

Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan,

NOTIFICATION

New Delhi, the 8th July, 2002

Subject: Anti-dumping investigation concerning imports of Thermal Sensitive Paper originating in or exported from Peoples' Republic of China – Final Findings.

No. 30/1/2001/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:

2. The procedure described below has been followed with regard to the investigations:-

- i. The Designated Authority (hereinafter referred to as Authority), under Rules received a petition from M/s. Shree Krishna Paper Mills & Industries Limited, New Delhi on behalf of the domestic industry, alleging that Thermal Sensitive Paper (hereinafter referred to as subject goods), originating in or exported from Peoples' Republic of China (hereinafter referred to as subject country) is being dumped in India and causing injury to the domestic industry;
- ii. The Authority on the basis of information and evidence available before it decided to initiate anti dumping investigations against imports of subject goods from the subject country;
- iii. In accordance with sub-rule 5(5) of the Rules, the Authority notified the Embassy of Peoples' Republic of China in India about the receipt of information and evidence mentioned above before proceeding to initiate investigations;
- iv. The Authority issued a Public Notice dated the 30th July, 2001 published in the Gazette of India, Extraordinary, initiating anti dumping investigations concerning imports of subject goods from subject country.
- v. The Authority notified preliminary findings vide notification dated 8.11.2001 on anti-dumping investigation concerning imports of subject goods from China

- and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- vi. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the preliminary findings within forty days from the date of its publication;
 - vii. The Authority also forwarded a copy of the preliminary findings to the Embassy of China in New Delhi with a request that the exporters and other interested parties may be advised to furnish their views on the preliminary findings in the time frame as stipulated in (v) and (vi) above.
 - viii. The Authority provided an opportunity to the interested parties to present their views orally on 1.3.2002. All parties presenting views were requested to file written submissions of their views expressed. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
 - ix. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties for inspection, upon request;
 - x. Arguments raised by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for sake of brevity. However, the arguments raised by the interested parties subsequently have been appropriately dealt in these findings;
 - xi. In accordance with Rule 16 of the Rules *supra*, the essential facts/basis considered for these findings were disclosed to known interested parties on 22.5.2002 and comments received on the same have also been duly considered in these findings;
 - xii. The period of investigation (POI) considered is 1st April, 2000 to 31st December, 2000.
 - xiii. ***in this notification represents information furnished by the interested party on confidential basis and so considered by the Authority under the Rules;

B. VIEWS OF PETITIONERS, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES AND EXAMINATION BY AUTHORITY.

3. The views expressed by various interested parties have been discussed in the preliminary findings and also in the disclosure statement. The views which have not been discussed earlier in the preliminary findings and disclosure statement and those now raised in response to the disclosure statement are discussed in the relevant paragraphs herein below to the extent these are relevant as per rules and have a

bearing upon the case. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in the relevant paragraphs herein below. The Authority confirms, the absence of any response from the exporters in the form and manner prescribed and having made the findings on the basis of the fact available to it as per rule 6(8) supra.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. The product under consideration is Thermal Sensitive Paper. It is a paper coated with a special mix of chemicals for providing thermal sensitive properties to the base paper. Impression on the paper is created by virtue of controlled thermal heat exposed on the paper. Thermal Sensitive Paper is primarily used for recording messages for electronic equipments where the machine is used to record messages and reports through sensitivity of heat rays. It is primarily used in fax machines. It is also used in ECG Machines and other medical equipments, Seismographic machines, Airlines baggage tagging, tickets, boarding cards etc. Petitioner has claimed that TSP is classified under chapter 48 of the Customs Tariff Act. The product does not have a dedicated Customs Classification. However, it generally gets covered under sub-heading 4809.10 i.e. 'Carbon or similar copying paper' of Schedule I of the Customs Tariff Act. Petitioner has claimed that TSP is also cleared under different sub-headings of heading 4811 and 4816 of the Customs Tariff Classification. These Classifications are indicative only and are in no way binding on the scope of the present investigation.

5. The petitioners have stated that that subject goods are produced in a large number of sizes to meet specific end application. The petitioner largely produces the product in Jumbo rolls, which are then slit to the desired size, primarily by the companies in the market (known as slitters). There is significant price difference between the jumbo rolls and slitted small rolls for specific end use. The goods are imported both in jumbo rolls as also in finished slitted small rolls for specific end use. The product is not having a dedicated custom classification at six-digit level. Therefore, the data of DGCI&S or of the secondary sources is not sufficient to segregate the jumbo rolls with the slit rolls. While the jumbo rolls are invariably imported in the multiples of container loads, the imports of slit rolls are far lower in terms of weight. In view of significant difference in the prices of the jumbo rolls and slit rolls the petitioner has requested that the comparison may be done separately for the two types. The petitioner has further argued that in view of significant differences in the export price in terms of square meters, even for the same customer/country, the entire calculation may be done in terms of weight of the material.

6. The Authority notes that there are no submissions opposing the product under consideration. The Authority therefore confirms its preliminary findings on the product under consideration.

