

**F. No.7/14/2021-DGTR  
Government of India  
Department of Commerce  
Ministry of Commerce & Industry  
Directorate General of Trade Remedies  
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

**Dated: 1<sup>st</sup> February 2022**

**NOTIFICATION  
(Final Findings)  
(CASE No. ADD 12/2021)**

**Subject: Sunset Review of anti-dumping duty imposed on the imports of ‘Elastomeric Filament Yarn’ originating in or exported from China PR, South Korea, Taiwan and Vietnam-reg.**

1. **No. 7/14/2021-DGTR:** Having regard to the Customs Tariff Act 1975, as amended from time to time 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;
- A. **BACKGROUND OF THE CASE**
2. M/s Indorama Industries Ltd (hereinafter also referred to as the “applicant” or the “petitioner” or the “domestic industry”) has filed an application (hereinafter also referred to as the “petition”) before the Designated Authority (hereinafter also referred to as the “Authority”), in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred 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 as the Rules) for sunset review of anti-dumping investigation concerning the imports of Elastomeric Filament Yarn (hereinafter also referred as the “subject goods” or the “product under consideration”), originating in or exported from China PR, South Korea, Taiwan and Vietnam (hereinafter also referred to as the “subject countries”).
3. The applicant has alleged likelihood of continuation or recurrence of dumping of the subject goods, originating and exported from the subject countries, and consequent injury to the domestic industry in case the existing anti-dumping duty imposed on the subject goods originating in or exported from the subject countries and has requested for review and continuation of the anti-dumping duty imposed on the imports of the subject goods, originating in or exported from the subject countries.

4. Section 9A (5) of the Act, 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 the 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 the duty is likely to lead to continuation or recurrence of dumping and injury.

5. Rule 23(1B) of the Rules provides as follows:

*"...any definitive anti-dumping duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition, unless the Designated Authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry."*

6. The original investigation concerning imports of the subject goods from the subject countries was initiated by the Authority vide Notification No. 14/29/2015-DGAD dated 27.01.2016. The Final Findings Notification was issued by the Authority vide Notification No. 14/29/2015-DGAD dated 24.03.2017, recommending therein the imposition of definitive anti-dumping duty. On the basis of the recommendations made by the Authority in the Final Findings, definitive anti-dumping duty was imposed by the Central Government vide Notifications No. 15/2017-Customs (ADD) dated 03.05.2017 on the imports of the of the subject goods, originating in or exported from China PR, South Korea, Taiwan and Vietnam. The existing anti-dumping duty is valid up to 02.05.2022.

7. Based on the substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority had initiated the sunset review investigation vide Initiation Notification No. 7/14/2021-DGTR (AD-SSR No. 12/2021) dated 30.6.2021 to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry and whether there is a need for continued imposition of the antidumping duty in respect of the subject goods originating in or exported from the subject countries.

#### **B. PROCEDURE**

8. The procedure described herein below has been followed by the Authority with regard to the subject investigation:

- i. The Authority issued a public notice dated 30.06.2021, published in the Gazette of India Extraordinary, initiating sunset review of anti-dumping investigation concerning imports of the subject goods originating in or exported from the subject countries.
- ii. The Authority sent a copy of the initiation notification to the Embassies of the subject countries in India, known producers/exporters from the subject countries, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 30 days

from the receipt of the notice in accordance with Rule 6(4) of the AD Rules. The time limit to file the information was extended from time to time.

- iii. 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.
- iv. 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 to them along with the names and addresses of the known producers/exporters from the subject countries.
- v. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject countries, whose details were made available by the applicant, to elicit relevant information in accordance with Rule 6(4) of the Rules:
  - a. Hyosung TNC Corporation, Korea RP
  - b. The Lycra Company, Korea RP
  - c. Teakwang Industrial. Korea RP
  - d. T K Chemical Corporation, Korea RP
  - e. Hyosung VietNam Co. Ltd., Vietnam
  - f. Yantai, China PR
  - g. Invista, China PR
  - h. Asahi, Taiwan
- vi. The following producers/exporters from the subject countries have filed exporter's questionnaire response:
  - a. Hyosung TNC Corporation, Korea RP
  - b. T K Chemical Corporation, Korea RP
  - c. Chuanglai Fibre (Foshan) Co., Ltd., China PR
  - d. The LYCRA Company Singapore Trading Pte. Ltd., Singapore
  - e. Hyosung Dongnai Co. Ltd., Vietnam
  - f. Hyosung VietNam Co. Ltd., Vietnam
- vii. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user associations, whose names and addresses were made available to the Authority, of the subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):
  - a. Auro Spinning Mills
  - b. Aarvee Denims and Exports Ltd.
  - c. Alok Industries Ltd.
  - d. BST Textile Mills Pvt. Ltd.
  - e. Blaumann Industries Pvt. Ltd.
  - f. Bombay Rayon Fashions Ltd.
  - g. Deepak Impex Pvt. Limited
  - h. Confederation of Indian Textile Industry (C I T I)
  - i. Indian Spinners Association (I S A)

