

MINISTRY OF COMMERCE

NOTIFICATION

PRELIMINARY FINDINGS

New Delhi, the 18th August, 1999

Subject: - Anti-Dumping Investigation concerning imports of Thermal Sensitive Paper (TSP) from Japan, Finland, Germany and European Union (EU) — Preliminary Findings.

25/1/98.ADD.— 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

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

- i. The Designated Authority (hereinafter referred to as Authority), under the Rules, received written application from M/s. Shree Krishna Paper Mills Limited, alleging dumping of Thermal Sensitive Paper (hereinafter referred to as TSP), originating in or exported from the Japan, Finland, Germany and European Union(EU) (hereinafter referred to as subject countries);
- ii. The Authority, on the basis of sufficient evidence submitted by the petitioner, decided to initiate investigations against imports of TSP from the subject countries, The Authority notified the Embassies of the subject countries about the receipt of dumping allegation before proceeding to initiate the investigations in accordance with sub-rule 5(5) of the Rules;
- iii. The Authority issued a public notice dated 9th March, 1999 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of TSP classified under custom sub-headings 4809.10 of Schedule I of the Customs Tariff Act, 1975, originating in or exported from the subject countries;
- iv. The Authority forwarded a copy of the public notice to the known exporters (whose details were made available by the petitioner) and industry associations and gave them an opportunity to make their views known in writing in accordance with rule 6(2);

- v. The Authority forwarded a copy of the public notice to the known importers of TSP in India and advised them to make their views known in writing within forty days from the date of the letter;
- vi. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of TSP for the past three years, including the period of investigations.
- vii. The Authority provided a copy of the petition to the known exporters and the Embassies of the subject countries in accordance with rules 6(3) supra;
- viii. The Authority sent questionnaire, to elicit relevant information, to the known exporter from Japan, Finland, Germany and European Union (EU), as mentioned below in accordance with the Rule 6(4);-

Japan

- M/s. Oji Paper Co. Ltd., Tokyo.
- M/s. Mitsubishi Paper Mills Ltd., Tokyo.

Finland /Germany /European Union

- M/s. Jujo Paper Co. Ltd., Finland.
- M/s. Japan Pulp & Paper GmbH, Germany.
- M/s. Stora Spzialpapiere GmbH, Germany.

Exporter Traders

- M/s. Itochu Pulp & Paper Corp., Japan.
- M/s. T. Yamada & Co. Ltd., Japan,
- M/s. Dai Ei papers Ltd., Japan.
- M/s. Marubeni Corp., Japan.
- M/s. Hoshino Sangyo Co. Ltd., Japan.
- M/s. Mitsubishi Paper Corp., Tokyo.
- M/s. Japan Pulp & Paper GmbH, Germany.

The response to the questionnaire was sent by M/s Mitsubishi Paper Corp., Tokyo and M/s. Stora Spzialpapiere GmbH, Germany. None of the other exporters responded to the questionnaire.

- ix. The Embassies of the subject countries in New Delhi were informed about the initiation of the investigations in accordance with rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and

questionnaire sent to the exporter was also sent to the Embassies, along with a list of known exporters/producers;

- x. A questionnaire was sent to the following known importers/ wholesale dealers of TSP in India calling for necessary information in accordance with rule 6(4):

- M/s. Cantronics Office Equipments Pvt. Ltd., Mumbai.
- M/s. Varsha Traders, Mumbai.
- M/s. Vardhman Paper Products, Aurangabad.
- M/s. Alankar Stationary Mart, Delhi.
- M/s. Haryana Traders Pvt. Ltd., Delhi,
- M/s. Hindustan Sales, Delhi.
- M/s. Modi Hospital Appliances Mfg. Co. Ltd., Chennai,
- M/s. VI Office Equipment Pvt. Ltd., Chennai.
- M/s. Hariti Papers Pvt. Ltd., Jaipur.
- M/s. Rational Business Corporation, New Delhi,
- M/s. Vaishno Paper Products, Delhi.
- M/s. Sohan La! Nem Chand Jain, Delhi.
- M/s. Asian Coated Paper(P) Ltd., Mumbai.
- M/s. Sohum Industries (P) Ltd., Mumbai.
- M/s. Tokushu Menor Paper Mfg. Co., Chennai.
- M/s. Shyam Traders. Delhi.

