

# MINISTRY OF COMMERCE & INDUSTRY

## FINAL FINDINGS NOTIFICATION

New Delhi, the 16th August, 2002

**Subject:-** Anti-dumping investigation concerning imports of Partially Oriented Yarn (POY) from Republic of Korea and Turkey :Final Findings.

**No.36/1/2001-DGAD.** - The Government of India having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof:

### **A. PROCEDURE**

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

**1.0 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 Association of Synthetic Fibre Industry, 125, Uday Park, Ist Floor, New Delhi-110049 on behalf of the domestic industry, alleging dumping of POY originating in or exported from Republic of Korea and Turkey.
- ii. The Authority issued a public notice dated 20th August,2001 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of POY originating in or exported from Republic of Korea and Turkey classified under heading 5402.4200 of the Customs Tariff Act, 1975.
- iii. The Authority issued a public notice of the preliminary findings dated 23rd November, 2001 published in the Gazette of India, Extraordinary.
- iv. The Authority forwarded a copy of the preliminary findings to the known interested parties who were requested to furnish their views, if any, on the preliminary findings within forty days of the date of the letter;
- v. The Authority also forwarded a copy of preliminary findings to the Embassies of Korea RP and Turkey, New Delhi with a request that exporters and other interested parties may be advised to furnish their views on the preliminary findings.

- vi. The Authority provided an opportunity to all interested parties to present their views orally during 24.4.2002. 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 rebuttals, if any.
- vii. Argument raised by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for sake of brevity. However, the arguments raised by the interested parties have been considered in the preliminary findings and/or these findings.
- viii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have also been duly considered in these findings.
- ix. 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;
- x. The Authority sought and verified information with respect to cooperative exporters from Turkey as deemed necessary for the investigation.
- xi. The Authority also conducted cost investigation and worked out optimum cost of production / cost to make and sell in India on the basis of Generally Accepted Accounting Principles.
- xii. The investigations covered the period of 1st April,2000 to 31st March, 2001 (12 months);
- xiii. \*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules;

## **B. VIEWS OF THE PETITIONERS, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES :**

2. The petitioner, exporters, importers and other interested parties have expressed their views and the same are briefly mentioned below:

### **1. Views of the Domestic Industry:**

1. The Petitioners have stated that they had filed petition against Thailand, Indonesia, Taiwan, Malaysia and South Korea. The case was, however, initiated only against Thailand, Indonesia, Taiwan and Malaysia vide initiation notification dated 10th November, 2000. The investigations culminated in final findings, wherein the Designated Authority confirmed large scale dumping resorted by the exporters from those countries. It was also found by the

Designated Authority that most of responding exporters had exported POY to India at prices below their cost of production.

2. Faced with the continued dumping from Korea and dumping from Turkey, the domestic industry was forced to approach the Designated Authority again with a request for imposition of anti dumping duties on exports from these countries. The Designated Authority was kind enough in initiating investigations against Korea and Turkey vide notification dated 20th August, 2001. The preliminary findings notified by the Designated Authority again confirms the existence of large scale dumping by the exporters in these countries.
3. Petitioners have stated that there is no argument to the contrary regarding product under consideration and like article by any interested party.
4. They have stated that participating companies alongwith supporting companies constitute more than 50% of Indian production and thus satisfy the standing to file the petition.

#### Other Issues:

Domestic Industry has requested the DUTY IN TERMS OF US\$

Though the Designated Authority has already recommended anti-umping duty in terms of US\$, it is submitted that the final duties may also be recommended in terms of US\$ only, so that erosion in the quantum of protection does not take place on account of changes in the exchange rate.

It is evident from the preliminary findings and the submissions made hereinabove that there was severe dumping of POY in India causing material injury to the domestic industry. It is requested that the preliminary findings may kindly be confirmed and definitive duties recommended.

#### M/s.Sonmez Filament Bursa, Turkey

Exporters have stated that they have not been in a position to export any POY into India either directly or through any affiliated company.

