

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

NOTIFICATION

NEW DELHI, the 3rd July, 2006

Preliminary 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: - 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:

A. PROCEDURE

2. The procedure described below has been followed with regard to the investigation:

i) The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written application from M/s 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 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) and requested for Anti Dumping investigations and levy of anti dumping duties on the subject goods.

ii) Preliminary scrutiny of the application revealed certain deficiencies, which were rectified by the applicants;

iii) The Authority notified the Embassies of subject countries in India about the receipt of dumping application made by the petitioners before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

iv) The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 27th June 2005 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with the sub-Rule 6(1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry.

v) The Authority forwarded copy of the said public notice to the known exporters, importers/users and to the complainant and gave them an opportunity to make their views known in writing within forty days from the date of the publication of initiation notification in accordance with the Rule 6(2):

vi) According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the application to the following known exporters and Embassies of subject countries in India;

1. M/s Hualon Corporation (M) SDN BHD, Malaysia.
2. M/s Tongkook. Corporation, Korea
3. M/s Hyosung, Korea
4. M/s PT Polysindo Eka Perkasa Terbuka, Indonesia.
5. M/s Nan ya Plastics, Taiwan, Taiwan

vii) The Embassies of the subject countries were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to them;

viii) A questionnaire was sent to the following known importers/user associations of the subject goods for necessary information in accordance with Rule 6(4):

1. M/s Shree Krishna Trading Company
2. M/s Saheli Vastra Udyog Ltd.
3. M/s Ramgopal Polytex Limited
4. M/s Boghara Polyfab Private Limited
5. M/s Kansal Texo-Tube Pvt. Ltd.
6. M/s Jaylon Impex India Private Limited
7. M/s Aasu Exim Pvt. Ltd.
8. M/s Kiran Industries
9. M/s Shyam Sunder Textiles
10. M/s Kapi Textile
11. M/s Shivam Textiles

12. M/s Soham Textiles
13. M/s Indian Cotton Mills Federation
14. M/s Federation of Indian Art Silk & Weaving Industry

(ix) A copy of the non-confidential application was also provided to other interested parties, wherever requested.

(x) Response/information to the questionnaire/notification was filed by the following exporters/producers

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)

(xi) Response/information to the questionnaire/notification was filed by the following Importers/user/Associations:-

1. M/s All India Yarn Importers Association
2. M/s Federation of Indian Art Silk & Weaving Industry

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

(xiii) Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the applicant so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

(xiv) **** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.

(xv) Investigation was carried out for the period starting from 1st January 2004 to 31st 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

3. 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.

B.2 LIKE ARTICLE

4 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 Authority notes that neither the exporters nor the interested parties have disputed the fact that there is no difference in the dumped goods and the product under consideration manufactured by the petitioners and subject countries are like articles. The Authority observes that 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, for the purpose of the present investigation, the subject goods produced by the applicants in India are being treated as 'Like Article' to the subject goods being imported from the subject countries.

C. DOMESTIC INDUSTRY

5. 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.

6. The Authority notes that the collective production of the aforesaid producers constitutes a major proportion of the total domestic production of the domestic like article. The Authority determines 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. The Authority also notes that there are no arguments from the interested parties or the exporters that the applicants do not meet the criteria of standing as laid down under the Rules.

D. VIEWS OF THE INTERESTED PARTIES

7. The Authority notes that All India Yarn Importers Association and Federation of Indian Art Silk & Weaving Industry have filed certain submissions without any questionnaire response from any of the importers of the subject goods. These parties, vide letter dated 26th April 2006, were asked to substantiate their claim that the importers association is an interested party within the meaning of Rule 2© by producing list of members and evidence that majority of the members of this association are importers of the subject goods. They were also advised to file importers questionnaire response as their response was of vital importance in this case in view of significant difference between the exporters' data and DGCIS data. However, these associations have not responded to this letter.

8. However, these associations/federations in their general submissions have made the following arguments:

- The petitioners have not excluded any yarn of the nomenclature, quality and type that are not produced by the domestic industry; 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, are imported which are not manufactured in India.
- The petitioner has not differentiated between different processes and cost effectiveness associated with them. It has been argued that the producers may start from PTA, MEG, Chips, POY/LOY stages and the cost structure would be different for different routes;
- 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;

9. They have also raised the issue of excess confidentiality claims of the domestic industry, inadequate segregation of the import data and current performance of the domestic industry and have argue that dumping and injury cannot be established on the basis of the petition filed by the domestic industry. However, the Authority notes that the responding associations have not filed any verifiable information to assist the Authority in its determination of dumping and

injury. The associations have also not established their claims to represent the importers or users of the subject goods.

E. DETERMINATION OF DUMPING MARGIN

10. Under Section 9A(1)(c) of the Customs Tariff (Amendment) Act, 1995 normal value in relation to an article means:

"(i) The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section(6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either –

(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or

(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6)";

11. The Authority note that 4 exporters from Korea RP, two exporters from Chinese Taipei and one exporter each from Malaysia and Indonesia have cooperated in the investigation and filed detailed questionnaire responses. The preliminary dumping determinations have been based on the responses filed by the cooperating exporters and other facts available with the Authority as follows:

E.1 Indonesia

12. 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 preliminary examination certain deficiencies were communicated to the exporter and the exporter vide letter dated 5th May 2006, submitted clarification to the same. Further clarifications were asked from the exporter on certain appendices to the questionnaire response vide letter dated 7th June 2006. Pending verification of various claims made and clarifications given by the exporter and reconciliation of export data, the dumping margins for this cooperating exporter and other exporters from Indonesia have been provisionally estimated as follows:

E.1.1 M/s P.T. Mutu Gading Tekstil

a) Normal value

13. The exporter has reported about *** MT of sales of the subject goods in its domestic market during the POI. Pending verification of their claims and clarifications provided, for the purpose of preliminary findings, the Authority has provisionally determined the normal value for the exporter on the basis of domestic sales transactions after subjecting the same to ordinary course of trade test for the respective PCNs of the exporters. Adjustment towards direct and indirect selling expenses has been allowed based on the domestic sales data provided, to determine PCN-wise normal values at the ex-factory level.

b) Export Price

14. As per the response filed, this exporter sold **** MT of the subject good in the Indian market during the POI. Pending verification and reconciliation of data, for the purpose of preliminary finding, the average export price of individual PCNs as reported by the exporter has been used for provisional determination of the export price. The exporter has reported several transactions on FOB basis and certain transactions on CIF basis. The Authority notes that the exporter has not made any adjustment towards packing, insurance and handling charges etc. Therefore, adjustments towards, inland and ocean freights, credit costs, discounts have been made to arrive at net ex-works export price based on exporter's response, subject to further clarification and verification of the elements of adjustments and actual transaction prices. On the basis of this data average export price provisionally works out as US\$*** /PMT.

c) Dumping margin

15. On the basis of the above normal value and export price, the dumping margins for individual PCNs have been worked out and weighted average dumping margin has been provisionally estimated for this cooperating exporter as US\$*** /PMT (10.35%).

