

# Ministry of Commerce & Industry

## NOTIFICATION

New-Delhi, the 3rd July 2003

## FINAL FINDINGS

**Subject:** Anti-Dumping investigations concerning imports of Mulberry Raw Silk (not thrown) originating in or exported from China PR.

**F.No. 14/28/2002-DGAD** - Having regard to the Customs Tariff Act, 1975, as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof:

### A. PROCEDURE

1. The procedure described below has been followed subsequent to the preliminary findings:

- a. The Designated Authority (hereinafter also referred to as the Authority) notified Preliminary Findings vide notification dated 20/12/2002 with regard to anti-dumping investigations concerning imports of Mulberry Raw Silk (not thrown) originating in or exported from China PR and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- b. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the said findings within forty days from the date of the letter;
- c. A hearing attended by the domestic industry, the Counsel for the Chinese exporters and the Embassy of China (Commercial Counsellors Office) was chaired by the Designated Authority on 4th December 2002. The fundamental deficiencies in the Chinese exporters response was pointed out and the relevant data/information required was called for.
- d. The Authority provided an opportunity to all interested parties to present their views orally on 3/3/2003. The oral hearing was attended by the domestic industry, Chinese exporters, importers, user industry and the Chinese Embassy. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any.

- e. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted and arguments made by various interested parties;
- f. The arguments raised by the petitioners and other interested parties have been appropriately dealt with in the preliminary findings and/or these findings;
- g. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same, (submitted by the domestic industry alone) have been duly considered in these findings;
- h. At the time of the oral hearing, the exporters were asked to negotiate on a reasonable non-injurious export price with the domestic industry and consider the possibility of a price undertaking. The domestic industry proposed a non-injurious price of USD \*\*\* + basic customs duty which was not acceptable to Chinese exporters. The Chinese companies offered a non-injurious price of USD \*\*\* + customs duty which was not acceptable to the domestic industry.
- i. On the basis of sufficient evidence submitted by the Petitioner, the Authority initiated these investigations vide Public Notice dated 17th July 2002 against dumped imports of Mulberry Raw Silk (not thrown) originating in or exported from the subject country.
- j. Investigations were carried out for the period is 1st April, 2001 to 31st March 2002 (12 months).
- k. Annex I- Procedures for on-the -spot investigations pursuant to Paragraph 7 of Article 6, of the WTO Agreement on Anti-Dumping states that 'As the main purpose of the on-the-spot investigation is to verify information provided or to obtain further details, it should be carried out after the response to the questionnaire has been received....' The purpose of on-the-spot investigation is therefore to verify the data already made available to the Authority and not to collect primary data. In these investigations the exporters responses were furnished by trading companies and not by the producers of the subject goods and were deficient in respect of fundamental data on cost of production and domestic sales transactions by the producers of the subject goods. Further the discrepancies in the data furnished by Chengdu Tianyou could not be subject to a verification in these investigations due to the severe threat of SARS affecting China PR.
- l. \*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

## **B. PRODUCT UNDER CONSIDERATION**

2. The product under investigation in the present case is Mulberry Raw Silk (not thrown), 2A grade and below originating in or exported from China PR.

Mulberry Raw Silk (not thrown) is classified under Customs sub-heading no. 50.02 of Chapter 50 of the Customs Tariff Act, 1975 and ITC (HS) Code 50020001. The classification is however indicative only and in no way binding on the scope of the present investigations.

The Authority confirms the preliminary findings on product under consideration.

## **C. LIKE ARTICLES**

3. In order to establish that Mulberry Raw Silk (not thrown) produced by the domestic industry is a Like Article to that exported from China PR, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority.

The Authority also finds that there is no argument disputing that Mulberry Raw Silk (not thrown) produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by Mulberry Raw Silk (not thrown) imported from the subject country both commercially and technically. Mulberry Raw Silk (not thrown) produced by the domestic industry has been treated as Like Article to the product exported from China PR within the meaning of Rule 2(d).

The Authority confirms the Preliminary Findings on Like Articles.

## **D. DOMESTIC INDUSTRY:-**

4. The petition has been filed by all cottage/filature/multiend silk reelers located in the states of Karnataka, Tamil Nadu and Andhra Pradesh through their associations, whose details as provided in the petition are given below:-

- a. All Silk Reelers Association, near Cocoon Market Kolar - 563101, Karnataka
- b. Ramanagaram Silk Reelers Welfare Association, Ramnagaram, Bangalore (Rural), Karnataka
- c. Kolar Silk Reelers Industrial Cooperative Society Ltd., Kolar
- d. The Progressive Silk Reeler's Industrial Cooperative Society Ltd., Sidlaghatta - 562 105
- e. Karnataka State Multiend Silk Reelers Welfare Association (Regd), Main Road, Kumadan Mohalla, Ramnagaram - 571 511, Bangalore (Rural), Karnataka.
- f. Tamilnadu State Multiend Reelers Association, No. 61-A, Krishnagiri main Road , Opp: to Government Cocoon Market, Dharmapuri - 636701
- g. The Palacode Silk Reeler's Association, Palacode -636 808, (TN)

- h. Coimbatore District Silk Producers Association, Coimbatore - 641014 (TN)
- i. Dharmapuri District Silk Reeler's Association, 10/81 -C1, Electronic Estate, Hosur 635 109

The details of quantities produced by Silk producing states have been given in the petition which are as follows:-

A. Silk Producing States Which have been affected		Quantity (MT)	
		2000-01	2001-02
1.	Karnataka	4100	3491
2.	Tamil Nadu	355	262
3.	Andhra Pradesh	2091	1910
	Sub-total (A)	6546	5663
<b>Other Silk Producing States</b>			
1.	West Bengal	526	563
2.	Jammu & Kashmir	49	39
3.	Non-traditional States	95	74
	Total (A) & (B)	7216	6339

The details regarding number of members/units, number of reeling basins and unit-wise breakup of total raw silk production during the period of investigation is as follows:

	Name and address of the Association	No. of Members / Units	No. of Reeling Basins		Total Raw Silk Production (MT)
			Cottage	Multiend	
1.	All Silk Reelers Association Near Cocoon Market, Kolar-563101	360	1900	300	484
2.	Kolar Silk Reelers Industrial Cooperative Society Ltd. Kolar	80	580	100	153
3.	Ramanagaram Silk Reelers Welfare Association, Ramanagaram	1460	9300	---	1784
4.	Karnataka State Multiend Silk Reelers Welfare Association, Ramanagaram	43	---	410	75
5.	The Progressive Silk Reelers Industrial Co-operative Society Ltd. Sidlaghatta	860	5218	210	994
6.	TamilNadu State Multiend Reelers Association, Dharmapuri	15	---	136	34
7.	The Palacode Silk Reelers Association, Palacode	57	340	---	84
8.	Coimbatore District Silk Producers Association, Coimbatore	95	568	---	142
9.	Andhra Pradesh AP does not have any associations	1176	6920	840	1912
	TOTAL	4145	24826	1996	5663

The petitioners account for 89.33% of the total domestic production of the subject goods in the country and therefore satisfy the standing to file the present petition.

The Authority notes therefore that the petitioners constitute "domestic industry" and have the required standing to file the present petition under the Rules.

## **E. Other Issues:-**

I. A hearing attended by the domestic industry, the Counsel for the Chinese exporters and the Embassy of China (Commercial Counsellors Office) was chaired by the Designated Authority on 4th December 2002. The fundamental deficiencies in the Chinese exporters response was pointed out. In their written submissions, they had modified the cost of production provided by Chengdu Tianyou Silk Co., Ltd., without giving any reasons or substantiation. As the respondents are traders, they had provided their average domestic purchasing price and average price at ex-factory level for exports without giving supporting documentary evidence and details of adjustments claimed. The Authority noted that transaction-wise data on domestic sales could be provided only by the manufacturers of the subject goods who had sold the product in the Chinese domestic market to such traders and to others.

II. Views expressed by importers prior to and in the Public Hearing held on 3rd March 2003:-

The Authority notes that none of the importers have filed a response to the importers questionnaire.

### **A. Shah Silk and Fabrics Pvt. Ltd.:**

1. The investigations has been carried out in a discriminate manner whereby a better quality of silk yarn when imported does not attract anti dumping duty while cheaper quality product (grade 2 A and below) attracts anti dumping duty. The cost difference is Rs. 665/- per kg more for grade 2A.
2. The domestic producers of cocoons are small time farmers who carry their produce to various centres for sale where reelers in private sectors as well as political controlled who operatives by their produce at prices at their wills and whims.
3. If the quality and prices of the Indian produce are good enough to sustain our local and international requirement why Indian weavers should go to China or other countries for their requirements. The reeling technology adopted the world over has still not been adopted in India. A better produce comes out of better cocoons and better reeling. It is true that since over 10 years the Central Silk Board has developed bivoltine varieties of cocoons with better yields. The cost of Indian silk is more because we are still using the age old reeling technology. As admitted by the petitioner they produce even today only a

quality of 2A grade and less. Normally Indian silk is being used as a warp yarn for making dupion fabrics only. Whereas today with availability of Chinese, Brazilian and other origin raw silk, Indian weavers are weaving better quality fabrics and are exporting to various countries and that to competing with Chinese Fabrics exporters.

