

To be published in Section 1: Part I of Gazette of India Extraordinary

MINISTRY OF COMMERCE & INDUSTRY
(Department of Commerce)
Directorate General of Anti Dumping & Allied Duties

Notification

New Delhi, the 06 December, 2001

PRELIMINARY FINDINGS

Subject: Anti-dumping investigation concerning imports of Acrylic Fibre (below 1.5 Denier) originating in or exported from Italy - preliminary findings

No. 43/1/2001-DGAD - The Government of India having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof;

A. PROCEDURE

2. The procedure described below has been followed:-
 - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s Forum of Acrylic Fiber Manufacturers, New Delhi on behalf of the domestic industry, alleging dumping of Acrylic Fibre of below 1.5 denier (hereinafter referred to as subject goods) originating in and exported from Italy (hereinafter referred to as subject country) ;
 - ii. The petition filed by the Forum is supported by the following producers of acrylic fibre in India:
 1. (a) Indian Acrylics Limited,
 2. (b) Consolidated Fiber and Chemicals Limited,
 3. (c) Pashupati Acrylon Limited,
 - iii. The Authority notified the Embassy of Italy in India about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

- iv. The Authority issued a Public Notice dated 28th August, 2001 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Acrylic Fibre below 1.5 denier falling under Chapter heading/subheading 5501.3000 and 5503.3000 of Schedule I of the Customs Tariff Act.
- v. The Authority forwarded copy of the said public notice to the known exporters, importers, industry associations and to the complainants and gave them an opportunity to make their views known in writing.
- vi. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassy of subject country in India.
- vii. The Authority sent questionnaires, to elicit relevant information, to the following exporters from Italy:

1. M/s. Montefibre, Italy.

M/s. Montefibre filed their response. However, the response to the questionnaire filed by the company is incomplete and insufficient, as discussed in detail in the para relating to dumping.

- viii. The Embassy of Italy in New Delhi was also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time;
- ix. The questionnaire was sent to the following users/importers of subject goods:
 - 1. 1. M/s. Punjab Fibres Limited,
 - 2. 2. M/s. Vardhman Spinning & General Mills Limited
 - 3. 3. M/s. Sportking India Limited
 - 4. 4. M/s. Malwa Cotton Spinning Mills Limited
 - 5. 5. M/s. Nahar Spinning Mills Limited
 - 6. 6. M/s. Rajasthan Spinning & Weaving Mills Limited
 - 7. 7. M/s. Winsome Textiles Industries Limited
 - 8. 8. M/s. Siddarth Super Spinning Mills Limited
 - 9. 9. M/s. Bhiwani Textiles Mills
 - 10.10. M/s. Adinath Textiles Limited
 - 11.11. M/s. Shruti Synthetics Limited
- x. Among the users/importers, no response to the questionnaire was filed by any interested party.
- xi. The International Rayon & Synthetic Fibres Committee by their name "COMITE INTERNATIONAL DE LA RAYONNE ET DES FIBRES SYNTHETIQUES" (CIFRS) made submissions which were duly examined and have been discussed in detail in the para relating to injury.

- 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. ***** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
- xv. The investigation covered the period from 1st April, 2000 to 31st March, 2001;
- xvi. Copies of initiation notice was also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. PETITIONER'S VIEWS

1. The petitioner has made the following major arguments in their submissions:-
 - The product under consideration in the present petition is Acrylic Fibre below 1.5 denier or 1.65 DX
 - Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile units.
 - Acrylic fibre can be acrylic staple fibre, acrylic tow or acrylic top. Acrylic staple fibre, acrylic tow and acrylic top are all known as acrylic fibre.
 - The only difference between acrylic fibre and acrylic tow is the difference in length.
 - Acrylic Fibre is produced in various grades, which are defined in terms of its Denier (DX).
 - Acrylic fibre below 1.5 denier (1.65 DX) is the product under consideration in the present petition.
 - Acrylic fibre above 1.5 denier is already attracting Anti Dumping Duty.
 - Denier is the international system to differentiate one fibre type with other. It is used in describing acrylic fibre, silk and man made filament yarn.
 - Denier may be defined as the number of unit weights of 0.05 grams per 450 meters length and is equivalent to number of 1 gram per 9000 meters. The lower the number, or denier, finer the fibre.
 - Acrylic Fibre is an economical substitute for expensive wool. Acrylic Fibre has application in day to day human life use. Acrylic Fibre has a variety of applications. Acrylic Fibre has certain unique features. It is preferred in view of its properties like soft & flurry, light weight & warm, low maintenance cost, easy laundering, high resistance to abrasion, easy dye ability with brilliance in shades, better resistance to sunlight and chemicals, high luster,

non allergic, non toxic, good wicking action, good resistance to moths and insects, shrinkable and non-shrinkable.

