

**F. No. 7/03/2021 - DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
Jeevan Tara Building, Parliament Street, New Delhi-110001**

Dated 31<sup>st</sup> July 2021

**NOTIFICATION**

**FINAL FINDING**

**Case No. SSR AD – 03/2021**

**Subject: Sunset Review of anti-dumping investigation concerning imports of “Viscose Staple Fibre” originating in or exported from China PR and Indonesia.**

**A. BACKGROUND OF THE CASE**

Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the ‘Act’) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as ‘the Rules’ or ‘AD Rules’) thereof;

1. The Designated Authority (hereinafter referred to as the Authority) initiated an antidumping investigation in respect of imports of “Viscose Staple Fibre” (hereinafter referred to as “VSF” or “PUC” or “Product Under Consideration” or “Subject Goods”) originating in or exported from China PR and Indonesia on 19<sup>th</sup> March 2009 and after conducting the investigation recommended imposition of definitive duty vide Final Findings No. 14/6/2009 – DGAD dated 17<sup>th</sup> May 2010 and the anti-dumping duty was imposed by the Central Government vide Notification No.76/2010-Customs dated 26<sup>th</sup> July 2010.
2. A sunset Review (SSR) investigation was initiated vide Notification No. 15/9/2015-DGAD dated 22<sup>nd</sup> July 2015. The extension of anti-dumping duties was recommended vide Final Findings Notification No. 15/9/2015-DGAD on 8<sup>th</sup> July 2016 and the same was imposed by the Central Government vide Notification No.43/2016-Customs (ADD) dated 8<sup>th</sup> August 2016.
3. Section 9A(5) of the Act read with Rule 23(1B), inter alia, provides that anti-dumping 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. Association of Man Made Fibre Industry of India (hereinafter referred to as the 'Applicant Association' or 'AMFII') has filed an application before the Designated Authority (hereinafter referred to as the Authority), on behalf of M/s Grasim Industries Limited, in accordance with the Act and the Rules, for initiation of sunset review investigation concerning imports of "Viscose Staple Fibre (VSF) excluding Bamboo Fibre, Modal Fibre, Non-Woven fibre, Flame retardant Fibre, Eco Fibre (Eco Vero or EV), Spun Dyed Fibre, Tencel Fibre (or Lyocell) and Outlast Viscose Fibre" (hereinafter referred to as 'subject goods' or 'product under consideration') originating in or exported from China PR and Indonesia (hereinafter referred to as 'subject countries'). Grasim Industries Limited has provided data and has requested extension of duties.
5. On the basis of the duly substantiated application by or on behalf of the domestic industry, and having satisfied itself, on the basis of the prima facie evidence submitted by the domestic industry, and in accordance with Section 9A(5) of the Act read with Rule 23(1B) of the Rules, the Authority, initiated a sunset review investigation vide Notification F. No. 7/03/2021-DGTR (SSR-AD-03/2021) dated 22<sup>nd</sup> February 2021 to review the need for continued imposition of the duties in force in respect of the subject goods, originating in or exported from the subject countries and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
6. The existing duties on the subject goods were set to expire on 7<sup>th</sup> August 2021. The Central Government vide notification no. 39/2021 dated 30<sup>th</sup> June 2021 extended the anti-dumping duties up to 31<sup>st</sup> October 2021.
7. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods (as defined in the initiation notification F. No. 7/03/2021-DGTR (SSR-AD-03/2021) dated 22<sup>nd</sup> February 2021), originating in or exported from the subject countries.

## **B. PROCEDURE**

8. The procedure described below has been followed in this investigation:
  - i. The Authority notified the Embassies of the subject countries in India about the receipt of the present application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
  - ii. The Authority issued a Notification dated 22<sup>nd</sup> February 2021, published in the Gazette of India, Extraordinary, initiating sunset review of antidumping duties

imposed on the imports of the subject goods, originating in or exported from the subject countries.

- iii. The Authority sent a copy of the initiation notification dated 22<sup>nd</sup> February 2021 to the Embassies of the subject countries in India, known producers and exporters from the subject countries, known importers/users and other interested parties, as per the available information. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.
- iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules supra.
- v. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent along with the names and addresses of the known producers/exporters from the respective subject countries.
- vi. Upon the request made by the interested parties, the Authority granted extension of time upto 20<sup>th</sup> May 2021 to file their response as well as submissions.
- vii. The Authority sent exporters' questionnaires to the following known exporters in the subject countries in accordance with the Rule 6(4) of the Rules to elicit relevant information:
  - a. Alaer Fulida, China PR
  - b. Anhui Somet Fibre, China PR
  - c. China Jiangsu Aoyang Technology Corporation Limited, China PR
  - d. Aoyang Industrial Group (Manasi), China PR
  - e. Birla Jingwei, China PR
  - f. Chengdu Grace Corporation Limited, China PR
  - g. Jiujiang Hengsheng, China PR
  - h. Hebei Jigao Chemical Fiber Company Limited, China PR
  - i. Jiangsu Sanfangxiang Chemical Fibre Co.Ltd., China PR
  - j. Jilin Chemical Fibre, China PR
  - k. ChtcHelon Company Limited, China PR
  - l. Lenzing Nanjing Fibres, China PR
  - m. Nanjing Chemical Fibre Limited, China PR
  - n. Yibin Grace Company Limited, China PR
  - o. Sateri Jiangsu Fiber Company Limited, China PR
  - p. Sateri(Jiangxi) Chemical Fiber Company Limited, China PR
  - q. SateriJiujiang (Hukou), China PR
  - r. Sateria China, China PR
  - s. Shandong Boxing Yamei Technology, China PR
  - t. Shandong Chenming, China PR
  - u. Shandong Silver Hawk Chemical Fiber, China PR
  - v. Shunquan Chemical Fiber, China PR
  - w. Tangshan Sanyou Group Chemical Fibre Company Limited, China PR

- x. Xingxiang Bailu Chemical Fibre Group Limited, China PR
  - y. Xinjiang Fulida Fibre Company Limited, China PR
  - z. Xinjiang Tiantai, China PR
  - aa. Sateri Fibre Company Limited, China PR
  - bb. Zhejiang Fulida Fibre Company Limited, China PR
  - cc. P.T. South Pacific Viscose (Lenzing), Indonesia
  - dd. P.T. Indo Bharat Rayon, Indonesia
  - ee. Pt Sri RejekiIsman (Sritex), Indonesia
  - ff. Asia Pacific Rayon, Indonesia
- viii. Following companies have filed the exporter questionnaire responses as producers/exporters of the product under consideration:
- a. Sateri (Fujian) Fibre Co. Ltd., China PR
  - b. Birla Jingwei Fibres Company Limited, China PR
  - c. PT Asia Pacific Rayon, Indonesia
  - d. PT South Pacific Viscose, Indonesia
  - e. PT Indo Bharat Rayon, Indonesia
  - f. Asia Fibre Trading Pte. Ltd., Singapore (Trader)
- ix. The Authority forwarded a copy of the notification to the following known importers/consumers/user Associations of subject goods in India and advised them to make their views known in writing within the prescribed time limit in accordance with the Rule 6(4) of Rules:
- a. Pallava Textiles Limited, Tamil Nadu
  - b. Cheran Spintex India Private Limited, Tamil Nadu
  - c. Pallipalayam Spinners, Tamil Nadu
  - d. PKPN Spinning Mills Private Limited, Tamil Nadu
  - e. Keshar Multiyarn Mill Limited, West Bengal
  - f. Soundararaja Mills Limited, Tamil Nadu
  - g. Ginni Filaments Limited, Uttar Pradesh
  - h. Shri Cheran Syn. India Limited, Tamil Nadu
  - i. Reliance Chemotex Industries Limited, Maharashtra
  - j. Rajapalayam Mills Limited, Tamil Nadu
  - k. RSWM Limited, Uttar Pradesh
  - l. Adani Enterprises Limited, Gurgaon
  - m. Shree Rajasthan Syntex Limited, Rajasthan
  - n. Deepak Spinners Limited, Chandigarh
  - o. Rajaguru Spinning Mills Private Limited, Tamil Nadu
  - p. Chola Spinning Mills Private Limited, Tamil Nadu
  - q. Zenith Spinners LLP, Gujarat
  - r. Maharaja Sathayam Ind. Private Limited, Tamil Nadu
  - s. Sutlej Textiles and Industries Limited, New Delhi
  - t. AGT Mills Private Limited, Tamil Nadu
  - u. Mothi Spinner Limited. Tamil Nadu
  - v. APM Industries Limited, Rajasthan
  - w. SMP Textile Mills Private Limited, Tamil Nadu

- x. Keshar Multiyarn Mill Limited, West Bengal
- y. Sarmangal Synthetics, Tamil Nadu
- z. Pee Vee Textiles Limited, Maharashtra
- aa. Sri Karthikeya Spinning and Weaving Mills Private Limited, Tamil Nadu
- bb. Chola Spinning Mills Private Limited, Tamil Nadu
- cc. Nahar Spinning, Punjab
- dd. KRV Spinning Mills Private Limited, Tamil Nadu
- ee. Velatal Spinninh Mills Private Limited, Tamil Nadu
- ff. Sree Dinakar Fabrics, Andhra Pradesh
- gg. Gimatex Industries Private Limited, Maharashtra
- hh. Soundararaja Mills Limited, Tamil Nadu
- ii. Suryalata Spinning Mills Limited, Telangana
- jj. Gillanders Arbuthnot & Company Limited, West Bengal
- kk. Sree Karpagambal Mills Limited, Tamil Nadu
- ll. Arunkumar Spinning Mills Private Limited, Tamil Nadu
- mm. Shree Bharani Spinning Private Limited, Tamil Nadu
- nn. Sidharth Exports Private Limited, Uttar Pradesh
- oo. Sri Choleeswarar Spinning Mills Private Limited, Tamil Nadu
- pp. Sri Bhagirath Textiles Limited, Maharashtra
- qq. Victory Spinning Mills Private Limited, Tamil Nadu
- rr. Sri Hariprasath Textiles Private Limited, Tamil Nadu
- ss. Saraf Yarn Private Limited, Maharashtra
- tt. Sri Nallathal Spinning Mills Private Limited, Tamil Nadu
- uu. Supertex Mills India Private Limited, Tamil Nadu
- vv. GVS Spinners Private Limited, Tamil Nadu
- ww. NRU Spinning Mills Limited, Tamil Nadu
- xx. Valli Spinning Mills Limited, Tamil Nadu
- yy. Arcot Textile Mill Limited, Tamil Nadu
- zz. Vardhman Textile Limited, Punjab
- aaa. Banswara Syntex Limited, Maharashtra
- bbb. Sangam Spinners Limited, Rajasthan
- ccc. Chenab Textile Mills, New Delhi
- ddd. Spentex Industries Limited, New Delhi
- x. Following importers/users responded and filed importer/user questionnaire responses:
  - a. Lambodhara Textiles Limited
  - b. Pallava Textiles Private Limited
  - c. Acsen Tex Private Limited
  - d. Sri Cheran Synthetics India Private Limited
  - e. Gimmatex Industries Private Limited
  - f. RSWM Limited
- xi. Authority also sent copies of initiation notification to the following Associations and sought their comments: -
  - a. Rajasthan Textiles Mills Association, Rajasthan

- b. Northern India Textiles Mill's Association, Haryana
- c. The Synthetic & Rayon Textiles Export Promotion Council (SRTPC), Maharashtra
- d. Indian Spinners' Association, Tamil Nadu
- xii. The following Associations and other interested parties have participated or filed submissions during the course of investigation:
  - a. Indonesian Embassy
  - b. Southern India Mills Owners Association (SIMA)
  - c. Tamil Nadu Spinning Mills Association (TSMA)
  - d. Indian Manmade Yarn Manufacturers Association (IMMA)
  - e. Indian Spinner Association
  - f. Tamil Nadu Federation of Power Looms Associations
  - g. Thiru veltex Private Limited
  - h. Sri Bhagirath Textiles Limited
  - i. Velatal Spinning Mills Private Limited
- xiii. The period of investigation for the purpose of the present review is 1<sup>st</sup> October 2019 to 30<sup>th</sup> September 2020 (12 months). However, injury analysis covers period 2017-18, 2018-19, 2019-20, and the POI.
- xiv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S imports data for computation of the volume & value of imports and injury analysis.
- xv. Verification of the information and data submitted by the domestic industry and the responding producers in the subject countries was carried out to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings.
- xvi. The Non-Injurious Price (hereinafter referred to as 'NIP') based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules has been worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xvii. The Authority held oral hearing on 9<sup>th</sup> July 2021 to provide an opportunity to the interested parties to present information orally in accordance with Rule 6(6). Oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID-19 pandemic. All the parties who presented their views in the oral hearing were requested to file written submissions in order to enable opposing interested parties to file rejoinders thereafter.
- xviii. The submissions made by the interested parties during the course of the investigation and the oral hearing, have been addressed in these final findings, to the extent considered relevant by the Authority.
- xix. 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 have been considered as confidential and not disclosed to the 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.

- xx. 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 treated such parties as non-cooperative and recorded its finding on the basis of 'facts available'.
- xxi. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide disclosure statement dated 21st July, 2021 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these final findings.
- xxii. The exchange rate for the POI has been taken by the Authority is USD = Rs 74.38.
- xxiii. \*\*\* in these final findings represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

### C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

9. The product under consideration in the original investigation and first sunset review was described as follows:

*"Viscose Staple Fibre (VSF) excluding Bamboo fibre". Viscose Staple Fibre is described as "Viscose rayon staple fibre not carded/combed" under the Customs Tariff and is also known as "Rayon Fibre" in some markets. The product under consideration is classified under Custom Headings 5504.10.00. The Customs classification is indicative only and is in no way binding on the scope of the present investigation.*

*Viscose Staple Fibre was the first man-made fibre, and unlike other man-made fibres, is not a synthetic fibre. It is made through wet spinning technology and is a regenerated cellulose fibre made from wood pulp, which is essentially cellulose extracted from a sustainable natural resource i.e. wood, by subjecting it to various chemical and mechanical processes. On account of its cellulosic base, viscose staple fibre properties are similar to those of natural cellulosic fibres than those of thermoplastic, petroleum based synthetic fibres such as nylon or polyester. Further, it has a distinct advantage of engineered specification and uniformity. Viscose Staple Fibre has silk-like aesthetic with superb drape, soft feel and retains rich brilliant colours. Fabrics made from it are moisture absorbent (even more than cotton), breathable, comfortable to wear, and easily dyeable in vivid colours. They do not build up static electricity, and are pill-resistant.*

10. The product under consideration covered all types of Viscose Staple Fibre including Grey Viscose Staple Fibre, Non-woven Fibre, Modal Fibre, Flame Retardant Viscose Staple Fibre, Spun dyed Viscose Staple Fibre, Tencel Viscose Staple Fibre, and the Eco vero Viscose Staple Fibre and excluded only Bamboo Fibre in the original and first sunset review investigation. The domestic industry while filing the petition for initiation of the present sunset review requested the Authority to restrict the scope of the product under consideration and to consider only Viscose Staple Fibre excluding Modal Fibre, Non-Woven Fibre, Flame Retardant Fibre, Eco Fibre, Spun Dyed Fibre, Tencel Fibre (or Lyocel) and Outlast Viscose Fibre as product under consideration for the purpose of the present sunset review investigation.
11. The Authority at the stage of initiation, read with corrigendum to the initiation notification, defined the product under consideration as under:

*“The scope of product under consideration in the present investigation is restricted to only Viscose Staple Fibre (VSF) excluding:*

- a) Bamboo Fibre*
- b) Modal Fibre*
- c) Non-Woven Fibre*
- d) Flame Retardant Fibre*
- e) Eco Fibre (Eco Vero or EV)*
- f) Spun Dyed Fibre*
- g) Tencel Fibre (or Lyocel) and Outlast Viscose Fibre”*

#### **C.1 Submissions made by the Applicant**

12. The following submissions have been made by the domestic industry and the applicant during the course of the investigation.
  - a. All types of Viscose Staple Fibre including Grey Viscose Staple Fibre, Non-woven Fibre, Modal Fibre, Flame Retardant Viscose Staple Fibre, Spun dyed Viscose Staple Fibre, Tencel Viscose Staple Fibre, and Eco Vero Viscose Staple Fibre are currently attracting anti-dumping duty and only Bamboo Fibre is outside the scope of the product under consideration.
  - b. It is requested that the scope of the product under consideration for the purpose of the present investigation be considered as Grey Viscose Staple Fibre.
  - c. Over the years, various other grades of Viscose Staple Fibre have been developed. Domestic industry has the technology to produce almost all the grades of Viscose Staple Fibre.
  - d. Grey Viscose Staple Fibre produced by the domestic industry is a like article to the imported product. There are no differences in the applicant’s product and the alleged dumped product.

- e. As against the submission on curtailment of the scope of the product under consideration, it is submitted that there is no bar on curtailment of the scope of the product under consideration. However, the Authority cannot enhance the scope of the product under consideration, or countries involved in the sunset review investigation. Authority has neither expanded the scope of the product under consideration nor added fresh countries at the stage of the sunset review investigations.
- f. Designated Authority has routinely curtailed the scope of the subject countries at the time of the sunset review investigations.
- g. Curtailment of the scope of the product under consideration is permissible due to the reason that there may be no longer a justification for continuing duty on some particular product types/set of product types or the domestic industry might have been producing some types at the time of original investigation, but has stopped producing the same at the time of the sunset review investigation.
- h. Interested parties are not at all prejudiced by restricting the scope of the product under consideration in a SSR investigation. On the contrary, interested parties are the beneficiary of cessation of antidumping duty on such product types, as they are free to export the product without the same attracting antidumping duty.
- i. Neither Section 9A (5) nor Rule 23 bars the Authority to restrict the scope of the PUC in a SSR case. It does not make any difference if the same is restricted during the course of investigation or at time of filing of application itself by the domestic industry.
- j. Facts in investigation concerning DI Pipes and Polystyrene are different and hence reference is not proper. In both these cases, applicant did not request for exclusion of the product type while filing the application and sought so after initiation and the interested parties had provided relevant information.
- k. Domestic industry is unaware of any past instance where the Designated Authority refused curtailment of the scope of the product under consideration at the time of initiation.
- l. There is no ill intention of domestic industry to source these excluded types from subject countries, post extension of ADD in the present sunset review investigation. The domestic industry could have done this already from its related entity in Thailand as it produces all the excluded types. Also, the domestic industry produces all types with the exception of Bamboo Fibre and Outlast VSF. With the restriction in the scope of the PUC, other foreign producers can export these products to India without attracting ADD. The curtailment will benefit the exporters as well as the consumers.