7. There are no arguments made by any interested party opposing the views of the Authority as regards like article as stated in the preliminary findings. The Authority therefore confirms its preliminary findings that the Thermal Sensitive Paper being produced by the petitioner is a like article to the product under consideration being imported from the subject country.

D. DOMESTIC INDUSTRY:

8. The petitioner M/s. Shree Krishna Paper Mills and Industries Limited represent the domestic industry as they account for 100% of the Indian production of Thermal Sensitive Paper. There is no dispute as regards the standing of the petitioner. Therefore, the Authority confirms its preliminary findings on the standing of the domestic industry.

E. TREATING THE EXPORTERS FROM CHINA AS FROM NON-MARKET ECONOMY

9. The petitioner has stated that the Designated Authority sent questionnaire to known exporters/producers in China as also to the Embassy of China in India. None of the exporters/producers from subject countries responded to the Authority. They have further argued that in view of amendments dated 17th July, 1999, 31st May, 2001 and dated 4th January, 2002 to the Anti Dumping Rules, the Authority has to treat China as a non-market economy. And therefore, the normal value is required to be determined in accordance with the provisions relating to non-market economy. The Authority recalls the Initiation Notification dated 30th July 2001 wherein it had been stated that as per the amendment dated 31.5.2001 to the Anti Dumping Rules, Peoples' Republic of China has to be treated as a non-market economy subject to the conditions stated in the said amendment. The said Rules have been further amended vide notification dated 4th January 2002. The Authority notes that none of the exporters from the subject country has cooperated in the investigation. The Authority is of the view that in the absence of any response from any exporter from the subject country, the exporters are to be considered as non-cooperative and thus, Rule 6(8) becomes operative. Therefore, the normal value is to be determined on best available information i.e. on the basis of the information furnished by the petitioner. Further, as regards the issue of no-market economy the Authority is of the view that since there is no cooperation from the exporters and normal value is being constructed on best available information, any determination in this regard will be inconsequential.

F. DUMPING

10. The Authority sent questionnaires to all known exporters for the purpose of determination of normal value in accordance with section 9A(1)(C) of the Act. However, none of the exporters have responded to the Authority and have not furnished any information. The Authority, therefore, holds that none of the exporters from the subject countries have cooperated with the Authority as envisaged under the Rules.

11. The petitioner has stated that the Designated Authority sent questionnaire to known exporters/producers in China as also to the Embassy of China in India. None of the exporters/producers from subject countries responded to the Authority. They have requested the Designated Authority to confirm the preliminary findings in this regard.

Normal Value:

12. The Authority recalls its preliminary findings in para 12 regarding normal value. The domestic industry had furnished information with regard to normal value in Peoples' Republic of China based on the constructed cost of production. In view of non-cooperation from the exporters from the subject country, the Authority had determined normal value based on the best available information, i.e. on the constructed cost of production. There has been no response from any exporter. In accordance with the Rule 6(8) the Authority is authorized to construct the normal value on the best available information. The domestic industry has furnished information with regard to normal value, based on constructed cost of production. The Authority has therefore determined the normal value of subject goods on the basis of constructed cost of production by appropriately benchmarking raw material usage, capacity utilization, international prices etc. to the extent data is available.

Export Price:

13. The Authority recalls the preliminary findings for the determination of export price. The Authority had considered the export price of the subject goods in terms of weight as per the secondary source data, which had been corroborated by the information received from the DGCI&S. There has been no response from any exporter subsequent to the preliminary findings. The Authority therefore confirms the preliminary findings regarding export price and the adjustments allowed on account of ocean freight, marine insurance, commission, inland transportation and port handling charges.

Dumping Margin:

14. The principles governing the determination of normal value, export price and the dumping margin as laid down in the Custom Tariff Act and the Anti Dumping Rules are elaborated in Annexure I to the Rules. For the purpose of the fair comparison between the normal value and export price, the Authority has made calculations and comparisons at the same level of trade. Normal Value based on the constructed cost of production at ex-factory level has been compared with the weighted average export price at ex-factory level. The Authority has given due regard to the fact that Thermal Sensitive Paper is produced in different GSM. The dumping margin in respect of the exports of the subject goods from the subject country comes to 96.98% of the export price.

G. INJURY AND THREAT OF INJURY

15. Rule 11 of Anti Dumping Rules reads as follows:

"Determination of Injury:

1. 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;
2. 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."

16. The principles for determination of injury set out in Annexure-II of the Anti-Dumping Rules lay down that:

- i. A determination of injury shall involve an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products.
- ii. While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of Rule 18 the Designated Authority shall consider whether there has been a

significant price under-cutting by the dumped imports as compared with the price of like product 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.

17. The Authority has taken into account all indices regarding injury while doing the final determination. This involved all relevant facts viz., volume of dumped imports, their effect on price in the domestic market and its subsequent effect on domestic producers, production, capacity utilisation, profitability, net sales realisation etc. While determining the non-injurious price for the like article for the domestic industry, the Authority has considered the optimum cost of production for the domestic industry taking into account the normated best consumption norms and the actual price of the raw materials during the POI which go into the production of the product under consideration. Also, while arriving at the injury margin, the Designated Authority has taken into account optimum capacity utilisation for arriving at a fair selling or non-injurious price.

