

**Government of India
Ministry of Commerce & Industry
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan, New Delhi**

Notification

February 24th 2012.

Subject: - Sunset Review of anti-dumping duty imposed concerning imports of *Viscose Filament Yarn* originating in or exported from China PR -Final Findings.

A. BACKGROUND

No.15/23/2010-DGAD: – Whereas having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the AD Rules), the definitive anti-dumping duty was originally imposed vide notification No. 14/23/2004-DGAD dated 4th April 2006 on imports of *Viscose Filament Yarn* (hereinafter referred to as the subject goods) originating in or exported from China PR (hereinafter referred to as the subject country); whereupon the Anti-dumping duty was imposed vide Customs Notification No.45/2006 dated 24th May 2006.

2. And whereas these findings were modified in a mid-term review investigation by the Designated Authority vide final findings No.15/8/2007-DGAD dated 22nd May 2009; whereupon the Anti-dumping duty was modified by the Central Government vide Customs Notification No.81/2009 dated 13th July 2009.

3. And whereas, in view of the order of the Hon'ble Delhi High court in the matter of *Indian Metal and Ferro Alloys Ltd v/s Designated Authority*, Writ Petition (Civil) No. 16893 of 2006 and in accordance with Section 9 A (5) of the Act, read with Rule 23 of AD Rules, the Authority issued a public notice dated 25th February 2011, published in the Gazette of India, Extraordinary, initiating the Sunset review investigation to review the need for continued imposition of duties in force and to examine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury. And whereas, the antidumping duty as notified vide Notification No. - 45/2006 Customs dated 24th May, 2006 (as amended by notification no. 81/2009 dated 13th July 2009) was extended up to 24th February, 2012 vide notification No 38 / 2011 -Customs dated 9th May, 2011 in terms of Section 9(A)(5) of the Act.

B. PROCEDURE

4. In this proceeding, the procedure described herein-below has been followed:
- i. The Embassy of the subject country in India was informed about the initiation of the investigation, in accordance with Rule 6(2) of the AD Rules.

- ii. The Authority sent copies of initiation notification dated 25th February 2011 to the Embassy of the subject country, known exporters/producers from the subject country, known importers and other interested parties, and the domestic producers, as per the information available with it. Parties to this investigation were requested to file the questionnaires' responses and make their views known in writing within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters/producers were also sent to the Embassy of the subject country along with a list of known exporters / producers with a request to advise the exporters/ producers from the subject country to respond to the questionnaires within the prescribed time.
- iii. Questionnaires were sent to the following known exporters/producers from the subject country in accordance with Rule 6(4) of the AD Rules to elicit relevant information:

S.N.	Company's Name
1.	M/s Yibin Grace Co. Ltd., Hangtian Road, Nan'an Economic Development Zone, Yibin city, Sichuan Province, China PR644002
2.	M/s Yibin Heist Fibre Co. Ltd, China PR
3.	M/s Baoding Swan Group, No.1369, Sjemgxomg West Road, Baoding City, Hebei Province-071055 China PR
4.	M/s Xinxiang Bailu Chemical fibre Group Co. Ltd., Jinyuan Street, Beizhan District, Xinxiang City, Henan Province, China PR
5.	M/s Jilin Chemical Fibre Group Co. Ltd., 516-1, Jiuzhan Street, Changyi District, Jilin City-132115 China PR
6.	M/s Hangzhou B.P. Chemical Fibre Co. 1265, Moganshan Road, Hangzhou-310011, China PR

In response thereto, M/s Yibin Hiest Fibre Limited Corporation an exporter/producer from the subject country has filed the questionnaires' response.

- iv. Questionnaires were sent to the following known domestic producers, importers, users and associations of the subject goods in India seeking necessary information:

S.N.	Company's Name
1.	M/s Kesoram Rayon, 9/1, R.N. Mukherjee Road, Kolkata-700 001
2.	M/s Indian Rayon, B-Wing, Ground Floor, Ahura Centre, Mahakali Caves Road, Andheri (East), Mumbai-400 093
3.	M/s Century Rayon, Century Bhawan, Dr. Annie Besant Road, Mumbai-400 025
4.	M/s Shah Trading Co. Mumbai-21

5.	M/s Vyapar Com & Industries Ltd, Mumbai-5
6.	M/s Yash Enterprises, 347-2A, Daftari Niwas, Telang Road No.1, Matunga Central Railway, Mumbai-19
7.	M/s Doriwala Industries, 8, Hajoori Chambers, Zampa Bazar, Surat - 395003
8.	M/s Marwadi Brothers, 77, Ismail Curry Road, Ahmed Building, 1 st Floor, Mumbai-3
9.	M/s. Rajmal Son's and Group, 1-A, Ladakara Street, Shevapet, Salem-2
10.	M/s M/s. Chunnilal Kundanmall, Shevapet, Salem-2
11.	M/s Shanti Textiles, 14, Nagair Street, Shevapet, Salem-2
12.	M/s Krishan sale's Corporation, Bangalore-560002
13.	M/s Bittu Synthetics Pvt. Ltd., 142/143, Super Yarn Market, Zampa
14.	M/s Amrit Rayon, Tambakata, Pydhonie, Mumbai

S.N.	Association's/Other's Name
1.	Association of Man-made Fibre Industry of India, Resham Bhavan, 5 th Floor, 78, Veer Nariman Road, Mumbai-400 020

- v. In response to the initiation notification, Salem District Art Silk Merchants' Association filed its submissions.
- vi. The imports data for the period of investigation and preceding three years was called from Directorate General of Commercial Intelligence and Statistics (DGCI&S).
- vii. In pursuance to the notification issued by the Authority dated 25th February 2011, the Authority received a documented request from AMFII on behalf of M/s Indian Rayon and M/s Kesoram Rayon, the domestic producers of the subject goods seeking continuance and enhancement of anti-dumping duty in force against dumping of the subject goods in the Indian market by the producers and/or exporters from the subject country. Subsequently, M/s Century Rayon has also submitted its information/data for undertaking the injury analysis.
- viii. The Authority made available non-confidential version of the evidence presented by the interested parties in the form of a public file kept open for inspection by the interested parties.
- ix. The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of Generally Accepted Accounting Principles (GAAP) to analyze the likelihood of continuation/recurrence of injury and to work out the cost of production and the non-injurious price of the subject

goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

- x. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 25th July 2011. The parties which presented their views in the public hearing were requested to file written submissions of the views expressed orally. The arguments made in the written submissions received from the interested parties have been considered, wherever found relevant, in the disclosure statement.
- xi. The Period of Investigation (POI) for the purpose of the present review is 1st October 2009 to 30th September 2010 (12 months). However, injury analysis shall cover the years 2007-08, 2008-09, 2009-10 & POI.
- xii. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic producers and the co-operative exporter/producer from China PR.
- xiii. In accordance with the Rule 16 of the AD Rules, the essential facts under consideration before the Authority in the instant investigation were disclosed to the known interested parties. The comments received on the disclosure statement, to the extent considered relevant, have been considered in these findings.
- xiv. Information provided by 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.
- xv. 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 recorded these findings on the basis of the 'facts available'.
- xvi. *** In this statement represents information furnished by the interested parties on confidential basis and so considered by the Authority under the AD Rules.

