the following adjustments in the prices in the domestic market:
 - a. Discounts: The exporter has claimed that it had paid discounts on the list price of US \$ 780 per MT. The discounts increased from US \$ *** (Jan-Mar., 1996.) to US \$ "*" per MT (Oct., 199 f). Since the exporter has allowed discounts on sales made in the domestic market, the same have been allowed for the purpose of preliminary determination.
 - b. Inland freight: The exporter has argued that the inland freight variation from customer to customer, depending upon the distance involved The exporter has claimed a range of inland freight cost incurred, instead of a single value. The Authority observes that the rules governing comparison requires due allowance to be given for all factors which affect price comparability. The exporter should have claimed adjustment on the basis of average inland freight cost incurred by it. Since the exporter has not claimed average freight, the same has been allowed on the basis of lowest freight cost incurred.
- v. The Authority has allowed these adjustments for the purpose of preliminary determination, except as detailed in the foregoing. The adjusted prices have been considered as net ex-works realisations.

Stone Consolidated: Stone Consolidated has claimed the following adjustments in the domestic prices:

- Discounts,

- Inland freight from warehouse to customers in domestic market;
- Inland freight from mill to warehouse on equalised basis.
- Difference in selling expenses;
- Difference in production costs because of batch process.
- The basis of claiming adjustments on account of above are as under:
 - a. Discounts: The exporter has claimed discount ranging between US \$ *** (April, 1996) to US \$ *** (Oct., 1996) per MT. This adjustment has been allowed on monthly basis.
 - b. Inland freight: The exporter has claimed that it has sold in the domestic market from its warehouses and has incurred an expenditure of US \$ *** (April, 1996) to US \$ *** (Oct., 1996) on freight from its warehouses to customers. The exporter has further claimed that it has incurred an expenditure of US \$ *** per MT on freight from its plant to warehouses, on equalised basis.
 - c. An adjustment of US \$ *** per MT on account of selling expenses has been claimed, being the additional selling expenses on account of sales to the domestic market.
 - d. An adjustment of US \$ *** per MT on account of difference in product costs has been claimed on the ground that the sales in the home market are of smaller lots and the customers take "just-in-time" deliveries. The exporter has argued that it has to produce in batches for sales in the home market. Contrary to this system of sales in the home market, the exporter has further argued that exports to India are in large volume and the mills can produce newsprint continuously for much longer duration. The exporter has argued that a machine which normally operates at ***% efficiency in batch production would operate at ***% efficiency in continuous production, resulting in a difference of ***% in production. The exporter has, therefore, concluded that there is an additional cost involved in case of sales in the home market, which has been estimated to as US \$ *** per MT, considering average fixed cost of C\$ *** per MT.

The exporter has not furnished any evidence to establish that there will be a difference in efficiency in batch and continuous production process. Moreover, it is also not clear from the documents submitted by the exporter that it has to produce in batches when the party has claimed that it has despatched goods from warehouses. The claim of the exporter is, therefore, not accepted.

Though the above contentions of the exporter requires detailed verification, the Authority has allowed claims at (a) to (c) for the purpose of preliminary determination.

(III) Other exporters from Canada and USA:

M/s. McCarthy Tetrault, Canada replied vide fax dated 3rd April, 1997 that it did not receive the enquiry in time and requested for extension upto 15th April, 1997.

The Authority observes that under Rule 6(4), the Authority may issue a notice calling for information from the exporters, foreign producers and such information shall be furnished by such persons within thirty days from the date of receipt of the notice. The notice is deemed to have been received one week from the date on which it was sent by the Authority or transmitted to the Embassy of the exporting country. The Authority, therefore, holds that it would have been inappropriate to grant extension of time requested by McCarthy Tetrault, Canada. The Authority would, however, consider the response, if furnished, for definitive determination.

The other producers/exporters from Canada and USA have failed to respond- to the Authority. The Authority holds that the other exporters/producers from Canada and USA failed to co-operate with the Authority and the preliminary findings have been announced In accordance with Rule 6(8).

Scrutiny of the information furnished by the importers reveals that the following parties have also exported newsprint to India during the investigation period.

- a. Price & Piece, 21-A, Neil Road, Singapore;
- b. Avenor Inc., 1250, Rene-Levesque Blvd West, Montreal, Quebec, Canada;
- c. Daishowa Forest Products, Canada.

Since these exporters have not co-operated with the Authority, the normal values considered at the time of initiation have been considered. Since there is reasonable evidence that the exporters have paid freight on sales made in home market, an adjustment on account of the same has been allowed at US \$ 40 per MT.

