

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

NOTIFICATION

NEW DELHI, THE 27th SEPTEMBER, 1999

PRELIMINARY FINDINGS

Sub: Anti-dumping investigation concerning imports of Polyester Staple Fibre (PSF) from Indonesia, Korea RP, Thailand and Taiwan.

29/1/98-DGAD - Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rule, 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 a written application from the Petitioner (s) M/s Indo-Rama Synthetics (I) Ltd having registered office at 51-A, Industrial Area, Sector-III, Pritam Pur-453001, District Thar (M.P.) (also referred to as IRSL hereinafter) supported by M/s JCT Ltd. (also referred to as JCT hereinafter) with registered Head office at village Chohal, Distt. Hoshiarpur, Punjab on behalf of domestic industry, alleging dumping of Polyester Staple Fibre (PSF) (hereinafter also referred to as subject goods) originating in or exported from Indonesia, Thailand, Taiwan and Korea RP. The Association of Synthetic Fibre Industry (ASFI) have also supported the petition.
 - ii. Preliminary scrutiny of the application filed by petitioner revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was, therefore, considered as properly documented.
 - iii. The Authority, on the basis of sufficient evidence submitted by the petitioner decided to initiate the investigation against imports of subject goods from Indonesia, Korea RP, Thailand and Taiwan. The authority notified the Embassy of Indonesia, Korea RP, Thailand and Taiwan in New Delhi about the dumping allegation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rule.

- iv. The Authority issued a public notice dt. 25.1.99 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of PSF classified under custom Code 5503.20 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from Indonesia, Korea RP, Thailand and Taiwan (hereinafter also referred to as the subject countries).
- v. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by petitioner) and industry associations and gave them an opportunity to make their views known in writing in accordance with the rule 6(2):
- vi. The Authority forwarded a copy of the public notice to all the known importers (whose details were made available by petitioner) of PSF in India and advised them to make their views known in writing within forty days from the date of issue of the letter.
- vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of PSF made in India during the past three years, including the period of investigation.
- viii. The Authority provided a copy of the petition to the known exporters and the Embassy of the subject countries in accordance with Rules 6(3) supra. A copy of the petition was also provided to other interested parties, wherever requested.
- ix. The Authority sent a questionnaire to elicit relevant information to the following known exporters, in accordance with the Rule 6(4):
 1. M/s Kohap Ltd., Seoul
 2. M/s Dae Han synthetics Fibre, Seoul
 3. M/s Sunkyong Industries Ltd., Seoul
 4. M/s Sam Yang Co Ltd., Seoul
 5. M/s Saehan Industries Inc., Seoul
 6. M/s Teijin Polyester (Thailand) Ltd., Bangkok
 7. M/s Tuntex (Thailand) Co. Ltd., Bangkok
 8. M/ P T Indo-Rama Synthetics, Jakarta, Indonesia
 9. M/s P T Teijin Indonesia Fiber Corpn., Jakarta, Indonesia
 - 10.M/s Far Eastern Textile Ltd., Taiwan
 - 11.M/s Nan Ya Plastics Corpn., Taiwan

A number of parties requested for extension of time, which was allowed by the Authority upto 22.3.99.

- x. The Embassy of the subject countries 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 their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and

questionnaire sent to the exporters was also sent to the Embassy, alongwith a list of known exporters/producers.

xi. A questionnaire was sent to the following known importers of PSF for necessary information in accordance with Rule 6(4):

1. M/s Banswara Syntex, Mumbai
2. M/s Bharat Commerce, Ujjain, MP
3. M/s Bombay Dyeing, Mumbai
4. M/s Coats Viyella, Tamil Nadu
5. M/s Deepak Spinning, New Delhi
6. M/sDerby Textiles, Jodhpur, Rajasthan
7. M/s Euro Cotspin Ltd., New Delhi
8. M/s Forbes Gokak, Mumbai
9. M/s HEG ltd, New Delhi
- 10.M/s Hanil Era Tex, Mumbai
- 11.M/s Jamshri Ranjit, Mumbai
- 12.M/s Kerala Spinners, Kerala
- 13.M/s Loyal Textiles, Tamil Nadu
- 14.M/s Malwa Cotton, New Delhi
- 15.M/s Orient Syntex, New Delhi
- 16.M/s R K Synthetics, Bhilwara, Rajasthan
- 17.M/s Raj Textile Mills, Rajasthan
- 18.M/s Ramalinga Mills, Tripur
- 19.M/s Raymonds Ltd, Mumbai
- 20.M/s Standard Ind., Mumbai

A number of parties requested for extension of time, which was allowed by the Authority upto 22.3.99.

