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

Notification

New Delhi, the 8th November, 2001

PRELIMINARY FINDINGS

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

No. 30/1/2001-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. Shree Krishna Paper Mills & Industries Limited, New Delhi on behalf of the domestic industry, alleging dumping of Thermal Sensitive Paper (hereinafter referred to as subject goods) originating in and exported from Peoples' Republic of China (hereinafter referred to as subject country) ;
- ii. Preliminary scrutiny of the application filed by the petitioner revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was, therefore, considered as properly documented.
- iii. The Authority notified the Embassy of subject country in India about the receipt of dumping application made by the petitioners before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 *supra*;
- iv. The Authority issued a Public Notice dated 30th July, 2001 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Thermal Sensitive Paper originating in or exported from Peoples' Republic of China classified under heading 4809.10 and also under sub-

headings of heading 4811 and 4816 of Schedule I of the Customs Tariff Act, 1975;

- v. The Authority forwarded copy of the said public notice to the known exporters, importers, industry association and to the complainant 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:
 - 1. Arjo Wiggins Paper Products (Beijing) Co. Ltd.,
10, Baiziwanlu, Chaoyang,
Beijing-100022.
 - 2. Dajkong Electromechanic Technology Co.,
A-39, Lindaokucum, Xueyceanlu,
Haidian, Beijing-100083.
 - 3. Hangzhon Wulin Paper Mill,
3, Tangmenler, Hangzhou,
Zhejiang-31001.
 - 4. Shanxi Changan Paper Ind. Co. Ltd.
Beixin Road, Xian,
 - 5. Qingdao Zhangtian Paper Co.
Dasha Road, District-4.
Wingdao.
 - 6. Zhanjianang Quanglong Paper Ind. Ltd.,
Guanglong.
 - 7. Zhanjiang Xingang Speciality Paper Co. Ltd
Xingang.
 - 8. Guangdong Guanhao High Tech Co. Ltd.
338th Guanganmer, Nei Street,
Xuanwu District, Beijing.
 - 9. Nanjing Haolin Paper Ind. Ltd.,
301, C, Combine Haoqiao Bldg.,
Nanjing.
 - 10. Hangzhou Zhangdong Ind. Co. Ltd.,
8th Floor Qingsong Pavilion,
Western-Lake District,
Zhongshanbei Road, Hangzhou.
- vii. The Embassy of Peoples' Republic of China 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;

viii. The questionnaire was sent to the following importers/traders of Thermal Sensitive Paper:

1. Cantronics Office Equipments Pvt. Limited,
54-B Drug House,
Proctor Road of Lamington Road,
Grant Road (E) Mumbai-400007.
2. Hindustan Sales,
Kumar Talkis Building,
Chandni Chowk, Delhi-110006.
3. VI Office Equipments Pvt. Limited,
Kamla Arcade, 669 Anna-Salai(Mount Road),
Mumbai-600006.
4. Rational Business Corporation,
Century House, N-10, Satyawati Nagar,
New Delhi-110021.
5. Hariti Papers Pvt. Limited,
C-51, Malviya Nagar,
Jaipur (Rajasthan)
6. Vardhman Paper Products,
Gulab Ganga Complex, Plot No.X-3, Behind Hotel Oasis,
P.O. No.994, MIDC WALUJ, Aurangabad.
7. Vaishano Paper Products,
331, Kucha Mir Ashiq, Chawri Bazar,
Delhi-6.
8. Sohan Lal Nem Chand Jain,
90-Chawari Bazar, Delhi-110006.
9. Alankar Stationery Mart,
4123, Gali Satte Wali, Nai Sarak,
Delhi-110006.
10. Modi Hospital Appliances Mfg. Co Limited,
No.1, 80 Feet Road, Satya Garden,
Saligramam,
Chennai-93.
11. Sohum Industries Pvt. Limited,
1, Bhagwan Bhawan, Gr. Floor Building No.15, Dadi Santuk Lane,
Chira Bazar, JSS Road, Mumbai-400002.
12. Tokushu Menor Paper Mfg. Co.,
1/1, Ambattur Road, Polol, Chennai-600066.