C. Post-Disclosure statement submissions made by interested parties and the Examination thereof

M/s Yibin Heist Fibre Co. Ltd, China PR,

The following submissions, in brief, have been made by M/s Yibin Heist Fibre Co. Ltd, China PR, in response to the Disclosure statement:

- The time granted to offer comments to the said disclosure statement is not sufficient.
- Proposed Inclusion of M/s Century Rayon: It has been contended that belated information and data of M/s Century Rayon should not have been accepted.
- As regards the Form of Duty; it has been submitted that the Section 9A(5) of the Custom Tariff Act only allows the Authority to 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.
- Determination of constructed normal value: It has been submitted that the normal value has been proposed to be constructed without disclosing detailed methodology. Conversion cost and consumption factor of which domestic producer has been taken into consideration to determine normal value has not been disclosed.
- It has been submitted that the applicants have grown at a healthy pace without any injury as a consequence of dumped imports. In any case, the imports are necessitated due to short supply in the market and lack of domestic capacities. In such circumstances, the only consequence of proposed imposition would be to the detriment of the downstream industry & textile industry, which would be rendered uncompetitive in both the export and domestic market. Clearly, in this case the applicants have been afforded protection for last 5 years and given the present circumstances, the same is no longer legally required to be extended by further period of 5 years under a review conducted under Section 9A(5) read with Rule 23(1B).

Domestic industry

The following submissions, in brief, have been made by Domestic industry in response to the Disclosure statement:

- Constructed normal value may be reviewed in view of the submissions relating to conversion costs involved in production of the product under consideration.
- The responding exporter has not reported VAT difference prevailing in the product. The available evidence shows VAT refund of 16%. The export price must therefore be adjusted by 1%.
- In the previous investigations the duty imposed was benchmark basis which failed to address the situation of dumping because of the increase in prices of raw material. The domestic industry has requested the Authority to revise the form of duty and impose fixed form of duty for the following reasons:
 - i. Significant product types having significantly different costs and prices, thus making benchmark form unworkable and ineffective.
 - ii. All parameters which govern costs and prices have not been recognized by the Authority in previous investigations.
 - iii. One benchmark fixed even for one denier, based on cost of production of that denier is grossly insufficient to represent benchmark for the product type due to

difference in quality (gradation), doubling, twisting, dyeing, packing, lusture, etc.

- iv. Parameters such as doubling, twisting, packing, quality (gradation of the product in terms of perceived quality standards in this product), dyeing, lusture, etc. all have impact on the product costs and prices.
 - v. The data available with the domestic industry shows that only two deniers (120 and 150) have been exported by the exporter. Thus, in any case, different benchmarks cannot be given, when the product is produced and sold in a large number of deniers. The Designated Authority has in fact found more than 30 different product types in the present case. Even this list of product types is non exhaustive given that the product parameters include (i) denier, (ii) quality, (iii) packing, (iv) colour, (v) lusture, (vi) doubling, (v) twisting, (vi) doubling & twisting, (vii) doubling & dyeing, (viii) twisting & dyeing. In view of large number of possible permutations and combinations, benchmark duty is unworkable and ineffective.
 - vi. The experience of the domestic industry establishes that benchmark duty is unworkable and ineffective. The duty has failed to serve the intended objective of preventing dumping.
 - vii. The benchmark duty levied by the Designated Authority in the Mid-Term Review became ineffective due to increase in the raw material prices i.e. pulp which led to increase in the costs and prices of the product under consideration.
 - viii. In view of significant increase in the cost of production, the current prices of the domestic industry and imports are much higher than the non injurious price determined for the investigation period.
 - ix. The Designated Authority has changed form of duty in sunset review and midterm review.
 - x. Referring to past cases on textile products, cases where Authority has changed the form of duty in review investigation, various CESTAT decisions and the above cited reasons, the domestic industry has requested to change the form of duty and imposition of fixed form of duty.
 - xi. Without prejudice to their argument in support of fixed quantum of duty, the domestic industry has argued that should the Designated Authority still recommend benchmark duty, the benchmark for “any other deniers”
- Non injurious price is grossly low thus leading to unduly low protection to the domestic industry for the following reasons:
 - a. Authority is required to consider actual raw material and utilities consumption, and actual production for non-injurious price determination. The costs cannot be optimised.
 - b. Capital employed should be determined considering present value of fixed assets, or at the least gross value of fixed assets.
 - c. In particular, the non-injurious price determined for M/s Indian Rayon should be reviewed in view of (i) difference in production with changes in the product mix, (ii) higher consumption of utilities and lower capacity utilization due to product mix.

- d. Difference in production due to changes in the product-mix is different from “inefficient utilization of utilities or capacities”. The changes in the capacity utilization or utilities in the present case are not entirely because of alleged production inefficiencies. The same is largely due to change in product-mix. Further, in a situation where both product-mix differences as also so called inefficient utilization exists, the Authority will have to segregate the impact of these two factors even as per the new non-injurious price law.
 - e. The production weight used to determine weighted average of non-injurious price for the domestic industry should be the same as production used to determine non-injurious price of individual constituents of the domestic industry.
- The duties may be expressed in US\$. The previous two cases have ADD in terms of US\$ and no reasons have been given by any interested party why that form should be changed.

Examination by the Authority

- As regards the time granted to offer comments to the said disclosure statement, the Authority notes that due to time constraints to complete this investigation, a longer time period could not have been provided. However, the Authority notes that adequate time was provided to the interested parties in the instant matter throughout the investigation period and hence no prejudice would have been caused to them on this account.
- As regards inclusion of M/s Century Rayon information/data, the Authority notes that it had requested all known domestic producers of the subject goods to provide the requisite information/data. As M/s Century Rayon, being a domestic producer of the subject goods provide the requisite information/data , the same was considered for undertaking the injury analysis in terms of the AD Rues on the subject.
- As regards the Form of Duty; the Authority notes that there are significant differences within the product under consideration, particularly in terms of its weight and price. Therefore, anti-dumping duty in terms of reference price or fixed duty would not be appropriate in this case. It is further noted that lighter deniers are significantly costlier. Hence, considering the specific facts and merits of this case, the Authority considers that *ad valorem* form of duty would be most suited in the instant matter.
- As regards the contention that the Authority has power only to extend the period and duties cannot be enhanced; the Authority reiterates its view that it does not concur with the contention and considers that a proper reading of the relevant rules & regulations on the subject enables the Authority to modify the duties as well, based on the facts and merits of each case.
- As regards determination of constructed normal value and confidentiality issues thereof; the Authority notes that information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. As regards the international prices of raw materials and the reasonable profit margin, these have been disclosed.

- As regards injury related issues; the same have been appropriately addressed in the relevant section of these findings
- As regards review of Constructed normal value for China PR; the Authority has constructed the Normal value as per its practice and facts available on record; and the same has been determined considering the international prices of major raw materials, consumption factor of most efficient domestic industry and conversion cost of most efficient domestic industry.
- As regards VAT issue, the same has been appropriately considered while determining the dumping margins.
- As regards the Non-injurious price; the Authority has determined the same considering the relevant AD Rules on the subject and the facts of this case.