#### **2.4 Embassy of Republic of Korea, New Delhi**

It has been stated that two Korean companies, namely, M/s.TAE-Han Synthetics Fibre Co.Ltd. and M/s. JEIL Synthetics Fibre Co.Ltd. have not exported Partially Oriented Yarn (POY) to India since last five years.

The above companies have not shown interest in taking part in the anti dumping investigations with respect to POY exports to India and have no interest in attending public hearing.

### **2.5 M/s. Jeil Synthetics Fibre Co.Ltd.,Seoul, Korea**

The exporter have stated that they have not exported POY during the POI i.e. from 1st April 200 to 31st March, 2001. Their last export was in February, 1997. There was no company who produced DOPE Dyed (colour) POY like there is in India during that period.

They have also stated that their POY production is DOPE Dyed(colour) Yarn and not raw white yarn that India produces and the price of DOPE Dyed (colour) Yarn is much higher than the raw white (regular) yarn in India.

## **C. EXAMINATION OF ISSUES RAISED**

3.0 The submissions made by the petitioner, exporters and importers to the extent they are relevant under the Rules and have a bearing upon the case, have been examined and dealt with at appropriate places hereunder.

## **D. PRODUCT UNDER CONSIDERATION**

4.1 The Product Under Consideration in the present investigation is Partially Oriented Yarn, originating and exported from Korea RP and Turkey. Partially Oriented Yarn is generally known as "POY" in the commercial and market parlance and has been referred to as POY in this investigation. POY is a yarn of polyester and is made in wide range from 50 Denier to 530 Denier to meet the requirement of different segments. Denier relates to the fineness of the yarn, lower the denier, finer the yarn. POY is an intermediate, which is subject to further processes (e.g. texturing or draw-twisting) to make it suitable for weaving or knitting into fabrics. POY is different form PFY (having custom classification 5402.43) and PFY is not within the scope of the present investigations.

4.2 The POY is classified under Chapter 54 of the Customs Tariff Act. POY is also classified in chapter 54 of the Customs Act. Complete dDescription of Chapter 54,in so far as it concerns which includes POY as per Customs Tariff Act is as follows:

<b>Chapter/ Subheading</b>	<b>Description</b>
Chapter 54	Man Made Filaments

Four Digit 54.02	Synthetic filament yarn (other than sewing thread), not put up for retail sale, including synthetic monofilament of less than 67 decitex
Other yarn, single, untwisted or with a twist not exceeding 50 turns per meter:	
Six Digit 5402.42	Of polyesters, Partially Oriented

The classification is , however, indicative only and is in no way binding on the scope of the present investigation.

3. Authority notes that no arguments have been raised by any interested parties disputing that the POY produced by the petitioners and the POY produced and exported by the exporters are different with regard to product under consideration.

## **E LIKE ARTICLES:**

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

5.2 The petitioners have claimed that there is no known difference in the goods produced by the participating companies in particular and by the Indian industry in general & POY exported from the subject countries which can have an impact on price. In fact, the participating companies are exporting POY to a number of the countries in the world, including Brazil, Mexico, Argentina, etc. POY produced by Indian industry and imported from these countries are similar in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used the POY imported from these countries and POY produced by the domestic industry interchangeably. POY produced by the participating companies and imported from these countries is to be treated as like articles under the anti-dumping rules. There is no significant difference in the technology and the production process adopted by the participating companies and by the producers in subject countries. However, every producer fine tunes its process as per available necessities and available facilities. There is no argument raised by any interested party contrary to the above claim of petitioners.

In view of the above, the Authority holds that POY being produced by the domestic industry and those being imported from the subject countries are used interchangeably and thus are commercially and technically substitutable and therefore, are Like Articles within the meaning of the Rules;

## **F DOMESTIC INDUSTRY**

6.0 Petitioners have claimed that there are more than 34 producers of POY in India who have created capacity for POY production. The petition is filed by ASFI and is supported by M/s Reliance, Indo Rama, Century, and are participating. However, M/s DCL, Sanghi & Recron are only supporting the petition

The Participating companies accounted for a major proportion of production during the period of investigation and the Authority, therefore, holds notes that the petitioners satisfy the standing to file the present petition and the Participating companies therefore constitute the "Domestic Industry" and have the standing to file the present petition under the Rules.

