

No. 15/12/2007-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES
UDYOG BHAWAN, NEW DELHI

Dated the 11th December, 2008

FINAL FINDINGS

Subject: - Anti-Dumping investigation concerning Sunset Review of anti-dumping duty on imports of Mulberry Raw Silk (not thrown) of 2A grade and below originating in or exported from China PR.

A. BACKGROUND

1. No. 15/12/2007-DGAD. – Whereas The Designated Authority (hereinafter referred to as the Authority) under the above Rules as per Section 9A(5) of the Custom Tariff (Amendment) Act, 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995 (hereinafter referred to as the Rules) initiated Sunset Review to determine whether the expiry of the duty is likely to lead to continuation or recurrence of dumping and injury of Anti-dumping Duty on imports of Mulberry Raw Silk (not thrown) of 2A grade and below (hereinafter called subject goods) falling under Sub-heading 50020010 of ITC HS classification and originating in or exported from China PR (hereinafter called subject country). Subject goods were defined in the original preliminary findings of the Authority dated 20.12.2002 and thereafter confirmed vide Final Findings dated 03.07.2003. The provisional antidumping duty was imposed on the subject goods vide Customs notification No. 02/2003-Customs dated 2nd January 2003 and definitive anti dumping duty was imposed by the Central Government vide Notification No. 106/2003 dated 10th July 2003.

2. And whereas, the Designated Authority, under Section 9A (5) of the Act and Rules made thereunder, received an application from Central Silk Board on behalf of the domestic producers/reelers through their associations/societies in the States of Karnataka, Tamilnadu, Andhra

Pradesh, West Bengal and Jammu & Kashmir for initiation of a sunset review investigation for continuation of the antidumping duty imposed on the subject goods under the above mentioned notifications for a further period of 5 years. The Authority, on the basis of a request made on behalf of the domestic industry, issued a public notice dated 14th December 2007, published in the Gazette of India, Extraordinary, initiating sunset review Anti-Dumping investigation in respect of the duty in force against the subject country as above, to determine whether the expiry of the duty is likely to lead to continuation or recurrence of dumping and injury.

3. And whereas, antidumping duty as notified vide Notification No. 106/2003 dated 10th July 2003 was extended up to 1st January 2009 vide notification No.01/2008 dated 1st January 2008 in terms of Section 9 (A) (5) of the Act.

B. PROCEDURE

4. The procedure described below has been followed:

i. The Authority sent questionnaires, along with the initiation notification, to all known exporters/producers of the subject goods in the subject country, in accordance with the Rule 6(4), to elicit relevant information.

ii. The Embassy of the subject country in New Delhi was also informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire was sent to Embassy of the subject country in accordance with Rule 6(3). However, no exporter/ producer from the subject country submitted any response, in any manner in response to the initiation notification/ questionnaire/ disclosure statement.

iii. A questionnaire was sent to the known importers/users of the subject goods whose details were made available by the petitioner for necessary information in accordance with Rule 6(4). However, no importer/user has responded to the initiation notification/ questionnaire except the user M/s Hanuman Weaving Factory, Bangalore.

iv. Domestic verification of reeling units in respect of which data have been submitted were conducted in the States of Karnataka, Andhra Pradesh and Tamil Nadu to work out optimum cost of production and cost to make and sell the subject goods in India and to examine various injury parameters.

v. An opportunity was provided to all interested parties to present their views orally in the public hearing held on 30.09.2008. However, only representatives of domestic industry attended the public hearing. The domestic industry was requested to file written submissions of the views expressed orally.

vi. Request was made to DGCI&S to arrange details of imports of subject goods for the past three years, and the period of investigation.

vii. The Authority kept available non-confidential version of the evidence presented by interested parties in the form of a public file, maintained by the Authority and kept open for inspection by an interested parties as per Rule 6(7).

viii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to know interested parties on 19th November 2008. Responses to which were filed by the domestic industry and China Chamber of Commerce for Import & Export of Textiles only.

ix. The relevant submissions of all the interested parties have been examined by the Authority and have been appropriately dealt with in these final findings.

x. *** In this finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

xi. The period of investigation (POI) considered for this investigation is 1.7.2006 to 30.6.2007. The injury investigation period, however, covers the years 2004-05, 2005-06, 2006-07 and the POI.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

5. The product involved in the original investigation was Mulberry Raw Silk (not thrown) of 2A grade and below. Being a Sunset review, this investigation covers the product covered in the original investigation.