D. Misc. submissions made by interested parties and the Examination thereof

Submissions made by M/s Yibin Hiest Fibre Limited Corporation, China PR

5. M/s Yibin Hiest Fibre Limited Corporation, China PR, in brief, has submitted as follows:

- Claim of the Domestic Industry to Change the Form of Duty: it has been contended that Domestic Industry's claim regarding change in mode of duty or enhancement of duty is not found in either in the initiation notification or in application of domestic industry and hence grant of such claim by the Authority would be illegal and impermissible. Further, the claim cannot be allowed as the initiation in this case was a *suo motu* initiation.
- It has been contended that under Section 9A (5), Authority has power only to extend the period and duties cannot be enhanced. Recommendation to enhance duty would be outside scope of the initiation notification and would be without the authority of law. Reference in this regard has been made to the decision of Hon'ble Supreme Court in Rishirop Polymers Pvt. Ltd. Vs. Designated Authority 2006 (196) E.L.T. 385 (S.C.).
- Confidentiality: It has been claimed that Domestic Industry kept substantial information as confidential without justification or specific order of Authority granting confidentiality. Consolidated aggregated information from two different companies ought to have been provided and could not have been kept confidential. Even information in public domain (Sales Value, Opening and Closing stock is easily available in the respective Annual Reports) is kept as confidential.
- Legality: It is disputed that the Association who filed the information for and on behalf of domestic industry had any power to verify the authenticity of the contents of the application. Besides, the certification must come from the legal entities and not the divisions namely, India Rayon, Kesoram Rayon and Century Rayon. The Association has presented the information selectively for certain companies and the reasons in support are not discernible from the response of the Association. Such selective information should not have been accepted. In support of this argument, it has been submitted that Indian Rayon is unit of Aditya Birla Nuvo, accounts for 16000 MT (38.45 % of the total

domestic capacity) of the total production capacity in the country; and Century Rayon and Kesoram Rayon are group companies of Century Textile and Industry Limited. As a matter of record, the response has been filed on behalf of Kesoram Rayon only. While one group company of Century Textile and Industry Limited with capacity of only 6500 MT (15.43% of the total domestic capacity) participates while the other group company with 19000 MT (46.12% of the total domestic capacity) is only a supporter.

- Non-submission of information of related party involved in the trade of the subject goods: It has been contended that the domestic industry has deliberately not furnished the response of Century Rayon.
- It has also been contended that the domestic industry's request for extension of the period of duties should be summarily rejected in terms of Rule 6(8) of AD Rules.
- It has been contended that production scenario of VFY has changed world over due to stringent environment control measures resulting in closures of entities e.g. Enka Elsterberg, Germany. As a result, it is stated that substantial production base of VFY is likely to be shifted to Asia, providing more opportunity to producers.
- Likelihood of continuance or recurrence of dumping and injury: It has been contended that the claim of likelihood and recurrence of dumping and injury is based on mere conjectures. Extension of duties on following grounds cannot be maintained. Reference has been made to Indian Spinner Association v. Designated Authority on the point of excessive production capacity contending that existence of surplus production capacity cannot be seen as imminent threat of injury. It has been contended that vulnerability is no ground for extension of duties.
- On issue of circumvention raised by domestic industry (imports of VFY under the garb of embroidery yarn) it has been contended that in sunset review proceedings under the Act and the Rules such claim cannot be examined.
- Case laws cited by the Domestic Industry: On the case laws cited by the Domestic Industry, it has been contended that none of the said case laws support the case of Domestic Industry.

Submissions made by Salem District Art Silk Merchants' Association:

6. The Association, in brief, has contended that there are several thousand small, cottage twisting factories, employing thousand of labourers carrying twisting; double twisting, dyeing, embroidering Viscose Filament Yarn in large quantity from 1950 onward and that if dyed twisted, double twisted embroidered VFY yarn is allowed to be imported then thousands of people employed in these cottage industries would be left jobless. It has been further contended that VFY – single thread – value added may be imported to the needs of consumers as a local manufacturers are not able to meet the demand and that anti-dumping duty should be levied on the imports of VFY twisted double twisted dyed and embroidered, if not banned, so as to safeguard the local small scale industry and huger no. of labourers employed therein.

Submissions made by the Domestic industry

7. The domestic industry, in brief, has contended as follows:

In the original investigation the duty imposed was benchmark basis which failed to address the situation of dumping because of the increase in prices of raw material. The petitioner requests the Authority to revise the form of duty and impose separate benchmark for different types of the product under consideration, which would be able to address such situation as has been done in the mid-term review investigation.

Examination by the Authority

8. The misc. Issues raised by the interested parties have been examined as follows:
- As regards the Form of Duty; the Authority notes that the same is recommended on the basis of facts and merits of each case.
 - As regards the contention that the Authority has power only to extend the period and duties cannot be enhanced; the Authority does not concur with the view and considers that a proper reading of the relevant rules & regulations on the subject enables the Authority to modify the duties as well, based on the facts and merits of each case.
 - As regards Confidentiality; the Authority notes that information provided by 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.
 - As regards the contention relating to the Association filing the information for and on behalf of domestic industry; the Authority notes that it had requested all the known domestic producers to submit the requisite information/data to enable it to undertake appropriate injury analysis. In response thereto, M/s Kesoram Rayon, M/s Indian Rayon and M/s Century Rayon filed their information/data. The same as verified by the Authority has been used in the present matter.
 - As regards changing production scenario of VFY world over; the Authority notes that the same would not give licence to any producer to dump the subject goods into India and cause injury to the domestic producers.
 - As regards the likelihood of continuance or recurrence of dumping and injury; the same have been appropriately dealt with in respective sections of this Disclosure statement.
 - As regards the issue of circumvention raised by domestic industry; the Authority concurs with the view that this issue cannot be addressed in the present investigation.
 - As regards the submissions made by Salem District Art Silk Merchants' Association; the Authority notes that the product under consideration in this investigation remains

unchanged as was decided in previous investigations. In the present matter, the Authority is required to assess whether the cessation of the anti-dumping duty in force would result into continuation or recurrence of dumping and injury.

- Other submissions made by the interested parties have been appropriately dealt with in respective sections of this Disclosure statement.

E. Product under consideration and Like article

Submissions made by the Domestic industry

9. The product under investigation in the original investigation and present review is “Viscose Rayon Filament Yarn of up to 150 Deniers (and +- 4% permissible variation) which is also known as viscose filament yarn or VFY, Rayon Filament Yarn,
10. The goods produced by the domestic industry are like article to the imported product. There is no known difference in product under consideration produced by the Indian industry and subject goods exported from subject countries. The issue of product under consideration and like article was examined in detail by the Designated Authority in the original investigations and it has been held that the imported and domestic products are like article.
11. Present review investigation being a sunset review investigation, product under consideration remains the same as has been defined in the previous investigations.

Submissions made by M/s Yibin Hiest Fibre Limited Corporation, China PR

M/s Yibin Hiest Fibre Limited Corporation, China PR, in brief, has submitted that the Finer yarns are not manufactured by domestic industry.

Examination by the Authority

12. The product involved in the original investigation was considered as Viscose Rayon Filament Yarn up to 150 deniers (and \pm 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 the subject goods hereinafter) originating in or exported from China PR. However, the subject goods do not include sewing thread, fur yarn, fire retardant yarn, engineered yarn, embroidered yarn and air texturised yarn. The product under consideration for the purposes of this review remains the same as was in the original investigation.
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. The Authority notes that the subject goods produced by the domestic industry are like article to the imported product. There is no known difference in product under consideration produced by the Indian industry and subject goods exported from subject countries. As regards the contention that finer yarns are not manufactured by domestic industry; the Authority notes that the contention has not been substantiated. Besides, as per the relevant Rules & regulations on the subject, the domestic industry is only obligated to produce 'like article', which it does produce. Any claim with respect to any exclusion has to be specifically substantiated.

F. Scope of the Domestic Industry

Submissions made by the Domestic industry

15. The present investigation has been undertaken *suo motu* by the Authority. Petitioners satisfy the requirement of Standing to file the present petition. Further, Petitioners constitute 'Domestic Industry' within the meaning of Rule 2(b) of the AD Rules. However, this being a Sunset review investigation, there is no requirement to examine the standing under the AD Rules.