## **C.2 Submissions made by other interested parties**

- 13. The following submissions have been made by other interested parties during the course of the investigation.
  - a. Domestic industry has not provided proper justification behind narrowing down the scope of the product under consideration.

- b. Technical nomenclature adopted for exclusions by the domestic industry are not as per industry standards.
- c. In the previous sunset review, Authority had itself held that there was no need to disintegrate the product under consideration into various grades/types.
- d. Dissecting the scope of the product under consideration would imply that related entities of Grasim in subject countries will have complete liberty to export excluded categories of Viscose Staple Fibre to India.
- e. Domestic industry unilaterally altered scope of the product under consideration in their application to suit their agenda. Such unilateral alteration of product under consideration by the domestic industry in their application ensured that continuation of duty did not meet the requirements of Rule 23(1B) as well as Section 9A (5).
- f. It is not permissible in law and is also against the consistent approach of the Authority to alter scope of the product under consideration in a sunset review investigation.
- g. In cases when the scope of the product under consideration is permitted to be altered, the same is done after conducting an investigation and finding a need of alteration in view of compelling circumstances such as non-production of a type by the domestic industry after analysing the information/arguments of all the parties concerned.
- h. The products have been excluded as they are high priced and by including them would have impacted dumping and injury margins.
- i. Decision to curtail the scope of the product under consideration has been taken by the domestic industry on its own without giving the Authority any opportunity to apply its mind on the legality or the logic of the approach.

### **C.3 Examination by the Authority**

14. The product under consideration in the original and first sunset review investigation was as mentioned below:

*“Viscose Staple Fibre (VSF) excluding Bamboo fibre”. Viscose Staple Fibre is described as “Viscose Rayon staple fibre not carded/combed” under the Customs Tariff and is also known as a “Rayon Fibre” in some markets. The product under consideration is classified under Custom Headings 5504.10.00. The Custom Classification is indicative only and is in no way binding on the scope of the present investigation ...”*

Only Bamboo Fibre was outside the scope of the product under consideration. In the application for current sunset review investigation, the applicant requested Authority to exclude Modal Fibre, Non-Woven Fibre, Flame Retardant Fibre, Eco Fibre, Spun Dyed Fibre, Tencel Fibre (or Lyocel) and Outlast Viscose Fibre. The exclusion request was accepted by the Authority at the time of the initiation of the investigation and accordingly the scope of the product under consideration was restricted/ narrowed

down. The Authority notes that there is no bar either under the Act or under the Rules on narrowing down the scope of product under consideration in a sunset review particularly when the domestic industry has itself requested for narrowing down the scope of PUC as they no longer need protection on the excluded grades/types.

15. The Authority has restricted the scope of product under consideration in several sunset review investigations in the past at the time of initiation. Further, it has not been established by the interested parties how curtailment of the scope of the product under consideration has caused prejudice to their interests. The Domestic industry did make the request for limiting the scope of the product under consideration at the initiation stage itself. Had the Authority proceeded with the investigation without acceding to the request for the exclusion of these type/ grades of PUC, it might have resulted in imposition of anti-dumping duty on the types/grades for which the applicant/domestic industry did not want any protection. Moreover, curtailment of the scope of product under consideration cannot cause prejudice to the interested parties opposing imposition of anti-dumping duty. Therefore, the scope of product under consideration was curtailed at the stage of initiation itself.
16. The applicant has claimed that the subject goods exported to India are identical to the goods produced by the domestic industry. Subject goods produced by the domestic industry are comparable to the imported goods from subject countries in terms of technical specifications, manufacturing process & technology, functions & uses, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially interchangeable. Accordingly, for the purpose of the present investigation, the subject goods produced by the applicant is being treated as 'Like Article' to the subject goods being imported from the subject countries.
17. Accordingly, the scope of the PUC in the present sunset review investigation is "*Viscose Staple Fibre (VSF) excluding:*
  - a) *Bamboo Fibre*
  - b) *Modal Fibre*
  - c) *Non-Woven Fibre*
  - d) *Flame Retardant Fibre*
  - e) *Eco Fibre (Eco Vero or EV)*
  - f) *Spun Dyed Fibre*
  - g) *Tencel Fibre (or Lyocel) and Outlast Viscose Fibre*"

#### **D. DOMESTIC INDUSTRY AND STANDING**

18. Rule 2(b) of the Antidumping 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.”*

#### **D.1 Submissions made by the Applicant**

19. The following submissions have been made by the applicant during the course of investigation.
- a. Application has been filed by Association of Man-Made Fibre Industry of India (AMFII) on behalf of M/s Grasim Industries Limited. Association has provided all the relevant documents to the Authority as a part of the verification procedure.
  - b. Grasim Industries Limited has provided all the relevant data to the Authority with request for extension of duties.
  - c. It is an established fact that Grasim industries Ltd. is the sole producer of the subject goods in India and represents 100% the total Indian production. The Authority has considered M/s Grasim, as domestic industry consistently in the original case and first SSR case.
  - d. The domestic industry is not related to any importer in India. However, it has related producers in the subject countries who have participated in the present investigation. The law provides discretion to the Authority to consider a producer in the ambit of domestic industry even though it is related to exporter of the subject goods in the subject countries.
  - e. There are no imports in commercial quantities by the domestic industry from the related producers in subject countries. The imports are de-facto samples for research purposes only and the volume of the same is negligible.
  - f. M/s Grasim Industries Limited constitutes domestic industry within the meaning of Rule 2(b) and rule 5(3) of the Rules.
  - g. The submission that the applicant AMFII is ineligible, is misplaced. The Association has been participating as an applicant association of domestic producers for quite some time. This is not the first time that the Association has participated in an investigation in front of the Authority.
  - h. Members of the applicant Association are involved in production of the Viscose Staple Fibre, Viscose Filament Yarn and Rayon Tyre Yarn/ Cord Fabric. Since Viscose Staple Fibre is produced by Grasim Industries only, so application is being filed on behalf of 100% members of association.
  - i. The statement that the AMFII, that has filed the present SSR, is the same party which filed complaint before the CCI, is factually incorrect. The order passed by CCI on 16/3/20 is against AMFII and Grasim Industries Limited.

#### **D.2 Submissions made by other interested parties**

20. The following submissions have been made by other interested parties during the course of investigation.
- a. Since Grasim is the sole producer of subject goods, other members of the Association cannot be producers of the same, which makes the Association ineligible to be an 'interested party under Rule 2 (c). The Application filed by the Applicant should be rejected and dismissed.
  - b. AMFII, which has filed the present SSR is the same opposing party which filed complaint before the CCI.
  - c. Information regarding percentage of total Indian production was not given in NCV. It is necessary to assess the status of the domestic industry if it is "representing the domestic industry".
  - d. Product scope has been curtailed as domestic industry imported substantial quantities of excluded VSF from its related entities in China PR and Indonesia. Some grades/types have been excluded as it would have prejudiced the standing requirement of the domestic industry.
  - e. Reference is invited to Polyester Staple Fibre investigation from China PR, Indonesia, Malaysia and Thailand wherein Reliance Industries was kept outside the definition of domestic industry being related to exporter in the subject country.

### **D.3 Examination by the Authority**

21. The present application has been filed by the AMFII of India on behalf of M/s Grasim Industries Limited. The Association has filed applications for anti-dumping duty investigations in the past on behalf of its member companies. M/s Grasim Industries Limited ("Grasim") is the sole producer of product under consideration in India and has provided relevant information as per the prescribed format requesting the extension of duties. Grasim has related entities in the subject countries and the applicant has furnished details of the same.
22. As regards the contention that the Association is not eligible to be an 'interested party' under Rule 2 (c), the Authority notes that in the original as well as in the first sunset review investigation, the application had been filed by the AMFII. In the present sunset review investigation as well, the Association has filed the application on behalf of Grasim Industries Limited and provided relevant documents to the Authority during the course of the investigation. The Authority further notes that there is no bar either on considering the sole producer of the subject goods as domestic industry or on filing of application by the Association on behalf of sole producer.
23. As regards the contention that AMFII has filed complaint before the CCI, the Authority notes that the said contention is factually incorrect.
24. It has been contended by the opposing interested parties that as per Rule 2(b), Grasim Industries Limited is ineligible to be considered as domestic industry because they have

related entities in subject countries. The Authority notes that Rule 2(b) of the Rules provides discretion to the Designated Authority on the issue of exclusion of a domestic producer from the ambit and scope of the domestic industry on account of its relationship with an exporter in the subject country and a considered view is taken depending upon the type and extent of imports undertaken from such related entities by the applicant. The Authority needs to examine whether there are grounds for believing or suspecting that the effect of the relationship is such so as to cause the related domestic producer in India to behave differently from non-related producers.

25. In the present review investigation, related entity of Grasim Industries Limited in China PR has not exported to India during the POI whereas related entity in Indonesia has not exported commercial quantities. It has exported \*\*\* MT only to its related entity during the POI, which is a very miniscule quantity. The Authority further notes that the related company in Thailand has also exported \*\*\* MT to Grasim. The total exports from the related entity in Thailand is \*\*\* MT but this is not relevant for the present investigation on account of Thailand being non-subject country.
26. It is further noted that at the time of the original as well as the first sunset review investigations, this issue had been dealt with in detail. In the original investigation, M/s. Grasim Industries Ltd.'s related entity P.T. Indo Bharat Rayon, Indonesia had exported the PUC to India during the POI. The Authority, after due investigation, had concluded that M/s Grasim Industries Ltd. constituted domestic industry notwithstanding its relationship with one of the exporters in subject countries. In the present sunset review investigation as well, the Authority notes that there are no grounds for believing or suspecting that the relationship of Grasim Industries Limited with producers of subject goods in Indonesia and China PR has made them behave differently from non-related producers.
27. Having regard to the definition under Rule 2(b) of AD Rules, past determinations made by the Authority in original and the first sunset review investigation, and considering the facts on record of the present case, the Authority concludes that there is no justification to consider Grasim Industries Limited as ineligible domestic industry under Rule 2(b) of the AD Rules. Accordingly, the Authority considers Grasim Industries Limited as eligible domestic industry within the meaning of Rule 2(b) of the AD Rules.
28. Considering the above, the Authority holds that application satisfies the requirement of standing and Grasim Industries Limited constitutes 'Domestic Industry' within the meaning of the AD Rules.

## **E. MISCELLEANOUS SUBMISSIONS**

### **E.1 Submissions made by the Applicant**

29. The following submissions have been made by the applicant during the course of the investigation.
- a. On the submission that application lacks evidence, it is submitted that all relevant data and evidence required for a sunset review application has been provided at the stage of the application itself and the Authority after due examination has initiated the case. It is not the responding party who will decide whether the evidence was sufficient or not.
  - b. PT South Pacific Viscose average price of exports to India is USD \*\*\*/MT whereas exports to other countries with same level of exports is in the range of USD \*\*\*/MT to USD \*\*\*/MT. In case of China average export price to India is USD \*\*\*/MT whereas exports to other countries with same level of trade are average of USD \*\*\*/MT.
  - c. Designated Authority is requested to call DG Systems data and cross verify the claims of the domestic industry with regard to over invoicing. Designated Authority should call all relevant information to rule out possible over invoicing.
  - d. Public interest does not limit itself to consumer interest alone and is a much wider term, which covers interests of domestic industry and interests of public at large as well.
  - e. Imposition of measures would be in interest of domestic manufacturer to enable them to remain viable and competitive. Similarly, it is also in consumers' interest to have a competitive domestic industry capable of supplying product in competition to fair priced imports. If domestic industry is left to suffer, it can eventually be wiped out and consumers will be left at the mercy of exporters. The consumers will have to maintain higher degree of inventory if they have to depend on imported material.
  - f. Besides foreign producers, market will also be dominated by traders who have short-term view and move from one market to another market with profitability in the immediate business being their sole objective. MSMEs run the risk of being exploited by traders and foreign producers in the absence of domestic manufacturing.
  - g. No substantial information has been provided by the consumers with respect to any likely adverse impact of imposition of anti-dumping duty.
  - h. The users in the anti-dumping investigation of VSY claimed that the impact of duty on eventual fabric is insignificant and inconsequential on either domestic or export competitiveness. Further, it was claimed that with imposition of duties on VSY by Turkey from Indonesia and China, Yarn industry may shift to India as India will be a potential market for them.
  - i. It has been submitted by the user industry that raw material (wood pulp) prices are in tandem with international prices. However, the real position is that the import prices have declined more than the decline in raw material (wood pulp) price.
  - j. Anti-dumping duty has had no adverse impact on the consumers. Impact of duty can be ascertained by the Authority considering the data filed by the user

- industry. It is domestic industry's understanding that the downstream industry passes on the increase in price of raw material to their final product price.
- k. Performance of some of the participating consumers was the best in 2017-18, when the import prices from subject countries was the highest and the domestic industry did not suffer injury. Whereas the performance of some of other participating consumers was best in 2016- 17, when the import prices from subject countries was the second highest and the domestic industry did not suffer injury.
  - l. Domestic industry has invested significant amount on its existing VSF capacity and is further making an investment of Rs \*\*\* cr. in its integrated VSF plant capacity in Gujarat under the Make in India scheme.
  - m. The present industry is a capital-intensive industry. Industry requiring low capital investment may be able to survive on low profits but a capital-intensive industry requires adequate profits to recover the cost of investment made.
  - n. Domestic industry has provided employment to around 10,000 people directly in its plants. The indirect employment further will be around 15,000 persons.
  - o. As regards the submission regarding the CCI order, it is submitted that the matter is stayed by National Company Law Appellate Tribunal, New Delhi and is sub-judice. Further, proceedings and outcome of CCI is not related to ADD in any manner and does not come under the scope of DGTR.
  - p. On the submission that the even the auditor has accepted the penalty of CCI and that disclosure of the penalty amount has been made to comply with the Indian GAAP, it is submitted that the domestic industry has not made any provision for this penalty which itself shows that the probability of paying the penalty is remote.
  - q. User industry in the anti-dumping investigation of VSY conceded that CCI order has no relevance in VSY AD investigation. Now, contrary to their earlier stand they are arguing that CCI order has direct relevance in the present investigation. The applicant is unable to understand why the VSY Industry is taking two opposite stands on the same matter in two different investigations.
  - r. On the submission of price discriminatory policy maintained by the domestic industry, it is submitted that the consumers who produced and exported the eventual product have availed all export benefits on such exports and domestic industry has not benefited.
  - s. In order to increase competitiveness of consumer industry in global market, and in furtherance to the policy applied by the Govt. of India, domestic industry has given additional benefits to the consumers exporting products made out of the product under consideration. If the domestic industry were to sell all product at these prices for all domestic sales, domestic industry would have suffered significant financial losses.
  - t. On the submission that the domestic industry is using anti-dumping duty as a protectionist measure, it is submitted that the downstream industry has benefitted and grown in partnership with the domestic industry in the last 10 years as the

- domestic industry has invested in capacity building, product, market, and application development in the downstream value chain.
- u. On submission that duty will lead to monopolistic situation, it is submitted that opposing interested parties have failed to provide the reason why the continuation of duty will lead to monopolistic market. The antidumping duty has been in force for the past 10 years but no concrete evidence on monopolistic position has been provided.
  - v. On the submission that SMEs and MSME do not have negotiating power, it is submitted that Grasim has a laid down pricing policy and sells to various customers on non-discriminatory basis with no regard to the size of the organisation. The price is charged to the customers on the basis of such pricing policy only. Sales listing of the company is already on record with the Authority, showing the list price at which, the goods were invoiced.
  - w. On the submission that the capacity of the domestic industry is inadequate, it is submitted that the statement is factually incorrect. The capacity of the domestic industry is more than the Indian demand. Besides, domestic industry is further extending the capacity to cater not only to the Indian demand but also the global demand.
  - x. On the submission of disclosure of DGCI&S import data, it is submitted that even under the present practice the parties manipulate the export price based on the import data. Designated Authority should completely withdraw the requirement of sharing DGCI&S transaction wise data even in PDF form. The DGCI&S transaction wise data serves as evidence and not as information. No investigating authority makes such information available to the parties at large.
  - y. On the submission that only in exceptional case ADD duty should be recommended beyond 10 years, it is submitted that there is no such requirement of “exceptional circumstances” either in the Act or the Rules for extension of duties beyond a particular period. The only condition necessary for extension of duties is whether cessation of such duty is likely to lead to continuation or recurrence of dumping and injury. DGTR has in plethora of cases extended anti-dumping duty for more than 10 years.
  - z. With regard to reliance placed on certain investigation wherein duty has not been extended beyond 10 years, it is submitted that the interested parties have cherry picked some of the investigations wherein facts and circumstances were different. The Authority has extended duty beyond 10 years in a number of investigations wherein facts of the case were similar to the facts of the current investigation.
  - aa. On the submission that domestic industry is enjoying the benefit of duties, price of domestic industry is quite comparable to the landed price of import. Further, even considering the lowest duty, price undercutting is negative. This shows that the domestic industry has not charged any duty in its prices and therefore not enjoyed any benefit.
  - bb. The statement that SME and MSME are facing huge losses is wholly unsubstantiated and factually incorrect. There is no data provided to establish the

- same. The vision of the government about textile industry in fact shows the relevance and importance of the domestic industry in the country.
- cc. On the submission that the duties were not extended on PTA, it is submitted that the fact that Government has removed duty on PTA and has not imposed duty on nylon filament yarn while continuing duty on VSF on one hand, and the improved performance of these downstream sectors on the other hand clearly establishes that ADD did not have any adverse effect on the consumer industry.
  - dd. On the submission of adverse impact on exports of garments, it is submitted that the study conducted by Grasim establishes that decline in fabrics exports is due to cost disadvantage contributed by other factors and not on account of imposition of duty on VSF. The report has been prepared by Central Economic cell (Aditya Birla Group) and submitted to government officials in different ministries/Ministers/Niti Aayog/PMO.
  - ee. On the submission of increase in import of VSY due to duty imposed on VSF, it is submitted that imports of spun yarn constitute only 16.60% of Indian demand. If injury period of VSY case is considered, it would be seen that the cumulative import of VSY consisted of 7.72 % of demand. Therefore, the claim that the imports of VSY has increased due to duty on VSF is not correct.
  - ff. Spindles added / Jobs created during last 8-10 years demonstrates how duty protection in VSF helped growing MMCF (Man Made Chemical Fibre) in India. Further, VSF prices have always been competitive to support spinners and curb yarn imports.
  - gg. On the submission of Associations requesting for termination of duty, it is submitted that the objective of anti-dumping duty is to address the price discrimination caused by the unfair trade practice of dumping which is injurious to the industry in India. The domestic industry in the present case is suffering as it is unable to charge adequate prices. There is no documented report that trade measures on textile inputs have adversely impacted the textile sector. The Associations are attempting to hide real issues being faced by industry and shifting blame on to trade measures.
  - hh. In the final finding of VSY concerning imports from China PR, Indonesia and Vietnam, Authority noted that impact of duty on VSY on eventual end product is less than 1%. Since the impact of ADD on VSY on eventual end product is less than 1%, impact would be far below than 1% in the case of VSF.

