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F. No.07/01/2017-DGAD  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Anti-Dumping & Allied Duties)  
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**Notification**

**Final Findings**

Dated 23 April, 2018

Subject: Sunset Review investigation on imports of Partially Oriented Yarn (POY), originating in or exported from China PR.

No. - 7/01/2017-DGAD 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 (hereinafter also referred to as AD Rules), the Designated Authority (herein after referred to as Authority) recommended imposition of Anti-Dumping Duty on imports of Partially Oriented Yarn (POY), (hereinafter also referred to as subject goods / product under consideration / PUC) originating in or exported from China PR (hereinafter also referred to as subject Country). The final findings notification of the Authority was published vide notification 14/10/2005-DGAD dated 8th June, 2007. On the basis of the findings, definitive anti-dumping duties on the subject goods imported from subject countries were imposed by the Department of Revenue vide notifications No. 92/2007 dated 03.08.2007.

2. Subsequently, the Authority initiated a sunset review of the above anti-dumping duty vide notification dated 11th February, 2011 and recommended continued imposition of definitive anti-dumping duties on the imports of the subject goods originating in or exported from the above country vide Final Finding Notification No. 15/27/2010- DGAD dated 10th February, 2012. The duties were extended vide Customs Notification No. 22/2012-Customs (ADD) dated 2nd May 2012 for a further period of 5 years i.e., until 1st May 2017.
3. WHEREAS in terms of Section 9A (5) the Customs Tariff (Amendment) Act 1995 the antidumping duty imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. Whereas, a petition has been filed by M/s Reliance Industries Limited (hereinafter referred to as “petitioner or applicant”) in accordance with the Act and the Rules, seeking initiation of a Sunset Review of the Anti-dumping duty in force on import of Partially Oriented Yarn (POY) for extending the duties for a further period of five years, alleging likelihood of continuation or recurrence of dumping and injury of the above goods originating in or exported from China.
5. And whereas, the Authority, on the basis of sufficient evidence submitted by the applicant, issued a Notification No. 7/01/2017-DGAD dated 28<sup>th</sup> April, 2017, published in the Gazette of India, initiating the subject investigation in accordance with the above Rule to examine whether the expiry of the said duties on the import of the subject goods originating in or exported from the subject country is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
6. The scope of the present review covers all aspects of the original investigation concerning imports of the above goods, originating in or exported from the subject country.

### **PROCEDURE**

7. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
  - i. The Authority notified the Embassy of China PR in India about the receipt of the Sunset Review of anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.
  - ii. The Authority issued a public notice dated 28<sup>th</sup> April, 2017 published in the Gazette of India Extraordinary, initiating Sunset Review investigation concerning imports of the subject goods.
  - iii. The Authority sent a copy of the initiation notification to the Embassy of China PR in India, known producers/exporters from subject country and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
  - iv. The Authority sent exporter’s questionnaires to elicit relevant information to the following known producers/exporters in China PR, (whose details were made available by the applicant) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
    1. Chemical Fibres Association
    2. Cixi Santai Chemical Fibre Co. Ltd.
    3. Zhejiang Cifu Chemical Fiber Co. Ltd
    4. W.W. Textile Co.,Ltd
    5. Hangzhou Huaxin Textile Co. Ltd.
    6. Xinxiang Sunshining Textiles Co. Ltd.
    7. Tongkun Group Zhejiang Hengsheng Chemical Fibre Co. Ltd.
    8. Hangzhou Zhongli Chemical Fiber Co. Ltd.

- v. However, none of the producers/exporters subject country has filed their Questionnaire responses in the above matter.
- vi. The Authority also forwarded a copy of the Initiation Notification to the following known importers/users/user associations (whose names and addresses were made available to the authority) of subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):
1. Suntex India
  2. Galaxy Textiles
  3. Harmony Yarns Pvt. Ltd.
  4. AVM Exports
  5. Garg Tex-O-Fab Ltd.
  6. Boghara Polyfab Private Limited
  7. Silvassa Industries Ltd.
  8. Beekaylon Synthetics Ltd.
  9. Alok Industries Ltd.
  10. Bajari Filaments P Ltd.
  11. Sidhvan Yarns Ltd.
  12. Crimplon Yarns
  13. Uni Tex Texturisersz
  14. Unify Texturisers
  15. Ghoomtex (India) Pvt Ltd
  16. Mehratex India P Ltd
  17. SRV Polytex Pvt.ltd.
  18. Synfab Sales & Industries Limited
- vii. The following importers/users/user associations have filed their Questionnaire responses / submissions in the above matter:
1. All India Texturisers' Association
  2. Bhumi Yarns Pvt. Ltd.
  3. Unify Texturisers Pvt. Ltd.
  4. Shekhawati Poly Yarn Limited
- viii. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7).
- ix. The Authority has examined the information furnished by the domestic producer to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods.
- x. The period of investigation was proposed as January 2016 to December 2016 (12 months) by the petitioner. However, the Authority considered it more appropriate to carry out the investigation taking into account the period of investigation as April 1, 2016 to March 31, 2017 (12 months). For the purpose of analyzing injury data, the data of previous three previous years, i.e., 2013-14, 2014-15, 2015-16 and the POI will be considered.

- xi. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation.
- xii. Non-injurious price has been determined based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xiii. Transaction wise data was called from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and the same has been adopted for determination of volume and value of imports of product concerned in India.
- xiv. The Authority held an oral hearing on 22<sup>nd</sup> February, 2018 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6), which was attended by the representatives of domestic industry and other interested parties.
- xv. All the parties who presented their views in the Oral Hearing were requested to file written submissions of their views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and were requested to submit their rejoinders thereafter.
- xvi. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.
- xvii. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this disclosure statement.
- xviii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
- xix. \*\*\*in this Disclosure Statement represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xx. The exchange rate adopted by the Authority for the subject investigation is  
1US\$ = Rs.67.95

## **PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **Submissions by the Domestic Industries**

8. The submissions made by domestic industry are as follows:

- i. The Product under consideration is Partially Oriented Yarn, generally known as POY. It is the yarn of Polyester and is an intermediate, which is subject to further processing, for example, texturising or draw twisting, to make it suitable for weaving or knitting into fabrics. It falls under the Customs Tariff Heading 5402.4600 of ITC (HS) Classifications of Export and Import Items.
- ii. The imported product is also imported under other headings apart from the heading expressly provided. In any case, as per the practice adopted by the Authority, the custom heading is indicative only and is in no way binding upon the scope of the Product under Consideration.
- iii. The present investigation being a Sunset Review, the scope of the Product under Consideration cannot be changed from what it was in the original investigation.