E.1.2 Other Exporters from Indonesia

a) Normal value

16. The Authority finds that no other exporter from Indonesia has responded to the prescribed questionnaire. The Authority has, thus, determined the Normal Value in respect of other exporters on the basis of facts available as per Rule 6(8). The Authority for the purpose of preliminary findings determined the normal value for other exporters on the basis of weighted average of highest transactions of price of the cooperating exporter from this country. Accordingly,

normal Value for all other exporters from Indonesia been provisionally assessed as US\$ *** /PMT.

b) Export Price

17. Net Export Price of all non-cooperating exporters from Indonesia has been worked out based on the weighted average CIF price of import reported in DGCIS data after allowing for adjustments towards inland and ocean freights and insurance, discounts and rebates, etc. have been made to arrive at net ex-works export price based on facts available. Accordingly, net export price for al other exporters from Indonesia provisionally works out to US\$*** /PMT.

c) Dumping margin

18. On the basis of the above weighted average normal value and export price, the weighted average dumping margin for the non-cooperating exporters from Indonesia has been provisionally estimated as US\$*** /PMT (80%).

E.2 Korea RP

19. The Authority notes 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)

Responses of these responding exporters have been examined and preliminary dumping determination has been made as follows:

E.2.1 M/s H.K. Corporation

20. Questionnaire response of M/s H.K. Corporation, Korea was examined and on the basis of preliminary examination certain deficiencies were communicated to the exporter and the exporter has submitted clarification to the same. Further clarifications have been asked from the exporter on certain appendices to the questionnaire response, vide letter dated 7th June 2006. Pending verification and reconciliation of the data and clarifications submitted by the exporter on various aspects of its response, dumping margins for this cooperating exporter from Korea RP has been provisionally estimated as follows:

a) Normal value

21. This exporter has reported *** MT of domestic sales of various types of the subject goods in its domestic market and has claimed normal value based on

the domestic sales of the subject goods. The exporter has also claimed adjustments towards inland freight, credit expenses and packing expenses to arrive at the normal value at the ex-factory level. Subject to verification of cost of production and other claims for adjustments made by the exporter, for the purpose of preliminary findings, the normal value for this exporter has been provisionally determined on the basis of domestic transactions of the model matched PCNs. Adjustment on direct and indirect selling expenses has been allowed based on the domestic sales data provided, subject to verification.

b) Export Price

22. The exporter has reported export of *** MT of the subject goods to India during the POI falling under 3 PCNs. Pending reconciliation and verification of the export data, for the purpose of preliminary finding, the PCN-wise average export price for the exporter has been determined based on the transaction-wise data provided by the exporter. Adjustments towards, inland and ocean freights and insurance, credit costs, discounts and rebates, packing costs, handling and customs expenses, bank charges and duty drawbacks have been made to arrive at net ex-works export price based on exporter's response. On the basis of this data weighted average export price provisionally works out as US\$*** /PMT.

c) Dumping margin

23. On the basis of the above PCN-wise ex-works normal values and net ex-works export prices, the weighted average dumping margin for this exporter has been provisionally estimated as US\$*** /PMT (8.60%).

E.2.2 M/s Hyosung Corporation, Korea RP

24. Questionnaire response of M/s Hyosung Corporation, Korea RP was examined and on the basis of preliminary examination certain deficiencies were communicated to the exporter and the exporter has submitted clarification to the same. Further clarifications have been asked from the exporter, vide letter dated 7th June 2006, on certain appendices to the questionnaire response. Pending verification of the data and various claims made by the exporters and clarifications submitted, dumping margins for this cooperating exporter from Korea RP has been provisionally estimated as follows:

a) Normal value

25. This exporter has about *** MT of domestic sales of several types of the subject goods in its home market. Pending reconciliation and verification of the data, for the purpose of the preliminary determination the net ex-factory normal value has been determined based on the domestic transaction prices of model matched transactions in the ordinary course of trade, after allowing for

adjustments towards discounts, inland freights, rebates, packing expenses and credit costs etc. as per the exporters questionnaire response.

b) Export Price

26. The Authority notes that this exporter has reported *** MT of export of the subject goods to India during the POI covering 8 PCNs. Pending reconciliation and verification of export data, for the purpose of preliminary finding the transaction-wise export data of the cooperating exporter has been used for provisional determination of the export price for individual PCNs. 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 based on exporter's response. Weighted average net export price has been provisionally determined as US\$*** PMT.

c) Dumping margin

27. On the basis of the above ex-works normal values and net ex-works export prices determined at the PCN level, weighted average dumping margin has been provisionally determined for this exporter as US\$*** /PMT (14.85%).