4. The value added Indian Silk Export will definitely suffer because of anti dumping proposals. If the weavers are to weave these sarees with high cost of the yarn the consequent effect is that the cost of the sarees will also go up.
5. Anti dumping duties will bring in unemployment to thousands and lacks of weavers in the unorganised sector in India and cannot be termed as in larger interest.
6. Anti dumping duties will open up increased smuggling.

#### **A. The Indian Silk Export Promotion Council:**

We are not against farmers rearing silk, they need protection from cheap imports. That is precisely why we were not objecting per-se to the imposition of this duty, if cheap imports affect the sericulture industry. This representation has become necessary because the anti-dumping duty rate has been fixed at an abnormal level, which actually leads to ruin the silk weaving industry, and subsequently exports. In fact, we expected an increase of 5% to 10% in the customs duty on mulberry raw silk to safeguard the local sericulture industry. But, this abnormal hike has put a spoke in the production process. We understand the entire power loom silk weaving industry - 50,000 in Karnataka which supplies silk fabrics to domestic market and silk merchant exporters, is drastically affected which is going to create unemployment problem. Apart from Karnataka, the silk power loom weaving industries in Gujarat, Andhra Pradesh, Tamilnadu and Uttar Pradesh are increasingly feeling the impact of this notification and their ruin is very much on cards.

Indian produces about 15,000 tonnes of mulberry raw silk, bulk of which is gradeless and not of such quality which can be used for producing fabrics on power looms both for domestic and export market. The yarn produced out of Indian Raw Silk can be used only on handloom. As against the production of 15,000 tonnes of mulberry raw silk, we have a demand of 25,000 tonnes per annum leaving a shortfall of 10,000 tonnes which need to be imported. If imported mulberry raw silk is kept at a very high price it will act as a deterrant to imports, but the local industry will be flooded with smuggled mulberry raw silk by unsocial elements and that will result in the loss of revenue. The import price fixed at US \$ 33.19 as anti dumping rate is totally arbitrary and unjustifiable because at this price nowhere in the world even MRS of 3A Grade and above quality are not being sold.

#### **B. Varanasi Vastra Udyog Sangh**

1. Prices of Domestic yarn have gone down to lack of demand, because of Imports of Silk Fabric from China at cheaper rates, which is below, even, our cost of production. Production of Domestic Yarn has gone down due to the same reason. Closing Stock has also gone up because of import of cheap silk fabrics from China. Import of China Silk Yarn (Not Thrown) has gone up due to greater demand in export market & powerloom industry of the Fabrics manufactured by Imported Raw Silk Yarn of Not Thrown (untwisted) quality.
2. When Import of Raw Silk was allowed under S.I.L. on 30.10.1998, import of Raw Silk below 2A grade only was put under banned list. It was because of the reason that yarn of 2A and above grade is not produced in India and, as such, there is no competition of domestic yarn with Grade 2A & above that is being imported. Secondly, the yarn 'not thrown' produced in India can only be used after twisting. It cannot at all, be used in 'not thrown' condition like Chinese yarn. Manufacturing of export & powerloom fabrics in India is of 'not thrown' (untwisted) quality only.
3. 3. The anti-dumping duty imposed shall result in an increase in price of over 80%, which is a steep hike. 2A yarn was being imported at the invoice value of Dollar 13 to 14 which after adding 35% custom duty comes to Dollar 19. It has been increased to Dollar 33.19 Now after paying anti-dumping duty the price in market will go up to Rs. 1700/- per Kg., instead Rs. 950/- per kg. The market price has already increased by Rs. 250/- merely on the announcement of Anti-Dumping Duty.
4. 4. The Production & Consumption of Domestic Silk Yarn has gone down, as already explained above, not due to Import of Chinese Silk Yarn. It has gone down due to import of low priced silk fabrics from China. Hence Indian manufactures are not in a position to compete with Imported Silk Fabrics, which are also of far superior quality, because our cost is the same as that of Imported Silk Fabrics. For example current booking of 60 gm. Imported Crepe Silk is Dollar 1.40 which after adding 30% customs duty comes to Rs. 90/- per meter, same as the cost of Silk Fabrics produced by us, by using domestic yarn. If there is no manufacturing of silk Fabrics how will the sericulture grow ? If we manufacture Silk fabrics (Crape 60 gm. Quality) with imported Chinese Raw Silk Yarn, cost of Raw Material alone will be Rs. 136/- after Anti-Dumping Duty as against Rs. 92/- of Imported Ready Chinese Silk Fabrics.
5. 5. Varanasi & entire eastern region of Uttar Pradesh is dependent on Banarasi Fabrics Production - Over 5 lakh families are employed in it. It is a rural based cottage industry. It is a fully self financed industry, with no financial help from central or state government to export base is very solid. More than 75% of silk fabrics being exported are manufactured in Varanasi. 50% of imported Chinese silk yarn is consumed in Varanasi alone. Rest of India consumed only 50%. Due to Anti-Dumping Duty both Handloom & Powerloom Industries will

suffer in Varanasi. It may be noted here that 90% of Domestic Production is consumed by Karnataka alone.

A. Karnataka State Weavers Central Committee; M/s Mysore Powerloom Silk Manufacturers Cooperative Society Ltd.; M/s Chamundi Textile (Silk Mills Ltd.); Bangalore District and Bangalore Rural District Powerloom Weavers Production and Sales Cooperative Federation Ltd.

1. The Authority has treated Indian Mulberry Raw Silk without reference to any grade as like article. It is a well known fact that there is no gradation system in India. Differences in quality of Chinese and Indian Silk are numerous and are very well known. Majority of Indian production is multi-voltine variety where as Chinese production is that of bi-voltine variety. When the Indian silk is used in powerlooms, due to frequent breakages in the yarn, productivity comes down quite significantly. Such frequent breakages are due to lack of consistency and strength in the Indian yarn as compared to the Chinese yarn.
2. It is a well known fact that the Indian domestic industry has never manufactured raw silk equivalent to grades 2A and above. In the past imports of raw silk below 2A grade alone were prohibited and imports of 2A grades and above were allowed freely.
3. Mulberry Raw Silk imported from China is used primarily in powerlooms whereas the Indian Silk is primarily used in handlooms. Chinese raw silk can never be used for manufacturing the famous Indian silk sarees as the Chinese silk lacks lustre and sizing. Chinese silk is used for manufacturing organza and Indian silk is not used for manufacturing organza.
4. With regard to injury, the petitioners have stated that the total production has come down from 6546 MTs to 1566 MTs. This is an agricultural related product. Production of cocoons is closely linked to the production of mulberry plants. This aspect has not been examined at all.
5. The petitioners have claimed that most of the plants were running at 60% capacity and some of them are closed. No evidence has been submitted alongwith the application in this regard. This is a claim without any basis.
6. They have not furnished any details regarding inventories, cost of sales, profit, loss, investments, net worth, employment, etc. They have even stated that there is no change in demand.
7. The Authority has determined a reference price of USD 33.19/kg which is not only arbitrary but astronomical.
8. There are more than 6 to 8 lakh powerloom weavers whose livelihood is that stake. The domestic industry has never supplied them the raw silk of required quantity and quality. The domestic industry has been supplying principally to handloom weavers. Powerloom weavers were not their market. In this case, if

the duties could not be reduced, at least duty of goods imported for the purpose of using in powerlooms shall be exempt. In any case the reference price needs to be brought down to realistic level.

### **Rejoinder:**

1. We reiterate our submissions that the Indian domestic industry has never manufactured raw silk equivalent to grades 2A and above. Bivoltine variety production by the domestic industry was too low and commercially insignificant. It is an undisputed fact that the Chinese raw silk and Indian silk are entirely two different products with different enduses.
2. The petition gives macro level data relating to domestic production, sales, etc. In addition, the petitioner should have given individual unit wise data as well as a consolidated data of all the petitioners.

