

F.No.15/17/2008-DGAD  
GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES  
UDYOG BHAVAN, New Delhi.  
**NOTIFICATION**

**Final Findings**

New Delhi, the 13<sup>th</sup> August, 2009.

**Subject: Sunset Review of Anti-Dumping Duty imposed against import of Sun/Dust Control Polyester Film originating in or exported from Taiwan & UAE.**

**BACKGROUND**

No.15/17/2008-DGAD - Whereas the Designated Authority, having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, recommended imposition of provisional duty vide Notification No. 14/53/2002-DGAD dated 25.07.2003 and such provisional duty was imposed by the Govt. of India vide Customs Notification No. 133/2003 dated 26.08.2003. The Authority issued its Final findings recommending imposition of definitive Anti Dumping Duty on imports of **Sun/Dust Control Polyester Film** (hereinafter referred to as subject goods) originating in or exported from UAE and Chinese Taipei (Taiwan) (hereinafter referred as subject countries) vide Notification No.14/53/2002-DGAD dated 30.07.2004 and such definitive duty was imposed by the Govt. of India vide Customs Notification No. 101/2004 dated 29.9.2004.

2. The Designated Authority, in terms of section 9A (5) of said Act received a substantiated application from M/s. Garware Polyesters Limited, Mumbai requesting for review and continuation of the Anti-Dumping Duties levied on the subject goods, for another five years on the grounds that the imports from the subject countries had continued in spite of imposition of anti-dumping duty. It was also claimed that expiry of measure against the subject countries would likely to result in continuation or recurrence of dumping and injury to the domestic industry. The Designated Authority issued a Public Notice No. 15/17/2008-DGAD dated 14th August, 2008, published in the Gazette of India, Extraordinary, initiating Anti Dumping Duty (Sunset

Review) investigations, to examine whether the expiry of Anti Dumping Duty would lead to continuation or recurrence of dumping, injury or both.

### **A. PROCEDURE**

3. In these proceedings the procedure described below has been followed:

- i) After initiation of the review, the Authority sent questionnaires, along with the initiation notification, to the known exporters/producers in the subject countries in accordance with the Rule 6(4), to elicit relevant information.
- ii) The Embassies of the subject countries in New Delhi were informed about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in their countries to respond to the questionnaire within the prescribed time.
- iii) Questionnaires were sent to the known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4),
- iv) Copies of the Initiation Notification were also sent to FICCI, CII and ASSOCHAM for wider circulation.
- v) None of the exporters/ producers from subject countries have responded to the Authority with prescribed questionnaire response.
- vi) No other interested party filed any response to the Initiation Notification.
- vii) M/s. Garware Polyesters Limited, Mumbai being domestic industry, submitted the information/data. The Authority verified the information furnished by the domestic industry to the extent possible on the basis of Generally Accepted Accounting Principles (GAAP) to examine the injury suffered, to work out optimum cost of production, cost to make and sell the subject goods in India and so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;

viii) Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidential claim. On being satisfied, the Authority granted confidentiality, wherever warranted and such information has been considered confidential and not disclosed to other interested parties.

Wherever possible, parties providing information on confidential basis were directed to provide Non-Confidential Version of the information filed on confidential basis.

ix) Transaction-wise data of imports for the period of investigation and preceding three years were called from Directorate General of Commercial Intelligence and Statistics (DGCI&S) in addition to the data of IBIS provided by the domestic industry.

x) \*\*\*in the statement represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.

xi) The Authority held a public hearing on 17.7.2009 to hear the interested parties orally, which was attended by representatives of interested parties. The written submissions received from interested parties have been considered in this findings;

xii) Investigations were carried out for the Period of Investigation (POI) from 01.04.2007 to 31.3.2008. However, injury analysis covers the periods 2004 - 05, 2005 - 06, 2006 – 07 and the Period of Investigation.

