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**F. No. 15/16/2016-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti- Dumping & Allied Duties
Jeevan Tara Building, New Delhi-110001**

Dated 20th April, 2018

Notification

Final Findings

Subject: Sunset Review of Anti-dumping investigation concerning imports of Viscose Filament Yarn originating in or exported from China PR.

F. No. 15/16/2016/DGAD: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also 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, as amended from time to time (hereinafter also referred to as the Rules) thereof;

1. Whereas having regard to the above Act and the Rules, the Designated Authority (hereinafter referred to as the Authority) initiated an antidumping investigation against import of Viscose Filament Yarn originating in or exported from China PR vide Notification No.14/23/2004-DGAD on 7th April, 2005. The Authority notified final findings on 4th April, 2006 recommending imposition of definitive duties on imports of Viscose Filament Yarn originating in and exported from China. The definitive anti-dumping duties on the subject goods imported from the subject country were imposed by the Department of Revenue vide Customs Notification No. 45/2006 dated 24th May, 2006.
2. The imposition of duty has been reviewed from time to time and the Mid Term Review Final Finding was notified by the Authority vide Notification No. 15/8/2007 - DGAD dated 22nd May, 2009 recommending continued imposition of the anti-dumping duty on the imports of the subject goods, originating in or exported from the subject country. As per the recommendations of the Authority, the anti-dumping duty was imposed by the Central Government vide Notification No. 81/2009-Customs dated 13th July, 2009.
3. After the sunset review conducted at the behest of the petitioner requesting for change in the continuation of antidumping duty the Authority notified final findings recommending change in the form of anti-dumping duty vide Notification No. 15/23/2010-DGAD dated 24th February 2012. The anti-dumping duty was in force in accordance with Notification No.

23/2012-Customs dated 4th May, 2012.

4. Whereas, in terms of the Act and the Rules, the anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.
5. And, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
6. And whereas, M/s. Kesoram Rayon, a unit of Cygnet Industries Ltd. & M/s Indian Rayon, a unit of Grasim Industries Limited (hereinafter also referred to as “Petitioners” or “Applicants”) filed an application in the present case before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules for initiating sunset review of the anti-dumping duty on imports of Viscose Filament Yarn (hereinafter also referred to as the subject goods), originating in or exported from China PR (hereinafter also referred to as the subject country) and requested for extension of existing quantum of anti-dumping duties on the imports of the subject goods, originating in or exported from the subject country.
7. And whereas, the Authority on the basis of sufficient evidence submitted by the applicant to justify initiation of sunset review investigation issued a public notice vide Notification No. 10/2017-DGAD dated 24th April, 2017 to examine whether the expiry of the said duties on the import of the above goods originating or exported from the subject country is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The validity of the antidumping duty on the imports of the subject goods from the subject country was extended by the Central Government up to 3rd May, 2018 vide Custom Notification No. 14/2017, dated 3rd May, 2017.
8. The scope of the present review covers all aspects of the original investigation concerning imports of the above goods, originating in or exported from China PR.

PROCEDURE

9. Procedure described below has been followed with regard to this investigation, after issuance of the public notice notifying the initiation of the above investigation by the Authority:
 - i. The Authority notified the Embassies/Representatives of the subject country in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.

- ii. The Authority sent a copy of the initiation notification to the embassy of the subject country in India, known producers/exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
- iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Rules supra.
- iv. The Embassy of the subject country in India was also requested to advise the exporters/producers from China to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from China PR.
- v. The Authority sent Exporter's Questionnaire and Market Economy Questionnaire to elicit relevant information to the following known producers/exporters in accordance with Rule 6(4) of the Rules:
 - a. Yibin Grace Co. Ltd.
 - b. Jilin Chemical Fibre Group Co. Ltd.
 - c. Jilin Enka Viscose Co. Ltd.
 - d. Yibin Heist Fibre Co. Ltd.
 - e. Hangzhou B.P. Chemical Fibre Co.
 - f. Boading Swan Group
 - g. Xinxiang Bailu Chemical Fibre
- vi. In response to the above notification, few exporters have responded or submitted questionnaire responses. The following exporters responded to the exporter's questionnaire:
 - a. Jilin Chemical Fiber Stock Co. Ltd.
 - b. Jilin Enka Viscose Co. Ltd.
 - c. Yibin Hiest Fibre Co. Ltd.
 - d. Xinxiang Chemical Fibre Co. Ltd.
- vii. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
 - a. Shah Trading Co.
 - b. Vyapar Com & Industries Ltd.
 - c. Yash Enterprises
 - d. Doriwala Industries

- e. Marwadi Brothers
 - f. Rajmal Son's and Group
 - g. Chunnilal Kundanmall
 - h. Shanti Textiles
 - i. Krishan Sales Corporation
 - j. Bittu Synthetics Pvt. Ltd.
 - k. Amrit Rayon
- viii. None of the above mentioned importers of the subject goods has filed any questionnaire response in this matter. However, two importers of subject goods namely, M/s. Reaghan Fashions Pvt. Ltd and Liberty Trendz Pvt. Ltd. have responded to the Initiation Notification and have filed importer's questionnaire response.
- ix. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- x. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
- xi. The Non-Injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xii. The Authority held an oral hearing on 16th March, 2018 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6), which was attended by the representatives of domestic industry only. The representatives of domestic industry who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally at the time of oral hearing.
- xiii. On the spot verification of the data of the domestic industry was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of this finding.
- xiv. The Period of Investigation (POI) for the purpose of the present review investigation is April, 2016 to March, 2017 (12 months). The examination of trends in the context

of injury analysis covered the periods April 2013-March 2014, April 2014-March 2015, April 2015-March 2016 and the POI.

- xv. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this disclosure statement.
- xvi. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
- xvii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- xviii. A Disclosure Statement was issued on 10.04.2018 containing essential facts under consideration of the Designated Authority, giving time up to 17.04.2018 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately
- xix. ‘***’ in this document represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xx. The exchange rate for the POI has been taken by the Authority as Rs.67.95 = 1 US\$.

PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Submissions of the Domestic industry

10. The views of the domestic industry are as follows:
- i. The present review investigation is a sunset investigation. The product involved in the original investigation and in the present sunset review investigation is Viscose Rayon Filament Yarn upto 150 diners (and +- 4% permissible variation thereof). The product under consideration in the present sunset review is the same as has been held by the Designated Authority in the original investigation. Viscose Rayon Filament Yarn is a regenerated cellulosic yarn. Unlike synthetic yarns which are produced from petroleum products, Viscose Rayon Filament yarn is produced from natural renewable resources ie; wood pulp. It is 100% biodegradable and eco-friendly.

- ii. The product under consideration would remain the same as was defined in the course of original investigation.
- iii. Over the years there were presence of certain confusion in regard to the scope of VFY that was excluded from the scope of the investigation. The Custom Authorities accordingly issued a statement clarifying the definition of the excluded category of the subject good for the purpose of fair investigation.
- iv. Post Initiation of Anti-Dumping Duty, varied descriptions have been used and new descriptions have been invented, to evade Anti-Dumping Duty.
- v. Viscose Filament Yarn is classified under heading 5403.31, 5403.32, 5403.33, 5403.41 of the Customs Tariff Act, 1975. However, the customs classification is indicative only and in no way binding on the scope of the subject investigation.
- vi. Subject goods can be produced by three processes namely; Continuous Spun Yarn (CSY). Port Spun Yarn (PSY) and Spot Spun Yarn (SSY). Domestic Industries produces the subject good from all the three processes. However the subject good in the subject country is produced only through PSY and CSY process.
- vii. Bamboo fiber cannot be excluded from the current scope of the product under consideration as the current investigation is a review investigation and the same cannot be modified at this stage of the investigation. The party have also requested for exclusion of VFY below 75 deniers however the same cannot be considered for the above mentioned reasons and also because the party failed to provide any compelling evidence reasoning the removal of VFY below 75 deniers.
- viii. It was submitted that the Authority in the current investigation didn't modify the scope of the product. Rather through it notification No. 15/25/2014 dated 11th January, 2016 issued a clarification in regard to the excluded category of the product under consideration in response to the circumvention petition filed.
- ix. Interested party had claimed that un-dyed embroidery yarn cannot be used for any purpose for which the product under consideration is used. Such an allegation is factually incorrect and the same should be rejected.
- x. Other interested party had also alleged the inappropriateness in the PCN adopted in the current investigation. However, the same party have failed to provide any suggestion with regard to the kind of PCN that could be adopted.
- xi. The Designated Authority has examined the issue of product under consideration and like article in the original investigation, which is relied upon.

Submissions of the other interested parties

11. Submissions made by other Interested parties are as follows:

- i. Undyed Embroidery yarn has been brought within the product scope in the current sunset review investigation but the same was not within the product scope in the original investigation as well as the first sunset review and hence should be excluded.
- ii. The Custom Notification No. 32/2016- Customs (Anti-Dumping Duty) dated 14.07.2016 issued by the Ministry of Finance suffers from non-application of mind and is without the Authority of the law or jurisdiction. The notification did not disclose appropriate reasons for expansion of the product scope and to include within its scope “undyed embroidery yarn.”
- iii. Embroidery yarn was consciously excluded from the purview of the original investigation and subsequent request for inclusions were specifically rejected in the mid term review as well as in the first sunset review investigation by the Designated Authority.
- iv. The embroidered yarn is not a like article to viscose filament yarn
- v. Classification of Product under consideration as per PCN proposed by the petitioner is not appropriate as there is no substantial difference in the product formed from different technologies.
- vi. SSY is a technology which is more advanced than PSY but less advanced than CSY and it's a similar technology to that of PSY. Thus, VFY produced through SSY is not different from VFY produced by PSY and CSY.
- vii. Need to exclude the VFY made of bamboo from the current scope of the product on the basis of different raw materials, different applications, catering to different markets, different Tax ID numbers and also but solely because both the products are not substitutable.
- viii. There is a need to exclude Viscose Filament yarn below 75 deniers from the scope of current investigation, thereby defining the scope of the product under consideration.
- ix. The petitioners did not furnish any evidence substantiating the evasion of anti-dumping duty as a result of wrong description of the imported product.
- x. The Designated Authority cannot re-examine or re-determine the scope of the product under consideration in a review investigation.