E.2.3 M/s Saehan Industry, Korea RP

28. Questionnaire response of M/s Saehan Industry, Korea RP was examined and on the basis of preliminary examination certain deficiencies were communicated to the exporter and the exporter has submitted clarification to the same. Further clarifications have been asked from the exporter on certain appendices to the questionnaire response. Pending verification of the data and various claims made by the exporters and clarifications submitted, dumping margins for this cooperating exporter from Korea RP has been provisionally estimated as follows:

a) Normal value

29. This exporter has reported domestic sale of *** MT of the subject goods in its domestic market and has also provided the cost data of the individual PCNs. Therefore, for the purpose of preliminary findings, the normal value for the exporter has been provisionally determined at PCN levels on the basis of domestic sales transactions in the ordinary course of trade subjected to submission of additional information sought and verification of the same. Adjustment on direct and indirect selling expenses towards inland freight, packing expenses and credit costs have been allowed based on the domestic sales data provided, to bring the Normal value to ex-factory level.

b) Export Price

30. This exporter has exported about *** MT of different types the subject goods to India during the POI. Pending reconciliation and verification of export data, for the purpose of preliminary finding the transaction-wise export data of the cooperating exporter has been used for provisional determination of the export price for individual PCNs. The exporter has claimed adjustment towards duty drawbacks received by them against these export transactions. Pending verification of these claims, provisionally adjustments towards, inland and ocean freights and insurance, credit costs, discounts and rebates, packing costs and duty drawbacks have been made to arrive at net ex-works export price based on exporter's response. On the basis of this data weighted average export price provisionally works out as US\$*** /PMT.

c) Dumping margin

31. On the basis of the above ex-works normal values and net ex-works export prices, the weighted average dumping margin for this exporter has been provisionally estimated as US\$ (-)*** /PMT. Thus the dumping margin is negative for this exporter.

E.2.4 M/s Huvis Corporation, Korea RP

32. Questionnaire response of M/s Huvis Corporation, Korea was examined and on the basis of preliminary examination certain deficiencies were communicated to the exporter and the exporter has submitted clarification to the same. Further clarifications have been asked from the exporter on certain appendices to the questionnaire response. Pending clarifications sought and verification of various claims made by the exporter dumping margins for this cooperating exporter from Korea RP has been provisionally estimated as follows:

a) Normal value

33. This exporter has reported sale of *** MT of the subject goods in the domestic market and has also provided the cost data of the individual PCNs. Therefore, for the purpose of preliminary findings, the normal value for the exporter has been provisionally determined at PCN levels on the basis of domestic sales transactions in the ordinary course of trade subjected to submission of additional information sought and verification of the same. Adjustment on direct and indirect selling expenses towards inland freight, packing expenses and credit costs have been allowed based on the domestic sales data provided, to bring the Normal value to ex-factory level.

b) Export Price

34. This exporter has exported about *** MT of the subject goods to India during the POI covering 9 PCNs. Pending reconciliation and verification of export data, for the purpose of preliminary finding the transaction-wise export data of the cooperating exporter has been used for provisional determination of the export price for individual PCNs. The exporter has claimed several adjustments on the export price, including the duty drawbacks on the exports. Pending verification of these claims, 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 based on exporter's response. On the basis of this data weighted average export price provisionally works out as US\$*** /PMT.

c) Dumping margin

35. On the basis of the above ex-works normal values and net ex-works export prices, the weighted average dumping margin has been provisionally estimated for this cooperating exporter as US\$ (-)*** /PMT. Thus the dumping margin is negative for this exporter.

E.2.5 Other Exporters from Korea RP

a) Normal Value

36. For other non-cooperating exporters from Korea RP the Authority has determined the Normal Value on the basis of facts available as per Rule 6(8). For the purpose of this determination highest normal value provisionally estimated for the cooperating exporter has been adopted as the normal value for all other exporters in Korea RP. Accordingly, the weighted average normal value has been provisionally determined as US\$*** PMT.

b) Export Price

37. Net Export Price of all non-cooperating exporters from Korea RP has been worked out provisionally based on facts available. For the purpose of this determination the lowest export price of the cooperating exporters from Korea RP has been adopted as the weighted average net export price for all other exporters from Korea RP. Accordingly, net export price for all other exporters from Korea RP provisionally works out to US\$*** /PMT.

c) Dumping Margin

38. Based on the Normal value and export price determined, the dumping margin for all other exporters of the subject goods from Korea RP has been provisionally determined as US\$*** /PMT (45%).

E.3 Malaysia

39. The Authority notes that only one exporter from Malaysia i.e., M/s M/s Hualon Corporation has cooperated in this investigation and has filed a detailed questionnaire response.

E.3.1 M/s Hualon Corporation

40. Questionnaire response of M/s Huvis Corporation, Korea was examined and on the basis of preliminary examination certain deficiencies were communicated to the exporter and the exporter has submitted clarification to the same. Further clarifications have been asked from the exporter on certain appendices to the questionnaire response. Pending clarifications sought and verification of various claims made by the exporter dumping margins for this cooperating exporter from Korea RP has been provisionally estimated as follows:

a) Normal Value

41. This exporter has reported a very small volume (***) MT) of domestic sales of the subject goods in their home market during the POI against export of *** MT to India during the same period. Therefore, the sales in the home market are not representative for determination of the normal value for this exporter. The exporter has provided the details of their third country exports to a number of countries during the same period. Total third country exports of this exporter during the POI were about 60386 MT. Exports to Turkey represents the highest volume of third country exports (***) MT). The exporter has provided the transaction-wise details of the exports to Turkey which has been examined for determination of normal value for this exporter in terms of the first proviso of Article 2.2 of ADA. The exporter has not provided PCN-wise cost data of the subject goods. Therefore, for the purpose of this determination the sales to Turkey, in the ordinary course of trade, has been considered and weighted average ex-works normal value based on the third country sales to turkey has been provisionally worked out a US\$*** / PMT, subject to verification of the transactions, cost data of the exporter and various adjustments claimed.

b) Export Price

42. This exporter has exported about *** MT of the subject goods to India during the POI covering several PCNs. Pending reconciliation and verification of export data, for the purpose of preliminary finding the transaction-wise export data of the cooperating exporter has been used for provisional determination of the weighted average export price. 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 based on exporter's response. On the basis of this data weighted average export price provisionally works out as US\$*** /PMT.

c) Dumping Margin

43. On the basis of the above normal value and export price, the weighted average dumping margin has been provisionally estimated for this cooperating exporter as US\$ *** /PMT (10.74%).