## **G DUMPING**

**7.0 Normal Value, Export Price, Dumping Margin and Examination by the Authority is discussed hereunder.**

7.1. 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 alongwith reasonable addition for administrative, selling and general costs, and for profits, as 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".

## **7.2 Views of Domestic Industry**

### **ON DUMPING**

The dumping margin in the preliminary findings have been established on the basis of the responses filed by the exporters in case of Turkey, while the same is based on best information available in the case of Korea. It is relevant to point out that the exporters from Korea have not responded at all to the notice of initiation sent by the Designated Authority.

In case of Turkey, the Designated Authority has admitted the responses of the exporters without rejection of any data/claim. We are sure, should the responses be scrutinized in detail, the dumping margin would only be higher than what has been claimed. In particular, the petitioners request the Designated Authority to kindly examine whether the exporter had sufficient viable domestic sales in accordance with Annexure 1 to the Rules. Further, the cost of production claimed by the exporters may also kindly be examined with reference to the claims made by the domestic industry.

### **7.3 Comments of domestic industry on views of Government of Turkey.**

1. The Embassy has stated that the Turkish Govt. and companies concerned have given detailed comments. However, neither the preliminary findings states so nor the petitioners are aware of any comments filed after the preliminary findings.
2. Imports from Turkey were more than de-minimus limits. Further, neither under Indian Rules nor under WTO Agreement on Anti Dumping, there is any condition of de-minimus with reference to the demand of the product in the Country.
3. Imports from Turkey and Korea RP are required to be assessed cumulatively, conditions for which are fully met in this case. It is not even the argument of opposing interested parties that cumulative assessment would not be appropriate in this case.
4. It is misleading and frivolous to state that the imported product from Turkey was inferior in nature. No evidence has been adduced by the exporters to establish that the exported product was different from domestically sold product. The exported product was a "like article" to the domestically sold product and product being sold by Indian producers. Further, the normal value is required to be seen for the "like article" for the purpose of dumping margin. Similarly, the injury margin is required to be seen with reference to the "like product" in India.

5. It is admitted fact that the imports from Turkey were higher than de-minimus. Such being the case, imports cannot be said to be negligible. In fact, in a way, the exporters admit injury to the Indian producers.
6. While it may be true that the export price from Turkey did not show declining trend, it is relevant to note that (a) export price from Turkey and Korea RP are required to be seen cumulatively (which shows that the export price from the subject countries declined in the investigation period as compared to previous years; (b) volume of exports by Turkey were very small (de-minimus) in the year 1999-2000. Such being the case, the export price only of Turkey in 1999-2000 is not representative. The prices in 1999-2000 would have been even introductory prices, as the entire volume involved was only 0.41% of total imports as against 3.6% in the investigation period.
7. With regard to exports in the second half of 2001, it is submitted that imports in the investigation period as a whole is the only relevant parameter. Even if the imports were only in one month of the investigation period (volume of which was more than deminimus to the imports investigation period) the same is liable to duty. The imports in the instant case, by their own admission, were in about six months of the investigation period. We draw kind attention of the DA to various completed cases wherein the imports were not uniformly spread throught the investigation period.
8. No cogent reasons have been brought out by the opposing interested parties to justify termination of investigations. In fact, the responses filed by the exporters from Turkey clearly establishes—of significant dumping margin. The information filed by the petitioner companies establishes material injury caused to the domestic industry and further threat of material injury to the domestic industry.

#### **7.4 Views of Govt. of Turkey:**

The Director General of Imports, Government of Turkey in their submissions have stated the following:

1. The Government of Turkey would like to stress the fact that the products imported from Turkey amounting only 0.1% of total demand and being substandard were in no way in competition with domestically produced products and therefore, even if their exists any injury, this should not be attributed to insignificant imports from Turkey.
2. It has been observed that the summaries provided were not in sufficient details to permit a reasonable understanding of the substance of the information, figures and calculations of the Turkish producers were not provided and the factors listed in the Article 3 of the Agreement were not examined at all.