- Acrylic Fibre (which includes tow, top and staple) is classified under Chapter 55 of the Customs Tariff Act at subheading nos. 5501.3000 and 5530.3000.
- The domestic industry was earlier injured by dumping of above 1.5 denier Acrylic Fibre. The domestic industry approached the Designated Authority for imposition Anti Dumping Duty. The Designated Authority has been kind enough to investigate the dumping and impose Anti Dumping Duty. The producer/exporter from Italy started dumping of acrylic fibre below 1.5 denier after imposition of anti-dumping duty on acrylic fibre above 1.5 denier.
- Indian producers has capacity to produce and has produced Acrylic Fibre below 1.5 denier in the investigation period.

C EXPORTER'S, IMPORTERS' AND USERS' VIEWS

4. As stated above only one exporter from Italy, M/s. Montefibre has responded to the notice of initiation. The major argument brought by the company are as under:
 - a. The exports made by the company in the Indian market are quite low. Such low volume of exports could have not have caused material injury to the domestic industry.
 - b. Imports from Italy to India are so small and not significant.
5. As stated above, the International Rayon & Synthetic Fibres Committee by their name "COMITE INTERNATIONAL DE LA RAYONNE ET DES FIBRES SYNTHETIQUES" (CIFRS) has responded to the notice of Initiation. Their submissions have been duly examined and have been discussed in detail in the para relating to injury.

D. EXAMINATION AND FINDING BY AUTHORITY

6. The submission made by the petitioner, importers, exporter and other interested parties, to the extent filed before the Authority have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.
7. The Authority in the absence of complete and sufficient response, in the form and manner prescribed, from the various interested parties to this case has no recourse but to rely on the `facts available` and has made the findings as per rule 6(8) supra.

8. The cases of new exporters or those stated to be willing to give price undertaking shall be considered, on request, by the Authority in accordance with the Rules supra.

EXAMINATION BY THE AUTHORITY

E. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

9. The product under consideration in this investigation is acrylic fibre below 1.5 denier (1.65 DX). Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile units. Acrylic fibre can be acrylic staple fibre, acrylic tow or acrylic top. All the three forms are the subject matter of this investigation.
10. Acrylic Fibre is produced in various grades, which are defined in terms of its Denier (DX). Acrylic fibre below 1.5 denier (1.65 DX) is the subject matter of present investigation.
11. Acrylic Fibre finds application in apparel, household and industrial areas.
12. All types of Acrylic Fibre are classified in chapter heading 55.01 and 55.03. The product is classified under 5501.30 and 5503.30 under the Customs Tariff Act at six digit levels and under 5501.3000 and 5503.3000 under ITC. The present investigations are against the product under consideration irrespective of the classification under which they are imported. Customs classification is indicative only and are in no way binding on the scope of the present investigation.
13. The petitioner claimed that the goods produced by them are like articles to the goods originating in or exported from subject country. The sole responding exporter from Italy has not disputed that acrylic Fibre below 1.5 denier supplied by it and acrylic Fibre produced by the domestic industry are like article. It is found that petitioner companies have produced acrylic Fibre below 1.5 denier. Acrylic Fibre below 1.5 denier and acrylic Fibre above 1.5 denier have characteristics closely resembling in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Thus, the Authority holds, for the purpose of preliminary determination, that acrylic Fibre below 1.5 denier is a like article to acrylic Fibre above 1.5 denier. Further, the Authority holds that the domestic industry has produced acrylic Fibre below 1.5 denier. In fact, the Authority finds that Cost of production of acrylic Fibre below 1.5 denier is higher than Cost of production for acrylic Fibre above 1.5 denier. There has been no

dispute raised on the definition of the product under consideration and like article by any interested party in the investigation.

14. In view of the above, the Authority holds that the goods being produced by the domestic industry are like article to the product under consideration, for the purpose of preliminary finding.