E.3.2 Other Exporters from Malaysia

a) Normal Value

44. The Authority finds that no other exporter from Malaysia has responded to the prescribed questionnaire. The Authority has, thus, determined the Normal Value in respect of other exporters on the basis of facts available as per Rule 6(8) for the purpose of preliminary findings on the basis of constructed cost of production. The Normal Value is thus provisionally determined as US\$ *** /PMT.

b) Export Price

45. Net Export Price of all non-cooperating exporters from Malaysia has been worked out provisionally based on facts available. For the purpose of this determination the weighted average CIF export price as reported in DGCIS data has been adopted and adjustments towards inland and ocean freight, insurance, handling charges etc. has been applied based on facts available to arrive at net ex-works price. Accordingly, net export price for all other exporters from Malaysia provisionally works out to US\$*** /PMT.

c) Dumping Margin

46. Based on the Normal value and export price determined, the dumping margin for all other exporters of the subject goods from Malaysia has been provisionally determined as US\$*** /PMT (41%).

E.4 Chinese Taipei

47. The Authority notes that 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. The dumping margin for the exporters of the subject goods from the subject country has been determined as follows:

E.4.1 M/s Nan Ya Plastics Corporation

48. Questionnaire response of Nan Ya Plastic Corporation was examined and on the basis of preliminary examination certain deficiencies were communicated to the exporter and the exporter has submitted clarification to the same. Further clarifications have been asked from the exporter on certain appendices to the questionnaire response. Pending clarifications sought and verification of various

claims made by the exporter dumping margins for this cooperating exporter from Korea RP has been provisionally estimated as follows:

a) Normal value

49. This exporter has reported *** MT of domestic sales of several types of the subject goods in Taipei market. The exporter has also provided PCN-wise cost data of their domestic sales. Therefore, pending reconciliation and verification of the data for the purpose of preliminary findings, the normal value for the exporter has been provisionally determined at PCN levels on the basis of domestic sales transactions, in the ordinary course of trade, subjected to submission of additional information sought and verification of the same. Adjustment on direct and indirect selling expenses towards inland freight, packing expenses and credit costs have been allowed based on the domestic sales data provided, to bring the Normal value to ex-factory level.

b) Export Price

50. The exporter has reported export of ***** MT of the subject goods to India during the POI covering 4 different models/types. Pending reconciliation and verification of the exports and import data and other information submitted by this exporter, for the purpose of preliminary finding, the export price has been determined on the basis of the transaction price reported by the exporter. Adjustments towards, inland and ocean freights and insurance, credit costs, discounts and rebates, packing costs etc. have been made to arrive at net ex-works export price based on exporter's response. On the basis of this data weighted average export price provisionally works out as US\$*** /PMT.

c) Dumping Margin

51. On the basis of the above normal value and export price, the dumping margin for this exporter has been provisionally estimated for this cooperating exporter as US\$ *** /PMT (4.25%).

E.4.2 M/s China Man-Made Fiber Corporation, Chinese Taipei

52. Questionnaire response of this exporter from Chinese Taipei was examined and on the basis of preliminary examination certain deficiencies were communicated to the exporter and the exporter has submitted clarification to the same. Further clarifications have been asked from the exporter on certain appendices to the questionnaire response. Pending clarifications sought and verification of various claims made by the exporter dumping margins for this cooperating exporter from Korea RP has been provisionally estimated as follows:

a) Normal value

53. This exporter has reported *** MT of domestic sales of several types of the subject goods in Taipei market. The exporter has also provided the cost of production of individual PCNs. Therefore, pending reconciliation and verification of the data, for the purpose of the preliminary determination the net ex-factory normal value has been determined at the PCN levels based on the domestic transaction prices of model matched transactions in the ordinary course of trade, after allowing for adjustments towards discounts, inland freights, rebates, packing expenses and credit costs etc. as per the exporters questionnaire response. The exporter has also claimed a level of trade adjustment without explaining how that has been computed. Therefore, for the purpose of provisional determination such adjustment has not been allowed.

b) Export Price

54. The exporter has reported export of *** MT of the subject goods to India during the POI covering 7 PCNs. Pending reconciliation and verification of the exports and import data and other information submitted by this exporter, for the purpose of preliminary finding, the export prices for individual PCNs have been determined on the basis of the transaction prices reported by the exporter. The exporter has claimed certain adjustments towards sticky price loss and mixed grades without explaining how these adjustments have been worked and basis of such adjustments. Therefore, for the purpose of provisional determinations such adjustments have not been accepted. However, adjustments towards freights and mixed grades have been made provisionally to arrive at net ex-works export price based on exporter's response. On the basis of this data weighted average export price provisionally works out as US\$*** /PMT.

c) Dumping Margin

55. On the basis of the above normal values and export prices, the dumping margins for individual PCNs have been determined and the weighted average dumping margin for this exporter has been provisionally estimated as US\$ *** /PMT (21.23%).

E.4.3 Other Exporters from Chinese Taipei

56. The Authority finds that no other exporter from Chinese Taipei has responded to the prescribed questionnaire. The Authority has, thus, determined the Normal Value in respect of other exporters on the basis of facts available as per Rule 6(8). The Authority for the purpose of preliminary findings determined the normal value for other exporters on the basis of constructed cost of production. The Normal Value is thus determined as US\$ *** /PMT. The export price has been determined on the basis of CIF import price as per DGCIS data after allowing for adjustments towards freight and insurance etc. as per facts available. Net ex-works export price works out as US\$*** / PMT. Accordingly,

dumping margin for all non-cooperating exporters from Chinese Taipei works out to US\$*** / PMT (42%)

E.5 Dumping Margin Summary

57. 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	*****	10.35%
Indonesia	All Others	*****	80%
Korea RP	M/s H.K. Corporation	*****	8.60%
Korea RP	M/s Hyosung Corporation	*****	14.85%
Korea RP	M/s Saehan Industry	*****	Negative
Korea RP	M/s Huvis Corporation	*****	Negative
Korea RP	All Others	*****	45%
Malaysia	M/s Hualon Corporation	*****	10.74%
Malaysia	All Others	*****	41%
Chinese Taipei	M/s Nan Ya Plastics Corporation	*****	4.25%
Chinese Taipei	M/s China Man-Made Fiber Corporation	*****	21.23%
Chinese Taipei	All Others	*****	42%

F INJURY AND CAUSAL LINK EXAMINATION

F.1 VIEWS OF THE DOMESTIC INDUSTRY

58. The domestic industry has furnished information in the application regarding injury in respect of all the parameters. The domestic industry has inter alia claimed that

- Absolute imports from subject countries have increased almost 4 times of the imports during 2001-02. Imports as percentage of total imports have increased have also increased. Further, imports from subject countries in comparison to the total demand and domestic production of the subject goods have also increased.
- The landed price from subject countries has declined drastically during the POI whereas at the same time the cost of raw material has increased as a result of the soaring crude oil prices. It is also submitted that the selling price in the year 2003-2004 increased as a direct consequence of the

increase in the raw material prices. Therefore, the price increase, which is less than the increase in costs, is inconsequential.