### **Submissions made by the producers/exporters/other interested parties**

9. None of the interested parties have submitted any comments/submission with respect to the Product under Consideration.

### **Examination by the Authority**

10. The Product under consideration is Partially Oriented Yarn, generally known as POY. It is the yarn of Polyester and is an intermediate, which is subject to further processing, for example, texturising or draw twisting, to make it suitable for weaving or knitting into fabrics.
11. The product under consideration is classified under chapter heading 54024600. However, the subject goods are also being imported under other tariff headings. Further, the Customs classification is indicative only and is in no way binding on the scope of the present investigation.
12. Present investigation, being a Sunset Review of the duty in force, the products under consideration would remain the same as has been defined in the original investigation.
13. With regard to like article, Rule 2(d) of the Anti-dumping Rules provides as under:-

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;
14. After considering the information on record, the Authority holds that there is no material difference in product under consideration exported from subject country and the product produced by the Indian industry. Product under consideration produced by the domestic industry is comparable to the imported subject product in terms of physical characteristics, production technology & manufacturing process, functions & uses, product specifications, distribution & marketing. The two are technically and commercially substitutable.
15. The Authority holds that the product manufactured by the domestic industry and the subject goods imported into India from the subject country are like articles within the meaning of the Anti-dumping Rules;

## **SCOPE OF DOMESTIC INDUSTRY & STANDING**

### **Submissions by the Domestic Industry**

16. The submissions made by the domestic industry are as follows:

- i. The Sunset Review petition has been filed by M/s Reliance Industries Limited and has been duly supported by M/s Indo Rama Synthetics (India) Ltd, M/s JBF Industries Limited, M/s Garden Silk Mills Ltd, and M/s Alok Industries Limited.
- ii. The petitioner and the supporters account for a major proportion of the domestic production of the subject goods. Even though Rule 5 is not applicable to Sunset Review investigations, the applicant and the supporters together appropriately reflect the state of the Domestic Industry.
- iii. Petitioner has not imported the subject goods from subject country during the POI. Petitioner is not related (either directly or indirectly) to any exporter or importer of product under consideration in the subject country. Thus the petitioner is eligible domestic industry under Rules 2(b) and 5(3) of the AD Rules.

### **Submissions made by the producers/exporters/other interested parties**

17. None of the interested parties have submitted any comments/submission with respect to the scope of domestic industry and its standing.

### **Examination by the Authority**

18. Rule 2 (b) of the AD rules defines domestic industry as under:

*“(b) “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”*

19. The application in the present case has been filed by M/s Reliance Industries Limited and has been supported by M/s Indo Rama Synthetics (India) Ltd, M/s JBF Industries Limited, M/s Garden Silk Mills Ltd, and M/s Alok Industries Limited.

20. It may be noted that the petitioner along with the supporters constitute major proportion of the domestic production of the subject goods. The authority determined at the stage of initiation that the petitioner along with the supporters, being the major producer of the subject good satisfied requirement of standing under the Rules and the Petitioner constituted domestic industry within the meaning of the Rules. Accordingly, the Authority holds that that the petitioner satisfied the requirement of standing under Rule 5(3) and constitutes domestic industry within the meaning of Rule 2(b).

## **ISSUES RELATING TO CONFIDENTIALITY**

### **Submissions by the Domestic Industry**

21. The submissions made by domestic industry are as follows:

- i. The petitioner has claimed only such information as confidential, the confidentiality of which has been permitted under the rules and as per consistent practice of the Authority.
- ii. The petitioner has provided sufficient non confidential version of the application. No interested party has been able to point out any specific instance of information which has been claimed confidential and confidentiality of which is not justified under the rules.
- iii. Information such as volume of exports to India, gross volume of sales in domestic market, production, sales, average price for exports to India have been provided in indexed version as the information is business proprietary information.

### **Submissions made by the producers/exporters/other interested parties**

22. The various submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are as follows:

- i. The petition suffers from excessive confidentiality. The petition provides absolutely no information with respect to demand. In the absence of such data, a proper volume effect analysis cannot be undertaken.
- ii. The domestic industry has claimed and has been allowed excessive confidentiality in the sense that they have not made available their annual report in the public file.
- iii. Domestic Industry has also not provided sufficient details of their costing.

### **Examination by the Authority**

23. The Authority made available non confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).

24. With regard to confidentiality of information Rule 7 of Anti-dumping Rules provides as follows:-

*“Confidential information”*

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

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

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

25. The WTO Agreement on Anti-Dumping provides as follows with regard to confidentiality of information-

*“Article-6.5 Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the authorities. Such information shall not be disclosed without specific permission of the party submitting it.*

*Article-6.5.1 The authorities shall require interested parties providing confidential information to furnish non confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided.*

*Article-6.5.2 If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.*

*Footnote to Article 6.5.2 (footnote 18 of the WTO Agreement on Anti-Dumping) provides as follows:– Members agree that requests for confidentiality should not be arbitrarily rejected.”*