### **A. Silk Trade Association (Regd.) Varanasi**

1. In the powerloom and handloom industry in Varanasi, Raw Silk in Not Thrown (untwisted) condition is used for which Chinese quality proves to be good as the quality of domestic Raw Silk is not fit for the same.
2. The raw silk (not thrown) produced in India is generally used after twisting. It is not possible and viable to use it in NOT THROWN condition like the Chinese Raw Silk.
3. Many powerlooms and handlooms will come to a complete halt for want of regular good quality Chinese raw silk. Already several looms, which used to produce silk fabrics (crepe 60 gms quality) are lying idle due to import of Chinese Silk Fabrics.
4. The resent price of Chinese Raw Silk is around USD13-USD 14/kg. So this steep import duty of above USD20/kg will provide adequate margin for the smugglers and the smuggling will again flourish which is neither in the interest of the trade nor in the interest of government.
5. The yarn thus imported will also be of inferior quality, supplies will be irregular and there will be wide price fluctuations. This will make calculations of price difficult and will hinder execution of direct and indirect export orders of silk fabrics, sarees and made-ups.
6. There is not going to be any benefit to domestic sericulture industry also for whose benefit this duty has been imposed. The growth of domestic sericulture has not been hindered because of Chinese Silk Yarn but because of import of low priced silk fabrics from China, which is freely importable now. The domestic quality of raw silk was mainly used in these fabrics and since the same is now freely importable in India and is of better quality and low priced the production of these fabrics dwindled in India. Since the manufacturing of

silk fabrics, which were produced using domestic silk yarn, has reduced it has hampered the growth of sericulture in the country and the imported raw silk is in no way hampering its growth.

## **F. Pure Silk Weavers Association:**

1. We are an apex organisation consisting of Pure Silk Yarn Twisters, Silk Fabric Weavers, Dyers, Local Weavers Associations and Silk Co-operative societies catering to the needs of over 5,000 power looms. Most of our members supply silk fabrics to domestic market as well as to silk exporters.
2. To begin with, we want to make a point very clear, we are not against farmers rearing silk, they need protection from cheap imports. That is precisely, we were not objecting "per-se" the imposition of this duty, if cheap import affect the sericulture industry. This memorandum has become necessary when the duty rate has been fixed at an abnormal level, which actually leads to ruin the silk weaving industry.
3. This abnormal hike has put a spoke in the production process. The entire power loom silk weaving industry - 50,000 in Karnataka & 5000 Loom in Gujarat, and about 25000 Loom in up-West Bengal, Bihar etc. in which supplies silk fabrics to domestic market and silk merchant exporters has come to a halt which is going to create unemployment problem. Apart from Karnataka, the silk power loom weaving industries in Gujarat, Andhra Pradesh, Tamilnadu and Uttar Pradesh are increasingly feeling the impact of this notification and their ruin is very much on cards.

## **G. Federation of Indian Art Silk Weaving Industry:**

1. The indigenous prices have come down on account of increase in production and quality as a result of R & D and not on account of low price.
2. As against a total of 16000 tons of silk produced in the country, the current domestic demand is 23000 tons leaving a huge gap in demand and supply to the extent of 7000 metric tons.
3. The demand-supply gap in mulberry raw silk exists basically for warp-grade silk for powerlooms. Warp-grade silk preferred by powerlooms can usually be had only from bi-voltine races and is being met by imported Chinese bi-voltine silk.
4. There are more than 30000 powerlooms and 180000 handlooms in the country using pure silk yarn for manufacturing fabrics. In the production of pure silk fabrics, 6 handlooms is equal to 1 powerloom. The production of both the sectors is almost equal. Both the sectors employ more than one million

workers. On account of anti-dumping duty, these powerlooms will stop production and the workers will be thrown out of employment.

## **I. Views expressed by Exporters in the Public Hearing held on 3rd March 2003:-**

The views of each Chinese exporter has been reported in detail in the Preliminary Findings from Para 4(A) to 4 (Q). The Chinese exporters filed their written submissions on 27th May, 2003, and requested for condonation of delay on account of out break of SARS in China:

1. At the outset it would be useful to explain the process by which silk yarn is made. The Silk Worms consume Mulberry leaves and through a natural biological process produce Cocoons. The sericulturists extract Cocoons, which they sell in the market to the Silk Reelers. The Silk Reelers in turn, make the yarn out of the Cocoons. The costs associated with the making of yarn are as under:

For obtaining 1 Kilogram of Silk Yarn 6.5 Kilograms of fresh Cocoons are required, thus, Cost of 6.5 Kilograms of

fresh Cocoons @ Rs. 125 per Kilogram	Rs. 810
Cost of Reeling	Rs. 340
Total	Rs.1,150
Less: sale proceeds of by-products/wastage	Rs. 350
Balance unabsorbed cost	Rs. 800
Sale price of 1 Kilogram of Silk Yarn	Rs.1,000
Profit to the Silk Reeler	Rs. 200

A perusal of the above data would demonstrate that the bulk of the cost of Silk Reelers is comprised of the cost of Cocoon. The direct costs incurred by the Silk Reelers are recovered out of the sale of by products/wastage and thereafter the Silk Reelers make a profit of Rs. 200 per Kilograms.

It is submitted that Cocoon is not a manufactured product, it rather grows naturally. The Silk Reelers therefore merely perform job work and value added services to

convert the Cocoon into silk yarn. It would therefore be apparent that a mere change in physical characteristics of Cocoon takes place when the Cocoon is converted into silk yarn while the chemical composition of the product remains the same. It is submitted that a mere physical change does result in manufacture of goods. Reliance in this connection is placed on the judgement of the Supreme Court in CST (Dy) vs. Pio Food Packers, 1980 Supp. SCC 174. It is, therefore, submitted that silk yarn being basically and essentially a natural product and not a manufactured product, cannot form the basis of the present anti-dumping proceedings.

It is further submitted that the mere fact Silk Reelers make a healthy profit of more than 17% on its cost, is indicative of the fact that there is no injury to the Silk Reelers that can form the basis of these proceedings.

Chinese silk is qualitatively different from the domestically produced silk. Chinese silk is made from dried cocoon while Indian silk is made from fresh cocoons. The technology adopted by the Chinese exporters is far superior from that adopted by the domestic industry which results in substantial difference in the quality of the silk yarn so much so that while the Indian silk can only be used by handloom industry, the Chinese silk yarn is suitable for weaving on powerlooms. It has been a cause of complaint of the importers that there are frequent breakages in yarn when the Indian silk yarn is used in the power looms.

It is submitted that the demand for raw silk in India is 25,000MT out of which 15,000 MT is made available by the domestic industry resulting to a shortage of 10,000 MT which is met through imports.

IV (A) Views expressed by Domestic Industry in the Public Hearing held on 3rd March, 2003-

1. We thank the Designated Authority for its Preliminary Findings dated 20th December, 2002 and we accept the contents the Preliminary Findings of the Designated Authority in toto. However, we would like to make as an additional submission "that all the Exporters and Importers from China PR or who are sourcing from China PR should be treated as operating in Non-Market Economy as per the provisions of Annexure I, Paragraphs 7 & 8 of the Anti Dumping Rules, as amended on 15.7.1999 and 31.5.2001."
2. The Domestic Industry would like to reiterate that continued dumping of Chinese Mulberry Raw Silk has led to the serious material injury and is likely to negate the research break-through achieved and which would ultimately lead the reelers into debt traps as they have made huge investments in the Domestic Industry.
3. Quantum of Imports -

- a. The increase in the total imports of Mulberry Raw Silk from China PR was 60.57% in the POI as compared with the quantum of imports in 2000-2001.
- b. The share of China PR in total imports was 91.68% in 2000-2001 and 93.93% in 2001-2002 (12 months - I).

4. Petitioners contend:-

- i. The domestic industry has suffered material injury during the POI.
- ii. There is an imminent threat of material injury to the domestic industry.
- iii. The basic indicator of the health of the industry is the profitability, which is continuously on the decline and currently has turned into losses. This is consequent to the average price of the articles from the subject countries which is continuously on the decline since 2000-2001 and has now reached abysmal levels leading to surge in volumes.
- iv. There is a single market where dumped Chinese imports compete head-to-head with the product of Indian mills. Price determines the choice of the supplier.
- v. Head-to-head competition and prior econometric examination of competition among a very wide range of international sources of the subject goods reveal that the imports and domestic goods are highly substitutable.

5. Sales and market share:-

- i. Sales of the Petitioner have declined by 48.09% as compared to the previous year.
- ii. Total Domestic Sales have declined by 44% (approx.) (43.54%) as compared to previous year market and of the Domestic Industry by 48%.
- iii. Share of Domestic Industry has declined from 62% to 35% i.e. almost by 27% as compared to previous year.
- iv. Market share of dumped imports have increased from 30% to 54% as compared to previous year.
- v. Market share of dumped imports in total demand have increased from 32% to 57% as compared to previous year.
- vi. The volume and market share of dumped imports in relation to total consumption of the article in India have doubled in a span of one year and there is now a surge in volume of imports from the subject countries at further reduced prices:
  - a. Market share of indigenous industry has increased at the cost of profitability.
  - b. Dumped imports have increased in absolute terms as compared to total sales, consumption and production.
  - c. Imports from subject countries continue to increase even after POI and pose a threat of injury (in fact already injured) to the domestic industry.