- j. Indian Woollen Mills Federation
  - k. Federation of Indian Art Silk Weaving Industry
  - l. The Southern India Mills' Association
- viii. The following importers or consumers of the subject goods have filed the importer's questionnaire response in the prescribed format:
- a. Arvind Limited
  - b. Ginni International Limited
  - c. Vardhman Textiles Limited
  - d. Raymond UCO Denim Private Limited
  - e. Best Corporation Private Limited
  - f. Bhaskar Industries Private Limited.
  - g. RSWM Limited
  - h. Sangam (India) Limited
  - i. Sri Kannapiran Mills Limited
  - j. Suryalakshmi Cotton Mills Limited
  - k. Oswal Woollen Mills Limited
- ix. Hyosung India Pvt. Ltd, the only other producer in India, has filed its submissions during the course of the investigation Vishal Fabrics Ltd., Indian Denim Manufacturing Association; Indian Taxpreneur Federation have also filed their post-hearing and other legal submissions.
- x. The exporters, foreigner producers and other interested parties who have not responded to the Authority, or not supplied complete information relevant to this investigation, are considered to be treated as non-cooperating interested parties.
- xi. The information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has decided to accept the confidentiality claims wherever warranted and such information has 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.
- xii. The interested parties were asked to share the non-confidential version of the responses, submissions and evidence presented by them with the other interested parties.
- xiii. The period of investigation (POI) for the present investigation is 1<sup>st</sup> January, 2020 to 31<sup>st</sup> December, 2020 (12 months). The injury period under investigation will, however, cover the periods 1<sup>st</sup> April, 2017 to 31<sup>st</sup> March,2018, 1<sup>st</sup> April, 2018 to 31<sup>st</sup> March, 2019, 1<sup>st</sup> April, 2019 to 31<sup>st</sup> March, 2020 and the period of investigation (POI).
- xiv. Additional/supplementary information was sought from the applicant and other interested parties to the extent deemed necessary. The verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation.

- xv. The Non-Injurious Price (NIP) has been determined 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 Rules so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xvi. The information obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) on transaction-wise import data for the past three years, and the period of investigation has been adopted for determination of volume and value of the imports of the product concerned in India.
- xvii. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all the interested parties to present their views orally in a hearing held on 10.11.2021. The oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID-19 pandemic. All the interested parties who presented their views in the oral hearing were requested to file written submissions of these views, in order to enable opposing interested parties to file rejoinders thereafter.
- xviii. A disclosure statement containing the essential facts in this investigation which would have been formed the basis of the final findings was issued to the interested parties on 18.01.2022 and the interested parties were allowed time upto 25.01.2022 to comment on the same. The comments on the disclosure statement received from the interested parties have been considered, to the extent found relevant, in this final findings notification.
- xix. The desk verification of the information provided by the applicant, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of the final findings.
- xx. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these final findings.
- xxi. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded this final finding on the basis of the facts available.
- xxii. \*\*\* in this final finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxiii. The exchange rate adopted by the Authority during the POI for the subject investigations is 1 US\$= Rs. 75.02

## **C. PRODUCT UNDER CONSIDERATION (PUC) AND LIKE ARTICLE**

### **C.1. Submissions made by the other interested parties**

9. The other interested parties have made the following submissions with regard to the product under consideration and the like article:
- i. That Lycra should be excluded from the scope of the product under consideration as the same is not being produced by the domestic industry.
  - ii. That the domestic industry itself excluded Lycra in another investigation of the same product.

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

10. The submissions made by the domestic industry with regard to the product under consideration and the like article and considered relevant by the Authority are as follows:
- i. That, the domestic industry is producing complete range of the product under consideration. Since the present investigation is a sunset review investigation, the scope of product under consideration remains the same as in the original investigation.
  - ii. In relation to exclusion of brand "Lycra" Domestic Industry has submitted that as a matter of consistent practice, the Designated Authority does not alter the scope of the Product under Consideration during the sunset review investigations. It is further submitted that the exclusion in the original investigation was provided to certain products on the basis of their physical/technical specifications, usage, substitutability etc. Any further exclusion has to pass the same yardstick and not merely on the ground that same has been excluded in some other investigation. It was further pointed that in the investigation against Singapore also, domestic industry has not requested exclusion on the ground that like article is not being produced or sold by the domestic industry.
  - iii. It is further submitted by the domestic industry that it is impermissible in law as also against the consistent approach of the Authority to alter the scope of the product under consideration in a sunset review investigation. In past, the Hon'ble Designated Authority has consistently stated that the scope of the product under consideration cannot be altered in a sunset review investigation.
  - iv. The domestic industry has relied on the recently initiated sunset review investigation for Float Glass from China for continuation of the period of duties already imposed and also initiated limited mid-term review investigation for exclusion of "Extra Clear Float Glass" from the scope of the product under consideration of Float Glass from China PR. It is further submitted that since DGTR has initiated separate mid-term review and sunset review investigation, now it is not open from the DGTR to accept request for product exclusion in current sunset review investigation.
  - v. The domestic industry has also submitted that the exporters have failed to provide full details of the "Lycra" like its physical/technical specifications, usage, substitutability etc. which according to them the domestic industry cannot produce. for our comments before taking any decision in the matter.
  - vi. That, the Designated Authority in the case of Sunset Review anti-dumping investigation concerning imports of 'Ductile Iron Pipes' originating in or exported from China PR, despite noting that the domestic industry does not manufacture a particular type of the Product under Consideration, declined to amend the product scope on the ground that the same was made in a sunset review investigation. Similarly, in the investigation concerning Polypropylene originating in or exported

from Singapore, the Authority declined to amend the product scope despite the specific submission of the domestic industry that they do not manufacture certain grade of the Product under Consideration. The decision of the Authority was based on the analysis of various factors after getting the inputs from all the interested parties. Since the Authority is consistently not modifying the scope of the product under consideration, the domestic industry request that since they are producing like article, request for exclusion of "Lycra" cannot be accepted.

- vii. None of the interested parties have provided any evidence that the technical characteristics of the product requested for exclusion cannot be produced by the domestic industry.
- viii. The domestic industry is producing a like article to the product under consideration.