The response was, however, filed by the following importers of TSP:-

- i. M/s. Modi Hospital Appliances Mfg, Co. Ltd., Chennai.
- ii. M/s. VI Office Equipment Pvt. Ltd., Chennai.
- iii. M/s. Rational Business Corporation, New Delhi
- iv. M/s. Data Soft India Ltd., Delhi.
- v. M/s. Sonia Converters, Pune.

- xi. Additional information regarding injury was sought from the petitioner, which was also received;
- xii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xiii. The Authority conducted spot verification of the domestic industry to the extent considered necessary.
- xiv. Cost investigations were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioner so as to ascertain if anti-dumping duty lower than

the dumping margin would be sufficient to remove injury to the domestic industry;

- xv. **** in this notification represents information furnished by the petitioner on confidential basis and so considered by the Authority under the Rules,

PERIOD OF INVESTIGATION:

xvi. Investigation was carried out for the period starting from 1st April, 1998 to 31st December, 1998.

B. PETITIONER'S VIEWS

2. The petitioner has raised the following issues in its petition:

i) On Dumping:

- a. The TSP is being imported from Japan, Finland and Germany since the introduction of Fax machines, as no industry was manufacturing this paper in India.
- b. The petitioner conceived the project in 1993 and the project commenced the commercial production in March, 1997. The exporters from the subject countries have started reducing their prices even since the petitioner started its project.
- c. The export price of TSP from Japan was yen 18 per sq. meter in 1993-94 and has since declined to yen 10.50 per sq. meter by the time the petitioner commenced the commercial production.
- d. The export price of TSP to India has been at a price much below its normal value in the subject countries.

ii) On injury:

The petitioner has suffered injury as would be seen from the following:

- a. The company commenced the commercial production in the year 1996-97. As against the installed capacity of 2,000 MT/PA, the company has been able to produce the subject goods only to the extent of 416.142 MT during the year 1997-98, due to alleged dumping of the TSP below its normal value.
- b. There has been under utilisation of the capacity of the petitioner and it has not been able to market the TSP as the exporters have been selling the product at a low price.
- c. The import of TSP from Japan, Finland, Germany and E.U, are at the cost of loss sales by the petitioner and in spite of decline in the selling prices, M/s.

Shree Krishna Paper Mills Ltd. have lost the market to a significant degree and are facing unfair competition from the dumped imports,

- d. The company has suffered huge financial losses due to selling TSP in the domestic market at a price far below its cost of production.

C VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES

3. Views of Exporters:

- a. The petitioner company produces only the TSP of fax grade and not all sort and grades of TSP. Therefore, the scope of present investigations should be confined to TSP used for fax machines only,
- b. The price decline in the TSP paper in the past years had been at the worldwide level and not confined to India only. It had nothing to do with the intentions of the exporters to depress the prices.
- c. There had been no material injury to the petitioner M/s. Shree Krishna Paper Mills Ltd as there has been improvement in the market share, level of production, capacity utilisation and the sales volumes.

Views of Importers:

- a. The individual importers have furnished the details of the imports made by them from the subject countries during the period of investigation and requested that no Anti-Dumping duty be levied on the imports of TSP.
- b. The quality of the product supplied by the domestic manufacturer was not up to the mark and this effected the quality of end product immensely,

D. EXAMINATION OF THE ISSUES RAISED

4. The submissions made by the exporters, importers, petitioner and other interested parties have been examined, considered and have been dealt with at appropriate places hereinafter.