Response to the questionnaire/notification was filed by the following exporters/traders:

1. M/s Saehan Industries Inc., Seoul, South Korea
2. M/s S.K. Chemicals Co. Ltd., Seoul, South Korea
3. M/s Sam Yang Corporation, Seoul, South Korea
4. M/s Teijin Polyester (Thailand) LTD, Bangkok, Thailand
5. M/s Kangwal Polyester Co. Ltd. Thailand
6. M/s Indo-Poly (Thailand) Ltd., Thailand
7. M/s P T Indo-Rama, Jakarta, Indonesia
8. M/s P T Teijin Indonesia Fiber Corporation, Jakarta, Indonesia (TIFICO)
9. M/s Far Eastern Textile Ltd., Taiwan
- 10.M/s Nan Ya Plastics Corpn., Taiwan

- 11.M/s Shingkong Synthetic Fiber Corporation, Taiwan
- 12.M/s Taiwan Man-made Fiber Industries, Taiwan
- 13.M/s Marubeni Hongkong Limited, Hongkong
- 14.M/s Tung Ho Spinning Weaving & Dyeing Co. Ltd., Taiwan
- 15.M/s P T Sulindafin, Indonesia
- 16.M/s P T Branta Mulia Tbk, Indonesia
- 17.M/s Sam Yang Corporation, Seoul
- 18.M/s P.T. Indonesia, Toray Synthetics, Indonesia

Response to the questionnaire/notification was filed by the following Importers/user Associations:

1. M/s APM Industries Ltd., K G Marg, New Delhi
 2. M/s Forbes Gokak Ltd., Mumbai
 3. M/s Nahar Exports Ltd., Ludhiana
 4. M/s Madura Coats Ltd. Bangalore
 5. M/s Rajasthan Spinning & Weaving Mills, Noida
 6. M/s Indian Spinners Association, Mumbai
 7. M/s The Rajasthan Textiles Association, Jaipur
 8. M/s HEG Ltd., Noida
 9. M/s The Indian Cotton Mills Federation, K G Marg, New Delhi
- xii. Additional information regarding injury and standing was sought from the petitioner, which was also furnished. The cost of production and injury information was filed by M/s Indo-Rama Synthetics Ltd, M/s JCT and M/s Reliance Industries Ltd.
- xiii. the Authority conducted on the spot investigation at the premises of the petitioner(s) to the extent considered necessary;
- xiv. The Authority kept available non-confidential version of the evidence presented 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. Cost investigation were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioners also so as to ascertain if anti-dumping duty lower than dumping margin would be sufficient to remove injury to the domestic industry.
- xvi. ****in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules;
- xvii. Investigation was carried out for the period starting from 1.1.98 to 31.12.98.

B. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES

1. IMPORTER'S VIEW

A. ON DOMESTIC INDUSTRY

- i. M/s IRSL is a related/linked company of M/s PT Indo-Rama Synthetics, Indonesia. M/s IRSL have historically been importing the product concerned from M/s PT Indo-Rama Synthetics, Indonesia. It is stated that in the annual Report of M/s PT Indo-Rama under the heading 'affiliated companies which have the same management as the company', M/s IRSL is indicated.
- ii. (a) Mr. M L Lohia is the Chairman of M/s IRSL and is also the President Director of M/s PT Indo-Rama Synthetics, Indonesia.

(b) Mr. O P Lohia son of Mr. M L Lohia is the Managing Director of M/s IRSL.

(c) Mr. Sri Prakash Lohia son of Mr M L Lohia is the Vice-President Director of M/s PT Indo-Rama Synthetics, Indonesia.

(d) Mr. A P Lohia is also a common director in both the companies.

(e) 60% of the share holding of M/s IRSL is held by 7 non-resident share holders.

(f) Legal and operational relationship between M/s IRSL and M/s P T Indo-Rama Synthetics, Indonesia is conclusively established. Both the companies are under the control of same common promoter director.
- iii. M/s RIL is disqualified from the scope of Domestic industry as it has imported PSF into India in the months of July 97 and July 98.
- iv. The petitioner has not given a complete answer to the questions regarding the imports during the last two years and for the current year to date. The answer given by M/s IRSL and M/s JCT has been qualified and mischievous that they have not been importing from any of the subject countries.
- v. Declaration of the producers association cannot replace expression of support from the producers as stated in article 5, para 5.4 of the WTO Agreement. The Association did not provide positive evidence to carry out a detailed examination in order to determine whether there is a direct support of those producers whose collective output constitute more than 50% of the production of the like article expressing either support or opposition to the complaint. The

letter of support given by association is not under the signatures of the authorised officials.

- vi. The domestic industry support to the complaint by M/s IRSL and M/s JCT constitute 31.13% only and, therefore, the threshold of 50% as laid down by article 5 para 5.4 of 50% explicit support is not met with.

