

MINISTRY OF COMMERCE

NOTIFICATION

New Delhi, the 10th November. 1999

PRELIMINARY FINDINGS

Subject:- Anti-dumping investigation concerning imports of Acrylic Fibre from Taiwan- Preliminary Findings.

27/1 /99-DGAD ,--Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules,1995, thereof;

A. PROCEDURE

1. The procedure described below has been followed with regard to the investigation:
 - i. The Designated Authority (hereinafter also referred to as Authority), under the above Rules, received a written application from the Forum of Acrylic Manufacturers Association on behalf of M/s Indian Acrylic Ltd., Pasupati Acrylon Ltd. and Consolidated Fibre and Chemicals Ltd on behalf of the domestic industry, alleging dumping of Acrylic Fibre (hereinafter also referred to as subject goods) originating in or exported from Taiwan.
 - 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 investigations against imports of acrylic fibre from Taiwan. The Authority notified the Economic and Cultural Centre of Taiwan about the receipt of dumping allegation before proceeding to initiate investigation in accordance with sub-rule 5(5) of the Rules;
 - iv. The Authority issued a public notice dated 28th July, 1999 published in the Gazette of India, Extraordinary, initiating anti - dumping investigations concerning imports of Acrylic fibre classified under custom subheading 5501 and 5503 of Schedule 1 of the Customs Tariff Act, 1975 originating in or exported from Taiwan (hereinafter also referred to as the subject country).
 - v. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the petitioners) 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 Acrylic fibre 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 Acrylic fibre made in India during the past three years, including the period of investigation.

- viii. The Authority provided a copy of the petition to known exporters and the Economic and Cultural Centre of subject country in accordance with rules 6(3) supra.
- ix. The Authority sent a questionnaire to elicit relevant information, to M/s. Gugu International Co., Ltd., Taiwan the only known exporter as indicated by the petitioner in accordance with the rule 6(4); No response was received from M/s. Gugu International Co., Ltd., Taiwan. Instead information on the subject was filed by M/s Formosa Plastics Corporation, Taiwan
- x. The 'Economic and Cultural Centre of the subject country in New Delhi was informed about 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 prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to the Economic and Cultural Centre of Taiwan, alongwith a list of known exporters/producers.
- xi. A questionnaire was sent to the following known importers of Acrylic fibre calling for necessary information in accordance with rule 6(4);
- * M/s Vardhman Spg & Gen Mills -- Ludhiana.
 - * M/s Nahar Spg Mills Ltd. - Ludhiana.
 - * M/s. Malwa Cotton Spg Mills Ltd.- Ludhiana.
 - * M/s. Rajasthan Spg & Wvg Mills Ltd.- New Delhi.
 - * M/s. Winsome Textile Industries Ltd. - Chandigarh.
 - * M/s Siddhartha Super Spg Mills Ltd.-New Delhi.
 - * M/s Bhiwani Textile Mills - Haryana,
 - * M/s. Adhinath Textiles Ltd.- Ludhiana
 - * M/s Shruti Syntetics Ltd.- Udaipur

No Response to the questionnaire was filed by any of the importers.

- xii. Additional information regarding injury was sought from the petitioners, which was also furnished.
- xiii. 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;
- xiv. The cost of production of the domestic industry was also analyzed to work out optimum cost of production to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) based on the information furnished by petitioners so as to ascertain if antidumping duty lower than dumping margin would be sufficient to remove injury to domestic industry.
- xv. ***** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xvi. Investigation was carried out for the period starting from 1st April, 1998 to 31st March, 1999.

B. PETITIONERS' VIEWS:

2. The petitioners have expressed the following views with regards to dumping of Acrylic Fibre and the injury 'to domestic industry as a consequence thereto:
- i. The exporters from Taiwan are dumping Acrylic Fibre in India.