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

## OTHER MISCELLENEOUS ISSUES

### Submissions by the Domestic Industry

27. As regards the legal validity of the extension of duties after the expiry of the period of five years, it is submitted that the responding parties need to appreciate that the anti-dumping duties are imposed by the Central Government i.e., the Ministry of Finance in this case. If at all they have any issue, legal or otherwise, with regard to the legal validity of the extension of duties, they ought to have approached the appropriate forum. This issue cannot be raised during the Sunset Review investigation. It is pertinent to note that the case law relied upon by interested parties is in the context of second proviso to Section 9A(5) and not for interpretation of first proviso to Section 9A(5) of the Customs Tariff Act, 1975."
28. The interested parties have argued that the duties should not be extended beyond 10 years period. They have relied on the findings of the Authority in the case of 'Dry Cell Batteries' originating in or exported from China PR. However, a mere reading of the said paragraph clearly establishes that the reliance of the interested parties in this regard is misplaced. The above observation of the Authority is to ensure that duties are not stretched beyond what is required. There is nothing in the law to suggest that there ought to be some kind of cap on the number of years for which the anti-dumping duty protection can or should be given to any industry. The provisions of Section 9A(5) are absolutely clear on this issue. It is a matter of fact that the anti-dumping duties have continued for more than 10 years in a host of cases in India. In the present case, the fact that there is the presence of current dumping and injury establishes that the revocation of the duties would be disastrous for the domestic manufacturers of the subject goods including the petitioner.
29. The interested parties have claimed that the POY manufacturers including the petitioner make high profits on sales of POY while selling PTY, which is a downstream product, at unremunerative and low prices with little margin. In this regard, the Domestic Industry submitted that the above claim of the interested parties is completely baseless and far from reality. The Authority has already conducted domestic verification in the present case and it has already demonstrated that the domestic POY manufacturers including the petitioner are selling the subject goods on non-remunerative prices. In the circumstances, it is absolutely incorrect to claim that the domestic manufacturers make high profits on sales of POY.
30. The Domestic Industry also submitted that the claims of interested parties regarding artificially low prices of PTY are also completely baseless. It is a matter of fact that the sales of PTY are profitable after taking into account the conversion cost. The responding parties have not been able to appreciate the fact that the petitioner as well as the supporters, being integrated producers, have certain advantages with regard to the PTY business. This is reflected from the fact that the integrated producers have seen a significant growth as compared to the stand-alone producers solely on account of the inherent efficiencies of integrated producers. It is also pertinent to mention that in last few years texturizing units have also grown their capacities. Further, the respondents have not revealed the other factors which may be contributing to their poor performance in terms of the higher electricity costs, taxation issues etc. Therefore, the claims of the interested parties in this regard are completely baseless.
31. As regards the claims that the raw material for manufacturing PTY/polyester fabrics suffer from anti-dumping duties, it is submitted that the claim of the respondents is not correct. There is no anti-dumping

duty on MEG and Fully Drawn Yarn required for manufacturing polyester fabrics. Further, there is no anti-dumping duty even on PTA imported from sources other than a few. According to the Domestic Industry, the respondents have not revealed to the Authority that the production of fabrics was affected due to cheaper and dumped fabrics coming from China and not because of any incidence of anti-dumping duties on the raw materials. Taking cognizance of this fact, the Government enhanced the custom duty on fabrics from 10% to 20% effective from October 2017.

32. It is also factually wrong that export of fabrics was restricted due to ADD on POY. First of all, any imports of raw material meant for production of export goods are exempt or not leviable to anti-dumping duties under various schemes of the Government of India. Secondly, the domestic users as well as the exporters of the finished products are free to import POY from a host of other sources which are not subject to anti-dumping duties. It may also be noted that as per SRTEPC (Synthetic & Rayon Textiles Export Promotion Council), Government of India, the exports of fabrics have grown by 3% as compared to last year. Further the exports of PTY grew by about 34% between 2014-15 and 2016-17. Therefore, it is clear that the apprehensions made by the respondents are not factually correct and ought to be rejected outright.

### **Views of the opposing interested parties**

33. The Anti-Dumping duties imposed in the present case expired on 1 May, 2017 and the Ministry of Finance Notification No. 16/2017-Customs (ADD) extending the duty for the interim of the SSR was issued only on 9 May, 2017. It is established law that where a specified time period pursuant to a customs notification is required to be extended, then the same must be done on or before the expiry of the original term in order to maintain continuity. In the present case, there was no extension notification of anti-dumping duty before the expiry of the parent notification for imposition of anti-dumping duty. Therefore, the duty has ceased to exist due to efflux of time. In light of the above ruling, the extension of anti-dumping duty in the present case is illegal.

34. In the present review, the original investigation was initiated in December, 2005 and duty was levied in June, 2007. Thus, the subject goods have been subject to anti-dumping duty for over 10 years. The essential facts of the present case do not disclose any special circumstances warranting continuation of anti-dumping duty. This principle emerges from the Authority's final findings dated 20 May 2013 in the Sunset-Review of Anti-dumping on imports of 'Dry Cell Batteries' originating in or exported from China PR case where the Authority has held that:

*"It is the endeavor of the Authority not to continue the duty beyond a period of 10 years except in special cases where the authority feels that anti-dumping duty is absolutely necessary depending upon the facts and circumstances of the individual cases"*

35. The domestic industry has received adequate protection from DGAD since the imposition of duty in the original investigation. The protection was increased further by continuation of duty in the last sunset review investigation. We note that at the conclusion of the first sunset review itself, the Authority had found negative injury margin. As such, the negative economic parameters of the domestic industry, which had warranted the original imposition, had already ceased to exist five years ago itself. Despite such facts, the Authority had recommended the continuation of duties. However, in the present case, the continued

lack of injury is evidenced in the Petitioner's performance parameters and hence, the Respondents request that the antidumping duty should not be extended any further.

36. Partially Oriented Yarn (POY) is a raw material for manufacturing Polyester Textured Yarn (PTY), which is a fully drawn, fully oriented polyester mono or multifilament yarn with soft crimp, high bulk and texture with cotton feel and very high durability and retention properties. This is manufactured by texturizing POY using high speed texturizing machines. There are many POY manufacturers, like the Petitioner, who have set up facilities for manufacture of the downstream PTY. These producers make high profits on sales of POY while selling PTY at unremunerative and low prices with little margin. In fact, the price difference between the POY and PTY of such producers do not cover the cost of manufacturing involved in texturizing POY. Thus, the individual texturisers are unable to survive in the market and have declined in market share holding from more than 75% to less than 25%.
37. The ADD benefits only a select few businesses such as that of the Petitioner who claim to be the most efficient and control the entire raw material chain. However, the imposition of duties result in damage to the downstream industries which include Texturising / Knitting / Weaving / Processing / Garmenting and all ancillary industries which collectively are the second largest employers in the country and have tremendous scope for further generating employment if this duty is removed. The Purified Terephthalic Acid /Mono Ethylene Glycol /Partially Oriented Yarn /Fully Drawn Yarn—all raw materials required for manufacturing Polyester Fabrics attract 5.5% Custom Duty and anti-dumping duty ranging from 5 cents to 50 cents per Kg which makes manufacturing fabric uncompetitive against the international fabrics which in turn restricts export of fabrics and garments to a great extent.