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

4. The product under investigation in the present case is “Specialty Polyester Film i.e. Sun/Dust Control Polyester Film” originating in or exported from Taiwan & UAE and is also known by different names in the trade and market parlance such as Sun Control Films, Sun Films, Solar Films, Solar Control Films, Solar Window Films, Window Films. The Product is largely used for heat rejection/glare reduction, U.V. rejection and safety by applying on window glasses of automobiles as well as buildings etc. Sun/Dust Control Polyester Film is applied to the inner side of the glass windows. Its main function is to reduce the solar heat glare, ultra violet light and glare that normally would enter through the windows. The Sun/Dust Control Polyester Film is classified under Customs Tariff Heading 39 20 69 under Chapter 39 of the Customs Tariff Act, 1975, and 39.20.69.04 under Indian Custom Tariff Classification. The

Classification is however indicative only and in no way binding on the scope of the present investigations. The present investigation is a review investigation and the product under consideration remains the same as has been defined in the original investigation. Furthermore, there is no claim of significant development or change in the product during the period thereafter. The petitioner has claimed that goods produced by it are like articles to the goods originating in or exported from the subject countries. There is no submission from any exporter/producer or any interested party disputing the product under consideration and like article. The subject goods produced by the petitioner are being treated as Like Articles to the goods imported from the subject countries/territories within the meaning of the Rules.

### **C. DOMESTIC INDUSTRY AND STANDING:**

5. In the original investigations, M/s. Garware Polyesters Limited, Mumbai had filed the petition before the Authority. The Sunset Review application has been filed by M/s. Garware Polyesters Limited, Mumbai as the domestic industry. There is no other producer of subject goods in India and the petitioner being the sole producer of the subject goods constitutes domestic industry within the meaning of the Anti Dumping Rules. The investigation has not shown any fact to the contrary to what has been claimed and established by the petitioner. Having regard to the Rules and information on record, the Authority holds that M/s. Garware Polyesters Limited, Mumbai constitute domestic industry for the purpose of the present investigations within the meaning of the Rules.

### **D. DUMPING MARGIN**

#### **D.1 METHODOLOGY OF DETERMINATION**

6. There is no response from any producer/exporter from Taiwan and UAE. The Authority has recorded the Final Findings on the basis of best available information in view of non cooperation from the exporters/producers from the subject countries.

#### **D.2 Examination by the Authority**

##### **D.2.1 NORMAL VALUE**

7. No exporter/producer from the subject countries has cooperated in the investigation to enable to determine normal value and export price of the subject goods in their countries and the Authority notes the following:.

(i) The petitioner has stated that they made efforts to get information on prices at which the subject goods were being sold by the exporters in their domestic markets.

However, the price at which the material has been exported to India is far below the costs associated with production of the subject goods.

(ii) The petitioner has stated that they have exported the product under consideration to Taiwan. The product is not directly consumed in Taiwan. The product is resold by the importers. The price at which the goods exported by the petitioner is resold by the importer in Taiwanese market has to be materially higher than the price at which the petitioner has exported the subject goods. The price at which petitioner has exported the subject goods to Taiwan has been at least lower than the price at which the product under consideration was being sold in the Taiwanese market. The petitioner has argued that the price at which the petitioner has sold the product in Taiwan is a conservative estimate of normal value in Taiwan.

(iii) That the production process for the product under consideration does not involve substantial production technology or manufacturing process. It also does not appear that scale of operations could make substantial difference in the cost of production. In view of these facts the Authority has worked out the normal value on the basis of constructed value method and has adopted the most conservative method, even if there is no cooperation from any exporter/producer in this case.

(iv) That the polyester film forms the basic raw material for production of the subject goods. Further, a number of chemicals/compounds are used to make the subject goods.

(v) The normal value assessed on two alternate basis on comparison shows that normal value based on estimates of cost of production appears to be more conservative and reasonable. Under the circumstances, as explained above, normal value has been worked out on cost of production with reasonable addition for selling, general, administration costs and profit in accordance with Rules 6(8) supra.

### **Taiwan**

8. In the absence of any information from any exporter/producer, the Authority has determined the normal value on the basis of best available information. Normal value for Taiwan has been constructed on the basis of international prices duly adjusted by amount of custom duty on major raw material, ocean freight and marine insurance. Other raw materials, conversion cost, general and administrative and selling expenses have been adopted as per domestic industry's cost of production together with a 5%

margin of profit. The Normal Value of the subject goods has been determined as Rs \*\*\* (US\$ \*\*\*) per Kg at the exchange Rate of Rs40.75=US\$1.00

### **UAE**

9. In the absence of any information from any exporter/producer, the Authority has determined the normal value on the basis of best available information. Normal value for UAE has been constructed on the basis of international prices duly adjusted by amount of custom duty on major raw material, ocean freight and marine insurance. Other raw materials, conversion cost, general and administrative and selling expenses have been adopted as per domestic industry's cost of production together with a 5% margin of profit (excluding interest). The Normal Value of the subject goods has been determined as Rs \*\*\* (US\$ \*\*\*) per Kg at the exchange Rate of Rs40.75=US\$1.00

### **D.2.2 EXPORT PRICE**

10. The Petitioner has provided information on imports on the basis of actual imports data provided by the secondary agency, M/s. Informant, Mumbai. The transaction wise data was called from DGCI&S for the POI and previous three years and same was received. From the data it has been observed that different products have been imported under the particular classification. However, data of the subject goods from subject countries has been examined and it has been observed that there was only one transaction from each of the subject country, reflecting meager quantity of import. In the absence of actual export price from the exporters, the Authority has adopted this information for assessment of the export price from the countries involved.