3. It is observed in the notification that the investigation period chosen for this investigation cover the period 1st April, 2000 to 31st March, 2001. Despite the fact that the investigations period should be chosen as to cover the most recent period with respect to initiation notification.
4. Turkey has concerns as regard to the applicability of cumulative estimation for the imports from Turkey and Korea in the present investigations.
5. While considering the cost of credit adjusted for M/s. SASA it is stated that the Authority calculated the cost of credit as the weighted average of the cost for the years 2000 and 2001 rather than the actual cost of credits used. The imputed credit cost adjustment was claimed by the respondent to adjust export prices and home market prices for deferred payments term to make meaningful comparison.
6. The quality differences between the domestically sold and exported products were previously mentioned by M/s. Korteks in its replies to the questionnaire contrary to the statements made in preliminary findings which claims that there was no argument raised by any interested party. Turkey submits that the differences in the physical feature and the quality of domestically sold product and product exported to India should be taken into account and duty adjustments should be allowed. Hence the dumping margins established should be corrected accordingly.
7. It is a review of the Government of Turkey that the Authorities improperly attributed the declining prices and declining profitability in the domestic industry, if any, to the affects of the import from Turkey and fail to examine the second impact on imports on the domestic industry as required by Article 3.4 of the Agreement.
8. There is no positive evidence of causal link between imports and alleged injury in the domestic market.
9. The Government of Turkey has requested the Indian Authority to evaluate the points raised above and secondly terminate the investigation concerning imports originating in Turkey.

#### **7.5 M/s.Sonmez Filament Bursa, Turkey**

Exporters have stated that they have not been in a position to export any POY into India either directly or through any affiliated company.

#### **7.6 Embassy of Republic of Korea, New Delhi**

It has been stated that two Korean companies, namely, M/s.TAE-Han Synthetics Fibre Co.Ltd. and M/s. JEIL Synthetics Fibre Co.Ltd. have not exported Partially Oriented Yarn (POY) to India since last five years.

7.7 The above companies have not shown interest in taking part in the anti dumping investigations with respect to POY exports to India and have no interest in attending public hearing.

#### **7.8 M/s. Jeil Synthetics Fibre Co.Ltd.,Seoul, Korea**

The exporter have stated that they have not exported POY during the POI i.e. from 1st April 200 to 31st March, 2001. Their last export was in February, 1997. There was no company who produced DOPE Dyed (colour) POY like there is in India during that period.

They have also stated that their POY production is DOPE Dyed(colour) Yarn and not raw white yarn that India produces and the price of DOPE Dyed (colour) Yarn is much higher than the raw white (regular) yarn in India.

#### **7.9 Examination of the issues by the Authority**

On the views of Government of Turkey.

(Through the Commercial Counsel Officer, Turkish Embassy in New Delhi)

- a. The Authority notes that the imports from Turkey were more than de-minimus limits. Further, neither under Indian Rules nor under WTO Agreement on Anti Dumping, there is any condition of de-minimus with reference to the demand of the product in the Country.
- b. The Authority notes that imports from Turkey and Korea RP are required to be assessed cumulatively, conditions for which are fully met in this case.
- c. As regards to the imported product from Turkey was inferior in nature, the Authority notes that except for the evidence indicated on the sales invoice that they have sold under the nomenclature 'substandard', no evidence has been adduced by the exporters to establish that the exported product was different from domestically sold product. The exported product was a "like article" to the domestically sold product and product being sold by Indian producers.

#### **7.10 M/s SASA , Turkey**

Normal Value

The company furnished transaction-wise and danier-wise details of sales made in home markets in respect of 133 Dtex SS and 283 Dtex SS and other domestic sales. The company also furnished information on cost of production of domestic sales in respect of types of POY exported to India. It has been observed that in case of 283

Dtex POY exported to India and also sold in the domestic market the average sales realisation is less than the Cost of production. Accordingly for the purpose of determination of Normal Value the cost of production of this denier of POY during the period of investigation has been considered for the purpose of assessment of profitable transactions in accordance with Annexure I of the Rules.