- xi. Authority need to clarify the types of embroidery yarn which continue to be excluded from the scope of Anti-Dumping Duty.

Examination by the Authority

12. The product under consideration in this investigation is Viscose Rayon Filament Yarn up to 150 deniers (and +- 4% permissible variation thereof) including mono filament yarn of less than 67 decitex also known as viscose filament yarn or VFY, Rayon Filament Yarn, Art Silk Yarn, Cellulose Yarn or Rayon Yarn and includes all yarns made of 100% viscose yarns such as dyed yarn, flat yarn, microfilament micro yarn, twisted yarn (with the exclusion of embroidered yarn), doubled/ multiple ply yarn etc of VFY unless specifically excluded in this paragraph (also referred to as subject goods herein after). Further the PUC excludes embroidery yarn- this is clearly “dyed viscose rayon embroidered thread”, sewing thread, fur yarn, fire retarded yarn, engineered yarn and anti-textured yarn.
13. The subject goods are classified under Customs sub-heads 54033100, 54033200, 54033300, 54034110, 54034120, 54034130, 54034140, 54034150, 54034160, 54034170, 54034180, and 54034190 though they have been reported to have been imported (in the investigations previously held on the subject) under other chapter heads as well (like chapter 55). Thus, Customs classifications are indicative only and in no way binding on the scope of this investigation.
14. At a later stage, the petitioners had approached the Authority with a circumvention petition as it was alleged that the exporters are trying to export the subject goods in the guise of embroidery yarn. To address the issue, the Authority had issued a letter, clarifying the scope of the Product under consideration in the current investigation to the Custom Authorities.
15. Further, a clarification was issued by the Custom Authorities on 14.07.2016 vide Notification No. 32/2016 which defined the scope of embroidery yarn. The legality of the notification was questioned by various parties and the same was brought for analysis in the High Court of Delhi. After detailed examination of the notification and the clarification given on the same, the court stated that:

“.....A. For exclusion of the product from imposition of anti-dumping duty, a yarn is considered as embroidered yarn/thread which is a finished ready to use product.....

B. Therefore, it would mean that by definition embroidered yarn is coloured and white is also a colour, which is a result of processing raw yarn....

C. In other words irrespective of the colour, the product concerned must fall within the meaning of “embroidered yarn” as clarified vide Notification dated 14.07.2016.....”
16. Keeping the above view, the Authority concludes that Embroidery yarn is excluded from the current scope and is subsumed within the definition of excluded items detailed in the Initiation

Notification of the current investigation.

17. The present investigation being a sunset review investigation and anti-dumping duties, as earlier recommended by the Authority, being in force on the imports of the subject goods from the subject country, the Authority considers that the scope of the PUC in the present investigation remains the same as that in the original and subsequent review investigations, as per Rule 2(d) of Anti-Dumping Rules. Hence the question of exclusion of VFY made from Bamboo fiber and VFY below 75 deniers does not arise in the current review investigation.

18. With regard to like article, Rule 2(d) of the Anti-Dumping Rules provides as under:

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

19. After considering the information on record, the Authority holds that there is no known difference in product under consideration exported from subject country and the product produced by the Indian industry. The subject product produced by the domestic industry is comparable to the Product under consideration in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

20. Thus, the Authority holds that the subject product produced by the applicant domestic industry is like article to the Product under consideration exported from the subject country, in accordance with the AD Rules.

SCOPE OF DOMESTIC INDUSTRY & STANDING

Submissions of the domestic industry

21. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:

- i. The petition was filed by M/s. Kesoram Rayon, a unit of Cygnet Industries & M/s Indian Rayon, a unit of Grasim Industries; as the domestic producers of the product under consideration and supported by M/s. Century Rayon. There are no other producer of the subject good in India. These three are the sole producers of the subject good.
- ii. While the petition was filed, the domestic industry has no data in regard to the production and sales of the product under consideration in Century Rayon. Hence initially the standing was calculated based on the entirety of production of Century Rayon. At a later stage when the petitioner received the support letter stating Century

Rayon's exact production and sales in respect of the product under consideration, an amended standing table was provided. However the same didn't affect the eligibility of the domestic Industry.

- iii. Production of petitioners constitutes a major proportion in Indian Production (both after including and excluding support by M/s Century Rayon) and therefore, the petitioner should be treated as "domestic industry" within the meaning of the Rules.
- iv. The petitioner has not imported the subject goods during the period of investigation, and further, is not related to any exporter or producer of the subject goods in China or any importer or user of the product under consideration in India within the meaning of Rule 2(b).
- v. An interested party has raised suspicion in regard to the absence of major producer M/s Century Rayon from the scope of Domestic Industry however the question is irrelevant as the both M/s. Kesoram Rayon, a unit of Cygnet Industries & M/s Indian Rayon, a unit of Grasim Industries; is an eligible domestic Industry under the rules for the purpose of current investigation.

Submissions of the other interested parties

22. Submissions made by other interested parties are as follows:

- i. No information regarding the biggest constituent of domestic industry M/s Century Rayon has been provided.
- ii. Thus, for failure of including the major producer details in the petition, the investigation may be terminated.
- iii. Refusal to provide details of M/s Century Rayon would only imply that the Domestic Industry is picking and choosing the constituents of Domestic Industry to gain favorable outcomes.
- iv. The initiation notification referred applicant industry as M/s Kesoram Rayon and M/s Indian Rayon whereas submission from the applicant referred the applicants as M/s Cygnet Industries and M/s Indian Rayon.

Examination by the Authority

23. The application has been filed by M/s. Kesoram Rayon, a unit of Cygnet Industries & M/s Indian Rayon, a unit of Grasim Industries and is supported by M/s. Century Rayon.
24. The applicants constitutes 54% of the total domestic production; and, with support of M/s

Century Rayon, the applicant constitutes 100% of the total Indian production, as seen from the table below. Further, the petitioner has not imported the subject goods during the period of investigation, and, is not related to any exporter or producer of the subject goods in subject country or any importer or user of the product under consideration in India within the meaning of Rule 2(b).

Indian Production

SN	Particulars	Unit	Period			
			2013-14	2014-15	2015-16	POI
A	Petitioner Companies					
1.	Indian Rayon	MT	***	***	***	***
	<i>Trend</i>		100	113	115	118
2.	Kesoram Rayon	MT	***	***	***	***
	<i>Trend</i>		100	94	108	87
3.	Total of Petitioner companies	MT	***	***	***	***
	<i>Trend</i>		100	108	113	110
4.	Supporter Company- Century Rayon	MT	***	***	***	***
	<i>Trend</i>		100	103	114	119
5.	Total Indian Production	MT	***	***	***	***
	<i>Trend</i>		100	105	114	114
6.	Share of Petitioner companies	MT	***	***	***	***
	<i>Trend</i>		100	108	113	110
7.	Share of Supporter company	MT	***	***	***	***
	<i>Trend</i>		100	103	114	119
8.	Share of Petitioning and supporter company	MT	***	***	***	***
	<i>Trend</i>		100	105	114	114
			Share			
B	Petitioner Companies		2013-14	2014-15	2015-16	POI
1.	Indian Rayon		41%	44%	41%	42%
2.	Kesoram Rayon		15%	14%	15%	12%
3.	Total of Petitioner companies		56%	57%	56%	54%
4.	Supporter Company- Century Rayon		44%	43%	44%	46%
5.	Total Indian Production		100%	100%	100%	100%
6.	Share of Petitioner companies		56%	57%	56%	54%
7.	Share of Supporter company		44%	43%	44%	46%
8.	Share of Petitioning and supporter company		100%	100%	100%	100%

25. In view of the above and after due examination, the Authority holds that the applicant satisfies the standing requirements and constitutes domestic industry under Rule 2(b) and Rule 5(3) of the AD Rules.

ISSUES RELATING TO CONFIDENTIALITY

Submissions of Domestic Industry

26. Submissions made by the Domestic Industry are as follows:
- i. The petitioner has clearly notified that only such information has been claimed confidential which are permitted under the rules and the petitioners have provided detailed summary as to why the required information has been claimed confidential thereafter.
 - ii. Interested party have raised allegations in regard to the authenticity of the non-confidential version of the application, however the parties have failed to substantiate such claims and are pure generic which shouldn't hold standing in the current investigation.
 - iii. Excessive confidentiality has been claimed by the exporters in their Exporter's Questionnaire Response submissions and the response also lack various information which are discussed in the respective issues below.

Submissions of other Interested Parties

27. Submissions made by various interested parties/exporters/importers are as follows:
- i. The non-confidential version of the petition doesn't allow for a reasonable understanding of the allegations contained therein and it prevented interested parties to exercise their right to defend throughout the investigation.
 - ii. Significant data provided in the petition is not properly indexed in the non-confidential version.

Examination by the Authority

28. The Authority made available non confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).
29. With regard to confidentiality of information Rule 7 of Anti-Dumping Rules provides as

follows: -

“Confidential information”

(1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.”

30. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not provided to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

ISSUES REGARDING INITIATION OF INVESTIGATION

Submissions of the Domestic Industry

31. Submissions made by the Domestic Industry in this regard are as follows:
- i. It is submitted that the application was substantiated enough for the case to be initiated on the basis of the substantiated application.
 - ii. It has provided detailed analysis in regard to the various economic parameters required for injury analysis and also on likelihood parameters.
 - iii. Various interested parties have also highlighted that the anti-dumping duty has been in force for 10 years/11 years and that there exist no exceptional circumstance for continuation of the duty. On this note it is submitted that though *de jure* the injury has been in place for 11 years however *de facto* the same has been effective post change

in form of the duty during the last sunset review. The same can be concluded from the improvement in the performance of domestic industry in last 5 years. Further in its submissions petitioners have highlighted various instances where the duty has been prolonged for more than 10 years and which prove time is never a consideration while deciding for extension of duty. It has also been submitted that the act of circumvention on behalf of the exporters is what acts as an exceptional circumstance in the current case and hence in all probability the imports would intensify causing injury to the domestic industry.