- ii. "The prices in the petition have been calculated based on the data published by DGCI&S, Calcutta. These export prices are CIF. The average CIF prices as per DGCI&S Statistics were US\$1144 per MT. However, the exporters from Taiwan have intensified dumping by sharp reduction in the prices which has subsequently declined to US\$750 per MT. This is based on the quotations by some of the exporters. The export price being quoted is even lower than the variable cost of domestic industry.
- iii. The quantum of imports from Taiwan which was 653 MT in 1996-97 has increased to 1496 MT in the first eight months of the POI. The imports in the remaining four months of POI are expected to be significantly higher.
- iv. The petitioner companies are findings it extremely difficult to sell Acrylic Fibre in domestic market in the face of dumping. The petitioner companies had to sell Acrylic Fibre at a price significantly below the Fair Selling Price. The selling price of domestic industry has declined by as much as 25% since 1995-96.
- v. There has been a significant erosion in the profitability of the domestic industry as in current financial year, the domestic industry has incurred a loss of Rs.28 Crores as against a profit of Rs.4 Crores during the year 1997-98.
- vi. The injury to the domestic industry has been on account of increased volume of imports at dumped price from Taiwan.

C. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES

3. EXPORTERS' VIEWS

The exporter M/s. Formosa Plastics Corporation. Taiwan stated as under:-

- a. The quantum of imports as indicated by the petitioner during the year 1997-98 and 1998-99 indicates a much higher level of imports from Taiwan as the DGCI&S statistics may include exports from third countries.
- b. Based on the official statistics of Taiwan the imports from Taiwan in 1998 were less than 3% of the total imports during the year 1998. As such the present investigation needs to be terminated.
- c. The export price from Taiwan have been in line with the international prices of Acrylic Fibre which have declined substantially.
- d. The petitioner have not suffered any material injury and much less from the imports from Taiwan as
 - i. there has been increase in petitioners production;
 - ii. the sales quantity of petitioner companies have increased ;
 - iii. The petitioner companies have maintained an extremely high rate of capacity utilisation;
 - iv. the market share of petitioners was higher than during the year 1997-98 and the increase in the stock level of petitioner may be on account of increase in production capacity.
 - v. There is no Causal Link between alleged material injury to petitioner companies and imports of Acrylic Fibre from Taiwan.

D. EXAMINATION OF THE ISSUES RAISED:

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

E. PRODUCT UNDER CONSIDERATION:

5. The product involved in the present investigation is Acrylic Fibre in the form of Acrylic staple fibre, Acrylic Tow and Acrylic Top. Acrylic fibre is a long chain of synthetic polymer composed of at least 85% by weight of Acrylonitrile units. The Acrylic Fibre is produced in various grades defined in terms of deniers. Acrylic fibre is produced either through wet technology or dry technology. Acrylic fibre has application in day to day life use i.e. household uses and some industrial use. Acrylic fibre is classified under custom code 5501 and 5503 of Customs Tariff Act. The classification is however indicative only and in no way binding on the scope of present investigation.

F. LIKE ARTICLES:

6. Acrylic fibre is produced and sold in various specifications. The various specifications however, merely depict the properties of the fibre and may result in varying end uses. However there is no significant difference in terms of process, equipment or technology to produce different varieties of Acrylic Fibre. It is, therefore, considered that acrylic fibre produced and sold by the domestic industry has characteristics closely resembling to the Acrylic Fibres imported from Taiwan. None of the interested parties has disputed the claims of the Petitioner that the Acrylic Fibre being imported from Taiwan are being used interchangeably by customers in India. In view of the same, the authority holds that Acrylic Fibre being imported from Taiwan and those being produced in India can be used interchangeably and thus are technically and commercially substitutable and therefore are Like Articles within the meaning of the Rules.

G. DOMESTIC INDUSTRY:

7. The petition is jointly filed by M/s Indian Acrylics Ltd., Chandigarh, Pasupati Acrylon Ltd., New Delhi and Consolidated Fibre and Chemicals Ltd. Calcutta. It is claimed by the petitioner that Indian Prochemical Ltd., having their plant at Vadodra is the other company producing Acrylic Fibre. Thus, it is claimed that there are only four units which produces Acrylic Fibre in India. The total production of Acrylic Fibre in 1998-99 is 80,268 MT and the production of petitioner companies was 59,168 MT. Thus, the petitioner accounts for a major portion of the domestic production of Acrylic Fibre during the POI and therefore have the standing to file a petition on behalf of domestic industry as required under the Rules.