B. ON PRODUCT UNDER CONSIDERATION AND LIKE ARTICLES

- i. M/s IRSL has made an incorrect and misleading statement in para 6 of the petition as if the petitioner's product and the product exported from the subject countries are like article. M/s IRSL does not produce Super High Tenacity (SHT) fibres which is meant for the manufacturing of sewing threads and as such SHT fibre ought to have been specifically excluded from the petition.
- ii. In para 5 of the petition, the petitioner has made a wrong statement with regard to technology and manufacturing process adopted by the petitioner being same as that adopted by the manufacturers world over. SHT and Normal Tenacity (NT) are not technically or commercially inter-changeable or substitutable. Indian customs Tariff recognizes high tenacity yarn as a distinct commodity. The SHT fibre of specifications exported by M/s Teijin is not manufactured at all in India. The SHT manufactured by M/s RIL or M/s JCT does not conform to the specifications of M/s Teijin. M/s Madura Coats Ltd. are required to strictly conform to the raw material specifications and are required to meet certain minimum quality standards associated with their product brand and, therefore, usage of SHT fibre of specifications as exported by M/s Teijin is essential. Certain local production which is used for manufacturing of sewing threads falls well short of the minimum specification of SHT.

C. ON DUMPING

- i. Under the principles laid down in the comparative laws of other countries viz. European Union, the proceedings are not carried out against countries whose imports represent a market share of below 1% unless such countries collectively account for 3% or more of community consumption. In the instant case, the total imports of product under consideration into India constitute only 1.96% of the domestic consumption which includes substantial proportion of imports under advance licences. The imports of PSF amount to 1.5% of the indigenous production of PSF which is less than the statutory limit of 3%. Therefore, there is a strong ground to terminate the investigation.
- ii. M/s PT Indo-Rama Synthetics, Indonesia has mentioned that they do not have a system of list pricing which indicates that PSF does not constitute commodity trade.

- iii. The import duty in India is 42.93% which is far in excess of the taxes payable in respect of domestic sales in Thailand, the export price, would, therefore be far in excess of the domestic Thailand prices and as such on a fair comparison there would be no margin of dumping.
- iv. The domestic price of PSF in the country of origin are higher than the CIF prices of PSF to India in respect of subject countries.

D. ON INJURY

- i. Prior to initiation of the case, evidence of injury was not sufficiently provided by the producers. Injury to the PSF manufacturers existed prior to the period of investigation and it has no relevance whatsoever to something that has been caused by alleged dumping. The producers of PSF have sub-optimal capacities than the minimum viable size of PSF manufacturers. The injury has been since 1991 when economic reforms were introduced by opening of Indian industry to globalization.
- ii. The PSF manufacturers have registered a significant growth during the period of investigation. The producers like M/s Reliance industries Ltd. (RIL) have claimed in its Annual Report that it will become the 5th largest producer of PSF in the world. The capacity utilization of M/s IRSL and M/s RIL have been uniformly much higher than the small players in the industry.
- iii. The volume of imports has reduced significantly during the period of investigation. The imports accounted only to 9990 tonnes from Jan. to Dec.,98. The percentage of imports of PSF into India as compared to the number of imports in India is less than 2%. Exports of PSF from Thailand account for less than 0.3%.The imports of PSF into India have declined by 60%. Sales of the petitioner companies have grown by 38%.
- iv. During the period of investigation, the prices of PSF have undergone a recovery as evidenced from certain secondary sources. The anti-dumping duty on PTA have enabled the monopoly manufacturer i.e. M/s RIL of PTA to calibrate its domestic prices which have resulted in higher cost of production to the PSF manufacturers in India.
- v. In the petition M/s IRSL have indicated in point 7 that details of profit made on PSF cannot be disclosed to others. The petitioner has withheld information about the exports made by it. M/s IRSL have been exporting PSF as indicated in their Annual Report.
- vi. M/s IRSL has suppressed the fact that its price has deliberately been kept at a level much lower than the prices charged by the other domestic producers.
- vii. The capacity utilization of Indian industry has also increased from 66.9% in 96-97 to 82.87% in 98-99. The capacity utilisation of M/s IRSL and M/s JCT have increased from 68.17 % in 97-98 to 73.83% in 98-99. M/s RIL has increased its

production by about 72%. M/s RIL is making good profits on PSF as indicated in its Annual Report.