### **Examination by the Authority**

38. With regard to the contention of the interested parties that the anti-dumping duties in the present case expired on 1 May 2017 while the extension by the Ministry of Finance on 9 May 2017 therefore the extension of the duties are illegal, the Authority notes that the present Sunset Review investigation was initiated by the Authority before the expiry of the effective duties. In this context, reliance has been placed by interested parties on the case of Kumho Petrochemicals. The Authority has carefully examined the said decision in the backdrop of submissions in this context. A plain reading of the said case goes to show that there was a gap between expiry of duty and extension of duty by Ministry of Finance. Despite such gap, the Sunset Review investigation was not quashed. Designated Authority was allowed to record its final findings which evidently were accepted by Central Government. Clearly, any gap in extension of duties by one year was not held to be fatal to issue of the notification extending duties under the provision of section 9A(5), first proviso. It is further noted that if the interested parties have any issue with regard to the legality of the present notification, this is not the appropriate forum to address that.
39. As regards the contention of the interested parties that the duties cannot be effective beyond 10 year, the Authority notes that it has never been the position of the Designated Authority that duties cannot extend beyond 10 years period. The imposition of duties are to be determined on case to case basis depending upon the facts and circumstances of a particular case.
40. As regards the arguments raised relating to the impact on downstream product, the Authority notes that the subject matter of the present investigation is Partially Oriented Yarn Sunset Review governed by Rule 23. It is important to note that by adopting lesser duty rule and by applying rules of Annexure III while

determining Non-Injurious prices, the Authority fully balances any injurious impact on user industry and the applicant industry. Therefore, it would be incorrect to state that Authority has not paid any heed to interests of the user industry. Moreover, the user industry has not been able to establish that the continuation of duties in this case would affect the public interest adversely, as all the imports into India are made under Advance Authorization, as claimed by all interested parties including domestic industry.

41. Regarding the contention of the interested parties that the anti-dumping duties make the exports non-competitive, the Authority notes that there is no merit in such arguments of the interested parties. The imports for the purpose of utilization in an exportable good are free from any anti-dumping duties. Further, the objective of the anti-dumping duties is limited to removing the effect of dumping and to create a level playing field for the domestic manufacturers as well as the exporters. The anti-dumping duties, in no way, restrict the imports but only makes sure that imports do not happen at unreasonable prices. Therefore, the arguments of the interested parties in this regard are not sustainable.

## **NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

### **Normal Value**

42. Under Section 9A(1)(c), normal value in relation to an article means:

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

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

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

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

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

### **Submissions by the Domestic Industry**

43. The submissions made by domestic industry are as follows:

i. The Domestic Industry has filed complete information with regard to the normal value and export

price which was necessary for the purpose of initiation of an investigation. Further, all the necessary evidence has also been provided in support of claim of normal value as well as export price.

- ii. China should be considered a non-market economy, in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value.

#### **Views of the opposing interested parties**

44. None of the interested parties have offered any comment/submission with regard to normal value.

#### **Examination by the Authority**

45. At the stage of initiation, the Authority proceeded with the presumption by treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known producers/ exporters for rebutting presumption of nonmarket economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the AD Rules. The Authority also requested Government of China to advise the producers/exporters in their country to provide the relevant information. However, none of the Chinese producers filed any response to the exporters questionnaire issued by the Authority.

46. Accordingly, the normal value and export price for the all the producers/exporters from the subject country have been determined as below:

#### **Determination of Normal Value for producers and exporters in China PR**

47. In the absence of any reliable price and cost details for the subject goods in subject country and any other market economy third country, the Designated Authority has constructed the normal value for China PR on the basis of best available information for the like product, with a reasonable profit margin. Accordingly, the Normal Value for all the producer/exporters of the subject goods from China PR has been constructed and the same is shown in the Dumping Margin Table below.

#### **Export price for producers and exporters in China PR**

48. The Authority notes that none of the producer/exporter from China PR has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in China PR, the Authority has constructed the export price for subject goods on the basis of facts available and the same is shown in the Dumping Margin Table below.

#### **DUMPING MARGIN**

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

Sr. No	Country	Producer/Exporter	Normal Value (Rs./MT)	Net Export Price (Rs./MT)	Dumping Margin (Rs./MT)	Dumping Margin %	Range %
1	China	All exporters/producers	****	****	****	****	30-40

50. It is seen that the dumping margin for the subject goods is more than de-minimus for imports from the subject country.

## **METHODOLOGY FOR INJURY ASSESSMENT AND EXAMINATION OF INJURY AND CAUSAL LINK**

### **Views of the Domestic Industry**

51. The following are the injury related submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority:

- i. Imports of the product under consideration have shown increase over the years. Imports have also shown increase in relation to production and consumption in India;
- ii. Despite the anti-dumping duties in force, market share of subject country in demand is still increasing. Market share of the domestic industry has decreased in the POI as compared to the base year;
- iii. With reduction in the prices by the Chinese producers, the only choice available to the Indian producer is to either realign their prices with the changes in the import prices or to lose orders and hence the market share;
- iv. Domestic industry prices, reflect the effect of the prices that are being offered by the importers in the domestic market;
- v. The price underselling is positive and substantial. Further, the Domestic Industry is suffering from price suppression and depression as they are not able to increase their prices to reasonable level. The main reason for this is low priced imports from China that too at dumped and injurious prices.
- vi. Performance of the domestic industry has remained negative in terms of profits, return on investments and cash profits to a very significant extent.
- vii. The decrease in selling price was more than the decrease in cost of production and thus the dumped imports are creating price suppression effect on the domestic industry.
- viii. The domestic industry has suffered material injury in connection with dumping of subject goods from China. Further, the domestic industry is threatened with continued injury, should the present condition continue.