13. Haryana Traders P. Limited,
Haryana Building, 4035-36,
Chawari Bazar, Delhi-110006.
 14. Shyam Traders,
70 A, Kamla Nagar,
Delhi-110006.
 15. Varsha Traders,
3, Mansoor Manzil 80, Modi Street,
Fort Mumbai.
 16. Asian Coated Paper P. Ltd.,
RN 5, 4855/56, 24-Ansari Road,
Daryaganj, New Delhi.
 17. The Embassy of Finland,
E-3, Nyay Marg, Chanakyapuri
New Delhi-110021.,
 18. Excell Mark,
144, Lenghi Chetty Street,
Chennai-600001.
 19. All India Thermal Paper Dealers Association,
Office No. 05, 4855/24,
Ansari Road, Daryaganj, New Delhi-110002.
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- x. Request was made to the Central Board of Excise and Customs (CBEC) and the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods made in India during the past three years, including the period of investigation.
 - xi. None of the exporters, importers, traders and association has filed any response to the questionnaire.
 - xii. Additional information regarding injury and cost of production was also sought from the petitioner, 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 party on confidential basis and so considered by the Authority under the Rules;
 - xv. The Authority verified the information given by the domestic industry to the extent considered necessary;
 - xvi. The Authority also conducted cost investigation and worked out optimum cost of production and cost to make and sell subject goods in India on the basis of Generally Accepted Accounting Principles;

- xvii. The investigation covered the period from 1st April, 2000 to 31st December, 2000.
- xviii. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. PETITIONER'S VIEWS

3. The petitioner have made the following main points in their submissions:

(a) On Domestic Industry:

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 and therefore they constitute the domestic industry within the meaning of the Rules Supra.

(b) On Product under consideration and like article:

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 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.

Thermal Sensitive Paper being produced by the domestic industry and the Thermal Sensitive Paper exported from China are comparable in terms of characteristics, such as, physical and chemical, functional uses, specifications. The two closely resemble in terms of various characteristics and these are technically and commercially substitutable. There is no known difference in the technology employed by the petitioner and producers in China as regards the technology involved in coating of certain chemical mixture which results in heat sensitivity on the paper. There is thus no difference in the Thermal Sensitive Paper produced by the petitioner and the subject goods imported from Peoples' Republic of China. Therefore, Thermal

Sensitive Paper being produced by the petitioner is a like product to the Thermal Sensitive Paper being imported from subject country.

(c) On Dumping:

- i. The petitioner has stated that the domestic industry was earlier suffering injury from dumping by the exporters from Japan and EU. Now, dumping has started from China. The petitioner has not produced information in respect of domestic sale transactions in the subject country for determination of normal value. The petitioners have requested that the exporters, being from China, may be treated as those from non-market economy and therefore, the normal value may be determined as per amendment made to Annexure 1 to the Anti Dumping Rules vide Notification No. 44/99-CUS (NT), dated 15-7-99. As per these Rules, which have been further amended vide Custom Notification No. 28/2001(NT), dated 31-5-2001, inter alia, the normal value in respect of non-market economy countries 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. Therefore, the petitioner has claimed that normal value in respect of China may be determined on the best information available with regard to estimate of cost of production of the subject goods in India, duly adjusted to include selling, general and administrative expenses and a reasonable profit margin.
- ii. The petitioner has claimed the export price on the basis of volume and value of imports of subject goods from subject country during April – December, 2000 based on the figures of secondary sources. There is no dedicated Customs Classification for subject goods and therefore the data published by DGCI&S has not been relied upon by the petitioner. The petitioner regularly monitors import information from secondary sources and has relied upon the information compiled by M/s. Informant, Mumbai and Exim Infoline, Chennai. They have worked out CIF export price as Rs.5.94 per sq. mtr. The petitioner has also stated that the importers are reselling the subject goods at a price less than the cost of acquisition and therefore the export price as per the published secondary source are not reliable. They have also claimed that the export price may be determined keeping in view section 9A 1(b) of the Customs Tariff Act which states that:

"Export Price", in relation to an article, means the price of the article exported from the exporting country or territory and in cases where there is no export price or where the export price is unreliable because of association or a

compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6)".