11. The Authority has worked out the weighted average export price after adjustments towards ocean freight and insurance in view of complete non cooperation by the concerned exporters.

### **Taiwan**

12. CIF Export Price of imports from Taiwan has been arrived at Rs \*\*\*/Per Kg i.e. US\$ \*\*\*/Per Kg and after adjustments towards ocean freight and insurance, net export price has been determined as Rs. \*\*\* (US\$ \*\*\*) Per Kg.

### **UAE**

13. CIF Export Price of imports from UAE has been arrived at Rs \*\*\*/Per Kg i.e. US\$ \*\*\*/Per Kg. and after adjustments towards ocean freight and insurance, net export price has been determined as Rs. \*\*\* (US\$ \*\*\*) Per Kg.

### **D.3 DUMPING MARGINS**

14. The rules relating to comparison of export price to the normal value of the subject goods in the country of exports provides as follows:-

"While arriving at margin of dumping, the Designated Authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sales, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability"

15. In terms of the above Rules the authority carried out comparison of weighted average normal value with the weighted average net export price for evaluation of dumping margin.

16. In view of the lack of cooperation, the normal value of the subject goods from both the subject countries have been constructed on the basis of best available information and the weighted average normal value has been adopted for the purpose of determination of dumping margin. The weighted average net export price has also been estimated on the basis of DGCI&S import data with admissible adjustments as stated earlier. The Authority thus considers that the comparison of normal value with the export price is fair within the meaning of Annexure I to the Rules.

17. Accordingly, the dumping margins for the producers/exporters of the subject goods in the subject countries have been worked out as under:-

Country-wise Exporters/Producers	Normal Value US\$/perKg.	Export Price US\$/perKg.	Dumping Margin US\$/per Kg,	Dumping Margin (%)
Taiwan	***	***	***	***
All exporters				
UAE	***	***	***	***
All exporters				

18. The Authority notes that the dumping margin determined in the previous investigation was quite significant. The present investigation also shows significant dumping margin from the subject countries.

## **E. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINK**

### **E.1 INJURY AND CAUSAL LINK**

#### **E.1.1 Views of the Petitioner**

19. The petitioner has submitted as under : -

- (i) Even after the improvement in the performance of the domestic industry, return on investment is still insufficient.
- (ii) The subject goods would enter the Indian market from subject countries at dumped prices below the selling price and non-injurious price of the domestic industry.
- (iii) That the subject countries have huge freely disposable/unutilized/surplus capacities for export to India and injury to the domestic industry is likely in the event of revocation of anti dumping duties.
- (iv) *In a situation where the dumping continues or is likely to recur in the event of revocation of anti dumping duty and where the domestic industry continues to be injured or the injury to the domestic industry is likely to recur in the event of revocation of anti dumping duty, the anti dumping duty in force should be continued further for a period of five years. In the instant case, dumping of the product from the subject countries has continued. Dumping would intensify, should the present anti dumping duty be revoked.*
- (v) *However, if Authority finds that the domestic industry has not suffered continued injury, petitioner then claims that the revocation of duties would be likely to lead to recurrence of injury due to imports from Taiwan and UAE. As regards injury, all parameters collectively and cumulatively show that the performance of the domestic industry improved after imposition of anti dumping duty against subject countries and consequent restriction on dumping and injury to the domestic industry is likely in case of revocation of duty.*

#### **E.1.2 Views of the exporters, importers, users & other interested parties**

20. There has been no response from any exporter/producer from the subject countries, importers and other interested parties. At the time of Public Hearing following submissions have been made on behalf of UAE Government:-

- (i) There are low volumes of imports from UAE.
- (ii) The imports from UAE are just 4% of total imports in the entire injury period and 1% of total imports in the POI. It is just 11% of the imports from Taiwan. There should be no cumulative assessment for Taiwan and UAE.
- (iii) In non-confidential version of the petition, petitioner confirms that there are no imports from UAE.
- (iv) Sufficient evidence is required to prove recurrence of injury and the requirement of "positive evidence and objective examination" is to be satisfied under Art. 3.1.