Examination by the authority

16. Rule 2(b) under the AD Rules provides as follows:-

“domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘Domestic Industry’ may be construed as referring to the rest of the producers.

17. The present review investigation has been initiated on *suo motu* basis. M/s Kesoram Rayon, M/s Indian Rayon responded to the initiation notification. Subsequently, M/s Century Rayon also filed the requisite information/data to undertake the injury analysis. As per information available on record, M/s Kesoram Rayon, M/s Indian Rayon and M/s Century Rayon account for a major proportion of the production of the subject goods in India. Thus, these domestic producers of the subject goods satisfy the requirement of 'domestic industry' within the meaning of the AD rules.

G. Dumping Determination

Submissions made by the Domestic Industry

18. The domestic industry, in brief, has contended as follows:

- a) Market economy treatment claim of Yibin Heist Fiber Limited Corporation should be rejected being a State owned company.
- b) Individual dumping margin and individual duty should not be given to Yibin Heist Fiber Limited Corporation as the whole group has not responded and therefore, the response of the related company needs to be rejected.
- c) They have considered India as a market economy country for determination of Normal Value. India is an appropriate surrogate country for Chinese producers. The normal value needs to be constructed for the exporters/producers from China PR based on international raw material prices, consumption norms of the industry, estimates of conversion costs, selling, general & administrative expenses and reasonable profit margin.
- d) Considering the Normal Value and the Export Price determined, Dumping Margin PCN wise has been calculated. It would be seen that the Dumping Margin is not only beyond *de-minimis* limits but is also substantial.

Submissions made by other interested parties

19. None of the other interest parties have made any submission in respect of “dumping determination”.

Normal value

20. The Authority sent questionnaires to the known exporters/ producers from the subject country, advising them to provide information in the form and manner prescribed. In response thereto, only M/s Yibin Hiest Fibre Limited Corporation, a producer & exporter from China PR has co-operated in this investigation by filing their questionnaires’ response.
21. The Authority notes that in the past three years China PR has been treated as a 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/producers in terms of the AD Rules.
22. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy may be rebutted, if the exporter(s) /producer(s) from China PR provide 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 co-operating 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 Authority to consider the following criteria as to whether:
 - 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;

- 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;
- such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- the exchange rate conversions are carried out at the market rate.

23. The Authority notes that consequent upon the initiation notice issued by the Authority; M/s Yibin Hiest Fibre Limited Corporation, a Chinese producer/exporter has submitted the questionnaires' response including the market economy questionnaire's response and sought to rebut the non-market economy presumption. However, during the course of on-the spot investigation at the premises of the Chinese company, the company was not able to substantiate its MET claim and hence it decided to forego the same. The questionnaires' response were perused, wherein It has been, inter alia, stated that the goods sold in domestic market and goods exported to India are almost identical.

Determination of Normal value in respect of Exporters / Producers from China PR

24. As the only co-operative exporter/producer from China PR has not been able to rebut the MET presumption and instead has chosen to forego its MET claim and no other Chinese producer/exporter has submitted the questionnaires' responses and sought to rebut the MET presumption; the Authority has determined the Normal value in China PR on the basis of Para-7 to Annexure-I to the AD Rules.

25. Para 7 of Annexure I of the AD Rules provides that

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments”.

26. As the presumption of non-market economy as enshrined in para 8(2) of Annexure 1 of the AD Rules remains un-rebutted; the Authority, therefore, has determined the Normal value in accordance with para 7 Annexure I of the AD Rules. In absence of sufficient information on record regarding the other methods as are stipulated in para 7 of Annexure I of the AD Rules, the Authority has determined the Normal value by adopting the method “any other reasonable basis”.
27. The Authority has therefore constructed the Normal value for China PR considering the international prices of major raw materials such as caustic soda and carbon disulphide as Rs. 10.35 and Rs. 26.71 per kg respectively, wood pulp prices are as per the imported wood pulp price of domestic industry, purchase consumption factor of most efficient domestic industry and conversion cost of most efficient domestic industry. Besides a reasonable profit margin of 5% has been adopted. The Normal value so determined works out as *** USD/Kg .

Export Price

M/s Yibin Hiest Fibre Limited Corporation

28. The Authority notes that only one Chinese producer/exporter, namely M/s Yibin Hiest Fibre Limited Corporation, has submitted the questionnaires’ response. On a perusal of the response, a deficiency letter was sent to the company. It was noted that the company has clubbed certain adjustments under the head “other adjustments” and was thus advised to segregate the same and reflect it in the revised Appendix 2 format. The company explained that they had clubbed forwarder’s expenses; Customs clearance; Document fee and Security fee. The company accordingly submitted a revised Appendix 2 segregating these adjustments. It has been noted that the company has exported *** MT of the subject goods to India during the POI. The adjustments have been claimed on account of inland freight, overseas freight, marine insurance, forwarder’s expenses; Customs clearance, port expenses & document fee, Security fee and bank charges. During the course of on-the-spot verification, it was noted that no adjustment for credit costs were made, despite the fact that credits were extended by the company to its buyers. Hence, the credit costs have also been adjusted. As regards other adjustments, the same as verified during the course of the on-the-spot verification have been accepted and are being allowed. The net export price so worked out has been determined as *** USD/Kg.

Non-co-operative exporters/producers

29. As no other exporter / producer has provided any information that can be used for determination of the export price, the Authority has determined the ‘Export Price’ on the basis of ‘facts available’ on record.

H. Dumping Margin

30. On the basis of the Normal value and Export price so determined at ex-factory level; the dumping margin during the POI for all exporters/producers from China PR has been determined as follows:

Exporter/producer	Country	Dumping Margin (USD/Kg.)	Dumping Margin
M/s Yibin Hiest Fibre Limited Corporation	China PR	***	2%-12%
Any other	China PR	***	10%-20%

I. Continuation or recurrence of dumping:

Submissions made by the domestic industry:

31. The domestic industry has, in brief, contended as follows:

- a) Dumping margin determined in all previous investigations as well as current investigation relating to the product is not only above de minimis levels but also substantial.
- b) The volume of imports from China PR has remarkably increased despite imposition of anti dumping duty since the original investigation.
- c) There is availability of freely disposable present and potential capacities with the foreign producers in China PR.
- d) Imports from China PR are undercutting the prices of the domestic industry even after the existing anti dumping duty.
- e) China's current exports to world are much higher than gross demand in India. This implies that China PR independently has the potential to meet the whole demand of the product concerned in India.
- f) The Indian market for the product under consideration is highly price sensitive. Such being the case, availability of such low priced imports from China PR in the market would definitely cause an adverse impact over the Domestic Industry.
- g) The subject country holds a significant market share in the Indian Market inspite of Anti-dumping duty inexistence.
- h) There exist significant capacities for producing the subject goods in China PR to address the demand in their domestic market as well as export at the same time in huge volumes.
- i) Export sale of the product under consideration from China to world is significant.
- j) As many producers of VFY in China PR also manufacture embroidery yarn, these producers have started exporting VFY in the name of embroidery yarn so as to avoid payment of anti-dumping duties imposed on imports of VFY.

32. Continuation of Dumping

- It has been contended that in a situation where there are continued exports at dumped prices from a subject country, then the same is likely to continue. In case exports to India are not at dumped prices, it may be further examined whether the

exports to third countries are at dumped prices. Besides, reasonableness and reliability of the export prices may also be assessed. In case exports to India are at dumped prices; it is likely that the exporters would continue to export the subject good at dumped prices in case of cessation of anti-dumping duties.

