

**TO BE PUBLISHED IN PART 1 SECTION 1 OF THE GAZETTE OF INDIA,
EXTRAORDINARY**

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

NOTIFICATION

New Delhi, the 30th August, 2001

Subject: Anti dumping investigation concerning imports of White Cement originating in or exported from the UAE and Iran – Final Findings.

No. 64/1/2000-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 the above Rules, received a written petition from M/s Grasim Industries Limited and M/s JK Synthetics Ltd., on behalf of the domestic industry, alleging dumping of White Cement(hereinafter referred to as subject goods) originating in and exported from the UAE and Iran(hereinafter referred to as subject countries);
- ii. The Authority notified the Embassies of subject countries in India about the receipt of petition made by the petitioners before proceeding to initiate the investigation in accordance with sub rule(5) of Rule 5 supra;
- iii. 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 countries;
- iv. The Authority issued a Public Notice dated the 6th December, 2000 published in the Gazette of India, Extraordinary, initiating anti dumping investigations

- concerning imports of subject goods from subject country, falling under heading 2523.21 of Schedule I of the Customs Tariff Act,1975;
- v. The Authority notified preliminary findings vide notification dated 22.2.2001 on anti-dumping investigation concerning imports of subject goods from subject countries 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 Embassies of subject countries 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 11.4.2001. 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 evidence submitted by various interested parties for inspection, upon request;
 - x. Arguments made 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 and comments received on the same have also been duly considered in these findings;
 - xii. The investigation covered the period from 1st January, 1999 to 30th June, 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 from Iran in the form and manner prescribed and having made the findings on the basis of the best information available to it as per rule 6(8) supra. Some of the importers such as M/s Sree Lakshmi Traders, M/s Akashayalakshmi Trading Pvt. Ltd., M/s Rajhans Distributors Pvt. Ltd., M/s Indian Small Scale Paints Association, etc., have made submissions which have been considered by the Authority.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. The product under consideration is "white portland cement" which is normally referred to as "white cement". It is a construction material and used for non structural purposes such as flooring of tiles, cement based exteriors, paints and cement varnish etc. This falls within Chapter 25 of the Custom Tariff Act under the sub-heading 2523.21. The Custom classification is indicative only and not binding on the scope of investigation. The goods manufactured by the domestic industry are 'like articles' to the goods imported from subject countries within the meaning of Rule 2(d).

D. DOMESTIC INDUSTRY:

5. There are 3 producers of the subject goods in India, viz., Grasim Industries Limited; JK Synthetics Limited and Travancore Cements Limited, Kottayam. The petition has been filed by M/s. Grasim Industries Ltd., and M/s. JK Synthetics Ltd., who account for more than 90 per cent of total domestic production and thus have the standing to file the petition. However, in the subsequent communication addressed to Designated Authority, M/s. Travancore Cements Ltd., has also supported the anti dumping investigation.

E. DEMINIMIS VOLUME:

6. It has been argued by the opposing interested parties that the anti dumping proceedings can be initiated only if import from one particular country is more than

three per cent of the locally manufactured product under consideration and hence the investigation against UAE should be terminated.

7. As per Rule 14(d) of the Anti Dumping Rules, the investigations is to be terminated only if the volume of dumped imports, actual or potential, from a particular country accounts for less than three per cent of the imports of the 'like product'. The de minimis limit is with respect to total volume of import and not with respect to the volume of locally manufactured product. As imports from UAE account for more than 3 per cent of the total imports of white cement into India, the anti dumping investigation cannot be terminated on the grounds of de minimis volume.

F. DUMPING

8. **Normal Value** : As brought out in the preliminary findings, the Designated Authority sent questionnaires to known exporters of the subject goods in subject countries. However, none of the exporters from Iran have responded to the Designated Authority. Thus the exporters from Iran have preferred non cooperation with the Designated Authority in this case. Thus Rule 6(8) is attracted and the Designated Authority is fully justified in proceeding with the best information available. The Authority, therefore, holds that none of the exporters from Iran have cooperated with the Authority as envisaged under the Rules. The domestic industry has furnished information with regard to the normal value in Iran based on the constructed cost of production. In view of non-cooperation from the exporters from Iran, the Authority has determined normal value in Iran on the basis of the constructed cost of production as was done in the preliminary findings.