#### **E.1.3 Examination by the Authority**

21. The Authority has taken note that for the sunset review, the relevant provisions of Section 9(A)(5) of the Customs Tariff Act read as under:

*“The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:*

*Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.”*

22. The Authority further notes that:

(i) Rule 23 of the Anti-dumping Rules provide for procedure for conducting sunset review. For conducting the review, the provisions of Rule 6, 7,8,9/10, 11, 16,17,18,19 and 20 have been made applicable.

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

(iii) For the purpose of assessing present state of injury, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.

23. The Authority considered the following for examining the issue of cumulative assessment of injury and observed that:

(i) The domestic product and product supplied by producers in subject countries are like articles.

(ii) Imported products and domestically produced subject goods are interchangeable and are being interchangeably used. Transaction-wise information on imports from various countries shows that the imports are primarily being made by traders who have purchased the material for reselling. Goods supplied by the two countries were, therefore, competing in the same market.

(vi) Products supplied from the subject countries have been marketed in India during the same period through comparable sales channels and under similar commercial conditions.

(vii) The domestic producer and exporters in the subject countries have been selling the product to the same category of consumers.

24. The Authority holds that cumulative assessment of injury is appropriate in this case since the exports from the subject countries were directly competing amongst themselves as well as with the like goods offered by the domestic industry in the Indian market.

## **F. Injury Determination**

### **F.1 Assessment of demand**

25. For the calculation of the domestic consumption/demand of the product under consideration, the Authority has considered the sales volume of the domestic industry as well as the total imports into India.

	Unit	2004-05	2005-06	2006-07	POI
Domestic Sales of		241			
Domestic industry	MT		279	332	355
Trend	MT	100	116	138	147
Imports from subject countries	MT	2.36	0	0.444	3.198
Trend		100	0	19	136
Imports from other		28.48			
Countries	MT		80.63	131.86	130.96
Trend		100	283	463	460
Total Imports	MT	30.84	80.63	132.30	134.16
Trend		100	261	429	435
Demand	MT	271.84	359.63	464.30	489.16
Trend		100	132	171	180
Export Sales of Domestic industry	MT	1136	1189	1276	1288
Trend		100	105	112	113

26. The Authority notes that the demand has shown a positive trend over the injury period and increased by 80% in POI from the base year 2004-05, while domestic sales have increased by 47% during the same period. The imports from the subject countries have been meager throughout the injury period.

### **F.1.2 Import volumes and market share**

27. With regard to the volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. Annexure-II (ii) of the Anti-dumping rules provides as under: -

“While examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports, either in absolute term or relative to production or consumption in India .....

28. The Authority has examined the claim of the domestic industry as per DGCI&S data. The Authority has determined the volume of imports based on DGCI&S source only.

Particulars	Unit	2004-05	2005-06	2006-07	POI
Market share in Imports					

Taiwan	MT	2.36	-	0.444	1.076
Trend	Indexed	100	0	19	45.59
UAE	MT	-	-	-	2.122
Trend	Indexed	-	-	-	-
Subject Countries	MT	2.360	-	0.444	3.198
Trend	Indexed	100	-	19	136
Other Countries	MT	28.48	80.63	131.86	130.96
Trend	Indexed	100	283	463	460
Total Imports	MT	30.84	80.63	132.30	134.16
Trend	Indexed	100	261	429	435
Sales of Domestic Industry	MT	241	279	332	355
Trend	indexed	100	116	138	147
Total Demand		271.84	359.63	464.30	489.16
Trend	Indexed	100	132	171	180
Market share in Imports					
Taiwan	%	7.65	-	0.34	0.80
UAE	%	-	-	-	1.58
Subject Countries	%	7.65	-	0.34	2.38
Other Countries	%	92.35	100	99.66	97.62
Market share in Demand					
Chinese Taipei	%	0.87	-	0.11	0.22
UAE	%	-	-	-	0.43
Subject Countries	%	0.87	-	0.11	0.65

Other Countries	%	10.48	22.48	28.39	26.77
Domestic industry	%	88.65	77.58	71.50	72.58

29. The Authority notes that:

(i) The share of subject countries in total imports into India declined from 7.65% in the base year 2004-05 to “Nil” in 2005-06 and thereafter increased to 0.34% in 2006-07 and 2.38% during POI. Except base year and POI, share of subject countries in the total imports remained even less than one percent.

