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MINISTRY OF COMMERCE AND INDUSTRY
(Department of Commerce)
INITIATION NOTIFICATION

New Delhi, the 30th July, 2001

Subject: Initiation of Anti-dumping investigation concerning import of Thermal Sensitive Paper from Peoples' Republic of China into India.

No. 30/1/2001-DGAD.- M/s. Shree Krishna Paper Mills & Industries Limited, New Delhi have filed a petition in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 before the Designated Authority (hereinafter referred to as the Authority) alleging dumping of Thermal Sensitive Paper originating in or exported from People's Republic of China and requested for Anti Dumping investigations and levy of anti dumping duties.

PRODUCT UNDER CONSIDERATION

2. The product involved in the present petition is Thermal Sensitive Paper (TSP) (hereinafter referred as subject goods). Thermal Sensitive Paper 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, reports through sensitivity of heat rays. Thermal Sensitive Paper 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. Petitioners have 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'. Petitioners have also 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.

DOMESTIC INDUSTRY

3. The petition has been filed by M/s. Shree Krishna Paper Mills & Industries Limited, New Delhi. The petitioner has claimed that it is the only producer of the subject goods in India and therefore, 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.

COUNTRY INVOLVED

4. The country involved in the present investigation is the Peoples' Republic of China (hereinafter referred to as the subject country or China PR).

LIKE ARTICLE

5. The petitioners have claimed that the goods produced by them are like articles to the goods produced, originating in or exported from China PR. Therefore, for the purpose of the present investigation, the goods produced by the petitioners are being treated as 'like articles' to that imported from the subject country within the meaning of the Rules supra.

NORMAL VALUE

6. Annexure 1 to the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 had been amended vide Notification No. 44/99-CUS(NT), dated 15-7-99 whereby the following Principle 7 had been inserted:

"In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner *keeping in view the level of development of the country concerned and the product in question (inserted vide Custom Notification No. 28/2001 dated 31st May 2001)*, and due account shall be taken of any reliable information made available at the time of the selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid

selection of the market economy third country and shall be given a reasonable period of time to offer their comments."

These Rules have been further amended vide Custom Notification No. 28/2001(NT) dated 31-5-2001 whereby Principle 8 as under has been inserted and in the Note appended thereto Peoples' Republic of China has been included in the list of non-market economy countries:

"The term "non market economy country" subject to the Note to this paragraph means every country listed in that note and includes any country which the designated authority determines and which does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise. While making such determination, the designated authority shall consider as to whether,

- i. the decision of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- ii. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write offs, barter trade and payment via compensation of debts;
- iii. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and
- iv. the exchange rate conversions are carried out at the market rate;

Provided that in view of the changing economic conditions in Russia and in the Peoples' Republic of China, where it is shown on the basis of sufficient evidence in writing on the factors specified in this paragraph that market conditions prevail for one or more such firms are subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in this paragraph.

Note: For the purposes of this paragraph, the list of non-market economy countries is Albania, Armenia, Azerbaijan, Belarus, Peoples' Republic of China, Georgia, Kazakstan, North Korea, Kyrgyzstan, Mongolia, Russia, Tajkistan, Turkmeistan, Ukraine, Uzbekistan and Vietnam. Any country among them seeking to establish that it is a market economy country as per criteria enunciated in this paragraph, may provide all necessary information which shall be taken due account by the designated authority".

In accordance with the Rules as amended above, the petitioners have claimed Normal Value on the basis of constructed cost of production of the subject goods in India with reasonable addition for general, administrative and selling cost and for profits.

In terms of the aforesaid Rules it will be incumbent upon the exporters from the subject country, in case they claim their exports to be from market economy conditions, to provide sufficient evidence to the Designated Authority in accordance with the aforesaid Rules.

EXPORT PRICE

7. The petitioners have claimed export price from the subject country based on the secondary data sources. The petitioners have also constructed the export price on the basis of the price at which the imported articles are first resold to an independent buyer, in accordance with Section 9A(1)(b) of the Customs Tariff Act. Adjustments have been claimed on account of ocean freight, insurance, commission, inland transportation in China PR, port handling and packing charges to arrive at the Export Price at ex-factory level.

8. DUMPING MARGIN

The Normal Value of the subject goods in the subject country, which is claimed on the basis of constructed cost of production of the subject goods in India with reasonable addition for general, administrative and selling cost and for profits, is significantly higher than the net export price indicating prima-facie that the subject goods are being dumped by exporters from the subject country.

INJURY AND CAUSAL LINK

9. Various parameters relating to injury such as the decline in the sales realization, price suppression, sub-optimal utilization of capacity, increase in inventory and losses to the Domestic Industry due to non- realization of fair and reasonable price from sale of the subject goods, prima-facie indicate collectively and cumulatively that the Domestic Industry has suffered material injury on account of dumping.

INITIATION OF ANTI-DUMPING INVESTIGATIONS

10. The Designated Authority, in view of the foregoing paragraphs, initiates anti-dumping investigations into the existence, degree and effect of alleged dumping of the subject goods originating in or exported from the subject country.

PERIOD OF INVESTIGATION (POI)

11. The period of investigation for the purpose of present investigation is 1st April 2000 to 31st December 2000.

SUBMISSION OF INFORMATION

12. The exporters in the subject country and the importers in India known to be concerned with this investigation are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Designated Authority, Directorate General of Anti Dumping & Allied Duties, Department of Commerce, Ministry of Commerce & Industry, Government of India, Udyog Bhavan, New Delhi-110011. Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within the time limit set out below.

TIME LIMIT

13. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days from the date of publication of this notification. The known exporters and importers, who are being addressed separately, are however, required to submit the information within forty days from the date of the letter addressed to them separately. It may be noted that no request whatsoever shall be entertained for extension in the prescribed time limit.

INSPECTION OF PUBLIC FILE

14. In terms of Rule 6(7), any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

L.V. SAPTHARISHI
Designated Authority.