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

52. The following are the injury related submissions made by the opposing interested parties during the course of the present investigation and considered relevant by the Authority

- i. The Domestic Industry is not suffering any injury and has improved throughout the injury investigation period.
- ii. The present SSR has been initiated on the basis of the application of the petitioner which holds merely 28 % of the Indian production. In such a case, injury assessment cannot be based on the data of such a miniscule and unrepresentative segments of domestic producers.
- iii. Capacity of the petitioner as well as its overall production have increased. However, owing to the increased capacity, its capacity utilization decline in the interim of the period of injury. Therefore, there is no evidence of injury based on the petitioner's capacity, production and capacity utilization.
- iv. Petitioner steadily increased its market share in demand over the period of injury despite decline in total demand.
- v. There is no price or volume effect from the subject goods from subject country;
- vi. The Petitioner has admitted that there is no price suppression / depression. The Petitioner has not put forward any claim for price undercutting either. The petitioner has only alleged price underselling.
- vii. The volume of imports from China PR, in the injury and investigation period is miniscule when compared to the volume of production of the Indian producers and the Indian demand.
- viii. Rather, considering the data from 2014-15 onwards, there has been a decline in the volume of imports from 10156 MT to 10491 MT in the year 2015-16 and finally to 8523 MT during POI. A projection for increase in imports post-POI will not be the logical conclusion derived out of the above data. Petitioner's claim of injury being caused due to increase in volume of imports in absolute terms is baseless.
- ix. The Domestic Industry has failed to establish any likelihood of continuance or recurrence of dumping and injury.

**Examination by the Authority**

53. The impact of the dumped imports on the domestic industry is to be examined in terms of Annexure-II of the AD Rules.

54. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties during the course of the present investigation and considered relevant by the Authority.

55. The Authority proposes to compute the non-injurious price in accordance with Annexure III to the Anti-dumping Rules and the established practices of the DGAD.

56. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization,

sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

### **A. VOLUME EFFECT OF DUMPED IMPORTS**

#### Import Volume

57. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCI&S. The volume of imports of the subject good from the subject country has been analyzed as under:

Particulars	UoM	2013-14	2014-15	2015-16	POI
Import Volume					
Subject country	MT	0	10156	10491	8498
Other Countries	MT	105	898	773	2435
Total Imports	MT	105	11054	11264	10933
% of imports from China in total imports	%	0%	92%	93%	78%

58. It is noted from the above table that as compared to the previous year there has been a decline in imports of the subject goods from the subject country during POI.

### **B. PRICE EFFECT OF DUMPED IMPORTS ON THE DOMESTIC INDUSTRY**

59. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject countries has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from subject country.

#### **a. Price Undercutting**

60. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net selling price of the domestic industry for subject goods as below:

Price Undercutting	UoM	China
Import Volumes	MT	8498
Landed Value without AD Duty	Rs/MT	71788
Net Selling price	Rs/MT	****

Price Undercutting	Rs/MT	****
Price Undercutting	%	****%
Price Undercutting	Range	0-10

The above analysis shows that the price undercutting from China is insignificant on aggregate level.

**b. Price Underselling**

61. The Authority has also examined price underselling suffered by them on account of dumped imports from subject countries as per DGCI&S data:

Price Underselling	UoM	China
Import Volumes	MT	8498
Landed Value without AD Duty	Rs/MT	71788
NIP	Rs/MT	****
Price Underselling	Rs/MT	****
Price Underselling	%	****%
Price Underselling	Range	5-15

62. It is noted from the above table that the domestic industry has suffered price underselling on account of imports of the subject goods from China.

**c. Price Suppression and Depression**

63. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the Petitioner has given details regarding the changes in the costs and prices over the injury period, as detailed below:

Price Suppression/Depression	UoM	2013-14	2014-15	2015-16	POI
Landed Value	Rs/MT		89503	72817	71788
Trend	Indexed		100	81	80
Cost of Sales	Rs/MT	****	****	****	****
Trend	Indexed	100	88	75	73
Net Sales Realization	Rs/MT	****	****	****	****
Trend	Indexed	100	89	72	74

64. From the above Table, it is clear that the landed value of imports from the subject country as well as the Domestic Industry's cost of sales decreased in POI as compared to the previous years. There has been price suppression and depression during the POI.

## Economic Parameters of the Domestic Industry

65. Annexure II to the Anti-dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Anti-dumping 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.

66. The various injury parameters relating to the domestic industry are discussed herein below:

i. **Market share:** The details of imports, domestic sales and the market share of the domestic industry is as below:

Particulars	UoM	2013-14	2014-15	2015-16	POI
Demand					
Imports from China	MT	0	10156	10491	8498
Imports from Other Countries	MT	105	898	773	2435
Domestic Industry Sales with captive	MT	450805	550008	538075	536140
Other Producer Sale	MT	547682	498119	496256	594166
Total Demand	MT	998593	1059181	1045595	1141239
Market Share in Demand					
China	%	0%	0.96%	1.00%	0.74%
Other Countries	%	0%	0.08%	0.07%	0.21%
Domestic Industry Sales	%	45%	51.93%	51.46%	46.98%
Other Producers Sales	%	55%	47.03%	47.46%	52.06%

As is clear from the above table, imports of the subject goods from subject country are insignificant in so far as the market share of the subject country in relation to demand is concerned.

The demand in India shown by the DI (As shown in the above table) in its submission does not include the data/figures of captive production by other domestic producers including supporters. Therefore, the demand in India as shown by the DI in its petition falls short of being conclusive.

ii. **Profitability and Return on Investment:** It is noted that the losses of domestic industry reduced in the POI as compared to the previous years. The other indicators relating to profitability show improvement.