6. Mulberry Raw Silk (not thrown) is classified under Customs sub-heading no. 50.02 of Chapter 50 of the Customs Tariff Act, 1975 and ITC (HS) Code 50020010. The classification is however indicative only and in no way binding on the scope of the present investigation.

Views of Interested Parties

Views of the Domestic Industry

7. The domestic industry in its application stated that Mulberry Raw Silk (not thrown) above 2A grade has been imported to India below the price of 2A grade after imposition of the AD duty and significant quantities of the subject goods have been imported to India as 3A grade and above. Therefore, the domestic industry stated that Mulberry Raw Silk (not thrown) above 2A grade should be included in the present investigation as grade above 2A is a substitute for grade 2A and is like article in terms of the definition of like article under Rule 2 (d). It has also been stated that the imports of grade above 2A is taking place at a price less than the price of grade 2A in spite of the fact that above 2A grade is superior to grade 2A and the cost as well as price is also higher for grade 3A as compared to grade 2A.

8. In their post hearing and post Disclosure Statement submissions, the Domestic industry has submitted that presently the imports of grade 3A as well as the higher grades are taking place at prices that are less than the prices of grade 2A. The grade 3A is a superior grade with higher cost and price but is substitutable for grade 2A and these grades are also like articles to the grade 2A in terms of the definition of like article under Rule 2(d). It has been contended that the higher grades can be used for the same purposes as grade 2A and the higher grades are a substitute for grade 2A. Hence, higher grades are like article. It has also been submitted that no interested party has come forward before the Authority to deny the factual position that the higher grades are not coming at the price of grade 2A. In other words, they have accepted the above

mentioned factual position. The Authority has, therefore, been requested to impose the duties on the raw silk without making any differentiation based on grades.

CHINA CHAMBER OF COMMERCE FOR IMPORT & EXPORT OF TEXTILES

9. The China Chamber of Commerce for Import & Export of Textiles in their post disclosure comments have submitted that the raw silk whose grade is higher than Grade 2A should not be included in the sunset review because the raw silk of grade higher than 2A is not the product under consideration of the original investigation. They have further submitted that as the raw silk production techniques differs between India and China, the grade of most of the Indian raw silk is lower than grade 2A. Therefore, Chinese raw silk graded higher than grade 2A has supplemented the shortage supply of Indian market.

Examination by Authority

10. The Authority has examined the above contentions. The Authority holds that the present investigation is a sunset review investigation and therefore the scope of the product under consideration should not be enhanced in this Sunset review investigation. Therefore, the Authority holds that the scope of the present investigation would remain the same as was the scope in the original investigation notified vide Notification No. 14/28/2002-DGAD dated 03.7.2003 and consequent Customs Notification No. 106/2003-Customs, dated 10.07.2003.

D. STANDING AND DOMESTIC INDUSTRY

11. The sunset review had been initiated on the basis of a duly substantiated request submitted by Central silk Board, on behalf of the reelers/producers of the subject goods who are members of the following associations/societies in the States of Karnataka, Andhra Pradesh, Tamilnadu, Jammu & Kashmir and West Bengal, in terms of Section 9A (5) of the Customs Tariff Act.

a. M/s Silk Reelers Association, Near Cocoon Market Kolar - 563101, Karnataka.

b. M/s Ramanagaram Silk Reelers Welfare Association, Ramnagaram, Bangalore (Rural), Karnataka.

- c. M/s Kolar Silk Reelers Industrial Cooperative Society Ltd., Kolar Dist., Karnataka.
- d. M/s The Progressive Silk Reeler's Industrial Cooperative Society Ltd., Sidlaghatta - 562 105, Karnataka.
- e. M/s Karnataka State Multiend Silk Reelers Welfare Association (Regd), Ramnagaram - 571 511, Bangalore (Rural), Karnataka.
- f. M/s The Palacode Silk Reeler's Association, Palacode -636 808, (TN).
- g. M/s Coimbatore District Silk Producers Association, Coimbatore - 641014 (TN).
- h. M/s Dharmapuri District Silk Reeler's Association, 32/38 -A, Subramaniankoil Street, Kumarasamypet, Dharmapuri – 636 703.
- i. M/s Hindupur Silk Reelers Association, Ananthapur district.
- j. M/s Pattu Silk Reelers Association.
- k. Associations of Jammu & Kashmir State.
- l. Associations of West Bengal State.