(IV) Mekar has not furnished information requested, stating that it had no information on the questions raised. The Authority had clearly stated in the notice calling for information that in case the exporter did not undertake any of the following activities, the notice may be passed on to the party concerned:

- a. produces or manufactures the goods under consideration,
- b. sells in the domestic market,
- c. exports to India,
- d. exports to countries other than India.

In view of the above, Mekar should have transmitted the questionnaire to the concerned party(ies). This was not done by Mekar.

Mekor has, however, expressed concern at the lower prices prevailing in the Indian market and has requested that Government of India should take measures to improve the same.

(V) The Trade Representation of Russian Federation in India requested vide letter dated 30.12.1996 that the Authority may issue notice calling for information to the Ministry of Foreign Economic Relations, Moscow, Russia. The Authority accordingly issued notice to the Ministry of Foreign Economic Relations, Moscow, Russia as also to the Trade Representation of Russian Federation in India. The Authority however, notes that none of the exporters/producers from Russia has furnished information in the prescribed format. The Authority holds that the exporters/producers from Russia have failed to co-operate with the Authority and preliminary findings are being announced in accordance with Rule 6(8). Since none of the exporters has responded, the Authority has determined normal value on the basis of cost of production constructed for-Russia. The cost of production was earlier constructed for Russia at the time of initiation. The Authority has considered the same level of normal value.

I. EXPORT PRICE

13. In case of Abitibi and Stone Consolidated, the Authority has determined the export price on the basis of submissions made by the export price has been arrived at as detailed herein below.

14. Abitibi.

The exporter has furnished separate details of exports made by it from Canada and USA. The exporter has furnished transaction-wise details of exports made from the two countries, on the basis of invoice dates. The monthwise CIF export-price has been worked out on the basis of details of monthwise exports furnished by the exporter. The exporter has claimed the following adjustments:

- a. Inland freight : An amount of US \$ *** per MT has been claimed in case of exports *made* from US mills, whereas an amount of US \$ **' per MT has been claimed in case of exports made from Canada;
- b. Ocean freight:~An amount of US \$ *** per MT has been claimed in case of exports made from US mills, whereas an amount of US \$ *** per **MT, has** been claimed in case of exports made from Canada;
- c. Commissions: The exporter has claimed that it has paid discount @ ***% in case of exports from US and @ ***% in case of exports from Canada. It is found from the transaction wise details that the exporter has paid commissions ranging between ***% and ***% in case of exports from Canada. Majority of

transactions are with ***% commission. The Authority considers it appropriate to allow the claim with regard to commission.

The Authority considers it appropriate to allow the adjustments from (a) to (c) for the purpose of preliminary findings

15. Stone Consolidated :

- a. Stone Consolidated has exported newsprint to India at US \$*** per MT in ***, 1996 and at US \$ *** per MT from ****, 1996, where as the prices of the exporter in the domestic market declined in each month of the investigation period.
- b. The exporter has stated that it has made all exports to India through their sole agents, Universal Paper and there was no agent in India. The exporter has further stated that it paid commission to Universal Paper @ ***% on ex-works price. The exporter has furnished details of ocean freight and inland freight paid by it on exports to India. Adjustment with regard to ocean freight has been claimed on the basis of actual ocean freight payable/paid by the exporter. Adjustment with regard to inland freight is based on freight cost per container and average load per container.
- c. The ex-works export price has been worked out from the above information given by the exporter.

16. Other exporters from USA and Canada and exporters from Russia:

- a. The other producers/exporters from Canada and USA and all the exporters/producers from Russia have failed to respond to the Authority. The Authority holds that these exporters have failed to co- opera;- with the Authority and the preliminary determination have been announced accordance with Rule 6(8).
- b. The export price in case of Avenor, Daishowa and Price and Piece has been determined from the information given by the importers. The average C&F export price in case of individual exporters has been adjusted for ocean freight, inland freight and commission, on the basis of information furnished by *** and *** Since the exporters have not co-operated with the Authority, the higher of the expenditure incurred by *** and *** has been considered.
- c. Export price in case of Russia has been determined on the basis of information compiled by the Directorate of Commercial Intelligence and Statistics, Calcutta. Since none of the exporters from Russia has co operated with the Authority, export price in case of individual exporters has not been determined. The C&F export prices have been adjusted for ocean freight and commission. The petitioner has claimed ocean freight @ US \$ *** per MT and commission

@ ***%. It is, however, found that highest commission paid is ***% (by ***). It is therefore, considered appropriate to allow freight @ US \$ *** per MT and commission @ ***%.

J. COMPARISON

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."