E. ON CAUSAL LINK

- i. The imports under advance licences do not have any causation effect on domestic market and these should be excluded from the imports computation and resultant causation impact. After exclusion, the volume of imports would be insignificant miniscule that deserves to be ignored.
- ii. The petitioners have falsely stated that the exporters from other countries are exporting PSF in the Indian market at a much higher price.
- iii. The import price of PSF from other countries are even lower than that of M/s Teijin. The petitioner is, therefore, seeking a discriminatory determination by the Authority.
- iv. No mention has been made in the Report regarding effects of imports of PSF on the domestic production. From the prices charged by the petitioner in the domestic market as evidenced from the response of other users, it is obvious that the imports have not affected the prices of domestic producers which had remained at a higher level. There is no mention in the Annual Report of M/s IRSL and M/s RIL regarding the fact that the material injury has been caused to the Domestic industry by the imports of PSF from the subject countries.
- v. The Annual Report of M/s IRSL indicates that the imbalance in the available capacity and domestic consumption have caused polyester product prices to be lower than the landed import price.
- vi. ASFI in a pre-budget memorandum of the Ministry of Finance stated that the Govt. policies continued to be tilted in favour of cotton, which adversely affected polyester.
- vii. M/s RIL has mentioned in its annual report that its market share increased from 41% to 54%. The unsatisfactory results of M/s IRSL are due to its own inefficiency, labour trouble and other factors including lack of finance etc. and not on account of PSF imports from M/s Teijin.
- viii. The prices of PSF all over the world has fallen because of PTA and paraxylene. When PTA sold at a price of US\$ 310/MT, the price of PSF cannot be more than USD600/MT. The prevailing prices of PSF is a temporary cyclic phenomenon not necessarily linked to massive dumping. The reduced prices are outcome of cyclic variation in prices which augurs well for exports as it offers them a competitive edge in the global market. If PSF is dumped at 600 dollars as alleged by M/s IRSL and others, why one should not consider that PTA is also dumped which is their raw material. The domestic fibre producers already have a protection of 42% value of landed price of imported fibre and there is no necessity of further protection.

F. OTHER ARGUMENTS

- i. The consumer interest should be given appropriate consideration by the Designated Authority before proceeding further in the investigation. Article 21 of the EU Laws on Anti-dumping states that “a determination as to whether the community interests calls for intervention should be based on an appreciation of all the various interests taken as a whole, including the interests of the domestic industry, and users and consumers.’
- ii. It is not sufficient just or proper not to have a hearing before the person who has to take a quasi judicial decision.

2. EXPORTER’S VIEWS

A. ON DOMESTIC INDUSTRY

- i. M/s IRSL and M/s JCT who jointly account for only 31.13% of the total domestic production of PSF do not constitute a major proportion of the total domestic production as set out in Rule 2(b).
- ii. ASFI is not a domestic producer and, therefore, their support is irrelevant. M/s RIL has also not supported the petition.
- iii. M/s IRSL and M/s PT Indo-Rama Synthetics, Indonesia are related as evident from the Annual Report of 97-98 of the petitioner.
- iv. The petitioner has not given a complete answer to the questions regarding the imports during the last two years and for the current year to date. The answer given by M/s IRSL and M/s JCT has been qualified and mischievous that they have not been importing from any of the subject countries.
- v. There are no supporting documents to indicate support by M/s JCT.

B. ON PRODUCT UNDER CONSIDERATION

- i. SHT manufactured by M/s Teijin has a different manufacturing process and technology as compared to NT.
- ii. M/s IRSL has made an incorrect and misleading statement in para 6 of the petition as if the petitioner’s product and the product exported from the subject countries are like article. M/s IRSL does not produce Super High Tenacity (SHT) fibres which is meant for the manufacturing of sewing threads and as such SHT fibre ought to have been specifically excluded from the petition.
- iii. In para 5 of the petition, the petitioner has made a wrong statement with regard to technology and manufacturing process adopted by the petitioner being same as that adopted by the manufacturers world over. SHT and Normal Tenacity (NT) are not technically or commercially inter-changeable or substitutable. Indian customs Tariff recognizes high tenacity yarn as a distinct

commodity. The SHT fibre of specifications exported by M/s Teijin is not manufactured at all in India. The SHT manufactured by M/s RIL or M/s JCT does not conform to the specifications of M/s Teijin. M/s Madura Coats Ltd. are required to strictly conform to the raw material specifications and are required to meet certain minimum quality standards associated with their product brand and, therefore, usage of SHT fibre of specifications as exported by M/s Teijin is essential. Certain local production which is used for manufacturing of sewing threads falls well short of the minimum specification of SHT.

- iv. Out of the small quantity of exports from Taiwan, 50% of the PSF was of fiber fill (non-spun category) which is not produced by the petitioners.