Submissions of the Interested Party

32. Submissions made by the interested party in this regard are as follows:
- i. Petition fails to meet the standards laid down in Rule-7 of the Rules and Trade Notice No 1/2013 dated December 09, 2013 issued by the Designated Authority.
 - ii. Petitioners simply fail to demonstrate that imports from subject country have caused any injury to the Domestic Industry and hence the investigation was wrongly initiated.
 - iii. Petition filed by the Domestic Industry does not contain information about various important parameters for the period of investigation. Absence of the same restricted the exporters from understanding the basis for initiation of the investigation.
 - iv. The information provided by the Petitioner is manifestly insufficient to justify the initiation of an investigation under Rule-5(3) of the Rules.
 - v. Indexed data on unit price, total costs, investments, employment and stocks are not explicitly provided and analyzed in the narrative of the petition, which lacks a meaningful analysis.
 - vi. The Anti-Dumping Duty has been continuing for 10 years and there exist no special/exceptional circumstances for continuance of anti-dumping duty taking into current facts of the investigation.

Examination by the Authority

33. The Authority in its initiation notification has already noted that the current investigation is being initiated based on duly substantiated application filed in accordance with Section 9A (5) of the Act, read with Rule 23 of the Anti-Dumping Rules.

MISCELLANEOUS ISSUES

Issues by other Interested parties

34. The Authority had received submissions from various interested parties, a list of which is reproduced below:

- i. M/s Krunal Textiles,
- ii. M/s Guru Febrics,
- iii. M/s Hariom International,
- iv. M/s Shree Sahjanand Textiles,
- v. M/s Prakash textiles,
- vi. M/s Shiv s balvantra i rotriwala,
- vii. M/s Patel Pravinkumar Maganlal huf
- viii. M/s Ram Interprise,
- ix. M/s Shiv Textiles,
- x. M/s Denish Textiles,
- xi. M/s Mukund Textiles,
- xii. M/s Shree Jalaram Textiles,
- xiii. M/s Saurabh Textiles,
- xiv. M/s Liberty Trendz Limited,
- xv. M/s Guru Febrics,
- xvi. M/s Harsha Textiles,
- xvii. M/s Ranjit febrics,
- xviii. M/s Mukesh Balvantra i Rotriwala,
- xix. M/s Batsons Textiles,
- xx. M/s S.K. Weaving Pvt. Ltd.,
- xxi. M/s Ishwarkrupa Textiles,
- xxii. M/s Sonel Silk Corporation,
- xxiii. M/s Patel Dashrathlal Maganlal,
- xxiv. M/s Reaghan Fashion Pvt. Ltd.,
- xxv. M/s Patel Amratlal Maganlal Huf,
- xxvi. M/s Krishna Sales Corporation,
- xxvii. M/s Urjaa Exim Private Limited,
- xxviii. M/s Bittu Synthetics Pvt. Ltd.,
- xxix. M/s KTC Thread LLP,
- xxx. M/s Baijoo Fabrics,
- xxxi. M/s Rinkesh Textiles,
- xxxii. M/s Tejobay Dyeing & Printing Works,
- xxxiii. M/s Manohar Capital Market Ltd.,
- xxxiv. M/s J.M. Textiles,
- xxxv. M/s Shri Girnar Fabrics,
- xxxvi. M/s Himjyoti Industries,
- xxxvii. M/s SILK POLY FAB
- xxxviii. M/s Sachin Industrial Co.op Society Ltd.

- xxxix. Federation of Gujarat Weaver's Welfare Association.
- xl. M/s Suprabhat print pvt ltd
- xli. M/s Superb Threads

35. The submission made by the above mentioned parties are :

- i. Allegation of Injury or Likelihood of further Dumping and Injury is unsubstantiated.

Examination of the Authority

36. In response to the submissions received, the Authority had issued letters asking the above mentioned interested parties to provide a fully detailed importer questionnaire response and such other details which would be essential to substantiate their claim. However, none of the above parties have responded to the same, failing to substantiate their claims.

Market Economy Treatment (MET), Normal Value, Export Price and Determination of Dumping Margin

Normal Value under the Rules:

37. According to Section 9A (1) (c) of the Customs Tariff Act, 1975, 'Normal Value' in relation to an article means: -

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

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

(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

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):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

Submissions of the Domestic industry

38. The domestic industry inter alia submitted as follows:

- i. One of the provisions of Accession protocol has expired on 11th December, 2016. The Designated Authority should proceed with present investigation considering Chinese producers as producers operating in non-market economy conditions.
- ii. The investigation period considered by the Authority in the present case is April 2016 to March 2017 (12 months). The injury investigation period has been considered as the period 2013-.14, 2014-15, 2015-16 and POI.
- iii. The purpose of fixing of POI is to consider a period when the existence of dumping causing injury is claimed and established. The date of determination is not relevant to the moot question of dumping causing injury to the domestic industry. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone should be considered relevant, appropriate and necessary for the purpose.
- iv. The Chinese producers are required to be treated as non-market economy companies for the reason that the costs and prices in China do not reasonably reflect the market forces. Para 8 to Annexure-I specifies the parameters which should be considered for grant of market economy status. This also implies that unless these conditions are not fulfilled/satisfied, the Chinese costs and prices cannot be adopted.
- v. Since Chinese companies have been denied market economy status for the reasons mentioned in Para 8 of Annexure-I till December, 2016, petitioner submits that the Chinese producers are required to be treated as non-market economy companies till such time the investigation period includes the period specified in Accession Treaty protocol.
- vi. In the context of rule 2(b), it is well established legal position that the imports by a domestic producer or its relationship with an exporter or importer are examined with reference to the investigation period. If POI alone is relevant for standing purposes, POI alone should be relevant for normal value determination.
- vii. Chinese producers are required to be treated as companies operating under non-market economy environment and the Authority may proceed to determine the normal value on the basis of Para 7 of Annexure-I.
- viii. Normal value could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not available. The petitioner has claimed consideration of normal value on the basis of cost of production in India duly adjusted.

- ix. The dumping margin from China is not only significant, but also substantial, thus establishing existence of significant dumping of the product under consideration in India. The import volume of China has remained significant throughout the present injury period, despite anti dumping duty in force.
- x. Considering the production capacities available with Chinese producers and their high export orientation, dumping would continue and even intensify in the event of cessation of anti dumping duty.
- xi. An interested party raised an allegation that the petitioners have failed to provide the methodology used for calculation of normal value however the same is not true as the details have been provided in the application.

Submissions of the interested parties

39. Interested parties raised the following issues:

- i. All exporters should be granted Market Economy status after 11th December, 2016. Issuance of market economy questionnaire is discriminatory and in violation of obligations on the WTO members under the protocol of China's accession to WTO.
- ii. India must fulfil its obligations under relevant agreements to recognise China's full market economy status and amending relevant domestic regulations. Further, the "surrogate country" approach in anti-dumping investigations against China should be stopped.
- iii. The petitioners have not disclosed the methodology adopted for calculation of normal value and export price.

Examination by the Authority

40. Article 15 of China's Accession Protocol provides as follows:

"Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

(a) In determining price comparability under Article VI of the GATT 1994 and the Anti Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) *If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*

(ii) *The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*

(b) *In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*

(c) *The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*

(d) *Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.”*

41. Article 15 implies that provisions of one of the subparagraph shall expire 15 years from date of China's Accession. The provisions of this paragraph expired on 11th Dec., 2016. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period is relevant, appropriate and necessary for the purpose of present investigation. The Period of Investigation (POI) for the purpose of the present review is April, 2016 to March, 2017. Since the subparagraph of Article 15 was in existence during the major period of investigation, the Authority shall use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

42. The Authority notes that in the past three years, China PR has been treated as non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the Rules.

Examination of Market economy claims

43. As per Paragraph 8 of Annexure I of the Anti-Dumping Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provides information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:

- i. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- ii. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- iii. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- iv. The exchange rate conversions are carried out at the market rate.

44. None of the exporter/producers have responded and filed the supplementary questionnaire response. Hence, the Authority is constrained in determining sufficiency of MET claims. Thus, arguments by the China Chamber of International Commerce and China Chemical Fibers Association are declined. In view of the above position the Authority considers it appropriate to treat China PR as a non-market economy country in the present investigation and in accordance with para-7 of Annexure-I to the Rules for determination of normal value in case of China PR.

Determination of Normal Value for producers and exporters in China PR

45. The Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of present investigation. The normal value for the subject products imported from China PR into India has been constructed considering optimum consumption norms of the

domestic industry for major raw materials, cost of raw materials, is as per international prices, conversion cost, interest, SGA etc. at the levels allowed for the domestic industry. 5% of cost of sales excluding interest has been allowed towards reasonable profit.

Determination of Export Price

Submissions of the Domestic Industry

46. The various submissions made by the Domestic Industry are as follows:

- i. With reference to M/s Xinxiang Chemical Fibre Co. Ltd it has been submitted by the petitioner that the exporter in their response to question A.5 has stated that there is no related and subsidiary company involved in the production or sales of the product concerned. However, M/s Xinxiang Bailu Investment Co. Ltd ("Bailu") - holding company of Xinxiang, is involved with the export of the product concerned.
- ii. It is noted the exporter has failed to provide relevant information in their exporter questionnaire. Failure to do the same affects the methodology to ascertain the net export price of the group as a whole. In accordance with the same, the Authority may find it appropriate to reject the EQR filed by M/s Xinxiang Chemical Fibre Co.