12. No comments have been received from any interested party on the issues of 'Standing' or the status of the Applicant. Therefore, the applicants who represent a majority production of the subject goods in India constitute the domestic industry for the purpose of the current sunset review investigation.

E1. COMMENTS ON DISCLOSURE STATEMENT FROM INTERESTED PARTIES

The following comments on the Disclosure Statement from Domestic Industry and China Chamber of Commerce for Import and Export of Textiles have been received:

- a. The domestic industry in post disclosure comments has reiterated its request to impose the duties on the raw silk without making any differentiation based on grades.

No other issues have been raised by the domestic industry in its post disclosure comments.

b. The domestic industry has referred to the case of Viscose Filament Yarn wherein in the review investigation the embroidery yarn was included which was excluded from any anti-dumping duty in the original investigation. It has been further submitted by the domestic industry that though in that case embroidery yarn was part of the scope of product under consideration in the initiation notification, the same was excluded from the final findings and no anti-dumping duty was imposed. Finally, they have submitted that the situation in the two cases is not different and it is of no consequence whether embroidery yarn was part of the initiation notification or not.

China Chamber of Commerce for Import & Export of Textiles has submitted the following post disclosure comments apart from those already mentioned above:

The raw silk graded lower than 2A has not caused injury to the Indian domestic industry. The following arguments have been given by the Chamber in support of this statement:

- The increase of market share of Chinese raw silk in India's domestic market is very limited, which has not obviously occupied the market share of Indian raw silk. The reason of increasing proportion for Chinese raw silk of total imports in India is that Chinese raw silk has good quality and reasonable price, which has occupied the share of imported raw silk from other countries.
- Because of the worldwide economic depression in the recent two years, the world price of raw silk has declined and the price of material made of Chinese raw silk is also much lower than before. Under these circumstances, if export price of Chinese raw silk has not declined, which indicates that the price of Chinese raw silk has increased and will not cause any price depression on prices of raw silk in the India's domestic industry.

E2. Examination by the Authority on Comments received on Disclosure Statement

- a) The scope of the product under consideration cannot be enhanced in a Sunset review investigation and therefore the scope of the product under consideration in the present investigation shall remain the same as was the scope of the product under consideration in the original

investigation notified vide Notification No. 14/28/2002-DGAD dated 03.7.2003 and consequent Customs Notification No. 106/2003-Customs, dated 10.07.2003. Hence the request of the domestic industry cannot be acceded to.

b) The case of Viscose Filament Yarn mentioned by the Domestic Industry needs to be distinguished from the present case since in the Viscose case, the embroidery yarn was the part of product under consideration at the time of initiation but Mulberry Raw silk of above 2A grade was never a part of product under consideration.

c) The post disclosure submissions of the China Chamber of Commerce for Import and Export of Textiles cannot be accepted since they have not been substantiated with any evidence whatsoever.

F. DUMPING MARGIN

14. In the present case, none of the exporter/producer from China PR has responded. Therefore, the Authority has decided to construct the normal value for China PR.

F.1. DETERMINATION OF NORMAL VALUE

F.2. VIEWS OF THE DOMESTIC INDUSTRY

15. Domestic industry in their application has made following submissions with regard to dumping.

a. Chinese producers/exporters in the present case cannot be granted market economy status in view of the fact that the silk production and trade is admittedly not free from State interference. China PR in the Protocol on Accession of People's Republic of China PR has admitted State control over the silk cocoon prices and the prices/costs of silk yarn is directly and substantially affected by the prices of the cocoons. As per the experience of the domestic industry, the cocoon costs constitute substantial part of the silk yarn price. Therefore, the domestic selling prices for the subject goods in China PR cannot be said to be representing all the costs.