C. ON DUMPING

- i. Export price of SHT at the ex-factory level if compared with the normal value thereof being the ex-factory domestic price in Thailand, the differential is only about 3% which is close to the de minimis 2% margin. Even in case of NT, the margin is very low.
- ii. The percentage of imports of PSF into India as compared to the number of imports in India is less than 2%. Exports of PSF from Thailand account for less than 0.3%.
- iii. The import duty in India is 42.93% which is far in excess of the taxes payable in respect of domestic sales in Thailand, the export price, would, therefore be far in excess of the domestic Thailand prices and as such on a fair comparison there would be no margin of dumping.
- iv. PSF exports from Taiwan to India have decreased dramatically and accounted for only 462 MT which is less than 10% of the volume in 1997 and 1996 and even less than 4% of the volume in 1995. Such a minimal quantity must be considered as negligible imports in the terms of article 5.8 of the WTO Anti-dumping Agreement and cannot have contributed to any injury alleged to have been suffered by the petitioners.
- v. Such imports from Taiwan below the 3% threshold and the proviso provisions are not applicable and the investigation be terminated.
- vi. Two major PSF exporters in Taiwan, Nan Ya Plastics and Shinkong Synthetic Fibers stopped exporting to India during the entire reference period.

D. ON INJURY

- i. The major factors which affect the profitability of Indian producers of PSF is the high price of PTA/DMT available to them as imports are subjected to anti-dumping duty.

- ii. The import price of PSF from other countries are even lower than that of M/s Teijin. The petitioner is, therefore, seeking a discriminatory determination by the Authority.
- iii. The capacity utilization of Indian industry has also increased from 66.9% in 96-97 to 82.87% in 98-99. The capacity utilisation of M/s IRSL and M/s JCT have increased from 68.17 % in 97-98 to 73.83% in 98-99. M/s RIL has increased its production by about 72%. M/s RIL is making good profits on PSF as indicated in its Annual Report.
- iv. The selling prices of Taiwan PSF in India after taking into account 30% customs duty+5% special customs duty and an estimated 5% mark up by importers to cover handling charges and profits are higher than those of Indian producers.

E. ON CAUSAL LINK

- i. The imports from other countries such as Mexico, Australia and Saudi Arabia accounted for 32.8% of total imports. The prices of such non-subject countries are competitive with the prices of imports from Taiwan and other subject countries.
- ii. Over capacity has been the cause of alleged injury to the Indian industry. The downward trend of petitioners capacity utilisation rate is due to the over expansion of capacity.

3. PETITIONER'S VIEWS

The Petitioner has raised the following major issues in their petition and subsequent submission:-

A. ON DOMESTIC INDUSTRY

- i. Mr. M L Lohia and Mr. A P Lohia are Directors of M/s IRSL. Mr. M L Lohia is the Chairman of the company. Both these directors are not full time directors in our company and, therefore, are not involved at all in day to day functioning of the company. M/s Indo-Rama Financial Corporation International, Plc. is a finance company only. The investments held by this company in M/s IRSL are purely financial investment on the lines done by the Indian Financial Institutions. Since 1.6.99, M/s Indo-Rama Intl. Finance Plc. is no longer a share holder of the company. M/s PT Indo-Rama, Indonesia are not operationally related. Mere relationship because of the same family does not imply that one can control the other.
- ii. There is no ambiguity regarding the standing to file the petition and what constitutes domestic industry. There is no ambiguity that the requirement to be

met at the time of initiation is the 25% threshold. The Designated Authority has also very clearly held in this case as well as many other cases that the legal impediment on the part of the industry is to cross the threshold of 25% (so long as there is no other opposition to the petition) for initiation. The same follows at the time of interim/final duties also. It is also submitted that though there has not been any occasion in the past in India where the production of the petitioners (alongwith supporters) was less than 50%, it is clearly the practice of the investigating authorities world over to consider 25% as the threshold level.

B. ON INJURY

- i. Capacity utilisation of the petitioners which was 89.51% in 96-97 declined to 68.17% in 97-98. Capacity utilisation have increased in first 9 months of 98-99, however, the increase is not significant.
- ii. Sales of domestic industry which was 135826 MT in 97-98 stood at 112703 MT in first nine months of 98-99. The increase sales from 96-97 to 97-98 was only 38.14% as compared to increase in capacity by 69.56% in the same period.
- iii. Best selling prices of Indian industry have declined continuously, forcing petitioners to offer discounts to protect their market.
- iv. Profitability of the industry is deteriorating continuously. All the producers including petitioners are incurring severe financial losses.

C. ON CAUSAL LINK

- i. Exporters from other countries are exporting PSF in Indian market at higher price.
- ii. Demand for subject goods has increased significantly. However, the prices prevailing in the market in view of dumped imports available are unrealistically low, forcing domestic industry to sell at unremunerative prices.
- iii. Grave injury has been caused to domestic industry from imports. The technology adopted by the petitioners is comparable to the technology being adopted by other players world over and that there is no significant difference in manufacturing process.

C. EXAMINATION BY AUTHORITY

The submissions made by exporters, importers, petitioner and other interested parties have been examined and considered and have been dealt at appropriate places in these findings.