Submissions of the interested party

- i. The petitioner has failed to disclose the methodology adopted for determination of export price.
- ii. Exporters from China cooperated and hence export price and Dumping Margin should be determined on the information provided by these exporters.

Examination by the Authority

47. The Authority notes that the following Chinese producers/ exporters have filed exporter questionnaire response in the present investigation:
- a. Jilin Chemical Fiber Stock Co. Ltd.
 - b. Jilin Enka Viscose Co. Ltd.
 - c. Yibin Heist Fibre Co. Ltd.
 - d. Xinxiang Chemical Fibre Co. Ltd.(XCF)
48. With reference to M/s Xinxiang Chemical Fibre Co. Ltd, it has been submitted by the petitioner that the exporter in their response to question A.5 has stated that there is no related and subsidiary company involved in the production or sales of the product concerned. However, M/s Xinxiang Bailu Investment Co. Ltd ("Bailu") - holding company of Xinxiang, is involved with the export of the product concerned.

49. The exporter mentioned that among Bailu's subsidiary, only XCF produces the viscose filament yarn and exports the viscose filament yarn to India. They have mentioned that Bailu itself does not produce or sell the viscose filament yarn. The exporter has mentioned that they shall be submitting the profit statements of Bailu for year 2016 and Bailu's trial balance for the Accounts of revenue which shall show that Bailu has no revenue of viscose filament yarn. However, it is noted the exporter has not submitted the relevant documents with certified translations of the same, in this regard. Failure to do the same affects the methodology to ascertain the net export price of the group as a whole. In accordance with the same, the Authority is constrained to determine individual dumping margin of the same.
50. After examination of the responses, the DGCI&S data has been examined. The data submitted by the exporters were verified and the appendix wise response to the exporter's questionnaire was taken up for examination.
51. The Authority has determined the export price for other (non-cooperating) producers/exporters of China PR on the basis of the DGCI&S transaction wise data. Accordingly, the weighted average net export price at ex-factory level, in respect of all exporters from China PR has been determined after making due adjustments for Ocean Freight, Marine Insurance, Commission, Bank Charges, Port Expenses and Inland Freight Charges on the basis of best available information and the same has been mentioned in the dumping margin table.

Determination of Dumping Margin

52. The export price to India (net of all the adjustments accepted by the Authority) has been compared with the normal value to determine dumping margin. The dumping margin during the POI for all exporters/producers from subject country has been determined as provided in the table below:

Dumping Margin

53. The dumping margin for subject goods has been determined by comparing constructed normal value and net export price. The table below shows the calculated dumping margin for producers/exporters from subject country:

Sr. No	Producer/Exporter	Normal Value (USD/MT)	Net Export Price (USD/MT)	Dumping Margin (USD/MT)	Dumping Margin %	Range %
1.	Xinaxiang Chemical Fibre Co. Ltd.	NA	NA	NA	NA	NA
2.	M/s Yibin Hiest Fibre Co. Ltd.	***	***	***	***	1-10

3.	Jilin Chemical Fibre Stock Co. Ltd.	***	***	***	***	(1-10)
4.	Jinlin Enka Viscose Co. Ltd.	***	***	***	***	(1-10)
5.	Residual Category	***	***	***	***	20-30

METHODOLOGY FOR INJURY ASSESSMENT AND EXAMINATION OF INJURY AND CAUSAL LINK

INJURY AND CAUSAL LINK

Submissions of the Domestic industry

54. The following are the injury related submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority:
- i. The demand/apparent consumption of the subject goods have increased over the injury period including the POI. Imports from subject country have remained significant despite anti-dumping duty, both in absolute terms and in relation to production/consumption in India.
 - ii. Landed price of imports (after including basic customs duties) is significantly below the selling prices of the domestic industry, thus resulting in significant price undercutting. Under the circumstances, should the present anti-dumping duty cease, the imports would further undercut the prices of the domestic industry, which would prevent price increases to a significant degree.
 - iii. The landed price of imports from China is materially below the cost of the domestic industry.
 - iv. The share of imports from subject country in total imports has increased.
 - v. The imports are supposed to be suppressing and depressing the prices of domestic Industry in case of cessation of Anti Dumping Duty.
 - vi. Market share of subject imports has declined as a result of anti-dumping duty being in force. However, the market share of subject imports is still very significant.
 - vii. The domestic industry enhanced its capacity during the injury period. One petitioner has added its capacity for CSY and another company has added capacity for SSY. The enhancement in capacity was fully justified by the present and potential demand for the product in the Country. Domestic sales volume has also increased over the injury period.

- viii. The DI has analyzed the parameters based on different technologies being adopted by the producers and exporters. It is seen that taken in regard the technology of SSY, the Domestic Industry seems to be earning profit; excluding the same the Domestic Industry is suffering losses irrespective of Anti-Dumping Duty being in force.
- ix. However, given the level of price undercutting, it is evident that the demand for the imported product would substantially increase in the event of cessation of anti dumping duties. This would directly imply decline in the demand of the domestic product, which is likely to result in decline in production of the domestic industry.
- x. Performance of the domestic industry in terms of price parameters such as profits, cash profits and return on capital employed has also shown improvement in the POI.
- xi. Presence of significant dumped imports would result in continued dumping leading to recurrence of injury in the absence of anti-dumping duty.
- xii. Both dumping margin and injury margin in the current POI are positive and significant.
- xiii. Given the price difference between the domestic and imported product, should the present anti-dumping duty be allowed to cease at this stage, petitioners submit that the domestic industry would immediately start suffering financial losses.
- xiv. Considering the present level of antidumping duty, even if the lowest amount of antidumping duty is considered, the landed price of imports shall decline by more than Rs. 20 per kg. The profits earned by the domestic industry during the present POI are below this level. This itself shows that the domestic industry shall suffer financial losses in the event of cessation of antidumping duty.
- xv. Considering the capacities with the exporters in the subject country and their export orientation, there is likelihood of intensified imports in case existing anti-dumping duties is allowed to cease.
- xvi. Resultantly, the domestic industry is likely to suffer injury in the event of cessation of anti-dumping duty.
- xvii. The anti-dumping duty is required to be continued. The form of measure is required to be kept as fixed quantum in terms of US\$.

Submissions of other interested parties

55. In the current investigation one of the party had separately filed injury submission and the issues raised therein are:

- i. Performance of the domestic industry has been stable or improved in respect of various economic parameters;
- ii. Allegation of Injury or Likelihood of further Dumping and Injury is unsubstantiated.
- iii. Any injury allegedly suffered by the domestic industry has been caused by factors other than imports from the China PR.

56. Further after the public hearing interested parties through their rejoinder and written submissions raised the following issues:

- i. Petitioners simply fail to demonstrate that imports from subject country has caused any injury to the Domestic Industry.
- ii. There is negative price undercutting and negative injury margin in the present circumstances.
- iii. The fine deniers and super fine deniers are produced via SSY technology in India. Where the SSY product is included, the injury economic parameters provided in Proforma IV-A show the domestic industry is in good health. Therefore, it is important to note that the fine deniers and super fine deniers produced by the domestic industry are competitive with those imported from China.
- iv. The consumption on the present Indian market is gradually shifting from coarse deniers to fine deniers.
- v. Performance of Domestic Industry has improved in respect of various economic parameters and domestic industry did not suffer any volume impact as a result of imports from China.
- vi. It is not permitted to exclude sub-set of like product from injury analysis of domestic industry for the sole reason that they are being produced through different technologies.
- vii. The blind protection provided by GOI will lead to monopolization and adversely impact public interest.
- viii. Most of the applicant company haven't upgraded their technology over the years.

- ix. Domestic Industry's is incapable of supplying international standard quality of yarns.

Examination by the Authority

57. The Authority has taken note of the submissions made by the interested parties. The Authority has examined the injury to the domestic industry in accordance with the Antidumping Rules and considering the submissions made by the other interested parties appropriately.
58. As regards the submissions of absence of injury, the injury analysis carried out hereunder is self-explanatory to establish if dumping has caused injury to the domestic industry or not.
59. The submissions made by the domestic industry and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as below:
60. The Authority has examined injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on domestic industry. With regard to the volume of dumped imports, the Authority is required to 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 the Authority is required to consider whether there has been a significant price undercutting 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 increases which otherwise would have occurred to a significant degree.
61. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure II of Anti-dumping rules states as under:-
(iv) The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.
62. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration; while some may show improvement. The Designated Authority considers all injury parameters and thereafter concludes whether the domestic industry has suffered injury due to dumping or not. The Authority has examined the injury parameters objectively taking into account the facts and arguments in the submissions.

Volume Effect of dumped imports and impact on domestic industry

Demand and Market Share

63. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports from all sources. The demand so assessed is given in the table below.

Demand and Market Share

Particulars	Unit	2013-14	2014-15	2015-16	POI
Demand					
Sales of Domestic Industry	MT	***	***	***	***
Sales of Supporter company	MT	***	***	***	***
Imports from China	MT	18,781	16,094	9,862	10,261
Imports from Other Countries	MT	842	245	11	26
Total Demand	MT	47,169	45,429	44,113	41,963
Market Share in Demand					
Share of Domestic Industry	%	31.64%	35.50%	43.24%	40.18%
Share of Supporter Company	%	26.76%	28.53%	34.38%	35.30%
Share of China PR	%	39.82%	35.43%	22.36%	24.45%
Share of Other Countries	%	1.79%	0.54%	0.02%	0.06%
Total	%	100.00%	100.00%	100.00%	100.00%

64. The Authority notes that the demand for the product under consideration has decreased in the POI as compared to base year as well as previous year.
65. It is noted that the market share of the domestic industry, has increased; whereas the market share of the subject country imports has declined over the injury period, although, still significant.
66. The market share of the other countries imports has declined.