- In the present case, the exporters and producers of China PR continued to export the subject goods at dumped prices, even after imposition of the dumping duties. Thus, a reasonable apprehension exists that cessation of anti-dumping duties in the present case is likely to result in intensified dumping from China PR in increased volumes.
- The domestic industry has further contended that there has been a continuous import in to India from the subject country that too at increased levels. Likelihood of future dumping can be ascertained based on the fact that exports from the subject country are still at dumped price which is resulting in significant dumping and price undercutting. There is a reasonable belief that after cessation of the current duty, exporters/producers of the subject country would increase the exports of the subject goods and cause injury to the domestic industry. Thus, cessation of present duty in force is likely to result in significant dumping of the subject goods in the Indian market.

33. Price attractiveness of Indian market

- It has been further contended that the subject goods are exported from China PR to India at prices, which are significantly below than the net selling price of the domestic industry. Thus, there is likelihood of further increased imports of the subject goods from the subject country, on cessation of the anti-dumping duty in force.

34. Excessive Unutilised Production Capacities maintained by the China PR

- It has been contended that China PR holds excessive unutilised capacities of producing the subject goods. Comparing the demand of the subject goods in China with the capacity of China PR, it has been contended that China PR holds enough unutilised and surplus capacity to capture significant Indian market of the subject goods. The printouts of the web-sites of the Chinese Association of the subject goods have been enclosed as evidence showing unutilised capacity of the subject goods in China PR. Thus, there is a positive likelihood that the exporters and the producers of China PR would intensify dumping as soon as the duties in force are revoked.

Viscose Filament Yarn demand in China (Unit:KT)					
Year	2007	2008	2009	2010	2011
Capacity	218.5	218.5	218.5	218.5	218.5
Production	219.4	165.8	190	197	172
Capacity Utilization	100%	76%	87%	90%	79%

Unutilized capacity	(0.90)	52.70	28.50	21.50	46.50
Import volume	3.2	2.4	6.7	6.8	5.2
Export Volume	69.7	45.9	69.5	86.7	77.5
Apparent demand	152.9	122.3	127.2	117.1	99.7
Surplus capacities	65.6	96.2	91.3	101.4	118.8

- It has been contended that the current import level of the product concerned is likely to increase substantially due to the existence of unused capacity and the slackening of the demand of the subject goods in China PR. In addition, it has been contended that further increased imports at dumped prices from the country concerned is likely lead to a recurrence of injury to the domestic industry, should measures be allowed to lapse.

35. Closed Units: it is relevant to note that Baroda Rayon and NRC were closed down with capacities 4500 MT and 16000 Mt respectively in the year 2008. The Chinese imports entering the market in that period were able to capture the gap created due to this closure.

Sn.	Particulars	MT
1	Total Capacity	62000
2	Closed Unit capacities	20500
3	Present Capacities of DI	41500

36. It has been further contended that now with ever increasing demand and imports, the domestic industry is left with two options which are as follows:

- Domestic industry matched NSR with landed price: the below analysis shows the impact on domestic industry if it sells at price equal to landed price:

Sn.	Particulars	Units	POI	If NSR to Match Landed Value
1	Volume	MT	23,816	23,816
2	sales Price	Rs/Kg.	***	***
		Indexed	100	92
3	Cost of sales	Rs/Kg.	***	***
			100	100
4	Profitability	Rs/Kg.	***	***
			100	28
5	Profits	Rs. Lacs	***	***
			100	28

It has been contended that if the domestic industry matched its prices with that of landed price, the profitability would reduce significantly. Also there would be significant decline in cash profits and return on investments of the domestic industry.

- Domestic industry maintain its selling price: Cessation of Anti-dumping duty would likely to lead to further increase in imports with intensified dumping. If domestic industry maintains its prices, the consumers would shift to Chinese goods as they being cheaper. This would lead to deterioration in the market share of the domestic industry and consequently sales, production and capacity utilization would decline leading to injury to the domestic industry. The likely impact can be seen from below:

Particulars	MT
Surplus Capacities in China	118,800
Demand in India	34414
Sales of DI	Nil

- It would thus be seen that there is a likelihood of dumping and injury in the event of cessation of Anti-dumping duty in force.

Submissions made by M/s Yibin Hiest Fibre Limited Corporation

37. M/s Yibin Hiest Fibre Limited Corporation, in brief, has contended as follows:
- a) The claim of likelihood of dumping and injury to the responding industry is based on mere conjectures.
 - b) Dumping in third country is not a valid ground in law.
 - c) Mere surplus capacity of exporter cannot lead to a conclusion that there is imminent danger of material injury.

Examination by the Authority

38. In terms of relevant provisions, the following aspects need to be examined in a Sunset review investigation:
- Whether the dumping is continuing; and if so, whether it is likely to continue in the event of cessation of anti dumping duties;
 - In case where dumping did not continue, whether the dumping would recur in the event of cessation of anti dumping duties;

39. The AD Rules do not prescribe any specific methodology to examine the likelihood of dumping in a Sunset review investigation. However, in case there is a significantly positive dumping margin in respect of exports of the subject goods during the POI; then it is likely that dumping would continue in case of cessation of anti-dumping duty in force, unless the facts state otherwise. However, in case there have been no exports of the subject goods during the POI; then it would not mean that there is no likelihood of recurrence of dumping in case of cessation of anti-dumping duty in force. In such cases, other relevant factors are required to be examined, for instance, evidence, if any, regarding propensity for dumping, that may be determined by considering the exports of the subject goods in third country markets.
40. In the instant matter, the subject goods have been imported from the subject country during the period of investigation in significant volumes. In fact, the volumes of the subject goods from the subject country have been increasing over the injury period. It is noted that these goods have been exported at dumped prices and are significantly undercutting the prices of the domestic industry. In case, the anti-dumping duties are allowed to expire, the volume of the subject goods at dumped prices is likely to increase. This view is further buttressed, considering the unutilised capacities to produce the subject goods in China PR and the slackening demand of the subject goods in China PR, which has not been disputed by any interested party.
41. In view of the above, the Authority notes that the subject goods are likely to continue to be dumped, if the present anti dumping duties is allowed to cease. Besides, cessation of the anti-dumping duty is likely to lead to increased volumes of imports of the subject goods from the subject country at dumped prices.

J. Injury

Submissions made by M/s Yibin Hiest Fibre Limited Corporation, China PR

42. M/s Yibin Hiest Fibre Limited Corporation, China PR, in brief, has submitted as follows:
- Improvement in all injury factors: It has been contended that all injury factors are showing considerable improvement even as per incomplete information filed by the domestic industry; there is no case of current or likely injury which gets further substantiated from the fact that domestic industry has not even claimed any price underselling in their response. The analysis of the injury parameters during the POI would reveal the following:
 - a. Demand of subject goods has shown increase of 27% from the base year. This as per the exporter shows that demand has not increased as claimed by domestic industry.
 - b. The Market share in Demand from China PR has increased (20%) as compared to base year but that same is entirely due to the increase in demand and the quantities left unattended by the domestic producers. The domestic industry failed to increase its capacity in proportion to the demand, as it worked at more than 100% of capacity utilization.

Imports hence were inevitable catering to new and additional demand. In present case question of decrease or increase of market share does not arise as increase in demand and increase in import quantity are almost the same.

