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GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)

**NOTIFICATION**

NEW DELHI, the 26<sup>th</sup> December 2006

**Final Findings**

**Subject: Antidumping investigation concerning imports of All Fully Drawn or Fully Oriented Yarn/Spin Draw Yarn/Flat Yarn from Indonesia, Korea, Malaysia and Taiwan**

**NO.14/3/2005-DGAD:** - Whereas having regard to the Customs Tariff Act 1975 as amended in 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) thereof, the Designated Authority (hereinafter referred to as Authority), initiated an investigation into the alleged dumping of Fully Drawn or Fully Oriented Yarn / Spin Draw Yarn / Flat Yarn of Polyester (herein after referred to as subject goods) from Indonesia, Republic of Korea, Malaysia and Chinese-Taipei (herein after referred to as subject countries), vide notification dated 27<sup>th</sup> June 2005, on the basis of a fully documented application received from the Association of Synthetic Fibre Industries (hereinafter referred to as the Applicant) on behalf of domestic producers namely M/s Central India Polyesters Ltd., M/s Century Enka Ltd., M/s Garden Silk Mills Ltd., M/s Nova Petrochemicals Ltd., M/s Recron Synthetics Ltd. and M/s Welspun Syntex Ltd., alleging dumping of the subject goods from the subject countries and consequent injury caused to the domestic industry.

2. The Authority notified its preliminary findings vide notification dated 3<sup>rd</sup> July 2006 and the Department of Revenue, vide its Notification No 82/2006-Customs dated 21<sup>st</sup> August 2006, imposed provisional duty on the subject goods as recommended by the Authority.

3. In terms of Rule 17 (1) of the Rules, the Central Government has extended the time period for completion of this investigation till 26<sup>th</sup> December 2006.

## **A. PROCEDURE**

4. The procedure described below has been followed with regard to the investigation after notification of the preliminary findings by the Authority:

i) The Designated Authority sent copies of preliminary finding dated 27<sup>th</sup> April 2006 to all interested parties to this investigation, including the Embassy of the subject country in India, cooperating exporters from the subject country, domestic industry and the importers participating in the investigation requesting them to make their views known in writing within 40 days of the notification of the preliminary findings.

ii) The comments of the interested parties in response to the preliminary findings have been taken on record and the Authority has examined the issues raised therein in this disclosure statement.

iii) 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;

iv) For the sake brevity the comments of various interested parties and issues raised prior to the preliminary findings and addressed therein have not been repeated in this disclosure statement.

v) The Authority held a public hearing on 18.08.2006 to provide an opportunity to all interested parties to present their views. The oral submissions made by the parties during the public hearing reproduced in writing have been taken on record for the purpose of this investigation.

vi) The Authority has examined the confidentiality claims of various interested parties in respect of the data submitted by them. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties' alongwith non-confidential summary thereof, has been treated confidential. \*\*\* in this disclosure represents information furnished by the petitioner on confidential basis and so considered by Authority under the Rules;

vii) Investigation was carried out for the period starting from 1<sup>st</sup> January 2004 to 31<sup>st</sup> December 2004 (12 months) i.e. the period of investigation (POI). The examination of trends in the context of injury analysis covered the period from April 2001 - March 2002, April 2002 – March 2003 and April 2003 – March 2004 and the POI.

## **B. PRODUCT UNDER CONSIDERATION, LIKE ARTICLE AND DOMESTIC INDUSTRY:**

### **B.1 PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

5. The product involved in the present investigation is All Fully Drawn or Fully Oriented Yarn / Spin Draw Yarn / Flat Yarn of Polyester (non-textured and non-POY) and other yarns conforming to the tariff description of customs heading

5402.43 (hereinafter also referred to as subject goods). The above-mentioned product in commercial market parlance is generally known as 'Fully Drawn Yarn'. The subject goods are used for manufacture of apparel / household textiles, and other industrial textiles. Technical specifications of the subject goods are defined in terms of their deniers, tenacities, lustres, colours (like semi dull, bright, super bright, full dull, Dope dyed), cross section and shrinkage. During the course of the investigation it has been noticed that significant quantity of the subject goods have also been imported under customs heading 5402.42. Therefore, for the purpose of this investigation the goods imported under customs heading 5402.43 and 5402.42 have been considered. However, these classifications are indicative only and are no way binding on the scope of this investigation.

6. The exporters from the Republic of Korea have argued that a number of varieties of FDY were not manufactured and sold in India during the POI and therefore, those grades may be excluded from the Product under consideration. It has been further argued that certain other grades were produced in India in insignificant quantities and therefore, may be excluded for lack of meaningful injury determination and, perhaps, limited market.

7. The domestic industry has argued that the product under consideration is fully drawn yarn and the exporters have exported the subject goods to India during the period of investigation. Therefore, the duties are liable to be imposed for the product under consideration without any exclusion.

8. The Authority notes that the product under consideration is the product that is allegedly being dumped in the importing country by the producers/exporters from the exporting country which injures a like product produced by the domestic industry in the importing country. Therefore, the issue to be decided is whether the domestic industry produces a like article that is being injured by the dumping of the product being investigated.

9. The applicants have claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods. The exporters from the Republic of Korea has argued that the Authority ought to appreciate that there are some differences either in the technical specifications, quality, functions or end-uses of the imports and the domestically produced Subject Goods. It has been argued that the Authority also ought to note that the market segments served are different. However, no material fact has been placed before the Authority to demonstrate that the goods exported from the subject countries and produced by the domestic industry are not technically and commercially substitutable.

10. As noted in the preliminary findings, the All India Yarn Importers Association and Federation of Indian Art Silk & Weaving Industry have argued

that the petitioners have not excluded any yarn of the nomenclature, quality and type that are not produced by the domestic industry. It has also been argued that no meaningful segregation of the data has been done. A huge variety of yarns like polyester high tenacity yarns above 4.5 denier, polyester flame retardant yarns, Teflon treated polyester yarn, is imported which are not manufactured in India. The associations have further argued that the applicants have not differentiated between different processes and cost effectiveness associated with them as the production of this product may start from PTA, MEG, Chips, POY/LOY stages and the cost structure would be different for different routes. It has been further argued that comparison of the subject goods without factoring in aspects of quality and technology and without segregating the data of imports and domestic production would lead to highly skewed results. However, these arguments have not been supported by any data or questionnaire response submissions by these associations. The Authority notes that the comparative advantage of cost and prices are the matter of investigation and determination and has no bearing on the like article determination.

11. As far as the issue of determination of like article for the purpose of determination of the domestic industry and injury determination is concerned, the Authority notes that the starting point of manufacturing the subject goods is the basic polymerization process involving PTA or TPA and MEG or EG. Certain production units start from the basic polymerization stage or buy polyester chips to produce the subject goods using spinning and drawing process. The process of manufacturing is pretty standard and variation in quality and grades are achieved by changing and controlling the spinning and drawing parameters. The Authority notes that the domestic industry in India uses similar production process and the goods manufactured by the domestic industry and exported from the subject countries have similar physical and chemical properties. There is no significant difference in the dumped goods and the product under consideration manufactured by the domestic industry. The imported goods are used by the user industry interchangeably with the goods produced by the domestic industry. The subject goods produced by the domestic industry and produced by the subject countries, being technically and commercially substitutable, are 'like articles' under the Anti Dumping Rules. Therefore, the Authority holds that for the purpose of this investigation, the product under investigation covers all types and grades of All Fully Drawn or Fully Oriented Yarn / Spin Draw Yarn / Flat Yarn of Polyester (non-textured and non-POY) and the subject goods produced by the applicants in India are 'Like Article' to the subject goods being imported from the subject countries.

### **C. DOMESTIC INDUSTRY**

12. The application has been filed by M/s Association of Synthetic Fibre Industries, New Delhi along with the following producers of subject goods in India:

- (i) M/s Central India Polyesters Ltd., Nagpur, Maharashtra.
- (ii) M/s Century Enka Ltd., Raigad, Maharashtra.
- (iii) M/s Garden Silk Mills Ltd., Surat, Gujarat.
- (iv) M/s Nova Petrochemicals Ltd., Ahmedabad, Gujarat.
- (v) M/s Recron Synthetics Ltd., Allahabad, Uttar Pradesh.
- (vi) M/s Welspun Syntex Ltd., Thane, Maharashtra.

13. The Authority notes that there are three other known domestic producers of the subject goods in India. However, collective production of the aforesaid producers constitutes a major proportion of the total domestic production of the domestic like article. Accordingly, in the preliminary findings the Authority determined that aforesaid applicants satisfy the criteria of standing to file the application on behalf of the domestic industry in terms of Rule 5(3)(a) and represent the domestic industry within the meaning of Rule 2 (b) of the Rules supra. However, the interested parties in their submissions have argued that the Authority must first decide whether it will include or exclude producers that may also be importers from the scope of domestic industry. It is only then that the domestic industry standing of applicants may be determined. It has been argued that there is no material in the Public File to show that such an exercise has been carried out though there are other producers of the subject goods in India. It is also not known whether the Authority has taken up the issues of captive consumption, or imports by affiliated group companies with the Applicants.

14. The domestic industry has argued that it is not open for the interested parties to raise all kinds of issues at all points of time. The interested parties can offer their comments on the issues relating to initiation at that stage itself when specific time was granted in the initiation notification itself. By commenting on the assessment of the Authority with respect to the initiation after few months, the interested parties have merely attempted to impede the investigation.