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

11. The submissions made by the domestic industry and the other interested parties with regard to the product under consideration, to the extent considered relevant, were examined by the Authority and addressed accordingly.

12. The product under consideration in the Initiation Notification No. 7/14/2021 dated 30<sup>th</sup> June, 2021, and in the present sunset review investigation was defined as under:

*4. "Elastomeric Filament Yarn of all deniers up to and including 150 Deniers, excluding coloured yarns and Beam type Elastomeric yarns." These filament yarns are also commonly referred to as Spandex or Elastane. These yarns are also colloquially referred to as "Lycra" in the market even though it is a specific brand name. These are described in technical terms as segmented polyurethane composed of "soft", or flexible, segments bonded together with "hard", or rigid segments. This gives the fibre its built-in, lasting elasticity. It is an elastomeric fibre used widely as the minor component in stretch garments to provide stretch with recovery. It is to be noted that the product under consideration as defined above is the same as was in the original investigation. The applicant has used the product control numbers (PCN) issued by the Authority in the original investigation for price analysis.*

*5. The subject products are classified under Chapter Heading 54 "Man-made filaments; strips and the like of man-made textile materials". The classification at the 8-digit level is 54041100 even though the product is being classified and imported under various sub-headings like 5402, 5403 and 5404 of the Customs Tariff Act, 1975. It is also to be noted that the custom classification is indicative only and in no way binding upon the product scope of the present investigation.*

*6. The present petition being for a sunset review investigation, as per the settled jurisprudence and the past practices of the Authority, the Product under Consideration remains the same as defined in the original notification.*

13. The Authority noted that the other interested parties have submitted that "Lycra" product should be excluded from the scope of the PUC since the domestic industry had requested in another investigation for its exclusion and that the same is also technically and commercially a different product. The domestic industry, on the other hand, had submitted that they are producing the like product. It is further submitted by the domestic industry that the product scope in both the investigations is different and therefore, the same has no bearing in this investigation.

14. The Authority notes that the present investigation is a sunset review investigation and it had examined the scope of the product under consideration in the original investigation on the basis of submissions made by the responding producers and the domestic industry and other information and records available to the Authority at that time. With respect to exclusion requests of brands like Lycra, the Authority notes that in the original investigation in respect of the subject countries, the Authority had recorded at para 20 of the final findings dated 24.03.2017 that in relation to the exclusion requests of brands like Lycra from the scope of the product under consideration, the interested parties had not produce sufficient evidence to prove their claim of exclusion and that no product can be excluded based on their brand names from the scope of the product under consideration. Therefore, the Authority had noted in the original final findings that the criteria for exclusion have not been satisfied, and thus the request of the interested parties to exclude brands like Lycra from the scope of the product under consideration had been rejected.
15. The Authority had examined the counter arguments on the product under consideration on the basis of submissions made by the responding producers and the domestic industry to the Authority before issuance of the final determination in the original investigation and other information and records available to the Authority at that time and in accordance with that the Authority had noted that the subject goods, which were being imported into India, were identical to the goods produced by the domestic industry. There were no differences either in the technical specifications, functions or end-uses of the dumped imports and the domestically produced goods. The two were technically and commercially substitutable with each other. As a result, the Authority had reiterated its findings in para 20 of the original Final Findings and held that the subject goods produced by the domestic industry were like article to those imported from the subject countries.
16. The product under consideration in the original investigation as well as in the present sunset review is Elastomeric Filament Yarn of all deniers upto and including 150 Deniers, excluding coloured yarns and Beam type Elastomeric yarns. In the previous investigation, the product under consideration was defined as under. The Authority has decided to consider the same scope of the product under consideration for the present purposes:
- “Elastomeric Filament Yarn of all deniers upto and including 150 Deniers, excluding coloured yarns and Beam type Elastomeric yarns.”*
17. The Authority also notes that in the original Findings though submissions regarding exclusion of various types were made, only a few exclusions were accepted as stated in para 17 to 21 of the Findings, keeping in view the cost, price and interchangeability of the subject goods produced by the domestic industry and the PUC exported from the subject countries. Thus, the Authority has decided not to alter the PUC and its scope in the present sunset review investigation.
18. The Authority also notes that there is no known difference in product under consideration, as defined above, produced by the Indian industry and exported from the subject countries. The product under consideration produced by the Indian industry and imported from subject countries are comparable in terms of characteristics such as physical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The subject goods produced by the domestic industry are like

article to the product under consideration imported from subject countries within the scope and meaning of the Rules.

#### **D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING**

19. Rule 2 (b) of the Rules defines the 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 other interested parties**

20. The other interested parties made the following submissions in relation to the scope of the domestic industry & its standing.

- a. The other interested parties have submitted that the Authority should include other Indian producers also into the scope of the domestic industry. It is further submitted that the Authority in the recent past has considered companies who are related to exporters or have themselves imported the subject goods. Therefore, there is no reason for considering other Indian producers as ineligible domestic producer.

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

21. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & its standing are as follows:

- a. Hyosung India Private Limited (HIPL) cannot be considered as eligible domestic industry and its production cannot be considered to calculate applicant's share in Indian production as it is related to exporters from the subject countries.
- b. The application has been filed by M/s Indorama Industries Ltd. The production by the applicant constitutes a major proportion of total Indian production. It is further submitted that the applicant accounts for 100% of the total eligible production.
- c. The applicant has not imported the subject goods from the subject countries during the entire injury investigation period.
- d. The applicant is not related to the exporters in the subject countries or the importers in India.

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

22. The application has been filed by M/s Indorama Industries Ltd., who is a major producer of the product under consideration in India. There is only one more producer of product under consideration in India, namely, Hyosung India Private Limited (HIPL).