(ii) The market share in demand in respect of imports from the subject countries was only 0.87% during base year and further reduced to the level of 0.65% during POI. The share of subject countries in total demand is only 0.65% during POI which is meager and negligible. At the same time, share of other countries have increased from 10.48% to 26.77% over the same period. The share of domestic industry, which was 88.65% during 2004-05 has declined to 72.58% during POI.

### **F.1.3 Price effect of the dumped imports on the Domestic Industry**

30. In a review investigation, it is required to examine whether there has been a significant price effect by the dumped imports as compared with the price of like product in India or whether there is likelihood of recurrence of price effect after revocation of duty.

31. With regard to the effect of the dumped imports on prices, it has been examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the 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.

### **F.1.4 Price undercutting**

32. In order to ascertain the price undercutting being caused by the dumped imports, the Authority has compared net sales realization of the domestic industry with the landed price of imports. The net sales realization has been arrived after deducting all rebates and taxes. Landed value of imports has been calculated by adding 1% handling charges and applicable basic customs duty to the CIF value of subject imports. The landed value of imports compared with net sales realization of the domestic industry shows that the imports from Taiwan and UAE have been undercutting the prices of the domestic industry during POI.

	2004-05	2005-06	2006-07	POI
CIF export price Rs/Kgs				
Taiwan	***	***	***	***
UAE	***	***	***	***
Landed price of imports				
Taiwan	***	***	***	***
UAE	***	***	***	***
Net sales realization (Rs/Kgs)	***	***	***	***
Cost of sales (Rs/kgs.)	***	***	***	***
Price undercutting price Rs/Kgs				
Taiwan	***	***	***	***
Taiwan - Indexed	-100	-	25.57	51.04
UAE	No export	No export	No export	***

### F.1.5 Price Underselling

Net Sales Realisation	***
Non Injurious Price	***
Landed Value - Chinese Taipei	***
Price Underselling	***
Price Underselling (%)	***
Price Underselling (%) range	35 – 50
Landed value - UAE	***
Price Underselling	***
Price Underselling (%)	***
Price Underselling(%) range	70 – 90
Landed value (Subject Countries)	***
Price Underselling	***

Price Underselling (%) \*\*\*

Price Underselling range 70 – 90

**33. The price underselling have been positive in case of Taiwan and UAE.**

**F.1.6 Price suppression/depression**

**34. In order to assess whether the imports from the subject countries were suppressing/ depressing the prices of the domestic industry, the Authority compared the trends in selling prices and cost of production.**

Unit in Kg..	2004-05	2005-06	2006-07	POI
Net sales realization (Rs/Kg)	***	***	***	***
Trend	100	113	117	126
Cost of sales (Rs/Kg.)	***	***	***	***
Trend	100	109	107	115

**35. The Authority notes that selling prices and cost of sales of the domestic industry increased over the years, however, increase in selling price is higher than the increase in cost of sales.**

**G. Economic Parameters relating to the Domestic Industry**

**36. Annexure II to the Rules requires that a 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 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.**

**G.1 Production, sales, capacity and capacity utilization**

**37. Production, sales, capacity & capacity utilization of the domestic industry has been as under:-**

	Unit	2004-05	2005-06	2006-07	POI
Capacity	MT	1669	1669	1790	1790
Trend	Indexed	100	100	107	107
Production	MT	1341	1477	1624	1690
Trend	Indexed	100	110	121	126
Domestic sales	MT	241	279	332	355

Trend	Indexed	100	116	138	147
Capacity utilization	%	80	89	91	94
Trend	Indexed	100	111	114	118

**38. The Authority notes that capacity, production and sales of the domestic industry have increased in absolute terms. Capacity utilisation also increased from 80% during base year to 94% during the POI.**

**G.2 Profit, return on capital employed and cash flow:**

	Unit	2004-05	2005-06	2006-07	POI
Profit/(Loss) (PBT)	Rs/Lacs	***	***	***	***
Trend	Indexed	(100)	(13.33)	264.23	319
Profit/(Loss) before interest (PBIT)	Rs/Lacs	***	***	***	***
Trend	Indexed	100	195	342	378
Return on investment (NFA basis)	%	***	***	***	***
Trend	Indexed	100	156	209	214
Cash profits	Rs/Lacs	***	***	***	***
Trend	Indexed	(100)	41.84	485	621