E. PRODUCT UNDER CONSIDERATION & SCOPE OF INVESTIGATION

5. The product considered in the present investigation is Thermal Sensitive Paper (TSP) in or exported from Japan, Finland Germany and the European Union (EU). TSP is primarily used in the Fax Machines, ECG Machines, Cash Registers,

CAD/CAM registers etc. TSP is classified, under the Custom-sub heading 4809.10 of the Custom Tariff Act, 1975 in the Carbon or Similar Copying Paper" category. TSP is further classified under ITC classification for Imports & Exports under the heading 48091009 10 as "Thermal Paper for Fax Machines". The classification is however, only and in no way binding on the scope of the present investigation.

It has been argued by one of the exporter that the scope of the present investigation should be restricted to the TSP used in Fax Machines only as the TSP of different thickness and grades cannot be used interchangeably. The Authority notes that TSP is produced in varying thickness measured as Grams per Sq. Meter (GSM). The manufacturing process and the chemical properties of the TSP of varying thickness are identical. The petitioner produces Thermal Paper of varying thickness and the same are used interchangeably. Therefore, the scope of the present investigation covers all types of TSP.

F. LIKE ARTICLES

6 Rule 2(d) of the Anti-Dumping Rules specifies that "Like Articles" means an Article which is identical or alike in all respects to the product under investigation or in the absence of such an Article, another article, having characteristics resembling those of the articles under examination.

The petitioner has claimed that the TSP produced and sold by them and those imported from the subject countries, are being used interchangeably by the customers in India. The process and technology for manufacturing the product all over world is similar in terms of machinery, raw materials, manufacturing process except for minor differences such as additives, automation in material handling etc. TSP is produced and sold in different thickness in terms of GSM. However, the various sizes serve the same general purpose. None of the interested parties have disputed the claims made by the petitioner.

In view of the same, the Authority holds that TSP being produced by the domestic industry and those being imported from the subject countries can be used interchangeably and thus are commercially and technically substitutable and therefore, are like articles within the meaning of the rules.

G. DOMESTIC INDUSTRY

7. The petition has been filed by M/s. Shree Krishna Paper Mills & Industries Ltd. having its Registered Office at 4830/24, Prahalad Street, Ansari Road, New Delhi and works at Bahadurgarh, Haryana. The petitioner is the sole producer of the subject

goods in India. The other company M/s. Denmur Fax Rolls Ltd. which had created capacities from the manufacture of TSP in India has since closed its operations. Therefore, the petitioner accounts for a major proportion of the production of the subject goods in India and fulfils the requisite criteria to represent the domestic industry, as required under the rules,

H. MARKET SHARE & VOLUME OF IMPORTS:

8. TSP is classified under the Custom-sub heading "4809.10 of the Custom Tariff Act under the "Carbon or Similar Copying Paper" category. The Custom-sub heading is not dedicated to the Thermal Paper only and includes the other type of papers also. Therefore, the official statistics of Govt. of India such as DGCI&S do not reflect a true and fair picture of the volume and the prices of the exports to India. Therefore, the petitioners have relied upon secondary sources, for the quantum of imports and the import prices. In this regard, the petitioners have submitted the information compiled by M/s. Informats, Mumbai.

As per the information submitted by the petitioner the quantum of total imports during the financial year, 1997-98 was 114.29 lacs Sq. Meters. Out of these imports, the share of Japan was as much as 47.20%. The share of EU Countries in the total imports was to the extent of 42.80% with Germany and Finland accounting for 6.48 % and 30.87 % of the total imports respectively. Sweden had a market share of 4.03%.

The quantum of imports of TSP during the period of investigation was 71.25 Lac Sq. Meters. The imports during the period of investigation has declined on an annualised basis by 16.60 % during the period of investigation over 97-98. The share of Japan and Germany in the total imports was to the extent of 85.85% and 10.67% respectively. As per evidence made available to the Authority, based on the secondary sources, there were no imports of TSP into India from Finland during the period of investigation. All the imports from European Union were accounted for by Germany. The decline in the volume of imports from European Union was primarily on account of no imports from Finland during the period of investigation. However, the share of Germany in the total imports has gone up to 10.67 %.