15. The Authority notes that the investigation was initiated after detailed examination of the standing of the domestic producers who have filed this application and taking into account their collective output, relationship status and volume of imports made by one of the applicants. The interested parties have not placed any material fact before the Authority in respect of the issues raised by them regarding the standing of the applicants. Therefore, the Authority holds that the applicants meet the criteria of standing as laid down under the Rules and constitute the domestic industry for the purpose of this investigation in terms of Rule 2(b) of the Antidumping Rules.

#### **D. Other issues raised by the interested parties**

##### **D.1 Importers**

16. The Authority notes that none of the importers of the subject goods have filed any questionnaire response. All India Yarn Importers Association and

Federation of Indian Art Silk & Weaving Industry had filed certain submissions without any substantiation of the claims made therein. These parties were also asked to substantiate their claim that the importers association is an interested party within the meaning of Rule 2(c) by producing list of members and evidence that majority of the members of this association are importers of the subject goods. However, these associations have failed to file any response. Therefore, for the purpose of this investigation all importers and their associations have been treated as non-cooperative. Notwithstanding this their views were taken on record in the preliminary findings and addressed to the extent they were relevant. These parties have essentially claimed that there is a significant variation between the grades and quality of material produced by the domestic industry and the exporters from the subject countries and certain grades which are not manufactured in India should be excluded. The Authority has examined this issue for determination of product under consideration and like article and hold that the goods exported from the subject countries are like article to the goods manufactured by the domestic industry in view of technical and commercial substitutability of the products.

## **D.2 Exporters**

17. The exporters from the subject countries participating in this investigation, in their post preliminary finding submissions, have inter alia raised the following issues.

18. The Korean exporters have argued that the Authority has not notified the extension of time beyond the 12 months period for completion of the investigation and without such official intimation the Investigations have lapsed in law on 26<sup>th</sup> June, 2006 as there can be no lawful Investigations without official notice.

19. The domestic Industry, quoting the decision of the Hon'ble Supreme Court in *Designated Authority Vs. Haldor Topsoe 2000 (120) E.L.T. 11 (S.C.)*, has argued that there is no requirement under the law that the Authority is required to give a notice of extension of time of the period for investigation.

20. The Authority notes that Rule 17 of the Antidumping Rules provides that the Authority shall, within one year from the date of initiation of an investigation, determine as to whether or not the article under investigation is being dumped in India and submit to the Central Government its final findings. The said Rule also provides that the Central Government may, in its discretion in special circumstances, extend further the aforesaid period of one year by six months. Neither the Rule nor the Agreement contemplates notification of such extension to any interested party as has been argued by these interested parties. The Hon'ble Supreme Court has held that this decision in question is an administrative decision based on exigencies of the case. Therefore, the arguments of the interested parties in this respect are not valid.

21. The exporters and other interested parties have also argued that there is gross inadequacy and inaccuracy in the non-confidential information furnished by the Applicant and the information furnished is not consistent with the requirements of Indian law. It has been argued that the Applicants have relied on constructed normal value in the subject countries based on estimates of alleged dumping but has not disclosed these estimates which, by definition, cannot be proprietary or business sensitive to the Applicant. It has also been argued that the trade data relied on indicates an adverse volume effect appears to be unreliable. The exporters have further argued that the degree of confidentiality granted to the Applicant is unwarranted as the applicants have withheld information which should otherwise be available in the public domain and the Applicants have not filed their costing information in indexed form for each Producer.

22. The domestic industry in its various submissions has raised the issue of timely submission of information by the exporters from the subject countries. They have argued that these exporters have not raised their objections to various issues relating to the initiation of the investigation within the stipulated time limits and therefore, subsequent objections on these issues should not be entertained. They have also argued that the responses filed by these exporters were incomplete and subsequent submissions by these exporters have been filed very late i.e. closer to the preliminary findings. Therefore, they should be declared non-cooperative. The domestic industry has also raised several issues regarding inadequate non-confidential disclosure by the responding exporters.

23. The Authority has examined the arguments of the exporters, importers, domestic industry and other interested parties on the issues related to initiation and confidentiality. The Authority notes that antidumping investigation is a continuous process and based on the information that flows during the course of the investigation the Authority has to make its determination. The Authority also notes that in the Guatemala – Mexico Cement case the Panel held that *it is however the sufficiency of the evidence, and not its adequacy and accuracy, per se, which represents the legal standard to be applied in the case of a determination whether to initiate an investigation.* The Panel in the said dispute held that *an anti-dumping investigation is a process where certainty on the existence of all the elements necessary in order to adopt a measure is reached gradually as the investigation moves forward. However, the evidence must be such that an unbiased and objective investigating authority could determine that there was sufficient evidence of dumping within the meaning of Article 2 to justify initiation of an investigation.* In the instant case sufficient evidence was placed by the applicants indicating prima facie existence of dumping, injury and causal link. The investigation was initiated by the Authority after due examination of various aspects of the case including the adequacy and accuracy of data reasonably available to the applicants and submitted by them in the application. Therefore, the arguments of the interested parties in this regard are not valid.

24. As far as the confidentiality and insufficient non-confidential disclosure of information by the parties to the investigation is concerned, the issues raised have been examined. The Authority notes that to the extent possible and practicable the confidentiality claims of various parties submitting the information have been examined and confidentiality claims admitted on the basis of nature of information provided by the parties.

## **E. DETERMINATION OF DUMPING AND DUMPING MARGIN**

25. The Authority note that the following exporters of the subject goods from the subject countries filed their questionnaire responses in this matter:

1. M/s P.T. Mutu Gading Tekstil (Indonesia)
2. M/s H.K. Corporation (Korea)
3. M/s Hyosung Corporation (Korea)
4. M/s Saehan Industry (Korea)
5. M/s Huvis Corporation (Korea)
6. M/s Hualon Corporation (Malaysia)
7. M/s Nan Ya Plastics Corporation (Chinese Taipei)
8. M/s China Man-Made Fiber Corporation, (Chinese Taipei)

26. However, after the preliminary findings were issued by the Authority, M/s China Man-Made Fibre Corporation, Chinese Taipei has not responded to any of the correspondences from the Authority and did not offer itself for verification. Accordingly, this exporter has been treated as non-cooperative for the purpose of this investigation.

27. The Authority also notes that M/s H. K. Corporation, Republic of Korea has offered a voluntary price undertaking and requested for suspension of the investigation against them in terms of Rule 15 of the AD Rules. The Authority has accepted the price undertaking in terms of Rule 15 of the Rules and the same is being notified in terms of Rule 15(4) of the Rules as Annexure –A to this finding.

28. The data submitted by other cooperating exporters to this investigation were verified in accordance with the Rules and reports of such verification carried out by the Authority were made available to the exporters for their comments. The dumping margins in respect of these exporters have been worked out based on the verified data taking into account the comments of the exporters to the verification reports to the extent they are relevant and valid.

29. The domestic industry, in its post preliminary finding submissions, has raised the issue of export price of the cooperative exporters and it has been submitted that the Authority should not have considered the proceeds claimed to have been realized by the exporters irrespective of whether the same have been received through proper banking channel on account of the concerned importer who has bought the goods. It has been argued that certain export proceeds

realized through TT transactions should not be considered for the purpose of computation of export price and for the purpose of export price determination the export price declared to the customs Authorities in India should be taken into account. The domestic industry, in its post disclosure submissions, has reiterated its arguments in this respect.

30. The exporters in their submissions have *inter alia* argued that anti-dumping discipline is not a substitute for the Customs Act or an instrument of enforcement of the Customs Act and thus cannot be invoked for calculation of the export price for the revenue fraud, if any, by the importer. It has been argued that there is no provision in the ADA or the Rules for adjustment of Export Price or to exclude any portion of the payment(s) received by the Exporter in respect of the concerned transaction save in accordance with the Rules. Neither the ADA nor the Rules stipulate that there be only a single payment received for an export transaction. It has also been argued that even if the export price is to be constructed under Article 2.3 of ADA it has to be proved that there is some kind of association or compensatory arrangement between the exporter and importer or a third party, and in such a situation the export price has to be constructed based on the price at which the goods are first resold to an independent buyer. Therefore, adoption of any other price or method for determination of export price in the light of the arguments of the domestic industry will be contrary to the Agreement and Section 9A(b) of the Act. Therefore, all payments that an exporter can satisfy to the Authority that it received in respect of an export transaction must be included in determination of its export price for the concerned transaction. It has been further argued that non-cooperation by importers in an antidumping investigation cannot be a ground to presume that the invoices are over or under invoiced. Therefore, the authority cannot reject the export prices furnished by the exporters for non-cooperation by importers on whom the exporters have no control. If an investigating authority were to insist cooperation by the importer for accepting a response filed by an exporter, then, it would put an unreasonable burden on the exporter. Such a proposition is unheard of in antidumping investigations around the world unless in a situation where the importer and exporter are related. Therefore, the exporters have argued that domestic industry's claim is untenable and is liable to be rejected.