6. Effect of dumped imports on prices:-

- a. The average prices of dumped imports from the subject countries have declined by 40% and continue to decline further. The domestic producers have a stark choice - either to follow these prices down or lose market share. Domestic producers had no option but to opt for the former to keep their capacity utilisation from falling to ruinous levels.
- b. (i) Average domestic net sales realisation have declined.

(ii) Whilst the average cost of production of Domestic Industry increased net sales realisation declined during the same period.

(iii) Net sales realisations of Domestic Industry has declined drastically as a result of customer requirement to meet low prices of imported goods, the industry has now turned losses i.e. it is not even able to recover total cost of production.

The addition to the market of dumped imports forces the market price down significantly. Current inventory growth indicates that prices will have to fall even lower before they stabilize for Indian producers if subject imports do not increase further. But with increasing volumes of subject imports, prices cannot stabilize, and instead prices will be lower and further lower and continue to follow a downward spiral. This is conclusively proved by the fall in prices of the article from the subject countries.

- c. With declining prices the domestic producers were faced with increase in costs during this period.

Indian producers are caught in a devastating cost-price squeeze. They must follow the declining prices at the very time the costs of every indigenous producer is rising. This is not just price suppression, but even more injurious price depression.

7. The increase in inventory of the domestic industry directly as a result of sharp decline in Average CIF prices of imported product from the subject countries, which has resulted in;
  - a. loss of market share and indigenous sale by the domestic industry because of the sale of the subject imported dumped products in the domestic market at exorbitantly low price.
  - b. Price suppression has prevented 'price increase' which has ultimately led to lower sales realisation by the domestic industry.
  - c. Under utilisation of capacity by domestic industries.

## 8. Impact on Profitability:

There has been :-

- a. decline in net sales realisation;
- b. an increase in the cost of production which could not be passed on to the consumers;
- c. the increase in volumes, coupled with decrease in CIF prices of the article from the subject countries and consequent decline in domestic selling prices and increase in cost of production have resulted in the profitability of the domestic industry crashing, and is at the verge of closure;
- d. The above facts indicate that the dumped imports and its lower prices have resulted in a crash in profitability and have threatened the very survival of the domestic industry.

## 9. Production and Capacity Utilisation:-

- a. The production of domestic industry during the POI has declined by almost 14% (13.48%) as compared to the previous year.
- b. The capacity utilisation has declined by 30% as compared to the previous year.

## 10. Closing Stocks:-

Closing stock has increased by almost 300% as compared to the previous year.

## 11. Normal Value:-

Domestic industry have time and again submitted that most sales transactions in China are amongst Government companies. Raw silk is largely produced by Government units only. Hon'ble Authority has rightly examined this claim of the petitioner in the light of para (7) and (8) of Annexure I of the Anti-Dumping Rules as amended.

The Authority has noted that information in the relevant Appendices of the questionnaire regarding cost of production and domestic sales have not been submitted by the Chinese companies. Neither have they submitted information/evidence regarding the criteria for rebutting the presumption of a non market economy as per sub para (3) of para 8. The Authority further notes that since the data on cost of production and domestic sales has not been submitted, a determination on normal value as per provisions contained in Section 9 A (I) © (1) and (ii) read with sub rule 2 (I) and (ii) of Annexure 1 of the Anti Dumping Rules cannot be made and failed to satisfy the test enshrined in paragraph 8, Annexure J to the Anti Dumping Rules as amended, they should be treated as manufactures or

exports from non market economy. For claiming market economy status/individual treatment, the exporter or manufacturer needs to satisfy all the parameters as enshrined in paragraph 8 Annexure 1 failing which, they would be treated as operating under non market economy. A copy of judgement of EU imposing an anti dumping duty on imports of ferro molybdenum from PRC has been enclosed.

The traders in any case cannot claim market economy status and a copy of the EU imposing a provisional anti dumping duty on imports of glycine from PRC has been enclosed wherein the EU has stated that three claims were rejected "because the companies concerned did not produce the product under consideration. They claimed that they purchased low purity glycine on which they performed a production process which, however, did not change either the chemical composition or the physical characteristic of the product under consideration. As such, they resembled traders of the product under consideration. As only producers can obtain market economy status their claims had to be rejected. "

#### 12. Export Price:

We accept the finding of the Designated Authority with regard to the export price. The ex-factory export price has been determined after taking the adjustments as claimed by the exporters. After considering the adjustments as claimed the weighted average ex-factory export price for individual exporters has been arrived.

#### **A. Rejoinder and subsequent submissions filed by the Domestic Industry:**

1. Interchangeability/commercial substitutability of Imported and Domestically produced 'Like Articles' It is a misrepresentation of facts to say that Chinese silk is used only on powerlooms whereas the Indian silk is used only on handlooms. To say that the Chinese raw silk alone can produce organize is irrelevant, since very little quantities organize is produced in the country. Indian Multiend silk & filature silk which is of warv quality is used in many power loom clusters of the country. Karnataka Silk Industries Corporation (KSUC) which markets its famous 'Mysore Silks' uses extensively Indian raw silk on its power looms. Indian multiend reelers in particular supply Indian raw silk to many exporters who manufacture power loom fabrics. At the same time Indian handlooms in major hand loom clusters like Hindupur, Dharmavaram (AP), Salem, (Tamilnadu) Molakalmuru (Karnataka) have started using Chinese silk extensively. Thus both imported and domestic silk yarn are indeed like products which can be interchanged depending upon the price. During the last two years Chinese silk has replaced the Indian silk in many power looms & handlooms because the Chinese companies have brought down the prices of

their raw silk to very low levels making it commercially difficult for manufacturers of Indian silk yarn to compete.

2. Production of Bivoltine silk in the domestic industry: The Chinese silk is being imported in to the country not because it is Bivoltine silk but due to the supply demand gap in the country. Since both Chinese bivoltine silk and Indian Multi-bivoltine silk are also used to manufacture similar products, import of Chinese raw silk into the country at unprecedentedly low prices has damaged Indian industry. In recent times India had also made substantial investments under the plan schemes and various projects to boost the production of Bivoltine silk. The Chinese companies consider this as a threat and have resorted to dumping silk at low prices to nip the Indian Bivoltine silk production at the bud stage itself. Chinese silk has been imported into Indian for many years. Only now there have been complaints of dumping by the Chinese companies. We would like to reiterate that the quantum of Chinese raw silk imports have risen from around 3000 to 7000 tonnes (2002-03) only because of the dumping resorted by the Chinese companies.
3. Yarn of 2A and above grade: There is no evidence of any kind to show that the majority of Indian manufacturers need 2A or higher grades of silk. All the same the Government of India has liberalized the Import-Export Policy & there are no restrictions on import of these grades in to the country. All grades of silk are welcome as long as the exporting companies do not resort to dumping & hurt the local industries. Therefore price is the only issue to be considered. Raw silk (Not thrown) i.e. not twisted cannot be used directly whether it is Chinese raw silk or Indian raw silk. It is technically incorrect to say that the Chinese raw silk can be used without twisting. Basically to withstand the stress & strain during loom operation twisted raw silk is a must whether it is Indian or Chinese origin.
4. Demand: Though there is a demand supply gap in silk for many years there is no reason to assume that the gap is 10000 MT. While Chinese imports have been hovering around 2000 to 3000 MT over the years it has crossed 5000 MT from the year 2001 onwards and it has touched 7000 MT during the year 2002-03. During this period many manufacturers have switched over to Chinese silk due to its abundant availability at very low prices. The domestic industry is badly hurt with the prices plunging from the levels of Rs. 1500 per Kg. to below Rs. 1000 per kg. during the last two years. Similarly Chinese silk prices which was around 26 US \$ CIF Indian ports without (Customs Duty) a few years back have declined to less than 14 US \$ during the last couple of years. If demand for Chinese silk alone was the factor there would have been no need to bring down prices which shows that Chinese companies have resorted to dumping with malafide intentions.

