

MINISTRY OF COMMERCE & INDUSTRY
Dept of Commerce,
Directorate General of Anti Dumping and Allied Duties

NOTIFICATION

New Delhi, Dated: 4.1. 2002

Subject:- Anti-dumping investigation concerning imports of Partially Oriented Yarn (POY) from Indonesia, Taiwan, Thailand and Malaysia.–Final Findings.

No.19/1/2000-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:

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 Indonesia, Taiwan, Thailand and Malaysia.

The Authority issued a public notice dated 10th November,2000 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of POY originating in or exported from Indonesia, Taiwan, Thailand and Malaysia classified under heading 5402.4200 of the Customs Tariff Act, 1975.

Vide OM 357/1/2001 TRU dated 11.12.2001 of Ministry of Finance, Department of Revenue, granted the extension of time to conclude the present investigation on or before 9.1.2002;

The Authority issued a public notice dated 30th March, 2001 published in the Gazette of India, Extraordinary, the Preliminary Findings.

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;

The Authority also forwarded a copy of preliminary findings to the Embassies of Indonesia, Thailand, Malaysia and Taipei Economic And Cultural Centre (TECC), New Delhi with a request that exporters and other interested parties may be advised to furnish their views on the preliminary findings.

The Authority provided an opportunity to all interested parties to present their views orally during June,2001. 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.

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.

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.

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;

The Authority sought and verified information deemed necessary for the investigation.

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.

The investigations covered the period of 1st January, 1999 to 31st December, 1999 (12 months);

*** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules; Domestic Industry's views:

- i. The domestic industry has stated that preliminary findings acknowledge massive dumping of POY resorted by exporters from subject countries.

They have submitted that many POY producers in Thailand, Indonesia and many in Taiwan have incurred losses in POY business during the calendar year 1999.

The dumping margin in respect of some of the exporters from subject countries appears to be on lower sideid, which indicates possibility of insufficient disclosure by exporters with regard to information on cost of production.

- ii. The petitioners have submitted that earlier theyey filed petition against Thailand, Indonesia, Taiwan, Malaysia and South Korea. However, Designated Authority decided to exclude South Korea from the purview of anti dumping investigations.

On Product under consideration and Like Article:

POY produced by domestic industry has characteristics closely resembling the POY imported from the subject countries. The two are like articles within the meaning of the Rule 2(d). There is no argument to the contrary by an interested party, except for the issue of by-product raised by the Taiwanese Exporters. So far as exports from Taiwan are concerned, we rely upon our written and rejoinder submissions filed after the oral hearing and the preliminary findings notified by the Designated Authority. The Taiwanese Exporters have not given any further explanations on this account. We had urged upon the exporter to disclose the following information with regard to its claim of like article.

Full description of the article, as given on the commercial invoice.

Customs classification as mentioned on bill of entry.

Raw material content of the product and whether the same is different from the raw material content of POY.

Manufacturing process and technology for producing this "by product".

Plant & Equipment required to produce this "by product"

Functions and uses of this "by product"

While the exporters from Taiwan have failed to provide this information, we submit that the material exported is "POY" and must have been exported as "POY".

On standing of Domestic Industry:

The petition has been filed by the Association of Synthetic Fibre Industry (ASFI). Two petitioners satisfied standing on behalf of the domestic industry. With regard to exclusion of M/s Indorama and M/s.DCL Polyester ltd., Tthe remaining companies constitute the domestic industry within the meaning of anti dumping rules.

On Dumping:

The normal values claimed by the exporters need to meet the 80:20 test and 5% test as provided under Article 2.2 of WTO anti dumping agreement. If they claim normal values by individual exporters do not meet these criterion or any other criterion provided under WTO anti dumping agreement then the only records available to i arrived at the normal values could be on the basis of constructed cost plus fair returns as claimed by the petitioners. The petitioners have requested that the dumping margin may kindly be examined for each one of the exporters for each one of the subject countries.

The petitioners have submitted that all the parameters collectively and cumulatively established that the domestic industry have suffered material injury from dumped imports.

Though the Designated Authority has already recommended anti-dumping duty in terms of US dollars, it has been submitted that the final duties may also be recommended in terms of US Dollars only so that the erosion in the quantum of protection does not take place on account in the exchange rates.

(iii) As regards to views expressed by the exporters M/s.PT Polysindo regarding profitability of the company as a whole and not with regard to product in question i.e. POY, quoting the decision of CEGAT in the case of seamless tubes from Russia in arguing/challenging the preliminary findings of Designated Authority, while it is appreciated that the overall losses of company are not relevant to the present investigation, the Authority has stated in its preliminary findings that the factory cost as furnished cannot be relied upon for determination of normal value as the same also are inadequate and appeared to be unreliable. The onus of providing adequate and reliable information was on the said exporter and if the exporter had failed to discharge the responsibility of providing information within the time specified in the anti dumping rules the exporter cannot find fault with the investigation.

It is evident from the submissions made by the company subsequently that the exporter is engaged in the production of PTA, Petchips, FOY, texturised yarn, PSF and POY.

It is observed that the annual report submitted does not indicate that the operations of POY Division/Business of the company was profitable during the POI.

Regarding comments on views expressed by Federation of Indian art and Silk Weaving ers Industries (FIASWI) Mumbai:

Increase in exports and availability of material to consumers:- The Federation has raised self-contradictory arguments. While on the one hand the Federation has argued that the domestic industry has increased production significantly, it has, on the other hand, argued that availability of POY was reduced due to exports by the domestic industry. It can hardly be argued that the increase in exports by the domestic industry resulted in reducing the availability of material for Indian market. It is relevant to note that the capacity utilisation of the domestic industry was quite low and the Indian industry is faced with unutilized capacity.