23. As per the evidence available on record, the Authority notes that the applicant commands a major proportion in the total production of the subject goods in India. The applicant is neither related to an importer in India nor any exporter from subject countries. The Authority further notes that the applicant has not imported the subject goods during the period of investigation.
24. It is seen from the information provided by the HIPL that the related exporters from the subject countries have exported substantial quantities (entirety of the exports from Vietnam are by their related companies). Therefore, the Authority has considered HIPL as a domestic producer, but not the domestic industry within the meaning of the Rule 2(b).
25. The production of the applicant accounts of 53% in the gross Indian production (including HIPL) and 100% after excluding production of HIPL.

Indian producers	UoM	2017-18	2018-19	2019-20	POI	Share
Indorama Industries Limited (Applicant)	MT	***	***	***	***	54%
Hyosung Corporation (only other producer) *	MT	-	-	***	***	46%
Total Production	MT	***	***	***	***	100%

\*Started production from October 2019

26. Considering the information on record, the applicant accounts for a major proportion of the Indian production. Accordingly, the Authority holds that the applicant constitutes domestic industry within the meaning of Rule 2(b) of the Rules. Further, the Authority considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rule. Further, the application satisfies the requirement of standing, both including the share of other producer and excluding the other producer, even though the same is not a mandated requirement in sunset review investigations.

## **E. Confidentiality**

### **E.1. Submissions made by the other interested parties**

27. The other interested parties have made the following submissions.
- i. The applicant has claimed excessive confidentiality with respect to the production and sales, sales realization in Format H, information in Format L and the likelihood of injury.
  - ii. A mere statement by the applicant that summarization is not possible cannot fulfil the legal requirement under Rule 7(2). It is required to show as to why such summarization is not possible. The justification table indicating reasons of confidentiality is not as per the requirements of the trade notice. In response to section VI, the domestic industry has not furnished any information at all.
  - iii. The domestic industry has not made available the DGCI&S data. As per Exotic Décor Pvt. Ltd. and Ors. v. Designated Authority, DGTR has to make available the import data in the same form and manner in which it was taken on record.

- iv. The Hon'ble Supreme Court in Sterlite Industries Ltd. vs Designated Authority held that Authority is required to evaluate the claims of confidentiality. Similar decision was taken by Hon'ble CESTAT in the HR Johnson case.

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

28. The following submissions have been made by the domestic industry:

- i. The response filed by the participating producers fail to comply with the requirements laid down by the Authority with regard to confidentiality. The response to most of the questions in the questionnaire have been claimed completely confidential with no meaningful summary provided.
- ii. The respondents have failed to comply with the requirements of the Trade Notice 10/2018 dated 7<sup>th</sup> September, 2018.
- iii. All the economic parameters considered by the Authority for the purpose of arriving at the determination of the injury have been provided in compliance with trade notice 10/2018 dated 7.09.2018. The interested parties should establish prejudice caused on non-disclosure of other parameters.
- iv. The importers have not provided details of the information which are inadequate for the purpose of investigation and have made blatant statements.

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

29. The submissions made by the domestic industry and the other 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 all the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. The other interested parties have claimed that the applicant has claimed excessive confidentiality with respect to the production and sales, sales realization in Format H, information in Format L and the likelihood of injury. The Authority notes that domestic industry has provided non-confidential version of all the information that is relevant for the purpose of the present investigation.
30. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to the other interested parties. All the interested parties have claimed their business-related sensitive information as confidential.

## **F. Miscellaneous submission**

### **F.1. Submissions made by the other interested parties**

31. The following miscellaneous submissions have been made by the other interested parties:

- i. There is significant demand and supply gap in India and the importers are forced to pay duties despite there being no other option to source.

- ii. The application fails to meet standards of accurate and adequate disclosure. The Initiation is erroneous and investigation should be terminated. The evidence provided in the application is inadequate for fair and accurate analysis of dumping, injury and the causal link.
- iii. Continued imposition of anti-dumping duty on the imports of the subject goods will lead to increase in the imports of the finished goods and will also adversely impact the end users who are not afforded adequate protection from the imports.
- iv. The information provided by the domestic industry is insufficient to justify initiation of the investigation. Not all evidence can justify the initiation of an investigation and the evidence presented must be of an adequate quality to constitute "sufficient evidence".
- v. There is no requirement for compulsory initiation of the sunset review and the present application fails to show any positive evidence to support the initiation and it does not meet the requirements laid down under the law.
- vi. The Authority in the recent sunset reviews has held that it is the endeavour of the Authority not to continue duty beyond a period of 10 years except in cases where it feels that the anti-dumping duty is absolutely necessary.

**F.2. Submissions made by the domestic industry**

32. The following miscellaneous submissions have been made by the domestic industry:

- i. The response of the participating associations cannot be accepted as they have not filed the information and they have failed to fulfil their obligation to be considered as interested parties in terms of Rule 2(c). It was further stated that none of the participating associations has even bothered to submit complete lists of all their members so as to enable the Authority to ascertain their status as an interested party. Since they have not followed prescribed guidelines, the domestic industry requests for rejection of their submissions.
- ii. That the interested parties have wrongly interpreted the exceptional clause as exceptional circumstance. On the contrary, the requirement under the law is that the duties are allowed to be extended beyond 5 years period if the condition of likelihood of continuation or recurrence of dumping and injury is met with.
- iii. It is submitted that the Authority may observe that none of the interested parties had filed their comments to initiation within the prescribed time provided by the Authority. Since no reasons have been given by the interested parties for not providing the comments on the petition and initiation within time, the Authority should reject all these submissions outright on this ground alone.
- iv. It is further submitted that none of the interested parties has either sought condonation of delay or the Authority has permitted any additional time. This also shows that their submissions about initiation and petition are merely a plough to delay the investigation process.
- v. The domestic industry has provided detailed justification for every information claimed confidential and it is the respondents who have not provided proper justification.
- vi. There is no information on record to show that the antidumping duty imposed earlier has had any adverse effect on the consumers. None of the users' questionnaire response will show adverse effects. The user industry has not established how it has been affected due to imposition of the anti-dumping duties. On the contrary, the domestic industry has shown that duties have negligible impact (not more than 0.05%) on the users of the subject goods.