The Normal value has been determined based on information furnished in respect of 133 Dtex SS and 283 Dtex SS based on viable domestic sales. The Authority has determined average selling price for two types of POY sold by the company in the domestic market during the POI after allowing adjustments on account of credit cost on domestic sales.

#### Export Price:

The export price has been separately determined for two types of POY exported to India. Adjustments claimed by the company on account of ocean freight, insurance, commission, inland freight and handling has been allowed as claimed by the company and verified by the Authority.

The normal value for two types of POY sold in the domestic market has been compared with two types of POY exported to India separately. The Authority has determined the average dumping margin on the basis of volume of exports for two types POY exported to India.

#### **7.11 M/s Korteks, Turkey**

##### Normal-Value.

The exporter has furnished details of domestic sales for all deniers of POY during the period of investigation. The exporter has claimed that for the purpose of comparison of domestic sales price with the export price same deniers should be considered. They have furnished separate details of the domestic sales for the same deniers/ types of POY exported to India. However, it has been observed that the company has not sold in the domestic market all types of deniers exported to India. It has been observed that in case of two types of POY exported to India and also sold in the domestic market the sales realisation is less than the Cost of production. Accordingly for the purpose of determination of Normal Value the average cost of production of POY including SGA, interest and reasonable returns during the period of investigation has been considered in absence of representative sales to appropriate third countries.

##### EXPORT PRICE

The weighted average export price has been determined separately for all types of POY exported to India. Adjustments claimed by the company on account of ocean freight, insurance, commission, inland freight and handling has been allowed as claimed by the company.

The normal value as discussed above has been compared with weighted average export price of POY exported to India for determining the dumping margin.

### 7.12 Determination of Dumping Margin in case of Non-cooperative Exporters:

The Authority notes that no information in the prescribed proforma has been filed by any other exporter from subject countries (including Korea RP) except for exporters discussed in above paragraphs. The Authority has, therefore, proceeded on the basis of Rule 6(8) i.e. with the best information available.

Accordingly, the Normal Value and export price for ‘other exporters’ from a particular country is proposed to be based on the information furnished by the petitioner/ best available information.

8.1 Dumping Margin: The Rules relating to comparison provides comparison of normal value and export price 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 the ex-works level, and in respect of sales made at as nearly as 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 sales, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability".

8.2 Accordingly, the Authority has determined the normal value and export price at ex-factory level for cooperative exporters and other non cooperative exporters for the purpose of final determination.

Country	Name of the exporter	Normal Value US\$/kg	Export Price US\$/kg	Dumping Margin (DM) US \$/kg	D M as a % of Export price
Turkey	M/s SASA Dupont Sabanci Polyester AS	***	***	***	62.16
	M/s Korteks Mensucat Sabatu Ve Ticaret AS., Turkey, (Korteks )	***	***	***	44.38
	Other Exporters	***	***	***	139.40
Korea RP	All Exporters	***	***	***	77.86

## **I INJURY & CAUSAL LINK ::**

9.0 Under Rule 11 supra, Annexure-II, When a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...." 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 increases which otherwise would have occurred, to a significant degree;

9.1 Rule (iii) of the Annexure II to the Rules requires that in case imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, The Authority will cumulatively assess the effect of such imports. Such assessment can be, however, made only if it is determined that:

- a. the margin of dumping in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the import of the like article in India, and
- b. the cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

The various factors relating to injury to domestic industry have been discussed in the preliminary findings and the same is being considered for final determination.

**The argument raised by the various interested parties is as under:**

9.2 Views of Domestic Industry:

ON INJURY AND CAUSAL LINK

It is submitted that the severe dumping of POY in India has caused material injury to the domestic industry, which is evident from the petition filed by the domestic industry and the preliminary findings notified by the Designated Authority. They have submitted that the following parameters clearly establish that the domestic industry has suffered material injury:

- a. Since the exports from Korea have been continuing at dumped prices for quite some time (for which the domestic industry had filed a petition also), the injury

to the domestic industry from Korea should be seen in the context of non-initiation of investigations against Korea earlier by the Designated Authority due to misclassification of imports by the importers.