b. The fact that there is significant State interference, both in fact and in law, is also established by the structure and the manner of control over cocoon trading in China PR.

c. In the original investigation relating to the product under consideration and the investigation against silk fabric from China PR, the Authority held that the State control is built into the system of Chinese Silk activity relating to cocoon and that the producers from China PR cannot be granted market economy treatment.

d. In view of the above, they have submitted that the normal value for China PR in such a case can be determined only in accordance with the provisions of para 7. They have also stated that China PR is the largest producer of mulberry raw silk in the world and there is no country in the world which can be taken as third market economy country considering the production and level of operations in China PR with regard to subject goods. The second largest producer of mulberry raw silk is India. They have requested that considering the unique structure of the silk trade and concentration of the activity of raw silk in China PR, selection of any third market economy country is not possible. Therefore, the only option is to take the prices paid or payable in India for the determination of normal value for China PR in accordance with the provisions of above mentioned para 7.

F.3. EXAMINATION BY THE AUTHORITY

16 The issue relating to the grant of market economy status to silk industry in China PR has already been dealt with in detail in the original case of raw silk wherein it was held that there is a significant State control by way of price guidance mechanism over the silk activity. The Authority also notes that subsequent to the original investigation of raw silk, and in post disclosure comments of the present review investigation, the Chinese producers/exporters/the Chamber have not challenged the determination of the Authority of not granting them the market economy treatment. It is also noted that the cocoons form part of substantial (60%-70%) part of the raw silk cost. It is also noted that China in the Protocol on Accession of People's Republic of China has also admitted State control over the silk cocoon prices. Thus, there is no doubt that there is significant State interference in the determination of cocoon prices which have a direct effect on the prices of raw silk. Therefore, the prices of subject goods in China PR cannot be said to be reflecting fair market prices. The Authority in the present investigation is also of the same

view as was taken in the previous cases relating to raw silk and silk fabrics that there is significant State control over the prices of cocoons in China PR and that the producers/exporters in China PR cannot be granted market economy treatment. The Authority determines the normal value for China PR in terms of the paragraph 7 of Annexure I. It is also noted that under the first alternative of above mentioned paragraph 7, a third country market economy country is required to be selected for the determination of normal value for non-market economy country. However, considering the fact that China PR is the largest producer of silk in the world and India is the only country which comes next after China PR, it is not possible to select any market economy third country for China PR. The Authority has therefore constructed the normal value for China PR on the basis of the prices in India as per the procedure laid down in paragraph 7.

The constructed normal value for China PR works out as US\$ *** per Kg.

F.4. Export Price

17. In absence of any information/cooperation by producers/exporters from China PR, the Authority has taken into account transaction-wise data from DGCI&S for determination of export price from China PR. After making adjustments on account of ocean freight, overseas insurance, port expenses and commission, based on the facts available on record, the ex-factory export price is calculated at US\$ *** per Kg.

F.5. Dumping Margin

18. Based on the above mentioned normal value and the export price, the dumping margin is calculated as US\$ *** Per Kg, which is 31%.

19. Recurrence and Continuance of Dumping: The Authority notes that there is a significant dumping margin from China PR. It is clear that the dumping from China PR has not ceased in spite of anti-dumping duty being in existence.

G. INJURY ASSESSMENT

G.1 Views of Domestic Industry

20. The domestic industry in the present case is different from the typical domestic industry in other cases. There are thousands of small and fragmented units in different States. They do not maintain nor are they required to maintain the accounts in a manner typical of any other industry. There are no units in the organised sector. Therefore, enterprise-specific information for the injury parameters is not available. The domestic industry also contends that there is no legal requirement that the injury analysis has to be necessarily done based on enterprise-specific information as long as the Authority is in a position to analyse the state of the domestic industry in the respect of the mandatory parameters. Sufficient details are available from Central Silk Board at the industry level for analyzing the injury to the domestic industry and for the examination of the likely impact on the domestic industry in the event the anti-dumping duties are not extended.

21. It is stated that the situation of the domestic industry has improved after the imposition of the anti-dumping duties, clearly indicating that the anti-dumping duties have been effective and there has been a positive impact on the domestic industry. However, the effect has not been to the desired extent as the exporters have continued to indulge in dumping. It is the case of the domestic industry that the anti-dumping duties against the subject country may be continued for another term of 5 years in the interest of the domestic industry.