- vii. The anti-dumping duty is not a protection to the industry, but rather a means of addressing unfair pricing to establish a level playing field. The users are free to import the subject goods at fair price from any source.

### F.3. Examination by the Authority

33. On the submission that there is a demand and supply gap in India which is the reason for increase in imports, the Authority notes that the ground for seeking extension of antidumping duty is not the import per se, but the price at which the import has been made and its effect on the domestic industry in respect of its parameters such as selling price, profits, cash profits and return on investment. The imposition of the anti-dumping duty provides a level playing field and does not prevent fair competition in the market.
34. The Authority notes that the current investigation was initiated on the basis of sufficient prima facie evidence submitted by the applicant. Therefore, the claim that the application does not satisfy the requirement of the law is not correct.
35. The interested parties have claimed that the extension of duties will have an adverse impact on the downstream industry. However, the interested parties have not provided any calculations or evidence to support the submission and show adverse impact, whereas the domestic industry has provided the detailed calculation showing the impact of the anti-dumping duties on different segments of the industry.

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

36. As per section 9A(1)(c) of the Act, the normal value in relation to an article means:

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

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

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

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

*Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable*

*price in the country of export, the normal value shall be determined with reference to its price in the country of origin.*

### **Provisions relating to Non-Market Economy Countries**

37. Annexure-I to AD rules states as under:

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

*8. (1) The term "non-market economy country" means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3)*

*(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member 16 country during the three-year period preceding the investigation is a nonmarket economy country*

*Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3)*

*(3) The designated authority shall consider in each case the following criteria as to whether:*

*(a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;*

*(b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;*

*(c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and*

*(d) the exchange rate conversions are carried out at the market rate.*

*Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”*

#### **G.1. Submissions made by the other interested parties**

38. The following submissions were made by the other interested parties with regard to the normal value, export price and the dumping margin.

- i. The domestic industry has not provided proper evidence related to the normal value, and the export price and, therefore, initiation is bad. It is further submitted that the normal value provided by the producers / exporters should be used by DGTR for computing dumping margin.
- ii. That producers have filed their complete information with the DGTR in relation to the normal value and the dumping margin. Therefore, they have requested to use their verifiable information.

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

39. The following submissions have been made by the domestic industry:

- a. The domestic industry has provided ample evidence to support their claim of the normal value and the export price in their application for the purpose of the initiation.
- b. The response of exporter from China PR, namely, Chuanglai Fibre (Foshan) Co., Ltd., cannot be accepted, as it has not filed the information related to all their entities engaged in the production and sales of the subject goods. Secondly, it has also not claimed market economy status and, therefore, its normal value should be constructed in terms of Rule 6(8) read with paragraph 7 of Annexure I of AD Rules.
- c. The domestic industry has requested rejection of TK Chemical Corporation response, as their related entity in India has not filed any information. Since DGTR is rejecting responses on non-filing of responses by unrelated parties, non-filing of response by related importer should be rejected, as this has direct implication on the dumping margin and the injury margin.
- d. It is also submitted that in case DGTR allows response filed by TK Chemical Corporation, their margins need to be recalculated as their export channels to India have changed since the original investigation.
- e. The domestic industry requests to check the export sales channel of Hyosung group and in case their response is not in order, the same is liable to be rejected as per the consistent practice of the Authority.
- f. The domestic industry has claimed the export price based on the transaction-wise DGCI&S import data. Further, the domestic industry has deducted the ocean freight, marine insurance, inland transportation, port handling and clearance charges, bank charges, commission, credit cost. Moreover, the dumping margin calculated is significant.

- g. None of the participating exporters have claimed negative dumping margin.
- h. The normal value in China can thus be determined on the basis of (a) the import price from third country into India, (b) selling price in India, and (b) cost of production in India, duly adjusted, including selling, general and administrative expenses and profit. It is also submitted that since these options for determination of the normal value are available, the Authority may not kindly consider "any other basis" because this is required to be applied only when other basis listed under the law cannot be applied.

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

40. The Authority has analyzed the normal value and the export price related issues in the following paragraphs:
41. The Authority had 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:
- i. Chuanglai Fibre (Foshan) Co., Ltd, China PR
  - ii. The LYCRA Company Singapore Trading Pte. Ltd, Singapore
  - iii. Hyosung TNC Corporation, Korea RP
  - iv. TK Chemical Corporation, Korea RP
  - v. Hyosung Dongnai Co. Ltd, Vietnam
  - vi. Hyosung VietNam Co., Ltd, Vietnam
42. The Authority notes that in the original investigation, after receiving the requests from the interested parties to allow them to file the information on the basis of the product control numbers (PCNs) in order to have fair comparison between the normal value and the export price, the Authority had issued the product control numbers (PCNs) for price analysis. Therefore, in the initiation notification of the present sunset review investigation also, it is categorically mentioned that the product under consideration is the same as was in the original investigation and that the applicant has used the product control numbers (PCN) issued by the Authority in the original investigation for price analysis. Therefore, the domestic industry and the other interested parties were to submit the PCN wise information for price analysis. The domestic industry had also attached in its petition for initiating the present investigation the PCN notice issued by the Authority in the original investigation as annexure-2. The Authority notes that the domestic industry as well as all the participating exporters in the present sunset review investigation, except Chuanglai Fibre (Foshan) Co., Ltd., the producer of the subject goods in China and its related exporter/trader The LYCRA Company Singapore Trading Pte. Ltd, Singapore, have filed the information as per PCNs adopted by the Authority in the original investigation. Since Chuanglai Fibre (Foshan) Co., Ltd. and its related exporter/trader The LYCRA Company Singapore Trading Pte. Ltd, Singapore have failed to submit the PCN wise information, the Authority cannot carry out the individual PCN wise dumping and injury analysis. The Authority, therefore, has decided not to accept their incomplete responses.