The petitioner has worked out the export price as Rs.3.63 CIF per sq. meter based on their above contention i.e. by constructing the export price on the basis of the resale price of TSP by the importer in India. While working out the export price at ex-factory level the petitioner has claimed adjustments on account of ocean freight @ US \$ 50 per MT, marine insurance @ 0.5% of export price, commission 3% for Indian indenting agents and 3% for agents in China, inland transportation in China @ of 2%, port handling charges 2% and 1% packing costs. After these adjustments the export price has been worked out at ex-factory level as US \$.113 per sq. mtr. on the basis of published exports data of secondary source & US \$ 0.065 per sq. meter as per the resale price of imported TSP in India.

- iii. The dumping margin for import of Thermal Sensitive Paper from the subject country has been stated at 45.33% when the export price is determined from the secondary source data and the dumping margin is stated to be 153.03% when export price is constructed on the basis of resale price of imported Thermal Sensitive Paper in India.

(d) On Injury and Causal Link:

- i. The domestic industry was earlier suffering injury from dumping by the exporters from Japan and EU. Now, dumping has started from the subject country.
- ii. Though the sales of the domestic industry have increased, the increase in sales has not been in proportion to the increased production, resulting in increase in inventory.
- iii. The domestic industry has been forced to increase selling price in view of increase in cost of production. However, the domestic industry is not able to get remunerative price for the subject goods and has suffered significant losses due to selling of the subject goods at selling price lower than the cost of production resulting in losses continuously.
- iv. The landed price of imports from the subject country is significantly below the selling price of the domestic industry, resulting in severe price under-cutting in the market.

- v. The imported Thermal Sensitive Paper is being sold in the domestic market at a price below the landed value. The petitioner has alleged that there is some compensatory arrangement between the exporter and the importers. The landed value based on the constructed export price is significantly below the cost of production of the domestic industry causing severe price suppression in the Indian market.
- vi. The petitioner has suffered losses in the manufacture and sale of the subject goods as their net sales realization has been below the unit cost of production. Therefore, even after increased production the petitioner has not found the operation of manufacture of Thermal Sensitive Paper profitable causing material injury to the industry.
- vii. The injury to the domestic industry can be linked to the dumped imports from the subject country. There has not been any contraction in demand of the subject goods in the Indian market.
- viii. The technology adopted by the domestic industry is comparable to the technology used by the producers world-over. Every producer fine tunes its process on the basis of the available facilities and therefore the injury cannot be attributed to any technology reason.
- ix. The injury to the domestic industry is solely due to the dumped imports as the industry has suffered due to sales price significantly below the cost of production in view of landed cost of the imported material being significantly below the selling price of the domestic industry.
- x. The sub-optimal sales of the domestic industry due to dumped imports had directly resulted in increasing stock with the industry in spite of restricting the production.

C. VIEWS OF EXPORTERS, IMPORTERS AND USERS :

4. None of the known exporters, importers, users and industry association has responded to the questionnaires sent to them. The communications sent by the Authority relating to these investigations have been returned un-delivered by the postal authorities in respect of the following importers/users/association:

- 1. Hindustan Sales,
Kumar Talkis Building, Chandni Chowk,
Delhi-110006.
- 2. Sohum Industries Pvt. Limited
1, Bhagwan Bhawan, Gr. Floor Building No.15,
Dadi Santuk Lane, Chira Bazar, JSS Road,
Mumbai-400002.

3. All India Thermal Paper Dealers Association
Office No. 05, 4855/24,
Ansari Road, Daryaganj
New Delhi-110002.

The petitioner was advised to give information regarding the correct addresses of the above parties. The petitioner has informed that they had given the correct information to the best of their knowledge in respect of these interested parties. The petitioner has also stated that there is no association by the name and style of 'All India Thermal Paper Dealers Association'.

D. EXAMINATION AND FINDINGS BY THE AUTHORITY

5. The submissions made and the information provided by the domestic industry have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

6. The Authority confirms the absence of any direct response from the exporters from Peoples' Republic of China in the form and manner prescribed and having made the findings with regard to exports from the subject country on the basis of the fact available to it as per Rule 6(8) supra.

7. 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.

E. Product Under Consideration And Like Article

8. Thermal Sensitive Paper is a paper coated with a special mix of chemicals for providing thermal sensitive properties to the base 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. 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. 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 Customs Tariff Act. 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.