18. As already stated in the preliminary findings, the Authority finds that the volumes of dumped imports from the subject country are significant and there has been increase in imports in absolute terms. The share of the imports from the subject country was 11.08% in the total imports.

19. The Authority has made following further observations and conclusions:

- i. **Significant Price Under cutting:** The Authority finds that average net sales realization of the domestic industry during the POI has been Rs. *** per kg. and the average landed value of imports of the subject goods from subject country has been Rs. *** per kg. The Authority finds that due to the landed value of imports being significantly lower than the net sales realisation of subject goods there is significant price undercutting by the dumped imports as compared with the price of the like product in India. The price under-cutting of imports have caused material injury to the domestic industry.
- ii. **Price Suppression:** The Authority finds that the domestic industry has been able to raise its selling price to Rs. *** per kg. during the POI from previous level of Rs. *** per kg. This has been due to increased cost of raw material and chemicals. However, in view of dumped imports the domestic industry has not been able to raise the selling price to a level to recover its full cost of production and to achieve a reasonable return. The average landed value of imports of subject goods from subject country has been Rs. *** per kg. which is significantly lower than the cost of production. This has prevented the domestic industry to raise its selling price to a remunerative level. The

Authority thus concludes that the dumped imports has caused price suppression of the like product produced by the domestic industry.

- iii. **Inventory:** The petitioner held finished goods inventory of Thermal Sensitive Paper which was two and a half times higher than the inventory at the end of financial year 1999-2000. In comparison to year 1998-1999 the average inventory held by the industry during the POI was about five times higher. The Authority finds that the domestic industry has also suffered material injury on account of higher inventory of Thermal Sensitive Paper.
- iv. The capacity utilization of the domestic industry has increased from 53.74% in 1999-2000 to 72.95% during POI and the production has also increased. However, the domestic industry has been prevented from utilization of higher capacity due to dumped imports.
- v. The share in demand of the imports from subject country was 3.02%, that of the domestic industry 72.74% and of imports from other countries 24.23% during the POI. The share of the domestic industry was 85.34% during the previous year 1999-2000. The Authority observes that there was perceptible increase in the market share by the imports from subject country.
- vi. The demand of the product has not decreased and has, therefore, not contributed to injury to the industry.

Threat of Injury

20. The Authority has examined the threat of injury to the domestic industry as per para (vii) of Annexure II of Rules *supra*, and concludes that the imports from subject country grew from nil during the previous year to command an 11.08% share in the total imports. The Authority finds the dumped price of these imports from the subject country to hold a significant threat in depressing the price of the like product in India. There is every likelihood that imports may keep coming at dumped price in larger quantities causing serious threat of injury to the domestic industry. On the basis of the evidence available before it, the Authority therefore concludes that there is a serious threat of material injury being caused to the domestic industry on account of dumped imports of subject goods from subject country.

H. CAUSAL LINK:

21. The Authority holds that the substantial increase in import of subject goods from China at dumped price has led to severe price undercutting and price suppression of the subject goods produced by the domestic industry. This has resulted in the building up of inventory of finished goods with the domestic industry. This clearly establishes the causal link between the injury suffered by the domestic industry with the dumping of subject goods from China. The Authority, therefore, confirms its conclusion in

preliminary findings that there is a causal link between the dumping of subject goods from China and the injury being caused to the domestic industry during the period of investigation.

I. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

22. The Authority reiterates 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.

23. The Authority recognises that the imposition of anti dumping duties might affect the price levels of the product in India. 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 subject country in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

J. FINAL FINDINGS

24. After considering the foregoing the Authority concludes that -

- i. Thermal Sensitive Paper has been exported from the subject country to India below its normal value;
- ii. the Indian industry has suffered material injury on account of price undercutting, price suppression and significant increase in the volume of dumped imports from subject country and is being threatened with further injury;
- iii. the injury has been caused to the domestic industry by the dumped imports from the subject country.

25. The Authority proposes to recommend the amount of anti-dumping duty equal to the margin of injury, being lesser than the dumping margin, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury margin, the landed price of imports has been compared with the non injurious selling price of the petitioner company determined for the period of investigation.

26. The Authority recommends imposition of definitive anti dumping duty on all imports of Thermal Sensitive Paper falling under Customs heading 4809.10 or under heading 48.11 or 48.16 of first Schedule to the Customs Tariff Act originating in or exported from the Peoples' Republic of China.

The anti dumping duty shall be as follows:-

Country	Anti dumping duty(US\$ per kg.)
All Exporters/Producers of Peoples' Republic of China	0.967

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

28. Subject to the above, the Authority confirms the preliminary findings dated 8.11.2001.

29. An appeal against this order shall lie before the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act, *supra*.

L. V. SAPTHARISHI
Designated Authority