Assuming though not admitting that the availability of POY was reduced, the same can not be a reason for resorting to dumping by foreign exporters. Injury to the domestic industry is not merely in the form of "volumes", but also (and more importantly) in the form of "price effects" the imports have had on the domestic product.

Quality of POY produced by Japan and Germany:- The argument that the prices from Japan and Germany were higher is contradictory to another argument of Federation wherein it has been argued that import prices from Germany and Japan were similar. The Federation has argued that the import prices from Japan and Germany were similar to other countries and at the same time argued that the prices from these countries were higher compared to other countries due to "good quality". The fact is that there is no material difference in the quality. In any event, the quality of imports from other countries is not relevant to present investigations.

Comments on Submission made by Thai Synthetic Fibre

EXPORTERS:

I) M/s. PT Polisindo Eka, Indonesia:

The exporters have submitted that the reasoning by the Authority for treating domestic sales as not in the ordinary course of trade is not supported by law. The overall losses reported in the Balance Sheet of the company should not have been considered for determination of normal value. The law requireconsideration of whether domestic sales of POY were made at a profit or loss. It is immaterial that the company have reported overall loss. The exporters have submitted that the detailed cost information

together with all supporting documents which have been submitted to Authority should be considered for the purpose of arriving normal value.

The exporter has stated that the law does not permit imposition of anti-dumping duty to the full extent of the dumping margin. They have reiterated that the Authority has the power and duty to recommend anti-dumping duty which if levied would remove the injury to the domestic industry. In other words, the lesser duty rule is mandatory even as per the rules, as amended on 15.7.1999.

(ii) The Thai Synthetic Fibre Manufacturers Association, Thailand:

As regards to substantial increase in imports from subject countries in absolute terms the Association has stated that the Indian POY Industry during the period of investigation was not hurt by imports, least of all by imports from Thailand which amount to merely 0.57% and 0.55% of total production and consumption of POY respectively.

As regards a significant decline in export price, as in the case of any commodity market, there were fluctuations in prices throughout the year 1999. The prices kept rising instead of declining. Therefore, the contention that the selling prices of Indian domestic producers decline significantly during the period of investigation cannot sustain.

The sales volume by petitioner's own determination has not suffered because of imports. It is also suspected that the sales volume reported to Designated Authority did not include the amount used for the petitioner's own consumption and for exports.

As regards to increase in prices of raw material, namely, PTA and MEG this was also a worldwide phenomenon.

The Association stated that the net export prices of the subject countries compared nearly the same as Indian domestic prices thus there is no evidence of price undercutting.

As regards to profitability of domestic producers the Association have stated that contrary to the preliminary findings that the Indian domestic producers suffered financial losses during the POI, most producers have performed satisfactorily.

(iii) M/s. Tuntex Thai Co.Ltd. Thailand

Response to Preliminary Findings by Exporters:

As regards to sales below cost of production and with application of rule 2 the exporters have stated that those sales in the domestic market (under reference) that are below weighted average unit cost cannot be disregarded since those have been made in substantial quantity in a period of five months (less than 6 months) and have been followed by sales, which are at prices higher than the weighted average cost.

The Authority has compared domestic sales prices with weighted average cost of production to conclude that some sales are below cost of production. Exporter has stated that this is not a fair comparison and does not reveal correct picture because during the period of investigation the purchase cost of main raw material increased dramatically. The exporter has stated that according to their calculation the weighted average dumping margin is in the order of 2%, which is covered under the clause de minimus.

(iv) M/s. Sunflag (Thailand) Ltd.

Normal Value/Export Price:

The exporter has stated that their claim for adjustment of interest on domestic sales has been rejected as per preliminary findings. They have stated that all domestic sales are made on 90 days' credit basis while all export sales are made on site basis. Due to raw material price changes and changes in selling price all data split into two parts. However, preliminary findings indicate that average for full year has been adopted for calculation of dumping margins.

Injury and Causal Link:

As regards to above, the exporters have stated that exports to India have not caused any injury to domestic industry in India as export quantity were negligible.

Majority of their sales were to export oriented units (EOU) which have an export commitment and for which they have to compete in the international market.

Unreliable Import Statistics:

The exporters have stated that petitioners themselves have stated that DGCI& S is not reliable for the given example to that effect. Figures of imports and other data

calculated by independent agency should also be provided for fair comparison and evaluation.

Monopolistic Prices:

During the investigation period M/s. Reliance Industries Ltd. was the only major producer of PTA, the basic raw material for producing Polymers and POY. Due to the monopolistic conditions prevailing the domestic raw material price did not move as per the international trends. Further, there are anti dumping duties on PTA also in India making it unviable for other producers to import PTA.

Reduction in Selling Quantities:

The exporters have stated that the production of both participating and non-participating companies in India have been constantly increasing. Reduction in sales figure only reflect that more POY has been transferred to next process i.e. Texturing. As regards to profit the exporters have stated that Authorities have commented that Indian industry has been forced to reduce its selling price much below its cost of production resulting in financial loss but have not given any facts and figures to substantiate their claims.

(v) M/s. Indopoly (Thailand) Ltd.:

As regards to losses during 1997 & 1999 the company has given some reasons for the loss in operations.

They have also cited that Ministry of Finance, Thailand announced a change in foreign currency exchange system to the managed float system. Consequently, there has been extraordinary loss and has to do nothing with the normal operation of the plant.

As the company have various production facilities it should not be assumed the total loss as resulted loss in POY. Off grade products have different use and cannot replace 'A' grade product. These are not like product, accordingly, dumping margin has to be recalculated.

(vi) M/s. The Thai Synthetic Fibre Manufacturers Association, Thailand:

They have stated that the Authority would objectively and unbiasedly consider their submission and would pass a fair judgement accordingly.