G.1.2 Examination by the Authority

22. The domestic industry in the present case is highly fragmented and scattered, comprising of thousands of tiny units. Therefore, this industry is quite different in structure and composition as compared to the typical domestic industry in various other cases. The units are mainly cottage based and run by individual families. In such a situation, the data and records compiled and maintained by the Central Silk Board have been used to analyze various injury parameters. Central Silk Board is an independent body in India which has been formed by way of a separate legislation i.e. Central Silk Board Act, 1948 to regulate, develop and augment the activity of the silk in the country. It is the nodal agency in the country which is entrusted with the responsibility for not only the development and growth of the silk sector but also to compile and record the necessary statistics relating to the silk sector.

23. The Authority called for costing information from the Domestic Industry represented by various reelers association, in the States of

Karnataka, Tamil Nadu, Andhra Pradesh, West Bengal and Jammu & Kashmir in the prescribed proforma for the period of investigation and for the previous three years. In the determination of NIP for the Domestic Industry, the Authority has made appropriate analysis of all the relevant factors including usage of raw materials, usage of utility, the expenses during the POI, investment, the capacity utilization etc. to arrive at a Non Injurious Price for the Domestic Industry. NIP for the domestic industry has been determined considering a reasonable profit margin on the capital employed.

24. The domestic industry has provided information on various injury parameters that is reasonably available at the industry level.

25. In the following paragraphs, an analysis of the factors as laid down in Annexure II on Anti-dumping rules has been made.

G.2.1 VOLUME EFFECT:

a. Share of Imports from subject country (% of total imports, % of total demand and domestic production)

26. The Authority notes that the domestic industry had used the import data from IBIS as the details of imports from DGCI&S were not available for the whole period of investigation at the time of filing application. The Authority during the course of investigation obtained the import data from DGCI&S and used the same for the analysis. The Authority notes that the volume of imports from China PR as compared to total imports over the injury investigation period has increased from 28% to 93%.

	April 04 to March 05	April 05 to March 06	April 06 to March 07	July 06 to June 07 (POI)
Imports from China PR – Subject country (MT)	77	108	101	173
Trend	100	140	131	225
Total Imports (MT)	273	120	119	185
Total Demand (MT)	9045	9387	10202	10091
Production (MT)	8772	9267	10083	9906
Share of Imports from China PR P.R.				
% Share in Total Imports	28%	90%	85%	93%
% Share in Total Demand	0.85%	1.15%	0.99%	1.71%
% Share in Domestic Production	0.88%	1.16%	1.00%	1.74%

27. From the above table, it is noted that the imports from China PR in comparison to total demand as well as total domestic production over the injury investigation period has almost doubled. The imports from China PR have increased not only as a share of total imports but also in comparison to total demand and domestic production over the injury investigation period.

b. Capacity, production and capacity utilization

28. It is noted that the production as well as capacity utilization of the domestic industry has generally increased over the injury investigation period as a result of imposition of anti-dumping duties against imports from China PR. The domestic industry has stated that in case of anti-dumping duties are discontinued; the imports from China PR would surge into the domestic market and injure the domestic industry in view of the fact that the subject goods are still being dumped in the Indian market.

	April 04 to March 05	April 05 to March 06	April 06 to March 07	July 06 to June 07 (POI)
Capacity (MT)	10500	10500	10600	10600
Production (MT)	8772	9267	10083	9906
Capacity Utilization%	84%	88%	95%	93%

c. Sales

29. The sales of the domestic industry have generally increased over the injury investigation period. It is also noted that the sales of the domestic industry have marginally declined in the period of investigation as compared to previous year.

	April 04 to March 05	April 05 to March 06	April 06 to March 07	July 06 to June 07 (POI)
Domestic industry Sales (MT)	8772	9267	10083	9906
Trend	100	106	115	113

d. Changes in Market Share of domestic industry

30. The market share of the domestic industry has increased over the injury investigation period as result of imposition of anti-dumping duties. However, the market share of the domestic industry has marginally declined in the period of investigation as compared to the previous two years.