- The share of the domestic industry has declined significantly. The loss of market share of domestic industry has directly been taken over by the dumped import from the subject countries. Besides the loss of market share, the domestic industry is getting severely affected due to the low price offered by the exporters from the subject countries.
- The domestic industry claimed that due to the dumped imports, it had lost sales and provided evidence regarding loss of contracts/projects.
- The capacity utilization of the domestic industry has increased significantly from the base year till 2003 due to the effort of the domestic industry to reduce its average costs. However, the capacity utilization of the domestic industry during the period of investigation has come down as compared to previous years 2002-03 and 2003-04.
- The sales of the petitioner went up during POI in comparison to the year 2001-02. However, the sales volume of the domestic industry has come down during the period of investigation as compared to previous year 2003-04. With respect to increase in selling prices over the investigation period, they submitted that the increase in cost accounts for 10% over the investigation period whereas the domestic industry could increase its selling prices merely by 0.28%. It clearly shows that the prices of the domestic industry have been suppressed and not allowed to earn profits.
- Dumping by the subject countries had a significant adverse impact on the net sales realization of the domestic industry for the subject goods. It is submitted that due to the large scale price undercutting adopted by the dumped imports, the domestic industry was not able to get any price increase during the period of investigation as compared to previous year. The profitability of the domestic industry declined sharply from a profit to a loss-making situation during the period of investigation, coupled with the fact of loss of significant market share.
- The productivity per employee has improved. This indicates that decline in productivity is not a cause of injury to the domestic industry.
- There is no significant effect on the number of employees and the wages paid to them.
- The injury to the domestic industry due to the dumped imports is further accentuated by the fact that not only the subject goods are being heavily undersold, the exporters from the subject countries are also indulging in significant price undercutting.

- The landed value of the dumped imports from subject countries has been much lower than the price the domestic industry ought to have realized on the sales of subject goods. The injurious effect of this high level of price underselling has had a direct and deleterious effect on the financial performance of the domestic industry.
- The domestic industry has incurred losses during the period of investigation and therefore, the Return on Capital Employed (ROCE) computed on the basis of Earnings before Interest and Taxes (EBIT) is negative.
- Higher dumping margins during the period of investigation from each of the subject countries indicate the difficulties being faced by the domestic industry to sell the subject goods in the domestic market.
- The petitioner has incurred losses due to severe dumping of subject goods in the period of investigation. It clearly indicates that the cash flow position of the petitioner has deteriorated during the period of investigation.
- The demand in the country has increased significantly during the period of investigation as compared to base year 2001-02 whereas the market share of the domestic industry has declined by over 20% in the same period. The increase in the demand has directly been taken over by the dumped imports. The decline in market share clearly indicates the difficulties being faced by the domestic industry to sell its product and that it has culminated into losses to the domestic industry. Thus, the growth with respect to market share is negative during the period of investigation.
- In addition to the material injury being caused by the dumped imports, the threat of material injury to the domestic industry is also imminent.

59. The Authority notes that the domestic industry provided information as per para (vii) of Annexure II of Anti Dumping Rules as regards significant rate of increase in dumped imports, causing significant price undercutting. However, with regard to sufficient freely disposable capacities of the exporters and inventories of the exporters they have not provided any evidence.

F.2 VIEWS OF THE INTERESTED PARTIES

60. The interested parties have, inter alia argued that

- The imports from subject countries have decreased as percentage of imports to total demand from 35.53% in 2003-04 to 32.18 % in the POI.
- The production of the domestic industry has increased.

- Most of the petitioner companies have shown continued profitability, expansion plans and buoyant outlook projections as per their annual accounts. There is no injury to the domestic industry as annual reports of most petitioners' present robust results.
- The selling prices and sales volume of the domestic industry have increased.
- The petitioners in aggregate do not have negative cash flow as per the annual report.
- The importer has stated that the ability to raise capital investment and expansion is not affected since Garden Silk Mills Limited has lined up for a loan for FDY.
- The threat of injury is baseless when there has been a decline in imports, increase in production, capacity, productivity, sales volume and values and capital outlays are being made and projected.

F.3 EXAMINATION BY THE AUTHORITY

61. Rule 11 of Anti Dumping Rules reads as follows:

“Determination of Injury:

- (1) *In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry or materially retards the establishment of any industry in India;*

- (2) *The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules.”*

62. The principles for determination of injury set out in Annexure-II of the Anti-Dumping Rules lay down that:

- a. A determination of injury shall involve 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 like article and (b) the consequent impact of these imports on domestic producers of such products.

- b. While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption

in India. With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of Rule 18 the Designated Authority shall consider whether there has been a significant price under-cutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree.

F.3 Cumulative assessment of injury

63. 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. The Authority has found 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%.

64. With a view to assess 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 classification;
- (ii) The Authority has found that the imported subject goods are commercial substitutes of the domestically produced fully drawn yarn.
- (iii) The information furnished to the Authority gives a reasonable indication that the exports made from the subject countries compete in the same market, as these are similar products.

Therefore, the Authority finds it appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article in the light of conditions of competition between the imported products and the like domestic product.

F.4 Material Injury

65. 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.

66. 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. For the purpose of this examination the applicants constitute the domestic industry.