There is no sufficient evidence to substantiate the claim that imports of POY from subject countries, least of all from Thailand have caused material injury to the domestic industry.

POY has been bought and sold in the normal course of trade and prices are determined according to the cost of production, which vary from country to country.

In an open market exporters have to compete with one another in prices and quality dictated by international prices. They do not believe that after 35% protective tariff any producer could undercut Indian domestic prices. The Authority should fairly and objectively consider the facts and figures presented, rather than resorting to a non-tariff barrier such as anti dumping duty which could lead to further trade dispute.

(vii) Directorate General of Industry and Trade Cooperation, Jakarta:

The Director of Bilateral Cooperation has expressed considerable regret that Indian Authorities have decided to impose anti dumping measures against Indonesian exports on POY. He has referred to the Articles 3.4 of WTO on implementation of Article 6 of GATT, 1994 and has expressed surprise that Indian Authorities have chosen to ignore successive ruling of WTO dispute panel, which clearly states that all factors listed under article 3.4 should be examined and taken into account.

He has requested that provisional measures imposed against Indonesia should immediately be repelled and the investigations terminated.

(viii) M/s. PT Polisindo Eka Perkasa Tbk, Indonesia:

The exporter has submitted that the reasons given in the preliminary findings for rejection of information on normal value were not sustainable in law. The fact that the financial statement for the year 1999 showed huge losses cannot lead to the conclusions that the sale of POY in the domestic market in Indonesia is Ipso-facto below the cost of production.

The audited accounts is a consolidated account of M/s. Polisindo and the three subsidiaries. The subsidiaries are not involved in the manufacture of subject goods.

The exporter has stated that the law does not permit imposition of anti-dumping duty to the full extent of the dumping margin. They have reiterated that the Authority has the power and duty to recommend anti-dumping duty, which if levied would remove the injury to the domestic industry. In other words, the lesser duty rule is mandatory even as per the rules, as amended on 15.7.1999.

Based on the information furnished by the exporters, they have requested that the dumping margin may be revised accordingly.

(ix) M/s. GT Petrochem Industries Tbk, Indonesia:

The exporter has stated that provisional measures are imposed without proper investigations of that company.

They have further stated that the dumping margin determined are significantly high. This is due to very high estimation of normal value. They have stated that the production cost have decreased due to lower basic input/feed stock namely PTA/MEG. All international players have to reduce their price due to lower international price.

The domestic industry in India has not suffered material injury and the financial losses could only have occurred due to other reasons.

(x) M/s. Indonesian Synthetic Fibremakers Association, Jakarta:

The Association has stated that the provisional measures are imposed without proper investigation to Indonesian cooperative companies. Both M/s. PT Polisindo Eka Perkasa and M/s. PTGT Petrochem are willing to be investigated. As the provisional measures are already imposed the association would request to make sure that the Authority come and investigate the companies to prove that the allegations are unfounded and terminate the investigation.

Association believes that the submissions presented by the Indonesian Synthetic Fibre (APSyF) and Indonesia Government and two exporting companies are sufficient to prove that there is no dumping, injury and causal link.

(xi) Federation of Indian Art Silk Weaving Industries (FIASWI), Mumbai:

The Federation in their presentation dated 10th April, 2001 have pleaded not to impose anti dumping duty on POY. They have stated that if anti dumping duty is imposed, the import of POY will dry up totally and will only give a chance to spinners of POY to increase their prices.

Import of POY/PFY in the past several years is very marginal. Besides there are various types of Polyester Filament Yarn which are not manufactured in the country and hence there cannot be any levy of anti dumping duties on these yarns.

The indigenous spinners are also not holding stocks of POY for more than 19 days during the last nine months. This proves that import have not affected the sales of domestic industry.

As 90% of consumers of POY/PFY are in the decentralised power loom sector, the levy of anti dumping duty on import will also help the spinners to increase their prices.

A copy of representation dated 10th April, 2001 received from Federation of Indian Art Silk Weaving Industries , addressed to by Finance Secretary, Deptt. Economic Affairs (Economic Divn), was forwarded to the Authority for appropriate action.

Vide their representation dated 23rd May, 2001 the federation has made the following submissions.

They are an All India Association Cooperative silke....weavers. The weavers are mainly manufacturing fabric out of Polyester Filament Yarn.

The import information is for both PFY and POY unless they are segregating it is not possible to understand how much POY was imported into India. During the year the prices of different deniers of POY increased. If, there was any injury to the domestic industry then the prices should have come down instead of increasing.

This only proves that the import from the subject country has not affected the domestic industry. Unless information regarding particular deniers of yarn imported during 1999 is available, it is difficult to assume that the prices of yarn imported from subject countries were low. The percentage of import of POY/PFY during 1999 was only 8.77% when compared to indigenous production of 791033 MT of POY/PFY.

There are a large number of EOUs in the textile sector and they also import the yarn and then export the process yarn or fabrics and they form a separate category by themselves. During the POI the excess duty on POY has also been lowered helping the spinners industries.

The profitability of applicant companies such as Reliance, Indorama, Century etc. have not declined. This shows that import have not affected indigenous domestic industry. The POY is the main raw material for decentralised powerloom industry numbering about 16.5 lakhs looms of about 4 lakhs units., Besides handloom numbering few lakhs. As against this POY spinners are about 30.

The quality of yarn manufactured by countries like Germany and Japan is superior compared to yarns manufactured by Indonesia, Malaysia, Taiwan and Thailand. Hence the prices of yarn is also higher in case of Germany and Japan.

C EXAMINATION OF ISSUES RAISED

4.0 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

5.1 The Product Under Consideration in the present investigation is Partially Oriented Yarn, originating in or exported from Indonesia, Taiwan, Thailand and Malaysia. 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 from PFY (having custom classification 5402.43) and PFY is not within the scope of the present investigations.