## **B. Quality Sericulture Service Club:**

1. Quality Sericulture Service Club is a registered Non-Governmental Voluntary Organization established to create a common platform for the sericulturists, silkworm seed producers, silk reelers and silk interest for discussing measures to improve quality standards of their produce, creating greater opportunities for gainful employment in rural areas rationalisation of sericultural practices achieving quality upgradation of the produce.
2. India is the second largest producer of mulberry raw silk in the world next only to China. Sericulture is a vital agro based, rural cottage industry that can generate massive employment. It is estimated that one hectare of mulberry plantation can create direct employment to 12 to 13 persons throughout the year. Apart from labour intensive nature, sericulture is the most suitable rural industry for the under privileged and landless labourers. The Industry is particularly suited to small and marginal farmers who grow their own mulberry and undertake silkworm rearing.
3. Now, of late the sericulture practices have changed its way from traditional to non-traditional and rationalized practices. Huge investments have been made by the individual sericulturists on land, irrigation, plantation and buildings to rear new varieties of bivoltine cocoons capable of providing 2A+ grade International silk with the joint co-operation and efforts of the Sericulture Department, Central Silk Board and Japanese International Co-operation Agency (JICA).
4. Though these new races are suitable for temperate climate, we have been successfully rearing these races in Tropical Climate with adoption of necessary technology during favourable season from August to March. By this, it is possible to produce International grade of 2A and above silk from the cocoons of this race. These races are gaining momentum and popularity among the Sericulturists of Karnataka, Andhra Pradesh and Tamil Nadu.
5. It is a fact that out of China's total production hardly 10% is used for internal consumption and the balance 90% has to be exported to make sericulture industry economically viable. But in our country, the situation is quite opposite. The entire silk production is totally consumed locally and are able to consume imported raw silk.
6. There was a steep decline in the income margins and towards the end of 2002 the Sericulture Industry started showing negative returns. This being the case and with the background of reasonable investment made added with the targeted production of improved races, the price crash resulted in most of the sericulturists uprooting their mulberry gardens, which led to unemployment of about 2,73,000 persons in Karnataka alone.
7. Based on various representations the Designated Authority after detailed investigations passed an interim order recommending imposition of anti dumping duty on mulberry raw silk (not thrown) of 2A grade and below

followed with the Customs Notification dated 2nd January, 2003. Immediately after this Notification cocoons prices started recovering the loss. It is alarming to note that during 2001, the total import of silk was about 4,730 MT and during 2002 it was about 6,795 MT (+ 42%). During 2001, the total silk fabric export was to the extent of 530.21 million US dollars but during the year 2002 it was 469.22 million US dollars and hence there is a decline of 8.35% in the exports (Detailed statement enclosed Annexure-3). It is obvious from the above statements, that the silk imported to the country during the year 2002 is diverted locally for a premium. These figures reveal that there is no justice for the huge and cry of these importers.

8. India's strength in textile is in handloom which is depending on local multivoltine silk (Ex: Kanchi, Arni, Dharmavaram, Kancheepuram, Molkalmuru etc.,). The local handloom units engaged in production of silk fabric are consuming multivoltine silk for our traditional dress material. Due to free availability of gradeless imported silk, these units have started consuming and blending with our multivoltine silk causing great injury to the traditional fabric.
9. We would also like to draw your immediate intervention, the fact of deliberate attempts to circumvent your orders dated 20th December, 2002, by the exporters in China, categorising virtually all there export to India as of 3A and higher grades. This is a serious violation of the norms and we request to impose anti dumping duty on all grades of silk imported from other countries. Advance licensing scheme where imports are used for re-export alone may be considered for duty exemption and not imports under DFRC and DEPB where the duty free silk goes into the domestic market to depress prices.

### **C. Views of Director of Sericulture, West Bengal**

1. The ongoing slump in the cocoon and silk market which has reached an alarming level in recent past is a matter of serious concern to all sericulture practising states, West Bengal in particular. This state, because of its proximity to neighbouring countries, has become the worst victim of the situation arising out of the indiscriminate flooding of Chinese silk which is evident from the declining trend in the price of cocoons vis-à-vis raw silk. With the unprecedented crash in the price of cocoons, there has been a trend amongst a good number of rearers to uproot their mulberry garden and to switch over to other agriculture crops posing a threat to the very existence of this age old traditional agro based cottage industry.
2. Imposition of anti-dumping measures is a very justified, appropriate and well-timed move initiated by the Government of India which needs to be continued in future. As a positive outcome of this approach, there has already been an

increasing trend in the market in the price of indigenous cocoons and raw silk which is expected to bring back the confidence, morale and encouragement amongst the sericulturists.

3. Smuggling of foreign silk from across the border of the neighbouring countries would continue unabated unless the law enforcing authorities ensure stringent measures against this illegal trade.
4. Different new technologies and package of practices evolved by Sericulture Research Institutes of CSB are being implemented in the field to improve the productivity and product quality which would hopefully help the sericulturists to fetch a remunerative price for their produce in the years to come.

#### **D. Examination by the Authority on Submissions made by all interested parties:**

The Authority has examined the issues raised by all interested parties which have mainly centered on the questions of grade of raw silk being imported, substitutability of Chinese and Indian yarn, level of demand and prices of imported Chinese raw silk. The Authority notes that there are no restrictions on imports of various grades into the country. As far as the present investigations are concerned the scope of the product under investigations has been restricted to 2A grade and below only. In the course of the last two years, Chinese silk has been used in both powerlooms and handlooms due to availability at a very low prices. Further, raw silk cannot be used without twisting, i.e in 'not thrown' condition, irrespective of origin.

The demand for raw silk was approximately 9,400 MT during the period of investigations and the supply demand gap was around 3,700 MT only. The Authority notes that imports of the subject goods from China have been higher at 4,930 MT which has further increased to 5,293 MT during April 2003 to January , 2003 (10 months) in the post investigation period. Chinese cif prices for the subject goods have declined from Rs. \*\*\*/kg in the POI to Rs. \*\*\*/kg in the post POI period (i.e. by 22%) . Considering the weighted average landed price at approximately Rs. \*\*\*/kg, the Authority notes that raw silk was being imported at this price by users of the subject goods.

#### **5. (E) Comments on Disclosure Statement from Interested Parties**

The comments on the Disclosure Statement from M/s Chamundi Textiles Ltd., silk weavers societies, Silk Trade Association, Varanasi Vastra Udyog Sangh and others all of whom are importers of the subject goods has been received. Some of the issues raised have been dealt with in Para (D) above.

- i. They have noted that the Authority has proposed to limit the scope of the investigation to 2A grade and below only.

- ii. They have noted that the Authority has rejected the questionnaire response of all the 17 respondent exporters and has proposed to determine normal value and dumping margin based on best information available. They have requested the Authority to kindly take note of the obligations cast upon the Authority in terms of Paragraph 7 of Annex II of the WTO Agreement.
- iii. They have noted that the dumping margin and methodology followed in arriving at the same has been indicated in detail in the Disclosure Statement. They have requested for a disclosure of the elements that have been considered while arriving at the NIP giving the basis and details of each item of cost that have been included in arriving at the NIP.

#### **F. Examination by the Authority on Comments received on Disclosure Statement**

- i. The product under investigation in the present case is Mulberry Raw Silk (not thrown), 2A grade and below originating in or exported from China PR.
- ii. The Authority notes that normal value determination has not been based on a secondary source or on information supplied in the petition but on the information available on the estimated cost of production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments which has been taken as the basis for working out the Normal value of the subject goods in China PR.
- iii. Since the Non-Injurious Price is based on cost components which are confidential to the domestic industry disclosure of the basis and details of each item of cost is not possible.

### **F. DUMPING:-**

#### **1. Exporters and Producers of the Subject Goods in the Country of Origin:-**

The Authority sent questionnaires to the known exporters from the subject country in terms of section 9 A (1). The Authority notes that the exporters in China PR who have submitted information in response to the exporter's questionnaire are not the manufacturers/producers of the product under consideration but are only exporters/traders. The details of domestic sales as per Appendix 1 and the cost of production of the subject goods required to be furnished as per formats in Appendix 8, 9 and 10 of the exporters questionnaire have consequently not been furnished in their responses. Therefore response to the exporters questionnaire is deficient in respect of vital appendices.

The Authority has noted in the Preliminary Findings that the response to the exporters questionnaire has been furnished by trading companies who have no production

facilities for the manufacture of the subject goods. These companies have requested for market economy treatment. A total of 11 out of the 17 respondents from China PR in this case have described themselves as state owned companies. However, the information in the relevant appendices of the questionnaire regarding cost of production and domestic sales had not been submitted by these companies. Neither had they submitted information/evidence at the time of the preliminary findings regarding the criteria for according market economy treatment as per sub-para (3) of para 8. Since the data on cost of production and domestic sales were not submitted, a determination on normal value as per provisions contained in Section 9A (1) © (I) and (ii) read with sub-rule 2 (i) and (ii) of Annexure 1 of the Anti-Dumping Rules could not be made and the Authority was constrained to proceed as per 'facts available' in the preliminary findings.