**39. The loss to the domestic industry to the tune of Rs \*\*\* lakh during base year reduced to Rs \*\*\*lakh during 2005-06. The domestic industry made profit during 2006-07 and POI and absolute profit to the domestic industry during POI has been to the tune of Rs. \*\*\*lakh.**

**40. The domestic industry improved its return on investments from base year to POI. Return on investment improved to \*\*\*% during POI from \*\*\*% during the base year.**

**41. The Authority has examined cash profits over the years and the position with regard to cash profit shows that it has been continuously improving over the injury period and POI. Cash profit during the base year was Rs. (\*\*\*) lakh i.e. negative and converted to profit to the tune of Rs. \*\*\*lakh during POI.**

**G.3 Employment, wages and productivity**

	Unit	2004-05	2005-06	2006-07	POI
Number of employees	Nos.	107	119	126	126
Trend	Indexed	100	111	118	118
Wages	Rs./Lacs	378.24	404.83	424.61	475.17
Trend	Indexed	100	107	112	126
Productivity	MT/person	12.53	12.41	12.89	13.41
Trend	Indexed	100	99	103	107

**42. The Authority notes that employment and wages to employees has improved in absolute term. Productivity, expressed in terms of production per employee shows improvement.**

#### **G.4 Inventories**

**43. Average stock of finished products with the domestic industry shows increasing trend in absolute term.**

	Unit	2004-05	2005-06	2006-07	POI
Average stock	Mt	47	34	49	57
Trend	Indexed	100	72	104	122

#### **G.5 Growth**

**44. The capacity, production, capacity utilisation, productivity, sales, profits and return on capital employed have shown positive growth throughout the period.**

#### *G.6 Ability to raise capital investments*

*45. The Authority notes that the petitioner company is a multi-product company and may not have difficulty in raising fresh investment.*

#### **G.7 Injury margin**

**46. Considering the Non-injurious price (NIP) and landed value, injury margin has been arrived for the investigation period as given in the following table.**

	NIP	Landed Value	Injury Margin	Injury Margin	Injury Margin
Producer/Exporter	US\$/MT	US\$/DMT	US\$/DMT	%	Range (%)
Taiwan	***	***	***	***	40 – 50
UAE	***	***	***	***	75 – 95

#### **G.8 Conclusion on Injury:**

**47. The product under consideration is Sun/Dust Control Polyester Film in its different forms. The injury analysis for like article has been analyzed to understand the impact of the imports of its various forms and following facts are before the Authority in this case:-**

- (i) The demand of subject goods has increased by 80% (indexed) during POI as compared to base year i.e. 2004-05. During this period, the domestic industry has increased capacity by 7% (indexed) and production by 26% (indexed). The capacity utilization, after enhancement

in capacity has however, increased to 94% during POI in comparison to 80% from the base year 2004-05.

(ii) The market share of countries other than subject countries has increased from 10.48% in 2004-05 to 26.77% during POI.

(iii) The market share of the domestic industry has declined from 88.65% during 2004-05 to 72.58% during POI.

(iv) The market share of dumped imports from subject countries has remained even less than one percent during injury period and POI except in the base year.

#### **H.1 Others Known Factors and Causal Link:**

##### **H.1.1 Volume and prices of imports from other sources**

48. The total Imports from all countries increased from 30.84 MT in 2004-05 to 134.16 MT in POI. The declined market share of domestic industry has been captured by countries other than subject countries.

##### **H.1.2 Contraction in demand and / or change in pattern of consumption**

49. The demand of the subject goods has increased by 80% (indexed) during POI as compared to base year. Contraction in demand, therefore, is not a possible reason, which could be affecting the performance of the domestic industry.

##### **H.1.3 Trade restrictive practices of and competition between the foreign and domestic producers**

50. The subject goods are freely importable and there are no trade restrictive practices in the domestic market. Therefore, this factor could not be reason affecting the performance of the domestic industry.

##### **H.1.4 Development of technology and export performance**

51. Technology for production of the product is same for the domestic industry and as used by the producers in the subject countries and accordingly development in technology is not a factor which could affect the performance of the domestic industry.

52. The domestic industry has made exports to the tune of 1288 MT during POI which is \*\*\*% of the total production. However, export sales are at Rs. \*\*\* per Kg. against domestic sales realization of Rs. \*\*\* per Kg. during POI and the export sales cannot be considered a factor affecting the performance of the domestic industry.