5.2 The POY is classified under Chapter 54 of the Customs Tariff Act. Description of Chapter 54, in so far as it concerns POY is as follows:

Chapter/ Subheading	Description
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.

5.3 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.

5.4 With regard to argument that PFY is included alongwith POY and complete information is not available with regard to imports of POY, Authority notes that

imports of POY only have been taken into consideration for the purpose of present investigation. Further, imports under 5402.42 as per MITCON (including all imports under this classification, whether POY or misclassified PFY) resembles closely to the data compiled by DGCI&S. Further, the data filed by the exporters have also been correlated with the data used for the purpose of assessing volume of imports.

5.5 It is also clarified that the anti-dumping duty is on POY and so long as the product sought to be imported is POY, the duty is required to be charged and further "off-grade" POY is nothing but "POY", and the Authority confirms preliminary findings in this regard.

E. LIKE ARTICLES:

6.1 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;

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. The Authority finds that 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 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 Like Articles within the meaning of the Rules and Authority confirms preliminary findings in this regard;

F. DOMESTIC INDUSTRY

7.1 7.1 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 seven participating companies viz. Reliance, Indo Rama; JCT, Sanghi, Century, Reymond, DCL. Out of seven participating companies, M/s DCL Polyesters has been excluded

as they were importers of subject goods and M/s Indo Rama Synthetics were excluded as they were found to be related party at the stage of initiation. The production statistics of petitioners and other producers are as under:-

		Capacity	Production(POI)
Petitioners	MT	432000	395245
Other Indian Producers	MT	493040	368395
Total Domestic Production	MT	925040	763640
Share of petitioners		46.70%	51.75%
Share of Other Producers.		53.30%	48.25%

As seen from the above, the petitioners accounted for a major proportion of Indian production during the period of investigation. .

7.2 The Authority therefore holds that the petitioners satisfy the standing to file the present petition and constitute "Domestic Industry" under the Rules and Authority confirms preliminary findings in this regard.

G. DUMPING

8.0 Claims on normal value, export price and dumping margin and examination of the same by the authority is discussed hereunder.

8.1. Under Section 9A (1)(c), normal value in relation to an article means:

"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

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-

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

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".

8.2. Exporters Views

8.2.1 Exporters from Taiwan:

All the exporting companies who have responded from Taiwan, have exported the subject goods to India during the period of investigation. They have furnished information in the prescribed proforma with regard to domestic sales and export sales of subject goods during the POI. All the exporting companies has been represented by M/s. CHIA, Associates and Co.,Taiwan (MKC).

The information furnished with respect to cost of production of POY is grossly inadequate and not strictly in the form and manner prescribed by the Authority. The supplementary information furnished has been vague and not very much useful.

In the absence of requisite complete information from exporting companies, the Authority decided not to undertake verification of information.

In the circumstance, normal value and export price as determined for the purpose of preliminary findings is relied upon for final findings.

8.2.2 Exporters from Thailand:

M/s Tuntex Thailand) Ltd and M/s Sunflag (Thailand) Ltd, have cooperated with the investigation providing relevant information. The information so furnished has been verified by the Team.

8.2.3 M/s Tuntex,Thailand Public Company Limited, Thailand.

As regards to sales below cost of production and with application of rule 2 the exporter has stated that those sales in the domestic market (under reference) that are below weighted average unit cost cannot be disregarded since those have been made

- i. not in substantial quantities;
- ii. in a period of five months (less than 6 months) and
- iii. have been followed by sales which are at prices higher than the weighted average cost;

The Authority has compared domestic sales prices with weighted average cost of production to conclude that some sales are below cost of production. Exporters have stated that this is not a fair comparison and does not reveal correct picture because during the period of investigation the purchase cost of main raw material increased dramatically. The exporters have stated that according to their calculation the weighted average dumping margin is in the order of 2%, which is covered under the clause de minimus.

Authority notes that the arguments of the exporter is contrary to the relevant legal provisions. The relevant provision is reproduced asunder:

" Sales of the like product in the domestic market of the exporting country or sales to a third country at prices below per unit(fixed and variable) costs of production plus administrative, selling and general costs may be treated as not being in the ordinary course of trade by reason of price. The designated authority may disregard these sales, in determining normal value, provided it has determined that –

- i. such sales are made in a reasonable period of time (not less than six months) in substantial quantities, i.e. when the weighted average selling price of the article is below the weighted average per unit costs or when the volume of the sales below per unit costs represents not less than twenty per cent of the volume in transactions under consideration, and*
- ii. such sales are at prices, which do not provide for the recovery of all costs within a reasonable period of time. The said prices will be considered to provide for recovery of costs within a reasonable period of time they are above weighted average per unit costs for the period of investigation, even though they might have been below per unit costs at the time of the sale."*

The Authority notes that a reasonable period of time of six months does not imply that the exporter should have made losses continuously for six months, the loss making sales were made in substantial quantities and the fact that there were sales above cost of production for certain period also following sales at losses is irrelevant.

Normal Value:

The company has claimed that they have sold B grade of POY to the Indian customers as against A grade material to the domestic buyers. During the course of verification and factory visit, it was found that there is no standard categorization for Grade A and Grade B. Grade B or C is nothing but a little inferior quality production, which has come out because of some technical reasons or low quality of raw material. It is incidental during the process and it seems unavoidable with every production process. Hence it cannot be said that company is deliberately or exclusively producing Grade

B product and selling it to the overseas market but the reality is that both the products are Like Article and substitutable.

Though company has claimed that they are selling POY in terms of category A and B they have not provided separate cost records for the product category wise. In fact the cost of production of grade A and B will be same as it is distinguished only bifurcated at the level of quality test.