Import volumes and share of subject country

67. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. The volume of imports of the subject goods from the subject country have been analysed as under:

Imports and Market Share

Particulars	UOM	2013-14	2014-15	2015-16	2016-17
Sales of Domestic Industry	MT	***	***	***	***
Trend	Indexed	100	108	128	113
Sales of Supporter Company	MT	***	***	***	***
Trend	Indexed	100	103	120	117
Imports of Subject Countries- China	MT	***	***	***	***
Trend	Indexed	100	86	53	55
Imports of Other Countries	MT	***	***	***	***
Trend	Indexed	100	29	1	3
Total Imports	MT	***	***	***	***
Trend	Indexed	100	83	50	52
Total Consumption	MT	***	***	***	***
Trend	Indexed	100	96	94	89
Total Indian Production	MT	***	***	***	***
Trend	Indexed	100	105	114	114
Subject Country Imports in relation to :-					
Total Imports	%	96%	99%	100%	100%
Production	%	65%	53%	30%	31%
Consumption	%	40%	35%	22%	24%

68. The market share of subject imports in relation to production and consumption in India has significantly decreased over the injury period; reduced to almost half of the share in POI as compared to base year.

69. There has been a decline in the consumption of the subject goods in India.

Price Effect of dumped imports and impact on domestic industry

Price Undercutting

70. With regard to the effect of dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports when 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.

71. In this regard, a comparison has been made between the landed value of the product and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The price of the domestic industry was determined at the ex-factory level. The Authority has compared landed price of imports with the selling price of the domestic industry for the subject goods.

Price Undercutting

Particulars	Unit	2013-14	2014-15	2015-16	2016-17
Net Sales Realisation	Rs/KG	***	***	***	***
<i>Trend</i>	Indexed	100	107	107	114
CHINA					
Landed Price without ADD	Rs/KG	***	***	***	***
<i>Trend</i>	Indexed	100	97	103	102
Price undercutting	Rs/KG	***	***	***	***
Price undercutting %	%	-11.29%	-2.12%	-8.01%	-0.87%
Landed Price with ADD	Rs/KG	***	***	***	***
<i>Trend</i>	Indexed	100	97	103	102
Price undercutting	Rs/KG	***	***	***	***
Price undercutting %	%	-15.55%	-6.82%	-12.43%	-5.63%

72. The net sales realization has increased by 14% in POI as compared to base year.

73. The landed price has also increased marginally over the base year.

74. There appears nil price undercutting

Price Underselling

75. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject countries. For this purpose, the NIP determined for the domestic industry has been compared with the landed price of imports from subject country. Comparison of the NIP of the domestic industry with weighted average landed price of imports shows as follows:

Price Underselling

Particulars	Unit	POI
		China PR
Non-Injurious Price	Rs./MT	***

Landed Value	Rs./MT	***
Price Underselling	Rs./MT	***
Price Underselling - %	%	***
Price Underselling - % Range	% Range	(0-10)

76. It is noted from the above table that there is negative price underselling on account of imports of the subject goods from China

Price suppression and depression effects of the dumped imports

77. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

Price Suppression/ Depression

Particulars	Unit	2013-14	2014-15	2015-16	2016-17
Cost of sales	Rs./Kg	***	***	***	***
<i>Trend</i>	Indexed	100	103	104	110
Net Sales Realisation	Rs./Kg	***	***	***	***
<i>Trend</i>	Indexed	100	107	107	114
Landed Price without ADD	Rs./Kg	***	***	***	***
<i>Trend</i>	Indexed	100	97	103	102
Landed Price with ADD	Rs./Kg	***	***	***	***
<i>Trend</i>	Indexed	100	97	103	102

78. From the above table, it is clear that the landed value of imports from the subject country have shown an upward trend in injury period as compared to the previous years.

79. The cost of production has increased by 10% over the base year and net sales realization increased by 14%.

Examination of Economic Parameters relating to Domestic Industry

80. Annexure II to the AD Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the AD Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the

industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

81. Accordingly, various economic parameters of the domestic industry are analyzed herein below:

Capacity, Production, and Capacity Utilization

82. The performance of the domestic industry with regard to production, capacity & capacity utilization was as follows:

Particulars	Unit	2013-14	2014-15	2015-16	2016-17
Capacity	MT	***	***	***	***
<i>Trend</i>	Indexed	100	100	101	107
Plant Production	MT	***	***	***	***
<i>Trend</i>	Indexed	100	102	106	103
Production-PUC	MT	***	***	***	***
<i>Trend</i>	Indexed	100	108	113	110
Capacity Utilisation	%	***	***	***	***
<i>Trend</i>	Indexed	100	102	105	96

83. It can be seen that the production of the Domestic Industry has increased throughout the injury period.

84. The capacity utilization of the Domestic Industry also followed the same trend as that of production.

Sales Volumes

85. The sales parameters both in terms of volume and prices are demonstrated below :

Particulars	Unit	2013-14	2014-15	2015-16	2016-17
Domestic Sales	MT	***	***	***	***
<i>Trend</i>	Indexed	100	108	128	113

Domestic Sales	Rs. Lacs	***	***	***	***
<i>Trend</i>	Indexed	100	116	137	129
Selling Price- Domestic	Rs./KG	***	***	***	***
<i>Trend</i>	Indexed	100	107	107	114
Export Sales	MT	***	***	***	***
<i>Trend</i>	Indexed	100	131	171	114
Export Sales	Rs. Lacs	***	***	***	***
<i>Trend</i>	Indexed	100	112	143	103
Selling Price- Export	Rs./KG	***	***	***	***
<i>Trend</i>	Indexed	100	85	84	90
Total Sales	MT	***	***	***	***
<i>Trend</i>	Indexed	100	109	129	113
Total Sales	Rs. Lacs	***	***	***	***
<i>Trend</i>	Indexed	100	115	137	128

86. It is noted that the sales volume of the Domestic Industry has increased gradually throughout the injury period.

87. The sales price has also been steady and increasing gradually throughout the injury period.

Market Share

88. The effects of the dumped imports on the market share of the domestic industry have been examined as below:

Market share in Demand

Particulars	Unit	2013-14	2014-15	2015-16	POI
Market Share in Demand					
Share of Domestic Industry	%	31.64%	35.50%	43.24%	40.18%
Share of Supporter Company	%	26.76%	28.53%	34.38%	35.30%
Share of China PR	%	39.82%	35.43%	22.36%	24.45%
Share of Other Countries	%	1.79%	0.54%	0.02%	0.06%
Total	%	100.00%	100.00%	100.00%	100.00%

89. It is noted that the market share of the domestic industry, has increased; whereas the market share of the subject country has decreased even in the presence of Anti-Dumping Duty.

90. The market share of imports from other countries have decreased.

Inventories

91. The data relating to inventory of the subject goods is shown in the following table :

Particulars	UOM	2013-14	2014-15	2015-16	POI
Average Stock	MT	***	***	***	***
Trend	Indexed	100	188	148	83
Inventory Per Day	MT/Days	3	5	4	2
Trend	Indexed	100	188	148	83

92. It is noted from the above that the inventory per day is not very high and the same has been gradually decreasing further over the injury period.

Profits, return on investment and cash flow

93. The profit/loss, cash profits and return on investment of the domestic industry has been analyzed as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Cost of Sales	Rs/KG	***	***	***	***
<i>Trend</i>	Indexed	<i>100</i>	<i>103</i>	<i>104</i>	<i>110</i>
Selling Price	Rs/KG	***	***	***	***

<i>Trend</i>	Indexed	100	107	107	114
Profit / Loss	Rs/KG	***	***	***	***
<i>Trend</i>	Indexed	100	507	446	534
Profit / Loss	Rs. Lacs	***	***	***	***
<i>Trend</i>	Indexed	100	548	570	603
Cash Profit	Rs. Lacs	***	***	***	***
<i>Trend</i>	Indexed	100	187	193	223
Profit before Interest & Tax	Rs. Lacs	***	***	***	***
<i>Trend</i>	Indexed	100	197	195	208
Return on Capital Employed	%	***	***	***	***
<i>Trend</i>	Indexed	100	187	175	130

94. The profitability parameters of Domestic Industry improved over the injury period.

95. Similarly, profit before interest, cash profit and return on investment have shown a positive trend.

Employment, Wages and Productivity

96. The position with regard to employment, wages and productivity is as follows:

Particulars	UOM	2013-14	2014-15	2015-16	POI
No of Employees	Nos	***	***	***	***
Trend	Indexed	100	102	102	109
Wages	Rs.Lacs	***	***	***	***
Trend	Indexed	100	107	121	125
Productivity Per Employee	MT/Nos	***	***	***	***
Trend	Indexed	100	105	111	101
Productivity Per Day	MT/Days	***	***	***	***
Trend	Indexed	100	108	113	

97. The Authority notes that the figures relating to the productivity of the Domestic Industry has consistently improved throughout the injury period.

Growth

Particulars	YOY	2013-14	2014-15	2015-16	POI
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Production	%	-	7.69	5.36	(3.37)
Domestic Sales Volume	%	-	8.09	18.27	(11.60)
Cost of Sales	%	-	3.12	0.82	5.68
Selling Price	%	-	6.95	0.24	6.23
Profit/ Loss per unit	%	-	406.91	(12.02)	19.69

98. The domestic industry has contended that with increase in demand, the domestic industry had expected growth in profits, comfortable cash flow and increase in return on investments. However, the domestic industry was not able to achieve the same to the desired levels due to the presence of the dumped imports from subject countries.

99. The table shows that the growth of domestic industry has been positive for most of the parameters with a dip in production and domestic sales volume in POI.

Magnitude of Dumping

100. Magnitude of dumping is an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The analysis shows that the dumping margin determined against the subject country is above *de minimis*.

Ability to raise Capital Investment

101. There is no verifiable information presented by the Domestic Industry and neither available on records that can imply that future investment in the sector can be marred by the presence of dumped imports from subject country.

102. Ability of the domestic industry to raise capital investments for the sector may not be affected due to the dumped imports from the subject countries.