31. The Authority notes that the goods have been exported by the exporters in the subject countries directly as well as through unrelated traders in different countries. The goods are directly shipped to India and invoiced to the trader from whom the orders have been received. The payment is also received from these traders. The exporters directly ship the goods to India and all shipping documents are prepared by the exporter. However, the producer/exporters do not seem to have any idea about the transactions between the traders and the actual importer in India. The exporters have argued that their price to the traders for the goods actually shipped to India is their export price as per the well established practices in several jurisdictions like USA and the European Union on the subject. It has been argued that the verified price of the

producer/exporters to any trader that may be re-exporting to the investigating country, even if such trader has not cooperated, are treated as the concerned producer/exporter's export price provided that the concerned company can satisfy the Authority that the goods against the concerned transaction were in fact exported to the investigating country. The trader will in any case face the adverse consequences of non-cooperation in such a situation. It has been submitted that as per the EU Regulation the export price has been defined as the "price actually paid or payable for the product when sold *for* exports from the exporting country to the Community". The jurisprudence developed and applied in these countries permits use of the first price charged by the producer to a local trading company as the export price so long as the producer knew of the ultimate destination of the shipment, since such price of the producer was made for exports to the importing country. It has also been argued that the practices in these jurisprudences require the producers/exporters in the exporting country to report all transactions for which they have knowledge of having been exported to these countries. Therefore, it has been argued that the transaction prices reported by the exporters in respect of their direct as well as indirect sales through traders should be accepted as their export prices. The unrelated traders however, may face adverse inference due to their non-cooperation as the producers/exporters do not have any control over them to file the responses in respect of transactions made through them.

32 The Authority has examined the issues raised by the domestic industry in its various submissions, including their post disclosure comments. As far as the issue of transaction value of the exports and mode of payment are concerned, neither the ADA nor the Indian antidumping Rules provide any provision to deal with the subject. There is no evidence on record to prove that the producer/exporters and the traders/importers involved in this case are related and have compensatory arrangement to resort to construction of the export price. Even if a construction is to be resorted to in terms of Section 9A(b) of the Act, it has to be based on the first resale price in the importing country market for which no data has been provided by any interested party. Therefore, the Authority has proceeded with the determination of export price based on the price actually realized by the producer/exporter as per their records.

33. As far as the issue of selling prices to the traders and determination of export price is concerned, the Authority notes that the jurisdiction developed and followed by the major users clearly requires the exporters to report all such transaction and the export price for the exporter/producer is determined based on this data and non-cooperative trader gets an adverse finding. However, examination of the transaction-wise data of the exporters does show significant difference in price structure between the direct sales prices and sales through traders but without any definite pattern. Therefore, all export sales have been considered to determine the export prices for individual exporters

## **E.2 Methodology of determination**

34. The Authority notes that the Hon'ble Supreme Court of India, in the Civil Appeal No. 1294 of 2001, M/s Reliance Industries Ltd Vs Designated Authority & Others, has held that normal value is not exporter specific but exporting country specific.

35. In their post disclosure submissions the domestic industry has argued that that the Authority has proceeded to determine a single country specific normal value on the basis of wrong interpretation of the Supreme Court Judgment in RIL matter. It has been argued that in the Haldor Topsoe case, the Hon'ble Supreme Court's decision was based on the non-cooperation by the exporter seeking determination of his individual normal value and in the present case the Designated Authority has completely misinterpreted the ratio of Reliance case. It has been argued that Hon'ble Supreme Court in the RIL case has simply reiterated the ratio of the Haldor Topsoe case for instances of non-cooperation. Therefore, a plain reading of the RIL judgment would indicate that the observations that normal value is country-specific is correct except in cases where the exporter has cooperated and provided the Designated Authority with full information. The exporters from Korea RP have also argued that that there is no practice of single NV for the exporting country and such a calculation may amount to denial of market access to the exporting country leading to grave consequences.

36. However, the Authority notes that the Supreme Court Judgment cited above does not specifying the situations in which such determination can be made as has been argued by the domestic industry. The Authority also moved a review application before the Hon'ble Court seeking clarification and revision of this judgment. However, the review application has since been rejected by the Hon'ble Court. Therefore, the Authority is of the view that this Judgment of the Hon'ble Court has clearly cast an obligation on the Authority to determine a single country specific Normal Value. Accordingly, the Authority has determined single country specific weighted average Normal value as per its interpretation of the said judgment.

37. Normal values of individual Product types (PCNs) have been determined first for the individual cooperating exporters and then a single weighted average normal value has been worked out for each of the product types of the product under consideration at the PCN level for the exporting country as a whole based on the normal values determined for the cooperating exporters. These country specific normal values at the PCN levels have been compared with the export price for the corresponding PCNs of the individual exporters to determine individual dumping margins at PCN levels of the exporters. The weighted

average dumping margin for each exporter has been calculated on the basis of the PCN level dumping margins for that exporter.

38. For the purpose of determination of dumping margin of non-cooperating exporters from the subject countries, weighted average normal value of the cooperating exporters have been compared with the lowest export price of the cooperative exporters in the absence of product type wise export price for non-cooperative exporters.

## **E.1 Indonesia**

### **a) Normal Values**

39. In response to the initiation notification only one exporter of the subject goods from Indonesia i.e., M/s P.T. Mutu Gading Tekstil, Indonesia has furnished the questionnaire response. On the basis of the data submitted by this exporter and verified by the Authority, Normal Value for this cooperating exporter has been determined. Since there is no other cooperating exporter from this country the Normal values determined for this exporter at the PCN-level has been adopted as the normal value for Indonesia as a whole as per the Hon'ble Supreme Court of India judgment quoted above

40. The data submitted by M/s P.T. Mutu Gading Tekstil, Indonesia was verified. This producer-exporter has reported about \*\*\*\*\* MT of sales of the subject goods in its domestic market during the POI covering three product types. The sales are to unrelated buyers in the domestic market. The exporter has claimed adjustments towards inland freight and credit cost on account of credit period allowed to the buyers. The net ex-works selling price of individual product types were subjected to ordinary course of trade test on the basis of verified cost of production and accordingly the PCN level Normal values have been determined. The weighted average Normal values at ex-works level worked out to US\$\*\*\*\*/ Kg.

41. In the absence of any other data and cooperation from other exporters in Indonesia, the above normal values have been adopted for all exporters in Indonesia in compliance of the Hon'ble Supreme Court orders quoted above.

### **b) Export Prices and Dumping margin**

#### **i) M/s P.T. Mutu Gading Tekstil, Indonesia**

42. As per the response filed, this exporter sold \*\*\*\*\* MT of the subject good in the Indian market during the POI. Only 4 transactions are on CIF/CFR basis and rest of the transactions are on FOB basis. Inland transport, ocean freight, insurance and credit cost as verified has been deducted from the invoice price to arrive at net ex-works export price for individual PCNs.

43. On the basis of the normal values and export prices determined at PCN level for this exporter the dumping margins for individual PCNs and weighted average dumping margin for this exporter have been worked out. Accordingly, weighted average dumping margin for this exporter works out to US\$\*\*\*\*/Kg (1.29%). Thus the dumping margin for this exporter has been found to be de minimis.

**ii) All Others**

44. Since no response has been received from other producer/exporters in Indonesia the export price for others have been determined based on the lowest transaction price of the cooperating exporter after adjusting the same for direct selling expenses as per the cooperating exporters data. Accordingly, average net ex-works export price for the non-cooperating exporters from Indonesia has been determined as US\$\*\*\*\*per Kg.

45. The weighted average normal value determined for the cooperating exporter at the ex-factory level has been compared with the ex-factory export price determined for the non-cooperating exporters. Accordingly, weighted average dumping margin for all non-cooperating exporters has been worked out as to US\$\*\*\*\* per Kg (39%).

**E.2 Korea RP**

46. It may be noted that in response to the initiation notification the following exporters from Korea RP have filed their questionnaire responses.

1. M/s H.K. Corporation (Korea)
2. M/s Hyosung Corporation (Korea)
3. M/s Saehan Industry (Korea)
4. M/s Huvis Corporation (Korea)

47. As noted earlier M/s H.K Corporation has made an offer of price undertaking and requested for suspension of the investigation in terms of Rule 15 of the Antidumping Rules, which has been accepted by the Authority. The questionnaire responses filed by the other exporters from the subject country have been verified to the extent possible and based on these responses dumping margins have been determined as follows:

**a) Normal value**

**i) M/s Hyosung Corporation, Korea RP**

48. The company has sold \*\*\*\*\*MT of the product concerned in its domestic market during the POI covering a large number of PCNs. However, the company

has exported only certain PCNs to India during the POI. Therefore, for the purpose of like to like comparison the said PCNs, sold in domestic market, have been considered. Most of the domestic sales of the company are on ex-factory basis therefore, the exporter has claimed adjustments only towards credit expenses against domestic transactions, bank charges and packing costs and inland freight expenses, wherever applicable, and an adjustment towards warranty claim expenses against certain transactions. The domestic sales transactions of the PCNs identified as above were subjected to ordinary course of trade test based on their respective verified cost of production and on the basis of the domestic selling prices the Normal value of the individual PCNs have been worked out.

**ii) M/s Saehan Industry, Korea RP**

49. The company has sold \*\*\*\*\* MT of the product concerned in its domestic market during the POI covering a large number of PCNs. However, the company has exported FDY covered under only certain product codes to India during the POI. Therefore, for the purpose of like to like comparison the said PCNs, sold in domestic market, have been considered. The domestic sales are to unrelated buyers including end users and traders except one related customer M/s Toray Saehan. However, the sale to the related customer is only \*\*\* MT, which is insignificant in total domestic sales volume.

50. The domestic sales are mostly on delivered basis though few transactions are on ex-works basis. The payments have been realized through local LC or through open account system maintained by the Company for its regular customers. Adjustments towards inland freight, credit expenses against domestic transactions and packing costs have been allowed to determine the normal value at ex-factory level. The domestic sales transactions of the PCNs identified as above were subjected to ordinary course of trade test based on their respective verified cost of production and on the basis of the domestic selling prices the Normal value of the individual PCNs have been worked out.