##### **H.1.5 Productivity of the Domestic Industry**

53. Productivity of the domestic industry measured as production per employee have improved from 12.53 MT/person in 2004-05 to 13.41 MT/person during POI and cannot be considered a factor affecting the performance of the domestic industry.

**I. Causal Link, Likelihood of Continuance or Recurrence of Dumping and Injury:**

**Views of the Domestic Industry**

54. The domestic industry has made the following arguments:

(i) The return on investment of the domestic industry is still insufficient.

(ii) The market share of the domestic industry has significantly decreased and imports from other countries not attracting duties have increased with the significant surge during the investigation period. The dumped imports from subject countries shall surge in case duties are withdrawn.

(iii) Due to continued availability of dumped material in the Indian market, the price at which subject goods are being sold by the domestic industry do not provide due relief to the domestic industry.

(iv) Even after improvement in the performance of the domestic industry in terms of various price parameters, such as profits, return on investments and cash flow has declined from base year and return on investment is not sufficient.

(v) The subject goods would enter the Indian market from subject countries at dumped prices below the selling price and non-injurious price of the domestic industry on revocation of duties..

(vi) The Petitioner in their written submissions, in continuation to submissions made in Public Hearing has provided following information on global capacity and demand of the subject goods:

Country of Production	Capacity	Local	Surplus	Capacity	Local	Surplus
	(LSF)	Demand		(LSF)	(MT)	
		(LSF)			(MT)	
Korea	750	500	250	674	449	225
Taiwan	720	200	520	647	180	467
China	5000	4000	1000	4494	3595	899
USA	10000	3000	7000	8988	2696	6292
Europe		1900	(1900)	-	1708	(1708)

Middle East & Africa	500	800	(300)	449	719	(270)
India	2000	547	1453	1798	491	1306
Russia		1500	(1500)	-	1348	(1348)
Total	18970	12447	6523	17050	11187	5863
Total excluding India	16970	11900	5070	15253	10696	4557

**As per above information provided by the Petitioner, the production capacity of the World (excluding India) is 16,970 LSF whereas the demand is only 11,900 LSF and the capacities are almost 50% in excess of demand. Further the production capacity of Taiwan is 720 LSF whereas their local demand is only 200LSF resulting into surplus capacity of 520 LSF. The petitioner has also informed that UAE is not a producer country of the subject goods and is only a trading country and can export the subject goods to any extent available globally.**

**(vii) The Petitioner has contended that the responding exporters must establish that dumping is unlikely to continue or recur in the event of revocation of anti dumping duties. Unless the exporters establish that dumping is unlikely to continue, intensify or recur in the event of revocation of anti dumping duties, it must be held that the dumping would continue or recur or intensify in the event of revocation of anti dumping duties.**

**(viii) The Petitioner has contended that the exporter has significant capacity in excess of domestic demand and must provide information regarding the demand of the product under consideration in subject countries.**

**55. The domestic industry has also made following submissions on the disclosure statement:**

**(i) That none of the producers/exporters of the subject countries have responded to the Authority, the Authority may kindly treat all the parties as non co-operative.**

**(ii) That while calculating export price transaction wise data received from secondary sources may also be considered along with the data received from DGCI&S without overlapping.**

**(iii) That volume of imports considered in the Disclosure Statement in respect of third countries appears to be overstated for POI.**

**(iv) That the imports from Taiwan continued in spite of imposition of duty, though the volumes declined and it shows that there would be significant imports at dumped prices to India in case of revocation of duty.**

**(v) That the imports from UAE have re-commenced in the POI.**

(vi) That the present investigation is a Sunset Review investigation and therefore increases in imports is not a necessary pre-condition for extension of anti dumping duties and in fact anti dumping duties can be extended in those situations where there are no exports of the product.

(vii) That the increase in selling price is higher than the increase in cost of sales only due to anti dumping duties on dumped imports. Similarly, due to anti dumping duties, the domestic industry has achieved improvement in various economic parameters.

(viii) That the present situation is clearly suggestive that the dumping would continue in the event of revocation of anti dumping duty and volume of dumped imports would increase once the present anti dumping duties are revoked and dumping is likely to continue insignificantly increased proportion in the event of revocation of anti dumping duties.