	April 04 to March 05	April 05 to March 06	April 06 to March 07	July 06 to June 07 (POI)
Domestic industry Sales (MT)	8772	9267	10083	9906
Trend	100	106	115	113
Total Demand (MT)	9045	9387	10202	10091
% Market Share	96.98%	98.73%	98.83%	98.16%
Trend	100	102	102	101

G.2.2 Price Effect of the Dumped imports on the Domestic Industry

31. The impact on the prices of the domestic industry on account of the dumped imports from subject country has been examined in the following paragraphs.

Price Undercutting and Price Underselling

32. The price undercutting from the subject country is negative. It is also noted that the price undercutting analysis in case of sunset review investigation cannot give conclusive evidence as regards the likely future behaviour of the exporters from subject country. The exporters from subject country, being in full knowledge of the impending sunset review, would generally as a matter of strategy increase their prices. The analysis regarding price undercutting has been made by comparing the weighted average net sales realization with the weighted average landed value for the subject country. The landed value for the subject country is derived by adding landing charges and basic custom duty into the CIF prices.

	Rs./KG
Net Sales Realization (Rs./ KG)	***
Landed Value from Subject Country	***
Price Undercutting (Rs./Kg)	-120 to -140
Price Undercutting (%)	-10% to -15%

33. With regard to price underselling, it is noted that the landed value of the product under consideration from the subject country is much lower than the Non-Injurious price of the like article. The analysis regarding

price underselling has been made by comparing the non-injurious price with the weighted average landed value for the subject country. The landed value for the subject country is derived by adding landing charges and basic custom duty into the CIF prices. The following table will show the extent to which the dumped imports from the subject country have undersold the fair domestic prices.

	Rs./KG
Non-Injurious Price	***
Landed Value from Subject Country	***
Price Underselling (Rs./Kg)	240 to 260
Price Underselling (%)	10% to 15%

34. It is noted that the price underselling from China PR is significant during the period of investigation. It indicates the likely future behaviour of the exporters from the subject country regarding the pricing of the subject goods. The domestic industry demonstrated that making of exports by China PR at such prices clearly indicates that removal of anti-dumping duties would certainly lead to further price reduction by the exporters. Correspondingly, the domestic industry would be forced to reduce the domestic prices, which would affect their profitability and the resultant injury.

G.2.3 Examination of other Injury Parameters

35. The examination of other injury parameters is made in the following paragraphs:

e. Productivity

36. The Authority notes that this factor in the present case cannot be analyzed in the absence of the exact number of employees being known. However, it notes that the production of the domestic industry over the injury investigation period has increased.

f. Employment and Wages

37. In view of the peculiar nature of the domestic industry where the producing units are mainly run by individual families and all the family members are engaged, the exact number of employees as well as wages paid to them is not determinable in the present case. Therefore, no conclusions can be made with respect to these factors.

g. Inventories

38. Considering the nature of the domestic industry in the present case, the details relating to the inventories are not available and the analysis for this factor cannot be made.

h. Profitability, Return on Investment and Cash Flow

39. The Authority notes that with the imposition of anti-dumping duties against the subject country, the sales price realization of the domestic industry has improved over the injury investigation period. However, it is noted that the selling

price of the domestic industry is still below the cost of production. It indicates that the domestic industry is still not able to earn a desirable rate of return on capital employed due to continuous dumping of subject goods by China PR. It also notes that the domestic industry is incurring losses in the period of investigation and consequently the return on capital employed as well as the cash profit is also negative.

i. Magnitude of Margin of Dumping

40. It is noted that the dumping margin from China PR is significant. The significant dumping margin in the period of investigation gives an indication about likely future behaviour of the exporters from China PR.

j. Growth

41. The profitability, return on capital employed and cash profit are negative. Sales volumes, sales prices, production as well as market share of the domestic industry has increased over the injury investigation period. The Authority notes that the growth in the above mentioned factors is possible only due to the fact that anti-dumping duties were in existence against the dumped imports from China PR. However, the growth with respect to profitability and return is still negative in the period of investigation.

k. Ability to Raise Capital Investments

42. The ability of the domestic industry to raise capital investments continues to be adversely affected due to the existence of dumped imports.

H. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

43. The following facts have been brought before the Authority for examination of likelihood of continuation or recurrence of injury to the domestic industry. The domestic industry has pleaded that in a sunset review the Authority is required to examine the likelihood of continuation or recurrence of dumping and injury to arrive at a decision to continue or vary or remove the duty so as to offset dumping.

44. The domestic industry has *inter alia* submitted:

- i. That the producers from subject country are dumping the material in the Indian market.
- ii. That the injury to the domestic industry is still continuing and in case the duties are discontinued the injury to the domestic industry would recur or intensify.
- iii. That the landed price of imports from subject country is much lower than the price domestic industry ought to get.
- iv. That volume of imports from China PR has increased in spite of the antidumping duty in existence.
- v. That the producers are holding significant surplus capacities and their domestic demand is significantly below the capacities created by them.

45. The Authority has examined the likelihood of continuance or recurrence of dumping and injury in the following paragraphs.

a. Continuance and increase in imports in POI

46. The Authority has examined that the dumped imports from China PR have continued and increased not only in relation to the total imports but also as a share of demand and domestic production, despite the existence of anti dumping duties.

	April 04 to March 05	April 05 to March 06	April 06 to March 07	July 06 to June 07 (POI)
Imports from Subject				
Country (MT)	77	108	101	173
Trend	100	140	131	224

The increase in imports from the subject country during the injury investigation period gives an indication about the likely future behaviour of the exporters from subject country.

b. China PR is the largest producer and India is the largest consumer of raw silk in the world

47. The Authority notes that China PR is the largest producer of raw silk in the world and India is a significant market for their production. This being the case, the dumped imports from China PR in all probability would come to India in case the duties are not extended as neither the dumping nor the dumped imports have stopped from China PR. The Authority also notes that once the duties are discontinued, there is likelihood that the dumped imports from China PR would increase in the Indian market and injure the domestic industry as there is no other market where they can sell the subject goods in such volumes. The Authority also notes that the available production in China PR for the raw silk for 2003-2006 is as follows:

	2003	2004	2005	2006
Raw Silk (MT)	94600	102560	105360	130000

It is noted that the production for China PR shows an increasing trend and is much above the domestic demand in India.

c. Significant price underselling

48. The significant price underselling in the period of investigation indicates that the exporters from the subject country are dumping the subject goods in spite of anti-dumping duty in place.

I CAUSAL LINK

49. With regard to causal link, the Domestic Industry has submitted that it is a settled position of law that causal link analysis is not required to be

done in sunset reviews. In this connection, they have relied upon the following excerpts from the Appellate Body decision in the case of Oil Country Tubular Goods from Mexico (WT/DS282/AB/R dated 2 November 2005):

“118. We therefore agree with Mexico that this fundamental principle is expressed in Article VI of the GATT 1994 and in various provisions of the Anti-Dumping Agreement. The United States does not question this principle per se. However, this does not mean that a causal link between dumping and injury is required to be established anew in a "review" conducted under Article 11.3 of the Anti-Dumping Agreement. This is because the "review" contemplated in Article 11.3 is a "distinct" process with a "different" purpose from the original investigation.”

“119. The Appellate Body has underlined that "[t]he nature of the determination to be made in a sunset review differs in certain essential respects from the nature of the determination to be made in an original investigation", and that "[t]he disciplines applicable to original investigations cannot, therefore, be automatically imported into review processes.”

“X. Findings and Conclusions

219. For the reasons set forth in this Report, the Appellate Body:

(a) in relation to causation:

(i) finds that there is no requirement to establish the existence of a causal link between likely dumping and likely injury, as a matter of legal obligation, in a sunset review determination under Article 11.3 of the Anti-Dumping Agreement and that, therefore, the USITC was not required to demonstrate such a link in making its likelihood-of-injury determination in the sunset review at issue in this dispute;”

50. The Domestic Industry further submits that there are good technical and logical reasons for not applying the requirement of causal link in a sunset review case. Extension of anti-dumping duties is envisaged even if there are no imports during the review investigation period. Further, the test for extension of the period of duties under Section 9A (5) is only to examine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.