Hence, it proposed to rely on preliminary findings for determination of Normal Value and Export Price. The exporter has submitted that the cost of PTA and EG is the major component of cost of production of POY and consequently, the market price of this product moved in line with those of raw materials. They have also submitted that the domestic sales price of POY were lower in the early part of the year and improved in the latter part and requested the Authority to carry out comparison between domestic sales price representing early part of the year with the weighted average cost of production.

As regards to the claim with respect to adjustment towards tax refunds it is noted that the exporter have furnished evidences pertaining to receipt of the tax refund at the rate of ***% of sales value basis. Accordingly, the calculation of cost of production has been done after including tax-refund and the adjustment on account of tax-refund has been allowed in the determination of normal value.

As regards to the claim with respect to credit cost incurred only on domestic sales, it is noted that the normal value is based on cost of production, no adjustment on account of interest (adjustment which is given on domestic selling price) is called for separately.

The Authority notes that the company's annual report indicates losses and the cost of production submitted by them also indicate the product under consideration had incurred losses on overall sales as well as domestic sales during the period of investigation. It is also noted that the domestic sales are not in the ordinary course of trade and moreover, the export to third countries are also in losses. It is noted that the cost of production (for all grades) has changed drastically during the period of investigation on account of change in raw material prices and the selling price of the subject material was also varied between 30-40% during the period. Taking in to account monthly raw material prices, monthly exchange rates as furnished by the company, the Authority determines the normal value on the basis of cost of production with selling and general administrative expenses including return on month-wise basis for comparison with the export price.

Export Price

The company has provided transaction wise details for exports to India. The company has also claimed certain adjustments regarding discount/commission, Inland freight, Overseas Freight, Overseas insurance, Shipping Charges and Handling charges and has produced sufficient evidence before the verification team. The adjustments regarding Export Price has been verified and proposed to be accepted by the Authority. Accordingly, average month- wise ex-factory Export Price has been determined.

The assessment of Dumping Margin has been done on the basis of comparison of average monthly-wise Normal Value and average monthly-wise Export Price.

8.2.4 M/s SunFlag Thailand Ltd., Thailand

The company has claimed that in the initial period of Period of Investigation the company's exports were high as compare to second half and Export Price to the India in the second half is also on very high rate. Accordingly the company claimed for month wise analysis of the ex-factory Normal Value with ex-factory Export Price for determination of Dumping Margin. The company has stated that there is always a time lag between finalisation of export order and the execution thereof and claimed a time lag of about 3 to 4 weeks between the finalisation of export order and the shipment . As such while calculating the Dumping Margin a due consideration has been claimed to shift the shifted sales by a month i.e. sales of December (invoice date) should be considered as November sales and so on.

The Designated Authority does not see any merits in the arguments to consider the claim of the company, as comparison of the transaction is to be done on the basis of the actual date of transaction and not on the basis of date of negotiation. It has not been established how date of negotiation forms material term forof sales.

Normal Value

The company has claimed adjustments regarding packaging, inland freight, duty drawback, interest to arrive at ex-factory Normal Value. The company has provided sufficient evidence in support of claims made in respect of above. The verification team has verified the documents produced before them and found in order. Accordingly, Authority decided to it is proposed to determine month- wise normal value and allow all the adjustments to arrive at ex-factory Normal Value.

Export Price:

The company has provided transaction wise details for exports to India. The company has also provided the month wise details of exports to India and actual adjustments

against each transaction. The company has claimed certain adjustments regarding packing, overseas freight, overseas insurance and shipping charges (Inland Freight). The company has produced sufficient evidence before the verification team. The adjustments regarding Export Price has been verified and proposed to be accepted accepted by the Authority.

The assessment of Dumping Margin has been done on the basis of comparison of average month-wise Normal Value and average month-wise Export Price.

8.2.5 M/s. Indopoly (Thailand) Ltd.:

As regards to losses during 1997 & 1999 the company has given some reasons for the loss in operations.

They have also cited that Ministry of Finance, Thailand announced a change in foreign currency exchange system to the managed float system. Consequently, there has been extraordinary loss and has to do nothing with the normal operation of the plant.

As the company have various production facilities it should not be assumed the total loss as resulted loss in POY. Off grade products have different use and cannot replace 'A' grade product. These are not like product, accordingly, dumping margin has to be recalculated.

Authority notes that Tthe information furnished with respect to cost of production of POY is grossly inadequate and not strictly in the form and manner prescribed by the Authority. The supplementary information called for by the Authority vide communication dt 14.8.01, has not been furnished by the company. Also there has been no response from the company to Fax communications dt. 9.7.2001 & 6.8.2001 by the Authority.

In the absence of requisite information from exporting company, the Authority decided not to undertake verification of information at its premises.

In the circumstances, normal value and export price as determined for the purpose of preliminary findings, is relied upon for final findings.

Exporters from Indonesia:

8.2.6 M/s Polisindo Eka Perkasa Tbk

The exporters have submitted that the reasons given in the preliminary findings for rejection of information on normal value were not sustainable in law. The fact that the financial statement for the year 1999 showed huge losses cannot lead to the conclusions that the sale of POY in the domestic market in Indonesia is Ipso-facto below the cost of production.

The audited accounts is a consolidated account of M/s. Polisindo and the three subsidiaries. The subsidiaries are not involved in the manufacture of subject goods.

Based on the information furnished, the exporters have requested that the dumping margin may be revised accordingly.

The exporter has cooperated with the investigation by providing relevant information to the Authority. The information so furnished by M/s Polisindo has been verified by the Team.

Normal Value:

The exporter has submitted transaction wise details of domestic sales in the home market. There are no domestic sales in ordinary course of trade as the majority of sales are below cost of production. Hence, the normal value has been adopted on the basis of cost of production including SGA and a reasonable return, for the purpose of determining normal value.