Particulars		2013-14	2014-15	2015-16	POI
Profit & Loss	Rs. /MT	****	****	****	****
Trend	Indexed	-100	-71	-140	-44
Profit & Loss	Rs. Lacs	****	****	****	****
Trend	Indexed	-100	-86	-163	-54
Depreciation	Rs. Lacs	****	****	****	****
Trend	Indexed	100	182	144	108
Cash Profit	Rs. Lacs	****	****	****	****

Trend	Indexed	-100	21	-184	6
Capital Employed	Rs. Lacs	****	****	****	****
Trend	Indexed	-100	-123	-81	-83
Return on Capital Employed	%	****	****	****	****
Trend	Indexed	-100	-68	-215	-45

iii. **Production and Capacity Utilization:** It is noted that the production of the Domestic Industry has increased in the POI to cater the increased demand. Domestic industry has closed one of its manufacturing facilities and production stopped in other two plants. The capacity of the Domestic Industry has therefore, decreased during the injury period. During the injury period, capacity utilization of domestic industry remained more or less same.

Particulars	UoM	2013-14	2014-15	2015-16	POI
Capacity	MT	811000	763000	690000	690000
Trend	Indexed	100	94	85	85
Production	MT	585354	701750	633262	641710
Trend	Indexed	100	120	108	110
Capacity utilization	%	72.18%	91.97%	91.78%	93.00%
Trend	Indexed	100	127	127	129

iv. **Sales Volumes:** Sales of the domestic industry has improved as compared to the base year and domestic selling price has shown a decline due to the reduction in cost of sales of the domestic industry. Details of the sales volume and sales value are given in the Table below:

Particulars		2013-14	2014-15	2015-16	POI
Domestic Sales Volume	MT	450805	550008	538075	536140
Trend	Indexed	100	122	119	119
Domestic Sales Price	Rs. /MT	****	****	****	****
Trend	Indexed	100	89	72	74

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

Particulars	Units	2013-14	2014-15	2015-16	POI
Average Stock	MT	****	****	****	****
Trend	Indexed	100	108	98	100
% of Sales	%	****	****	****	****
Trend	Indexed	100	108	98	100

It is noted from the above that the average stock of the Domestic Industry has remained more or less same during the injury period.

vi. **Employment and Wages:** The position with regard to employment and wages is as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI
No. of Employees	No.	****	****	****	****
Trend	Indexed	100	100	105	103
Wages	Rs. Lacs	****	****	****	****
Trend	Indexed	100	118	131	132
Wages per Employee per annum	Rs.	****	****	****	****
Trend	Indexed	100	118	125	128

It is noted from the above table that the numbers of employees engaged by the Domestic Industry has remained more or less same during the injury period. However, their wages increased during the same period.

vii. **Productivity:** It can be seen from the table below that productivity in terms of production per employee has increased in the POI as compared to the base year.

	Unit	2013-14	2014-15	2015-16	POI
Production (MT)	MT	585354	701750	633262	641710
Employees	No.	****	****	****	****
Trend	Indexed	100	100	105	103
Production/employee	MT/No.	****	****	****	****
Trend	Indexed	100	120	103	106

From the above, it is noted that the productivity of the domestic industry has consistently increased over all the years of the injury period as compared to the base year.

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

ix. **Ability to raise Capital Investment:** As per the annual report of the domestic industry it is stated that the DI has the ability to raise long term resources from global financial market at very competitive rates.

x. **Factors affecting domestic prices:** The examination indicates that there is a healthy demand in India for the subject goods. It is also noted that the landed value of subject goods from subject country is below non injurious price and selling price of the domestic industry.

xi. **Growth:** As can be seen from the table in para 66(ii), cash loss to the tune of Rs.11,959 Lacs in the base year has turned into cash profit to the tune of Rs.754 Lacs during the POI which shows that the Domestic Industry has shown improvement with respect to the parameters relating to growth

### **C. OTHER KNOWN FACTORS & CAUSAL LINK**

67. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-dumping have

been examined by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry.

#### **Volume and prices of imports from third countries**

68. During POI, imports of the subject goods from countries other than the subject country are not significant in volume. Therefore, the imports from other countries cannot be considered to have caused injury to the domestic industry. Also, the subject goods from subject country are imported during the POI duty free under Advance Authorization Scheme but the DI has shown consistent loss during the injury period.

#### **Contraction of demand and changes in the pattern of consumption.**

69. There has been a constant rise in demand of the product concerned throughout the injury period. Therefore, decline in demand is not a possible reason of injury to the Domestic Industry.

#### **Developments in technology:**

70. Technology for production of the product concerned has not undergone any change. Thus, development in technology is also not a factor causing injury to the domestic injury.

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

71. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry as the raw materials as well as the subject goods are freely importable in the country.

#### **Export performance of the domestic industry**

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

#### **Productivity of the Domestic Industry**

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

74. It is thus noted that listed known other factors do not show that the domestic industry could have suffered injury due to these other factors.

### **D. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY**

#### **Views of the Domestic Industry**

75. The following are the submissions relating to the likelihood of dumping and injury made by the domestic industry during the course of the present investigation and considered relevant by the Authority:

- i. The exporters in the subject country have huge production and surplus capacities of the subject

goods. Further, the excess capacity available with such exporters is in itself many times the total production capacity of the Domestic Industry. The production capacity and surplus capacity considered from international journal PCI Wood Meckenzie is mentioned as below:

Capacity in China	27970000
Estimated exportable capacity	9110000
Capacity of Domestic Industry	690000
Estimated Indian Production	2235632
Production of Domestic Industry	641710
Sale of Domestic Producers	1130306
Sale of Domestic Industry	536140
Capacity as % of total domestic production in India	1251%
Capacities in China as % of domestic sales of all domestic producers	2475%
Exportable Surplus Capacity as % of total domestic production in India	407%
Exportable Surplus Capacity as % of domestic sales of all domestic producers	806%

Recently Turkey has levied the anti-dumping duties on the subject goods from China. This clearly establishes that the Chinese exporters have indulged in dumping practices not only in India but also in other countries.