51. The Authority has examined the submissions of the Domestic Industry with regard to the significance of causal link in a sunset review investigation. It is important to note under Section 9A(5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties irrespective of whether there have been any imports of the product under consideration during the review investigation period or not. This has also been the consistent practice of the Designated Authority and is also borne out from the jurisprudence on the issue.

52. Without going into the merits of the arguments put forth by the Domestic Industry, the Designated Authority has examined the causal link aspect which is discussed in the following paragraphs.

(i) Volume and Prices from Other Countries

53. It is noted from the import statistics that the subject goods have been imported from one other country namely Brazil. However, the prices of subject goods from Brazil are more than the prices offered by Chinese producers.

(ii) Contraction in Demand and/or Change in Pattern of Consumption

54. It is noted that there is no contraction of demand. On the other hand, the demand of the subject goods has increased by 12% in the period of investigation as compared to the base year. There is also no indication of any change in the consumption pattern as is apparent from the sales pattern of the Domestic Industry.

(iii) Trade Restrictive Practices of and Competition between the Foreign and Domestic producers

55. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. The Domestic Industry

competes amongst one another and at the same time competes with the landed prices of the subject goods. The price of the Domestic Industry is determined by the landed price of subject goods. Moreover, no evidence has been submitted by any interested party even to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

(iv) Development of Technology and Export Performance

56. No party has raised any issue with regard to technology as being the cause of injury to the Domestic Industry. There are no exports of the subject goods by the Domestic Industry.

J. MAGNITUDE OF INJURY MARGIN

57. Determination of Non-injurious price

- a. The non-injurious price has been determined for the domestic industry as a whole.
- b. The non-injurious price determined has been compared with the weighted average landed value of the imports from the subject country for determination of injury margin as shown below:

Injury Margin Calculations

	China PR	
	Rs./Kg.	US\$/Kg.
NIP	***	***
Landed Value	***	***
Injury margin	240 to 260	5.40 to 5.90

Injury Margin %

15% to 20%

K. FINAL FINDINGS

58. The Authority after considering the foregoing concludes that:

- a. subject goods originating in or exported from China PR have been exported to India below their normal value, resulting in dumping;
- b. And in the event of discontinuation of anti-dumping duties on the subject goods from China PR, dumping is likely to continue from China PR leading to the continuation and recurrence of injury to the domestic industry.

L. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

59. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports of the subject goods from the subject country in any way, and, therefore, would not affect the availability of the subject goods to the consumers.

M. RECOMMENDATIONS

60. In view of positive determination of likelihood of dumping and injury on account of imports of subject goods from subject country, the Authority is of the opinion that continuation of the anti-dumping measure is required against imports of subject goods from subject country. However, considering the current level of dumping of subject goods from subject country and performance of domestic industry, the Authority is of opinion that the measures in force need to be revised. Therefore, Authority considers it necessary and recommends anti-dumping duty on imports of subject goods from subject country in the form and manner described hereunder.

61. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the margin of dumping or margin of injury whichever is lesser, so as to remove the injury to the domestic industry. Considering that the duty in the original investigation was imposed on reference price basis, the Authority recommends continuation of definitive anti-dumping duty, on all imports of subject goods originating in or exported from subject country, as the difference between the reference price as indicated in Col 9 of the table below and the landed value, in case the landed value at the time of importation is below the value indicated at Col. 9.

Sl. No	Sub- Heading or Tariff Item	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
1	2	3	4	5	6	7	8	9	10	11
1.	50020001	Mulberry Raw Silk (not thrown)	2A grade and below	China PR	China PR	Any Producer	Any exporter	37.32	kg	USD
2.	50020001	Mulberry Raw Silk (not thrown)	2A grade and below	China PR	Any Country Other than China PR	Any Producer	Any exporter	37.32	kg	USD
3.	50020001	Mulberry Raw Silk (not thrown)	2A grade and below	Any Country Other than China PR	China PR	Any Producer	Any exporter	37.32	kg	USD

N. FURTHER PROCEDURES

62. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

63. The Authority may review the need for continuation, modification or termination of the definitive measures as recommended herein from time to time as per the relevant provisions of the Act and public notices issues in this respect from time to time. No request shall be entertained by the Authority unless the same is filed by an interested party within the time limit stipulated for this purpose.

(R.Gopalan)
Designated Authority