Export Price

The exporter has submitted transaction wise details of exports made to India. The company has claimed adjustments towards inland freight, commission, ocean freight, ocean insurance, bank charges and interest. Accordingly, The adjustments as claimed, verified is proposed to be allowed.

The assessment of Dumping Margin is proposed to done on the basis of comparison of average month-wise Normal Value and average month-wise Export Price.

8.2.7 M/S PT GT PETROCHEM INDUSTRIES Tbk, Indonesia:

They have stated that the dumping margin determined are significantly high. This is due to very high estimation of normal value. They have stated that the production cost have decreased due to lower basic input/feed stock namely PTA/MEG. All international players have to reduce their price due to lower international price.

Authority notes that M/s PT GT Petrochem Industries Tbk has not furnished information in the form and manner prescribed by the Authority. The cost information as called for by the Authority has also not been furnished and thus the company has not cooperated with the investigation.

In the circumstance, normal value and export price as determined for the purpose of preliminary findings is relied upon for final findings.

8.2.8 M/s PT Indorama Synthetics Tbk , Indonesiaa:

The exporters have shown interest to apply for price undertaking with the Authority on such terms and conditions as may be mutually agreed upon. They have asked for the format of the proposed price undertaking.

Authority notes that M/s P T Indorama has not responded to the disclosure. In the circumstances the normal value and export price as determined for other exporters is confirmed.

8.2.9 Exporters from Malaysia:

None of the exporters from Malaysia have cooperated with this investigation. In the circumstances, normal value and export price as determined for the purpose of preliminary findings is proposed to be relied upon for final findings.

8.2.10 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 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 for 'other exporters' from a particular country has been based on the highest normal value assessed amongst the cooperative exporters from that country and while for the Export Price least export price assessed amongst the co-operative exporters from that country .

8.3. 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."

The Authority has compared the normal value and export price at ex-factory levels, as per details brought out hereinabove. The dumping margins are as under:-

Absolute figure

Name of the exporter	Normal Value US \$	Export Price US \$	Dumping Margin (DM) US \$	dumping margin DMas a % of Export price
TAIWAN				
M/S China Man Made Corporation	***	***	***	42.45
M/S Tuntex-Distinct Corporation, Taiwan	***	***	***	64.69
M/S Tun Ho Spinning Weaving & Dyeing Co Ltd , Taiwan	***	***	***	33.44
M/S Nan Ya Plastics Corporation , Taiwan	***	***	***	69.81
M/S Hualon Corporatio, Taiwan	***	***	***	117.59
M/S Chia Hsin Food & Fiber Co Ltd	***	***	***	112.17
Other Exporters	***	***	***	163.80
THAILAND				
M/S Sunflag (Thailand) , Ltd	***	***	***	5.71
M/S Tuntex (Thailand) Ltd	***	***	***	35.42
M/S Indo Poly	***	***	***	90.62
Other Exporters	***	***	***	90.62
INDONESIA				
M/S Pt Polysindo Eka Perkasa Tbk	***	***	***	15.24
M/S Pt Gt Petrochem, Tbk	***	***	***	71.82
Other Exoirters	***	***	***	71.82
MALAYSIA				
All Exporters	***	***	***	81.26

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;

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:

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 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.

9.1 The argument raised by the various interested parties have been discussed hereinabove. Other arguments raised by the interested parties are as under:

Opposing Interested Parties:

9.2. The import data used by the Authority is grossly exaggerated;

Petitioners have not met their statutory duty to prove injury;

Exporters request that Authority exclude those products not made by Indian producers from the scope of the investigation;

9.3. The exporters have stated that exports to India have not caused any injury to domestic industry in India as export quantity were negligible.

Majority of their sales were to export oriented units (EOU) which have an export commitment and for which they have to compete in the international market.

Unreliable Import Statistics:

9.4. The domestic industry in India has not suffered material injury and the financial losses could only have occurred due to other reasons.

9.5. Views expressed by Domestic Industry :

The imports from the subject countries have vastly increased in absolute terms. The share of imports from subject countries increased significantly in terms of imports of POY in India.

Share of imports from subject countries in the domestic demand of POY in India increased significantly.

Imports from subject countries increased in relation to production of POY by the domestic industry.

The export price from the subject countries declined very significantly. The landed price of imports, as a direct consequence, declined significantly.

The production of the domestic industry was almost stagnant during the period. There was very marginal (0.45%) increase in production.

In spite of the apparent increase in the domestic sales volume during POI, it is pertinent to note that the domestic industry's market share has come down.

Sales realization of the domestic industry declined very steeply. The decline in the selling prices was a direct result of decline in the export price (and hence landed prices). The imports were significantly undercutting the prices in the Indian market.

The steep decline in the selling prices resulted in deteriorating profitability of the domestic industry. The domestic industry was forced to suffer financial losses.

The return on investments have become negative.

Authority after considering the above submissions observes the following:

9.6 The Authority notes that increase/decrease in imports from a particular company or country would not be an appropriate indicator of injury, as the circumstances warrant cumulative assessment of injury to the domestic industry.

9.7 With regard to high import duty already in force, the Authority notes that the import duties on the raw materials and subject goods, as applicable, are required to be considered. It is found that in spite of the existing levels of customs duties, the domestic industry has suffered material injury as a result of dumped imports.

9.8 The Authority notes that improvement in production, sales volume or capacity utilization per se would not be sufficient to hold that the domestic industry has not suffered material injury. The impact of higher production and higher sales volumes have to be seen on the profitability of the domestic industry. It is found that the profitability of the domestic industry suffered in spite of increase in the production and sales volumes.