- b. The domestic industry was suffering material injury from the dumped imports from the subject countries as also from other countries which are now attracting anti dumping duties. Duties on these countries were levied by the Ministry of Finance in April, 2001. Thus, performance of the domestic industry is required to be examined in the context of imposition of these duties and material injury and threat of material injury from the existing countries.
- c. The injury to the domestic industry is required to be assessed cumulatively from Korea and Turkey. The conditions laid down under Annexure II in this regard are fully met in the instant case.
- d. The imports from the subject countries have increased in absolute terms. So far as imports from Korea in the investigation period and immediately preceding year are concerned, what is required to be noted is that (a) Korean producers were resorting to dumping in the previous year also, for which the industry had filed the petition but investigations were not initiated due to misclassification of imports by the importers; (b) the import data for the year 1998-99 is as per DGCI&S which includes misclassified PFY imports also, while the import data for 1999-00 and investigation period is as per MITCON which excludes misclassified PFY.'
- e. The share of imports from subject countries increased significantly in terms of imports of POY in India.
- f. The export price from the subject countries declined very significantly. The landed price of imports, as a direct consequence, declined significantly.
- g. With regard to Turkey, it is clarified that the export price in the year 1999-2000 should be seen alongwith the associated volumes. The volume of imports in 1999-2000 was de-minimus.
- h. The production of the domestic industry was almost stagnant during the period.
- i. In spite of the apparent increase in the domestic sales volume (and production) during POI, it is pertinent to note that the domestic industry continued to sell the product at sub-optimal prices. Thus, in spite of increasing the sales volumes, the domestic industry was not able to recover fair price for their product.
- j. Sales realisation of the domestic industry declined significantly. The decline in the selling prices was a direct result of decline in the export prices ( and hence landed prices). The imports were significantly undercutting the prices in the Indian market.
- k. Significant decline in the selling prices resulted in deteriorating profitability of the domestic industry. The domestic industry was forced to suffer financial losses, which continued even in the investigation period.

- l. The return on investments remained negative for the industry.
- m. The dumped imports from the subject countries, in addition to the material injury inflicted on the domestic industry, posed a threat of material injury to the domestic industry. Following are relevant in this regard:-
  - i. The imports from the subject countries have been significant.
  - ii. The imports from the subject countries have shown significant growth. The same is evident in case of Turkey, while the Korean producers had been dumping for quite long.

The exporters from the subject countries have been holding significant surplus capacities. As per PCI report, Turkey is holding POY capacities in excess of 311,000 MT. Against this capacity created, the consumption was only 162,000 MT. Further, it was admitted even by the representative of Govt. of Turkey at the time of oral hearing that most of the Textile Industry in Turkey is suffering from lack of demand, and operating levels have come down substantially. The exporters are understood to be having an excess of more than 150,000 MT, which has to find a market. The vast Indian Market is, therefore, a natural choice.

With regard to Korea, total capacity of POY in Korea is 17,97,000 MT. Against this, the consumption of POY in Korea is understood to be only 11,15,000 MT. This domestic demand in Korea also is declining, as their Textile exports are also suffering due to the economic slow down in the world. Thus, South Korea has at least 800,000MT to 1 Million MT of surplus POY capacity. This is more than India's total demand. Further, South Korean companies/exporters have also not co-operated with the Designated Authority in the present investigations.

- iii. The landed price of imports from the subject countries was significantly below the selling prices of the domestic industry. Thus, the imports were significantly undercutting the domestic prices. Such significant undercutting coupled with significant disposable capacities in these countries implies an imminent threat to the domestic industry.
- iv. Since the demand of POY in the subject countries is far lower than the capacities created and further since access to other markets for the producers in these countries have reduced, the producers in these countries were holding significant inventories and were looking for markets for disposal of these inventories.

All the parameters, collectively and cumulatively establish that the domestic industry has suffered material injury from dumped imports. Further, the imports from the subject countries threatened material injury to the domestic industry.