In order to allow exporting producers from China to submit a claim for market economy treatment, the Authority sent a Market Economy Treatment questionnaire to all the 17 respondent companies to enable them to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 of the Anti-Dumping Rules as amended. Detailed questions regarding ownership, management, control, determination of commercial and business policies and on financial situation were addressed to these companies. The respondents were also requested to provide complete supporting documentary evidence for the cost of production of Mulberry Raw Silk and furnish all transaction wise domestic sales in the domestic market in China PR during the period of investigation by producers of the subject goods in China as per format set out in Appendix 1 of the exporters questionnaire i.e., Information Relating to Sales in Home Market. The Authority examined the responses received from 13 of these respondents to determine whether these companies enjoyed a degree of independence from the State and operated in market conditions comparable to that which would prevail in a market economy country.

The information furnished shows that 9 out of the 13 respondents to the MET questionnaire are State-owned companies. While the respondents have stated that there are no government officials in the companies which are state owned, no details have been furnished on the actual share holders. Although it stresses on the principle of separation and managerial authority, it is not clear how the enterprise can utilise and dispose of property which is state owned and the responses do not establish how the state does not interfere in the business operations of these companies.

Out of the 13 respondents to the MET questionnaire, 5 trading companies have given no information on producers; in the case of the remaining 8, some information in respect of producers has been given. With the exception of 2 trading companies (Chongqing Golden Silk and Jiangsu Soho) and their producers, the rest are all state-

owned. Therefore the absence of state interference cannot be guaranteed. In the case of the aforesaid 2 companies, domestic sales have either not been reported or the names of buyers have not been disclosed. For the remaining six companies, with the exception of Chengdu Tianyou, the others have either not reported domestic sales or have given incomplete information with regard to domestic sales and have also not furnished their cost of production. In the absence of data on cost of production as required under Appendix 8 of the exporters questionnaire, it is not known if such sales have been made in the ordinary course of trade. The domestic sales information in the case of Sichuan New Century Industries Co., Ltd., a co-operating producer of the subject goods shows that all sales have been made to the affiliate/sister company, viz., M/s Chengdu Tianyou. The exporter did not submit data indicating that the sale to the affiliate was in the ordinary course of trade and at an arms length.

The Authority notes that the producers have not responded to the exporters questionnaire and while information relating to domestic sales has been furnished in some cases by the producers in response to the market economy treatment questionnaire, the information submitted is only with respect to sales made to the related/affiliated exporter or the buyers names are not disclosed. It is not known if all domestic sales transactions during the period investigated are covered. Since data on cost of production as required under Appendix 8 of the exporters questionnaire has not been provided by these companies it is not known if such sales have been made in the ordinary course of trade.

The Chinese trading companies who have responded to the exporters questionnaire and subsequently to the Market Economy Treatment questionnaire have requested for market economy/individual treatment. However these companies were unable to sufficiently establish absence of State interference as far as exports prices, quantities and terms and conditions of sale to India through such state-owned trading companies. The costs of major inputs/utilities do not appear to reflect market values as they are procured from either collectively owned or state-owned companies. In some responses, the quantities sold in the domestic market and the rates per unit of the subject goods were largely uniform. The method of procurement of raw materials and utilities and volumes sold and prices thereof do not satisfy the criteria laid down in sub paragraph (3) of Paragraph 8, Annexure I. Further, the capital of most of these companies is owned by the state. Therefore from the submissions made by the trading companies/producers it is not conclusively established that these companies operate independent of the State authorities and in response to market signals; if they are free to decide on prices, costs and inputs, including raw materials, and whether the costs of major inputs substantially reflect market values; if decisions regarding cost of technology and labour (salaries and number of employees), level of production, pricing, investment and on the quantities sold in the domestic and export markets are

made in response to market signals reflecting supply and demand. In some cases it has been stated that there is no mandatory provision for these companies to have their financial statements audited every year. Their statements are not required to be subjected to audit in view of the small scale and nature of business involved. From the responses received, a determination on whether the companies meet the requirements specified in sub paragraph (3) of Paragraph 8, Annexure I to the Anti Dumping Rules as amended, could not be made.

## **A. NORMAL VALUE**

The views of each Chinese exporter has been reported in detail in the Preliminary Findings from Para 4(A) to 4 (Q). However, the information in the relevant appendices of the questionnaire regarding cost of production and domestic sales have not been submitted by these companies. Only a single exporter, M/s Chengdu Tianyou Silk Co. Ltd., a limited liability company set up in accordance with the Company Law of the People's Republic of China holding the majority shares of Sichuan New Century Silk Industries Co., Ltd. a producer of the product concerned, furnished information concerning sales, while data on production costs were prepared by Sichuan New Century. M/s Chengdu Tianyou and its affiliate producer Sichuan New Century Silk Industries Co., Ltd. subsequently also responded to the MET questionnaire.

### Examination of market economy treatment questionnaire response by Chendu Tianyou/ Sichuan New Century Silk Industries by Authority

1. Chengdu Tianyou, a limited liability company, has 19 shareholders. Chengdu Tianyou Development Co, Ltd., holds 50% of the shares while the rest are held by natural persons. Sichuan New Century Silk Industries the producer, is stated to be a fully private-owned limited liability company. The list of shareholders show that while Chengdu Tianyou holds 66.7% of the shares, 33.3% is held by a state-owned company.
2. The producer has furnished information on the major suppliers of raw material during the period of investigation. These include cocoon farmers (85% procurement); a private company (8.7% procurement); 3.7% procurement from a company whose nature/status is undisclosed; and 2.6% procurement from a state-owned company. The method of procurement is stated to be spot transaction. The producer purchases the fresh-cocoon from cocoon farmers and then dries the fresh cocoons to dry-cocoons.
3. As regards utilities, the major supplier of electricity was a state-owned company against a long-term contract. The unit cost of electricity is RMB \*\*\* yuan/kw/h. Water is pumped from the river by lift pump and the electricity is stated to have been calculated in the cost. The producer produces steam by coal

which is said to have been calculated in the cost. The unit costs of water and steam have not been furnished. Coal is procured against a long term contract from a private enterprise. The per unit value of coal is stated to be RMB \*\*\* yuan/MT.

4. The number of employees is stated to be \*\*\* out of whom \*\*\* persons are skilled and unskilled workers; \*\*\* are management personnel and \*\*\* are managers. The average salary is RMB \*\*\* in a year.
5. Information has been furnished on domestic sales made by the producer in the home market. The total volume sold is \*\*\* MT of a value of \*\*\* RMB which is RMB \*\*\*/MT. The Authority notes that all these sales have been made to affiliate/sister company, M/s Chengdu Tianyou and are credit sales. Hence these are sales not in the ordinary course of trade as they are not arms length transactions.
6. The Authority recalls its Preliminary Findings as regards determination of normal value. In the preliminary findings, the Authority noted that the cost of production claimed is USD \*\*\*/kg. In the cost of production, the total quantity of cocoons used (\*\*\*) for total production of \*\*\* kg works out to \*\*\* kg per unit (kg) of output. This renditta level is unusually low as compared to the best achieved Indian renditta level of \*\*\* kg per unit (kg) of output. The Authority notes that the cocoon cost as per data submitted accounts for 71.3% of the total cost of production and the consumption level claimed is unusually low. Subsequently to the Preliminary Findings, the Authority notes that the company has provided cost of production data for the period July 2001 to March 2002 which is not the period of investigation. The Authority notes that the average domestic sales price in the domestic market in China PR is USD \*\*\*/kg which is below the cost of production claimed by the company and hence domestic sales transaction have not been in the ordinary course of trade.
7. The data on cost of production and domestic sales as submitted by Chengdu Tianyou and its producer at the time of the preliminary findings (in response to the exporters questionnaire) and thereafter in response to the Market Economy Treatment questionnaire has been examined as per the table below :-

	As submitted in response to exporter's questionnaire	As submitted in response to MET questionnaire	Difference in data as submitted in exporters response and MET response
Production July 2001 to March 2002 (Kg)	*** (All grades)	*** concerned product	178441
Cocoons Procured / Consumed (kg)	***	***	***
Cocoon rate /RMB/Kg	***	Not available	Not available
Renditta Level	***	***	***

Raw Material Cost	***		
Direct Labour (RMB)	***	***	_***
Direct Labour (per kg RMB)	***	***	***
Utilities (water, electricity and coal ) RMB/kg	***	Although average price of electricity is stated to be RMB ***/kw/h, the consumption of electricity required per/kg of raw silk is not stated. The average price of coal has been indicated as RMB ***/MT but the consumption of coal/kg of raw silk is not stated. rates and consumption of water not given.	Not available
Conversion Cost	RMB *** /kg		
Depreciation	***	***	***
Depn RMB/kg	***	***	***
Financing cost Including interest	***	Not available	Not available
Packing costs	***	Not available	Not available
Selling cost	***	Not available	Not available
Admn. Costs	***	Not available	Not available
Cons. Tax., Sales Tax	***	Not available	Not available
Total cost	RMB ***		
Profit	RMB ***		
Selling Price	RMB *** USD ***		

The Authority notes that the production in volume terms and renditta level claimed by the company was \*\*\* kg and \*\*\* respectively at the time of the Preliminary Findings and \*\*\* kg and \*\*\* respectively in response to the MET questionnaire. No supporting evidence in respect of each of the cost components have been furnished. The Authority notes that there are serious discrepancies in the data furnished which could not be subject to a verification in these investigations due to the severe threat of SARS affecting China PR.. However the Authority notes that the domestic sales price of Chengdu Tianyou for the subject goods is below the cost of production claimed and hence is not in the ordinary course of trade. The domestic sales of the producer have moreover been made to its affiliate company i.e., Chengdu Tianyou and are hence not arms length transactions. The Authority is therefore constrained to reject the data provided on the cost of production by Chengdu Tianyou/ Sichuan New Century for all the aforesaid reasons.