Conclusion on Injury

103. Having regard to the information on record and after examination of the performance of the Domestic Industry, the Authority notes that the dumped imports of the subject goods from subject country has decreased in absolute terms. Significant decrease in imports is observed in relation to production and consumption of the subject goods in India.

104. The examination indicates that there is a marginal decrease in demand in India for the subject goods. It is also noted that the landed value of subject goods from subject countries are higher than the sales realization of the domestic industry. The domestic industry has been able to increase its prices by 14% where cost of sales has increased by 10% over the injury period, as seen from table at para 77.

MAGNITUDE OF INJURY MARGIN

105. The determined non-injurious price of the subject goods produced by the Domestic Industry has been compared with the landed value of the exports from subject countries for determination of injury margin during POI as under:-

Sr. No	Producer/Exporter	NIP (USD/MT)	Landed Value (USD/MT)	Injury Margin (USD/MT)	Injury Margin %	Range %
1.	Xinaxiang Chemical Fibre Co. Ltd.	NA	NA	NA	NA	NA
2.	M/s Yibin Hiest Fibre Co. Ltd.	***	***	***	***	5-15
3.	Jilin Chemical Fibre Stock Co. Ltd.	***	***	***	***	(0-10)
4.	Jilin Enka Viscose Co. Ltd.	***	***	***	***	(0-10)
5.	Residual category	***	***	***	***	25-35

LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

106. The Authority observed that this is a sunset review investigation and the focus of this investigation is to examine the likely scenario of continued dumping and consequent injury if the anti-dumping duties were to be allowed to expire even if there is no current injury.

Submissions made by the Domestic Industry

107. The domestic industry submitted as under in support of its claim of likelihood of continuation or recurrence of dumping and injury:

- i. Significant dumping margin during POI establishes that dumping is likely to continue and intensify in the event of cessation of present anti dumping duty. Dumping existed during the entire injury period. Also, high dumping margins existed during the previous anti dumping investigations. This clearly leads to a conclusion that in case of cessation of antidumping duty, there is every likelihood of injury to the Domestic Industry.
- ii. The return on investment and cash profit would be significantly negative in the event of cessation of anti dumping duty.
- iii. The import prices are materially below the selling price of the domestic industry.

The consumers would therefore switch to imported product in the event of cessation of anti-dumping duty which will lead to significant increase in imports of the product. In case of cessation of anti-dumping duty, the domestic industry shall have to reduce their selling price to compete with dumped imports, forcing them to sell even below the cost of sales, leading to severe price injury.

- iv. Dumping Margin, Injury margin and price undercutting in respect of major exporter to India is significantly higher as compared to other whose volumes are lower. Collective margins in respect of exports to various third countries are significant and positive.
- v. The Indian market is highly price sensitive. The consumers decide their procurement, with the price being the foremost consideration. Such being the case, availability of low priced imports from the subject country in the market shall definitely cause an adverse impact on the domestic industry. So dumping and consequent injury to the domestic industry is likely to continue/increase in the event of cessation of anti-dumping duty.
- vi. The original and all subsequent investigations established existence of significant dumping. The dumping margin in the current period is also significant. The producers are likely to intensify dumping and cause injury to the domestic industry in the event of cessation of anti-dumping duty.
- vii. Volumes of imports have remained significant even after Anti-Dumping Duty being in force. Further considering the existing Chinese capacities and their expansion and their act of circumvention shows that the Chinese producers are capable of taking away the entire Indian demand for the Product under consideration.
- viii. The act of circumvention clearly shows the likely behavior of producers from subject country. It establishes the dire need of the producers in subject country to dump subject goods owing to the huge surplus capacity available with them.
- ix. Excess capacities with the producers would be used to further export and dump their produce in India.
- x. CCF group Annual report has stated that closure of various plants of the subject good are mere speculations and that major producers are in the process of expanding their capacities.
- xi. There are significant exports of the product under consideration from China to third countries. The prices of the product to these countries are significantly lower and

cessation of ADD therefore shall lead to diversion of these low priced exports to India.

- xii. The present status of the domestic industry is fragile and in the event of expiry of duty the domestic industry is likely to suffer losses and slip back to the status that was prevailing at the time of original investigation.
- xiii. The current volume per se is sufficient to establish likelihood of dumping & injury hence there is definitive likelihood of intensified imports in the event of expiry of existing anti-dumping duty.
- xiv. There is a need to determine injury margin in individual export transactions and accordingly consider those transactions where injury margin and price undercutting are positive.
- xv. Allegations by exporters that India is not a major market for VFY exporters are mere false allegations and the same can be contradicted from the information provided in the CCF's group report. The report clearly highlight that India is among the top 4 (four) markets where exporters sell their produce irrespective of Anti-Dumping Duty being in force.

Submissions made by producers/exporters/importers/other interested parties

108. The submission made by various interested parties are:

- i. Allegation of Injury or Likelihood of further Dumping and Injury is unsubstantiated.
- ii. Production capacity of subject good in China will not significantly increase in the future owing to environmental protection concerns and increase in remuneration of workers and need for huge capital investment.
- iii. China's production capacity of the product under consideration in 2015 is lower than that in 2010, which is mainly due to the successive shutdown of various production plants of VFY.
- iv. Exports to India are decreasing, and India is no longer the increasing market for Chinese producers and/or exporters.
- v. India is not the major target market of the viscose filament yarn originating in China.
- vi. The consumption on the present Indian market is gradually shifting from coarse deniers to fine deniers.

- vii. The capacity and the technology of the domestic industry cannot meet the demand of Indian market.
- viii. No other country has ever implemented anti-dumping, countervailing and safeguard measures concerning the product concerned from China PR.
- ix. No assessment of likelihood of injury can be made without considering the information of the biggest producer of the subject product.
- x. There is no likelihood of continuation of injury in the current investigation owing to the improvements in various parameters of the Domestic Industry.
- xi. None of the parameters based on which duty was continued in the previous SSR is present in this review.
- xii. Domestic Industry has not claimed likelihood of injury and dumping in the period of investigation i.e., April 2016 to March 2017.
- xiii. Claim of Domestic Industry that China is exporting to other countries at cheaper prices hold no good as combined analysis will lead to absurd results.
- xiv. CCF report is showing that the exporters are just increasing their exports but doesn't show expansion and that fact that other producers are closing. It also shows that there is not much new addition to the existing capacity

Examination of Authority

109. The Authority has examined the contention of the Domestic Industry and other interested parties to examine likelihood of continuation or recurrence of dumping and injury with specific reference to the threat of material injury in terms of Annexure II (vii) of the Rules. Clause (vii) of Annexure II to the rules read with Nirma Ltd. Vs Union of India 2017(346) E.L.T 328 (Guj) decided on 13/12/2016.

(a) significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation

110. It is noted that the Authority has not received post POI information from the domestic industry or the exporters and other interested parties.

111. Further, the exporters have not submitted transaction-wise third country export data in the form and manner of part II of the exporter's questionnaire.

112. This has constrained the Authority to establish continuation of dumping of subject goods from subject country post POI, with corroborating statistical evidence.

113. Further, the contention that domestic industry will continue to suffer injury because of continued dumped imports from subject country, cannot be established in the instant case for the following reason: (a) In the present case, the domestic industry is not suffering injury on any of the major economic parameters during the period of investigation, as seen from the preceding paragraphs on injury analysis and examination of major economic parameters (b) no verifiable documents submitted to claim injury in the post POI period.

(b) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports

114. This parameter for ascertaining the threat of material injury requires evaluation of existing surplus capacities and capacity addition, if any, to explore the possibility of diversion of disposable quantity to Indian market. Domestic industry has claimed that the producers in subject countries are already faced with significant capacities.

115. Further, these producers are exporting the product to a large number of countries, a very significant proportion of which is being exported at a price below the prices in respect of Pakistan, thus showing likelihood of diversion of these exports to India in the event of withdrawal of Anti-Dumping duty. This argument could not be justified when corroborated with the demand and consumption of the subject good in India. It is pertinent to note that the demand and consumption of the subject goods have not increased throughout the injury period. On the contrary, the demand and consumption study done in preceding paragraphs have shown a declining trend.

116. None of the interested parties have provided any verifiable evidence and information with regard to existing surplus capacities, and consequent likelihood /possibility of increased dumped exports to Indian market.

(c) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports

117. At the current landed price in India, there is no price undercutting throughout the injury period or during the POI in case of the subject goods from the subject country.

(d) inventories of the article being investigated

118. The facts available on records do not contain any dependable evidence on inventories of the article being investigated.

(e) Circumvention of subject good by the producers from the subject country.

119. The exporter has earlier been alleged to have circumvented the subject good to India in the name of “embroidery yarn.”. Further, it has been alleged that evasion of duty continues in spite of clarifications. It is noted that evasion of duty is a separate investigation that may be addressed at the appropriate forum. The alleged act of circumvention cannot clearly establish an intention to dump subject goods in India.

OTHER KNOWN FACTORS & CAUSAL LINK

120. Under Section 9A(5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties irrespective of whether there have been any imports of the product under consideration during the review investigation period or not.

121. It was examined whether other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It is noted as follows:

(a) Volume and prices of imports from third countries

122. The imports of the subject goods from countries other than the subject countries are not significant as revealed by the transaction-wise data from DGC&IS. Further, a decreasing pattern is seen throughout the injury period. In fact, the share of other country imports is negligible.

(b) Contraction of demand and changes in the pattern of consumption.

123. There has been a marginal decrease in demand of the product concerned throughout the injury period.

(c) Developments in technology:

124. Technology for production of the product concerned has not undergone any change.

(d) Trade restrictive practices of and competition between the foreign and domestic producers

125. There is no trade restrictive practice, which could have affected the Domestic Industry. The raw materials as well as the subject goods are freely importable in the country.