## **E.2 Submissions made by other interested parties**

- 30. The following submissions have been made by other interested parties during the course of the investigation: -
  - a. Applicant has failed to provide sufficient evidence as required by Article 5.2 of ADA, for initiating the review. Authority before initiating an investigation must have carried out proper analysis of the application instead of initiating investigation merely on receipt of the application under Article 11.2 and 11.3 of the Agreement on Anti-dumping.

- b. Application for initiation of the investigation does not meet the requirement of “duly substantiated” under Rule 23(1B) and Article 11.3 of Antidumping Agreement.
- c. Duties are without jurisdiction as decision of continuation of duty was made after a gap of 12 days and 14 days in 2015 and 2016 respectively. As per the Delhi High Court in case of Forech India Ltd. vs. the Designated Authority which relied on the decision of the Supreme Court in Kumho Petrochemicals Co. Ltd. vs. Union of India, due to break in continuation of anti-dumping duty in the first sunset review, duties cannot be continued in the present sunset review investigation as per first and second proviso of Section 9A (5) of the Customs Tariff Act.
- d. It is established by the order of CCI dated 16th March 2020 that Grasim has been taking undue advantage of its monopolistic position in India. Grasim created price disparity amongst the spinners by selling them raw material at unfair and discriminatory prices.
- e. CCI order holds good and must be considered by the Authority because the stay is on the penalty and not on the unfair conduct of the domestic industry. Even the independent auditors of Grasim have accepted the penalty imposed in the Annual Report 2019-20.
- f. Authority could have considered 18 months period as the period of investigation as done in recently initiated cases such as Tyre Curing press and Melamine.
- g. Apart from protecting the interest of domestic industry, Authority is also entrusted with the responsibility to take care of the user industry and prevent exploitation of the user/consumer industry in name of “Atmanirbhar Bharat”.
- h. Domestic industry is using duty as a protectionist measure that has the effect of artificially reducing fair competition and strengthening its monopolistic position in the market.
- i. SMEs and MSMEs do not have negotiating power and that makes the power loom fabric exports uncompetitive in the exports market.
- j. Demand of the subject goods is increasing consistently, and the domestic industry does not have enough capacity to meet the demand.
- k. Duty has had an adverse impact on end users and councils and committees such as CITI, SMAI, ISA and PDEXCIL have been appealing for removal of ADD.
- l. Domestic industry had in the past furnished import data from a secondary source but it was rejected by the Authority.
- m. As per Article 11.3 of ADA, the continuation of the duty beyond 10 years should be in exceptional cases and be supported with evidence.
- n. DGTR has in several cases not recommended extension of duties such as Dry Cell Batteries from China, Soda Ash’ from Turkey and Russia, “Coated Paper” from China PR, EU and USA, 3rd Sunset Review investigation concerning Paracetamol from China, Digital Offset Printing Plates from China and Belting Fabric from China.

- o. Indigenous user industries, SMEs, MSMEs are already facing huge losses due to the existing duty. Target of USD 350 billion market size of Indian textile and clothing sector by 2025 is impossible to achieve if the duty continues.
- p. Union Government has helped MMF sector by removing anti-dumping duty on PTA, which is a major raw material for polyester staple fibre. However, VSF is protected with anti-dumping duty, and this affects the entire viscose staple fibre textile value chain.
- q. Export of VSF based readymade garments has declined and that of viscose fabric has dropped by 25 percent between 2016-17 and 2019-20. India is losing out to smaller players like Bangladesh, Vietnam, Sri Lanka, Nepal, and Pakistan in the international market due to high-cost raw of material.
- r. Possibility of continuation of anti-dumping duty pursuant to a sunset review is an exception and not the general rule. Special facts and circumstances must exist to substantiate continuation of anti-dumping duty further to a second sunset review.
- s. Information provided in the Petition regarding VSY does not support the claim of the applicant, as duty on VSF is the real cause of the increase in imports of Viscose Spun Yarn (VSY)
- t. Duty on VSF is forcing textile industry to increasingly import Viscose Spun Yarn and India's power loom sector lost an opportunity to utilize production capacity worth Rs 1000 crore and provide 8000 jobs in the financial year 2020.
- u. Regarding confidentiality claim for cost of sales in Appendix 1, PT Asia Pacific Rayon has noted that it started production of VSF in 2019 and the trend information for 2019 and POI is irrelevant as they have an overlapping period of 6 months.
- v. Regarding the losses suffered by Sateri (Fujian) Fibre Company Ltd. on PUC, it is submitted that losses suffered on sales are inconsequential as its actual cost of production is not taken into consideration for determination of normal value.
- w. Domestic industry's claim that VSY import price has declined sharply in the Q4 of POI lacks rationale. Duty on VSF has resulted in yarn being available at a cheaper rate than VSF to weaving and knitting sectors resulting in imports of VSY in India.
- x. Domestic industry enjoys unfair and undue advantage because of inverted duty structure on account of zero customs duty. Zero duty is also applicable on Dissolving Wood Pulp under ASEAN FTA. Basic Customs Duty (BCD) applicable for wood pulp is only 2.5% as against the BCD on the subject goods, which is 5%.
- y. Domestic industry has been protected for 10 years during which its position improved manifold and the user industry has failed as it has become uncompetitive in the international market.
- z. Domestic industry is practicing price discriminatory policy making Indian spinners uncompetitive and the garment industry suffers in the international market.
- aa. Yarn producers who have the option of duty-free imports of VSF are given a discount on the basis of export proof of yarn which results in Indian viscose yarn

- becoming available at substantially low prices than what the domestic value chain have to pay.
- bb. Indian Spinners Association members have complained multiple times about the higher pricing of input raw materials due to DI pricing policy. There is difference in price of Grasim's domestic fibre and price of deemed export fibre.
  - cc. On the submission that interested parties have not submitted any evidence for adverse impact of duties, many user industries and consumers have approached various forums including the PMO (Prime Minister's Office). The Indian spinner industry is losing consumers in domestic as well as international markets.
  - dd. Domestic industry's presentation of profit ratios showing profits of the users are misleading as the same are consolidated figures and not standalone of product under consideration. Users have submitted questionnaire responses and Authority may rely on these submissions instead of the submissions made by the domestic industry.
  - ee. Removal of duty will make VSF available at competitive price and will make the users globally competitive in MMF-based Textile & Apparel and create more employment opportunities.
  - ff. Only India has levied ADD on VSF. Government has removed ADD on basic textile raw material to promote export of value-added finished goods. Government has also refused to impose ADD on VSY in the larger interest of value chain.
  - gg. It has been mis-declared that Birla Jingwei Fibres Company Ltd is a joint venture when the website states that the company in China was fully acquired by the Aditya Birla Group through 100% acquisition of shares in 2008.
  - hh. Ministry of Finance has decided to not impose anti-dumping duty in several products involving the textile industry.

### **E.3 Examination by the Authority**

- 31. The submissions made by the domestic industry and opposing interested parties that are considered relevant, are addressed by the Authority as below:
- 32. As regards the submission of other parties that Application for initiation of the investigation does not meet the requirement of "duly substantiated" under Rule 23(1B) and Article 11.3 of Antidumping Agreement, the Authority notes that the current investigation was initiated on the basis of sufficient prima facie evidence submitted by the applicant. The Authority has examined the claims of the domestic industry and initiated the investigations on being satisfied that there was sufficient prima facie evidence provided showing that cessation of anti-dumping duty was likely to lead to dumping and consequent injury to the domestic industry.
- 33. As regards the submission that present investigation is without jurisdiction as decision of continuation of duty was made after a gap in previous sunset review investigation, the Authority notes that Customs Notification No. 43/2016 dated 8<sup>th</sup> August 2016

extending anti-dumping on subject goods for 5 years pursuant to the first sunset review and Customs Notification No. 39/2021 dated 30 June 2021 extending the anti-dumping duty on subject goods till 31<sup>st</sup> October 2021 have not been declared illegal by any Court or Tribunal in India. Therefore, the Authority is well within its rights to conduct the present sunset review investigation and examine the likelihood of continuation or recurrence of dumping and injury to the domestic industry.

34. Interested parties have referred to the decision of the CCI. It is noted that CCI decision has been challenged by the domestic industry before Appellate Court and the matter is sub-judice and has not yet attained any finality. Moreover, if there are any contraventions of the provisions of Competition Act, it is for the concerned authority to take appropriate action thereon. Any decision in that matter would not prejudice objective examination of the need for continuation of duty, which is based on the likelihood of continuation or recurrence of dumping and injury in the event of revocation of the existing anti-dumping duty. The Authority also notes that the period examined by CCI for determining anti-competitive behaviour of Grasim Industries Limited was upto financial year 2016-17. The injury period being examined by the Authority in the present sunset review investigation is 2017-18, 2018-19, 2019-20 and 1<sup>st</sup> October 2019 to 30 September 2020.
35. As regards the submission relating to demand and supply gap, it is noted that that the capacity of the domestic industry is more than the demand in the country and the domestic industry is further expanding its capacity by \*\*\* MT. Therefore, there is no demand supply gap in India.
36. As regards the submission concerning extension of duty beyond 10 years, the Authority notes that there is no legal bar on the number of sunset reviews that can be conducted, as also on the period for which antidumping duty can be extended, as long as the legal requirements for extension of antidumping duty are met.
37. As regards the submission of other interested parties that the extension of duties will lead to domestic industry enjoying monopolistic situation, the Authority notes that the duties will not restrict the imports as such. Imports from subject countries have continued in spite of anti-dumping duties imposed for more than 10 years. The users are free to import from subject countries. Thus, even after imposition of ADD, the domestic industry will be required to compete with the imports from the subject countries and other countries at fair prices.
38. As regards the submission of opposing interested parties concerning non competitiveness of spinners in the international market on account of expensive raw material, the Authority notes that imports made for the purpose of manufacture of export products are exempted from the levy of anti-dumping duty under duty exemption scheme of Govt. of India.

39. As regards the submission of the users that the domestic industry is being granted unwarranted protection, it is noted anti-dumping duty is not a protection but an equalisation levy to ensure fair competition in the market. The response filed by the producers/exporters from subject countries clearly show that they have resorted to dumping in the Indian market.
40. On the submission made by the interested party on non-imposition of duties by MOF in case of certain products, non-imposition of duties in one investigation does not imply that duties cannot be imposed on any other textile product. Authority has considered all the facts and information on record. Any duty, if recommended, will be after considering the interests of all the interested parties. Anti-dumping or anti-subsidy duties are recommended against unfair trade practice of dumping or subsidization which have caused injury to the domestic industry.

## **F. CONFIDENTIALITY**

### **F.1. Submissions of the domestic industry**

41. The following submissions have been made by the applicants with regards to confidentiality:
- a. Asia Pacific Rayon has claimed the trend of cost of sales per unit for the domestic market and the export market as completely confidential and no information has been provided.
  - b. PT South Pacific Viscose (SPV) has claimed the complete appendix 3A as confidential. Applicant is therefore unable to offer any meaningful submission even on the adjustment claimed.
  - c. PT. South Pacific Viscose (SPV) has provided for some difference between product sold in domestic market or other countries and exports to India. It has claimed the response as completely confidential. Domestic industry fails to understand how these can be claimed confidential and if claimed confidential, how the domestic industry shall offer its comments.
  - d. Applicant has claimed confidentiality as per the Trade notice no- 10/2018 dated 7th Sept. 2018.
  - e. Complete information that is relied on by the Authority for the purpose of injury examination has been provided by the applicant.

### **F.2. Submissions by other interested parties**

42. The following submissions have been made by other interested parties with regards to confidentiality:
- a. Applicant has claimed excess confidentiality and violated Rule 7 of the AD Rules and Trade Notices 10/2018, 13/2018 and 14/2018.
  - b. Applicant has not provided NCV of all documents submitted such as Registration Certificate, copy of the by-laws and MoA, list of the members etc.

- c. Excessive confidentiality has been claimed by the Applicant without sufficient reasons.
- d. Applicant has claimed the Hawkins report which is the basis of likelihood as confidential.
- e. Domestic industry did not provide stage wise manufacturing process, non-confidential summary of calculation of Normal Value (“NV”), Export Price and Dumping Margin, Annual Reports of domestic industry, NCV calculation methodology that have been taken for calculation of Non- Injurious Price (“NIP”).
- f. Authority should provide import volume and value data to the other interested parties in excel format for effective analysis.

### **F.3. Examination by the Authority**

- 43. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties as per Rule 6(7).
- 44. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provide 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.”*

- 45. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. The Authority notes that the information provided by the interested parties on confidential basis was duly 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 also notes that all interested parties have claimed their business-related sensitive information as confidential.

46. A list of all interested parties was uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to ongoing global pandemic.
47. As regards the contention that excel file of transaction-by-transaction imports were claimed confidential by the domestic industry, it is noted that the procedure for sharing and procuring import data has been laid down in the Trade Notice 07/2018 dated 15<sup>th</sup> March 2018. It provides that (i) the sorted import data relied upon by the domestic industry can be shared in hard copy & (ii) interested parties can seek authorization from the Authority for seeking raw transaction by transaction import data from DGCI&S. The hard copy of the sorted import data was made accessible to the interested parties based upon declaration/undertaking as per prescribed format. The interested parties who requested for procurement of import data from DGCI&S and provided undertaking as per Trade Notice 07/2018 were also granted authorization to obtain import data in excel file from DGCI&S. The Authority, thus, notes that the procedure outlined in the relevant Trade Notice has been duly observed and the same practice has been followed uniformly in all investigations conducted by the Directorate.

## **G. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

### **G.1 Normal Value**

48. Under Section 9A (1)(c) of the Act, 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 countries or territory as determined in accordance both 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 countries or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exploring countries 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 countries or territory or an appropriate third countries as determined in accordance with the rules made under sub-section (6): or*
- b. *the cost of production of the said article in the countries 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 countries other than the countries of origin and where the article has been merely transhipped through the countries of export or such article is not produced in the countries of export or there is no comparable price in the countries of export, the normal value shall be determined with reference to its price in the countries of origin.*

## **G.2 Submissions made by the domestic industry**

49. The following submissions have been made by the domestic industry during the course of the investigation:
- a. Normal value of Chinese producers cannot be accepted unless the producers show that their accounts reasonably reflect the costs associated with the production and sale of the product under consideration, having regard to the provisions of Rule 7 and 8 of the Rules, provisions of Accession Protocol of China, and the practice being followed by the Designated Authority.
  - b. Thailand can be considered as an appropriate market economy third country for China. Authority has in the past held Thailand to be an appropriate surrogate third country for China.
  - c. Selling price in domestic market of Thailand cannot be considered as normal value as profit making transactions are less than 1% of the total domestic sales and the selling price is not in ordinary course of business.
  - d. Domestic industry has provided relevant information with respect to cost of production and selling price of its related entity Thai Rayon Public Company Limited.
  - e. Dumping margin determined on the basis of above is not only positive but is significant.
  - f. Positive dumping even when duties are imposed shows likelihood of dumping when duties will expire.
  - g. None of the responding exporters have either given methodology for calculations of dumping margin or have quantified the dumping margin in the NCV response.
  - h. The exporters have provided information without suggesting a methodology for determination of dumping margin and without quantifying dumping margin.
  - i. Chinese participating producer has not filed response to Market Economy Treatment questionnaire and therefore it is clear that it has not claimed market economy treatment.
  - j. Responding producer of China even after public hearing conducted by the Designated Authority did not propose any other methodology that can be followed for the purpose of determination of normal value.