F.5 VOLUME EFFECT: Volume Effect of dumped imports and Impact on domestic Industry

67. 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:

68. For the purpose of injury examination the Authority has examined the DGCIS import data, cooperating exporters export data and data from other secondary sources provided by the domestic industry. The Authority notes that there is a significant difference between the volume of imports reported in the DGCIS data and the data submitted by the responding exporters from the subject countries. However, pending reconciliation and verification of various data the DGCIS import data has been adopted for injury examination after adjusting the same taking into account the 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			
	2001-02	2002-03	2003-04	POI
Country				Jan-Dec 2005
Indonesia	2593.18	5339.96	8680.709	6149.977
Korea RP	1432.01	4646.945	13865.392	9534.32
Malaysia	2914.315	8732.812	19963.354	36883.05
Taipei	3989.307	4644.716	5194.096	6019.416
Total Subject	10928.812	23364.433	47703.551	58586.763

countries				
Trend	100	214	436	536
Others	1925.51	3153.596	2815.069	2929.175
Trend	100	164	146	152
Total	12854.322	26518.029	50518.62	61515.938
Trend	100	206	393	479
Share of subject countries in imports	85.02%	88.11%	94.43%	95.24%

69. The above data indicates that the volume of imports from the subject countries has increased by 436% compared to the base year while the total imports have increased by almost 380%. The share of import from the subject countries in the total imports has increased by over 10% compared to the base year.

ii) Demand, Output and Market shares

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

71. 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.

	Qty in MT			
	2001-02	2002-03	2003-04	POI
Capacity	40340	61430	61490	64170
Production	27141	48986	50666	46780
Trend	100	180	187	172
Capacity Utilization	67.28%	79.74%	82.40%	72.90%
Trend	100	119	122	108

72. The production and capacity utilization of the domestic industry has declined after showing rising trend during 2002-03 and 2003-04. The data above shows that the production in the POI increased by about 72% compared to the base year but declined significantly compared to the previous year. The capacity utilization of the domestic industry has fallen by about 10% compared to the previous year after reaching a level of 82.5% in 2003-04.

a) Sales of Domestic Industry

Qty in MT

	2001-02	2002-03	2003-04	POI
Domestic sales	23586	39481	46653	44674
Trend	100	167	198	189
Captive Consumption	396	847	1423	1281
Other Domestic Producers	35456	28055	37189	38625
Trend	100	79	105	109
Total Domestic Sales	59438	68384	85265	84580
Trend	100	115	143	142

73. The sale of the domestic industry shows a significant decline over the previous year after an increase of about 100 between the base year and the previous year. Overall, the sales of the domestic producers have also suffered a marginal fall over the previous year after showing a healthy growth during the intervening period.

b) Demand and Market Share

	2001-02	2002-03	2003-04	POI
Domestic sales	23586	39481	46653	44674
Trend	100	167	198	189
Captive Consumption	396	847	1423	1281
Subject countries Imports	10928.812	23364.433	47703.551	58586.763
Trend	100	214	436	536
Other countries Imports	1925.51	3153.596	2815.069	2929.175
Trend	100	164	146	152
Total Imports	12854.322	26518.029	50518.62	61515.938
Trend	100	206	393	479
Total Demand	72293	94902	135784	146096
Trend	100	131	188	202
Share in Demand				
Domestic Industry	32.63%	41.60%	34.36%	30.58%
Trend	100	128	105	94
Other Domestic Producers	49.04%	29.56%	27.39%	26.44%
Trend	100	60	56	54
Total Domestic sales	82.22%	72.06%	62.79%	57.89%
Trend				
Subject countries	15.12%	24.62%	35.13%	40.10%
Trend	100	163	232	265

Other Countries	2.66%	3.32%	2.07%	2.00%
Trend	100	125	78	75

74. The Authority finds that the share of the domestic producers in the total demand has declined from 82% to 58% during the period of investigation registering a decline of over 25%. On the other hand, the market share of imports from the subject countries has risen from 15% in 2001-02 to 40% during the period of investigation. It clearly indicates that the market share of the domestic industry as well as the growth in the market has directly been taken over by the imports from the subject countries. Other countries have a very marginal share in the domestic market.

F.6 Price Effect of the Dumped imports on the Domestic Industry

75. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries/territories 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 (worked out after normating the costing information of the Domestic Industry) have been compared with the landed cost of imports from the subject countries.

(i) Price undercutting and underselling effects

	2001-02	2002-03	2003-04	POI
Domestic Selling Price	***	***	***	***
Trend	100	93	98	102
Cost to Make and Sale	***	***	***	***
Trend	100	97	105	114
Landed values	Rs/MT			
Indonesia	59349	78965	66533	63925
Korea RP	92284	85662	65462	65118
Malyasia	79199	78230	60247	57714
Taipei	72065	67344	61261	60099
Subject countries	73600	77712	63017	60727
Trend	100	106	86	83
Price Undercutting				
Indonesia	***	***	***	***
Korea RP	***	***	***	***
Malyasia	***	***	***	***
Taipei	***	***	***	***

Subject countries	***	***	***	***
Price Undercutting % (of Landed values)				
Indonesia				30-40%
Korea RP				30-40%
Malyasia				45-55%
Taipei				40-50%
Subject countries				40-50%
NIP				*****
Price Underselling				
Indonesia				***
Korea RP				***
Malyasia				***
Taipei				***
Subject countries				***
Price Underselling %				
Indonesia				25-35%
Korea RP				25-35%
Malyasia				30-40%
Taipei				33.65%
Subject countries				32.96%

76. The cost of production as well as the selling price (net sales realization) of the domestic industry shows significant increase compared to the base year and the previous year. However, while the cost of production shows an increase of about 14% over the base year and 9% over the previous year, the increase in the sale realization is only 2%. At the same time the landed value of imports from the subject countries shows significant decline of about 17% over the base year.

77. 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 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.

78. 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/territories have been compared with the Non-injurious selling price of the domestic industry determined for the POI.

79. 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:

80. The price suppression/depression effects of the dumped imports have also been examined with reference to the cost of production, net sales realization and the landed values from the subject countries. The trend of cost of production of the subject goods shows significant increase during the injury investigation period. However, the domestic industry has not been able to realize remunerative price to recover its full cost due to the price effects of the dumped imports from the subject countries. The above data indicates that the domestic industry has been forced to suppress its prices in order to retain its market share.