**III) M/s Huvis Corporation, Korea RP**

51. As per records of the company and as per the information supplied by them in various appendices Huvis had \*\*\*\*\* domestic sales transactions of subject goods with a total quantity of \*\*\*\*\* MT covering several PCNs. However, only FDY covered under certain PCNs have been exported to India during the POI. Therefore, for the purpose of fair comparison the normal value is required to be determined based on these PCNs. The exporter has claimed adjustments towards inland freight, credit expenses against domestic transactions, bank charges and packing costs. Since there is no difference between the domestic and export packing, total packing expenses have been allocated to the total production and average packing expenses worked out to \*\*\*\*\* per Kg. Domestic sales of the above PCNs were subjected to ordinary course of trade test on the

basis of the cost of production of individual PCNs and the Normal values of individual PCNs have been determined at ex-works level.

**iv) Normal Value: Korea RP**

52. In accordance with the Hon'ble Supreme Court judgment quoted above a single normal value has been worked out for Korea as a whole as the weighted average of the individual Normal values determined above. On the basis of the normal values determined for the cooperating exporters at PCN level weighted average normal values have been worked out for all exporters in Korea at PCN level.

**b) Export Prices and Dumping Margins:**

**i) M/s Hyosung Corporation, Korea RP**

53. The company has exported \*\*\*\*\* MT of the subject goods to India during the POI. However, only \*\*\*\* MTs have been exported by them directly to India and rest of the transactions is through traders in Singapore, Hong Kong, and Korea. The direct exports to India and through traders in Singapore and Hong Kong are on LC at Sight terms. The transactions between Hyosung and the Korean trader are on TT term. The traders involved have not filed any response in respect of the goods exported by Housung through them and therefore, their actual export prices of these transactions are not known. However, for the purpose of determination of export price for Hyosung their prices have been considered and the traders would face adverse facts available and attract residual dumping margin.

54. The export transactions to India are in FOB/CIF and CNF terms adjustments towards inland and ocean freight, credit expenses, overseas insurance expenses; handling fee and bank expenses, packing cost for export shipments and drawback on the export transactions, have been allowed to arrive at the net ex-factory export prices for individual PCNs.

55. On the basis of the above ex-works weighted average normal values for Korea RP and net ex-works export prices determined at PCN levels for this exporter the dumping margins for this exporter has been worked out at PCN level. Accordingly, weighted average dumping margin for this exporter works out to US\$\*\*\*\*\*/Kg (17.42%)

**ii) M/s Saehan Industry, Korea RP**

56. The company has exported \*\*\*\*\* MT of the subject goods to India during the POI. However, only \*\*\*\* MT have been exported by them directly to India and rest of the transactions is through traders in Singapore, Hong Kong, and Korea.

The direct exports to India and through traders in Singapore and Hong Kong are on LC terms. The transactions between Saehan and the Korean trader are against local LC. The traders involved have not filed any response in respect of the goods exported by Saehan through them and therefore, their actual export prices of these transactions are not known. However, for the purpose of determination of export price for Hyosung their prices have been considered and the traders would face adverse facts available and attract residual dumping margin.

57. The export transactions to India are in FOB and CIF terms. The exporter has also paid commission on certain transactions. Accordingly, adjustments towards, inland and ocean freight; insurance expenses; handling fee and bank expenses documents, packing cost for export shipments, credit expenses, and duty drawback has been allowed as verified. Accordingly, the average net ex-works export price for individual PCNs has been worked out.

58. On the basis of the above ex-works weighted average normal values for Korea RP and net ex-works export prices determined at PCN levels for this exporter the dumping margin for this exporter has been worked out PCN level. Accordingly, weighted average dumping margin for this exporter works out to US\$\*\*\*\*\*(4.2%).

**iii) M/s Huvis Corporation, Korea RP**

59. Records of the company shows that they have exported \*\*\*\* MT of Subject Goods to India during the investigation period covering several PCNs. Out of the total exports to India, \*\*\*\* MT was direct exports to India and exports are against LC at sight. Balance exports are through traders in Korea and third countries. The goods against these transactions were directly shipped by the producer/exporter on the basis of instructions of their buyers/traders for which payment has been received by them from these traders against LC at sight except for the Korean trader to whom the goods are supplied on approval basis and the payment is received against their open accounts. The traders involved have not filed any response in respect of the goods exported by Saehan through them and therefore, their actual export prices of these transactions are not known. However, for the purpose of determination of export price for Hyosung their prices have been considered and the traders would face adverse facts available and attract residual dumping margin.

60. Adjustment towards ocean freight, inland and ocean insurance, packing expenses, handing and documentation expenses, bank charges, credit expenses and duty drawback received by the exporter against such exports have been considered to work out PCN-wise average net export price at the ex-factory level.

On the basis of the above ex-works weighted average normal values for Korea RP and net ex-works export prices determined at PCN levels for this exporter the dumping margin for this exporter has been worked out at PCN levels. Accordingly, weighted average dumping margin for this exporter works out to US\$\*\*\*\*\*/Kg (0.7%) . The dumping margin of this exporter has been found to be de minimis

#### **iv) Other Exporters from Korea RP**

61. Export prices for the other non-cooperative exporters from the subject country has been determined based on the lowest transaction prices of the cooperating exporters for the PCNs exported to India by them.

62. The weighted average normal value determined for Korea has been compared with the net export prices determined for the non-cooperating exporters from the subject country to arrive at the weighted average dumping margin for non-cooperating exporters which works out to US\$\*\*\*\*\*/Kg (73%).

63. The exporters from Korea, in their post disclosure comments, have argued that apart from question of legal validity of single normal value, PCN wise calculation might have also distorted the single normal value because of difference in grades and costs and prices of such grades. In the process regular grades of some exporters have got clubbed with value added grades of some other exporters to distort the over all normal values and also dumping margins.

64. In this connection the Authority notes the PCNs were devised and notified to all exporters well in advance and data was also obtained in the same format. Therefore, the determination, based on the PCNs, has been duly carried out as per the data submitted by the exporters, including the exporters from Korea RP. The Normal value and export price determination was also disclosed to these exporters through the verification report alongwith entire calculation sheets. The exporters pointed out certain discrepancies and requested for a meeting for reconciliation of the same. The exporters were given an opportunity of meeting and they availed this opportunity alongwith their lawyers and chartered accountants. The method of determination and calculations were checked and reconciled in their presence to their full satisfaction before the same was adopted in the disclosure statement. Therefore, the additional arguments of the exporters in respect of normal value and dumping margin determinations based on product code-wise segregation have not been accepted.

### **E.3 Malaysia**

#### **a) Normal Value**

65. Only one exporter from Malaysia i.e., M/s Hualon Corporation has cooperated in this investigation and has filed a detailed questionnaire response.

The data filed by this cooperating exporter was also verified to the extent possible. The normal value of the subject goods in Malaysia has been determined on the basis of the verified data of this cooperating exporter.

66. During the period under investigation total domestic sale of this company was only \*\*\*\*\*MT, which was insignificant compared to the total sales of the company of the product under consideration. Therefore, the domestic sales did not satisfy the sufficiency test to be considered for determination of Normal Value. The claim of the exporter for consideration of the export price to a third country for determination of Normal Value was examined on the basis of volume of exports to other countries. It was found that export to Turkey was the highest among the other third countries. Therefore, export transactions in respect of exports to turkey were verified for normal value determination purpose. Though most of the PCNs exported to India are also exported to Turkey certain PCNs exported to India were not exported to Turkey during the POI. For such PCNs the normal value has been determined based on the cost of production of the subject goods plus reasonable profit as per the records of the company. Adjustments towards commission and rebates, inland and ocean freights, insurance and handling charges have been applied to arrive at net ex-works price of the subject goods. The export sales transactions to third country have been subjected to ordinary course of trade test based on the cost of production of the respective PCNs and normal values at PCN levels have been worked out. The normal value so worked out has been adopted as the normal value for the subject country. Accordingly, net ex-factory weighted average normal value for all exporters in Malaysia have been worked out.

**b) Export Price and Dumping Margins**

**i) M/s Hualon Corporation**

67. This exporter has exported about \*\*\*\*\*MT of the subject goods to India during the POI covering several PCNs. Out of this only \*\*\*\*\* MT has been exported directly to India and rest of the exports are through different traders. The exporters has argued that the Authority may determine their export price based on the direct exports as the traders have not cooperated and would in any case face adverse consequence of non-cooperation. However, examination of the entire export data shows that the average sales prices of exports including sales through the traders are lower than the direct sales. Therefore, it is appropriate to consider all sales to India for the purpose of determination of the export price of this exporter. Adjustments towards, inland and ocean freights and insurance, credit costs, discounts and rebates, packing costs have been made to arrive at net ex-works export price for individual PCNs based on verified data of the exporter. Accordingly, ex-factory net export prices have been worked out.

68. On the basis of the above ex-works normal values and net ex-works export prices determined at PCN levels the weighted average dumping margin for this exporter has been worked out as US\$\*\*\*\*\*/Kg (12.38%).

**ii) Other exporters from Malaysia**

69. Export price for the other non-cooperative exporters from the subject country has been determined based on the lowest transaction prices of the cooperating exporters.