- c. Price Undercutting and Price Underselling are per se not factors of injury. In support reliance is placed on Appendix II to the Anti-dumping Rules. Reference has been made to the case of Hydrofluoric Acid from China PR.
- d. Selling price kept on increasing till 2009-10, which remained at the same level during the POI as compared to previous year. Thus, no injury can possibly be claimed on account of declining sales prices. Analysis of the selling prices and the costs clearly establish that the Domestic Industry has been able to increase its profitability enormously. The sales volume of domestic industry as per the exporter remained more or less same due to lack of enhanced capacities.
- e. For profitability, Domestic Industry has provided two figures namely, Profit and PBIT which also shows no injury.

Submissions made by the domestic industry

43. The domestic industry, in brief, has submitted as follows:

- a) The demand of the product under consideration has increased throughout the injury period;
- b) Imports of the product under consideration have increased throughout the injury period with a significant increase during 2009-10 and thereafter in POI. However the imports from third countries have declined during POI.
- c) Imports increased significantly in absolute terms despite imposition of anti dumping duties.
- d) Imports increased significantly in relation to production and consumption of the product in India.
- e) Share of imports has remained very significant in relation to demand/ consumption in India.
- f) The significant volume of Chinese imports is despite significant capacities and production in India.
- g) The market share of China in total imports has significantly increased throughout the injury period and accounts for 83% of total imports during POI whereas that of other countries declined throughout the injury period.
- h) Even after the existence of the current anti-dumping duty, imports from the subject country are undercutting the domestic prices.
- i) The production of the domestic industry declined throughout the injury period with a significant decline during POI.
- j) The capacity utilization of the domestic industry also showed the same trend as that of production.
- k) The sales of the domestic industry declined throughout the injury period.
- l) Market share held by Chinese producers in demand kept on increasing throughout the injury period whereas, share of the Domestic Industry declined constantly in the injury period.

- m) The profit of the domestic industry increased till 2009-10. The same however declined in POI.
- n) Return on investment and cash profits have followed the same trend as that of profitability. The return on investment and cash profits of the domestic industry increased till 2009-10. The same however declined in POI.
- o) The employment levels declined during POI. Wages paid also declined during POI. The productivity per day showed a declining trend during POI.
- p) The level of inventories have declined till 2009-10 but thereafter significantly increased during POI clearly showing the inability of domestic industry to sell its products in the market owing to low priced imports from subject country.
- q) Growth of the domestic industry in terms of sales, production, capacity utilization, profits, return on investment and cash profits all are adverse.
- r) The present situation clearly establishes that the imports would further increase from the subject country which will further intensify dumping of the subject goods in the Indian market in the event of revocation of anti-dumping duties.
- s) The reasons for increase in imports are (a) product types involved (b) non identification of product features in previous investigations (c) Benchmark form of duty becoming ineffective.
- t) Net Fixed Assets as a basis for determination of capital employed is incorrect and the Authority should consider net present value of the plants or at least gross fixed assets.
- u) The amount of return on capital employed should be considered having regard to the age of the plant.
- v) The fixed expenses should not be optimized based on production in some other year. The production of the product over the years is directly dependent on the product mix and therefore it would not be appropriate to conclude that the company has inefficiently utilized production capacities. The petitioner requests Authority to consider the actual level of plant utilization in the period of investigation

Examination by the Authority

- 44. As regards contentions relating to improvement in all injury factors; the same have been appropriately dealt with in herein below:
- 45. The Authority notes that AD Rules do not require that the domestic industry must meet the demand of the user industry for getting redressal to its injury on account of dumping.
- 46. The Authority notes that the information provided by 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.
- 47. The Authority notes that it has adopted its consistent practice to examine and evaluate the injury data over the injury period. However, in a SSR investigation,

the Authority assesses whether the cessation of the duties is likely to lead to continuation or recurrence of dumping and consequent injury.

48. The Authority has examined the injury parameters objectively taking into account the facts and the submissions made by the interested parties as follows:
49. 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 articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. 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 article in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
50. For the purpose of current injury analysis the Authority has examined the volume and prices effects of imports of the subject goods from the subject country on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal link between dumping and injury, if any.

Import volumes and market share

51. The volume of dumped imports has been determined on basis of the transaction-wise data as obtained and furnished by the domestic industry from IBIS. It is further seen from the co-operative exporter's response that the export transactions as reflected by it are not mentioned in the IBIS data. Hence, the total volumes of imports have been considered by adding co-operative exporter volume in POI in IBIS data for computing the total volume of imports. The volume of dumped imports and their share in imports from various countries and production & consumption in India during the injury period are tabulated below:

Import Volume

	2007-08	2008-09	2009-10	POI
Import Volumes (MT)				
From China PR	1571	4739	7168	13874
Imports from China PR (Trend)	100	302	456	883
Imports from Other countries	722	1915	2366	1769
Total Imports	2293	6654	9534	15643
Total Imports (Trend)	100	290	416	682
Share of China in Imports %	69%	71%	75%	89%

Demand/ Consumption (MT)	27124	31548	34109	39459
Change in Demand as compared to previous year		16.31%	8.12%	15.69%
Share of China PR in Demand in India %	5.79%	15.02%	21.01%	35.16%
Production (MT)	34215	33958	34886	34258
Imports from China PR in relation to domestic production (%)	4.59%	13.96%	20.55%	40.50%

- a) It is seen that the imports of the product under consideration have increased throughout the injury period with a significant increase during 2009-10 and thereafter further in the POI. Whereas the imports from other countries have declined during the POI.
- b) The market share of China PR in total imports of the subject goods into India has significantly increased throughout the injury period and accounts for nearly 83% of the total imports during the POI, whereas the market share of other countries has declined over the injury period.

Price effect of imports

52. The net sales realization (NSR) of the domestic industry has been arrived at by considering its selling price, excluding taxes & duties, rebates, discounts & commissions and freight & transportation.

		Co-operative Exporter/producer	China as a whole
CIF Price	US(\$)/Kg	***	***
Custom Duty	US(\$)/Kg	***	***
Cess	US(\$)/Kg	***	***
Landed Price	US(\$)/Kg	***	***
NSR	US(\$)/Kg	***	***
Undercutting	US(\$)/Kg	***	***
		5-15%	1%-10%

53. From the above it is seen that the Landed price of the subject goods into India from China PR has been lower than the NSR of the domestic industry resulting in price undercutting.

Price Underselling

		Co-operative	China as a
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		Exporter/producer	whole
CIF Price	US(\$)/Kg	***	***
Custom Duty	US(\$)/Kg	***	***
Cess	US(\$)/Kg	***	***
Landed Price	US(\$)/Kg	***	***
Non Injurious Price(NIP)	US(\$)/Kg	***	***
Price Underselling	US(\$)/Kg	***	***
		5-15%	1%-10%

54. From the above it is seen that the Landed price of the subject goods into India from China PR has been lower than the NIP determined for the domestic industry resulting in price underselling.

Magnitude of margin of dumping

55. It is noted that the subject goods continue to be exported at dumped prices and the dumping margins have been significant.

Economic Parameters relating to the domestic industry

56. Annexure II to the AD Rules requires that a determination of injury shall involve an object examination of the consequent impact of these imports on domestic producers of such articles. 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.

Production, sales volumes, capacity and capacity utilization

57. The status of the domestic industry with regard to production, sales volumes, capacity and capacity utilization is seen as under:-

Particulars	Unit	2007-08	2008-09	2009-10	POI
Capacity Utilisation					
Capacity	MT	41500	41500	41500	41500
VFY Production	MT	41,559	41,565	42621	41,702
Production PUC upto 150 deniers	MT	24,742	25,175	24,717	24,415

Capacity Utilization	%	100.14%	100.16%	102.70%	100.49%
Domestic Sales	MT	24,831	24,895	24,575	23,816
Increase/decrease over previous year (%)			0.25%	-1.29%	-3.09%
Export Sales	MT	1,956	676	518	317
Total sales	MT	26,788	25,571	25,093	24,133
Demand (MT)		27,124	31,548	34,109	39,459
Market share in Demand (%)		91.55%	78.91%	72.05%	61.16%

58. The Authority observes that –

- i. The production has been optimum during the injury period and full capacity has been utilised during the injury period.
- ii. Not much change in sales of domestic industry was observed, except during the POI.