H. DUMPING:

8. The Authority has examined Normal value in relation to an article as per the Rules in Section 9A(1)(c).

9. The Authority sent questionnaires to the exporters from the subject country in terms of the section cited above. The claim made by the exporters with regard to normal value and export price and dumping margin are as under:

I. CLAIMS OF THE EXPORTERS:

10. The response was received only from M/s. Formosa Plasticx Corporation, who furnished details of exports made to India during the period of investigations. The claims made in this regard are as under :-

i. NORMAL VALUE

M/s. Formosa Plastics Corporation, the exporter furnished details of domestic sales of Acrylic Fibre during the POI. Separate details were furnished by the exporter in respect of Acrylic Tow and Acrylic Staple Fibre. Accordingly, they claimed an average sales price for domestic sales of US \$ ***** per Kg. The expenses have been claimed in respect of Inland freight and other credit cost to arrive at the Ex-factory price of domestic sales. Accordingly, an Ex-factory domestic price of US\$ ***** was claimed.

ii. EXPORT PRICE:

The exporter furnished invoice-wise details of export of Acrylic Fibre to India during POI. Separate details were furnished in respect of Acrylic Tow and Acrylic Fibre.. The exporter claimed to have exported 478 MT of Acrylc Fibre and Tow during the POI at an average CIF price of US\$***** per MT. Further, expenses have been claimed in respect of export sales on Discount and Commission, inland freight and port charges. They have further claimed expenses on overseas freight, overseas insurance and clearing and' handling charges for export sales. Thus, average Ex-factory price for export sales has been claimed as US\$ ***** per MT.

M/s Formosa Plastics further furnished the details of cost break up of Acrylic Fibre sold in the domestic market and export sales and claimed that there is no dumping of subject goods to India during the POI.

No response was received by the Designated Authority from any other exporters of Acrylic Fibre from Taiwan.

J. EXAMINATION CLAIMED BY AUTHORITY:

11. The claims made by M/s. Formosa Plastics Corporation with regards to Normal Value, Export Price and Dumping Margin have been examined by the Authority and are discussed, herein under:-

M/s Formosa Plastics Corporation, Taiwan.

NORMAL VALUE

The Authority notes that separate details have been furnished by the exporter in respect of Acrylic Tow and Acrylic Staple Fibre. The Authority has considered, average Normal Value

for Tow and Staple Fibre. Subject to verification of information, the Authority has considered the domestic sales price, as claimed by the exporter. Further, the expenses on Inland Freight have been allowed as claimed. However, no adjustment have been considered by Designated Authority in respect of credit cost for domestic sales. Accordingly, the Normal Value has been considered by Designated Authority as US \$ **** per Kg.

EXPORT PRICE:

The average CIF export price in respect of exports of both Acrylic Tow and Acrylic Staple Fibre by M/s. Formosa Plastics Corporation to India during the POI, was US\$ **** per Kg. The expenses on Discount and Commission, inland freight and port charges have been allowed as claimed. Further, the Authority has allowed overseas freight, overseas insurance and clearing and handling charges as claimed, subject to verification of the information. Accordingly, the average Export Price of Acrylic Fibre exported by the M/s. Formosa Plastics during the POI has been assessed at US\$ **** per Kg.

Based on the above, the Dumping Margin in respect of M/s. Formosa Plastics Corporation is assessed by the Authority at US\$ **** per Kg or 6.79 % .

K. DUMPING MARGIN IN-CASE OF NON-CO-OPERATIVE EXPORTERS.

NORMAL VALUE

12. The Authority provided opportunity to the exporters from Taiwan to furnish information relevant to the investigations and offer comments, if any,, in accordance with the Section cited above. The Authority wrote to the Economic and Cultural Centre of Taiwan in India also. However, no other exporters from Taiwan have responded to the Authority's request for information. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by the other interested party(ies). The Authority has, therefore, proceeded on the basis of Rule 6(8), i.e., best information available.

the normal value was determined at the time of initiation of the investigations on the basis of constructed cost of production of Acrylic Fibre in Taiwan. The Authority has considered the same with appropriate adjustment as the basis for determination of the Normal Value. Therefore, the cost of production of Acrylic Fibre in India has been adopted as the basis for the constructed cost in respect of other exporters after allowing for reasonable margins for profits. Accordingly, the normal value of Acrylic Fibre in respect of Non-co-operative exporters has been taken by Authority as US\$ ****per Kg.