The Authority notes that since the data on cost of production and domestic sales has not been submitted by the other 16 respondents in these investigations and since in the case of M/s Chengdu Tianyou/ Sichuan New Century Silk Industries, the cost of production data is unacceptable for the aforesaid reasons, a determination on normal value as per provisions contained in Section 9A (1) © (I) and (ii) read with sub-rule 2

(i) and (ii) of Annexure 1 of the Anti-Dumping Rules cannot be made. The Authority is therefore unable to apply the principles set out in paragraphs 1 to 6 and is constrained to proceed as per 'facts available'.

Under the circumstances, Normal Value under the rules is determined on the basis of 'facts available' as per Rule 6(8). Therefore, the information available on the estimated cost of production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the Normal value of the subject goods in China PR which is therefore considered to be USD \*\*\*/kg or Rs \*\*\*/kg at an average exchange rate during POI of 1USD=Rs.47.54.

## **(B) EXPORT PRICE**

At the time of preliminary findings, the Authority had determined individual dumping margins for the respondents from China in these investigations. The Authority notes that as per Sl. 5 of the 'General' Section of the Exporters Questionnaire evidence is to be attached wherever any claim has been made, particularly with regard to the price adjustments claimed from the normal value and export price. However the data furnished by the exporters was not substantiated with relevant evidences. The Authority further notes that as per official data the total quantity of imports from China is far higher than that reported by Chinese exporters. The Authority has therefore been constrained to determine the export price as per 'facts available' in terms of Rule 6(8).

The ex-factory export price has been determined after considering the following adjustments as claimed by one of the exporters under Rule 6(8) of the Anti-Dumping Rules.

Packing RMB \*\*\*/kg = USD \*\*\*/kg

Inland freight RMB \*\*\*/kg = USD \*\*\*/kg

Storage RMB \*\*\*/kg = USD \*\*\*/kg

Handling RMB \*\*\*/kg = USD \*\*\*/kg

Discount/commission- USD \*\*\* or USD \*\*\*/kg

Insurance-USD \*\*\* or USD \*\*\*/kg

Ocean freight- USD \*\*\* or USD \*\*\*/kg

As per official DGCIS data available with the Authority, a quantity of 49,29,632 kg of the subject goods of a cif value of Rs \*\*\* was exported by China PR during the period of investigation (April 2001 - March 2002). The cif price is therefore Rs \*\*\*/kg. The Authority has determined the ex-factory export price after considering the adjustments as claimed above. The ex-factory export price therefore works out to USD \*\*\*/kg.

### **C. Dumping Margin:-**

Given the constructed normal value at USD \*\*\*/kg and the ex-factory export price at USD \*\*\*/kg the dumping margin is USD \*\*\*/kg (which is 47.89% of the export price).

### **G. INJURY:-**

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 article..." 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 article 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.

The Authority notes that the margin of dumping and quantum of imports from the subject country are more than the limits prescribed in Rule 11 Supra.

The Authority called for costing information from the Domestic Industry represented by various reelers association, in the state of Karnataka, Tamil Andhra Pradesh etc. in the prescribed proforma for the period under investigation and for the previous years. The actual cost of production of the subject goods for the domestic industry has been used to determine the cost of production on the basis of Generally Accepted Principle (GAAP).

In the determination of NIP for the Domestic Industry the Authority has made proper analysis of all the relevant factors including usage of raw materials, usage of utility, the actual expenses during the POI, investment, the capacity utilization etc. to arrive at a Non Injurious Price for the Domestic Industry. NIP for the domestic industry has been determined considering a reasonable profit margin on the capital employed.

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

#### a. Quantum of Imports

Source: DGCIS

	2000-2001	2001-2002 (12months-POI)
<b>Individual country imports (MT)</b>		
China PR	3161	4929.632
Subject Country (Total)	3161.346	4929.632
Other sources (total)	286.815	393.317
Total imports (MT)	3448.161	5322.949

The increase in the total imports of Mulberry Raw Silk from China PR was 55.95% in the POI as compared with the quantum of imports in 2000-2001.

The share of China PR in total imports was 91.68% in 2000-2001 and 92.61% in 2001-2002 (12months-POI).

As per DGCIS data compiled for the period April 2002 - January 2003, the quantum of imports from China PR was 52,92,722 kg of a value of Rs 384,09,00,873 indicating a further significant decline in the cif price at Rs 725.69/kg in the post investigation period.

#### (b) Production and Capacity Utilisation

The production capacity, actual production and capacity utilisation of the petitioners was as follows: -

Petitioners	2000-2001	2001-2002 (12months-POI)
Installed Capacity (No. of basins)	25,456 basins	26,822 basins
Installed Capacity (MT)	7255	8408
Production (MT)	6546	5663
Capacity Utilisation%	90% approx.	60% approx.

The details of number of members/units, number of reeling basins and total raw silk production during the period of investigation is as follows:

Name and address of the Association	No. of Members /Units	No. of Reeling Basins	Total Raw Silk Production (MT)
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			Cottage	Multiend	
1.	All Silk Reelers Association Near Cocoon Market, Kolar-563101	360	1900	300	484
2.	Kolar Silk Reelers Industrial Cooperative Society Ltd. Kolar	80	580	100	153
3.	Ramanagaram Silk Reelers Welfare Association, Ramanagaram	1460	9300	---	1784
4.	Karnatake State Multiend Silk Reelers Welfare Association, Ramanagaram	43	---	410	75
5.	The Progressive Silk Reelers I Industrial Co-operative Society Ltd. Sidlaghatta	860	5218	210	994
6.	TamilNadu State Multiend Reelers Association, Dharmapuri	15	---	136	34
7.	The Palacode Silk Reelers Association, Palacode	57	340	---	84
8.	Coimbatore District Silk Producers Association, Coimbatore	95	568	---	142
9.	Andhra Pradesh AP does not have any associations	1176	6920	840	1912
	TOTAL	4145	24826	1996	5663

### (c) Sales and Market Share

	2000-2001	2002. (12months-POI)
Sales of Petitioners	6546	3397.8 (fallen by 48.09% approx)
Sales of other domestic producers	669	676
Total Sales	7216	4073.8
Demand	10,664	9396.7
Share of domestic industry in demand	61.39%	36.16%
Share of imports in demand	32.33%	56.64%%
Share of dumped imports	29.64%	52.46%

It is seen that dumped imports have increased in absolute terms. While the market share of imports from China PR have increased in demand the share of the domestic industry has declined in demand.

### (d) Price undercutting and price depression

Rs/kg

Year	Sales Realisation (Rs/kg)	Landed Price of Imports China PR Others
2000-2001	***	***
2001-2002 (POI)	***	***
Post POI (2002-03)	***	***

It is evident from the above table that the exporters from China PR have reduced their prices significantly in the POI. The domestic industry has been forced to reduce its selling prices to respond to the low import prices in the market.

**(e) Profitability:-**

Petitioner	2000-2001	2001-2002 (12months-POI)
COP	***	***
Selling Price	***	***
P/L	(***)	(***)

The petitioners losses have increased in the period of investigation.

**(f) Closing stocks:-**

(Kg)

	2000-2001	2001-2002 (12months-POI)
Petitioner	10%	40% (2265.2 MT approx.)

**(g) Actual and potential decline in sales**

As stated earlier, the domestic sales volume came down from 6546 MT in 2000-01 to 3397.8 (fallen by 48.09% approx) during the POI. Thus, there was a significant decline in sales volumes.