Stocks

59. The inventories position of the domestic industry has been as follows:-

	2007-08	2008-09	2009-10	POI
Opening Stock	***	***	***	***
Closing Stock	***	***	***	***
Average Stock	1709.5	978	791.5	1209
Average Stock(Index)	100	57	46	71

60. It is seen that the levels of inventories have declined till 2009-10 but thereafter the inventories increased in the POI. Apparently, the reduction in the sales quantity during the POI has resulted in the increased inventories as against the previous year.

Market share

61. The market share of the domestic industry and that of China PR in demand of the subject goods in India has been as follows:-

Particulars	2007-08	2008-09	2009-10	POI
Market share of the domestic industry in Demand (%)	91.55%	78.91%	72.05%	61.16%
Share of China PR in Demand in India %	5.79%	15.02%	21.01%	35.16%
Market share (lost)/gained by domestic industry		-16%	-10%	-4%

62. It is observed that as the domestic industry has utilized its full potential to produce, increase in the demand has resulted in the increase in the market share of Chinese exporters/producers and relative reduction in the market share of the domestic industry. It is, however, noted that the market share of the subject country in the POI increased in absolute terms as compared to the base year.

Profits

63. Profits earned by the domestic industry from the sales of the subject goods in the domestic market are as follows: - .

	2007-08	2008-09	2009-10	POI
Profit before tax (Total profit) (Rs. in Lacs)	***	***	***	***
Profit before tax (Total profit) (Index)	100	163.39	730.06	617.53
Profit before tax (Profit per unit) (Rs. /Kg)	***	***	***	***
Profit before tax (Profit per unit) (Index)	100	170.42	1557.28	1312.68

64. It is noted that the profit of the domestic industry increased till 2009-10 but the same has, however, declined in the POI.

Wages

65. The wages paid by the domestic industry and incidence of wage per unit of production has been as under:

Rs. In Lacs	2007-08	2008-09	2009-10	POI
Wages (Rs. Lacs)	***	***	***	***
Wages (Rs. Lacs)(Index)	100	110	124	125
Wages per unit of production (Rs./kg)	***	***	***	***
Wages per unit of production (Index)	100	111	122	125

66. It is observed that the total wages and wages per unit increased throughout the injury period.

Employment

67. The number of employees for the subject goods is tabulated below:-

	2007-08	2008-09	2009-10	POI
No. of employee	***	***	***	***
No. of employee (indexed)	100	101	103	99
Productivity Per employee	***	***	***	***
Productivity per day	71	72	71	70

68. It is noted that the employment levels declined slightly during the POI as compared to the base year. Whereas the productivity per day was almost constant during the injury period.

Return on investment

69. Return on investment has been identified for PUC on the basis of production of the subject goods length-wise (in kilometre), which is as under:

	2007-08	2008-09	2009-10	POI
Capital employed (Rs. In Lacs)	***	***	***	***
Capital employed (indexed)	100	110.06	108.69	106.04
Profit before interest & taxes (Rs. In Lacs)	***	***	***	***
Profit before interest & taxes (indexed)	100	160.11	730.06	617.53
Return on investment (%)	0-5	5-10	20-25	20-25

70. It is observed that while the capital employed decreased each year, but the return on investment increased each year till 2009-10, but a decline in ROI was observed in the POI as compared to the previous year.

Effect on Cash flow

71. The status of cash profits earned by the domestic industry over the injury period has been as under:

	2007-08	2008-09	2009-10	POI
Cash Profit (Rs. In Lacs)	***	***	***	***

Cash Profit (indexed)	100	124	591	498
Profit before tax (Profit per unit)	***	***	***	***
Profit before tax (indexed)	100	171	1,541	1,259

72. It is noted that the cash profit has increased throughout the injury period, but it has fallen during the POI as compared to the preceding year.

Growth

73. It is observed that the growth of the domestic industry in terms of sales, production, capacity utilization, profits, return on investment and cash profits etc have increased *vis a vis* the base year but have declined as compared to the preceding year. Apparently, the anti-dumping duty in force has provided relief to the domestic industry.

Conclusion on continuation of injury

74. It is observed that –

- (a) The imports of the subject goods have increased significantly as compared to the base year and as well as when compared to the original investigation period.
- (b) The increase in the imports from China PR has been there, in spite of the anti dumping duties in force.
- (c) The share of imports has increased throughout the injury period in line with demand/ consumption in India.
- (d) The market share of the domestic industry has declined throughout the injury period due to increase in the demand and considering that full capacity was being utilized by the domestic industry.
- (e) The performance of the Domestic Industry improved in terms of capacity utilization, profitability etc. has improved.
- (f) The inventories levels of the domestic industry have increased during the POI.
- (g) The imports have been significantly undercutting the prices of the domestic industry. Besides, these imports are significantly below the NIP determined for the domestic industry as well.

75. It has already been noted that the subject goods continue to be dumped into India. The volume of dumped imports is likely to further increase from the subject country, considering that there are significant unutilised capacities of the subject goods in China PR. Besides, there has been slackening of demand of the subject goods within China PR, which is further likely to lead to exploration of other markets by the Chinese exporters/producers. The increased demand of the subject goods in India is likely to attract these goods. Considering that the Chinese goods continue to be dumped; any cessation of the anti-dumping duties in force is likely to lead to increased dumping of the subject goods in the Indian market.

76. It appears that the domestic industry has not been suffering any material injury as of now due to the presence of anti-dumping duty in force. It is also noted that two

domestic producers have stopped their production in the recent past leading to a scenario where the domestic industry could continue to utilize its capacities and as well realize a fair price in the market. But if it were to match the prices of the landed value of the subject goods from China PR, the same would have a significant adverse impact on the price parameters of the domestic industry. Alternatively, it would stand to significantly lose its market share leading to adverse impact on volume parameters.

K. Likelihood of Recurrence of Injury

Submissions made by the domestic industry

77. The domestic industry, in, brief has contended as follows:

- For price undercutting, injury margin – Followings are relevant:
 - a. Co-operating exporters – Price undercutting and injury margin is required to be determined first for responding exporters and then for non cooperating exporters. Questionnaire response before the Authority cannot be ignored for the purpose.
 - b. The responding exporter should undisputedly have positive dumping margin, positive price undercutting and positive injury margin. If the facts claimed are different/contrary, we would provide appropriate evidence. However, based on their market intelligence, the undercutting and injury margin for the responding exporter is in excess of Rs.25-30 kg.
 - c. Non cooperating exporters – The dumping margin for non-cooperating exporters cannot be lower than cooperating exporters. Thus, the dumping margin for non-cooperating exporters must also be positive and in fact higher than cooperating exporter.
 - d. The export price used for determining dumping margin on one hand and price undercutting and injury margin on other hand cannot be different. In fact, the Authority has considered lowest export price for non-cooperating exporters in several cases.
 - e. Since export price for non-cooperating exporters cannot be higher than export price cooperating exporters, it follows that the price undercutting and injury margin for non-cooperating exporters cannot be lower than cooperating exporters.
- The mere fact that the petition contained an error and claimed lower price undercutting does not mean that the Authority shall now not determine higher price undercutting and injury margin. Unbiased Authority is required to determine correct parameters, and if there are errors committed by the domestic industry, the same are required to be rectified by the Authority (particularly when the domestic industry has now pointed out these during the course of verification). Thus, mere fact of lower price undercutting or injury margin does not mean that the Authority cannot decide higher injury margin.
- There are significant imports of A Grade and super-A grade imports of VFY. Strictly speaking, the Authority should consider selling price of the

domestic industry for A grade material only for determining price undercutting in these exports. The price difference between A/Super-A category and other categories is quite significant.