9. Thermal Sensitive Paper being produced by the domestic industry and the Thermal Sensitive Paper exported from China closely resemble in terms of various characteristics and are technically and commercially substitutable. There is thus no difference in the Thermal Sensitive Paper produced by the petitioner and the subject goods imported from Peoples' Republic of China. Therefore, for the purpose of this investigation the Authority holds that Thermal Sensitive Paper being produced by the petitioner is a like product to the Thermal Sensitive Paper being imported from subject country.

F. DOMESTIC INDUSTRY

10. The petition has been filed by M/s. Shree Krishna Paper Mills and Industries Limited, New Delhi. The Authority holds that the petitioners are the only producer of subject goods in India and therefore they satisfy the standing to file the petition on behalf of the domestic industry as per Rule 5(3)(a) and (b) and Rule 2(b)

G. NORMAL VALUE, EXPORT PRICE AND DUMPING:

11. Normal Value:

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);

12. The Authority sent questionnaires to the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). However, no response was received from any exporters from the subject country. The petitioner has

stated that the exporters being from China may be treated as those from non-market economy and therefore, the normal value may be determined as per amendment made to Annexure I of Anti Dumping Rules vide Notification No. 44/99-CUS (NT), dated 15-7-99 and Custom Notification No. 28/2001(NT), dated 31-5-2001. The amended Rules inter alia state that the normal value in respect of non-market economy countries 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. Since none of the exporters has responded to the questionnaire and have not furnished any information, the Authority therefore holds that none of the exporters from the subject country have cooperated with the Authority as envisaged under the Rules. The domestic industry has furnished information with regard to the 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 has determined normal value on the basis of the constructed cost of production. The Authority notes that the domestic industry produces the Thermal Sensitive Paper in different GSM (Grams per square meter). After taking into account the Thermal Sensitive Paper produced by the domestic industry in different GSM the normal value for the subject goods for the subject country is therefore, determined as US\$ *** per kg for the purpose of preliminary findings subject to verification.

Export price

13. The Authority notes that none of the exporters has cooperated in furnishing information regarding export sales from the subject country. The Authority has therefore relied upon the information regarding export price furnished by the petitioner which is based on the data compiled by secondary sources, viz., M/s. Informant, Mumbai and M/s. Exim Infoline, Chennai. The Authority has also received information with regard to the imports of subject goods from the DGCI&S and have found that the import figures for the period of investigation in respect of the subject goods from the subject country match with that of the secondary sources. As regards the total volume of imports during the period of investigation and for the preceding two years the Authority has relied upon the import data of the secondary sources furnished by the petitioner. The petitioner has also stated that the importers are reselling the subject goods at a price less than the cost of acquisition and therefore the export price as per the published secondary source are not reliable. They have claimed that the export price may be determined keeping in view section 9A 1(b) of the Customs Tariff Act which states that:

"Export Price", in relation to an article, means the price of the article exported from the exporting country or territory and in cases where there is no export price or where the export price is unreliable because of association or a compensatory arrangements between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported article are first resold to an independent buyer or if the article is not resold to an independent buyer or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6)".

14. The Authority finds that enough justification and evidence has not been furnished by the petitioner in support of their claim to disregard the export price as per the secondary source data and to adopt the constructed export price based on resale of imported Thermal Sensitive Paper. Only one solitary invoice relating to sale of Thermal Sensitive Paper in the Indian domestic market, supposedly from out of Thermal Sensitive Paper imported from the subject country, has not been considered sufficient by the Authority to conclude that there may be a compensatory arrangement between the exporter and the importer and thereby to treat the export price as unreliable. Moreover, the petitioner has approached the Authority to accept the import data of subject goods from the subject country. When on one hand the Authority has gone ahead to accept the volume of imports as per the secondary source data, the Authority does not find any merit in the claim of the petitioner to disregard totally the export price as per the secondary source. However, the Authority has observed that square metre per metric tonne quantity of Thermal Sensitive Paper varies from one import consignment to another import consignment. It has been found that in one case it has been 9288 square meters per metric tonne, which is the lowest and the maximum has been as much as 18181 square meters per tonne. The Authority holds the view that the quantity in terms of square meter shown in the import data may not be either reflecting the correct quantity of import or due to varying GSM the square metre quantity per metric tonne varies. There has not been any response from either the exporters or the importers for the Authority to take any other view. As the Thermal Sensitive Paper is produced in different GSM the square metre quantity for each metric tonne may vary depending upon the GSM produced. If the unit of measurement is considered in weight terms the weighted average export price will provide a more representative information of different GSM imports of subject goods for purposes of a proper comparison. The Authority thus holds the view that the weight of the imports as declared at the time of imports and shown in the data of DGCI&S may be a proper basis to determine the unit price of the subject goods. Accordingly for these findings, the Authority has considered the determination of the export price of the subject goods in terms of weight as per the secondary source data, which has been corroborated by the information received from the DGCI&S.