I. DE-MINIMUS IMPORTS:

9 A reference was received by the Designated Authority, from the Ambassador, Delegation of European Union (EU), stating that in order that an investigation against all the imports from the community i.e. 15 Member States be warranted, the volume of imports from a particular country belong to the community should be more than the negligible, as defined under Article 5.8 of the WTO Anti-Dumping Agreement. It is

further slated that the imports from some of the Member States of EU are negligible and one of the Member State of EU ha not exported any TSP to India during the period of investigation It has, therefore, been argued that the negligibility test be applied to the individual Member States of the EU.

As mentioned in the para above regarding, the market share and the volume of import during 1997-98, the share of European Union in the total imports was to he extent of 42.80% and further the share of Finland and Germany was 6.48% and 30.87% respectively. The Authority notes that member countries of EU have a common Custom territory and there are no custom barriers within the EU. Therefore, for the purpose of the present investigation, the Authority has considered the European Union as a single entity which accounts for more than he de-mmimus imports as specified under WTO Agreement on Ant-Dumping. Hence the Designated Authority holds that the initiation of investigations are within perimeters of WTO Agreement on Anti-Dumping. However, since Germany and Holland and EU have been specifically preceded against in this case the deminimus test have been applied to them as separate entities.

J. COMPARISON:

10. As per the Anti-Dumping Rules, the Designated Authority shall make fair comparison between the export price and the normal value. Due allowances shall be made in each case, on its merits, for differences which may affect the price comparability on various accounts. The Authority notes that the TSP being exported to India and the one being produced by the petitioner varies in their thickness in terms of GSM. The imported TSP has a thickness of ****GSM where the average GSM of the TSP produced by the petitioner during the period of investigation was ****GSM. In order to have a fair comparison between the price of the imported TSP and the domestic price of TSP in India, on a like to like basis, the Authority has made appropriate adjustment to the non-injurious price of TSP for the domestic industry.

K. DUMPING

Normal Value:

11. 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, and determined in accordance with the rules made under sub-section (6):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

12. The Authority sent the questionnaire to the exporters from the subject countries in terms of the section cited above. The claims made by the exporters with regards to the Normal Value and the export price are as under:-

Exporters from Germany, Finland and EU

The response was received only from M/s. STORA, Germany who furnished the details of the exports made to India during the period of investigation and the domestic sales. The claims made by the exporters with regards to the Normal Value and the export price are discussed herein under:-

Normal Value:

The exporter furnished the month wise details of the sales of TSP in the domestic market. M/s. STORA sold ***** Kg. of TSP in the domestic market at a sales value of US\$ ***** Million. Thus, the average sales realisation in the domestic market was US\$*****/Kg. The exporters have claimed adjustment on account of Discount, Commission and Transport charges. The claims on account of these changes comes o\to US\$ *****/Kg. Accordingly, the exporters have claimed an ex-factory price of US\$ *****/Kg equivalent US\$ ***** per Sq. Meters for the TSP in the domestic market.

Export Price:

The exporters M/s. STORA have exported **•• Kg. of TSP to India for a total value of US\$****. Accordingly, the average export price of TSP during the period of investigation works out to US\$**'*/Kg. They have claimed adjustments on account of Insurance and Freight of US\$ *****/Kg. Thus, the Ex-factory price for export sales to India is claimed at US\$*****Kg. (equivalent US\$*****/Sq Meter).

No other exporter had responded to the information solicited by the Designated Authority, as far as the exporters from Germany, Finland and EU are concerned.

Japan:

The response was filed by M/s Mitsubishi Paper Mills Ltd. Tokyo, Japan. However, no details were furnished by the exporters, as far as the domestic sales are concerned. The exporters only furnished the details of the quantity of the sales in the domestic market. However, the exporters claimed an Ex-factory export price to India at Yen *****/Kg. after claiming the adjustment for commission and Handling. The other details with regards to the domestic sales, the cost of production and the evidence with regards thereto, were not furnished by the exporter. No other exporter responded to the information solicited by the Designated Authority Examination of the claims by Authority.