Share of imports in demand of POY is not relevant to determine de-minimus limits. The de-minimus limits are in terms of volume of imports and share of the subject country in imports of POY in India. Further, in the instant case, the injury is more

evident in terms of its price effect, even though it is found that the volume of imports increased significantly with decline in the export price.

9.9 Imports by Export Oriented Units(EOU) would not suffer as a result of the proposed levy, as imports for exports do not attract anti-dumping duties. Further, imports by EOU also caused material injury to the domestic industry as these cause price effect on the domestic industry.

9.10. Substantial increase in import from the subject countries in absolute term:

The imports of POY from the subject countries have increased in absolute terms. The Annexure-II (ii) of the Indian Anti-dumping rules provides as under:-

"while examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms..."

In the instant case, the imports of POY from the subject countries have increased significantly in absolute terms, as may be seen from the table below:

Country/MT	1997-98	1998-99	Jan-Dec.1999(POI)
Indonesia	521	4921	14787
Taiwan	87	9380	17425
Malaysia	0	494	7288
Thailand	40	2915	8809
Subject countries	648	17710	48309

It may be seen from the above table that there is significant increase in imports of POY in India from subject countries. Though the above imports volumes for POI are as per secondary source MITCON, Mumbai, the Authority notes that the import volumes as per DGCI &S are also in the similar region.

9.11. Significant decline in export price:

The export price from the subject countries have declined, during the period of investigation compared to previous years as may be seen from the following table-the price for POI are as per data compiled from MITCON, even though it is found that the price as per DGCI & S are also in similar region.

Rs. Per KG	1996-97	1997-98	1998-99	Jan-Dec.1999(POI)	
Indonesia	46.33	46.70	40.00	39.28	37.89*
Taiwan	70.33	85.44	35.56	26.65	30.51*
Malaysia	65.68	-	37.52	38.33	38.31*

Thailand	63.43	80.98	38.14	37.48	37.24*
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* as per DGCI & S

9.12 Production of the domestic industry:

Production of the petitioners participating/supporting companies are as given in the table below:

Production MT	1997-98	1998-99	Jan-Dec. 1999 (POI)
Domestic Industry	344272	385541	395245
Total Indian Production	505134	674370	763640

The production of the domestic industry has increased over years and during period of investigation. However, the industry has been forced to sell the product at significantly reduced prices, as discussed separately.

9.13. Sales volume of the petitioner (s)

Sales volume of the petitioners and supporting participating companies was as given in the table below:

Sales Volume MT	1997-98	1998-99	Jan-Dec.00 (POI)
Domestic Industry	300887	322127	318716

Authority notes that the sales volume of the industry have improved over the period. However, the industry has been forced to reduce its prices significantly resulting into increased losses during the period of investigation as compared to the years 1997-98 and 1998-99.

9.14. Selling price/ Sales realisation :

The industry has been forced to reduce its selling prices as may be seen from the following table, in view of cheap imports in the market:

Year	Sales Realisation per kg
1997-98	100.00100
1998-99	85.7785.77
Jan-Dec 99	94.2294.22

Indexed figures considering 1997-98 as 100

Indexed figures considering 1997-98 as 100

It is noted that though the industry attempted to marginally increase the prices in the period of investigation current year in view of steep increase in the prices of the basic input, PTA, the increase was far lower than the increase in the cost of production, . Further, the import volumes increased substantially with the marginal increase in the prices by the domestic industry, which forced the industry to again reduce the prices.

9.15. Price undercutting

The Authority notes that the dumped imports have forced the domestic industry to reduce its prices in spite of increase in the cost of production. The landed value of the imported material was significantly below the selling prices of the domestic industry. The imports were thus causing severe price undercutting in the Indian market.

9.16. Profitability

The Authority notes that the industry has been forced to reduce its selling prices much below its cost of production, resulting in financial losses. The losses have increased in the current year in view of substantial increase in the cost of production and inability of the industry to increase prices proportionately in view of lower landed prices.

9.17 Conclusions:

The dumping margins from the subject countries are significant and volume of imports are more than de-minimus;

Imports from subject countries have increased significantly in absolute terms, as also relative to imports of POY in India;

The export price from the subject countries has declined significantly. In fact, the cost of production/ export price should have increased for the exporters from the subject countries in view of increase in the PTA/DMT/MEG prices, whereas the export price has reduced in the reference period;

Selling price of the domestic industry have declined significantly, thus resulting in declining contribution margin per unit of production.

The imports were causing severe price undercutting and prevented the domestic industry from effecting legitimate price increases;

The domestic industry has been prevented from effecting legitimate increases necessitated due to cost increases.

The Authority notes that the industry has suffered material injury.

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10.1 The imports from the subject countries increased substantially. As a direct consequence, the market share of the imports increased whereas the market share of the domestic industry declined.

10.2 Imports were significantly undercutting the prices in the Indian market. As a direct consequence, the domestic industry was prevented from effecting legitimate price increases.

10.3 Cost of production of the domestic industry increased due to increase in the raw material prices. However, the domestic industry could not increase its prices in view of dumped imports, resulting in increasing losses.

10.4 The landed price of imported material was significantly below the selling prices of the domestic industry, causing severe price undercutting and price suppression/depression in the market.