- k. Normal value in case of Indonesia can be considered on the basis of cost of production in Indonesia.
- l. Due to oversupply situation in Indonesia, related entity of domestic industry is unable to sell at adequate remunerative prices.
- m. PT Asia Pacific Rayon and PT South Pacific Viscose have claimed normal value on the basis of domestic sales. When one of the producers is unable to sell the product at a price above cost of production, normal value based on domestic sales is not appropriate as the situation with other producers cannot be materially different.
- n. Responding producers have understated their cost of production.
- o. Sateri (Fujian) Fibre Co., Ltd and Asia Fibre Trading Pte. Ltd. has reported nil adjustment for credit cost and packing cost in calculation of their export price to India. Further, no adjustment has been reported on account of bank charges.
- p. In case of PT South Pacific Viscose (SPV), Appendix-I filed by it shows that there are no domestic sales and export to other countries in the period of investigation. The applicant is unable to understand how then normal value can be claimed on the basis of domestic sales.
- q. The exports of PT South Pacific Viscose (SPV) made to India are at losses over the injury period which clearly shows that producer is involved in dumping practices.
- r. PT Asia Pacific Rayon is a new producer in the market and would have incurred significant research and development expense. As per appendix 1, the producer has not claimed adjustment for research and development expenses.
- s. PT Asia Pacific Rayon has a related entity Asia Pacific Resources International Holding Ltd. from which it procures raw material pulp. However, there is nothing in questionnaire response which can show that the raw material has been procured at market price.
- t. Dumping margins may be understated due to inappropriate and inadequate adjustments claimed in the response.
- u. There are significant variations in the price trend of exports to India and other countries. When product is already attracting anti-dumping duty, there appears to be no reason why the producers will export to India at higher price as compared to other countries. This only highlights that the producers have issued post invoicing discount.
- v. On the submission of the interested parties on export price adjustment, responding party is not aware of the methodology considered for calculating the net export price in spite of giving the same in the non-confidential version of the application.
- w. On submission of the export price as normal value, applicant has not adopted/proposed third country prices for construction of normal value for Indonesia.

### **G.3 Submissions made by other interested parties**

50. The following submissions have been made by other interested parties during the course of investigation:
- a. Had the applicant used CIF price data of import of product with necessary adjustment, it would have resulted in no dumping margin for Indonesia.
  - b. Basis of export price calculation has not been clearly mentioned.
  - c. Applicant has resorted to selection of data in arbitrary manner and this is unfair.
  - d. Use of export price of a third country is against Article 2.2 ADA which states that the third countries export price is used for 'constructed normal value method'.
  - e. There is no requirement in the EQR to provide dumping margin methodology.
  - f. Exporters have submitted all the required information regarding their domestic sales, cost of production and exports to India.
  - g. With regards to claims regarding adjustments to export price, PT Asia Pacific Rayon and Asia Fibre Trading Pte. Ltd. have reported all the adjustments.
  - h. There are no credit cost adjustments and packing cost adjustments for Asia Fibre Trading Ltd.
  - i. PT Asia Pacific Rayon has undertaken all the related party transactions at arm's length.
  - j. Export prices of Asia Fibre Trading Ltd should be relied upon as all the exports are made through it.
  - k. There are no significant differences between average price per unit of the product under consideration exported to India and to other countries.
  - l. On considering Thailand as an appropriate surrogate country, level of development of the country and the product should be examined by the Authority.
  - m. Claim that the Chinese producers operate under non-market economy conditions is without evidence.

#### **G.4 Examination by the Authority**

51. The Authority sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters from the subject countries have filed exporter's questionnaire response:
- a. Sateri (Fujian) Fibre Co. Ltd., China PR
  - b. Birla Jingwei Fibres Company Limited, China PR
  - c. PT Asia Pacific Rayon, Indonesia
  - d. PT South Pacific Viscose (SPV), Indonesia
  - e. PT Indo Bharat Rayon, Indonesia
  - f. Asia Fibre Trading Pte. Ltd., Singapore (Trader)

From the information on record, it is seen that Birla Jingwei Fibres Company Limited, China PR and P.T. Indo Bharat Rayon, Indonesia have not exported the subject goods

to India in the period of investigation. Therefore, the Authority has not determined any separate individual dumping margin for both the producers.

#### **G.4.1 Normal Value Determination**

52. The Authority has determined quarterly dumping margin and injury margin in the present case because of significant fluctuations in raw material prices and the PUC prices during the POI. The Authority has not considered the quarter of April 2020 to June 2020 in dumping margin and injury margin calculations because there was a nationwide lockdown in India during this quarter.

#### **China PR**

53. Article 15 of China's Accession Protocol in WTO provides as follows:

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

- a. In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:
  - i. If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;
  - ii. The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.
- b. In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China PR may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China PR.

- c. The importing WTO Member shall notify methodologies used in accordance with sub paragraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with sub paragraph (b) to the Committee on Subsidies and Countervailing Measures.
  - d. Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector.
54. It is noted that while the provision contained in Article 15 (a) (ii) has expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession Protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producers/ exporters from China PR have not submitted response to MET/supplementary questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of para. 7 of Annexure I of the Rules.
55. As none of the producers from China PR have claimed determination of normal value on the basis of their own data/information, the normal value has been determined in accordance with para 7 of Annexure I of the Rules, which reads as under:

*“In case of imports from non-market economy countries, normal value shall be determined on the basis if 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.”*

56. The applicant had at the stage of initiation proposed to determine normal value for China PR on the basis of cost of production in Thailand. It has been claimed by the applicant that the Authority had in the past several investigations considered Thailand as an appropriate market economy third country for China PR. The domestic industry has provided relevant information with respect to the cost of production and the selling price of its related entity Thai Rayon Public Company Limited, Thailand. It has been claimed by the domestic industry that \*\*\*% of the domestic sales are loss making and hence normal value should be determined on the basis of the cost of production after adding reasonable return. Even though the domestic industry has provided information with respect to cost of production of its related entity, the same could not be verified.
57. The Authority notes that Normal Value for a country considered as a non-market economy is required to be computed in accordance with para 7 and 8 of Annexure-I of the Rules. In the instant case, since none of the exporters have filled up supplementary questionnaire, the options under para 7 of Annexure-I to Rules need to be explored. Para 7 lays down hierarchy for determination of normal value and provides that normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, 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. The Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Annexure 7. Normal value in Thailand cannot be constructed on the basis of cost or price in Thailand due to reasons stated above. Export price from Thailand to other countries including India is also not possible for this purpose in view of the fact that there is no bifurcation of PUC and NPUC (excluded fibres ) available in the WTA data. In view of this, since sufficient information is available with regard to the price at which product under consideration has been exported from Thailand to India, the Authority, therefore, adopts export price from Thailand to India which could be considered for determining normal value for China PR. It is noted that while China PR accounts for 2500 MT i.e. 10% of total imports of subject goods during period of investigation, similar level of imports are from Thailand at around 3,698 MT constituting 15% of total imports into India. Thailand being a non-subject country with no ADD measure in force and with import volume being quite significant, the CIF price from Thailand is representative in nature. Therefore, the normal value for China PR has been determined on the basis of import price into India from Thailand.
58. For the purpose of normal value calculation, the import price from Thailand to India has been adjusted with ocean freight, marine insurance and other adjustments on account of port charges, bank charges etc to arrive at ex-factory price. The normal value so determined is shown below in the dumping margin table.

## **Indonesia**

**PT Asia Pacific Rayon (APR), Indonesia**

59. PT Asia Pacific Rayon is engaged in the production of subject goods in Indonesia and has sold the subject goods directly in the domestic market. During the period of investigation, the producer has sold the subject goods in the domestic market to unrelated and related parties. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods. The cost of production of subject goods submitted by the producer was duly verified and the same has been adopted for conducting ordinary course of trade test. The Authority has also examined the details of purchases of raw material (wood pulp) from related parties and satisfied itself regarding the arm's length pricing between the related parties. The Authority examined whether the profit-making transactions are more than 80% or not. If the profitmaking transactions are more than 80%, all transactions in the domestic sales are to be considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are to be taken into consideration for the determination of the normal value. In the present case, the profit-making transactions were less than 80% for each quarter of the POI and therefore only the profit-making transactions have been considered for determination of normal value. APR has claimed adjustments for inland transportation, ocean freight and insurance and the same have been allowed by the Authority.
60. Accordingly, normal value at ex-factory level has been determined and the same is shown in the Dumping Margin Table below.

**PT. South Pacific Viscose (SPV), Indonesia**

61. PT. South Pacific Viscose (SPV) is engaged in the production of subject goods in Indonesia and has sold the subject goods directly in the domestic market. During the period of investigation, the producer has sold the subject goods in the domestic market to unrelated and related parties. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods. The cost of production of subject goods submitted by the producer was duly verified and the same has been adopted for conducting ordinary course of trade test. The Authority noted that if profit making transactions are more than 80%, all transactions in the domestic sales are to be considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are to be taken into consideration for the determination of the normal value. In the present case, the profit-making transactions were less than 80% for each quarter of the POI and therefore only the profit-making transactions have been considered for determination of normal value. SPV has claimed adjustment for credit cost and the same has been allowed by the Authority.

62. Accordingly, normal value at ex-factory level has been determined and the same is shown in the Dumping Margin Table below.

**All other non-cooperating producers/exporters in Indonesia**

63. The normal value for all other non-cooperating producers and exporters of Indonesia has been determined on the basis of normal value of the responding producers and the same is mentioned in the dumping margin table below.

**G.4.2 Export Price**

**China PR**

**Sateri (Fujian) Fibre Co. Ltd., China PR**

64. Sateri (Fujian) Fibre Co. Ltd, who is a producer of subject goods in China PR, has filed questionnaire response. During the period of investigation, Sateri (Fujian) Fibre Co. Ltd, exported the subject goods to India directly. The producer has provided all the relevant information in the requisite format. Sateri (Fujian) Fibre Co. Ltd has claimed adjustments on account of ocean freight, inland freight, port & related expenses, insurance and bank charges and the same was allowed by the Authority. On the submission of the domestic industry regarding the issuance of post invoicing discount, the Authority has called for the relevant information from Sateri (Fujian) Fibre Co. Ltd and found that no such post invoicing discounts have been offered by the company to Indian customers. Accordingly, the net export price at ex-factory level for Sateri (Fujian) Fibre Co. Ltd, China PR has been determined after allowing the adjustments claimed, and the same is shown in the Dumping Margin Table below.

**All other non-cooperating producers in China PR**

65. The export price for all other producers and exporters who have not participated in the present investigation has been determined based the facts available and the same has been mentioned in the Dumping Margin Table below.

**Indonesia**

**PT Asia Pacific Rayon, Indonesia**

66. PT Asia Pacific Rayon, who is a producer of subject goods in Indonesia, has filed questionnaire response. During the period of investigation, PT Asia Pacific Rayon, exported the subject goods to India through its related company Asia Fibre Trading Pte. Ltd., Singapore. Asia Fibre Trading Pte. Ltd. has also participated in the present investigation and has provided all the relevant information in requisite format. PT Asia Pacific Rayon and Asia Fibre Trading Pte Ltd. have claimed adjustments on account of port handling charges in Indonesia, ocean freight, insurance, handling expenses and the same have been allowed by the Authority. The Authority has also made deductions for SGA expenses & profit of Asia Fibre Trading Pte Ltd. to arrive at ex-factory export price. On the submission of the domestic industry regarding the issuance of post

invoicing discount, the Authority has called the relevant information from PT Asia Pacific Rayon & Asia Fibre Trading Pte. Ltd. and found that no such post invoicing discounts have been offered by them to Indian customers. Accordingly, the net export price at ex-factory level for PT Asia Pacific Rayon, Indonesia has been determined after allowing the adjustments claimed, and the same is shown in the Dumping Margin Table below.

**PT. South Pacific Viscose (SPV), Indonesia**

67. PT. South Pacific Viscose (SPV), who is a producer and exporter of the subject goods in Indonesia, has filed questionnaire response. During the period of investigation, PT South Pacific Viscose (SPV), exported the subject goods to India directly. The producer has provided the relevant information. PT South Pacific Viscose (SPV) has claimed adjustments on account of ocean freight, inland freight and credit costs, and the same has been allowed by the Authority. On the submission of the domestic industry regarding the issuance of post invoicing discount. the Authority has called the relevant information from PT South Pacific Viscose (SPV) and found that no such post invoicing discounts have been offered by the company to Indian customers. Accordingly, the net export price at ex-factory level for PT South Pacific Viscose (SPV), Indonesia has been determined after allowing the adjustments claimed, and the same is shown in the Dumping Margin Table below.

**All other non-cooperating producers in Indonesia**

68. The export price for all other producers and exporters who have not participated in the present investigation has been determined based on export price of the responding producers and the same has been mentioned in the Dumping Margin Table below.

**G.4.3 Dumping Margin**

69. Considering the normal value and export price determined, as explained above, it is noted that the dumping margin for both China PR and Indonesia are more than the de-minimis limit prescribed under the Rules.

**Quarter-wise Dumping Margin:**

| Sateri (Fujian) Fibre Co. Limited. |        |                    |                         |                |         |
|------------------------------------|--------|--------------------|-------------------------|----------------|---------|
| Quarter                            | Qty-KG | Export Price (USD) | Export Price USD Per MT | NV US\$ per MT | DM US\$ |
| Oct- Dec 2019                      | ***    | ***                | ***                     | ***            | ***     |
| Jan- March 2020                    | ***    | ***                | ***                     | ***            | ***     |
| July- Sep 2020                     | ***    | ***                | ***                     | ***            | ***     |

| Sateri (Fujian) Fibre Co. Limited. |        |                    |                         |                |         |
|------------------------------------|--------|--------------------|-------------------------|----------------|---------|
| Quarter                            | Qty-KG | Export Price (USD) | Export Price USD Per MT | NV US\$ per MT | DM US\$ |
| Wt. Avg                            | ***    | ***                | ***                     | ***            | ***     |
| PT Asia Pacific Rayon              |        |                    |                         |                |         |
| Quarter                            | Qty-KG | Export Price (USD) | Export Price USD Per MT | NV US\$ per MT | DM US\$ |
| Jan- March 2020                    | ***    | ***                | ***                     | ***            | ***     |
| July- Sep 2020                     | ***    | ***                | ***                     | ***            | ***     |
| Wt. Avg                            | ***    | ***                | ***                     | ***            | ***     |

| PT. South Pacific Viscose (SPV) |        |                    |                         |                |         |
|---------------------------------|--------|--------------------|-------------------------|----------------|---------|
| Quarter                         | Qty-KG | Export Price (USD) | Export Price USD Per MT | NV US\$ per MT | DM US\$ |
| Oct- Dec 2019                   | ***    | ***                | ***                     | ***            | ***     |
| Jan- March 2020                 | ***    | ***                | ***                     | ***            | ***     |
| July- Sep 2020                  | ***    | ***                | ***                     | ***            | ***     |
| Wt. Avg                         | ***    | ***                | ***                     | ***            | ***     |

**Dumping Margin Table**

| SN | Particulars                        | Normal Value | Export price | Dumping margin | Dumping margin | Range  |
|----|------------------------------------|--------------|--------------|----------------|----------------|--------|
|    |                                    | USD/MT       | USD/MT       | USD/MT         | %              | %      |
| 1  | China PR                           |              |              |                |                |        |
| a  | Sateri (Fujian) Fibre Co. Limited. | ***          | ***          | ***            | ***            | 10-20% |
| b  | Any other producer                 | ***          | ***          | ***            | ***            | 20-30% |
| 2  | Indonesia                          | ***          |              |                |                |        |
| a  | PT Asia Pacific Rayon              | ***          | ***          | ***            | ***            | 15-25% |
| b  | PT. South Pacific Viscose (SPV)    | ***          | ***          | ***            | ***            | 30-40% |
| c  | Any other producer                 | ***          | ***          | ***            | ***            | 60-70% |

70. It can be seen from the above table that the dumping margin is very significant and above de-minimis.

## **H. EXAMINATION OF INJURY AND CAUSAL LINK**

### **H.1 Submissions made by the Applicant**

71. The submissions of the domestic industry with regard to injury and causal link are as under:
- i. There is significant fluctuation in the prices of raw material of the subject goods as a result of which prices of the subject goods have also fluctuated significantly. Applicant requests the Authority to consider undertaking quarterly analysis of the data.
  - ii. Demand of subject goods in India increased till 2019-20 but declined in the period of investigation due to Covid-19 pandemic.
  - iii. In spite of antidumping duty in force for almost 10 years the volume of dumped imports from subject countries is significant.
  - iv. Volume of imports from subject countries increased till 2018-19 but declined in 2019-20 and further declined in the period of investigation.
  - v. Imports in relation to production and consumption increased in 2018-19, declined in 2019-20 and have remained at similar level in period of investigation.
  - vi. Domestic industry has sold the product, having regard to the prices offered by the foreign producers.
  - vii. Price undercutting is positive in Q4 2019-20 and negative in other quarters.
  - viii. Applicant was forced to reduce its prices in view of increasing imports of Viscose Spun Yarn in India. Increasing imports of Viscose Spun Yarn impacted production and sales of producers of Viscose Spun Yarn which are much smaller companies with lower ability to withstand import competition. Domestic industry had to reduce its prices in order to ensure that the Viscose Spun Yarn producers continue their production and sales.
  - ix. The delta between domestic industry's price and yarn import price has declined sharply in the latest quarter of period of investigation.
  - x. The decline in selling prices in the period of investigation was much more than the decline in cost of sales which was due to sharp fall in landed prices of subject imports.
  - xi. Domestic industry has been forced to adjust its prices in tandem with the import prices. Imports have thus resulted in price depression.
  - xii. Capacity of domestic industry has continuously increased over the injury period and the domestic industry now has the capacity to cater to the entire demand in the country.
  - xiii. Production and sales of the domestic industry increased till 2019-20 but declined sharply in the period of investigation.