9. In the preliminary findings, as well as in the Disclosure Statement, it was stated that M/s Ras Al Khaimah Co. for White Cement & Construction Materials, UAE, had furnished incomplete information. However, subsequently, the company has furnished details regarding cost of production, profit on the domestic sales and export to India and other countries, sales price structure for domestic sales and export to India and other countries and details regarding ocean freight, etc.. Also the company has given a price undertaking to the Authority and the domestic industry also has stated that they do not have any objection to acceptance of this price undertaking and suspension of investigation in respect of this company as provided under Rule 15. The Authority has accepted the information submitted. Also, the Authority has decided to use the information provided by M/s Ras Al Khaimah Co. for the purpose of calculation of normal value for all the exporters from UAE after reconciling the information submitted.

10. **Export Price:** As stated in the preliminary findings, M/s Ras Al Khaimah Co., for White Cement & Construction Materials, UAE, had furnished the information regarding their exports to India during the period of investigation. Also, subsequently, they have furnished information regarding adjustments claimed on exports to India such as Inland freight, terminal handling and ocean freight. As stated in the preliminary findings, in the case of Iran, the DGCIS data regarding the volume and price of export has been used and after making the adjustments on the basis of information furnished by the domestic industry, the net export price has been worked out.

11. **Dumping Margin:** Since none of the exporters from Iran has responded to the Authority's request for information, the Authority took into account the best information available for the purpose of fair comparison between the normal value and the export price as stated above and compared weighted average normal value with weighted average export price. The comparison shows dumping margin of 115% of net export price for Iran. In the case of UAE, on the basis of the normal value and export price worked out above, the dumping margin has been calculated and it comes to 52 % of net export price.

G. INJURY AND CAUSAL LINK

12. The Authority has taken into account all indices regarding injury while doing the final determination. This involves 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 which takes into account the normated best consumption norms and takes into account 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 takes into account optimum capacity utilisation for arriving at a fair selling or non-injurious price.

13. On the basis of the evidence available, the following parameters show existence of injury to the domestic industry caused by dumped imports from subject countries :-

- i. Export price from subject countries has declined significantly;
- ii. The landed value of the imported material during the period of investigation is significantly below the selling prices of the domestic industry, especially in the coastal regions causing severe price undercutting in these regions,

- iii. The landed value of the imported material during the period of investigation was significantly below the cost of production including transportation cost of the domestic industry causing price suppression/depression in the coastal regions of Indian market;
- iv. Profitability of the domestic industry has been eroded.
- v. Apart from the decline in the actual sales volume of domestic industry in the coastal regions, there was potential decline in sales during the period of investigation. The sale of the domestic industry actually declined during the period immediately after investigation.

14. **THREAT OF INJURY:** In the preliminary findings, the Authority had gone in details of the threat of injury being suffered by the domestic industry on account of significant rate of increase of dumped imports, price undercutting suffered by domestic industry and surplus disposable capacity and inventories available in the subject countries. Also question of volume and price effect of the dumped imports was examined. Authority confirms its earlier findings that domestic industry has suffered material injury as evidenced by factors mentioned above and also that there is a serious threat of injury being caused to the domestic industry on account of dumped imports of subject goods from subject countries cumulatively.

15. **CAUSAL LINK :** In the preliminary findings it was stated that taking into account the factor that it is the increased dumped import at dumped prices in localized markets which has forced the domestic industry to reduce its prices to the levels not sufficient to recover the non-injurious price and the transportation cost to these areas, it was determined that the injury to the domestic industry was caused by dumped imports. The Authority confirms its earlier findings that there is a causal link between the dumping of subject goods from subject countries and the injury being caused to the domestic industry during the period of investigation and also threat of further injury being faced by domestic industry on account of dumped imports of subject goods from subject countries.