**Examination by the Authority:**

**56. The present investigation is a sunset review and the Authority is required to examine whether revocation of duty is likely to lead to continuation or recurrence of dumping and injury. The Authority has taken note of all the issues raised by the domestic industry and other interested parties on disclosure statement and have dealt with at appropriate places in the final findings. The Authority has noted as under:**

(i) That dumped imports from Taiwan and UAE have been undercutting the price of the domestic industry as detailed at Para 32 above.

(ii) The state of domestic industry has improved as evident from different economic parameters. However, in case of continuance or recurrence of dumping by the subject countries, the injury may recur.

(iii) The dumping margin has been determined on the basis of actual export transactions captured from the DGCI&S data and the normal value determined on the basis of best facts available. On the basis of these facts it has been noted that there is significant dumping margin for these transactions indicating that dumping is continuing despite the imposition of anti dumping duty. This indicates that there is likelihood of continuation of dumping from the subject countries as no other factor has come to the notice indicating that the dumping may discontinue in case of revocation of anti dumping duty.

(iv) That the imports from Taiwan and UAE during injury period & POI were meager and accordingly, specific dumping margin calculated based on such miniscule quantity of imports has not found to be justified, as the same is not based on representative import data. It is evident that the duty in place has been effective to stall dumping from subject

countries. Therefore, continuation of the existing duty is recommended.

(v) That although there is price undercutting and price underselling, the Authority notes that the selling prices and cost of sales of the domestic industry increased over the years and selling prices have been higher than cost of sales during 2006-07 and POI and there have not been price suppression/depression. This is due to insignificant dumped imports from subject countries.

(vi) That the total global production capacity (excluding India) has been 15253 MT of the subject goods as against demand of 10696 MT only resulting into market surplus to the tune of 4557 MT of the subject goods. The huge surplus quantity available always have tendency to explore markets. In case of UAE, a trading hub, this surplus capacity is available for export to India. Similarly, the total demand of Taiwan is far less than their production capacity leading to market surplus to the tune of 467 MT available for exports to India at dumped prices.

(vii) That the net sales realisation of the domestic industry during POI has been Rs. \*\*\*/- per Kg. while the net export price from Taiwan and UAE have been Rs. \*\*\* per Kg. and Rs. \*\*\* per Kg. respectively during the same period. The significant difference between net sales realisation of the domestic industry and net export price from subject countries leads to strong possibility of dumping if anti dumping measures are withdrawn.

(viii) That the dumped imports from the subject countries have been quite low and domestic industry has been able to increase the net sales realisation on line with the increase in cost of sales. In a situation if duties are withdrawn, there is every likelihood of surge in dumped imports from subject countries due to significant difference in net export price in comparison to net sales realisation of the domestic industry.

(ix) That taking into consideration the fact and circumstances of the case, it is necessary to continue the anti-dumping duty for further period of five years so that there is no injury to domestic industry due to continuance or recurrence of dumped imports from subject countries.

**FINAL FINDINGS:**

57. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of interested parties or otherwise as recorded in the above

findings and on the basis of the above analysis of the state of current and likely dumping and injury and likelihood of continuation or recurrence of dumping and injury, the Authority concludes that:

i) The subject goods are entering the Indian market at dumped prices and dumping margins of the subject goods imported from Taiwan and UAE are substantial and above de-minimis.

ii) The subject goods are likely to enter the Indian market at dumped prices and the likely dumping margins in respect of imports from Taiwan and UAE will be substantial and above de-minimis.

iii) The subject goods are likely to enter Indian market at dumped prices, should the present measures be withdrawn.

iv) Further, should the present anti dumping duties be revoked, injury to the domestic industry is likely to continue and intensify.

#### Indian industry's interest and other issues

58. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the product in India. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practice, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the availability of the products to the consumers. The consumers could still maintain two or even more sources of supply.

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

#### Recommendations

60. Having concluded that there is likelihood of continuation or recurrence of dumping and injury on account of imports from Taiwan and UAE, if the duties are revoked, the Authority is of the opinion that the measure is required to be extended in respect of imports from these countries, however the quantum of anti dumping duty in force need not be revised. Therefore, the Authority considers it necessary and recommends continuation of Anti Dumping Duty on imports of subject goods from the subject countries recommended vide Notification No. 14/53/2002-DGAD dated 30/7/2004 and imposed vide Customs Notification No. 101/2004-Customs dated 29.9.2004 and further extended upto 25th August, 2009 vide Customs Notification No.100/2008-Customs dated 29.8.2008.

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

(R. Gopalan)  
The Designated Authority