### 9.3 Views of M/s. SASA Dupont, Turkey – on injury:

1. As regards to injury, the exporter have stated that during the POI the production, capacity utilisation and sales volume has increased. Raw material cost have decreased. The employment have not significantly changed. The only possible injury as per the preliminary findings are falling prices and profitability.
2. World wide over capacity in the polyester industry has caused fall in prices in respect of both raw material and finished products.
3. The causal link has not been established between dumping and injury.
4. The imports of POY to India has decreased by 40% during POI compared to 1999. Therefore, any injury cannot be attributed to exports of M/s. SASA.

### 9.4 Share of imports from subject countries:

While examining the volume of the dumped imports, the Designated Authority notes that the volume of total imports which was 49870MT in 99-00 declined to 27663 MT during POI. However, share of imports have cumulatively increased from subject countries as may be seen from the table below.

<b>Imports</b>	<b>Unit Volume</b>	<b>1998-99</b>	<b>1999-2000</b>	<b>POI</b>
Korea RP	MT	4772	3498	1843
Turkey	MT	-	206	998
Subject countries	MT	4772	3704	2841
Countries attracting duties (Taiwan, Thailand, Indonesia and Malaysia)	MT	17708	43644	24215
Other countries	MT	1506	2522	633
Imports total	<b>MT</b>	23986	49870	27663
<b>Share in Imports</b>				
Korea RP	%	19.89	7.01	6.66
Turkey	%	0.0	0.41	3.60
Subject countries	%	19.89	7.42	10.26
Countries attracting duties (Taiwan Thailand, Indonesia & Malaysia)	%	73.83	87.52	87.45
Other countries	%	6.28	5.06	2.29
<b>Imports total</b>	<b>%</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>
Indian Production	MT	745,377	801,020	826,144
Total Demand	MT	769,363	850,890	853,807

Authority has taken into consideration DGCI&S data for the year 1998-99 as MITCON data is not available for that period. The Authority is relying upon MITCON data for 1999-2000 and 2000-2001, as the DGCI&S data includes imports of PFY also.

The information provided by MITCON is only in respect of major customs ports in the Country. Further, the MITCON data has been analysed in detail and imports misclassified as POY have been excluded. It may thus be seen that the volume of imports is still more than de minimus and significant and the same has increased from 7.42% to 10.26% (as per MITCON data).

### 9.5 Decline in export price:

Authority notes over the years the sharp reduction in the export price from Korea RP and the commencement of exports from Turkey at dumped prices in substantial volumes, thus resulting in steep reduction in the landed price of imports from the subject countries, as may be seen from the following table:

**Rs. per Kg.**

Years	Korea		Turkey	
	Export price	Landed price	Export price	Landed price
1997-98	70.76	96.23		-
1998-99	58.02	76.18		-
1999-00	41.67	56.82	33.68*	45.92
2000-01	38.94	47.20	39.54	47.92

\* volume very insignificant.

The steep decline in the landed price of imports (alongwith reduction in the prices by other countries resorting to dumping) forced the domestic industry to reduce its prices far below its cost of production, resulting in severe financial losses to the domestic industry.

### 9.6 Production, sales and capacity utilisation:

Production, sales and capacity utilization of the participating companies are as given in the table below:

Years	Production in MT	Capacity Utilization %	Sales in MT
1998-99	330839	91.59	302492
1999-00	352675	97.64	311263
2000-01	367715	101.80	343481

The production, sales and capacity utilisation has shown improvement in the year 1998-99, 1999-2000 & 2000-01.

## **9.7 Selling Price**

Authority notes that due to dumping, the industry has been forced to sell its product below the cost of production during the period of investigation and due to steep reduction in import prices, resulting in material injury to the domestic industry.

## **9.8 Price Undercutting**

The landed price of subject goods from subject countries compared to 1999-2000 has declined. The dumped imports have forced the domestic industry to sell its products far below its cost of production.

## **9.9 Employment**

The employment level in the participating companies has not undergone any significant change due to poor operating levels.

## **9.10 Profitability**

The industry has been forced to keep its selling prices much below its cost of production, resulting in financial losses. The losses have increased in 2000-01, in view of substantial increase in the cost of production and inability of the industry to recover the same in view of lower landed prices. Further, the attempt to increase the selling prices by the domestic industry resulted in steep increase in the import volumes.