- xiv. Decline in production and sales cannot be attributable to decline in demand as domestic industry was running with idle capacity and could have produced and sold more, had there been no dumped imports in India.
- xv. Deemed export sales reported in its records are actually not deemed export sales and are those sales where fibre sold has been consumed in a yarn which has been exported and the producer of yarn has taken export benefit. Therefore, these should be considered as domestic sales of the domestic industry.
- xvi. Market share of dumped imports from subject country has increased over the years and that of domestic industry has declined.
- xvii. Due to surge in yarn imports at cheaper price and import of subject goods, domestic industry is unable to sell in domestic market and therefore undertook exports.
- xviii. Domestic industry is selling product at lower price to yarn exporters so that they can be competitive in the global market as compared to the global players.
- xix. Domestic industry was earning reasonable profits in the base year and the next year. As landed price declined in 2019-20, profits declined and then further declined in the period of investigation.
- xx. Profit per unit of the domestic industry has declined by more than \*\*\*% in period of investigation as compared to the previous year and more than \*\*\*% as compared to base year.
- xxi. Average inventory declined in the year 2018-19 but increased in the year 2019-20 and further increased in the period of investigation.
- xxii. Growth of domestic industry is positive in volume parameters such as production and sales till 2019-20 but negative in period of investigation. The price parameters such as profit, profit before interest and tax, cash profits and return on investment shows positive growth in 2018-19 and negative growth in 2019-20 and period of investigation.
- xxiii. On the submission of increase in imports from Thailand, it is submitted that imports from Thailand are significantly higher in price as compared to imports from subject countries, selling price of domestic industry and non-injurious price of domestic industry. Therefore, imports from Thailand cannot be a cause of injury.
- xxiv. Profits in the export market were lower than domestic market but the domestic industry was forced to export even when it earned lower profits.
- xxv. On the submission of negative report in economic indicators which is in contradiction with the annual report, it is submitted that profitability and sales values reported in annual report are of viscose segment, which includes other products like excluded Viscose Staple Fibre, Viscose Filament Yarn and Pulp.
- xxvi. On the submission on inconsistent use of the period in analysis, it is submitted that all injury data has been provided in the form and manner prescribed. Rules do not provide which period is to be considered for making the injury analysis.
- xxvii. On the submission that imports from Indonesia are not undercutting the domestic industry's prices, it is submitted that price undercutting was as high as \*\*\*% in

- 2019-20 and the volumes were also significant. Volume of imports having positive undercutting are significant in the period of investigation.
- xxviii. On the submission of increase in captive sales, it can be seen that domestic industry has negligible captive sales and increase in period of investigation is miniscule which cannot be the reason for reduction in domestic sales and export sales.
- xxix. On the submission that pricing of subject goods is based on the price of its raw material, it is submitted that decline in prices of subject goods is more than decline in prices of wood pulp.
- xxx. On the submission that the injury in the period of investigation is due to global slowdown and Covid-19, it is submitted that the demand of subject goods increased in 2019-20 and production and sales have increased consequently. In spite of increase in demand, profitability of the domestic industry showed a significant decline.
- xxxi. The economic parameters of the domestic industry have started declining from 2019-20 and further declined in the period of investigation. The decline was far steeper in 2019-20. Quarter-wise analysis of period of investigation substantiates that the profitability was quite low in Q3 and Q4 of 2019-20, which do not fall under the period of Covid-19.
- xxxii. On the submission that the domestic industry is completely backward integrated, it is submitted that the domestic industry's Harihar plant has its own pulp and production of this plant accounts for only \*\*\*% in the total production of the subject goods. Therefore, the argument that the domestic industry's production capacity is highly backward integrated covering almost 80% of the overall input cost is factually incorrect.
- xxxiii. Domestic industry has only stated that its two plants Vilayat and Kharach from where the exports are made are one of the lowest cost of production plants in the world and it did not say that Grasim is the one of the lowest cost producing player in the world.
- xxxiv. On the submission that the domestic industry has expanded its capacity in spite of injury, it is submitted that domestic industry has never claimed that it has always suffered injury. The argument presumes that industry should make no effort to increase capacities when demand is increasing.
- xxxv. On the submission of increasing inventory due to increasing capacity, it is submitted that the inability in selling the product results in piling up of the inventories which is not related to the capacity but related to production and sales.
- xxxvi. On the submission that losses in July to September 2020 period is due to different reasons, it is submitted that domestic industry did not suffer losses in July to September 2020 although performance deteriorated as compared to 2019-20.
- xxxvii. The losses suffered in April to June 2020 quarter is on account of decline in demand because of the Covid-19 and the Authority may decide appropriately how to address the impact of Covid-19 while doing the injury examination.

- xxxviii. On the submission that there is no causal link, it is submitted that the selling price of the domestic industry has moved in tandem with the import price, and not in tandem with the cost of production. Consequently, performance of the domestic industry has steeply declined in respect of profit, return on investment and cash flow.
- xxxix. On the submission that normation should be done in all cases, plain reading of rules makes it evident that only inefficiencies in utilization of production capacities should be removed while calculating NIP. Domestic industry cannot be punished on account of plant shut down due to government orders. It is not inefficiency on the part of the domestic industry.
- xl. On the submission that decline in performance in the period of investigation is due to increase in depreciation, it is submitted that PBDIT also shows similar trend as PBT which is has declined over injury period.
- xli. On the submission that the excluded product will show profits, it is submitted that performance in excluded products is negative and domestic industry is suffering losses in it.

## **H.2 Submissions made by other interested parties.**

72. The submissions of other interested parties with regard to injury and casual link are as under:
- i. Application shows a negative report in terms of economic indicators of the domestic industry which is highly in contradiction with the domestic industry's annual report.
  - ii. Injury to the domestic industry was due to the declining export sales performance and other economic factors.
  - iii. Applicant has adopted inconsistent use of periods in the injury analysis which has made it difficult for the interested parties to analyse the losses suffered by the domestic industry.
  - iv. Price undercutting for Indonesia even without considering anti-dumping duty was -5% to 5%. Imports from Indonesia did not undercut domestic industry's prices.
  - v. There is negative price undercutting.
  - vi. Import volume from other countries have increased as compared to subject countries. Authority is requested to kindly analyse them as an injury factor.
  - vii. There is a significant increase in the captive sales which has resulted in decline in domestic sales and export sales.
  - viii. Pricing of subject goods is based on the price of raw material. The price of raw material has declined globally.
  - ix. The reason for increased imports is that domestic industry is forcing end-users to import because of its price disparity.
  - x. Domestic industry had reached high levels of profitability. The decline in profitability is a minor dip.
  - xi. Slow-down in business during the period of investigation is due to the low demand for the subject goods globally.

- xii. Domestic industry is one of the most integrated and competitive producers in the world and its capacity is highly backward integrated covering almost 80% of the overall input cost. Major raw materials are from their captive source.
- xiii. Domestic industry had in one of its investor's conference call stated that their cost of production is one of the lowest in the world and can compete with Chinese producers because of the cost advantage.
- xiv. Domestic industry had been enjoying highest profits in decades and using unfair practice to abuse its monopolistic presence.
- xv. Domestic industry's economic parameters show an increasing trend till 2019-20 and decreasing trend in the period of investigation is only due to the effects of Covid-19.
- xvi. The domestic industry has been claiming injury yet continuously expanding its capacity and running its plant at almost 100% capacity utilization.
- xvii. Total imports into India are continuously declining in relation to the production and consumption.
- xviii. Domestic industry is practicing a discriminatory pricing policy in which it is creating a difference between domestic prices and imported prices from subject countries.
- xix. Domestic industry is itself selling in the international market with price lower by 22 to 30%. Therefore, they cannot claim any injury, as they are themselves dumping in international market.
- xx. Even during the low demand, the domestic sales of the subject goods have been steady.
- xxi. As per the annual report of the domestic industry, VSF business delivered superior operational performance in FY20.
- xxii. Production of the domestic industry is steady even after the global slowdown in the demand.
- xxiii. Domestic sales are steady during the entire period of investigation and the preceding 3 years despite slowdown in global demand.
- xxiv. Market share of the domestic industry is stagnant, as they were following price discriminatory policy during these years and selling the goods at different prices for different buyers.
- xxv. The profitability parameters of the domestic industry cannot be relied upon as they do not represent the correct picture.
- xxvi. Inventory of the domestic industry has been piling up due to the continuous capacity addition and low demand of subject goods.
- xxvii. Increase in inventory is not in itself an indicator of injury and poor economic performance.
- xxviii. Employee strength of the domestic industry has been decreasing slightly, whereas the wages and salary of these employees are increasing steadily. Decrease could be a management strategy and does not reflect injury.
- xxix. Growth of the domestic industry is positive and substantial till 2019-20 and any decline in period of investigation is due to Covid-19 situation.

- xxx. Domestic industry has admitted at various places in its annual reports that its growth in subject goods is tremendous and unparalleled.
- xxxi. Loss suffered during the period June-September 2020 should not be considered for the purpose of injury analysis as it is unprecedented and not linked to the alleged dumping.
- xxxii. Domestic industry has failed to establish any causal link between injury and dumped imports.
- xxxiii. Domestic industry has admitted to impact of Covid-19 outbreak in its annual report.
- xxxiv. As analysed by the Authority in the recently concluded anti-dumping investigation, increased imports of Viscose Spun Yarn also shows that there is a short supply of raw material Viscose Staple Fibre for domestic Viscose Spun Yarn producers.
- xxxv. Information provided by the applicant regarding imports in Format IV A and Price Undercutting is not clear as to whether it pertains to VSF of all types or PUC specifically.
- xxxvi. Assessment of the present injury based on the present period of investigation will be unrepresentative of likelihood of injury, as it was impacted with Covid - 19.
- xxxvii. Critical volume parameters like total capacity, total production, total sales have all increased in the period of investigation as compared to base year.
- xxxviii. Domestic industry is vertically integrated and decline in merchant sales of subject goods may be as a result of its business decision to increase its captive consumption and concentrate on downstream products.
- xxxix. Decline in the domestic production can also be attributed to Grasim's re-distribution of product portfolio vis-a-vis its related entities in subject countries.
- xl. The claim of the domestic industry that it was forced to reduce its prices due to imports is contrary to the data provided in the application.
- xli. Annexure III does not say that normation should be done only if lower capacity utilization in the period of investigation is due to 'inefficiency' of domestic industry.
- xlii. Injury caused in the period of investigation is due to sudden increase in depreciation cost and interest cost which cannot be attributed to imports from subject countries.
- xliii. Due to high anti-dumping duty imposed on imports of VSF, weavers have increased imports of VSY. Imports of VSY have now increased and are more than VSF.
- xliv. The applicant has not been able to show that there is any dumping and consequent injury to domestic industry with positive evidence as required by Rule 11 of the AD Rules.
- xlvi. There is no volume effect of the alleged dumped imports. Volume of imports has declined throughout the injury investigation period with significant decline in the period of investigation.

- xlvi. There is no negative price effect of the alleged dumped imports on the domestic industry. Price undercutting as a whole is negative for the subject countries. There is no price suppression or depression.
- xlvii. Domestic industry has seen a significant increase with respect to sales, output, market share, productivity, and return on investments during the period of investigation as compared to the base year.
- xlviii. There is no negative effect with respect to cash flow, inventories, employment, wages, growth, ability to raise capital investments as all such parameters have either seen consistent improvement in the injury investigation period or have been positive despite significant disruption by Covid-19 pandemic.
- xliv. Grasim is performing exceedingly well in the product types which have been excluded.
  - i. Assessment based on the period of investigation will be unrepresentative as it includes 6 months affected by nation-wide lockdown.
  - ii. Imports under Advance Authorisation should not be considered as they are meant for re-exports as value added products.
  - iii. Market share of imports has reduced drastically over the years and the domestic share has increased.
  - iiii. Exports of domestic industry have increased because they want to enjoy better margins on their speciality products and not because of inability to sell VSF domestically.
  - lv. Capacity to raise investments could not have been affected as Grasim is a top-rated company as per CRISIL and India ratings.
  - lv. Duties cannot be imposed as a substitute for nil basic customs duty under the ASEAN FTA.
  - lvi. Deemed export pricing policy of the domestic industry wherein they claim to offer discounts has not contributed to the growth of the industry. The domestic industry has kept its prices very high based on the import parity price.
  - lvii. Grasim Industries, a AAA rated company having net worth more than Rs. 40,000 crores, have not utilized its working capital limits and it is misleading to state that their ability to raise capital is impacted.
  - lviii. Domestic industry's production capacity is highly backward integrated covering almost 80% of input cost. 60% pulp is captive and 40% is sourced at zero import duty from ASEAN countries.
    - lix. Domestic industry does not have a transparent pricing policy as the discounts are communicated over the phone, around 15% prices are held back as discounts to be reimbursed by the end of the year, it locks customers with annual contracts with penalty clauses against switching suppliers or products
    - lx. Customer has to accept short supply if Grasim is unable to meet requirements of customer.

### H.3 Examination by the Authority

73. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve an examination of factors that may indicate injury to the domestic industry, “... *taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...*”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India or whether the effect of such imports is otherwise to depress prices to a significant degree or to prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.
74. The submissions made by the domestic industry and other interested parties during the course of the investigation with regard to injury and causal link and considered relevant by the Authority are examined and addressed in the present final findings.
75. In consideration of the various submissions made by the interested parties in this regard, the Authority has examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury.
76. The Authority has taken note of various submissions made by the domestic industry and other interested parties on injury and causal link, and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority ipso facto addresses submissions made by the domestic industry and the other interested parties.
77. In order to nullify the effect of lockdown on account of Covid19 pandemic and bring objectivity in injury analysis, the injury data for quarter Apr-Jun 2020 has been taken out and data for remaining nine months of POI has been annualised.
78. The Authority notes that captive sales of the domestic industry are minuscule and cannot be the reason for decline in domestic sales and export sales.
79. As regards the contention of some interested parties that the prices of the subject goods have declined in POI because of decline in wood pulp prices, it is noted that decline in imports prices are more than decline in the wood pulp prices.

### **H.3.1 Assessment of Demand**

80. The Authority has determined demand or apparent consumption of the product in India, as the sum of domestic sales of the Indian Producers, and imports from all sources. The demand so assessed is given in the table below.

| SN | Particulars       | UOM     | 2017-18 | 2018-19 | 2019-20 | POI    |        |
|----|-------------------|---------|---------|---------|---------|--------|--------|
|    |                   |         |         |         |         | 9M     | Ann    |
| 1  | Subject countries | MT      | 15,429  | 25,290  | 24,799  | 16,638 | 22,185 |
| 2  | Other countries   | MT      | 1,065   | 1,066   | 7,687   | 3,552  | 4,736  |
| 3  | Domestic sales    | MT      | ***     | ***     | ***     | ***    | ***    |
|    | Trend             | Indexed | 100     | 127     | 135     | 132    | 132    |
| 4  | Total demand      | MT      | ***     | ***     | ***     | ***    | ***    |
|    | Trend             | Indexed | 100     | 129     | 139     | 133    | 133    |

81. It is seen that the demand of the subject goods continuously increased till the year 2019-20 but declined in the period of investigation because of Covid-19 pandemic.

### H.3.2 Volume effect of dumped imports

#### i. Import volume and share of subject countries

82. The effects of the volume of dumped imports from the subject countries as well as imports from other countries have been examined by the Authority as follows.

| SN | Particulars                               | Unit | 2017-18 | 2018-19 | 2019-20 | POI    |        |
|----|---|------|---------|---------|---------|--------|--------|
|    |   |      |         |         |         | 9M     | Ann    |
| 1  | Subject Countries                         | MT   | 15,429  | 25,290  | 24,799  | 16,638 | 22,185 |
| A  | China PR                                  | MT   | 1,223   | 2,337   | 4,340   | 2,112  | 2,816  |
| B  | Indonesia                                 | MT   | 14,206  | 22,953  | 20,459  | 14,526 | 19,368 |
| 2  | Subject countries import in relation to - |      |         |         |         |        |        |
| A  | Indian production                         | %    | 100     | 134     | 122     | 110    | 110    |
| B  | Consumption                               | %    | 100     | 127     | 116     | 108    | 108    |
| C  | Total imports                             | %    | 93.54%  | 95.96%  | 76.34%  | 82.41% | 82.41% |

83. It is seen that the volume of dumped imports of product under consideration from subject countries have declined in the period of investigation.

### H.3.3 Price effect of dumped imports

84. 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 normal course.

85. Accordingly, the impact on the prices of the domestic industry on account of dumped imports of the subject goods from the subject country has been examined with reference to price undercutting and price suppression/depression, if any. For the purpose of this

analysis the cost of sales and Net Sales Realization (NSR) of the domestic industry have been compared with the landed price of imports from subject countries.

**a. Price undercutting**

Price undercutting has been determined by comparing the landed price of imports from the subject country with the net sales realisation of the domestic industry in India.

| SN | Particulars                         | UOM   | 2017-18  | 2018-19  | 2019-20  | POI      |          |
|----|-------------------------------------|-------|----------|----------|----------|----------|----------|
|    |                                     |       |          |          |          | 9M       | Ann      |
| 1  | Net Sales Realisation               | Rs/MT | ***      | ***      | ***      | ***      | ***      |
| 2  | <b>Subject countries as a whole</b> |       |          |          |          |          |          |
| A  | Landed Price                        | Rs/MT | 1,30,229 | 1,40,253 | 1,23,389 | 1,11,135 | 1,11,135 |
| B  | Price Undercutting                  | Rs/MT | ***      | ***      | ***      | ***      | ***      |
| C  | Price Undercutting                  | %     | ***      | ***      | ***      | ***      | ***      |
| D  | Price Undercutting                  | Range | 0-10%    | 0-10%    | (0-10)%  | (0-10)%  | (0-10)%  |
| 3  | <b>China PR</b>                     |       |          |          |          |          |          |
| A  | Landed Price                        | Rs/MT | 1,37,973 | 1,45,553 | 1,20,477 | 1,12,476 | 1,12,476 |
| B  | Price Undercutting                  | Rs/MT | ***      | ***      | ***      | ***      | ***      |
| C  | Price Undercutting                  | %     | ***      | ***      | ***      | ***      | ***      |
| D  | Price Undercutting                  | Range | 0-10%    | (0-10)%  | 0-10%    | (0-10)%  | (0-10)%  |
| 4  | <b>Indonesia</b>                    |       |          |          |          |          |          |
| A  | Landed Price                        | Rs/MT | 1,29,562 | 1,39,713 | 1,24,007 | 1,10,940 | 1,10,940 |
| B  | Price Undercutting                  | Rs/MT | ***      | ***      | ***      | ***      | ***      |
| C  | Price Undercutting                  | %     | ***      | ***      | ***      | ***      | ***      |
| D  | Price Undercutting                  | Range | 0-10%    | 0-10%    | (0-10)%  | (0-10)%  | (0-10)%  |

86. The landed price of imports is above the selling price of the domestic industry in the period of investigation. Therefore, the price undercutting is negative. On the submission of domestic industry and other interested parties over the quarterly analysis, the Authority has also undertaken quarterly analysis of price undercutting.

| SN | Particulars                         | UOM   | Quarter 3<br>2019-20 | Quarter 4<br>2019-20 | Quarter 2<br>2020-21 |
|----|-------------------------------------|-------|----------------------|----------------------|----------------------|
| 1  | Net Sales Realisation               | Rs/MT | ***                  | ***                  | ***                  |
| 2  | <b>Subject countries as a whole</b> |       |                      |                      |                      |
| A  | Landed Price                        | Rs/MT | 1,18,952             | 1,08,081             | 1,03,553             |
| B  | Price Undercutting                  | Rs/MT | ***                  | ***                  | ***                  |
| C  | Price Undercutting                  | %     | ***                  | ***                  | ***                  |
| D  | Price Undercutting                  | Range | (0-10)%              | 0-10%                | (0-10)%              |
| 3  | <b>China PR</b>                     |       |                      |                      |                      |
| A  | Landed Price                        | Rs/MT | 1,16,122             | 1,06,566             | 1,09,505             |

|   |                    |       |          |          |          |
|---|--------------------|-------|----------|----------|----------|
| B | Price Undercutting | Rs/MT | ***      | ***      | ***      |
| C | Price Undercutting | %     | ***      | ***      | ***      |
| D | Price Undercutting | Range | (0-10)%  | 0-10%    | (0-10)%  |
| 4 | Indonesia          |       |          |          |          |
| a | Landed Price       | Rs/MT | 1,19,562 | 1,08,357 | 1,03,287 |
| b | Price Undercutting | Rs/MT | ***      | ***      | ***      |
| c | Price Undercutting | %     | ***      | ***      | ***      |
| d | Price Undercutting | Range | (0-10)%  | 0-10%    | (0-10)%  |

87. It is seen that the prices have declined significantly over the period of investigation. The price undercutting was positive in the 2nd quarter of the period of investigation and negative in the other quarters.