- ii. The fact that the Chinese exporters continue to indulge in dumping practices is proven by their current prices to India. Further, the fact that they continue to indulge in dumping in other important markets is proved by the fact that anti-dumping duties have been imposed by other countries on Chinese exports.
- iii. Despite non-cooperation of the Chinese exporters, the Domestic Industry was able to get the information which proves the export orientation of the Chinese exporters. The data obtained from the website of CCF group shows that the export quantity has doubled between 2013 -2018. The examination of the data of the other Chinese exporters would also show the similar trend. However, it is for this very reason that the Chinese exporters decided not to cooperate in the present investigation.
- iv. It is a matter of fact that China controls about 75-80% of the world production of the subject goods. Such an overwhelming capacity/production allows them to disturb the markets around the world including India.
- v. Almost 90% of the capacities added throughout the world in the last five years have come up in China. Such expansion coupled with the decline in demand in China has made other countries more vulnerable.
- vi. Further, the total production of the subject goods itself exceeds the domestic demand in China by around 50% of Indian production. Therefore, there is clear that likelihood of recurrence of dumping and consequent injury to the domestic industry in the event the anti-dumping duties are not

continued.

- vii. Indian market is attractive to the Chinese exporters as India constitutes the biggest market outside China constituting more than 30% of the market of the rest of the world.
- viii. The existence of current dumping and injury margins in itself establish that the Domestic Industry is destined to suffer greatly if the current anti-dumping duties are revoked.

#### **Submissions made by the producers/exporters/importers/other interested parties**

76. The following are the likelihood of dumping and injury related submissions made by the opposing interested parties during the course of the present investigation:

- i. Having mere capacity is not sufficient to prove likelihood of injury. The applicant is required to prove that the existence of such surplus capacity with the exporters would result in dumping of products in India. However, the applicant failed to prove any such allegation and hence such an allegation does not stand the qualified evidence under the likelihood parameter.
- ii. The analysis in the present case would be incomplete without a detailed analysis of the likelihood of the existing capacities in China vis-à-vis their likelihood of entering the Indian market.

77. The Authority has examined the contention of the Domestic Industry to examine likelihood of continuation or recurrence of dumping and injury.

#### **Level of current and past dumping margin**

78. It is noted that the level of dumping margin is significant but the quantum of imports from the subject country is insignificant both in the original as well as present investigation.

#### **Volume of Imports during post POI**

79. It is noted from the DGCI&S data that the imports from subject country have remained insignificant as compared to the demand in India even during the post investigation period.

Country	Imports during POI (MT)	Imports post POI (MT)
China	8498	10407 (Annualized)

#### **Price attractiveness of Indian market**

80. The price, at which the subject goods are being exported by subject country to India, is more or less same if compared with the prices at which the subject country is exporting to other countries which indicates that Indian market is more or less at the same level as other countries are. Therefore, the Authority holds that there is, as such no, price attractiveness of the Indian market.

**Huge Production Capacity in subject country**

81. As per the information furnished by the Domestic Industry, the producers of subject goods in the subject country maintain huge capacities. Domestic Industry has provided evidence of huge production capacities with various manufacturers in subject country. However, it was found by the Authority that there are other countries like Turkey and Egypt which absorb the major proportion of the Chinese exports.

**Export orientation of the exporters from subject country**

82. The petitioner has stated that the exporters in the subject country are majorly export oriented. It has also been contended that in the event of cessation of duty, these exporters are likely to divert their exports to India at dumped prices. It is also submitted by the DI that the subject country has huge surplus capacity which is not in proportion to the domestic demand in the subject country. Therefore, the exporters are reliant on the exports to utilize their capacities. Further, the fact that some of the other major global users of POY have already imposed anti-dumping duty on exports from China, substantiates the claims of the domestic industry. However, it was found by the Authority that there is no export orientation of Chinese exports as its exports accounts for only 3,57,808 MT out of its unutilized capacity to the tune of 91,10,000 MT during the POI.

**Vulnerability of Domestic Industry in terms of price sensitivity of the product and the Indian market**

83. The Indian market is highly price sensitive. The consumers decide their procurement, with the price being the foremost consideration.

84. It is pertinent to note that no exporter has participated in the present investigation and the major contentions of the Domestic Industry, disputed by other interested parties, have been duly addressed in this Final Findings.

**Post Disclosure submissions by the Domestic Industry**

85. That the presence of current dumping and injury is a robust factor for continued imposition of duties world-wide. It is also submitted that the current high levels of dumping margin and injury margin, is sufficient enough to indicate the need for continued protection to the Indian industry from admittedly export oriented nature of the Chinese producers and exporters.

86. That the analysis carried out by the Authority relating to injury parameters like price undercutting and price underselling, price suppression clearly show the adverse impact of dumped imports on the performance of the Domestic Industry.

87. In relation to the observation of the Authority that “price undercutting from China is insignificant at aggregate level”, it is submitted that price undercutting cannot be considered in isolation and is always considered along with price underselling and price suppression/depression. Since subject goods are suppressing/depressing the Domestic Industry prices, it would be completely inappropriate to consider price undercutting without reference to the price underselling and suppressing/depressing effect of imports.

88. It may also not be out of place to mention that none of the exporters has cooperated in the investigations. In the absence of the detailed transaction-wise data from the exporters, the price undercutting analysis at the aggregate level loses its significance considerably. It would be a travesty of justice if the exporters are rewarded for their non-cooperation with the Authority.
89. In relation to decline in imports, it is submitted that the Chinese exporters tactfully created this dip in imports to mislead the Authority in believing that there is no volume pressure from the Chinese exports.
90. In relation to raise ability to raise Capital Investment, it is submitted by the domestic industry that the annual report of the Domestic Industry is for the performance and expectations of the company as a whole, while the present investigation is concerned with the subject goods only. However, the ability of the Domestic Industry to raise capital investment in the context of the subject goods will get seriously marred in case the duties are discontinued. Therefore, in the event the duties are revoked the POY sector in India is destined to hit the base.
91. In relation to price attractiveness for the Chinese producers, Domestic Industry submitted that in the absence of any response from Chinese exporters, non-availability of information relating to likelihood cannot be held against Domestic Industry. It is reiterated that the Chinese producers very strategically did not participate in the present investigation because their data would have established that they are export reliant and are dumping heavily in the Indian market as well as other markets.
92. That the contention of some importers that the continued imposition of the duties in this case would adversely affect the public interest is happening under advance authorization, it would be incorrect to state that the continued imposition of duties would affect the public interest adversely.
93. That the Chinese exporters should not be rewarded for their non-cooperation and duties should not be discontinued in the absence of data relating to exportable surplus capacity. Therefore, Domestic Industry requested that the non-cooperation of the Chinese exporters should not be allowed to be a means of undue and unwarranted benefit to them.
94. The fact that as the prices of Chinese exports to India and to third countries remain comparable clearly indicates that in the event of revocation of duties, imports from China will come at these prices only and will definitely worsen the condition of POY industry in India.
95. That there is significant current dumping margin and injury margin, likelihood of injury and dumping is imminent and therefore, the present investigation is fit for continued imposition of duties. Thereby, requesting the Authority to kindly confirm the continued imposition of duty on the subject goods originating in or exported from China.