### **G.4. Normal Value and Export Price for China**

43. **Market Economy Status for Chinese producers**

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 may not always be available as appropriate benchmark. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

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

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria 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."

44. 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 requires 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 the responding producer and exporter from China PR have not submitted the supplementary questionnaire on market economy

conditions. Therefore, the Authority cannot grant market economy status to the participating Chinese producer/exporter.

#### **Normal Value for all producers in China PR**

45. Since the Authority has decided not to accept the incomplete responses of Chuanglai Fibre (Foshan) Co., Ltd., the producer of the subject goods in China and its related exporter/trader The LYCRA Company Singapore Trading Pte. Ltd, Singapore, the Authority has constructed the normal value for all producers in China PR in accordance with para 7 of Annexure I of the Rules. 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 country, 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. Thus, the Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Annexure 7.
46. The Authority notes that since the product under consideration in the present investigation is coming in different PCNs and the analysis of the Authority is also made PCN-wise, consolidated information provided by exporters from China PR or available in public domain is therefore, not relied upon for the purpose of the constructed normal value. It is further submitted that in terms of Para 7 neither the domestic industry proposed any surrogate country nor exporters from China PR suggested any surrogate country. In addition to above, it is also noted that the prices or constructed value of the subject goods in an appropriate market economy third country or the PCN wise prices from such third country to other countries, including India, have neither been made available by the applicant nor by any interested parties first two options available in Para 7 cannot be adopted by the Authority. As mentioned above, PCN wise information is also not available from any public source, therefore, Authority cannot resort to any other method except, the only option available is to determine the normal value considering the price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin (i.e., constructed normal value). The normal value so determined is given in the Dumping Margin Table below.

#### **Export Price for all producers in China PR**

47. Since the Authority has decided not to accept the incomplete responses of Chuanglai Fibre (Foshan) Co., Ltd., the producer of the subject goods in China PR and its related exporter/trader The LYCRA Company Singapore Trading Pte. Ltd, Singapore, the Authority has determined the export price for all the producers/exporters of the subject goods from China PR based on the facts available in terms of the Rules.

#### **G.5 Normal Value and Export Price for South Korea**

##### **i. Hyosung TNC Corporation, Korea RP**

##### **Normal Value**

48. During the POI, Hyosung TNC Corporation, who is a producer of the subject goods in South Korea, has sold \*\*\* MT of the subject goods for \*\*\* US\$ in the domestic market. The domestic sales are in sufficient volumes when compared with the exports to India. To

determine the normal value, the Authority conducted the ordinary course of trade test to determine the profit-making domestic sales transactions with reference to the cost of production of the subject goods. The Authority noted that if the profit-making transactions are more than 80%, all the transactions in the domestic sales are to be considered for the determination of the normal value and in case the profit-making transactions are less than 80%, only the profitable domestic sales are to be taken into consideration for determining the normal value. With regard to Hyosung TNC Corporation, Korea RP, since the profit-making sales are less than 80%, the Authority has considered only the profitable sales to determine the normal value. Hyosung TNC Corporation has claimed adjustment on account of inland transportation, insurance, credit cost and bank charges, which have been allowed. The Authority has cross checked the data to the extent necessary and accepted the same. Accordingly, the normal value at ex-factory level for Hyosung TNC Corporation has been determined and the same is shown in the Dumping Margin Table below.

#### **Export Price**

49. Hyosung TNC Corporation, the producer and exporter of the subject goods in South Korea, has filed questionnaire response. During the POI, Hyosung TNC Corporation has exported \*\*\* MT of the subject goods for \*\*\* US\$ to India directly. Hyosung TNC Corporation has claimed adjustment on accounts of ocean freight, insurance, port and other related expenses, credit cost, bank charges, port charges, air freight and brokerage and the same have been allowed by the Authority. Accordingly, the ex-factory export price has been determined and the same is shown in the Dumping Margin Table below.

#### **ii. TK Chemical Corporation (TKC)**

##### **Normal Value**

50. During the POI, TK Chemical Corporation, who is a producer of the subject goods in South Korea, has sold \*\*\* MT of the subject goods for invoice value of \*\*\* KRW in the domestic market to unrelated parties. The domestic sales are in sufficient volumes when compared with the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine the profit-making domestic sales transactions with reference to the cost of production of the subject goods. If profit making transactions are more than 80% of the total sales, then all the transactions in the domestic sales are considered for the determination of the normal value and in case the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of the normal value. In the present case, since the profit-making sales are above 80%, all the domestic sales have been considered to determine the normal value. TK Chemical Corporation, Korea RP has claimed adjustment on account of inland freight, packing expenses and credit cost and the same have been allowed by the Authority. Accordingly, the normal value at ex-factory level for TK Chemical Corporation, Korea RP has been determined and the same is shown in the Dumping Margin Table below.