15. The petitioner has claimed adjustments on account of ocean freight @ US \$ 50 per MT, marine insurance @ 0.5% of export price, commission 3% for Indian indenting agents and 3% for agents in China, inland transportation in China @ of 2%, port handling charges 2% and 1% packing costs. The Authority has allowed adjustments on account of ocean freight @ US \$ 50 per MT, marine insurance @ 0.5% of export price, commission @ 3%, inland transportation in China @ 2%, port handling charges @2%. Therefore, an adjustment of RS.*** US\$*** /kg. has been made on these accounts from the average export price. After making these adjustments the net export price at ex-factory level has been worked out as Rs.***US \$*** per kg. for the period of investigation.

Dumping margin

16. 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.

17. The normal value based on the constructed cost of production works out to Rs.*** per kg. or US\$ ***per kg. The net export price at ex-factory level worked out as above after making adjustments comes to Rs.*** /kg. US\$*** /kg. The dumping margin in respect of the exports of the subject goods from the subject country comes to 91.63% of the export price.

H. INJURY

18. 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."

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.

19. The Authority has examined the information regarding volume of imports during the period of investigation and the two preceding years, i.e. 1998-99 and 1999-2000. The DGCIS, in response to the initiation notification, sent data showing imports of Thermal Sensitive Paper during the POI and preceding two years under ITC (HS) Classification 4809, 4811 and 4816. In respect of the preceding two years, viz., 1998-99 and 1999-2000 it is not clear from DGCI&S data, if there was any import of the subject goods from the subject country as there is no dedicated entry for Thermal Sensitive Paper in the Customs Tariff Act. However, as per secondary source data furnished by the petitioners there were no imports of subject goods during the years 1998-99 and 1999-2000 from the subject country. The Authority relies on this information. As regards the imports during the POI of subject goods from subject country, the DGCI&S data and secondary sources data match. The total imports of Thermal Sensitive Paper during POI as per secondary source data are 4558659 sq. mtr. In terms of weight this is considered equivalent to 401.50MT. The imports from the subject country during this period were 505288 sq. mtr or 44.503 MT as per the secondary source and DGCI&S data. The Authority finds that these imports being 11.08% of the total imports during POI are above de-minimis. The Authority considers it appropriate to compare the trend of increasing imports on the basis of the information furnished as above by the petitioner, based on secondary sources data. The imports of Thermal Sensitive Paper from subject country were nil during 1998-99

and 1999-2000 and these were 44.503 MT during the POI. The share of these imports in total imports was 11.08% which the Authority considers significant when compared to nil share in previous two years. Therefore, the Authority considers the volume of dumped imports from subject country to be significant as there has been an increase in the dumped imports in absolute terms.

Significant Price Under cutting

20. 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. 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.

Price Suppression:

21. 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.

Inventory:

22. The domestic industry has stated that closing stock with the industry have been increasing, in spite of the fact that the petitioner is regulating the stock levels by monitoring production levels. The Authority has examined the claim and has seen that the level of finished product inventory of the domestic industry during the period of investigation was significantly higher than the previous years. The industry 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.

Threat of Injury

23. Under Rule 11 *supra*, Annexure II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, "*.....taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles.....*". Further to above, regarding threat of injury, para (vii) of Annexure II of Rules *supra*, reads as under:-

" (vii) A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the designated authority shall consider, *inter alia*, such factors as:

- a. a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- b. sufficient freely disposable, or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian market, taking into account the availability of other export markets to absorb any additional exports;
- c. whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
- d. inventories of the article being investigated."