## **9.11 Conclusion on injury:**

- a. The dumping margins from the subject countries are significant and volume of imports are more than de-minimus;
- b. The volume of Import is significant and share of subject countries in imports of POY has increased;
- c. The export price has declined significantly. The cost of production should have increased for the exporters from the subject countries in the current year in view of increase in the PTA/DMT/MEG prices, whereas the export price has reduced in the period of investigation;
- d. The imports were causing severe price undercutting and prevented the domestic industry from effecting legitimate price increases;
- e. The domestic industry has been forced to sell at prices significantly below the non injurious price;
- f. The cost of production of the Indian producers increased during the period of investigation as compared to year 1999-2000. However, the industry could not

increase its prices and recover the cost of production in view of cheaper imports.

- g. The Authority notes that the margin of dumping and quantum of imports from subject countries are more than the limit prescribed under the Rules. Cumulative assessment of the effect of the imports from Korea RP and Turkey is appropriate since the export prices from these countries were directly competing with the prices offered by the Domestic Industry in the Indian market.

The above parameters indicate that the domestic industry has suffered material injury due to dumped imports.

## **10.0 EVIDENCE OF CAUSAL LINK**

The imports from the subject countries are being at dumped prices. A number of countries are already being investigated, wherein the preliminary findings notified by the Designated Authority confirms large scale dumping. The Imports from countries other than subject countries are either de-minimus or the prices are higher or the Designated Authority is already conducting Anti Dumping investigations against imports from these countries. The market intelligence of the domestic industry also does not suggest any significant imports at dumped prices from other countries. The imports from other countries have, therefore, not caused any injury to the domestic industry.

Demand for POY has not declined. Decline in demand is, therefore, not a factor, which could have caused injury to the domestic industry.

Reduction in the export prices by the producers from the subject countries and the countries attracting duties is the cause for the injury to the domestic industry. There is no other factor such as trade restrictive practices or export performance, which has caused injury to the domestic industry. In fact, the domestic industry is well established with regard to production and sale of POY.

## **K. Indian Industry's Interest and other issues:**

11.1 The purpose of anti dumping duties, in general, is to eliminate dumping which is in general interest of the country. It is recognized that the imposition of anti dumping duties might affect the price levels of the products 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 domestic industry. On the

contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods Analgin. 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.

To ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry, the Authority relied upon reasonable selling prices of subject goods in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilisation for the domestic industry.

## L. CONCLUSIONS;

12.0 The Authority, after considering the foregoing, concludes that:

- Exporters from Korea RP and Turkey have been exporting subject goods below normal value resulting in dumping;
- The Indian Industry has suffered material injury;
- The Injury has been caused cumulatively by the dumped imports of the subject goods from subject countries.

13.0 The Authority after considering the foregoing, concludes that

- a. The Authority recommends imposition of definitive anti dumping duty on all imports of POY falling under Chapter 54 of Customs Tariff Act originating in or exported from Turkey and Korea RP.
- b. The Authority consider recommending the amount of anti dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to domestic industry. The average landed price of the imports, for the purpose, was compared with the Non-Injurious selling price of the petitioner, supporting companies, determined for the period of investigation. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended.
- c. Accordingly, the Authority confirms the preliminary findings with regard to imposition of anti-dumping duty and recommends imposition of definitive anti dumping duty on all imports of POY falling under the Chapter 54 of Customs Tariff Act originating in or exported from subject countries. The anti dumping duty shall be the amounts mentioned in column (3) below:

COUNTRY	Name of the exporter	Anti dumping duty in US \$/Kg
(1)	(2)	(3)

Turkey	M/s SASA Dupont Sabanci Polyester AS	0.434
	M/s Korteks Mensucat Sabatu Ve Ticaret AS.,Turkey, (Korteks )	0.360
	Other Exporters	0.546
Korea RP	All Exporters	0.605

14. 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 duties levied under Section 3, 3A,8B and 9, 9A of the Customs Tariff Act, 1975.

15. Subject to above , the Authority confirms the preliminary findings dated 23.11.2001

16. An appeal against this order shall lie to the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act Supra.

**( L V SAPTHARISHI )**  
Designated Authority