##### **Export Price**

51. TK Chemical Corporation, who is a producer and exporter of the subject goods in South Korea, has filed questionnaire response. During the POI, TKC has exported \*\*\* MT of the subject goods for \*\*\* US\$ to India directly. It is also noted that TK Chemical Corporation has a 100% subsidiary in India, namely, SM TKC India Pvt. Ltd. SM TKC India Pvt. Ltd. is performing only the liaison services on behalf of the parent company and is not involved in

either the imports or sale of the subject goods in India. It has, therefore, claimed India branch expenses for this service only. TK Chemical Corporation, Korea RP has claimed adjustment on account of ocean freight, packing expenses, port handling charge, inland transportation, marine insurance, credit cost, brokerage charges, bank charge, commission, India branch expense and duty drawback and the same have been allowed by the Authority. Accordingly, the export price at ex-factory level for TK Chemical Corporation, Korea RP has been determined and the same is shown in the Dumping Margin Table below.

**iii. Other Producers normal value and export price**

52. The normal value and the export price for all other non-cooperating producers and exporters from South Korea is determined as per the facts available considering the data provided by the cooperating producer and the same are mentioned in the Dumping Margin Table below.

**G.6 Normal Value and Export Price for Vietnam**

**iv. Hyosung Dongnai Co. Ltd., Vietnam**

**Normal Value**

53. During the POI, Hyosung Dongnai Co., Ltd., who is a producer of the subject goods in Vietnam, has sold \*\*\* MT of the subject goods for \*\*\* US\$ in the domestic market to related and unrelated parties. Out of this, Hyosung Dongnai Co., Ltd has sold \*\*\* MT of the subject goods through its related company, namely, Hyosung International (HK) Ltd, Hong Kong, which has not filed a separate response but has provided the sales, profitability information with response of Hyosung Dongnai Co., Ltd. Since the domestic sales by Hyosung International (HK) Ltd, Hong Kong, are only to the extent of \*\*\*% of the total domestic sales by Hyosung Dongnai Co., Ltd, the Authority is of the view that it does not affect the domestic price of the producer. The domestic sales made by Hyosung Dongnai Co., Ltd are in sufficient volume when compared with the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine the profit-making domestic sales transactions with reference to the cost of production of the subject goods. The Authority noted that if profit making transactions are more than 80%, all transactions in the domestic sales are being considered for the determination of the normal value and in case the profit-making transactions are less than 80%, only the profitable domestic sales are being taken into consideration for the determination of the normal value. With regard to Hyosung Dongnai Co., Ltd., since the profit-making sales are below 80%, the Authority has considered only the profit-making sales to determine the normal value. Hyosung Dongnai Co., Ltd. has claimed adjustment on account of inland freight, brokerage, insurance, credit cost, packing expense and bank charges which have been allowed. The Authority has cross checked the data to the extend necessary and accepted the same. Accordingly, the normal value for Hyosung Dongnai has been determined and the same is shown in the Dumping Margin Table below.

**Export Price**

54. Hyosung Dongnai Co., Ltd., who is a producer and exporter of the subject goods in Vietnam, has filed questionnaire response. During the POI, Hyosung Dongnai Co., Ltd., has exported \*\*\* MT of the subject goods for \*\*\* US\$ to India. Out of the exports to India, \*\*\* MT was manufactured by Hyosung Dongnai Co., Ltd. and \*\*\* MT was manufactured by related company, namely, Hyosung VietNam Co., Ltd., Vietnam. The exports to India are made

either directly or through Hyosung VietNam Co., Ltd, Vietnam. The export through Hyosung VietNam Co., Ltd., Vietnam is \*\*\* MT. Hyosung Dongnai Co., Ltd., has claimed the adjustment on accounts of ocean freight, insurance, inland freight, port and other related expenses, credit cost, bank charges, commission, service fee, packing expenses and the same have been allowed by the Authority. Accordingly, the ex-factory export price has been determined and the same is shown in the Dumping Margin Table below.

v. **Hyosung VietNam Co. Ltd., Vietnam**

**Normal Value**

55. During the POI, Hyosung VietNam Co., Ltd., who is a producer of the subject goods in Vietnam, has sold \*\*\* MT of the subject goods for \*\*\* US\$ in the domestic market to related and unrelated parties. Out of the total domestic sales, Hyosung Vietnam Co., Ltd has sold \*\*\* MT of the subject goods through its related company, namely, Hyosung International (HK) Ltd, Hong Kong, which has not filed a separate response but has provided the sales, profitability information with response of Hyosung VietNam Co. Ltd. Since the domestic sales by Hyosung International (HK) Ltd, Hong Kong, are only to the extent of \*\*\*% of the total domestic sales by Hyosung VietNam Co., Ltd, the Authority is of the view that it does not affect the domestic price of the producer. The domestic sales made by Hyosung VietNam Co., Ltd are in sufficient volume when compared with the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine the profit-making domestic sales transactions with reference to the cost of production of the subject goods. The Authority noted that if profit making transactions are more than 80%, all transactions in the domestic sales are being considered for the determination of the normal value and in case the profit-making transactions are less than 80%, only the profitable domestic sales are being taken into consideration for the determination of the normal value. With regard to Hyosung VietNam Co., Ltd., since the profit-making sales are below 80%, the Authority has considered only the profit-making sales to determine the normal value. Hyosung VietNam Co., Ltd. has claimed adjustment on account of inland freight, brokerage, insurance, credit cost, packing expense and bank charges which have been allowed. The Authority has cross checked the data to the extend necessary and accepted the same. Accordingly, the normal value for Hyosung VietNam has been determined and the same is shown in the Dumping Margin Table below.