- Volume of exports from China has significantly increased.
- Chinese producers are having significant unutilized capacities - the current capacities with the Chinese producers are 218,000 MT. As against this, the Chinese production has been declining.
- The Chinese consumption of VFY is falling and therefore the Chinese producers are likely to dump aggressively in the event of cessation of anti dumping duty.

The information clearly shows likelihood of dumping in case of cessation of Anti-dumping duties. It is, thus, evident that the information clearly shows likelihood of dumping in injury.

Examination by the Authority

78. In the present case the growth of the domestic industry in terms of sales, production, capacity utilization, profits, return on investment and cash profits etc have increased *vis a vis* the base year but have declined as compared to the preceding year. With the imposition of Anti-dumping duty, the domestic industry was able to improve its performance.
79. It has been noted that the imports of the subject goods and market share thereof of the subject country have increased during the injury period inspite of antidumping duty in force.
80. The domestic industry has provided information/data that shows that producers/exporters of the subject goods in China PR are having excessive production capacities. Besides, the domestic industry has also provided information/data regarding fall in demand in China PR resulting in lower capacity utilisation of the subject goods in China PR.
81. It has been observed that during the injury period, inspite of duty in force, imports of the subject goods from China PR increased significantly leading to increased market share *vis a vis* the total demand as well as total imports. In case of cessation of the existing anti-dumping duty, the Chinese exporters/producers are likely to eye the Indian market and further increase their export volumes to India at dumped prices. The present dumping of the subject goods is likely to lead to increased dumping and that is likely to cause injury to the domestic industry, which at present is having the desired benefit of the anti-dumping duty in force.
82. Since, the present anti-dumping duty is on the basis of reference price; apparently the same is effective as the landed values have been generally higher than the reference price. If the anti-dumping duties are allowed to cease, then the already dumped imports from China PR may come at still lower prices. In such an event, the domestic industry may have to either match the landed prices or thereby have an adverse impact on its price parameters or lose significantly its market share and there have an adverse impact on the volume parameters. In either event, the

cessation of the anti-dumping duty is likely to lead to recurrence of material injury to the domestic industry.

83. Furthermore, it is likely that, in order to be able to significantly increase their sales, using the huge spare capacities, and the Chinese exporters/producers are likely to attempt and gain a substantially increased market share in the Indian Market. And as the Chinese exporters/ producers are even presently undercutting the prices of domestic industry, the situation is likely to worsen to the detriment of the domestic industry. The below analysis shows the situation of domestic industry if it sells the subject goods at landed price:

Particulars	Unit	POI
Present undercutting	Rs./Kg	***
Present NSR	Rs./Kg	***
NSR after matching landed price	Rs./Kg	***
Cost of Production	Rs./Kg	***
Existing Profit	Rs./Kg	***
Profit after matching of NSR with landed price	Rs./Kg	***
Loss of Profit per Kg	Rs./Kg	***

84. Considering that the subject goods continue to be dumped; there is likelihood that cessation of the anti-dumping duty is likely to lead to increased imports of the subject goods from the subject country at somewhat similar prices, which would significantly adversely impact the domestic industry.

85. The cessation of the anti-dumping duty is likely to put pressure on the prices of the subject goods being produced by the domestic industry. Thus, it is likely that cessation of the anti-dumping duty would encourage the Chinese exporters/producers to significantly increase their volume of exports at dumped prices, which are already significantly undercutting the domestic industry's prices.

L. Causal Link

86. The Authority has examined the submissions with regard to the significance and relevance of causal link in a Sunset review investigation. It is important to note under Section 9A(5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties irrespective of whether there have been any imports of the product under consideration during the review investigation period or not. Notwithstanding this, it was examined whether other parameters listed under the AD Rules have caused injury to the Domestic Industry.

- (a) **Changes in the patterns of consumption:** - Since the demand for the product has increased during the injury period, it indicates that the pattern of consumption with regard to the product under consideration has undergone a positive change.
- (b) **Trade restrictive practices of and competition between the foreign and domestic producers:** - As per information available on record, there is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry.
- (c) **Developments in technology:** - As per information available on record, technology for production of the product concerned has not undergone any change.
- (d) **Export performance:** - The injury information provided to the Authority is provided separately for domestic and exports, to the extent the same could be segregated.
- (e) **Productivity:** - It is observed that the productivity of the domestic industry per day was constant during the injury period.

Magnitude of Injury and Injury margin:-

87. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from for determination of injury margin during the POI. Thus compared, the injury margin is worked out as under:

Particulars	Unit	Yibin Heist(specific denier)	China PR - Others
NIP	Rs./Kg	***	***
Landed Price	Rs./Kg	***	***
Injury Margin	Rs./Kg	***	***
Injury Margin (%)	%	5%-15%	15%-25%

M. CONCLUSIONS

88. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that: the subject goods are entering the Indian market from the subject county at dumped prices and dumping margin is significant. It is seen that the subject goods continue

to be exported to India at dumped prices inspite of the existing anti-dumping duty. It is noted that even at present, that is, when the anti-dumping duties are in force, the price undercutting and price underselling are significant. Should the domestic industry attempt to match the same, it would have a significant adverse impact on the price parameters. Alternatively, it would have injury on volume parameters. Hence, injury to the domestic industry is likely to recur, in case the present anti-dumping duty is allowed to cease. It is further noted that as per information available on record, the anti-dumping duty is required to be extended and modified.

N. RECOMMENDATIONS

89. Having concluded as above, the Authority is of the opinion that the anti-dumping measure is required to be extended and the quantum of anti-dumping duty is required to be modified and extended in respect of imports of the subject goods from the subject country as specified in the duty table below.

90. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. The Authority further notes that there are significant differences within the product under consideration in terms of its weight and price. Therefore, anti-dumping duty in terms of reference price or fixed duty would not be appropriate in this case. Thus, the Authority recommends imposition of anti-dumping measure as an ad valorem duty, worked out as a percentage of the CIF value of imports of the subject goods from the subject country. Accordingly, definitive anti-dumping duty equal to the amount arrived at by applying the percentage indicated in Col 8 of the duty table given below is recommended to be imposed on all imports of the subject goods originating in or exported from subject country from the date of notification to be issued in this regard by the Central Government.

Duty Table

Sl. No	Heading/ Sub-heading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount As a % of C.I.F. Value
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	5403	Viscose Filament Yarn *	China PR	China PR	M/s Yibin Hiest Fibre Limited Corporation	M/s Yibin Hiest Fibre Limited Corporation	5.04%

2.	5403	Viscose Filament Yarn *	China PR	China PR	Any	Any	16.90%
3.	5403	Viscose Filament Yarn *	China PR	Any	Any	Any	16.90%
4.	5403	Viscose Filament Yarn *	Any	China PR	Any	Any	16.90%

Note: Viscose Filament Yarn * herein means Viscose Rayon Filament Yarn up to 150 deniers (and \pm 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.

91. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

92. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

Vijaylaxmi Joshi
The Designated Authority