G. INTEREST OF INDIAN INDUSTRY AND OTHER ISSUES

16. It has been argued by some of the importers and users that the interest of the industrial users of subject goods should be taken into account while imposing anti dumping duty. They have requested to reconsider the imposition of anti dumping duty on subject goods since the threat of imports serves as a check on the prices of the local producers.

17. In this context the Authority reiterates paragraphs 29 and 30 of its preliminary findings wherein it is stated 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. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using white cement 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 UAE and Iran 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".

18. Evidently, imposition of anti dumping duty would not adversely affect the consumers/users of White Cement in India in the long run. It would rather lead to survival of domestic industry and keep wider choice to the consumers in India. The very purpose of the imposition of anti dumping duty is to create situation of fair competition in the Indian market in which both domestic producers and foreign producers can compete. Imposition of anti dumping duty would not lead to restriction on imports.

H. FINAL FINDINGS

19. The Authority has, after considering the foregoing, come to the conclusion that :

- i. White Cement has been exported to India from UAE & Iran below its normal value
- ii. The Indian industry has suffered injury and is facing threat of more injury.
- iii. The injury has been caused by the dumped imports from subject countries;

20. PRICE UNDERTAKING :- M/s Ras Al Khaimah Co. for White Cement & Construction Materials, UAE, has given a price undertaking to the Designated Authority and have agreed not to sell White Portland Cement or White Cement under Custom Heading 2523.21 at price CIF Indian Ports below US \$ 100 per MT. The Indian ports mentioned in the undertaking are Chennai, Tuticorin, Cochin, Mumbai and Kandla. Also the payment terms for these sales mentioned in the undertaking are by LC payable 30 days from date of Bill of Lading. The Authority notes that the reference CIF price would eliminate the injurious effect of dumping on the domestic

industry caused by imports from the company during the period of investigation. The authority accepts the price undertaking and therefore, does not recommend the levy of anti dumping duty and suspends investigation against M/s Ras Al Khaimah Co. for White Cement & Construction Materials, UAE.

However, in the event of any violation of the undertaking such as actual sale price, net of discounts being lower than that mentioned above or in the event of non-acceptance of price undertaking by the Central Government, the Designated Authority would make appropriate recommendations to the Central Government for levy of applicable anti-dumping duties on the basis of the information as available during the present investigation or as brought to the notice of the authority from appropriate sources. The authority may also suo-moto or on the basis of any request from exporters/domestic industry or importer of the article in question or any other interested parties review from time to time the need for continuance of the undertaking so given. Such Anti-Dumping duties may apply retrospectively from the date of violation or withdrawal of price undertaking. Also in the event of Central Government not accepting the price undertaking, the Designated Authority shall separately intimate the Central Government the amount of Anti-Dumping duty and the effective date of its levy. The validity of the price undertaking would be co-terminus with the duration of the Anti-Dumping duties to be imposed by the Notification of the Central Government in this regard, and shall be subject to review as per the applicable provisions of the Anti-Dumping Rules.

21. The Authority proposes to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports is compared with the non injurious selling price of the petitioner companies determined for the period of investigation. Landed value of imports for the purpose has been determined as 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.

22. The Authority recommends imposition of definitive anti-dumping duty as set out below on imports of white cement falling under customs code 2523.21 originating in or exported from UAE and Iran and also recommends acceptance of the price undertaking offered by M/s Ras Al Khaimah Co. for White Cement & Construction Materials, UAE as mentioned in para 20 above. The anti dumping shall be as follows :-

Country/exporters	Anti dumping duty recommended (US \$ per MT)
1. UAE (all exporters excluding M/s Ras Al Khaimah Co. for White Cement & Construction Materials)	32

23. Subject to the above, the Authority confirms the preliminary findings dated 22nd February, 2001.

24. 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