1. PRODUCT UNDER CONSIDERATION

The product under consideration in the present investigation is Polyester Staple Fibre (PSF) classified under custom sub-heading 5503.20 of the custom tariff act 1975. PSF is classified under sub-heading no. 5503.20.00 under the harmonised ITC system.

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

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

The manufacturing process, functions & uses and custom classification indicated above are, however, indicative only and are in no way binding on the scope of the present investigations.

2. LIKE ARTICLES

In order to examine whether the PSF produced by the domestic industry is a Like Article to the PSF exported from Indonesia, Korea RP, Thailand and Taiwan characteristics such as physical characteristics (denier, lustre, length, tenacity), manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods have been considered.

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

The Authority notes that the difference pointed out by the exporters is with reference to technology and quality. Even if, there is difference in quality, it does not imply that the two goods are not interchangeable. Mere difference in quality would call for price adjustment for the purpose of fair comparison. No price adjustment is however, feasible under the present circumstances in view of unquantified claim. The Authority, therefore, holds that the goods exported from subject countries and goods produced by the petitioner have characteristics closely resembling each other and that the two are technically and commercially substitutable. The goods produced by the domestic

industry are a Like Article to the goods exported from subject countries within the meaning of the Rule 2(d).

3. DOMESTIC INDUSTRY

The petition has been filed by M/s IRSL and supported by M/s JCT. The Association of Synthetic Fibre Industry, New Delhi has also supported the petition.

It has been argued by many interested parties that association of producers cannot replace expression of support from the producers and that M/s Reliance Industries Limited a major producer has not supported the petition. It has also been argued that M/s Reliance Industries Limited is an importer and M/s IRSL is related to M/s PT Indo-Rama synthetics, Indonesia and thus the petition is not maintainable under the Rule 2(b).

The Authority after examination of the facts notices that M/s Reliance Industries Ltd. (RIL) has imported 17 MT of PSF for developmental purposes in two consignments. These imports when compared to the total production of M/s RIL in the period of investigation comprise .007% of the total production of M/s RIL, which is absolutely insignificant and miniscule. The Authority concludes that these imports by M/s RIL do not appear to be for commercial purposes. In view of this, the Authority does not consider it appropriate to exclude M/s RIL from the scope of domestic industry under Rule 2(b), as amended on 15.7.99.

As regards, the contention regarding relationship of M/s IRSL with M/s P T Indo-Rama, Indonesia, the Authority notices that there is a mention regarding affiliation of the two companies from the Annual reports of M/s P T Indo-Rama, Indonesia. The commonality of two Directors in the two organisations and the investments made by M/s Indo-Rama International Finance Inc. in M/s IRSL and M/s P T Indo-Rama, Indonesia also indicate that there could probably be operational linkages. However, no specific instances have been brought to the notice of Authority from wherein these operational linkages could be conclusively established. The Authority in view of no conclusive material evidence, does not consider it appropriate to exclude M/s IRSL from the scope of the domestic industry, for the purpose of the preliminary findings.

The Authority notices that there has also been explicit support to the present investigations by M/s BPRL (Bongaigaon Refinery and Petrochemicals Ltd, New Delhi) and M/s IOCL (Indian Organic Chemicals Ltd., New Delhi) and M/s Reliance Industries Ltd. subsequent to initiation. None of the other domestic producers have opposed the investigations.

In view of the above, the Authority notices that M/s JCT and M/s IRSL who represent 30.1% of the total domestic production qualify the test of standing as indicated in Rule 5(3)(a) and 5(3)(b), and with no opposition from other domestic producers and explicit support of M/s BPRL, M/s IOCL and M/s RIL, therefore, represent domestic industry within the meaning of the Rules 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 transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

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

A. KOREA

Saehan Industries Inc.

Normal Value

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

Export Price

The exporter has claimed export price on the basis of average of selling price to customers in India. The exporter has claimed adjustments on inland freight, handling and credit. The authority allows these adjustments for the purpose of preliminary findings pending further investigation. The weighted average export price thus for all grades comes to ***\$/kg.

B. THAILAND

Teijin Polyester(Thailand) Ltd.

Normal Value

The exporter has claimed normal value separately for high tenacity and regular fibre of PSF on the basis of average of selling price to customers in domestic market. The exporter has claimed adjustment on transportation. The authority allows the adjustment for the purpose of preliminary determination pending further investigation. The petitioner has provided month wise details of all sales made in the domestic market separately for the two grades of fibres. The authority notes that the petitioner has furnished its cost of production for the subject goods separately for the two grades. Scrutiny of the same reveals that the same is above the selling price in a number of monthly transactions. The Authority has, therefore, disregarded all these transactions which were found to be at a loss. The Authority notes that the remaining transactions are significant and representative for the purpose of determination of Normal

Value. The Weighted Average Normal value for the two grades comes to ***\$/kg.