Examination of the claims by Authority :-

The claims made by various interested parties with regards to the Normal value and the export price have been examined by the Designated Authority and are discussed herein under.-

Exporters from Germany.

M/s. STORA Spezialpapiere GmbH, Germany Normal value:

Normal Value:

As claimed by the exporters, the weighted average sales price for the company in the domestic market has been adopted for the purpose of Normal value. Subject to verification of the information, the other claims made by the exporter on account of Discount, Commission and Inland Transportation have been allowed. Accordingly, the Normal value based on the domestic sales has been taken at US\$***/Kg.(equivalent US\$/Sq. Meter).

Export Price:

The weighted average export price of the exporters M/s. STORA to exports to India during the period of investigation, i.e. US\$**** has been considered by the Authority as the CIF Price. As claimed by the exporters, subject to verification the adjustments have been allowed For the Insurance and Freight to the extent of US\$****/Kg. as per actual. Besides, a commission @ ****% is stated to have been paid. The same has been considered by the Designated Authority is arriving at the Ex-factory export price. Accordingly. Ex-factory export price to India works out at US\$****/Kg.(equivalent US\$****/Sq. Meter)

Accordingly the dumping margin in the case of M/s. STORA. Germany workes out to US\$**** Sq. Meter or 18.15% of the export price.

Non Co-operative Exporters from Germany

No response was filed by any of the exporters from Germany. The Authority also wrote to the Embassy of subject country soliciting requisite information. However, no information was filed by any other exporter from subject Country. In the absence of any response from the other exporters, the authority has considered Normal Value and export price based on best available information. The Normal value at the time of initiation was considered based on the constructed cost of production of TSP in Germany. The Authority has considered the same as basis for determination of Normal value. However export price in case of non co-operative exporters from Germany has been considered by Authority based on the information made available by M/s STORA, Germany. Accordingly. Normal Value and the export price in case of non co-operative exporters has been assessed at US\$ 0.133 per Sq Meter and US\$****/Sq Meter respectively. Thus, dumping margin in case of non co-operative exporters is assessed at 71.17 %.

13. Exporters from Japan

Normal Value:

The response to the information solicited by the Designated Authority was received only from M/s Mitsubishi Paper Mills Ltd., Japan However, the information furnished by the company was found to be inadequate. No information was filed by the exporters with regard to the details of invoices, month wise details of the sales, value of the sales in the domestic market and the sale price structure for domestic sales, export sales etc. The Authority again requested the exporter to make available the requisite information in the prescribed Performa. However, no additional information was made available by the company. Therefore, in the absence of the requisite information by the exporter, the Authority has adopted the Normal value and the

export price based on the best available information in the case of M/s. Mitsubishi Paper Mills Ltd.

No response was filed by the other exporter⁵ from Japan with reference to the Information solicited by the Designated Authority

14. The Authority provided opportunity to the exporters from Japan to furnish information relevant to the Investigations and offer comments, if any, in accordance with the Section cited above. The Authority also wrote to the Embassy of Japan in India. However, none of the exporters from the subject country has responded to the Authority's request for information.

15. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by any interested party(ies) The .Authority has, therefore, proceeded on the basis of Rule 6(8). ie. best information available.

16. The normal value was determined at the time of initiation of the investigations on the basis of the constructed cost of production of TSP in Japan The Authority has considered the same as the basis for determination of the Normal Value.

17. The Normal Value has been constructed on the basis of the best available information with the Authority in the optimum working conditions, in the absence of any Information "from the exporters. Therefore, the cost of production of TSP m India has been adopted as the basis for the constructed cost in Japan after allowing for the reasonable margins for the profits Accordingly, the normal value of TSP has been taken at US\$0.133 per Sq. Meter for all the exporters from Japan.