F.7 Examination of other Injury Parameters

81. 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 as follows:

i) Actual and potential effect on productivity

Productivity				
	2001-02	2002-03	2003-04	POI
Production (MT)	27141.15	48985.76	50665.64	46779.79
Employees	*****	*****	*****	*****
Production / Employee (MT)	*****	*****	*****	*****
Index	100	168.3216	180.45	201.26

There is a significant improvement in productivity of the domestic industry over the injury investigation period.

ii) Actual and potential effects on Profits

Profitability				
	2001-02	2002-03	2003-04	POI

Profit/Loss (Rs./Unit)	***	***	***	***
Index	100	-2.23	-203.66	-502.68
Profit/Loss (Rs. Lacs)	***	***	***	***
Index	100	-3.73	-402.84	-952.00
% Profit/Loss	1.61%	-0.04%	-3.28%	-7.74%

82. Due to significant increase in cost of production and inability of the domestic industry to increase the prices to recover the cost due to the impact of prices of the dumped imports from the subject countries the domestic industry has suffered major loss and the loss has increased over the injury investigation period.

iii) Actual and potential effects on cash flow

Cash Flow	2001-02	2002-03	2003-04	POI
Profit/ Loss (Rs. Lacs)	***	***	***	***
Add: Depreciation (Rs. Lacs)	***	***	***	***
Cash Profit/ Cash Flow (Rs. Lacs)	***	***	***	***
Index	100.00	137.98	73.07	-36.09
Cash Flow/MT (Rs.)	***	***	***	***
Index	100.00	82.43	36.94	-19.05

The above data indicates that the cash flow position of the domestic industry has deteriorated over the injury investigation period.

iv) Employment and wages

	2001-02	2002-03	2003-04	POI
No of Employees	556	596	575	476
Index	100	107	103	86
Wages Total (Rs. Lacs)	***	***	***	***
Index	100.00	148.58	160.78	182.59

83. The Authority notes that number of employees have been reduced by the domestic industry during the period of investigation as compared to base year as a result of pressure of its selling prices due to the dumped import from the subject countries. However, wages has increased during the same period.

iv) Return on investment and ability to raise capital

Return on Investment	2001-02	2002-03	2003-04	POI

Profit/Loss (Rs. Lacs)	***	***	***	***
Add: Interest	***	***	***	***
Profit/Loss Before Interest	***	***	***	***
Capital Employed	***	***	***	***
Return on Investment	4.67%	4.23%	-0.64%	-8.49%

84. Examination of the financial performance of the 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.

v) Investment and Ability to raise Capital Investments

85. The Authority notes that domestic industry has not invested any major capital in this business and the capacity of the plant has increased marginally. 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

86. 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 against the countries, during the POI, are significant.

vi) Factors affecting prices

87. Change in cost structure, competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors that might be affecting the prices in the domestic market. The Authority notes that there are few other domestic producers of the subject goods in the domestic market in India catering to about 25% of the total market demand. No material fact has been placed before the Authority to indicate any significant unfair domestic competition which could have affected the prices. Dumped imports from the subject countries have been found to be competing with the domestic product and affect the prices in the domestic market.

88. The Authority notes that the level of price undercutting cumulatively from the subject countries as well as from each of the subject countries are significant as a result of dumped imports. Further, price underselling is also evident as the landed values of imports from each of the subject countries as well as cumulated landed value from all dumped sources are significantly lower than the non-injurious price of the domestic industry. The landed value of imports from subject

countries has declined drastically during the period of investigation as compared to the year 2002-March 2003 whereas at the same time the cost of raw material has increased as a result of the soaring crude oil prices. This clearly indicates the effect of dumped imports on the domestic prices. With regard to selling prices of the domestic industry, it is noted that the same have increased during the period of investigation as compared to the base year. The Authority also notes that the increase in the selling prices of the domestic industry is much lower than the increase in costs clearly indicating that the selling prices of the domestic industry have been suppressed. The domestic industry has also not been allowed to increase its prices due to dumped imports from the subject countries.

vii) Inventories

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

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

viii) Growth

89. The Authority finds that the demand in the country has increased by about 100% during the period of investigation as compared to base year 2001-02 whereas the market share of the domestic producers has declined by over 20% over the same period. This clearly indicates that the increase in the demand has directly been taken over by the dumped imports. Thus, the growth with respect to market share of the domestic industry is negative during the period of investigation. It is also noted that the growth with respect to sales volume, capacity utilization and profitability is also negative.

	2001-02	2002-03	2003-04	POI
Year to Year Increase				
Demand		31.27%	43.08%	7.59%
Imports		106.30%	90.51%	21.77%
DI sales		67.39%	18.17%	-4.24%

F.8 CONCLUSION ON INJURY

90. On the basis of the preliminary examination of the conditions of the domestic industry the Authority provisionally holds 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 petitioners has come down 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 come down;
- f. The employment situation in the industry has deteriorated;
- g. There is severe price undercutting as well as price underselling;
- h. The margin of dumping from each of the subject countries is significant.

The Authority therefore provisionally concludes that the domestic industry has suffered material injury as envisaged under the Rules.

G CAUSAL LINK AND OTHER FACTORS

i) Effect of dumped imports

91. Between 2001-02 and the POI, the dumped imports from subject countries have increased significantly to 95% as a proportion of total imports. The market share of the domestic producers has decreased from 82% in 2001-02 to 56% during the POI while demand in the domestic market has increased by over 100% during the same period. Import from the other sources is a very small proportion of the total imports and demand in the market. Therefore, the imports from other than dumped sources do not have any significant impact on the domestic industry.

92. In examining the price effect whether the dumped imports have significantly undercut the price of the like product in India, the Authority found that the landed value of the subject goods from subject countries was lower than the selling price of the domestic industry thereby undercuts the selling price of the domestic industry significantly. Moreover, undercutting to the domestic prices did not show the full impact of the dumped imports since the domestic prices were suppressed due to low landed value. It is found that the price undercutting and the pricing behavior of landed value of imports has forced the domestic industry to the prices even less than the cost of production, resulting in financial losses to the domestic industry. The domestic industry could not increase the selling price as a result of increase in the cost of production due to dumped imports and suffered financial losses during the POI. The undercutting along with price suppression in effect eroded the profitability of the domestic industry. The domestic industry has suffered material injury due to dumped imports of subject goods from subject countries during the POI.