70. The weighted average normal value determined for the subject country has been compared with the net export prices determined for the non-cooperating exporters from the subject country to arrive at the dumping margin for non-cooperating exporters which works out as US\$\*\*\*\*\*/Kg (44%).

71. M/s Hualon Corporation, in its post disclosure submissions, has argued that the fair comparison should have been carried out product code wise and not based on PCNs decided by the Authority as PCNs cover several product codes which vary in cost and prices. In this connection the Authority notes that in view of the fact that there is a very wide range of the product available in the market PCNs were devised and notified to all interested parties for the purpose of fair comparison and the exporters have provided their cost as well as price information based on these PCNs. Therefore, comparison has also been carried out based on these PCNs which is a standard practice followed for fair comparison purpose.

**E.4 Chinese Taipei**

72. Only two exporters of the subject goods in Chinese Taipei, namely M/s Nan Ya Plastics Corporation, and M/s China Man-Made Fiber Corporation, Chinese Taipei, have filed their questionnaire response to this investigation. However, M/s China Man-Made Fiber Corporation has withdrawn itself from the investigation after initial cooperation. Therefore, this company has been treated as a non-cooperating exporter for the purpose of this investigation.

**a) Normal value**

73. As per the records of the cooperating exporter from the subject country, i.e. M/s Nanya Plastics Corporation, the producer has sold \*\*\*\*\*MT of the goods in the domestic market covering several types of the product under consideration. The sales are to unrelated customers except for 650 MTs sold to its affiliated Company M/s Formosa Chemical Fibre Corporation. The sales to the related company account for little over \*\*\*% of the total sales and therefore, do not affect the general price structure. Therefore, the entire domestic sales transactions have been considered for determination of normal value. It was also noted that the company produces and sales a large variety FDY in the domestic

market. However, for the purpose of like to like comparison only those product types exported to India have been considered for determination of normal value.

74. The goods have been sold in the domestic market on delivered basis and the company has claimed adjustment towards direct selling expenses in respect of inland transportation, rebates and packing expenses. The domestic sales transactions were subjected to the ordinary course of trade test based on their respective cost of production and on the basis of the above data the net ex-factory normal values at PCN levels have been worked out. The normal value determined at the PCN levels for the cooperative exporter has been adopted as the normal value for the subject country.

**b) Export Price and Dumping Margin**

**i) M/s Nan Ya Plastics Corporation**

75. This Company has exported \*\*\*\*\* MT of the subject goods to India during the POI. However, the entire export sales transaction has been through two distributors in Hong Kong/Korea and Thailand. There has been no direct export of the commodity to India during the POI. It was noticed that the goods are directly exported to India from their factory though the invoice is sent to the distributor from whom the payment is received. However, these distributors have not participated in the investigation and provided any details of their actual export price to India and their SGA expenses, if any. Therefore, the export price from these traders to India is not known. The exporter has argued that since the goods have been directly shipped by them to India and they are the exports made by them and the payment realized by them against these transactions is their export price. Since the traders have not cooperated in the investigation, the Authority need not determine a dumping margin for such traders in combination with them. But for the purpose of determining the dumping margin of Nanya entire transactions should be considered without linking them with any traders. Non-cooperating exporters/traders may attract an adverse finding and residual duty that may be determined by the Authority if they wish to continue to export Nanya's product to Indian market, as they have not provided their data. Nanya should not be penalized for the non-cooperation of unrelated traders on whom they have no control.

76. The export transactions to India are in FOB terms except for 5 transactions, which are in CIF terms. Adjustments towards commissions, inland and ocean freight; credit expenses; overseas insurance expenses; handling fee and bank expenses; packing costs; Customs administration fee, trade promotion fee and harbour construction fee paid to the government were verified from the records of the company and applied for arriving at the net ex-factory export price for individual PCNs.

77. On the basis of the above ex-works normal values and net ex-works export prices determined at PCN levels the weighted average dumping margin for this exporter has been worked out as US\$\*\*\*\*per Kg (2.89%).

**ii) Other Exporters from Chinese Taipei**

78. Export prices for the other non-cooperative exporters from the subject county has been determined based on the lowest transaction prices of the cooperating exporters.

79. The weighted average normal value determined for the subject country has been compared with the net export prices determined for the non-cooperating exporters from the subject country to arrive at the dumping margin for non-cooperating exporters which works out as US\$\*\*\*\*/Kg (37%).

80. The exporter in its post disclosure submissions has requested for certain modification in the method of conducting the ordinary course test and expressing the dumping margin as a percentage of the aggregate CIF price of all exports from the company. However, the Authority did not find any merit in these arguments and therefore, the findings in these respects are confirmed.

**E.5 Dumping Margin Summary**

81. On the basis of the above determination the dumping margin for the exporters in the subject countries works out as under:

Country/Territory	Exporters/Manufacturers	Dumping Margins US\$/ MT	Dumping Margin (%)
Indonesia	M/s P.T. Mutu Gading Tekstil	****	1.29%
Indonesia	All Others	****	39%
Korea RP	M/s H.K. Corporation	Price Undertaking	
Korea RP	M/s Hyosung Corporation	****	17.42%
Korea RP	M/s Saehan Industry	****	4.2%
Korea RP	M/s Huvis Corporation	****	0.7%
Korea RP	All Others	****	73%
Malaysia	M/s Hualon Corporation	****	12.38%
Malaysia	All Others	****	44%
Chinese Taipei	M/s Nan Ya Plastics Corporation	****	2.89%
Chinese Taipei	All Others	****	37%

## **F INJURY AND CAUSAL LINK EXAMINATION**

### **F.1 VIEWS OF THE INTERESTED PARTIES**

82. The exporters from Korea in their post preliminary submissions have argued that subject Goods from Indonesia and Malaysia compete most strongly with the subject Goods manufactured in India which is also reflected in the wider range of PCN exported to India by these countries. It has been argued that there are significant differences and the market segments served are substantially different. It has also been argued that degree of competition varies for each Subject Country and thus injury determination may be done separately for each Subject Country as cumulating will negate the impact of injury caused by these countries, which will unfairly penalise Korean exporters and inadequately defend Indian Producers from more closely competing Indonesian and Malaysian Subject Goods in case of dumping. Therefore the Authority may carry out injury analysis separately for each Subject Country.

83. The Korean exporters have also argued that DGCI&S import data is incorrect which suggests that the allegedly adverse volume effect may be based on erroneous data. It has been argued that there is a healthy increase in capacity, production and utilization in India throughout the injury period considered and the performance of domestic sales remains much better than the base year. Marginal decline in domestic sales by the Producers is accounted for by almost the same increase in sales of other domestic producers indicating high domestic competition. It has been further argued that the problems with price are not unique to the POI but precede it even when imports from the Subject Countries were low. The prices have improved during the POI in some parameters contra-indicating dumping, despite increase in imports. The decline in landed prices from the base year is clearly less than the decline in Indian tariffs.

84. The exporters from Indonesia and Malaysia have argued that Price undercutting and Price underselling and entire injury analysis as well as NIP are also to be examined on the basis of product control numbers.

85. It has been argued by the interested parties that all the domestic producers may be examined and not just the applicant producers. The domestic industry has argued that each and every domestic producer is not similarly placed and it is not necessary that all non-applicant producers may also be examined as long as the applicant producers represent the domestic industry as per the definition of the domestic industry as laid down in Rule 2 (b). Moreover, the definition of the domestic industry would become redundant if the majority of the domestic producers are not granted protection because of the minority producers who are placed differently.

86. As regards the performance of the domestic industry in certain parameters the domestic industry has argued that it is well settled that no one or several of these factors can necessarily give decisive guidance. The Designated Authority would be justified to record a finding of injury based on one or more of parameters and is under no obligation to record a finding of injury only if majority of the factors show injury. Therefore, it has been argued that the statements of the exporters with respect to these factors are also required to be ignored.

## **F.2 EXAMINATION BY THE AUTHORITY**

87. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

88. The Authority has taken note of the arguments of the interested parties on injury examination aspect and addressed the issues raised at appropriate places in this disclosure statement to the extent these arguments are valid. The Authority has examined the injury parameters objectively taking into account the facts before it and the arguments of the interested parties.

### **F.2.1 Cumulative assessment of injury**

89. As per annexure-II (iii), in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article and (b) 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.

90. The Authority notes that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%.

91. As far as the conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product, the Authority notes that:

- (i) The subject goods have been imported from the subject countries under the same tariff classifications;
- (ii) The imported subject goods are commercial and technical substitutes of the domestically produced fully drawn yarn.
- (ii) The subject goods have been imported by the end users and other importers and the goods have entered the commerce of the country through similar channels;

92. Therefore, the Authority is of the view that the exports made from the subject countries compete in the same market, as these are similar products and the arguments of exporters from Korea RP for a de-cumulated injury examination are not valid.

93. In view of the above, the Authority hold that it is appropriate to cumulatively assess the effect of dumped imports of the subject goods from the subject countries, on the domestically produced like article in the light of conditions of competition between the imported products and the like domestic product. Therefore, for the purpose of injury and causal link analysis, as discussed above, the dumped imports from the subject countries have been cumulated for examination of volume and price effects of dumped imports of the subject goods from the subject countries on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Rules provide for examination of the impact of dumped imports on the domestic industry on the basis of evaluation of all relevant economic factors and indices having bearing on the state of domestic industry. For the purpose of this examination the applicants constitute the domestic industry within the meaning of the term as defined under Rule 2(b) of the Rules.