Export Price:

18 (i) TSP are classified under the heading "Carbon or Similar Copying Paper" under the Harmonised System of nomenclature which comprises of a number of other papers as well. Therefore, the evidence on the export prices based on DGCIS, Calcutta could not be relied upon as the basis for export prices However, the petitioners have furnished the evidence on the export price based on the data compiled by secondary sources. The petitioners have furnished country-wise details of the import from the subject countries during the period o' investigation based on the data compiled by M/s. Informal. Mumba.

(ii) Based on the secondary sources, the quantum of imports from Japan was during the period of investigation was 61.16 Lac So Meters at a value of Rs 215.64 Lacs. Thus, average C/F price of imports of TSP from Japan during the period of investigation was Rs 3.67per Sq. meter.

19. No information has been filed by the exporters with regards to the imports to India from the subject countries during the period of investigation. Besides, the export price as claimed by the petitioner, has not been disputed by any of the interested party and none of the interested parties have claimed any price adjustment on the export price.

20. The rules relating to comparison provides as follows.

"While arriving at margin of dumping, the designated authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability.

21. The petitioners have claimed the following price adjustments, per MT of TSP from the Export price to arrive at the Ex-factory value of the exports:

Ocean Freight US\$ *****

Marine Insurance US\$ *****

Commission US\$ *****

Total: US\$ *****

Since no Information has been provided by any of the importers and exporters in this regard and the adjustments claimed by the petitioners, on these accounts, have not been disputed by any of the interested party. The Authority considers the information provided by the petitioner as the best available information. Hence, the claims on account of Marine Insurance, Ocean freight and Commission are allowed, as claimed. Accordingly, the expenses on these elements works out to US\$*****/Kg. (equivalent Rs.*****/ Sq. Meter.

Accordingly, the Ex-factory export price has been adopted at Rs.*****/- for exporters from Japan.

The Authority notes that no response has been received from any of the exporters of TSP from Finland and EU. However, based on the secondary sources, there are no imports of the subject goods from Finland during the period of investigation. Besides, the total imports from EU represent imports from Germany during the period of investigation. Therefore, no Normal Value, Export Price and Dumping Margin has been assessed by the authority in respect of exporters from Finland and European Union.

22. Based on the Normal Value and the Export Price, as discussed above, the dumping margins in respect of individual exporters and the specific countries, is as under-

L. INJURY & CAUSAL LINK

23. Under Rule 11 supra Annexure-M, 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 ...". 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 once of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

24. For the examination of the impact of the imports on the domestic industry in India the Authority considered such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability net sales realisation, the magnitude and margin of dumping, etc in accordance with Annexure II (iv) of the rules supra.

25. The various parameters indicating injury to (he domestic industry are as follows: -

(a) Production:-

The production of the petitioner company has increased from 411.20 MT in 1997-98 to 612.84 MT in the period of investigation. The petitioner company commenced the commercial production in March, 1997 and the year 1998-99 was the second full year of its commencement of commercial production.

(b) Sales Quantity:-

The petitioner company sold 13.44 tons of TSP during the financial year 1996-97. The quantum of sales in the first year of commercial production i.e. 1997-93 was 379.13 MT and sales during the period of investigation was 625.58 MT.

(c) Capacity Utilisation:-

The company achieved capacity utilisation of 20.56% during the financial year 1997-98, which increased to 41.6% during the period of investigation on an annualised basis. However, the anticipated level of capacity utilisation at the end of second year of commencement of commercial production, as per the project report was **** %

(d) Sales Realisation:-

The average sales realisation of the petitioner company during 1997-98 was Rs****/Sq. Meters. There was marginal change in the sales realisation during the period of investigation and the same was at Rs.****/Sq. Meters. However, the sales realisation of the petitioner company during the period of investigation was below its cost of production.