(e) Export performance of the domestic industry

126. The injury analysis has been done by the Authority taking into consideration their domestic operations only. Therefore, performance in the export market has not affected the present injury analysis.

(f) Productivity of the Domestic Industry

127. It is noted that the productivity of the domestic industry in terms of production per employee as well as production per day has increased over the period.

128. The essential facts of the investigation, as gathered, analyzed and established by the Designated Authority during the course of the investigations on the basis of information received from various sources were disclosed to the interested parties in order to enable them to offer their comments on these facts as stated by the Designated Authority.

POST DISCLOSURE STATEMENT SUBMISSIONS BY THE DOMESTIC INDUSTRY/ INTERESTED PARTIES

Submissions made by Domestic Industry

129. The submissions made by the domestic industry are summarized as under :

- i. Petitioners are unable to understand whether PCN wise analysis was carried out to determine the normal value, export price, dumping margin, price undercutting and injury margin.
- ii. Authority failed to consider the correlation between increase in imports in the POI from the preceding years and its impact on the performance of the Domestic Industry.
- iii. Analysis of the Authority regarding performance of Domestic Industry is inappropriate and insufficient and the same needs more objective examination.
- iv. The Authority appears to have determined price undercutting without considered the PCN. If the same would have been considered it, would be seen that there is positive price undercutting in respect of those type of subject goods which are exported in large volumes.
- v. Determination of price underselling is also not appropriate as PCN wise analysis hasn't been considered for determination of the same.

- vi. Relevant submissions made by the petitioners may be examined in respect to considering individual export transactions and segregating the same into positive and negative while determining price undercutting and injury margin.
- vii. The Authority determined NIP and injury margin and this is against the decision of the High court in the matter of Nirma Ltd. vs. Designated Authority.
- viii. The petitioners confirm to the Product under consideration proposed by the Authority
- ix. No clarification provided by exporters in regard to the scope of Product under consideration.
- x. None of the exporters have provided transaction wise details of their global exports as the same is required to determine (a) dumping in third countries (b) price attractiveness of Indian market viz a viz other markets (c) behavior of the exporters.
- xi. Avoided providing any information with regard to the incentives received by them which are one of the reasons for their export orientation.
- xii. As no information provided, the Designated Authority is required to draw adverse inference in terms of Rule 6(8) of the Rules.
- xiii. The critical submissions made by Domestic Industry in reference to Injury and casual link have been completely ignored and hence inappropriate determination.
- xiv. The Authority has noted that the Domestic Industry has not grown to the extent it was expected to grow and this is owing to the imports from subject country.
- xv. Performance of the Domestic Industry is fragile and would suffer significant losses should the anti-dumping duty be allowed to cease.
- xvi. If the Domestic Industry holds its current prices, then in the event of cessation of duty the Domestic Industry will lose sales volume affecting the profitability and growth of the Domestic Industry.
- xvii. Considering Chinese capacities and their current expansion, and the nature/behavior of the exporters to dump goods even by circumventing anti-dumping duty, it is evident that the Chinese producers are capable of taking away entire Indian demand for the product under consideration.
- xviii. Observation of Authority in para 113 is inappropriate as it lacks objective analysis. Further good performance of the Domestic Industry doesn't mean there is absence of likelihood. Rather a mere increase in imports in the POI has adversely affected the sales volume of the Domestic Industry thus showing likelihood.

- xix. The Authority chose to ignore the concerns made by Domestic Industry in regard to expansion of Chinese exporters which was clear from CCF report so provided that the industry is growing and shows in all likelihood the exporters would dump the subject good into India.
- xx. Mere act of circumvention shows the keen interest of the exporters to dump the subject good into India.
- xxi. Authority failed to consider the relevant issues raised by Domestic Industry in the issues related to likelihood of dumping and injury.
- xxii. The original and all subsequent investigations established existence of significant dumping. The dumping margin in the current period is also significant. The producers are likely to intensify dumping and cause injury to the domestic industry in the event of cessation of anti-dumping duty.
- xxiii. Volumes of imports have remained significant even after Anti-Dumping Duty being in force. Further considering the existing Chinese capacities and their expansion and their act of circumvention shows that the Chinese producers are capable of taking away the entire Indian demand for the Product under consideration.
- xxiv. The act of circumvention clearly shows the likely behavior of producers from subject country. It establishes the dire need of the producers in subject country to dump subject goods owing to the huge surplus capacity available with them.
- xxv. Excess capacities with the producers would be used to further export and dump their produce in India.
- xxvi. CCF group Annual report has stated that closure of various plants of the subject good are mere speculations and that major producers are in the process of expanding their capacities.
- xxvii. There are significant exports of the product under consideration from China to third countries. The prices of the product to these countries are significantly lower and cessation of ADD therefore shall lead to diversion of these low priced exports to India.
- xxviii. Dumping margin and injury margin in terms of coarser yarn is positive in comparison to fine and super finer deniers and such a situation shows that export price differs significantly in respect of different products.
- xxix. The price undercutting and injury margin should be determined after excluding transactions having negative margins. This argument is without prejudice to Domestic Industry's submission that injury margin shouldn't be determined in the current investigation.

- xxx. The Designated Authority found that there is an improvement in the performance of domestic industry. Yet, Authority has proceeded to determine NIP, and injury margin, which are of no relevance for a likelihood analysis.
- xxxi. Mere improvement on account of duties, is not an indicator as to the state of affairs, once the duties are no longer in force.
- xxxii. Data provided by Domestic Industry would show that exports made to Pakistan are significant and there are complete chances of diversion of these exports to India.
- xxxiii. The petitioners have provided relevant information in regard to existing surplus capacities in China.
- xxxiv. Parameters of threat of injury cannot be applied in cases where Anti-Dumping Duty is in place.
- xxxv. Designated Authority has equated “likely to recur injury” with “threat of injury.
- xxxvi. While examining imports in relation to consumption, the disclosure statement does not consider that imports in relation to consumption declined between 2013-14, 2014-15 and 2015-16. However, there has been increase in imports in relation to consumption in the POI.
- xxxvii. The price undercutting and price underselling is significantly high in respect of coarser yarn and negative in case of fine and super fine yarns.
- xxxviii. The price undercutting and price underselling is negative in case of fine and super fine yarns for the reasons that (a) Authority has changed NIP determination methodology on its own and (b) even when unit of measurement is weight, the product is consumed in length.
- xxxix. The DA never called upon the domestic industry to justify the change in methodology adopted by the petitioners.
 - xl. As per Para 77, 78 and 79 whereas cost of production increased by 10%, the import prices increased by 2%. Hence, Chinese produces did not increase their prices in proportion to increase in the costs.
 - xli. The domestic industry has not claimed continued injury from dumped imports as rightly observed by the Authority in para 113.
 - xlii. Likelihood of recurrence of injury does not imply material injury in post POI and therefore reliance solely on post POI to determine likelihood or recurrence of injury will not be appropriate.

- xl.iii. Further since the Anti-Dumping Duty is still in force post POI, the post POI data may not show likelihood of recurrence of injury.
- xl.iv. Since exporters have not cooperated with the authority with POI transactions wise data and other information, the authority should draw adverse inference against the exporters instead of drawing adverse inference against the domestic industry.
- xl.v. Since Cygnet Industries was mentioned as petitioning company in initiation notification, it's not possible for the Authority to mention in para 130 that it wasn't aware of the fact.
- xl.vi. No communication from the Directorate seeking any information on account of the details of the petitioning companies.
- xl.vii. The capital employed determined in case of one of the petitioner companies is not in accordance with the information filed, nor is it in accordance with the facts of the case on record of the Designated Authority.

Submissions made by exporters and other interested parties

130. The submissions of the domestic industry are as under :

- i. The exporter claimed that Bailu itself does not produce or sell the viscose filament yarn. From the Profit Statements of Bailu for Year 2016, Bailu's total operating revenue for 2016 is only CNY 14,175,120.69, which is such a small amount and cannot be the revenue for a company producing viscose filament yarn. Bailu's main business revenue consists of revenue from sales of water, steam, electricity, equipment, equipment accessories, and revenue from labour service and leasing. Thus, Bailu itself does not produce or sell the viscose filament yarn, only XCF produces the VFY and export the same to India.
- ii. The exporter claimed that the imports from subject country are not causing injury to the Domestic Industry.
- iii. The Authority is requested to kindly correct the name of the cooperating producer / exporter to M/s Yibin Hiest Fibre Co. Ltd. in place of Yibin Heist Fibre Limited Corporation in the final findings.
- iv. At the outset, it is submitted that the Designated Authority in the instant disclosure statement has allowed excessive confidentiality without the Domestic Industry advancing any proper justification. Further, why such confidentiality is claimed by the Authority, when in all other cases, Authority discloses volume related information in their disclosure statement.

- v. In view of the observation made by the Authority in paragraph 18 of the disclosure statement that the scope of the present review will not be modified, we reiterate our request that the Authority should maintain product scope as determined in previous investigations.
- vi. Any modification / change in the scope of the investigation carried out in past without following complete process of law should not be clubbed in the present Product under Consideration.
- vii. The Authority in the recent investigation of Polyester Staple Fibre (PSF) from China PR, Indonesia, Malaysia and Thailand [F. No. 14/49/2016 DGAD dated 25.1.2018], decided not to impose anti-dumping duties despite having injury and dumping on the grounds that “The other producer in India, who has not joined the petition, holds the largest share of the demand and is playing a major role in the determination of prevailing prices of the subject goods as is clear from examination of the various submissions filed by the user industry.” In that investigation, despite the fact that the other producer was treated as ineligible producer by the Authority in terms of Rule 2(b), his non-participation was considered to be fatal for the investigation.
- viii. There are three producers of the subject goods, the major producer M/s Century Rayon which accounts for almost 46% of total Indian production has not participated in the investigation. Further, M/s Century Rayon accounts for almost 35% of the demand in India. There is no explanation in the disclosure statement as to how the share of M/s Century Rayon is only 35% in demand when they account for 46% of the production. Therefore, the Authority is requested to kindly terminate the investigation as the major producer has not participated in the investigation.
- ix. It is submitted that the claim of the Domestic Industry regarding NIP computation is legally and factually incorrect. In this context, kind attention is invited to Section 2 (42C) of Income Tax Act 1961 which reads as under:

(42C) "slump sale" means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

Explanation 1 — For the purposes of this clause, "undertaking" shall have the meaning assigned to it in Explanation 1 to clause (19AA).