**b. Price suppression/depression**

88. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority notes the changes in the costs and prices over the injury period.

| SN | Particulars             | UOM     | 2017-18  | 2018-19  | 2019-20  | POI (Ann) |
|----|-------------------------|---------|----------|----------|----------|-----------|
| 1  | Landed price of imports | Rs/MT   | 1,30,229 | 1,40,253 | 1,23,389 | 1,11,135  |
|    | Trend                   | Indexed | 100      | 108      | 95       | 85        |
| 2  | Cost of sales           | Rs/MT   | ***      | ***      | ***      | ***       |
|    | Trend                   | Indexed | 100      | 104      | 98       | 89        |
| 3  | Selling price           | Rs/MT   | ***      | ***      | ***      | ***       |
|    | Trend                   | Indexed | 100      | 103      | 87       | 78        |

89. It can be seen that the landed price of imports during the POI is significantly higher than the cost of sales and selling price of the domestic industry. Therefore, the imports cannot be said to be causing any price suppression or depression on the domestic industry.

**c. Price underselling**

| SN | Particulars                         | UOM   | Q3 2019-20 | Q4 2019-20 | Q2 2020-21 | Average |
|----|-------------------------------------|-------|------------|------------|------------|---------|
| 1  | Non-Injurious Price                 | Rs/MT | ***        | ***        | ***        | ***     |
| 2  | <b>Subject countries as a whole</b> |       |            |            |            |         |
| A  | Landed Price                        | Rs/MT | 118,952    | 108,081    | 103,553    | 111,135 |
| B  | Price Underselling                  | Rs/MT | ***        | ***        | ***        | ***     |
| C  | Price Underselling                  | %     | ***        | ***        | ***        | ***     |

| SN | Particulars        | UOM   | Q3 2019-20 | Q4 2019-20 | Q2 2020-21 | Average  |
|----|--------------------|-------|------------|------------|------------|----------|
| D  | Price Underselling | Range | Negative   | 0-10%      | Negative   | Negative |
| 3  | China PR           |       |            |            |            |          |
| A  | Landed Price       | Rs/MT | 116,122    | 106,566    | 109,505    | 112,476  |
| B  | Price Underselling | Rs/MT | ***        | ***        | ***        | ***      |
| C  | Price Underselling | %     | ***        | ***        | ***        | ***      |
| D  | Price Underselling | Range | Negative   | 0-10%      | Negative   | Negative |
| 4  | Indonesia          |       |            |            |            |          |
| A  | Landed Price       | Rs/MT | 119,562    | 108,357    | 103,287    | 110,940  |
| B  | Price Underselling | Rs/MT | ***        | ***        | ***        | ***      |
| C  | Price Underselling | %     | ***        | ***        | ***        | ***      |
| D  | Price Underselling | Range | Negative   | 0-10%      | Negative   | Negative |

90. The price underselling from China PR and Indonesia are negative.

### H.3.4 Impact on economic parameters of the domestic industry

91. 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. The Anti-Dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective 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. Accordingly, various injury parameters relating to the domestic industry are discussed herein below.

a. **Capacity, production, capacity utilization and sales.**

92. The Authority has considered capacity, production, capacity utilization and sales volume of the domestic industry over the injury period.

| SN | Particulars          | UOM     | 2017-18  | 2018-19  | 2019-20  | POI      |          |
|----|----------------------|---------|----------|----------|----------|----------|----------|
|    |                      |         |          |          |          | 9M       | Ann      |
| 1  | Capacity             | MT      | 5,05,725 | 5,45,605 | 5,84,820 | 4,44,745 | 5,92,993 |
|    | Trend                | Indexed | 100      | 108      | 116      | 117      | 117      |
| 2  | Production - Plant   | MT      | 4,99,250 | 5,41,151 | 5,67,008 | 4,05,178 | 5,40,237 |
|    | Trend                | Indexed | 100      | 108      | 114      | 108      | 108      |
| 3  | Production - PUC     | MT      | ***      | ***      | ***      | ***      | ***      |
|    | Trend                | Indexed | 100      | 122      | 132      | 131      | 131      |
| 4  | Capacity Utilisation | %       | 99%      | 99%      | 97%      | 91%      | 91%      |

|   |                      |         |     |     |     |     |     |
|---|----------------------|---------|-----|-----|-----|-----|-----|
|   | Trend                | Indexed | 100 | 100 | 98  | 92  | 92  |
| 5 | Domestic sales       | MT      | *** | *** | *** | *** | *** |
|   | Trend                | Indexed | 100 | 132 | 152 | 146 | 146 |
| 6 | Deemed export sales  | MT      | *** | *** | *** | *** | *** |
|   | Trend                | Indexed | 100 | 103 | 57  | 64  | 64  |
| 7 | Gross Domestic Sales | MT      | *** | *** | *** | *** | *** |
|   | Trend                | Indexed | 100 | 127 | 135 | 132 | 132 |

93. It is seen that: -

- a. The domestic industry has expanded its capacity continuously over the injury period.
- b. The domestic industry was operating at almost full capacity utilisation till 2019-20. The capacity utilisation of the domestic industry reduced during the POI due to Covid-19 disruption.
- c. Production and sales of domestic industry increased till 2019-20 but declined sharply in the period of investigation due to Covid-19 disruption.

**b. Market share of the domestic industry in demand**

94. The effect of the dumped imports on the market share of the domestic industry have been examined.

| SN | Particulars       | UOM        | 2017-18 | 2018-19 | 2019-20 | POI |
|----|-------------------|------------|---------|---------|---------|-----|
| 1  | Subject countries | %<br>Trend | 100     | 127     | 116     | 108 |
| 2  | Other countries   | %<br>Trend | 100     | 78      | 521     | 334 |
| 3  | Domestic industry | %<br>Trend | 100     | 99      | 98      | 99  |

95. It is seen that the market share of the domestic industry has constantly been more than \*\*\*% throughout the injury investigation period. The market share of domestic industry has increased during the POI despite Covid-19 disruption.

**c. Inventory**

96. Inventory position of the domestic industry over the injury period is given below: -

| SN | Particulars       | Unit    | 2017-18 | 2018-19 | 2019-20 | POI |
|----|-------------------|---------|---------|---------|---------|-----|
| 1  | Opening inventory | MT      | ***     | ***     | ***     | *** |
| 2  | Closing inventory | MT      | ***     | ***     | ***     | *** |
| 3  | Average inventory | MT      | ***     | ***     | ***     | *** |
|    | Trend             | Indexed | 100     | 70      | 162     | 222 |

97. It is seen that the average inventory of the domestic industry declined in 2018-19 but increased in 2019-20 and further increased in the period of investigation.

**d. Profit or loss, cash profits and return on investment.**

98. Performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed.

| SN | Particulars                | UOM     | 2017-18 | 2018-19 | 2019-20 | POI |     |
|----|----------------------------|---------|---------|---------|---------|-----|-----|
|    |                            |         |         |         |         | 9M  | Ann |
| 1  | Cost of sales              | ₹/MT    | ***     | ***     | ***     | *** | *** |
|    | Trend                      | Indexed | 100     | 104     | 98      | 89  | 89  |
| 2  | Selling price              | ₹/MT    | ***     | ***     | ***     | *** | *** |
|    | Trend                      | Indexed | 100     | 103     | 87      | 78  | 78  |
| 3  | Profit / Loss              | ₹/MT    | ***     | ***     | ***     | *** | *** |
|    | Trend                      | Indexed | 100     | 96      | 36      | 27  | 27  |
| 4  | Profit / Loss              | ₹ Lacs  | ***     | ***     | ***     | *** | *** |
|    | Trend                      | Indexed | 100     | 122     | 48      | 36  | 36  |
| 5  | Cash profits               | ₹ Lacs  | ***     | ***     | ***     | *** | *** |
|    | Trend                      | Indexed | 100     | 122     | 61      | 50  | 50  |
| 6  | PBIT                       | ₹ Lacs  | ***     | ***     | ***     | *** | *** |
|    | Trend                      | Indexed | 100     | 121     | 55      | 41  | 41  |
| 7  | Return on capital employed | %       | ***     | ***     | ***     | *** | *** |
|    | Trend                      | Indexed | 100     | 101     | 48      | 37  | 37  |

99. It is seen that the domestic industry was earning healthy profits in 2017-18 and 2018-19. Even though the profits of the domestic industry have declined in the period of investigation, the profits are still reasonable.

**e. Employment, wages and productivity**

100. The situation of the domestic industry with regard to employment, wages and productivity was examined.

| SN | Particulars          | UOM     | 2017-18 | 2018-19 | 2019-20 | POI |     |
|----|----------------------|---------|---------|---------|---------|-----|-----|
|    |                      |         |         |         |         | 9M  | Ann |
| 1  | No of employees      | Nos     | ***     | ***     | ***     | *** | *** |
|    | Trend                | Indexed | 100     | 98      | 94      | 92  | 92  |
| 2  | Salary & wages       | ₹ Lacs  | ***     | ***     | ***     | *** | *** |
|    | Trend                | Indexed | 100     | 118     | 122     | 119 | 119 |
| 3  | Productivity per day | MT/Day  | ***     | ***     | ***     | *** | *** |
|    | Trend                | Indexed | 100     | 108     | 114     | 108 | 108 |
| 4  | Productivity per     | MT/Nos  | ***     | ***     | ***     | *** | *** |

|          |         |     |     |     |     |     |
|----------|---------|-----|-----|-----|-----|-----|
| employee |         |     |     |     |     |     |
| Trend    | Indexed | 100 | 110 | 121 | 118 | 118 |

101. It is seen that employment levels of domestic industry have declined over the injury period and wages paid have increased over the injury period except in the period of investigation. The productivity per employee and per day increased till 2019-20 but declined in POI due to decline in production.

**f. Growth**

102. Examination of growth parameters of the domestic industry during the injury period is shown below.

| SN | Particulars            | 2018-19 | 2019-20 | POI     |
|----|------------------------|---------|---------|---------|
| 1  | Production             | 22.11%  | 7.97%   | -0.47%  |
| 2  | Domestic Sales         | 27.10%  | 6.51%   | -2.72%  |
| 3  | Profit/(Loss) per unit | -4.28%  | -62.65% | -23.28% |
| 4  | Inventory              | -29.62% | 130.26% | 37.24%  |
| 5  | Market Share           | -1.32%  | -1.00%  | 1.11%   |
| 6  | Profit/(Loss)          | 21.65%  | -60.22% | -25.37% |
| 7  | Cash Profit            | 21.61%  | -50.23% | -17.62% |
| 8  | PBIT                   | 20.57%  | -54.28% | -25.96% |
| 9  | ROI %                  | 1.41%   | -52.93% | -21.71% |

103. It is seen that volume parameters of the domestic industry show a positive growth till 2019-20 but have shown a negative growth thereafter in the period of investigation. The price parameters show positive growth in 2018-19 and negative growth in 2019-20 and the period of investigation.

**g. Magnitude of dumping**

104. It can be seen that the dumping margin is not only more than *de-minimis* but also substantial.

**h. Ability to raise fresh capital**

105. It has been contended by the domestic industry that considering the existing profits earned by them, their ability to raise capital has been impacted. However, Authority notes that the domestic industry has admitted having planned to undertake further capacity expansion for which it will be investing around Rs \*\*\* crore on its integrated plant and therefore its ability to raise fresh capital has not been impacted.

**Conclusion on Injury**

106. Considering various parameters relating to material injury, the Authority notes that the volume of dumped imports from the subject countries have declined in the period of

investigation. The imports from subject countries are not undercutting the prices of the domestic industry and price underselling is also negative. The domestic industry has seen a decline in the production and sales during POI. However, the decline in production and sales can be attributed to the fall in demand due to Covid-19 pandemic. The profitability of the domestic industry has declined during the POI. However, profit earned by the domestic industry during POI are still reasonable. The landed price of imports during the POI is significantly higher than the cost of sales, selling price and NIP of the domestic industry. Therefore, the imports cannot be said to be causing any price effect on the domestic industry.

## **I. CAUSAL LINK**

107. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than dumped imports which are injuring or are likely to cause injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. While the present investigation is a sunset review investigation and causal link has already been examined in original investigation, the Authority examined whether other known listed factors have caused or are likely to cause injury to the domestic industry. It was examined whether other factors listed under the AD Rules could have contributed or are likely to contribute to the injury suffered by the domestic industry.
- a. Volume and price of imports from third country**
108. Besides the subject countries, imports above de-minimis limits are from Thailand. It is seen that the landed price of imports from Thailand is above the selling price and the non-injurious price of the domestic industry.
- b. Contraction in Demand and / or Change in pattern of Consumption**
109. The demand of the subject goods has declined in the period of investigation. As already examined above, the decline in demand was due to Covid-19. The pattern of consumption with regard to product under consideration has not undergone any change. Changes in the pattern of consumption could not have, therefore, contributed to the injury to the domestic industry.
- c. Development of technology**
110. The Authority notes that technology for production of the product has not undergone any change.
- d. Trade restrictive practices**
111. The Authority notes that there is no trade restrictive practice, which could have caused injury to the domestic industry.

e. **Export performance**

112. It is seen that the exports of the domestic industry have increased in the period of investigation. In any case, Authority has considered data for the domestic operations only.

f. **Performance of other products**

113. The Authority has considered the data relating to the performance of the subject goods only.

**J. MAGNITUDE OF INJURY MARGIN**

114. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in the Anti-Dumping Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing accountant for the period of investigation. The NIP has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the NIP, the best utilisation of the raw materials and utilities has been considered over the injury period. Best utilisation of production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the PUC was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure III of the Rules and being followed.

115. Based on the landed price and NIP determined as above, the injury margin for producers/exporters as determined by the Authority is provided in the table below. Further, on the submission of the domestic industry and the other interested parties, the Authority has calculated injury margin on quarterly basis. The Authority has not considered the quarter of April 2020 to June 2020 in injury margin calculations because there was a nationwide lockdown in India during this quarter.