94. The Authority also notes that the Hon'ble Supreme Court, in the Reliance Industries Vs Designated Authority held that the Authority is required to carry out the determination of the injury and NIP for the 'domestic industry as whole' and not in respect of any particular company or enterprise. Therefore, in compliance with the above orders, the Authority called for cost and injury information from all the other known domestic producers. However, these producers have declined to provide any information on the above subject on the basis of their interpretation of the said judgment. It has been argued by the domestic industry and other known producers that the said judgment of the Hon'ble Court does not require inclusion of all domestic producers in the NIP and injury determination.

95. In its post disclosure submission the domestic industry has argued that the Designated Authority is interpreting the words “domestic industry as a whole” used by the Hon’ble Supreme Court in its judgment to mean the “domestic producers as a whole”. In this connection, it has been submitted that the Hon’ble Court in that judgment has held that the injury as well as NIP has to be determined for the “domestic industry as a whole” and not in respect of any particular company or enterprise. In the same paragraph, the Hon’ble Supreme Court refers to the definition of domestic industry under Rule 2(b). Throughout the discussions, the Supreme Court has used the words “domestic industry as a whole” and not “domestic producers as a whole”. Further, at no stage has the Supreme Court held that the term “domestic industry” has to be interpreted in any manner different from the definition provided in Rule 2(b). On the other hand, as stated earlier, the Court has clearly referred to the definition of “domestic industry” in the same paragraph.

96. The Authority notes that the above interpretation of the Judgment of the Hon’ble Court may not be in conformity with the said judgment as the review application filed by the Authority has been dismissed by the Hon’ble Court. Therefore, the Authority has proceeded with the determination of the injury and NIP for the domestic industry as a whole to include all domestic producers of the subject goods to the extent the same was relevant and reasonably available. The cost and injury information of two major producers of the subject goods i.e. M/s Reliance Industries Ltd. and M/s Indorama have been examined with reference to their cost audit reports as available with the cost audit branch of the Ministry of Company Affairs. The cost and injury information of the third known producer of the subject goods i.e. M/s Paras Petrofils, are not available in the form of cost audit reports or in any other form. However, the Authority notes that as per the information supplied by this company in their support letter they had a production of about 2000 MT during the POI which constitutes less than 3% of total domestic production of the subject goods. Therefore, the impact on account of this producer would not be significant. Accordingly, the injury examination has been carried out taking into account the information in respect of 8 known producers of the subject goods accounting for about 97% of the total domestic production and sales of the subject goods.

### **F.3.2 VOLUME EFFECT: Volume Effect of dumped imports and Impact on domestic Industry**

97. The effects of the volume of dumped imports from the subject countries, as well as dumped imports from other countries have been examined as follows:

#### **I) Import Volumes and share of subject countries:**

98. For the purpose of injury examination the Authority has examined the DGCI&S import data, cooperating exporters export data and data from other secondary sources provided by the domestic industry. The Authority noted in the preliminary findings that there is a significant difference between the volumes of imports reported in the DGCIS data under Customs head 5402.43 and the data submitted by the responding exporters from the subject countries. In view of this import reported under other customs heads were also examined and it has been noticed that substantial quantity of the subject goods have been imported under customs head 5402.42. Therefore, import data for the purpose of volume analysis has been reconciled taking into DGCIS import data under the above two heads and data submitted by the cooperating exporters. On the basis of this data the import volume of the subject countries are as follows:

				Qty In MT
Country	2001-02	2002-03	2003-04	POI
Indonesia	2697	8169	8243	6035
Korea RP	1454	4775	13359	13359
Malaysia	14314	18612	22360	36883
Taipei	3358	4495	5128	5128
Total Subject countries	21824	36052	49090	61405
Trend	100	165	225	281
Others	4235	4693	3335	2013
Trend	100	111	79	48
Total	26059	40745	52425	63418
Trend	100	156	201	243
Share	83.75%	88.48%	93.64%	96.83%

99. The above data indicates that the volume of imports from the subject countries has increased by 181% compared to the base year while the total imports have increased by 143%. The share of import from the subject countries in the total imports has increased by over 13% compared to the base year and about 3%, compared to the previous year.

## ii) Domestic capacities and Capacity utilization

100. On the basis of the data available with the Authority the total capacity, production and capacity utilization of the domestic industry and the domestic industry as a whole work out as follows:

	Qty in MT			
	2001-02	2002-03	2003-04	POI
Capacity of Domestic Industry	40340	61430	61490	64170
Trend	100	152	152	159
Capacity of other producers	21300	21300	32971	34754

Trend	100	100	155	163
Total Capacity	61640	82730	94461	98924
Trend	100	134	153	160
Production of DI	27141	48986	50666	46780
Trend	100	180	187	172
Capacity Utilization of DI	67%	80%	82%	73%
Production of others	13830	18495	29184	29896
Trend	100	134	211	216
Capacity Utilization others	65%	87%	89%	86%
Total domestic production	40971	67481	79850	76676
Trend	100	165	195	187
Overall capacity Utilization	66%	82%	85%	78%

101. The above data shows that capacity in the country has significantly increased by about 60% compared to the base year. However, domestic production of the subject goods, as well as the capacity utilization has declined after showing a significant increase in the previous years. Total domestic production has declined by about 4% compared to the previous year. Capacity utilization of the domestic industry as a whole has fallen by about 8% compared to the previous year after reaching a level of 85% in 2003-04. However, the Authority also notes that total domestic capacity has also increased by about 3000 MT during the POI and about 60% increase in capacity compared to the base year. Authority also notes that capacity and capacity utilization needs to be seen along with the demand and other parameters.

### iii) Demand, Output and Market shares

102. The increase in volume of imports has also been analyzed with respect to the growth in demand and market shares.

#### a) Sales

103. Domestic sales of the subject goods by the domestic industry as a whole have been examined as follows:

	Qty in MT			
Sales	2001-02	2002-03	2003-04	POI
Sales of Domestic Industry	23586	39481	46653	44674
Trend	100	167	198	189
Other Domestic producers	12776	17906	26408	31416
Trend	100	140	207	246
Total Domestic Sales	36362	57387	73061	76090
Trend	100	158	201	209
Captive Consumption	396	847	1423	1281

Total Demand	62818	98979	126909	140789
Trend	100	158	202	224

104. The above data shows that the sale of the subject goods by the domestic industry as whole has increased significantly by over 100%. However, the Authority also notes that the demand of the subject goods in the domestic market has increased much more than the increase in the sales by the domestic industry as a whole.

105. The Authority notes that the demand has increased by about 124% compared to the base year and about 11% compared to previous year. The sales of the domestic industry as a whole has increased by 109% compared to the base year and also by about 4% compared to the previous year.

#### **b) Demand and Market Share**

<b>Share in Demand</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>POI</b>
Domestic Industry	38%	40%	37%	32%
Trend	100	106	98	85
Other Domestic Producers	20%	18%	21%	22%
Trend	100	89	102	110
Total Domestic sales	58%	58%	58%	54%
Trend	100	100	99	93
Subject countries	35%	36%	39%	44%
Trend	100	105	111	126
Other Countries	7%	6%	4%	2%
Trend	100	76	51	32

106. The share of the domestic industry has declined from 38% to 32% and the share of all domestic producers in the total demand has also declined from 58% to 54%. The market share of imports from the subject countries has risen from about 35% in 2001-02 to 44% during the period of investigation. Share of other countries in the total demand has significantly declined from 7% to 2%. Therefore, the Authority also notes that the imports from subject countries over the investigation period have, not only increased in absolute terms but have also increased in relation to total imports, total demand and the domestic production in India.

### F.2.3 Price Effect of the Dumped imports on the Domestic Industry

107. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-Injurious Price (NIP) of the Domestic industry determined in compliance with the judgment of the Hon'ble Supreme Court, have been compared with the landed cost of imports from the subject countries.

#### (i) Price undercutting and underselling effects

Rs/MT

	2001-02	2002-03	2003-04	POI
<b>Domestic Selling Price</b>	*****	*****	*****	*****
Trend	100	94	98	101
<b>Cost to Make and Sale</b>	*****	*****	*****	*****
Trend	100	98	100	109
<b>Landed values</b>				
Indonesia	83280	78776	65780	62251
Korea RP	93564	85308	65839	64580
Malaysia	81834	79177	61834	58399
Taipei	81877	74169	61599	60310
Subject countries	82801	79274	63562	60588
Trend	100	96	77	73
<b>Price Undercutting</b>				
Indonesia				30-40%
Korea RP				25-35%
Malaysia				40-50%
Taipei				35-45%
Subject countries				35-45%
<b>Price Underselling</b>				
Indonesia				45-55%
Korea RP				40-50%
Malaysia				50-60%
Taipei				50-60%
Subject countries				45-55%

108. The cost to make and sale as well as the selling price (net sales realization) have been determined for the domestic industry as a whole based on

the information provided by the domestic industry and data available in the cost audit reports of other known producers as recorded earlier. The above data shows significant increase in cost of sales compared to the base year and the previous year. However, the net sales realization of the domestic industry as a whole has increased by only 1%. The Authority notes that the landed value of imports from the subject countries shows significant decline.

109. Price undercutting effect of dumped imports from the subject countries has been determined by comparing the weighted average landed value of dumped imports from the subject countries over the entire period of investigation with the weighted average net sales realization of the domestic industry as a whole for the same period. For this purpose landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the CIF value of imports from the subject countries.

110. In determining the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated. For the purpose of price underselling determination the weighted average landed prices of imports from subject countries have been compared with the Non-injurious selling price of the domestic industry as a whole determined for the POI.