F. DE-MINIMUS LIMITS

15. The sole responding exporter from Italy has argued that the volume of exports made by it is negligible. The Authority notes that the petitioner had argued that the actual volume of imports from Italy in the investigation period was 1155 MT. The sole responding exporter has confirmed to have exported ***** Acrylic Fibre of the subject description in the investigation period. Thus, ***** has been exported by other exporters, either of the subject description or above 1.5 denier. The total imports of acrylic Fibre in the investigation period from all countries were 13968 MT. Thus, the imports of subject goods from Italy in the investigation period were 8.26% of imports of like article in India, which is significantly above de-minimus limits.

G. DOMESTIC INDUSTRY

16. The petition has been filed by M/s Forum of Acrylic Fiber Manufacturers, New Delhi on behalf of the domestic industry. The petition filed by the Forum is supported by the following producers of acrylic Fibre in India:

- a. Indian Acrylics Limited,
- b. Consolidated Fiber and Chemicals Limited,
- c. Pashupati Acrylon Limited,

17. The above mentioned companies have provided all information required for the purpose of the present investigation and have offered themselves for further information and verification. Thus, these companies account for a major proportion of the total Indian production. The combined production of these companies account for a major proportion of Indian Production of acrylic Fibre. Thus, the Authority holds that petitioner satisfy the criteria of standing to file the petition on behalf of the Domestic Industry in terms of Rule 5(3) (a) of the Rules supra, for the purpose of preliminary finding.

H. DUMPING & EXAMINATION OF CLAIMS MADE ON NORMAL VALUE & EXPORT PRICES

Normal Value

18. 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)";

19. The Authority sent questionnaire to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). M/s. Montefibre responded to the Authority and has provided some information. However, the response filed by the exporter is found to be grossly insufficient and incomplete for the purpose of preliminary finding, as discussed in detail hereinbelow.

Normal value

20. The Authority notes that the exporter has not filed complete response. The exporter has merely filed a statement showing transaction-wise exports of the subject goods in the investigation period. No other information has been filed by the company. The exporter has not filed information as prescribed in Annexure 1, 3, 4, 5, 6, 7, 8, 9 and 10. Further, the write up of the questionnaire, as prescribed in Section A through H is also not furnished. Thus, the Authority neither has information with regard to the sales price structure of the exporter in the domestic market nor has its cost of production. The information filed by the exporter is thus grossly inadequate for assessment of normal value of the exporter.

21. Claim of the petitioners with regard to the normal value is based on the price at which the subject goods have been sold in the domestic market of the

exporter's country. In view of the insufficient information provided by the exporter, the Authority considers it appropriate to determine normal value based on the available information with regard to selling price in the home market of the exporter. The normal value so determined comes to *****.

Export price

22. The exporter has filed information with regard to its exports to India. Analysis of this information shows that the information is reasonably sufficient, at least for the purpose of preliminary findings, even though the Authority notes that the exporter has not disclosed any adjustments with regard to inland freight and port expenses. Comparison of the information filed by the exporter with the information filed by the domestic industry reveals that the same is also quite comparable. It is found that the exporter has sold ***** MT acrylic Fibre of subject description in the investigation period at an average CIF price of *****. The exporter has shown adjustments on account of ocean freight, insurance and commission. The Authority has determined ex-factory export price on the basis of the information provided by the exporter. Adjustments claimed by the exporter have been allowed. Adjustment on account of inland freight @ 1% in the Export price have also been allowed. The ex-factory export price comes to *****.

Other non-cooperative exporters from Italy

23. The Authority notes that the response has been filed only by one exporter from Italy. The volume of imports as per DGCI&S is higher than the volume of exports admitted to have been made by the responding exporter. Thus, the Authority has determined dumping margin for other non-cooperating exporter based on the normal value assessed for the responding exporter and the lowest export price admitted by the exporter.

Dumping margin

24. Considering the normal value and export price, determined as detailed above, the dumping margin comes as under:

SN	Exporter/Producer	Dumping Margin %
(1)	(2)	(3)
1.	Montefibre, Italy	25.07%
2.	All Other Exporters/ producers from Italy	34.45%

I. INJURY

Rule 11 of Anti Dumping Rules reads as follows:

25. "Determination of Injury

- i. (i) In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry or materially retards the establishment of any industry in India;
- ii. (ii) The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules."

26. 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. For the examination of the impact on the domestic industry in India, the Authority considered such further indices having a bearing on the state of industry as production, sales, stock, profitability, net sales realization etc.