Export Price

The exporter has claimed export price on the basis of average of selling price to customers in India. The exporter has claimed adjustments on ocean freight, ocean insurance, transportation and tax refund. The authority allows these adjustments for the purpose of preliminary findings pending further investigations. The weighted average export price thus for the two grades comes to ***\$/kg.

KANGWAL POLYESTER CO., LTD.

Normal Value

The exporter has claimed normal value for the SD Grade A PSF on the basis of average of selling price to customers in domestic market. The exporter has not claimed any adjustments. The authority considers average selling price without adjustments for the purpose of preliminary determination pending further investigation. The average Normal value comes to ***\$/kg.

Export Price

The exporter has claimed export price on the basis of average of selling price to customers in India. The exporter has claimed adjustments on inland freight, storage handling, commission, ocean freight, ocean insurance, shipping charges and bank fee. The authority disallows adjustments on storage for the purpose of preliminary findings pending further investigation. The average export price comes to ***\$/kg.

C. TAIWAN

Far-Eastern Textiles Ltd., Taiwan

Normal Value

The exporter has claimed normal value separately for PSF for spun yarn and non spun yarn on the basis of average of selling price to customers in domestic market. The exporter has claimed adjustments on discounts, inland freight and interest. The authority allows these adjustments for the purpose of preliminary determination pending further investigation. The petitioner has provided transaction wise details of all sales made in the domestic market separately for the spun and non-spun categories. The authority notes that the petitioner has furnished it cost of production

for the subject goods separately for the two categories. Scrutiny of the same reveals that the same is above the selling price in a number of transactions. The Authority has, therefore, disregarded all these transactions which were found to be at a loss. The Authority notes that the remaining transactions are significant and representative for the purpose of determination of Normal Value. The Weighted Average Normal value for spun yarn category comes to ***/kg.

Export Price

The exporter has claimed export price separately for PSF spun yarns and non-spun yarn on the basis of average of selling price to customers in India. The exporter has claimed adjustments on ocean freight, ocean insurance, commission, inland freight, interest, shipping charges, clearance and handling and bank charges. The authority allows these for the purpose of preliminary findings pending further investigation. The average export price thus for PSF for spun yarn category comes to ***/kg.

D. INDONESIA

M/s P T Indo-Rama Synthetics TBK, Indonesia

Normal Value

The exporter has provided grade-wise details of domestic sales transactions. The exporter has claimed adjustments on freight and bank interest and discounting charges. The same has been allowed by the Authority for the purpose of preliminary determination pending further investigation. The petitioner has provided its cost of production for 3 different grades/categories separately. Scrutiny of the same reveals that the same is above the selling price in a number of transactions. The Authority has, therefore, disregarded all these transactions which were found to be at a loss. The Authority notes that the remaining transactions are significant and representative for the purpose of determination of Normal Value. The weighted average normal value comes to ***/kg.

Export Price

Exporter has provided details on export transactions. Exporter has claimed adjustments on ocean freight, inland freight, insurance, bank interest, bank charges etc. The Authority allows these adjustments for the purpose of preliminary determination pending further investigation. The average export price for the dumped transaction is ***/kg.

5. DUMPING - Comparison of Normal Value and 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.”

For the purpose of fair comparison between the normal value and the export price, the Authority has considered taking into account the information furnished by the exporters, and other published information available with the Authority. The normal value and export price determined, as detailed above, are at ex-works level and therefore, the comparison of normal value with weighted average export price has been considered.

The dumping margin for exporters comes as under:

Exporter	Normal value	Export price	Dumping margin
Indonesia			
M/s PT Indo-Rama Synthetics, Jakarta	*****	*****	2.45%
M/s PT Teijin Indonesia Fiber Corporation, (TIFICO), Jakarta	*****	*****	Nil
Any other exporter	*****	*****	2.45%
Korea RP			
M/s SAEHAN INDUSTRIES Inc., Seoul	*****	*****	5.53%
Any other exporter	*****	*****	13.2%
Thailand			
M/s Teijin Polyester (Thailand)Ltd.	*****	*****	20.8%
M/s Kangwal Polyester Co. Ltd.	*****	*****	5.73%
Any other exporter	*****	*****	20.35%
Taiwan			
M/s Far Eastern Textile Ltd., Taiwan	*****	*****	8.06%
Any other exporter			8.06%

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

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

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

It has been argued by interested parties that imports from subject countries have declined and constitute insignificant percentage of total consumption, production, sales and capacity utilization of petitioner (s) have increased. It has also been argued that imports under Advance Licence be excluded from total imports from subject countries to assess injury. In this regard, references have been made to Annual Reports of producers, wherein there is mention of reasons other than dumping for the injury to domestic industry. The petitioners have argued that threshold of 25% constitutes a major proportion for the domestic industry. The Authority has considered all these arguments and assessed injury cumulatively by examining various injury indices as per the consistent practice of looking at ‘a major proportion’ of the total production as stipulated in Rule 2(b).