111. As far as price undercutting is concerned, the imports from the subject countries show significant price undercutting. The landed value of imports from all the subject countries, individually and cumulatively, have been found to be significantly below the non-injurious price of the domestic industry determined by the Authority indicating significant price underselling effect on the domestic industry.

**(ii) Price suppression and depression effects of the dumped imports:**

112. The price suppression/depression effects of the dumped imports have also been examined with reference to the cost of production, net sales realization of the domestic industry and the landed values from the subject countries. The trend of cost of production of the domestic industry as a whole shows an increase of about 9% during the injury investigation period. However, the selling price of the domestic industry as a whole shows a marginal increase of 1% only. The cost of sales and selling price compared to the trend of import prices indicate that the domestic industry has been prevented from increasing its prices commensurate to rise in the cost of production due to the price effects of dumped imports from the subject country, indicating significant price suppression.

## F.2.4 Examination of other Injury Parameters

113. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry, as well as demand pattern with market shares of various segments, other economic parameters which could indicate existence of injury to the domestic industry have been analysed by the Authority. However, the Authority notes that precise information on all the injury parameters in respect of the product under consideration for the non-participating domestic industry are not available in the cost audit reports or any other public/confidential document to make an objective examination of all injury parameters for the domestic industry as a whole. Therefore, to the extent possible, data of the participating domestic industry has been taken into account for examination of the following parameters.

### i) Actual and potential effect on productivity

114. The Authority notes that total production of the subject goods as well as production of the applicant domestic industry has increased by about 87% and 72% respectively, compared to the base year. However, there is a significant reduction in number of employees of the participating domestic industry indicating significant improvement in productivity of the domestic industry over the injury investigation period.

### ii) Actual and potential effects on Profits

115. Based on the data of cost and prices of the subject goods of the domestic industry as a whole profitability of the industry has been worked out as follows:

Profitability	2001-02	2002-03	2003-04	POI
<b>Weighted average NSR of DI as a whole</b>	*****	*****	*****	*****
<b>Trend</b>	100	94	98	101
<b>Weighted average Cost of sales of DI as a whole</b>	*****	*****	*****	*****
<b>Trend</b>	100	98	100	109
<b>Profit/Loss Per MT</b>	*****	*****	*****	(*****)
<b>Trend</b>	100	20	59	-33

116. The above data indicates that the profitability of the domestic industry as a whole has significantly declined and at the aggregate level the performance of the domestic industry has deteriorated from the level of significant profit to loss during the injury investigation period in spite increase in production and sales. The cause of decline in the profit is the decline in the landed value of the subject goods from the subject countries.

**iii) Actual and potential effects on cash flow**

117. Cash flow position in respect of non-participating domestic producers is not available. However, the data of the participating domestic industry shows the cash flow position of the domestic industry has deteriorated over the injury investigation period.

**iv) Employment and wages**

118. Effects of dumped imports on the employment and wages have been examined with reference to the participating domestic industry. The data indicates that number of employees have been reduced while the wages has increased during the same period.

	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>POI</b>
No of Employees of DI	556	596	575	476
Index	100	107	103	86
Wages Total (Rs. Lacs)	****	****	****	****
Index	100	148	160	182

**v) Return on investment and ability to raise capital**

119. Examination of the financial performance of the participating domestic industry in terms of its cash profits and return on investment shows significant deterioration. From positive return of about 5% the domestic industry has dipped into negative return on its investments. While capital employed in the domestic operation has increased, the profits and return on investments show significant decline compared to the base year due to pressure of dumped imports from the subject countries.

<b>Return on Investment</b>				
	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>POI</b>
Profit/Loss (Rs. Lacs)	****	****	****	****
Add: Interest	****	****	****	****
Profit/Loss Before Interest	****	****	****	****
Capital Employed	****	****	****	****
Return on Investment	4.67%	4.23%	-0.64%	-8.49%

**v) Investment and Ability to raise Capital Investments**

120. The Authority notes that there is a marginal addition of capacity during the POI and domestic industry has not invested any major capital in this business. The Authority finds that the ability of the domestic industry to raise capital investment for any further expansion of capacity is likely to be adversely affected in view of the negative returns during the period of investigation.

**v) Magnitude of Dumping**

121. Magnitude of dumping, as an indicator of the extent to which the dumped imports can injure the domestic industry, shows that the dumping margins determined for the subject countries have been found to be significant.

**vi) Factors affecting prices**

122. The Authority notes that apart from the applicants there are few other domestic producers of the subject goods in the domestic market in India catering to about 22% of the total market demand. The data of these producers show significant cost and price difference between the domestic producers. However, the injury investigation has been carried out for the domestic industry as a whole, including the other known producers. The Authority also notes that the dumped imports from the subject countries have been found to have significant price undercutting and underselling effect on the domestic industries prices indicating that the dumped imports have significantly affected the domestic prices in India.

**vii) Inventories**

Inventory	2001-02	2002-03	2003-04	POI
Domestic Industry	*****	*****	*****	*****
Trend	100	125	103	73

123. The inventory data of the domestic industry indicates significant decline in inventory holding.

**viii) Growth**

124. The Authority finds that capacity, production, sales and demand of the subject goods in the country has increased significantly in the injury investigation period and shows positive growth. However, production and sales have not kept pace with the growing demand. In spite of rise in demand market share of the domestic industry as a whole has declined by over 4% during the same period.

**G OTHER FACTORS AND CAUSAL LINK**

125. The Authority notes that there is a significant rise in the dumped imports from the subject countries during the investigation period resulting in significant erosion in the market share of the domestic industry as a whole. The dumped imports have increased both in absolute term and in relation to the volume of imports, production and sales of the subject goods in India.

126. The dumped imports have also significantly undercut the domestic industries prices causing significant price suppression in the domestic market which has resulted in loss to the domestic industry as a whole.

127. Therefore, the Authority holds that the dumped imports have significant volume and price effects on the domestic industry.

128. Having examined the state of the domestic industry and the effect of dumped imports in terms of the Rules, the Authority has also examined other factors other than the dumped imports that might have significantly affected the domestic industry. The Authority notes that none of the interested parties have brought any other factor that might have affected the domestic industry to the notice of the Authority. Therefore, in this connection the following mandatory factors have been examined.

**i) Imports from other countries**

129. The Authority notes that imports from the subject countries constitute about 97% of total imports of the subject goods and between 2001-02 and the POI, the dumped imports from subject countries have increased significantly from 82% to 97% as a proportion of total imports. Import from the other sources is a very small proportion of the total imports and demand in the market. Therefore, the imports from other sources do not appear to have any significant impact on the domestic industry.

**ii) Trade restrictive practice and competition between the foreign and domestic producers**

130. The Authority notes that the subject goods are freely importable and there is no trade restrictive practices followed by the Indian producers and other competing industries. The Authority also notes that the injury has been examined for the domestic industry as a whole taking into account cost and prices of all domestic producers at aggregate level. Therefore, the competition between various domestic producers cannot be attributed as the cause of injury to the domestic industry.

**iii) Contraction of demand or Changes in the pattern of consumption**

131. It is noted that there is no contraction in the overall demand during the period under consideration. On the contrary, the overall demand has increased by 124% during the POI. Therefore, the possible decline in demand is not a factor which could have caused injury to the domestic industry

#### **iv) Technology**

132. The interested parties have raised the issue regarding the difference in technology being adopted by the domestic industry and the exporters in the subject countries resulting into cost efficiency for the exporters. However, in the absence of sufficient evidence, the Authority is of the opinion that difference in technology, if any, has not been demonstrated to have any adverse effect on the performance of the domestic industry.

#### **v) Export performance**

133. The Domestic Industry has very negligible export of the subject goods during the period of investigation as well as during previous years. The Authority notes that the export performance of the domestic industry has shown improvement.

#### **vi) Productivity**

134. As regards the productivity of the domestic industry, the authority notes that the productivity has improved during the POI.

135. The above examination shows that there is no other significant factor that might have affected the performance of the domestic industry and caused injury to the domestic industry. Therefore, the Authority concluded that the dumped imports, through volume and price effects have caused material injury to the domestic industry.

### **H. CONCLUSION ON INJURY AND CAUSAL LINKS**

136. On the basis of the examination of the conditions of the domestic industry and non-attribution factors in the previous section the Authority finds that

- a. the quantum of imports from the subject countries have increased in absolute terms as well as in relation to total demand and domestic production in India;
- b. the market share of the domestic industry as a whole has declined after healthy growth in the previous years while that of imports has increased;
- c. the profitability, return on investment and cash flows become negative in the period of investigation from a positive level in the base year;
- d. Since the ROCE for the domestic industry is negative, their ability to raise capital investment is adversely affected.
- e. The capacity utilization and sales volume of the domestic industry has declined after healthy growth in the previous years;
- f. There is severe price undercutting as well as price underselling;

- g. No other factor, other than the dumped imports, have been brought to the notice of the Authority, that could have caused injury to the domestic industry

137. In view of the above the Authority concludes that the domestic industry has suffered material injury and the injury has been caused by the dumped imports from the subject countries.

## H MAGNITUDE OF INJURY MARGIN

### H.1 Determination of Non-injurious price

138. The Authority determined the non-injurious price for the domestic industry as a whole in accordance with the judgment of the Hon'ble Supreme Court of India as quoted earlier and a detailed disclosure of the methodology of determination of the NIP was made to the domestic industry. The domestic industry has argued that the determination of the NIP is not in accordance with the principles and law laid down by the Hon'ble Court. The comments of the domestic industry on the methodology adopted by the Authority on determination of the non-injurious price have been taken on record.