**Post Disclosure Statement submissions by other interested parties**

96. Domestic Industry has failed to provide methodology of segregating of import data between PUC and non-PUC. They have requested that the Authority should provide segregation of import data in the final findings.

97. Applicants only accounts for 28% of the total production and any likelihood analysis based on such small share would not provide correct results. It was also pointed out that in one of the recent final findings, the Authority has terminated the investigation only because applicants accounts for mere 27% of the total production in India.
98. It is also contended by the interested parties that the financial health of the Domestic Industry does not reflect the wider industrial health of the Indian domestic producers as a whole. Therefore, they requested terminated of the investigation or alternately, the DI must be redefined to include a wider segment of POY producers in India.
99. The Authority has failed to assess the impact of the anti-dumping duties with respect to POY on other products, such as texturized yarns. In this regard, the Authority's simplistic observation that it is only concerned with the PUC regardless of the impact on other products and industries cannot be accepted.
100. The Authority has to record the rationale and methodology followed by it in the construction of normal value and export price. We request the Authority to include the methodology, beyond the simpliciter "on the basis of best available information.
101. Imports from China are negligible as compared to production and demand in India and therefore, imports from China cannot be held responsible for any injury to Domestic Industry.
102. Domestic Industry with other domestic producers accounts for 99% of the demand and imports from China accounts for mere 1%. Therefore, no injury can cause to Domestic Industry.
103. The Respondents reiterate that the dumping margin is constructed by the Authority and is not reflective of actual data of any producer or exporter and therefore, cannot form the basis of injury assessment in any manner.
104. Excessive capacities are not sufficient for determination of likelihood of recurrence or continuation of injury to the domestic industry. The Authority must complete its assessment to examine whether there is any excess capacity which may lead to dumping of imports specifically into India.
105. Domestic Industry is performing well with respect to all economic parameters like the production, the capacity utilization and the domestic sales have improved. Domestic Industry has also maintained its inventories at the same level despite increased production.
106. There is no price attractiveness of the Indian market as the prices of Chinese exports to India and to third countries remain comparable, there is no evidence that the alleged production capacities are in excess of the demand for Chinese products or that the export orientation has ever led to a situation of substantial supply to India.
107. There is no continuing injury and nor is there any likelihood of recurrence of dumping or injury in the facts and circumstances of the present case.

**Examination by the Authority**

108. The Authority notes that most of the submissions by parties are of repetitive nature and were already addressed earlier in the disclosure statement. The findings above deals with all such arguments of the interested parties including Domestic Industry. Further, the Authority has examined submissions of interested parties herein below to the extent relevant and not addressed elsewhere:

- a. In relation to the submissions relating to segregation of import data, it is noted that the Authority has called for the import data from DGCI&S for the injury period and Post-POI. Further, the Authority had segregated the import data based on the description of the PUC.
- b. After looking at price undercutting, price underselling, price suppression / depression and the injury suffered by the Domestic Industry together, it is noted that despite having no competition from the subject goods imported from China (as imports are coming in India under advance authorization), the financial performance of the Domestic Industry did not improve. Since current losses or the injury caused cannot be attributed to the dumped imports of subject goods, the possibility of their likelihood to cause injury to Domestic Industry is unforeseeable.
- c. In relation to submissions of the Domestic Industry that non-participation of Chinese exporters cannot be held against them, it is noted that in fact, the Authority in the first Sunset Review, despite no participation from any exporter, extended the duties after finding the likelihood of dumping and injury. In addition, the export orientation of Chinese exporters towards the world has been found to be negligible as China exported only 3,57,808 MT out of its unutilized capacity to the tune of 91,10,000 MT during the POI. Moreover, the analysis of the Chinese exports shows that countries like Turkey (even after the imposition by Turkey of the anti-dumping duty on China) and Egypt are the major absorbers of the Chinese exports of the subject goods to the world. Therefore, it is clearly visible that other export markets are available to absorb additional Chinese exports, if any.
- d. In relation to submissions relating to price attractiveness of the Indian market, it is noted that the price, at which the subject goods are being exported by subject country to India, is more or less same if compared with the prices at which the subject country is exporting to other countries which indicates that Indian market is more or less at the same level as other countries are. Therefore, the Authority holds that there is no, as such, price attractiveness of the Indian market.

**Conclusion**

109. After examining the submissions made by the interested parties and issues raised therein and considering the facts available on record, the Authority concludes as below:

- i. Domestic Industry suffered continuous injury even during the period when there was no or insignificant imports of subject goods from the subject country. Therefore, the injury cannot be attributed to dumped imports.
- ii. Domestic Industry was not able to justify the price attractiveness of Indian market and export orientation of Chinese exporters.

- iii. Evidence on record do not indicate that the dumped imports from China will lead to injury to Domestic Industry.
- iv. Domestic Industry failed to substantiate its claim in relation to likelihood of injury to the domestic industry due to the cessation of Anti-Dumping duty in force.

**Recommendation**

110. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to domestic industry, exporters, importers, users and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Anti-Dumping Act and Rules, the Authority holds that Domestic Industry failed to provide any satisfactory evidence that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry due to reasons and/or analysis given above. Therefore, the Authority does not recommend continuation of the anti-dumping duty on the imports of subject goods from China PR.

(Sunil Kumar)  
Additional Secretary & Designated Authority