EXPORT PRICE

13. The Authority notes that the quantum of imports from Taiwan based on the information made available by the domestic industry was 1590.07 MT at CIF Price of Rs.764.37 lacs. However, as per details furnished by M/s. Formosa Plastics, the quantum of exports of the company of Acrylic Fibre during the POI was 478 MT at a CIF price of US\$**** Million(equivalent Rs.**** lacs). Thus, the balance exports from Taiwan during the POI was 1111.28 MT at a CIF price of Rs **** lacs. However,

no other exporters responded to the information solicited by Designated Authority. Therefore, the balance quantum of exports have been considered by Authority as on account of Non-co-operative exporters. Therefore, the CIF price of exports in respect of Non-co-operative exporters have been considered by the Authority as Rs ***** Kg. (equivalent US\$*****). For the purpose of working out the Ex-factory cost of export sales, the expenses has been considered by Authority on account of Port charges, Ocean freight, Ocean insurance, Commission and discount clearing and -handling charges, inland freight as per details furnished by Co-operative exporter. Thus, Ex-factory export price in case of Noncooperation exporters have been assessed by the Authority at US\$*** per Kg.

Thus, the Dumping Margin in case of Non-co-operative exporters of Acrylic Fibre from Taiwan is assessed by Authority at US\$***** per Kg. or 25.52%..

L. INJURY AND CAUSAL LINK:

14. 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 increase, which otherwise would have occurred, to a significant degree.

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 utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the rules supra.

The various parameters indicating injury to the domestic industry are discussed herein under:-

a. QUANTUM OF IMPORTS

During the year 1996-97, the total imports of Acrylic Fibre from Taiwan was 654 MTs which represented 2.38% of the total imports of Acrylic Fibre in India. However, the imports increased to 1689 MTs during 1997-98 with the share of Taiwan in the total imports at 4.38%. The imports from Taiwan were 1590 MTs during the POI which represent 4.88% of the total imports of Acrylic Fibre in India . The Authority further notes that the average CIF price of imports from Taiwan during 1996-97 was Rs. 44.9 per Kg. which increased to Rs.57.53 per Kg. during 1997-98. However, the average CIF price of exports during the POI declined to Rs.48.7 per Kg. representing a decline of 16.44% over the previous financial year.

b. PRODUCTION AND CAPACITY UTILISATION

It is observed that the installed capacity and production of the petitioners during the last four years are as under:-

Year	Capacity (MTs)	Production (MTs)	Capacity Utilization%
1995-96	50 000	42309	85
1996-97	54,167	55809	103
1997-98	55, 000	60371	110

1998-99	59663	59168	99
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The Authority notes from the above that capacity addition were carried out by some of petitioner companies during the year 1998-99. However, there has been a marginal decline in the total production of domestic industry during the POI. There has been a significant decline in the capacity utilisation of domestic industry . The decline in capacity utilisation was to the extent of 11 % during the POI. Thus the domestic industry was not able to utilise additional capacity created during the POI to the full extent.

c. QUANTUM OF SALES

The total sales of domestic industry for Acrylic Fibre during the financial year 1996-97 was 54,401 MTs which increased to 58,661 MTs during the year 1997-98. However, during the POI the sales volumes for the domestic industry declined to 57325 MTs representing a decline of 1.93% over the previous financial year.

d. SALES VALUES AND SALES REALISATION

The total sales values for the petitioner companies which was Rs.462 Crores during the year 1996-97 increased to Rs.527 Crores during the year 1997-98. However, the sales values of petitioner companies declined to Rs.403 Crores during POI representing a decline 23.5% over the financial year 1997-98.