18. Whereas the argument that the international market was declining is recognised and is well appreciated, the same is irrelevant in so far the issue of dumping by an exporter is concerned. The only relevant issue to decide dumping is the pricing of the exporter in the two different markets. The argument of the interested parties that there was no dumping due to the declining international prices, is not tenable. However, the Authority observes that there was significant decline in the prices in the domestic market also in case of Abitibi and Stone Consolidated. Since the prices in the US and Canadian markets were also declining, any comparison on the basis of averages of normal value and export price for the investigation period as a whole could be misleading. The Authority had, even for the purpose of deciding on initiate-,n made comparison of normal value with export price on month-to-month basis. The Authority observes from the information furnished by Abitibi and Stone Consolidated that it would be appropriate to make comparison of normal value and export price on month-to-month basis. It is also observed that Abitibi and Stone Consolidated have furnished details of all the export transactions made to India. The export price on this basis has been compared with the normal value in US/Canada so that the comparison is done as nearly as possible at the same point of time.

19. Export price in case of other exporters has been compared with the normal value on similar lines, i.e., month-to-month basis.

20. The comparison shows the following dumping margins:

all mounts in US per MT

3	nil	DM	nil	6	0	6	2	(-)
4.	Avenor	NV	***	***	***	***	***	*
**	***							
*	***	EP	***	***	***	***	***	**
	nil	DM	32	51	61	75	nil	nil
5.	Daishowa	NV	***	***	***	**	***	
***	**							
*	***	EP	***	***	***	***	***	**
	nil	DM	51	nil	nil	55	nil	nil
6.	Price 8t Pie	NV,						
EP	***	***	***	***	***	***	***	
	exports from							
	Canada							
*	***	EP	***	***	***	***	***	**
	nil	DM	17	32	30	42	24	51
17.	Price & Piece-	NV	***	***	***	***	***	
NV	***	***	***	***	***	***	***	
	exports from							
	USA							

		EP	***	***	***	***	***	**
*	***							
	nil	DM	56	38	nil	nil	nil	nil

NV: .normal value,

EP: export price,

DM: dumping margin as percentage of export price. Nil figure in respect of dumping margin indicate nil imports resulting in nil dumping margin.

K. INJURY

21. 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 product 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.

22. Rule (iii) of the Annexure-II to the Rules requires that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigation, the Authority will cumulatively assess the effect of such imports. Such assessment can be, however, made only if it is determined that:

- a. the margin of dumping in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the import of the like article in India, and
- b. the cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

In the present case, the dumping margin in respect of each exporter as also each country is more than the limits prescribed. Further, cumulative assessment of the effect of imports is appropriate in the light of the conditions of competition between

the imported article and the like domestic article. The Authority has, therefore, cumulatively assessed the effects of these imports on the domestic industry.

23. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further 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.

a. Volume and Market Share of Dumped Imports

i) Volume of dumped imports:

Imports of newsprint in India increased from 217108 MT (1992-93) to 301967 MT (1995-96) and were 382861 MT in the seven months of investigation period (656333 MT on annualised basis). Imports from the subject countries collectively increased from 108330 MT (1992-93) to 228899 MT (1995-96) and were 284995 MT in the investigation period (488563 MT on annualised basis). Imports from the subject countries increased by 351% in absolute terms in the investigation period as compared to 1992-93, as may be seen from the following figure 1.

ii) Market share:

Share of the subject countries in the total imports in the country increased from 50% (1992-93) to 74% (investigation period). Market share of the subject countries in the total demand of newsprint in India increased from 21% (1992-93) to 32% (1995-96) and to 54% in the investigation period as may be seen from the following figure 2.

b. Factors affecting domestic industry:

i) Production and Capacity Utilisation:

Production of the domestic industry remained between **2.80 lacs and 2.90 lacs** between 1992-93 and 1995-96. The production increased in the investigation period by 12%. It is, however, found that TNPL has added substantial capacity (by 50000MT). Domestic industry lost market share from 47% (1992-93) to 40% (1995-96). The market share, however, sharply declined to 17% in the investigation period, as may be seen from the figure 2 above.

Petitioner reported that M/s. Nepa Ltd., Danalakshmi Paper Mills Ltd., and Aurangabad Paper Mills Ltd. have suspended production in view of dumping.

ii) Sales in Absolute Quantity

Sales of the domestic industry in absolute volumes remained between 2.70 lacs MT and 2:95 lacs MT between 1992-93 and 1995-96. The sales however, sharply declined by 46% in the investigation period on annualised basis, as may be seen from the figure above.

iii) Selling, Prices Trend:

The domestic industry was not able to sell its produce in view of cheaper imports from the subject countries. The consumers demanded lower prices and higher discounts in view of cheaper produce available from other sources. Increasingly lower prices offered by the exporters in the investigation period forced the domestic industry to offer higher discounts, which resulted in price undercutting in the Indian market. It is also observed that the international prices of major raw material "Pulp" were declining during the investigation period. However, the available data reveals that the decline in the selling prices in the investigation period is significantly higher than the decline in the cost of production.