Explanation 2 — For the removal of doubts, it is hereby declared that the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities;

- x. It may be seen that as per the above provision of the Income Tax Act, "slump sale" means the transfer of one or more undertakings. Thus, it is clear that under the 'slump sale route', the sale is of an undertaking or the business activity taken as a whole as a going concern and not of the individual assets. In this context, the Authority may refer to Annexure III of the Anti-Dumping Rules which envisages a reasonable return on the capital employed and not on the value of a business entity. In terms of the consistent practice of the Authority, the return is invariably allowed on the capital employed and not on the value of the business/concern. Therefore, any claim of Domestic Industry to obtain higher return on account of the slump sale value is completely misconceived and contrary to the express provisions of law. The reference to the valuation done by independent evaluator is also irrelevant as the return is to be allowed only on the basis of the actual depreciated value of the assets. In fact, it is clear that the claim of the Domestic Industry is without merit also on the ground that the proposition in effect would tantamount to revaluation of assets only. Such revaluation of assets is specifically disallowed in terms of Annexure III of the Rules.
- xi. The Authority has rightly observed that the sale from Kesoram Industries Limited to M/s Cygnet Industries Limited is in fact a transfer from the parent company to its fully owned subsidiary and, therefore, any such transaction is relevant from the point of view of the anti-dumping laws.
- xii. We humbly request the Authority to kindly confirm its stand of not allowing Domestic Industry any return on the value of the business as opposed to the return on the capital employed computed on the basis of the actual depreciated value of the fixed assets.
- xiii. It is clear from the disclosure statement that the applicant industry is not suffering any injury regarding any of the given parameter. On the contrary all these parameters are showing positive growth and stabilization of the applicant industry.
- xiv. The Authority has noted several instances in Annexure 4 of the disclosure statement of misrepresentation by the domestic industry in relation to the transfer of ownership of Kesoram Rayon to Cygnet industries at the time of filing of the petition. Respondents request the Authority to hold that initiation of investigation was bad in law due to such misrepresentation by domestic industry.
- xv. Determination of NIP by the Authority in accordance with Annexure III of the Anti-Dumping Rules and as noted in Annexure 4 of the disclosure statement is correct.
- xvi. There is improvement in all economic parameters of domestic industry during the injury investigation period. There is no price suppression/depression. Also, there is negative price underselling or undercutting during the period of investigation.

Decline in production and sales in the POI is due to decline in demand and not due to imports.

- xvii. The Authority has also determined *de-minimis* margin of dumping for imports from subject countries. Authority has correctly rejected the possibility of diversion of exports of VFY to India from Pakistan and the claim regarding possibility of circumvention of goods.
- xviii. Thus, based on the analysis of dumping and injury to the domestic industry, it is clear that there is no present dumping or injury and there is no likelihood of dumping or injury in future.
- xix. Domestic industry has the burden to provide information regarding surplus capacities in China PR. The Authority should observe that domestic industry has failed to provide evidence regarding existence of surplus capacities.
- xx. There are stringent environmental norms and express prohibition in law in China PR on expansion of capacity for VFY. Regulation by the Ministry of Industry Information, Government of China in 2010 (and 2017) prohibits addition of new capacity of the subject product.
- xxi. Reports indicate that several VFY producers have shut down production of VFY in China PR which has resulted in reduction of overall capacity. Thus, there is no possibility of further addition of capacity or surplus capacity which may result in likelihood of dumping and injury.

Examination by the Authority

131. It is noted that the issues raised at post disclosure stage have already been examined by the Authority in above relevant paragraphs, however for the sake of the clarity of the submissions they are addressed as below:
- i. NIP and cost of production has been determined as per the provisions of the rules and the uniform practice followed in the Directorate for the calculations.
 - ii. PCN wise analysis had been done for the data provided by the petitioner as well as the cooperating exporters. Conclusion on injury margin and dumping margin was drawn after due analysis of the PCN wise data and the same was used to arrive at the weighted average.
 - iii. The normal value for the exporters has been constructed based on the cost of production of the most efficient domestic producer as per the uniform practice followed in the Directorate.

- iv. The imports from subject country are not being sold below the non-injurious prices of the domestic industry & the price undercutting from subject country is negative not only in POI but throughout the injury period.
- v. Share of imports from China in relation to total imports has further declined over the injury period; imports in relation to production and consumption have also decreased resulting in increase in domestic industry market share and net sales realization translating into mitigation of injury caused by the dumping from subject country.
- vi. M/s Kesoram Rayon was part of M/s Kesoram Industries Limited till 31.03.2016. M/s Cygnet Industries Limited had acquired the Rayon, Transparent paper and Chemical business undertaking of Kesoram Industries Limited at the close of business on 31st March 2016. Accordingly, a business transfer agreement was entered into between the Cygnet Industries Ltd and Kesoram Industries Limited to transfer the rayon, transparent paper and chemical business undertaking on a going concern basis through slump sale route at the total consideration of Rs 541 crore. The Business Transfer Agreement was amended on 27th May 2016, wherein the parties have agreed that the completion shall take place at the close of business as on 31st May 2016. Accordingly, KIL carried on the business operations of the undertaking during the two months period from 1st April 2016 to 31st May 2016 on behalf of purchaser M/s Cygnet Industries Limited. Cygnet Industries Limited the purchaser has subsequently become a 100% subsidiary of the seller Kesoram Industries Limited on 7th May 2016.
- vii. It was found during investigations that the value of Fixed Assets (tangible assets) as on 31.03.2016 was Rs 45.72 crore as per certified balance sheet of M/s Kesoram Rayon. However, the balance sheet of M/s Cygnet Industries Limited shows the value of Fixed assets as Rs 427.13 crore as on the same date.
- viii. The subsequent details indicate that the value was determined by an independent valuation agency. Since Cygnet Industries is 100% subsidiary of Kesoram Industries limited, revaluation of assets was not considered for return purpose, as it may amount to circumventing the Annexure-iii of the Customs Tariff (identification, assessment and collection of anti-dumping duty on dumped articles and for determination of injury) Rules, 1955. Para 4 (viii) of Annexure-iii states that a reasonable return on average capital employed for the product may be allowed for recovery of interest, corporate tax and profit. Net Fixed Assets of both the petitioner companies has been adopted without considering any revaluation.
- ix. Annexure-iii to the Customs Tariff (identification, assessment and collection of anti-dumping duty on dumped articles and for determination of injury) Rules, 1955 para (viii) inter alia states that the impact of revaluation of fixed assets shall not be considered in the calculation of capital employed.

- x. The Authority has also taken into account other relevant factors, since the Anti-dumping Duty is in force since 24th May 2006.
- xi. Authority has examined the contention of the Domestic Industry and other interested parties to examine likelihood of continuation or recurrence of dumping and injury with specific reference to the threat of material injury in terms of Annexure II (vii) of the Rules. Clause (vii) of Annexure II to the rules read with Nirma Ltd. Vs Union of India 2017(346) E.L.T 328 (Guj) decided on 13/12/2016. It is reiterated that Authority has not equated “likely to occur injury “ to “threat of injury”. The likelihood to injury has been based on the analysis of economic parameters throughout the injury period. This is the best available fact on record. Possibility of injury in future has not been established by Domestic Industry with any reliable evidence. The post – disclosure submission of DI on the same is based on assumptions and calculations that constraints the Authority to objectively examine likelihood of injury.
- xii. There is no consistency in the submissions made on likelihood by both domestic industry and cooperating exporters. Where interested parties, specially representatives from the Chinese government have claimed that manufacturing units in China are closing down due to environmental reasons with respect to the subject goods, at the same place, there are submissions from petitioner, quoting reports of Chinese government expanding capacities. Hence, it is difficult to conclusively determine likelihood of dumped imports and consequent injury to the domestic industry based on the argument of surplus capacities.
- xiii. The third country exports and stock inventories of exporters could not be ascertained, as no exporter responded and provided the requisite data. Domestic Industry has submitted the third country exports data and the same has been examined. The subject goods are exported to both India and Pakistan in different deniers. The demand of the specific deniers exported to Pakistan does not appear to coincide with the demand in India. Hence, the fear of diversion of exports to India is baseless.
- xiv. Analysis of various economic parameters shows overall economic health of the domestic industry has improved. The Authority notes that this improvement is mainly due to the anti-dumping measures in force. Thereby the Anti-dumping measures have served the intended purpose of mitigating the unfair advantage usurped/exercised by the exporters by dumping their goods.
- xv. The Authority also reiterates that India follows lesser duty rule while arriving at conclusion to impose anti-dumping remedial measures. As there is no injury to the domestic industry during the period of investigation, thereby, the antidumping trade remedial measures cannot be extended merely on the basis of dumping only.

CONCLUSIONS

132. Having initiated and conducted the present review investigation into continued dumping, injury and causal link in terms of the Antidumping Rules, the Authority is of the view that the exports from the subject country are not causing material injury to the domestic industry. Further, the analysis of likelihood of injury in view of cessation of duties demonstrates that there is no reason for continuation of anti-dumping duties against the subject goods from the subject country. Having concluded as above, the Authority is of the view that continuation of anti-dumping duty, on the imports of the subject goods, originating in or exported from the China PR, is not required. Having observed that the existing antidumping duty is in existence since 24th May 2006, the Authority is of the opinion that existing anti-dumping duty has served the intended purpose.
133. An appeal against this order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

(Sunil Kumar)
Additional Secretary & Designated Authority