27. On examination of the evidence, the Authority finds that:-

- a. Imports of the subject product from subject country have increased during POI over the previous year. While petitioner has claimed that the exporters in Italy were earlier not producing acrylic Fibre below 1.5 denier and the same is being exported after imposition of Anti Dumping Duty on imports of acrylic Fibre above 1.5 denier, the exporter has not denied the same.
- b. The landed price of imports from the subject country is significantly lower than the selling price of the domestic industry. Thus, the imports of the subject goods were undercutting the prices significantly.
- c. The selling price of the domestic industry is significantly below the prices which would have permitted the domestic industry a fair recovery of its Cost of production and earn a reasonable return.
- d. The imports were having significantly suppressing/ depressing effect on the prices in the domestic market.
- e. Production, capacity utilization and sales volume of the domestic industry have shown downward trend in the investigation period as compared to previous year.

- f. Though selling prices increased in the investigation period as compared to the previous years, the increase in the Cost of production was much more than the increase in the selling prices. In fact, it is found that the loss per unit has significantly increased in the investigation period. Thus, the dumped imports have prevented the domestic industry from effecting legitimate price increase to realize a reasonable price.

28. With regard to arguments raised by CIRFS, the Authority notes as under:-

- i. Market share:- The Authority notes that it has to be recognized that the acrylic fibre below 1.5 denier has not been exported earlier. The exports have started coming from Italy after imposition of duty on higher deniers. Further the share of imports is also more than de-minimus.
- ii. Normal Value:- Monte fibre has responded to the Authority. However, the response filed is grossly insufficient. Since the exporter concerned has not filed full response, argument of an Association on this account deserves to be rejected.
- iii. Price of Indian Producers:- The argument is irrelevant, as the selling price of the domestic industry is required to be seen in the light of its cost of production. It is found that the domestic industry is still making huge losses (rather the same increased significantly in the POI, as compared to previous year). Prices in the region or in the world are not relevant to the present investigation.

J. CAUSAL LINK

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

- i. Exports of acrylic Fibre below 1.5 denier after imposition of Anti Dumping Duty on imports of acrylic Fibre above 1.5 denier indicates an attempt to continue dumping in the Indian market even after imposition of Anti Dumping Duties.
- ii. Significant increase in imports of subject goods from Italy at dumped prices, coupled with dumped exports from Other Countries being investigated by the Authority, prevented the domestic industry from effecting legitimate price increases, resulting in significant increase in losses in the investigation period.
- iii. Exports of acrylic Fibre from Other Countries are also at low prices. However, the Authority is separately investigating these exports to examine whether these were also at dumped prices and caused material injury to the domestic industry. There is no other parameter, other than dumped imports from Subject Countries

and Other Countries, brought to the notice of the Authority which would have caused material injury to the domestic industry.

K. INDIAN INDUSTRY'S INTEREST

30. 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.
31. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using 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. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from Italy in any way, and therefore, would not affect the availability of the product to the consumers.

L. CONCLUSIONS

32. The Authority has, after considering the foregoing, come to the conclusion that:
 - i. (i) Acrylic Fibre has been exported to India from Italy below its normal value;
 - ii. (ii) The domestic industry has suffered injury;
 - iii. (iii) The material injury has been caused by the dumped imports from Italy;
33. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of Acrylic Fibre of subject description from Italy in order to remove the injury to the domestic industry. The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority proposes to recommend the amount of anti dumping duty not exceeding the margin of dumping, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports is proposed to be compared with the non injurious selling price of the petitioner companies determined for the period of investigation.
34. Accordingly, the Authority recommends that the provisional anti dumping duties be imposed from the date of notification to be issued in this regard by the

Central Government on all imports of Acrylic Fibre below 1.5 denier falling under Custom Heading 55 originating in or exported from Italy, pending final determination. The anti dumping duty shall be as in column 3 in the following table.

SN	Exporter/Producer	Anti Dumping Duty US \$ per Kg
(1)	(2)	(3)
1.	Montefibre, Italy	0.32 US \$ per Kg.
2.	All Other Exporters/ producers from Italy	0.41 US \$ per Kg.

35. 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 under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

M. FURTHER PROCEDURE

36. 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 these preliminary findings. 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 provide opportunity to all the interested parties for making oral submissions which have to be rendered thereafter in writing;
- d. The Authority would conduct further verification to the extent deemed necessary;
- e. The Authority would disclose essential facts before announcing final findings.

L.V. Saptharishi
Designated Authority