139. The Authority notes that the Non-injurious price of the domestic industry as a whole has been determined in accordance with the judgment of the Hon'ble Supreme Court of India taking into account the guidelines and methodology set by the Hon'ble Supreme Court of India and the weighted average NIP for the domestic industry as a whole as been determines as Rs\*\*\*\*\*/per MT.

140. The non-injurious price determined by the Authority is the weighted average of all types of the subject goods produced by the domestic industry and the same has been compared with the weighted average landed value of the exports from the subject countries for determination of injury margin. The weighted average landed price of the exports from the subject countries and the injury margins have been worked out as follows:

Injury Margin Calculations		
Name of company	Injury Margin US\$/Kg	Injury Margin %
M/s P.T. Mutu Gading Tekstil, Indonesia	****	-5 to 15%
Other Exporters, Indonesia	****	40-50%
M/s H.K. Corporation, Korea	Price undertaking	
M/s Hyosung Corporation, Korea	****	0-10%
M/s Saehan Industry, Korea	****	-20-30%
M/s Huvis Corporation, Korea	****	-15-25%
Other Exporters, Korea	****	40-50%
M/s Hualon Corporation, Malaysia	****	20-30%

Other Exporters, Malaysia	*****	50-60%
M/s Nan Ya Plastics Corporation, Chinese Taipei	*****	20-30%
Other Exporters, Chinese Taipei	*****	45-55%

## H.2

### I INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

141. The Authority holds that 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.

142. The Authority also recognizes that though 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 in the Indian market will not be reduced by these anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by the dumping practices and would prevent the decline of the domestic industry and would help in maintaining availability of wider choice of the subject goods to the consumers.

### J. CONCLUSIONS

143. The Authority has, after considering the foregoing, come to the conclusion that:

- a. Subject goods originating in or exported from subject countries have been exported to India below their normal values.
- b. The domestic industry has suffered material injury.
- c. The injury has been caused to the domestic industry by dumped imports of subject goods originating in or exported from the subject countries.

### K Recommendations

144. Having initiated and conducted investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having established positive dumping margin against the subject country, as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive duty is required to offset dumping and injury to the domestic industry.

145. Therefore, Authority considers it necessary and recommends imposition of definitive anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder except for the exporter from whom the Authority has accepted a voluntary price undertaking.

146. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends that definitive anti dumping duties be imposed on all imports of Fully Drawn Yarn falling under chapter 54 of Custom Tariff Classification Act 1975, originating in or exported from Indonesia, Korea RP, Malaysia and Chinese Taipei. The anti-dumping duty shall be the amount mentioned in Column No. 9 of the following table.

Duty Table

Sl. No	Sub-heading	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.	5402.43 & 5402.42	Fully Drawn Yarn**	Any	Indonesia	Any	M/s P.T. Mutu Gading Tekstil, Indonesia	M/s P.T. Mutu Gading Tekstil, Indonesia	NIL	MT	US\$
2.	-Do-	-Do-	Any	Indonesia	Any	M/s P.T. Mutu Gading Tekstil, Indonesia	Any other than above	490	MT	US\$
3.	-Do-	-Do-	Any	Indonesia	Any	Any other than above	Any	490	MT	US\$
4.	-Do-	-Do-	Any	Other than Indonesia	Indonesia	Any	Any	490	MT	US\$
5.	-Do-	-Do-	Any	Korea RP	Any	M/s H.K. Corporation, Korea	M/s H.K. Corporation, Korea	Price Undertaking	MT	US\$
6.	-Do-	-Do-	Any	Korea RP	Any	M/s H.K. Corporation, Korea	Any other than above	588	MT	US\$
7.	-Do-	-Do-	Any	Korea RP	Any	M/s Hyosung Corporation, Korea	M/s Hyosung Corporation, Korea	64	MT	US\$
8.	-Do-	-Do-	Any	Korea RP	Any	M/s Hyosung Corporation, Korea	Any other than above	588	MT	US\$
9.	-Do-	-Do-	Any	Korea RP	Any	M/s Saehan Industry,	M/s Saehan Industry,	Nil	MT	US\$

						Korea	Korea			
10.	-Do-	-Do-	Any	Korea RP	Any	M/s Saehan Industry, Korea	Any other than above	588	MT	US\$
11.	-Do-	-Do-	Any	Korea RP	Any	M/s Huvis Corporation, Korea	M/s Huvis Corporation, Korea	Nil	MT	US\$
12.	-Do-	-Do-	Any	Korea RP	Any	M/s Huvis Corporation, Korea	Any other than above	588	MT	US\$
13.	-Do-	-Do-	Any	Korea RP	Any	Any other than above	Any	588	MT	US\$
14.	-Do-	-Do-	Any	Other than Korea RP	Korea RP	Any	Any	588	MT	US\$
15.	-Do-	-Do-	Any	Malaysia	Any	M/s Hualon Corporation,	M/s Hualon Corporation,	163	MT	US\$
16.	-Do-	-Do-	Any	Malaysia	Any	M/s Hualon Corporation,	Any other than above	456	MT	US\$
17.		-Do-	Any	Malaysia	Any	Any other than above	Any	456	MT	US\$
18.		-Do-	Any	Other than Malaysia	Malaysia	Any	Any	456	MT	US\$
19.		-Do-	Any	Chinese Taipei	Any	M/s Nan Ya Plastics Corporation	M/s Nan Ya Plastics Corporation ,	40	MT	US\$
20.		-Do-	Any	Chinese Taipei	Any	M/s Nan Ya Plastics Corporation	Any other than above	390	MT	US\$
21.		-Do-	Any	Chinese Taipei	Any	Any other than above	Any	390	MT	US\$
22.		-Do-	Any	Other than Chinese Taipei	Chinese Taipei	Any	Any	390	MT	US\$

\*\*Fully Drawn or Fully Oriented Yarn / Spin Draw Yarn / Flat Yarn of Polyester

## L FURTHER PROCEDURE

147. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

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

**(Christy Fernandez)**  
Designated Authority

Price Undertaking

**Sub: Price Undertaking by M/s H. K. Corporation, Korea, in the antidumping investigation concerning import of FDY from Korea RP, Chinese Taipei, Malaysia and Indonesia.**

**NO.14/3/2005-DGAD:** - Whereas having regard to the Customs Tariff Act 1975 as amended in 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) thereof, the Designated Authority (hereinafter referred to as Authority), initiated an investigation into the alleged dumping of Fully Drawn or Fully Oriented Yarn / Spin Draw Yarn / Flat Yarn of Polyester (herein after referred to as subject goods) from Indonesia, Republic of Korea, Malaysia and Chinese-Taipei (herein after referred to as subject countries), vide notification dated 27<sup>th</sup> June 2005, on the basis of a fully documented application received from the Association of Synthetic Fibre Industries (hereinafter referred to as the Applicant) on behalf of domestic producers namely M/s Central India Polyesters Ltd., M/s Century Enka Ltd., M/s Garden Silk Mills Ltd., M/s Nova Petrochemicals Ltd., M/s Recron Synthetics Ltd. and M/s Welspun Syntex Ltd., alleging dumping of the subject goods from the subject countries and consequent injury caused to the domestic industry.

2. The Authority notified its preliminary findings vide notification dated 3<sup>rd</sup> July 2006 and the Department of Revenue, vide its Notification No 82/2006-Customs dated 21<sup>st</sup> August 2006, imposed provisional duty on the subject goods as recommended by the Authority.

3. And Whereas M/s H. K. Corporation, 19F Kukdong B/D 60-1, 3ka, Chungmuru Chung Gu, Deoul, Korea, has given a voluntary price undertaking in terms of Rule 15 of the said Rules as per the terms and conditions set out in the non-confidential version of the price undertaking annexed herewith.

4. The Designated Authority hereby accepts the said undertaking in terms of Rule 15 of the said Rules as per the terms and conditions set out in the said undertaking.

5. The Price undertaking is valid for the following product specifications and at the price indicated hereunder for direct export by this producer only:

Product specification

Undertaking Price

1. FDY 75/36 SBR : FOB Price Korea RP : US\$ 1.40 per Kg
2. FDY 75/36 SD : FOB Price Korea RP : US\$ 1.46 per Kg

3. FDY 75/72 SD : FOB Price Korea RP : US\$ 1.46 per Kg

6. If the exporter intends to export any other product in future they would attract the all other/residual duty as recommended in the final findings of the Authority.

7. The above undertaking prices have to be revised in the event of any upward or downward revision of the domestic price and/or main raw material prices by +/- 5%. The exporters shall be under obligation to file periodic reports of its domestic sales and exports sales for monitoring the undertaking as per the conditions of the undertaking annexed herewith.

8. Upon acceptance of the price undertaking offered by the exporter the investigation against M/s H. K. Corporation is hereby suspended and the Authority has not recommended imposition of any definitive duty on this exporter till the undertaking accepted by the Authority remains valid.

9. The price undertaking shall remain valid during for the period for which the measure recommended in the final findings of the Authority remains in force. However, the Authority shall review the need for continuance of this undertaking from time to time.

10. In case of any violation of the conditions of this undertaking the Authority shall recommend imposition of provisional duty from the date of such violation in accordance with the provisions of these Rules.

**(Christy Fernandez)**  
**Designated Authority**