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

It is seen that the domestic industry has suffered material injury from dumped imports. In establishing that the material injury to the domestic industry has been caused by the imports from the subject countries, the Authority for the purpose of the Preliminary Findings, holds that dumped exports from Korea RP and Thailand have depressed the prices of subject goods in the domestic market and forced the domestic industry to sell at unremunerative prices, resulting in financial losses to the domestic industry.

7. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

It has been argued by interested parties that community interest be kept in view.

The Authority holds 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.

It is recognised that 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 on the Indian market will not be reduced by the anti dumping measures, particularly if the levy of the anti dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. 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 PSF. Imposition of anti dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.

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 PSF in India for the domestic industry, by considering the optimum cost of production for the domestic industry.

8. LANDED VALUE

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

(2) KOREA

M/s Saehan Industries Inc., Korea

The authority notices that M/s Saehan Industries Inc. has exported goods through M/s Samsung Corporation to India. No information from M/s Saehan Industries Inc. or M/s Samsung is available on the CIF prices. The Authority on the basis of evidence available from one of the importers regarding CIF prices of the subject goods has determined the weighted average CIF price of the subject goods and computed the landed value as described above in para 8 (1) above.

(3) THAILAND

M/s Teijin Polyester (Thailand) Ltd.

The Authority notes that the exports have been made by M/s Teijin Polyester (Thailand)Ltd. to India through M/s ITOCHU. The Authority has considered the weighted average CIF price of the subject goods, on the basis of the information as available from M/s Madura Coats Ltd., the importer of subject goods from M/s Teijin Polyester (Thailand) Ltd.

M/s Kangwal Polyester Co. Ltd.

The Authority has considered the weighted average CIF price on the basis of information provided by the exporter.

(4) TAIWAN

M/s Far Eastern Textile Ltd.

The authority notes that the exporter has provided information on customer wise export transactions to India. The Authority has considered weighted average CIF price of only dumped transactions which have caused injury to the domestic industry.

(5) INDONESIA

M/s P T Indo-Rama Synthetics

The Authority has considered the CIF price of the dumped transactions on the basis of information provided by the exporter.

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

The Authority has considered the CIF price of the dumped transactions on the basis of information provided by the exporter.

Non-cooperating exporters from the subject countries have been assessed as under:

Taiwan

The Normal value and export price at ex-works level and landed value as worked out for M/s Far Eastern Textiles Ltd., has been adopted.

Korea

The normal value of M/s Saehan Industries Inc. and the weighted average CIF price on the basis of information available from one of the importers from South Korea have been referenced for working out the dumping margin and the landed value.

Indonesia

The weighted average normal value and weighted average export price of the dumped transactions for the cooperating exporters has been referenced for working out the dumping margin and the landed value.

Thailand

The weighted average normal value and weighted average export price of the dumped transactions for the cooperating exporters has been referenced for working out the dumping margin and the landed value.

D. CONCLUSIONS:

It is seen, after considering the foregoing, that:

- a. PSF originating in or exported from Indonesia, Korea RP, Thailand and Taiwan has been exported to India below normal value, resulting in dumping;
- b. The Indian industry has suffered material injury;
- c. The injury has been caused by the imports from Thailand and Korea RP.

It is considered necessary to impose anti dumping duty, provisionally, pending final determination, on all imports of PSF of all deniers, lustre and length for spun yarn including super high tenacity PSF originating in or exported from the subject countries. The PSF for non-spun yarn category including that used for stuffing is excluded from the scope of imposition of anti-dumping duty pending further investigation.

It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. Landed value of the imports for individual exporters, for the purpose, was compared with the non-injurious price of the domestic industry, determined for the period of investigation. Wherever injury exists and the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, no duties are recommended in the case Indonesia and Taiwan and M/s Teijin Polyester (Thailand) Ltd. of Thailand pending further investigation. It is proposed 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 PSF originating in or exported from Korea RP and Thailand falling under Chapter 55 of the Customs Tariff, pending final determination.

Products originating in or exported from	Name of the Exporter	Amount of duty (Rs/MT)
Korea RP	M/s SAEHAN INDUSTRIES Inc., Seoul	1901
	Any other exporter	2167
Thailand	M/s Kangwal Polyester Co. Ltd., Thailand	1206
	Any other exporter excluding M/s. Teijin Polyester (Thailand) Ltd. of Thailand	1206

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;
- 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. No fresh evidence will be accepted at this stage;

- 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.

(RATHI VINAY JHA)