10.5 The dumped imports prevented the domestic industry from recovering optimum cost of production.

10.6 The imports from the subject countries are being made at dumped prices. Imports of POY from various countries during the period of investigation is as under:

Imports: Subject Countries	Volume	Volume	CIF Rate (Rs./Kg.)	Share in Imports
Taiwan	Qty/MT	17424	30.51	28.2%
Indonesia	Qty/MT	14787	37.89	23.9%
Malaysia	Qty/MT	7288	38.31	11.8%
Thailand	Qty/MT	8809	37.24	14.3%
Subject countries	Qty/MT	48308		78.2%
Imports: Other Countries				
Australia	Qty/MT	-	-	-
China	Qty/MT	14	24.28	0.0%
Germany	Qty/MT	154	32.27	0.2%
Hongkong	Qty/MT	6	24.88	0.0%
Japan	Qty/MT	216	36.01	0.3%
Korea RP	Qty/MT	8405	54.63	13.6%
Latvia	Qty/MT	48	108.81	0.1%
Nepal	Qty/MT	202	50.98	0.3%
Netherlands	Qty/MT	36	42.63	0.1%
Singapore	Qty/MT	1646	37.07	2.7%

South Africa	Qty/MT	145	49.42	0.2%
Sri Lanka	Qty/MT	24	33.81	0.0%
Turkey	Qty/MT	808	29.11	1.3%
UAE	Qty/MT	35	35.48	0.1%
UK	Qty/MT	52	61.24	0.1%
USA	Qty/MT	1701	30.01	2.8%
Other Countries: Total	Qty/MT	13499		21.80%
Imports total	Qty/MT	61807		100.00%

Source : DGCI&S figures (provisional)

It is evident from the above that the imports from countries other than subject countries is either de-minimus or the prices are higher or the Authority is conducting separate investigation. The imports from other countries have not caused any injury to the domestic industry

10.7 Demand for POY has not declined. Decline in demand is, therefore, not a factor, which could have caused injury to the domestic industry. Further factors such as trade restrictive practices, etc. have also not caused any material injury to the domestic industry

10.8 From the foregoing the Authority notes that there exists a causal link between dumping and injury.

11.0 PRICE UNDERTAKING:

Rule 15 relating to Suspension or termination of investigation on price undertaking provides that the designated authority may suspend or terminate an investigation if the exporter of the article in question furnishes an undertaking in writing to the designated authority to revise the prices so that no exports of the said article are made to India at dumped prices, or in the case of imports from specified countries undertake to revise the prices so that injurious effect of dumping is eliminated and the designated authority is satisfied that the injurious effect of the dumping is eliminated.

12.0 Two exporters from the subject countries had shown willingness to give price undertaking, which are discussed below:

12.1 M/s PT Polysindo Eka Perkasa Tbk , Indonesia:

The price undertaking proposal given by the exporter was considered by the Authority. However, the Authority holds that the price undertaking offered is not acceptable.

12.2 M/s PT Indorama Synthetics Tbk, Indonesia:

Even though the company did not provide all relevant information required by the Designated Authority for the purpose of assessment of normal value and dumping margin, the exporter had shown its willingness to offer price undertaking. The Designated Authority explored the possibility of accepting the price undertaking. The exporter was provided with the disclosure alongwith the format for extending a meaningful price undertaking. However, the exporter did not respond to the format and did not provide the formal undertaking for acceptance. The Designated Authority could not, therefore, explore the possibility of price undertaking in respect of this exporter.

12.3 None of the other exporters from the subject countries offered themselves for a meaningful price undertaking even though the Designated Authority encouraged the exporters to do so in the public hearing held earlier during June, 2001. Since no other producer/exporter came forward with a proposal for price undertaking, the Designated Authority could not explore the same.

K. Indian Industry's Interest and other issues:

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

13.2 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 . 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.

13.3 To ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry, the Authority relied upon Non-injurious Price of POY for the domestic industry in India, by considering the optimum cost of production at optimum level of capacity utilisation for the domestic industry.

L CONCLUSIONS;

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

1. The exporters from Taiwan, Indonesia, Malaysia and Thailand have been exporting subject goods below normal value resulting in dumping;
2. The Indian industry has suffered material injury;
3. The injury has been caused cumulatively by the dumped imports of the subject goods from the subject countries;

153.0 In view of the above, the Authority recommends imposition of definite anti-dumping duty on all imports of POY falling under chapter 54 of the Custom Tariff Act, originating in or exported from Taiwan, Indonesia, Malaysia and Thailand.

16.0 It has been considered to recommend the amount of Anti-dumping Duty equal to the Dumping Margin or less which, if levied, would remove the injury to the domestic Industry. The landed value of the imports for individual exporters, for the purposes, were compared with the non-injurious selling price of the domestic industry, determined for the period of investigation. Wherever the difference was less than the Dumping Margin, a duty lower than the Dumping Margin is recommended.

17.0 Accordingly, the Designated Authority has therefore, decided to recommend definitive anti-dumping duty on all imports of POY originating in or exported from subject countries falling under Chapter 54 of the Customs Tariff. The Anti-dumping Duty shall be the amount mentioned in column 3 below from the date of notification to be issued in this regard by the Central Government.

COUNTRY	Name of the exporter	Anti dumping duty in US \$/Kg
M/S CHINA MAN MADE CORPORATION	0.284	
M/S TUNTEX-DISTINCT CORPORATION, TAIWAN	0.392	
M/S TUN HO SPINNING WEAVING & DYEING CO LTD , TAIWAN	0.215	
M/S NAN Ya PLASTICS CORPORATION , TAIWAN	0.370	
M/S HUALON CORPORATIO, TAIWAN	0.438	
M/S CHIA HSIN FOOD & FIBER CO LTD	0.510	
OTHER EXPORTERS	0.593	
THAILAND	M/S SUNFLAG (THAILAND) , LTD	0.037
	M/S TUNTEX (THAILAND) LTD	0.260
	M/S INDO POLY	0.483
	OTHER EXPORTERS	0.483
INDONESIA	M/S PT POLYSINDO EKA PERKASA Tbk	0.105
	M/S PT GT Petrochem, Tbk	0.441
	OTHER EXPORTERS	0.441
MALAYSIA	ALL EXPORTERS	0.464

18.0 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.

19.0 Subject to above , the Authority confirms the preliminary findings dated 30.4.2001

20.0 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