**(h) Productivity**

In the last decade the renditta (quantum of cocoons consumed to produce 1kg of raw silk) which is an indicator of productivity has declined from 12 to 7, thus enhancing the competitiveness of the domestic industry. This is because of the introduction of highly productive new races by research institutions into the field. However due to the availability of cheap Chinese silk in the market there has been huge uprooting of mulberry and reduction of mulberry acreage during and after the period of investigation.

**(i) Output**

The output of the domestic industry was 6546 MT during 2000-01. It came down to 5663 MT units during POI.

**(j) Factors affecting domestic prices**

The market for raw silk is highly competitive. Globally, China PR is the major producer and has been quoting rock bottom prices to various customers in India. The domestic industry is required either to quote still lower prices or lose the sales volume. Unfortunately, the domestic industry is not in a position to reduce the prices

to the levels of the imported subject goods. Therefore, it is losing sales volumes quite significantly and many units have been forced to close down. Mulberry farms have also been uprooted and farmers have moved away from sericulture to other activities. There is no other factor that has affected domestic prices to a significant extent.

**(k) Magnitude of the margin of dumping**

The dumping margin for the subject goods is 47.89%. Therefore, the magnitude of the margin of dumping is significantly high and has caused severe injury to the domestic industry.

**(l) Employment and Wages**

Around 1633 units were closed during the POI and 2500 units during post POI. Thus around 20000 man days were lost during POI and 30000 man days during post POI.

**(m) Growth and ability to raise capital**

There are no signs of vitality in the domestic producing units. The sales volumes of the domestic producers have fallen due to dumped imports. The domestic industry is not able to raise any significant capital since the crisis continues even in the post POI period.

The number of reeling units under the various reelers associations which have closed in the POI is as follows:

	<b>Name and address of the Association</b>	<b>No. of Units functioning</b>	<b>No. of Units closed</b>
1.	All Silk Reelers Association Near Cocoon Market, Kolar-563101	240	120
2.	Kolar Silk Reelers Industrial Cooperative Society Ltd. Kolar	55	25
3.	Ramanagaram Silk Reelers Welfare Association, Ramanagaram	802	658
4.	Karnataka State Multiend Silk Reelers Welfare Association, Ramanagaram	22	21
5.	The Progressive Silk Reelers Industrial Co-operative Society Ltd. Sidlaghatta	448	412
6.	TamilNadu State Multiend Reelers Association, Dharmapuri	11	4
7.	The Palacode Silk Reelers Association, Palacode	40	17
8.	Coimbatore District Silk Producers Association, Coimbatore	68	27
9.	Andhra Pradesh · AP does not have any associations	826	350
	TOTAL	2512	1633

**(n) Actual, potential and negative aspects of cash flow**

(Rs in Crore)

Particulars	2000-01	2001-02
Working Capital Loan	***	***
	100	702.50
Working Capital Margin	***	***
	100	386.34
Total Working Capital	***	***
	100	605.12
Net Fixed Assets	***	***
	100	102.57
Total Investment	***	***
	100	172.87
Net Profit	***	_***
	100	-258.98
Depreciation	***	***
	100	108.60
Interest on Term Loan	***	***
	100	108.45
Total Returns	***	_***
	100	-219.58
Return on Investment	***	_***
	100	-619.18

The domestic industry has incurred huge losses as can be seen from the table above and return on investment has been negative.

## H. CONCLUSION ON INJURY

6. In view of the foregoing the Authority confirms the conclusions on injury at Para J of the Provisional Findings and reiterates that:-

- a. the quantum of imports from China PR have increased in absolute terms and in relation to consumption in India;
- b. the market share of the petitioner has gone down while that of imports has increased; imports have continued to increase in the post investigation period with further decline in price;
- c. the petitioners closing stocks have increased significantly;
- d. the petitioners have been forced to close down or sell at prices below their non-injurious price.

The Authority therefore concludes that the domestic industry has suffered material injury.

## 7. Causal Link

The petitioners in the states of Karnataka, Tamilnadu, Andhra Pradesh have adopted new bivoltine technologies based on new high yielding mulberry and bivoltine silkworm races resulting in enhanced productivity and quality silk of international grade. The introduction of these new bivoltine races has increased the raw silk yield considerably with renditta levels coming down. The petitioners have laid emphasis on the improvement of food plants, silk worm seeds, introduction of package of practices for mulberry cultivation, improved techniques in reeling and rationalisation of marketing raw silk. These races coupled with the introduction of multiend package for reeling of quality raw silk had given a new momentum to Indian Sericulture.

At this critical juncture the sericulture industry is faced with large scale dumping of Chinese Raw Silk at prices which are inexplicably low when compared to earlier years and in the process causing severe injury to the silk reelers producing raw silk. India is the second largest producer of raw silk in the world next only to China. In Karnataka, a premier sericulture state, around 1,15,000 hectares are under mulberry cultivation distributed in 15,000 villages providing gainful employment to about 2.58 lakhs families. The continued dumping of Chinese Mulberry Raw Silk in India is likely to negate the research breakthroughs achieved and the huge investments made and force the reelers into debt traps.

Due to abrupt decline in the prices of the dumped goods prices of Indian raw silk has come down considerably. During the year 2000-01 the imports of the dumped goods were to the tune of 3161.346 MT which has increased significantly to 4929.632 MT during the period of investigation i.e. 2001-02 (an increase of around 55.95% over the year 2000-01). The petitioners production declined from the level of 6546 MT to 5663 MT. The capacity utilisation during the year 2000-01 was around 90%, which has gradually reduced to around 60% by the end of the year 2001-02. There is decline of about 40% in sales volume. The domestic raw silk prices declined sharply from the level of Rs. \*\*\* to \*\*\* from Sept '01 to March '02. While, during the year 2002-03 the raw silk prices further declined to Rs. \*\*\*/kg. Most of the Multiend/Cottage Basins are only running at 60% Capacity and many are closed. Most of the silk produced by the units are lying unsold due to easy availability of Chinese raw silk at very low prices.

While demand has come down from a level of 10,664 MT in 2000-2001 to 9396.7 MT in 2001-2002, the share of Chinese imports in demand has risen from 29.64% in 2000-2001 to 52.46% in 2001-2002. The share of Indian domestic producers in demand has declined from 61.39% in 2000-2001 to 36.16% in 2001-2002. While the sales quantum of domestic producers has fallen the share of imports from China has increased. The landed values of the subject goods from China have undercut the average selling price of the domestic industry. Thus there is both volume and price effect of dumped imports of Mulberry Raw Silk from China. The stocks of the subject

goods with the domestic producers has increased from approximately 10% in 2000-2001 to 40% in 2001-2002.

The Authority holds that the material injury to the domestic industry has been caused by imports from China PR.. The subject country is the major exporter of Mulberry Raw Silk (not thrown) to India. The increase in the market share of imports from the subject country forced the domestic industry to sell below its non-injurious price which resultantly, the domestic industry was unable to recover. The material injury to the domestic industry was therefore caused by the dumped imports from the subject country.

#### **8. Anti-Dumping duty imposed:-**

The Authority has carefully evaluated the injury caused to the domestic industry on account of dumping of Mulberry Raw Silk and has recommended the amount of anti-dumping duty equivalent to the dumping margin or less, which if levied, would remove injury to the domestic industry. For this purpose, the Authority has compared the non-injurious selling price of the domestic industry with the landed value of imports from the subject country. As the margin is found to be less than the dumping margin, the Authority has recommended duty lower than the dumping margin.

#### **9. FINAL FINDINGS:-**

The Authority after considering the foregoing, concludes that:

- a. Mulberry Raw Silk (not thrown) originating in or exported from China PR has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered material injury;
- c. material injury has been caused by imports from the subject country.

10. It was decided to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. Accordingly, it is proposed that definitive anti-dumping duties be imposed on Mulberry Raw Silk (not thrown) of 2A grade and below, originating in or exported from China PR, falling under customs sub-heading no. 50.02 of Chapter 50 of the Customs Tariff Act, 1975 and ITC (HS) Code 50020001. The grading of Mulberry Raw Silk (not thrown) shall be as per the internationally accepted grades approved by the International Silk Association. The anti-dumping duty shall be the difference between the amount mentioned in Col.9 and the landed value of imports.

Sl. No	Sub-Heading or Tariff Item	Description of Goods	Specification	Country of Origin	Country Of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
1.	50020001	Mulberry Raw Silk (not thrown)	2A grade and below	China PR	Any Country Other than China PR	Any Producer	Any exporter	27.97	kg	USD
2.	50020001	Mulberry Raw Silk (not thrown)	2A grade and below	Any Country Other than China PR	China PR	Any Producer	Any exporter	27.97	kg	USD

11. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

12. Subject to the above, the Authority confirms the preliminary findings dated 20th December 2002.

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

**L.V.SAPTHARISHI**  
DESIGNATED AUTHORITY