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

93. The Authority did not find any trade restrictive practices followed by the Indian producers and other competing industries. As regards the Domestic Industry's inability to fill the gap between the domestic demand and their own production, it may be observed that the imposition of anti-dumping duties does not amount to any kind of restriction on suppliers and producers for supplying the subject goods in the domestic market, which could have contributed to the injury to the domestic industry.

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

94. 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 100% during the POI. Therefore, the possible decline in demand is not a factor which could have caused injury to the domestic industry

iv) Technology

95. 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

96. The Domestic Industry has exported 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. The profitability of the domestic and exports sales have been segregated for the purpose of the injury examination. Therefore, injury caused due to exports (if any) has not been attributed to the performance of the domestic industry in the domestic market.

vi) Productivity

97. As regards the productivity of the domestic industry, the authority notes that the productivity has improved during the POI. The productivity *per se* could not be the cause of injury to the domestic industry.

H MAGNITUDE OF INJURY MARGIN

98. The Authority note that there is a significant difference between the price data submitted by the exporters and the import data available from DGCIS. Subject to reconciliation and verification of the same the export price data of the exporters have been used for the determination of landed values of the goods from the responding exporters for the purpose of determination of provisional injury margins. The non-injurious price determined by the Authority has been compared with the landed value determined provisionally for determination of injury margins. The weighted average injury margins of the exports from the subject exporters and subject countries and the have been worked out as follows:

Injury Margin Calculations		
Name of company	Injury Margin	Injury Margin %
M/s P.T. Mutu Gading Tekstil, Indonesia	*****	-0 to 10%
Other Exporters, Indonesia	*****	30 to 40%
M/s H.K. Corporation, Korea	*****	10 to 20%
M/s Hyosung Corporation, Korea	*****	-0 to 10%
M/s Saehan Industry, Korea	*****	-25 to 35%
M/s Huvis Corporation, Korea	*****	-15 to 25%
Other Exporters, Korea	*****	20 to 30%
M/s Hualon Corporation, Malaysia	*****	15 to 25%
Other Exporters, Malaysia	*****	30 to 40%
M/s Nan Ya Plastics Corporation, Chinese Taipei	*****	10 to 20%
M/s China Man-Made Fiber Corporation, Chinese Taipei	*****	10 to 20%
Other Exporters, Chinese Taipei	*****	30 to 40%

I INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

99. 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.

100. 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

101. 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

102. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted a preliminary investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having provisionally 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 provisional duty is required to offset dumping and injury pending completion of the investigation.

103. Therefore, Authority considers it necessary and recommends provisional anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.

104. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of provisional 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.

105. Accordingly, the Authority recommends that the provisional anti dumping duties be imposed from the date of issue of notification by the Central Government, 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-headi	Descripti on of	Spec ifi-	Count ry of	Count ry of	Producer	Exporter	Amou nt	Unit of	Curre ncy
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	ng	goods	catio n	origin	Export				Mea sure men t	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	5402. 43	Fully Drawn Yarn	Any	Indon esia	Any	M/s P.T. Mutu Gading Tekstil, Indonesia	M/s P.T. Mutu Gading Tekstil, Indonesia	Nil	MT	US\$
2.	5402. 43	-Do-	Any	Indon esia	Any	Any other than above	Any other than above	699	MT	US\$
3.	5402. 43	Fully Drawn Yarn	Any	Other than Indon esia	Indon esia	Any	Any	699	MT	US\$
4.	5402. 43	Fully Drawn Yarn	Any	Korea RP	Any	M/s H.K. Corporation, Korea	M/s H.K. Corporation, Korea	107	MT	US\$
5.	5402. 43	Fully Drawn Yarn	Any	Korea RP	Any	M/s Hyosung Corporation, Korea	M/s Hyosung Corporation, Korea	Nil	MT	US\$
6.	5402. 43	Fully Drawn Yarn	Any	Korea RP	Any	M/s Saehan Industry, Korea	M/s Saehan Industry, Korea	Nil	MT	US\$
7.	5402. 43	Fully Drawn Yarn	Any	Korea RP	Any	M/s Huvis Corporation, Korea	M/s Huvis Corporation, Korea	Nil	MT	US\$
8.	5402. 43	Fully Drawn Yarn	Any	Korea RP	Any	Any other than above	Any other than above	558	MT	US\$
9.	5402. 43	Fully Drawn Yarn	Any	Other than Korea RP	Korea RP	Any	Any	558	MT	US\$
10.	5402. 43	Fully Drawn Yarn	Any	Malay sia	Any	M/s Hualon Corporation,	M/s Hualon Corporation,	140	MT	US\$
11	5402. 43	Fully Drawn Yarn	Any	Malay sia	Any	Any other than above	Any other than above	419	MT	US\$
12.	5402. 43	Fully Drawn Yarn	Any	Other than Malay	Malay sia	Any	Any	419	MT	US\$

				sia						
13.	5402.43	Fully Drawn Yarn	Any	Chinese Taipei	Any	M/s Nan Ya Plastics Corporation	M/s Nan Ya Plastics Corporation ,	57	MT	US\$
14.	5402.43	Fully Drawn Yarn	Any	Chinese Taipei	Any	M/s China Man-Made Fiber Corporation,	M/s China Man-Made Fiber Corporation,	268	MT	US\$
15.	5402.43	Fully Drawn Yarn	Any	Chinese Taipei	Any	Any other than above	Any other than above	421	MT	US\$
16.	5402.43	Fully Drawn Yarn	Any	Other than Chinese Taipei	Chinese Taipei	Any	Any	421	MT	US\$

L FURTHER PROCEDURE

106. The following procedure would be followed subsequent to notifying the preliminary findings:

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings. Such comments should be filed within 40 days from the date of this notification.
- b. Exporters, Importers, Petitioner and other interested parties known may make known their views, within forty days from the date of these preliminary findings;
- c. The Authority would conduct further verifications to the extent deemed necessary;
- d. The Authority would provide opportunity to all interested parties for oral submissions, for which the date and time shall be communicated to all known interested parties separately;
- e. The Authority would also disclose essential facts before announcing final findings in terms of Rule 16 of the Anti-dumping Rules.

(Christy Fernandez)
Designated Authority