There has been significant decline in average sales realisation for the domestic since 1996-97. The average sales realisation of the domestic industry which was Rs.89.04 per Kg. in 1996-97 declined to Rs. 82.28 per Kg. during the year 1997-98 representing a decline of 7.6%. The sales realisation during the POI further declined to Rs.75.30 per Kg. representing a decline of 8.48% over the previous year. The cumulative decline in the sales realisation of domestic industry for last two years including the POI was 15.39%.

e. PROFITABILITY

The total profitability of domestic industry during the financial year 1996-97 was (-) Rs.10.17 Crores which improved to Rs.17.61 Crores during the year 1997-98. However, during the POI, there has been a significant erosion in profitability of domestic industry as the domestic industry incurred a loss of Rs. 29.74 Crores.

f. CLOSING STOCKS

It is observed that the closing stocks of petitioner were 1785 MT, 3535 MT and 5037 MT in 1996-97, 1997-98 and 1998-99 respectively. The closing stocks during the year 1996-97 which represented 39 months sales of the domestic industry increased to 72 months sales during 1997-98 and it further increased to 1.05 months sales of the domestic industry during the POI.

In view of the foregoing paragraphs, the Authority observes that the quantum of imports from the subject country have increased relative to the total imports of subject goods in India and there has been significant. decline in the price of imports from the subject country during the POI. The imports of Acrylic Fibre to India has been at a dumped prices resulting in decline in the capacity utilisation, and sales of the domestic industry. Due to the impact of decline in

prices, the domestic industry has suffered erosion in its profitability. Besides, despite the decline in production of domestic industry, the closing stock of domestic industry have increased indicating that domestic industry was not able to sell the Acrylic Fibre in the domestic market. In view of the same, Authority concludes that domestic industry has suffered injury and the injury to the domestic industry has been caused on account of dumped imports from subject country.

M. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:

15. 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.
16. It is recognized 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 Acrylic Fibre. Imposition of anti dumping measures would not restrict imports from the subject countries 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 Injury to the domestic industry, Authority has relied upon Non-injurious price of Acrylic Fibre in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilization for domestic industry.

N. LANDED VALUE:

17. The landed value of imports have determined on the basis of export price of Acrylic Fibre, determined as detailed above in the para relating to dumping, after adding the prevailing level of customs duties and one percent landing and two percent handling charges.

O. CONCLUSIONS:

18. It is seen, after considering the foregoing, that:-
 - i. Acrylic Fibre originating in or exported from Taiwan has been exported to India below normal value, resulting in dumping;
 - ii. The Indian industry has suffered material injury
 - iii. The injury has been caused cumulatively by the imports from the subject country.

It is considered necessary to impose anti dumping duty, provisionally, pending final determination, on all imports of Acrylic Fibre originating in or exported from the subject country, pending investigations.

The Authority considered to recommend the amount of Anti-Dumping Duty equal to margin of dumping or less, which if levied, would remove the injury to domestic industry. The average landed price of the imports, for the purpose, was compared with the. Non-injurious selling price of the petitioner companies determined for the period of investigations. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, the Authority recommends that provisional duties be imposed, on all imports of Acrylic Fibre originating in or exported from Taiwan. The anti-dumping duty shall be the amounts indicated in the table below, to be imposed from the date of Notification to be issued in this regard by the Central Govt. on all the imports of Acrylic Fibre falling under Customs heading 5501 and 5503 of the Customs Tariff, originating in or exported from Taiwan:-

S. No.	Country/Exporters	Amount of Duty (Rs. per Kg.)
1	Taiwan M/s. Formosa Plastics Corporation	3.37
2	All Other Exporters	10.25

19. Landed value of imports for the purpose shall be the assessable value as determined by the customs under the Customs Act, 1962 and all duties of customs except duties levied under Section 3, 3A , 8B 9 and 9A of the Customs Tariff Act, 1975.

P. FURTHER PROCEDURE:

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

The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;

- i. Exporters, importers, petitioners and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days 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.
- ii. The Authority would conduct verifications to the extent deemed necessary. No fresh evidence will be accepted at this stage;
- iii. 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;
- iv. The Authority would disclose essential facts before announcing final findings.

RATHI VINAY JHA...
Designated Authority