24. The Authority finds 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.

I. CAUSAL LINK

25. As regards the impact of the dumped imports on the domestic industry the principle (iv) of Annexure-II of the Anti-Dumping Rules states:

"The examination of the impact of the dumped imports on the domestic Industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilisation of capacity; factors affecting domestic prices, the magnitude of margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments."

Views of the Petitioners

26. The petitioners have stated that injury to the industry has been caused by the dumped imports of subject goods from the subject country. As the landed value of the imported Thermal Sensitive Paper is significantly below the selling price of the domestic industry, the industry has been forced to keep its selling price significantly below the cost of production. Therefore, the industry has not been able to realize a non-injurious price. The price suppression suffered due to dumped imports has resulted in severe financial losses to the domestic industry. The dumped imports have directly resulted in increasing stock of the domestic industry in spite of restricting their production. The industry has also been prevented from increasing its sales and production. The domestic industry has also stated that there has not been a contraction of demand of the subject goods and the injury to the industry cannot be attributed to any fall in demand.

Examination and Findings of the Authority

27. For the examination of the impact on the domestic industry in India, the Authority considered such indices having a bearing on the state of industry as production, sales, closing stock, market share, profitability, net sales realisation etc. in accordance with Annexure-II (iv) of the Rules supra. The Authority has also found that the demand for the subject goods during the period of investigation (POI) has shown an increase of 58% when the demand during the POI (annualized) is compared with the demand in the preceding year 1999-2000.

28. Conclusions of the Authority:

After examining the various economic parameters as above the Authority has come to the following conclusions:

- i. 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.
- ii. The selling price of the domestic industry increased during the POI as compared to year 1999-2000. However, the same has been below the non-injurious price (NIP) on account of dumped imports. The industry has suffered financial losses due to price undercutting of dumped imports.
- iii. The domestic industry has suffered due to price suppression. They have not been able to raise their selling price to recover the cost of production, as the landed value of the dumped imports has been significantly lower than the cost of production.
- iv. The inventory level of finished goods of the domestic industry has increased during the POI in comparison to the previous years due to the dumped imports.
- v. The demand of the product has not decreased and has, therefore, not contributed to injury to the industry.
- vi. The above economic parameters cumulatively and collectively establish that domestic industry has suffered material injury on account of dumping.

J. INDIAN INDUSTRY'S INTEREST

29. 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.

30. The Authority recognises that the imposition of anti dumping duties might affect the price levels of the product; 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.

K. LANDED VALUE

31. The Landed Value has been determined for the subject goods after adding on the weighted CIF export price, the applicable level of custom duties (except duties levied under Section 3, 3A,8B,9,9A) and one percent towards landing charges for the purposes of preliminary determination pending final findings.

L. CONCLUSIONS

32. The Authority has, after considering the foregoing, come to the conclusion 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 and is being threatened with further injury;
- iii. the injury has been caused by the dumped imports from the subject country.

33. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of Thermal Sensitive Paper from Peoples' Republic of China in order to remove the injury to the domestic industry. The Authority has considered to recommend the amount of anti-dumping duty which, if levied, would be adequate to remove the injury caused to the domestic industry on account of dumping. The average landed value of the imports of subject goods, for the purpose, were compared with the non-injurious selling price of the domestic industry, determined for the period of investigation

34. Accordingly, the Authority recommends that provisional anti dumping duties as set out below be imposed from the date of notification to be issued in this regard by the Central Government on all imports of Thermal Sensitive Paper falling under Customs Heading 4809.10 and also under sub-headings of heading 4811 and 4816 of Schedule I of the Customs Tariff Act, 1975; originating in and/or exported from the Peoples' Republic of China pending final determination. The anti dumping duties shall be as follows:-

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

M. FURTHER PROCEDURE

35. 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, producers, 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 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;

- c. The authority would provide opportunity to all the interested parties for making oral submissions, which have to be rendered thereafter in writing. The date and time for the oral hearing shall be communicated to all known interested parties subsequently;
- d. The Authority would conduct further verifications to the extent deemed necessary;
- e. The Authority would disclose essential facts before announcing the final findings.

L.V. Saptharishi,
Designated Authority