**Quarter-wise Injury Margin:**

| <b>Sateri (Fujian) Fibre Co. Limited.</b> |               |                         |                                 |                        |                                  |
|---|---------------|-------------------------|---------------------------------|------------------------|----------------------------------|
| <b>Quarter</b>                            | <b>Qty-KG</b> | <b>CIF Price (US\$)</b> | <b>Landed Value US\$ Per MT</b> | <b>NIP US\$ per MT</b> | <b>Injury Margin US\$ per MT</b> |
| Oct- Dec 2019                             | ***           | ***                     | ***                             | ***                    | ***                              |
| Jan- March 2020                           | ***           | ***                     | ***                             | ***                    | ***                              |

**Sateri (Fujian) Fibre Co. Limited.**

| Quarter                      | Qty-KG | CIF Price (US\$) | Landed Value US\$ Per MT | NIP US\$ per MT | Injury Margin US\$ per MT |
|------------------------------|--------|------------------|--------------------------|-----------------|---------------------------|
| July- Sep 2020               | ***    | ***              | ***                      | ***             | ***                       |
| Wt. Avg                      | ***    | ***              | ***                      | ***             | ***                       |
| <b>PT Asia Pacific Rayon</b> |        |                  |                          |                 |                           |
| Quarter                      | Qty-KG | CIF Price (US\$) | Landed Value US\$ Per MT | NIP US\$ per MT | Injury Margin US\$ per MT |
| Jan- March 2020              | ***    | ***              | ***                      | ***             | ***                       |
| July- Sep 2020               | ***    | ***              | ***                      | ***             | ***                       |
| Wt. Avg                      | ***    | ***              | ***                      | ***             | ***                       |

**PT. South Pacific Viscose (SPV)**

| Quarter         | Qty-KG | CIF Price (US\$) | Landed Value US\$ Per MT | NIP US\$ per MT | Injury Margin US\$ per MT |
|-----------------|--------|------------------|--------------------------|-----------------|---------------------------|
| Oct- Dec 2019   | ***    | ***              | ***                      | ***             | ***                       |
| Jan- March 2020 | ***    | ***              | ***                      | ***             | ***                       |
| July- Sep 2020  | ***    | ***              | ***                      | ***             | ***                       |
| Wt. Avg         | ***    | ***              | ***                      | ***             | ***                       |

**Injury Margin Table**

| SN | Particulars                       | Non-Injurious Price | Landed Value | Injury Margin | Injury Margin | Range    |
|----|-----------------------------------|---------------------|--------------|---------------|---------------|----------|
|    |                                   | USD/MT              | USD/MT       | USD/MT        | %             | %        |
| 1  | China PR                          |                     |              |               |               |          |
| a  | Sateri (Fujian) Fibre Co. Limited | ***                 | ***          | ***           | ***           | Negative |
| b  | Any other producer                | ***                 | ***          | ***           | ***           | 5-15%    |
| 2  | Indonesia                         |                     |              |               |               |          |

| SN | Particulars                     | Non-Injurious Price | Landed Value | Injury Margin | Injury Margin | Range    |
|----|---------------------------------|---------------------|--------------|---------------|---------------|----------|
|    |                                 | USD/MT              | USD/MT       | USD/MT        | %             | %        |
| a  | PT Asia Pacific Rayon           | ***                 | ***          | ***           | ***           | Negative |
| b  | PT. South Pacific Viscose (SPV) | ***                 | ***          | ***           | ***           | Negative |
| c  | Any other producer              | ***                 | ***          | ***           | ***           | 10-20%   |

## K. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

### K.1 Submissions made by domestic industry

116. The following submissions have been made by the domestic industry during the course of investigation:

- a. Dumping has continued in the period of investigation from both the subject countries. Further, dumped imports have continued to enter domestic market at prices below the non-injurious prices.
- b. Positive dumping margin and injury margin itself establishes that cessation of duties will lead to dumping and consequent injury to the domestic industry.
- c. 92% of exports from China PR and 94% of exports from Indonesia to rest of the world are at dumped prices. Cumulatively, the associated volume accounts for 170 % of Indian demand.
- d. 68% of exports from China PR and 88% of exports from Indonesia to rest of the world are at prices below the Indian prices. Cumulatively, the associated volume account for 143% of Indian demand.
- e. Current surplus capacities of all types of Viscose Staple Fibres are 39% of capacity in China and 64% in case of Indonesia.
- f. Producers in the subject countries are operating with idle capacities. India being a destination of high demand for VSF, cessation of anti-dumping duty will encourage the producers to ship their goods in the Indian market. Current idle capacities are 36% in case of China and 64% in case of Indonesia.
- g. Capacity in Indonesia will increase further in 2021-23 as PT Asia Pacific Rayon is likely to implement Phase II of expansion with two more lines with a capacity of 263K tonnes per year. M/s Sateri Fibre Co. Limited in China is further expanding its capacity by 1 million tons.
- h. Producers in Indonesia are required to fulfil export obligations. As per the regulations, producers can sell maximum 50% of their production in the domestic market.

- i. Export as a percentage of production is 10% in case of China PR and 50% in case of Indonesia.
- j. In sunset review investigation, volume of actual imports is not important. The possibility of diverting the third country exports to India and existing surplus capacities is required to be examined.
- k. The post period of investigation period is also impacted by Covid-19.
- l. Domestic industry has provided the capacity data which is for the countries as whole, and it is implied that the capacities of all entities are included in the total capacities for the country.
- m. Exports to India have increased at a higher rate as compared to the sales in the domestic market. Further, while both the domestic price and the export price have declined, the decline in the export price to India is at a higher rate. This shows that despite duty in place, India continues to be an important market for the producer.
- n. In case of Asia Fibre Trading Pte Ltd., export sales into India increased from 100 to 581 points from 2019 to period of investigation while that to other countries increased from 100 to 135. However, sales value to India has reduced from 100 to 80 from 2019 to POI.
- o. The trend of the data provided by Sateri (Fujian) Fibre Co., Ltd shows that it has suffered losses in the period of investigation in the exports to India and exports to India have increased sharply over the injury period. This shows that despite duty in place, India was an important market for the producer.
- p. In case of P.T. South Pacific Viscose, trend shows that export sales to India have increased over the injury period but declined in the domestic market and exports to India are at losses. This is despite the fact that the trend of price to India shows a sharp increase and that of cost of sales shows decline. Despite the increase in cost per unit, the producer has further reduced its prices in the period of investigation.
- q. In case of P.T. South Pacific Viscose, trend of cost of sales in the domestic market and export market are similar till the year 2020 but have changed drastically in the period of investigation.

## **K.2 Submissions made by other interested parties**

117. The following submissions have been made by other interested parties during the course of investigation: -
- a. There is no information on record to indicate that the revocation of duty would lead to a situation in which dumping causing injury is clearly foreseen and imminent.
  - b. Domestic industry has relied upon some non-verified and unsubstantiated numbers pertaining to the excess capacities in the subject countries.

- c. Mere presence of freely disposable capacities in the subject countries is not sufficient and domestic industry is required to establish that the said freely disposable capacity shall be diverted into India.
- d. There is no submission on inventories of the product under consideration.
- e. Domestic industry has relied on extraneous factors, unfounded in law, to claim likelihood of dumping and injury.
- f. As per quarterly reports and presentation, Grasim has performed exceedingly well in the post period of investigation.
- g. Price undercutting and price underselling if determined based on only low-priced imports cannot become the basis for positive determination of material injury or positive determination of injury margin.
- h. Exports by Sateri (Fujian) Fibre Company Limited are too insignificant to pose any challenge to the domestic industry.
- i. There is no likelihood of diversion of exports to India, which can be verified from the data regarding sales.
- j. Method adopted for determination of surplus capacity by the domestic industry is incorrect.
- k. Applicant has not provided any evidence of export orientation of producers/exporters in the subject countries.
- l. Applicant has not justified as to why Indian market would be chosen as a destination for exports after withdrawal of the duty.
- m. Hawkin's right and Red Book provided by the applicant is unreliable. Domestic industry must have included the data of their related producers in subject countries to show excess capacity.
- n. Evidence for recurrence of dumping has not been submitted by the applicant.
- o. Further explanation is required from the applicant on its claim that aggregate volume of dumped exports to third countries account for 170% of the Indian demand.
- p. Regarding the regulations on Bondage Area, it has been submitted that the petitioners did not refer to the main regulation of the bondage area which is the Ministry of Finance Regulation No. 131/2018.
- q. 50% export obligation which has been in place way before 2018, is not counted based solely on the production but on the number of export value-added by trade value to the domestic market and other economic zones. The exporters can also propose exceptional addition to 50% export obligation in terms of next year substitution.
- r. New investments made for capacity expansions in the subject countries, when duties were already in place, are not intended for India. They have been planned, targeting domestic market and markets of Turkey, Pakistan and Bangladesh.
- s. On submission of the domestic industry on capacity expansions in China, it is submitted that Sateri (Fujian) Fibre Company Ltd. has no plans for expansion but is only acquiring existing VSF capacity in China PR.

### **K.3 Examination by the Authority**

118. The present investigation is a sunset review of duties imposed on the imports of subject goods from China PR and Indonesia. Under the Rules, the Authority is required to determine whether cessation of existing duty is likely to lead to continuance or recurrence of dumping and injury to the domestic industry.
119. There are no specific methodologies available to conduct such a likelihood analysis. However, Clause (vii) of Annexure II of the Rules provides, inter alia, factors which are relevant for threat of injury and the same factors may be used for likelihood analysis in a sunset review as well:
- a) A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
  - b) Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
  - c) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
  - d) Inventories of the article being investigated.
120. Further, the Authority has also examined other relevant factors which could have a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry.
121. All the opposing interested parties have raised concerns regarding the authenticity of the Hawkins Right Reports provided by the applicant for the purpose of likelihood analysis. Authority notes that there are only three producers of subject goods in Indonesia namely (i) PT Asia Pacific Rayon (ii) PT South Pacific Viscose & (iii) PT Indo Bharat Rayon. All these three companies have participated and have provided relevant information in the subject investigation. Even in case of China PR, Sateri (Fujian) Fibre Co., Ltd. has participated in the investigation and has also provided details regarding the capacities and production of its related parties involved in the production of subject goods namely, Sateri (China) Fibre Co., Ltd., Sateri (Jiangsu) Fibre Co., Ltd., Sateri (Jiujiang) Fibre Co., Ltd., and Sateri (JiangXi) Chemical Fibre Co., Ltd. Therefore, the Authority has deemed it appropriate to consider the data provided by participating producers/exporters from subject countries except related companies of the domestic industry for the likelihood analysis.

### K.3.1 Imports of subject goods from subject countries

122. The import details in the subject investigation are as follows:

| Particulars | Unit | 2017-18 | 2018-19 | 2019-20 | POI |
|-------------|------|---------|---------|---------|-----|
|-------------|------|---------|---------|---------|-----|

|   |    |        |        |        |        |
|---|----|--------|--------|--------|--------|
| Subject Countries                           | MT | 15,429 | 25,290 | 24,799 | 19,651 |
| China PR                                    | MT | 1,223  | 2,337  | 4,340  | 2,516  |
| Indonesia                                   | MT | 14,206 | 22,953 | 20,459 | 17,134 |
| Market share of subject countries in demand | %  | 100    | 127    | 116    | 108    |
| Market share of domestic industry in demand | %  | 100    | 99     | 98     | 99     |

123. The Authority notes that the volume of dumped imports of product under consideration from subject countries have declined in the period of investigation. The domestic industry enjoys a dominant position in the Indian market and the market share of imports from subject countries is very low.

### K.3.2 Surplus capacities

124. Information with respect to surplus capacities in case of responding producers/exporters from subject countries is given below: -

| Particulars                    | Capacity (MT) | Production (MT) | Capacity Utilisation (MT) | Surplus Capacity | Surplus Capacity (range) |
|--------------------------------|---------------|-----------------|---------------------------|------------------|--------------------------|
| Sateri (Fujian) Fibre Co., Ltd | ***           | ***             | ***                       | ***              | NIL                      |
| PT Asia Pacific Rayon          | ***           | ***             | ***                       | ***              | 0-10                     |
| PT. South Pacific Viscose      | ***           | ***             | ***                       | ***              | 40-50                    |

125. With regard to the capacity of participating producers/exporters, Authority notes as follows:
- Small surplus capacity is available with PT Asia Pacific Rayon. However, APR is a new producer who has commenced production in 2019 and therefore it cannot be expected to achieve 100% capacity utilisation immediately. As per questionnaire response filed by APR, they plan to increase their capacity but this capacity expansion will happen only in quarter 4 of 2024.
  - Surplus capacity is available with PT South Pacific Viscose. However, the company has submitted that it has regularly been operating at \*\*\*% capacity utilisation. Its capacity utilisation was low during POI due to Covid-19 disruptions.

- c. There is no surplus capacity available with Sateri (Fujian) Fibre Co., Ltd. There are other related companies of Sateri (Fujian) Fibre Co., Ltd. who are engaged in production of subject goods in China PR but have not exported to India during POI. The surplus capacities available with such related companies, as indicated in their submission, are shown in the table below:

| Particulars                              | Capacity (MT) | Production (MT) | Capacity Utilisation (MT) | Surplus Capacity | Surplus Capacity (range) |
|--|---------------|-----------------|---------------------------|------------------|--------------------------|
| Sateri (China) Fibre Co., Ltd.           | ***           | ***             | ***                       | ***              | 30-40                    |
| Sateri (Jiangsu) Fibre Co., Ltd          | ***           | ***             | ***                       | ***              | NIL                      |
| Sateri (Jiujiang) Fibre Co., Ltd         | ***           | ***             | ***                       | ***              | 0-10                     |
| Sateri (JiangXi) Chemical Fibre Co., Ltd | ***           | ***             | ***                       | ***              | NIL                      |

126. It can be seen that Sateri (China) Fibre Co., Ltd. has surplus capacities available with it during the POI. However, it was submitted in the post disclosure comments along with detailed data that Sateri (China) Fibre Co. Ltd. had a capacity utilisation of \*\*\*% in the post-POI period. Its capacity during POI was low because first line of production started during December 2019 and second line of production began in April 2020. Its production has stabilised in post-POI and there is no surplus capacity. Therefore, the Authority notes that there is no surplus capacity with Sateri (Fujian) Fibre Co., Ltd., Sateri (China) Fibre Co., Ltd., Sateri (Jiangsu) Fibre Co., Ltd., Sateri (Jiujiang) Fibre Co., Ltd., and Sateri (JiangXi) Chemical Fibre Co., Ltd.

### K.3.5 Third country dumping

127. Information with respect to third country dumping in case of responding producers/exporters from subject countries is given below: -

| Particulars | Total Exports to third countries (MT) | Exports to third countries at dumped prices (MT) | % of Exports to third countries at dumped prices | % of Exports to third countries at dumped prices (range) |
|-------------|---------------------------------------|--|--|--|
|             |                                       |  |  |  |

|                                 |     |     |     |        |
|---------------------------------|-----|-----|-----|--------|
| Sateri (Fujian) Fibre Co., Ltd  | *** | *** | *** | 90-100 |
| PT Asia Pacific Rayon           | *** | *** | *** | 80-90  |
| PT. South Pacific Viscose (SPV) | *** | *** | *** | 90-100 |

128. It can be seen that 90-100% of the exports to third countries by the participating producer/exporter from China PR are at dumped prices. In case of Indonesia, 80-90% of exports to third countries by APR are at dumped prices and 90-100% of exports to third countries by SPV are at dumped prices.

### K.3.6 Third country injurious exports

129. Information with respect to third country injurious exports in case of responding producers/exporters from subject countries is given below:

| Particulars                    | Total Exports to third countries (MT) | Exports to third countries at prices below NIP (MT) | % of Exports to third countries at prices below NIP | % of Exports to third countries at prices below NIP (range) |
|--------------------------------|---------------------------------------|---|---|---|
| Sateri (Fujian) Fibre Co., Ltd | ***                                   | ***   | ***   | 50-60   |
| PT Asia Pacific Rayon          | ***                                   | ***   | ***   | 80-90   |
| PT. South Pacific Viscose      | ***                                   | ***   | ***   | 80-90   |

130. It can be seen that 50-60% of the exports to third countries by the participating producer/exporter from China PR are at prices below the NIP. In case of Indonesia, 80-90% of exports to third countries by APR and SPV are at prices below the NIP.

### K.3.7 Price attractiveness

131. Information with respect to price attractiveness in case of responding producers is given below:

| Particulars                    | Total Exports to third countries (MT) | Exports to third countries at prices below export price to India | % of Exports to third countries at prices below export price to India | % of Exports to third countries at prices below export price to India (range) |
|--------------------------------|---------------------------------------|--|---|---|
| Sateri (Fujian) Fibre Co., Ltd | ***                                   | ***  | ***   | 55-65%  |
| PT Asia Pacific Rayon          | ***                                   | ***  | ***   | 65-75%  |
| PT. South Pacific Viscose      | ***                                   | ***  | ***   | 85-95%  |

132. It can be seen that 55-65% of the exports to third countries by the participating producer/exporter from China PR are at prices below the exports price to India. In case of Indonesia, 65-75% of exports to third countries by APR are at prices below the export price to India and 85-95% of exports to third countries by SPV are at price below the export price to India.

### **K.3.8 Imports below NIP and NSR**

133. The Authority has examined the volume of imports which are below the NIP and NSR of the domestic industry and is shown below. It is seen that there are significant imports below the NIP and NSR of the domestic industry.

| SN | Particulars   | UOM | China PR | Indonesia |
|----|---|-----|----------|-----------|
| 1  | Total imports (excluding imports for April-June 2020 quarter) | MT  | 2,112    | 14,526    |
| 2  | Imports below NIP   | MT  | 1,308    | 3,539     |
| 3  | Imports below NSR   | MT  | 1,331    | 4,967     |
| 4  | % of injurious imports  | %   | 62%      | 24%       |
| 5  | % of imports below NSR  | %   | 63%      | 34%       |

### **Conclusion on Likelihood of continuation or recurrence of dumping and injury**

134. It is noted that there is a likelihood of continuation of dumping from subject countries. However, the likelihood of recurrence of injury is not strong enough to warrant continuation of duties beyond 11 years. The information on record shows that there are

insignificant surplus capacities with the responding producers/exporters in subject countries. Imports from subject countries have reduced during the POI. Imports from subject countries are not undercutting the prices of domestic industry. The landed price of imports during the POI is significantly higher than the cost of sales, selling price and NIP of the domestic industry. Therefore, the imports cannot be said to be causing any price effect on the domestic industry.

## **L. POST DISCLOSURE COMMENTS**

135. The Authority issued a disclosure statement disclosing essential facts of the case and inviting comments from all the interested parties. The post-disclosure submissions have been received from the interested parties. Majority of the issues raised in the post disclosure comments have already been raised earlier and also addressed appropriately. Additional submissions to the extent deemed relevant have been examined as under:

### **L.1 Submissions made by domestic industry**

136. The following submissions have been made by the domestic industry on the disclosure statement:
- a. Production and exports of exclusions can be examined. The domestic industry has been exporting excluded product types and reason for exclusion was not domestic industry's intent of importing the excluded types.
  - b. Related parties of domestic industry do not produce all the excluded types. This defeats the argument of other interested parties that exclusion will ensure that related parties of the domestic industry will be able to export excluded products to India.
  - c. Benefit of exclusion would accrue to all the foreign producers including domestic industry's related parties.
  - d. Domestic industry has not been disclosed complete working of NIP including Format B, D, expenses allowed/disallowed, net fixed assets considered, and capital employed details and quarterly calculation of the NIP.
  - e. Performance of the domestic industry after removing the impact of lockdown has also shown deterioration. Imports have increased in absolute and relative terms, selling price of domestic industry has declined more than decline in cost of sales and profits and ROI have declined.
  - f. Authority has found no other factors, which could have caused injury to the domestic industry.
  - g. Post POI period is also distorted. Post POI period would have been relevant if the period would have been free from distortion. Post POI period is also affected due to COVID-19 pandemic.
  - h. Authority in various sunset review investigations such as Flat Base Steel Wheels, Cold-Rolled Flat Products of Stainless Steel, Methyl Acetoacetate, Phthalic Anhydride etc. recommended extension of duties without examining the post POI period data.