(e) Closing Stocks:

The closing stock of the petitioner company at the beginning of the year was **** Lac Sq. Meters which represented **** months sales. The closing stock as 31" December, 1998 was ****Lac Sq. Meters which represented **** months sales. An analysis of the production and the closing stocks data of the company indicates that twice during the period of investigation the closing stocks exceeded one months sales. To manage the closing stocks, the company resorted to cutting down the production in the subsequent months to bring down the inventories to manageable levels.

(f) Profitability:-

During the financial year ending 31st March, 1997, the losses of the company from the TSP operation was Rs. ****lacs. The losses further increased to Rs. **** lacs during the year 1997-98 and the losses during the period of investigation was Rs. ****. Lacs. Thus, the losses during the year 1998-99 on an annualised basis out of Rs. **** lacs. Increased.

26. The Authority, therefore, notes from the above that the imports from the subject countries have been at a price below its normal value. The imports into the India have been at a price lower than the Non-injurious price to the petitioner. As a consequence thereof the petitioner was forced to sell its product at a price below its reasonable selling price resulting in financial losses to the petitioner. The petitioner was also

prevented from increasing the level capacity utilisation to the projected levels resulting in loss of production. This cumulatively indicates that the petitioner has suffered material injury due to the dumped imports.

M. INDIAN INDUSTRY INTEREST & OTHER ISSUES

27. The purpose of anti dumping duties, in general, is to eliminate dumping which is causing injury to the petitioner companies and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

28. It is recognized that the imposition of anti dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures, particularly if the levy of the anti dumping duty is restricted to an amount necessary to redress the injury to the petitioner companies. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the petitioner companies and help maintain availability of wider choice to the consumers of TSP. Imposition of anti dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the product to the consumers.

29. To ascertain the extent of anti-dumping duty necessary to remove the injury to the petitioner companies, the authority has relied upon non-injurious selling price of TSP in India for the petitioner company, by considering the optimum cost of production at optimum level of capacity utilisation for the petitioner companies.

N. LANDED VALUE:

30. The landed value has been determined on the basis of export price of TSP from Japan and Germany, as detailed above in the para relating the dumping, after adding the prevailing of customs duties and one percent landing and two percent handling charges.

O. CONCLUSIONS:

31. After considering the foregoing the Authority concludes that:

- a. Thermal Sensitive Paper (TSP) originating in or exported from Japan. Germany and European Union (EU) has been exported to India below normal value, resulting in dumping.

- b. The Indian industry has suffered material injury.
- c. The injury has been caused cumulatively by the imports from the subject countries.

32. It is considered necessary to impose anti dumping duty, provisionally, pending final determination, on all imports of TSP originating in or exported from Japan and Germany pending investigations. The Authority does not consider it appropriate, at this stage, to recommend for levy of Anti-Dumping Duty on the imports from Finland and EU Cumulative pending further investigation in the matter.

33. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. The average landed price of the imports, for the purpose, was compared with the non-injurious selling price of the petitioner company, determined for the period of investigation. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, it is proposed that provisional duties be imposed, pending final determination on all imports of TSP originating in or exported from Japan and Germany, falling under Custom heading 4809.10 of the Customs Tariff Act. The Anti-Dumping shall be the difference between the amount mentioned in col. 3 and the landed value of imports per sq. meter, as detailed below-

S. No	Exporter /Country	Amount (Rs. per Sq. Meter),
1.	Japan- All Exporters	6.53
2.	Germany- M/s. STORA	5.84
3.	Other exporters	6.53

34. 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 a\Additional duty of Customs levied under Section 3 of the Customs Act, 1975

P. 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, 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 the dispatch of the letter. Any other interested party may also make known their views within forty days from the date of publication of these findings.

- c. The Authority Would provide opportunity to all the interested parties for oral submissions.
- d. The Authority would conduct further verification to the extent deemed necessary.
- e. The Authority would disclose essential facts before announcing final findings.

RATHI VINAY JHA..
Designated Authority.