iv) Stocks: Month-end stocks with the domestic industry indicate increasing trends during the investigation period, as may be seen from the figure 4. Nepa had saleable stocks of newsprint. The shutdown by the company can not be a reason for the 'exporters to dump the goods in India.

iv) Profit/Loss:

The domestic industry was making profit prior to the investigation period. The domestic industry, however, suffered financial losses in the investigation period from sale of newsprint at prices below cost of production with reasonable profits.

vi) Conclusion on injury: The Authority concludes from the foregoing that:

- i. The imports from the subject countries have increased absolute terms;
- ii. The exporters entered in contracts for supplies of newsprint at increasingly lower rates for deliveries to be made in the subsequent months. This forced the Indian industry. to reduce its prices, significantly below cost of production and reasonable profit ;
- iii. The imports from the subject countries resulted in price undercutting in the Indian market;
- iv. Sales of domestic industry declined steeply in the investigation period;
- v. Stocks of newsprint with the domestic industry show increasing trend in the investigation period.

24. It is thus seen the domestic industry has suffered material injury from imports originating from the subject countries.

L. CAUSAL LINK

25. In determining whether material injury to the domestic industry was caused by the dumped imports, the Authority took into account the following facts:

- i. The imports of the product from the subject countries increased significantly in absolute terms and relative to the production and consumption of the product in India. The share of the subject countries in the total imports also increased significantly. As a direct consequence, the domestic industry lost market to a significant level.
- ii. The substantial imports of newsprint from the subject countries at dumped prices forced the domestic industry to reduce its selling prices to unremunerative levels and resulted in a situation of price undercutting in the Indian market. The sales below cost of production resulted in financial losses to the domestic industry.

26. The Authority thus arrived to a conclusion that the material injury to the domestic industry was caused by the dumped imports from the subject countries.

M. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

27. 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.

28. It is recognised that the imposition of, anti dumping duties might affect the price levels of the products manufactured using newsprint 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 measure!, particularly if the levy of the anti dumping duty is limited to the amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti dumping measures would remove unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers. The Authority notes that the imposition of anti dumping measures would not restrict imports from the subject countries in any way, and would not affect the availability of the product to the consumers.

29. To ascertain the extent of Anti-dumping duty necessary to remove the injury to the domestic industry, the Authority has relied upon reasonable selling price of the newsprint in India for the domestic industry, by considering the optimum cost of production and reasonable profit for the domestic industry.

30. The import duty imposed by the Government of India has relevance in determination of the extent of injury suffered by the domestic industry and has been accordingly taken care of.

31. It is appreciated that the newsprint industry is cyclical in nature and has periodical rise and fall. However, dumping is determined with reference to the normal value and export price at nearly same point of time, as brought out above under comparison. The cyclical nature of industry is, therefore, irrelevant for deciding dumping.

32. With regard to confidentiality of information furnished by an interested parties, it is clarified that the rules relating to confidentiality prescribe that in case the Authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalised or summary form, it may disregard such information. There is typographical error in the exporter's questionnaires sent and the word "regard" may be substituted by "disregard".

N. CONCLUSIONS

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

- a. Newsprint originating in or exported from USA, Canada and Russia has been exported to India below its normal value, resulting in dumping;
- b. The **injury has been caused by the imports** from the subject countries.

34. It is considered necessary to impose anti dumping duties provisionally, pending final determination, on all imports of newsprint originating in or exported from the subject countries in order to remove material injury to the domestic industry, pending investigation'

35. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. The weighted average landed price of the imports for each exporter, for the purpose, was compared with the fair selling price of the domestic industry, determined for the period of investigation. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, the Authority recommends that provisional anti dumping duties, as set out below be imposed, from the date of notification to be issued in this

regard by the Central Government, on all imports of newsprint, falling under Chapter 48 of the Customs Tariff, originating in or exported from these countries, pending final determination.

	Products	Name of the exporter	Amount of Duty
	originating in or (Rs. per MT)		
	exported from		
1.	USA	a. Abitibi-Price Inc.	6250
		b. Price & Piece,	2513
		c. Exporters other than above	6250
2.	Canada	a. Abitibi-Price inc.	3089
		a. Stone Consolidated Corpn.	1041
		b. Daishowa Forest Products	2692
		c. Price & Piece,	5160
		d. Exporters other than	
		above	5160
3.	Russia	An exporter	3191

36. The known exporters, importers, petitioners and other interested parties 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.

DIPAK CHATTERJEE,
Designated authority