- i. Authority is requested to kindly consider extension of same quantum of duty considering the likelihood of continuation of dumping and injury.
- j. Domestic industry is the sole producer and if duty is not continued, it could lead to adverse impact on the domestic industry.
- k. If the domestic industry is shut down, then users will be completely dependent of imports and no consumer industry would want to depend only on imports. Producers in the downstream industry have also supported the extension of duties.
- l. Consumers are already enjoying nil duty on imports of subject goods from Indonesia under the India ASEAN FTA. Domestic industry will be left with no protection if the duties are not extended to compete with duty-free imports from Indonesia.
- m. Domestic industry has contributed to the economy as a whole with investments, growth of the industry, employment generation, public health, safety and security.

## **L.2 Submissions made by other interested parties**

137. The following submissions have been made by the other interested parties on the disclosure statement:

- a. Authority has established in disclosure that Indonesia imports of the VSF did not have a price effect on the domestic selling price and as such, no price undercutting, price suppression, and price depression could be possibly caused by Indonesian producers.
- b. Authority's examination that 80%-100% of Indonesian VSF exports to third countries are at a dumped price is unsubstantiated. All Indonesian exporters are operating with profit orientation and at fair price.
- c. There is no relevance between estimation of capacity given in Hawkins Right and Redbook data and diversion of third country export from Indonesia to Indian market.
- d. Over the decade, user industry experienced mushroom growth of new players. The users have transformed their own businesses to produce more value-added products through innovation in business operations. They will exist in their sectors even after refusal of the Central Govt. to put ADD on VSY, but domestic industry has not shown any such broad mindedness.
- e. Domestic industry's management has made contradictory claims. It has mentioned to its investors that it is running short of regular VSF capacity to meet domestic demand whereas in the current application it claims to have sufficient capacity to meet the entire Indian demand.
- f. Authority has failed to understand that it is not the exclusion from PUC which is a matter of concern but the matter of concern is collusion of related parties of domestic industry in both the subject countries and in the Republic of Thailand. Domestic industry planned exclusion so that its related parties could export to India, without ADD.

- g. Interested parties had requested the Authority to analyze the exports from the related parties of the domestic industry with the government agencies data like DGCI&S. However, the Authority chose not to pay heed to the request and move ahead with concluding the uncorroborated claim of the domestic industry.
- h. Though Rule 2(b) provides discretion to the Authority, however Authority should examine it on the basis of facts since livelihood of many small-scale industries are at stake, which are already at a dismal condition because of the dominance of the applicant.
- i. Information required in terms of Trade Notice No.2/ 2017 dated 12.12.2017 such as surplus capacities, third country exports, export orientation etc. were not provided at the time of initiation.
- j. Authority should first segregate excess capacity data of the related entities of the domestic industry for examining excess capacity in subject countries.
- k. Imposition of duty has made spinners non-competitive.
- l. While the Authority has concluded that the capacity of the domestic industry is more than the demand, it has not given due consideration to the submission of interested parties.
- m. Domestic industry in its own admission at various places in its Annual Reports has accepted that its growth in subject goods is tremendous and unparallel.
- n. Authority should clarify the scope of the products excluded from PUC as definitions submitted by domestic industry are not industry-standard definitions.
- o. Domestic industry's definition of Modal Fibre does not conform to mathematical formula given in definition of Modal Fibre given by Bureau International pour la Standardisation des Fibres Artificielles (BISFA). Domestic industry has specified a minimum conditioned tenacity of 3.70 gpd whereas in reality it varies based on linear density of the fibre. Conditioned tenacity criterion given by domestic industry is technically incorrect and does not conform to BISFA norms.
- p. Domestic industry's definition of Nonwoven Fibre is ambiguous and not distinctive. It is not clear if the distinction sought is based on the end use application or production process for fibre. Further, 1.50 denier is restrictive as many applications require different linear density.
- q. Domestic industry's definition of Flame Retardant Fibre is narrow and limited to one type of non-woven fibre that is produced by the domestic industry. There are viscose flame-retardant fibres that are used in spinning applications and have different specifications ranging from linear density of 1.5 denier to 8.0 denier.
- r. Domestic industry's definition of Eco Fibre is based on using wood sourced from sustainably managed FSC certified non-ancient and endangered forests with low GHG emission, EUBAT compliance and full traceability from forest to fibre. Such a definition can wrongly imply that the wood sourced should be from endangered forests.
- s. Definition of Eco Fibre is: "Eco fibre is a more sustainable viscose made by using wood from sustainably managed forest or plantations and certified by internationally credible forest certifications (FSC/PEFC) with relatively lower GHG impact. The wood source cannot be from ancient and endangered forests,

- should have full traceability from forest to fibre production, and produced at a production facility which is EUBAT compliant”.
- t. Domestic industry’s definition of Spun Dyed Fibre mentions linear density of only 1.50 denier. There should be no such restriction on linear density.
  - u. Lyocell Fibre was not covered in the previous investigation and sunset review. Manufacturing process and plant for Lyocell Fibre is completely different from VSF unlike above other product exclusions for which production process and plant are similar. It is misleading to state Lyocell Fibre as a new exclusion from PUC.
  - v. AFT is an extended arm of APR and no deductions are required to be made for profit and SGA expenses for determining ex-factory export price. Dumping margin for APR should be revised accordingly.
  - w. APR is a new producer of PUC. It did not make any exports of PUC during the original investigation or during the first sunset review. The Authority has for the first time in the present sunset review assessed behaviour of APR and determined that exports made by APR to India are at non-injurious price. Hence, no anti-dumping duty should be continued on exports made by APR even if anti-dumping duty is continued on exports of PUC made from Indonesia.
  - x. There is no excess capacity with SFJ or related companies of SFJ. Capacity utilization of Sateri (China) Fibre Co. Ltd. was low in POI but stabilised in post-POI period. This is because it had just started PUC production in POI and hence, achieved production were lower than the designed annual capacity in the POI, but optimum in post-POI.
  - y. For likelihood assessment, Authority should not rely on exports to third countries. There is no information on record to show that exports to third countries would be diverted to India.
  - z. Should the Authority opt to proceed with analysis of third country exports, it should examine the exports to third countries by APR in the post-POI period. APR’s export sales had stabilized in post-POI period and reflect a more accurate export price range of its exports to third countries.
  - aa. The Authority is required to decide the jurisdictional issue in the present case before making any recommendation as the existence of jurisdiction is a *sine qua non* for the exercise of power by the Authority.
  - bb. The quantities of exports made by the related parties of the domestic industry cannot be said to be sample quantities since as per our understanding the same were in commercial quantities.
  - cc. The Authority has not shared the import data in excel format.
  - dd. The proposal of the Authority with respect to the modification of PUC is against the principles of fair play because related parties of domestic industry in subject countries have exported excluded products to India and also exclusion of these high priced grades has directly and artificially affected the dumping and injury.
  - ee. Grasim indeed has behaved differently from non-related producers, by excluding the grades of PUC imported from its related parties.

- ff. The Authority has not analysed the surplus capacities, and the export prices of the related parties of the applicant industry. It is impermissible to create a differentiation between different exporters. The said approach is also incorrect because the data relating to the related exporters of the domestic industry would have established that the prices of the other exporters are in line with the prices of the related exporter of the domestic industry. This also shows that how relationship of the domestic industry with their related parties has impacted the investigation.
- gg. There is no injury to the domestic industry. Moreover, injury margin from the Indonesian exporters is negative despite excluding value added products from the scope of the product under consideration.
- hh. Since there is no stay on the CCI judgement, it shows that there are uncontroverted findings of the competent authority that Grasim had indeed manipulated the Indian market and had been involved in anti-competitive practices. It would be travesty of justice if the Authority ignores the findings of the CCI wherein it has been categorically established that Grasim has manipulated and distorted the market. It would be unfortunate if the Authority decides to recommend continuation of anti-dumping duties and allow the sole domestic producer to perpetuate its practices which have been proved to be distortionary and anti-competitive. Any positive recommendation would not only be illegal but also against the interests of the user industry.

### **L.3 Examination by the Authority**

- 138. It is seen that most of the submissions made by the interested parties on the disclosure statement are mere reiteration of their earlier submissions. The Authority has already examined the submissions made by other interested parties at the time of issuance of the disclosure statement. The views expressed by the interested parties which are mere repetition of the submissions made before are not being reproduced again. Submissions made by interested parties on the disclosure statement that are not already examined by the Authority have been addressed herein.
- 139. With regard to the submission concerning exclusion of certain product types from the scope of the PUC at the time of initiation itself, the Authority notes that Article 11 of Anti-dumping Agreement states that an anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping, which is causing injury. This implies that it is within the powers of the Authority to restrict the scope of PUC at the time of initiation itself if the domestic industry has categorically made a request that it no longer requires extension of anti-dumping duty on certain product types. It is noted that Article 11.1 of the Anti-Dumping Agreement which sets the applicable requirement for a Review Investigation reads as under:

“An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury.”

Similarly, Rule 23 (1) of the Anti-Dumping Rules, 1995 is an umbrella provision for review investigations which puts forth an obligation on the Authority that an anti-dumping duty imposed under Section 9A of the Act, shall remain in force only for the time period and to the extent it is necessary to counteract dumping which is causing injury.

Ordinary meaning of the word extent is “point, degree, or limit” and the meaning of the term necessary is “needed to be done, achieved, or present; essential.”

Thereby Rule 23(1) provides for a limitation on the Authority while carrying out a Sunset Review Investigation under Rule 23(1B) that an extension of the duty/imposition of duty is an exceptional circumstance and this extension can only be done to the extent necessary to counteract dumping causing injury.

In consonance with the above Rules and as per the request made by applicant to exclude Modal Fibre, Non-Woven Fibre, Flame Retardant Fibre, Eco Fibre, Spun Dyed Fibre, Tencel Fibre (or Lyocel) and Outlast Viscose Fibre, the Authority has considered the request particularly when the applicant itself is not interested in extension of duty on the above product types which were earlier within the scope of the product under consideration. Therefore, by applying Article 11.1 which sets a guiding principle for review investigations and Rule 23(1), which is verbatim Article 11.1 for the Indian Review Investigations, the Authority has restricted the product scope applying the principle “to the extent necessary” as envisaged under Rule 23(1) at the stage of initiation itself preventing the futile exercise by the Authority. Had the Authority initiated the review investigation on the above said products despite the request of the domestic industry, it would have been a waste of resource and time.

140. With regard to the submission concerning intention of the domestic industry to exclude products so that its related parties could export to India without ADD, the Authority notes that no interested party has provided any evidence to demonstrate this fact. It is noted that the related parties of the domestic industry are not even engaged in production of all types of excluded products whereas the domestic industry itself is engaged in production of all the excluded products. Hence, it defies logic that demand in India for these excluded products would be met by related parties of domestic industry in subject countries and not by the domestic industry itself.
141. With regard to the submission concerning exports made by related parties of the domestic industry for the excluded products, the Authority notes as follows:
  - a. The related party of the domestic industry in China PR has not exported the excluded products to India during the injury investigation period including the POI.
  - b. The related party of the domestic industry in Indonesia has not exported the excluded products to India during 2017-18 and 2018-19. It has exported a small quantity of \*\*\*MT of excluded products to India during the POI. The quantity of

excluded products exported to India is \*\*\* % of the domestic industry's production during the POI. Such miniscule exports of excluded products by the related party of the domestic industry would not have any effect either on the standing of the domestic industry or on the injury and likelihood analysis.

142. With regard to the submission made by the domestic industry on computation of non-injurious price and disclosure thereof, Authority notes that non-injurious price has been determined in accordance with Annexure III of the Rules and the consistent practice of the Authority and the same has been disclosed to the domestic industry.
143. With regard to examination of the post POI period, Authority notes that it is not compulsorily required to examine post POI period in every sunset review investigation. In fact, Authority has not examined post POI period in a number of sunset review investigations. In the present case, the information for the injury investigation period including the POI is sufficient enough to show that there is a likelihood of continuation or recurrence of dumping and injury to the domestic industry, if the duties are allowed to expire. The Authority also notes that even the post POI period has been affected due to disruption caused by Covid-19 pandemic and therefore this period would also not have been representative.
144. With regard to the submission concerning Hawkins Right and Red Book report being unreliable, the Authority notes that it has not relied on the data provided in Hawkins Right and Red Book report for the purpose of likelihood analysis. In fact, the Authority has conducted an analysis based on the verified data provided by the participating producers/exporters from subject countries for examining likelihood of continuation/recurrence of dumping and injury in the event of revocation of duty.
145. With regard to the submission concerning exclusion of capacity data of the related entities of the domestic industry for examining excess capacity, Authority notes that it has not examined the excess capacity of the related parties of the domestic industry in its likelihood analysis and has focused on the excess capacity of other producers/exporters from subject countries.
146. With regard to the submission that the domestic industry did not provide any data in terms of Trade Notice No. 02/2017 dated 12.12.2017 regarding surplus capacities in subject countries, third country exports, export orientation etc. at the stage of initiation, Authority notes that the domestic industry had provided all the necessary information for the purpose of initiation of investigation.
147. With regard to the submission made by interested parties that Authority has no jurisdiction to conduct investigation because the notification continuing the anti-dumping duty for 5 years is illegal, Authority notes that Customs Notification No. 43/2016 dated 8<sup>th</sup> August 2016 extending anti-dumping on subject goods for 5 years pursuant to the first sunset review and Customs Notification No. 39/2021 dated 30 June

2021 extending the anti-dumping duty on subject goods till 31<sup>st</sup> October 2021 have not been declared illegal by any Court or Tribunal in India. Therefore, the Authority is well within its rights to conduct the present sunset review investigation and examine the likelihood of continuation or recurrence of dumping and injury to the domestic industry.

148. With regard to the submission that technical product description of excluded product types needs to be provided, Authority notes that only producers/exporters from subject countries have requested for clarifying the scope of excluded product types. Participating importers/users have not requested for defining the scope of excluded product types and/or have not provided any proposed definition of excluded product types. Thus, Authority notes that product types excluded from the scope of PUC are well known to importers/users and there is no further requirement to clarify the scope of excluded product types.
149. With regard to the submission made by APR that no deductions are required to be made for profit and SGA expenses of related trader of APR for determining ex-factory export price, Authority notes that it has determined the dumping margin for the co-operating parties as per the Anti-Dumping Rules and also in accordance with its consistent practice.
150. With regard to the submission that the Authority has not shared import data in the excel format, it is noted that as per the present practice of the Authority, transaction wise import data in hard copy is made available to interested parties in accordance with Trade Notice No. 07/2018 dated 15<sup>th</sup> March 2018.
151. With regard to the submission that there is no surplus capacity with participating producers/exporters in subject countries, the Authority notes that it has duly considered the submissions made by participating producers/exporters in their post disclosure comments.
152. With regard to the submission that there is no excess capacity with SFJ or related companies of SFJ in the post POI period, Authority has notes that it has duly considered the submissions made by participating producers/exporters in their post disclosure comments.
153. With regard to the submission that Grasim is involved in anti-competitive practices as established by the CCI decision, Authority notes that CCI decision has been challenged by the domestic industry before Appellate Court and the matter is sub-judice and has not yet attained any finality. Moreover, if there are any contraventions of the provisions of Competition Act, it is for the concerned authority to take appropriate action thereon. Any decision in that matter would not prejudice objective examination of the need for continuation of duty, which is based on the likelihood of continuation or recurrence of dumping and injury in the event of revocation of existing anti-dumping duty. The

Authority also notes that the period examined by CCI for determining anti-competitive behaviour of Grasim Industries Limited was up to financial year 2016-17. The injury period being examined the Authority in the present sunset review investigation is 2017-18, 2018-19, 2019-20 and 1<sup>st</sup> October 2019 to 30 September 2020.

#### **M. CONCLUSION**

154. Having regard to the contentions raised, information provided, submissions made and facts available before the Authority as recorded in these findings and on the basis of the determination of dumping and consequent injury to the domestic industry made hereinabove, the Authority concludes that:

- a. Considering the normal value and export price for subject goods, the dumping margins for the subject goods from each of the subject countries have been determined, and the margins are significant. There is a likelihood of continuation of dumping from subject countries.
- b. Considering various parameters relating to material injury, the Authority notes that the volume of dumped imports from the subject countries have declined in the POI as compared to the previous two financial years. The domestic industry has seen a decline in the production and sales during POI. However, the decline in production and sales can be attributed to the fall in demand due to Covid-19 pandemic. The imports from subject countries are not undercutting the prices of the domestic industry and price underselling is also negative. The profitability of the domestic industry has declined during the POI. However, profit earned by the domestic industry during POI are still reasonable. The landed price of imports during the POI is significantly higher than the cost of sales, selling price and NIP of the domestic industry. The domestic industry enjoys a dominant position in the Indian market and the market share of imports from subject countries is very low. Therefore, the imports cannot be said to be causing any price and volume effect on the domestic industry.
- c. From the information available on record, it is noted that there is a likelihood of continuation of dumping from subject countries. However, the likelihood of recurrence of injury to the domestic industry is not strong enough to warrant continuation of duties beyond 11 years. There are insignificant surplus capacities with the responding producers/exporters in subject countries, which can be used to increase their exports to India in event of revocation of duty.
- d. Therefore, based on objective examination of information on record, it is concluded that there is no justification for recommending continuation of anti-dumping duty in the present case.

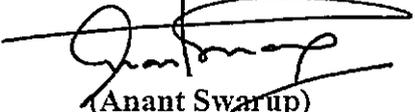
#### **N. RECOMMENDATION**

155. In view of above, the Authority considers it appropriate to recommend withdrawal of antidumping duty on import of subject goods from the subject countries recommended vide Notification No. 15/09/2015-DGAD dated 8<sup>th</sup> July 2016 and enforced vide

Customs Notification No. 43/2016-Customs (ADD) dated 8<sup>th</sup> August 2016 which was further extended vide Customs notification No 39/2021-Customs (ADD) dated 30<sup>th</sup> June 2021 till 31<sup>st</sup> October 2021.

**O. FUTRHER PROCEDURE**

156. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

  
(Anant Swarup)  
Designated Authority