**Export Price**

56. Hyosung VietNam Co., Ltd., who is a producer and exporter of the subject goods in Vietnam, has filed questionnaire response. During the POI, Hyosung VietNam Co., Ltd., has exported \*\*\* MT of the subject goods for \*\*\* US\$ to India. Out of the exports to India, \*\*\* MT was manufactured by Hyosung VietNam Co., Ltd. and \*\*\* MT was manufactured by related company namely, Hyosung Dongnai Co., Ltd., Vietnam. The exports to India are made either directly or through Hyosung Dongnai Co., Ltd, Vietnam. The export through Hyosung Dongnai Co., Ltd., Vietnam is \*\*\* MT. Hyosung VietNam Co., Ltd., has claimed the adjustment on accounts of ocean freight, insurance, inland freight, port and other related expenses, credit cost, bank charges, commission, service fee, packing expenses and the same have been allowed by the Authority. Accordingly, the ex-factory export price has been determined and the same is shown in the Dumping Margin Table below.

vi. **Other Producers**

57. The normal value and the export price for all other non-cooperating producers and exporters of Vietnam is determined as per the facts available considering the data provided by the cooperating producer and is same is mentioned in the Dumping Margin Table below.

**G.7 Normal Value and Export Price for Taiwan**

58. Since none of the producers / exporters from Taiwan has participated in the investigation, the Authority has determined the normal value and the export price for all the producers/exporters of the subject goods from Taiwan based on the facts available in terms of the Rules.

59. The normal value, the ex-factory export price and the dumping margin determined in the present investigation for the subject countries are as follows:

**Dumping Margin Table**

Country	Producer / Exporter	Normal Value (USD/MT)	Export Price (USD/MT)	Dumping Margin (USD/MT)	Dumping Margin (%)	Range
China PR	Any producer	***	***	***	***	(50)-(60)
Korea RP	Hyosung TNC Corporation, Korea RP	***	***	***	***	0-10
Korea RP	TK Chemical Corporation, Korea RP	***	***	***	***	0-10
Korea RP	Any other producer	***	***	***	***	50-60
Vietnam	Hyosung VietNam Co. Ltd., Vietnam & Hyosung Dongnai Co. Ltd., Vietnam	***	***	***	***	10-20
Vietnam	Any other producer	***	***	***	***	20-30
Taiwan	Any producer	-	-	-	-	-

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

60. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve 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 prevent price increases, which otherwise would have occurred, to a significant degree.
61. Rule 23 of the Rules provides that the provisions of Rule 6,7,8,9,10,11,16,18, 19 and 20 shall apply mutatis mutandis in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and has also examined as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

### **H.1. Submissions made by the other interested parties**

62. The following submissions have been made by the other interested parties with regard to the injury suffered by the domestic industry and the causal link.
- i. The imports from Korea RP have not caused injury as the imports of the subject goods from Korea have declined. Further, any injury to the domestic industry during the POI is only because of COVID-19 and not because of the imports from South Korea.
  - ii. It is also submitted by the Korean association that continued duties against China PR and Taiwan are important to protect the investment in India.
  - iii. The domestic industry has not suffered any injury from the imports from the subject countries. The domestic industry has failed to demonstrate that they are suffering injury either in price or in volume.
  - iv. The capacity of the domestic industry increased during the injury investigation period. This shows that they are doing well.
  - v. The profits of the domestic industry show an improvement due to higher increase in the selling price than the increase in the cost of sales.

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

63. The submissions of the domestic industry with regard to injury and causal link are as under:
- a. Due to existence of the anti-dumping duties, the exporters from China PR and Taiwan are not able to export the subject goods to India. Moreover, lower quantum of imports from these two countries proves beyond doubt that exporters from these countries cannot compete with domestic players at fair price.

- b. The domestic industry is not recovering its full cost despite its best efforts. The low-priced imports from the subject countries have created significant price pressure on the domestic industry. It is further submitted by the domestic industry that the exporters are giving post sales discount.
- c. The domestic industry has submitted that since causal link has already been established in the original investigation, the Authority is required to examine whether cessation of the anti-dumping duty would lead to continuance or recurrence of dumping and injury.
- d. There is positive price undercutting from the subject countries as a whole. This shows that the domestic industry is still under price pressure.
- e. It is also submitted that since the quantity exported from China PR is very negligible, their prices should not be considered for any analytical purposes as the same are not reflective of true market prices.
- f. It is also submitted that the existing anti-dumping duty helped the domestic industry to reduce its losses. However, the recovery process could not be attained due to low-priced dumped imports from the subject countries. In view thereof, the continuation of duties is very critical to the applicant and other producers of the subject goods.
- g. There is significant difference between the cost of sales and the selling price, which could not be filled due to aggressive pricing by the exporters of the subject goods from the subject countries. This has resulted in losses and negative return on the capital.
- h. This situation clearly depicts the price pressure on the domestic industry wherein if they do not produce the subject goods, their fixed costs will increase substantially and their losses would also increase.

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

- 64. The Authority has taken note of the submissions made by the domestic industry and the other interested parties. Annexure-II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on the prices in the domestic market for the like articles; and (b) the consequent impact on the domestic producers of such products.
- 65. According to Section 9(A)(5) of the Customs Tariff Act, 1975, the anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time-to-time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of the order of such extension.
- 66. In consideration of the various submissions made by the domestic industry and the other 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 on account of the imports from the subject countries.

67. The Authority notes that it is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority consider all injury parameters and, thereafter, concludes whether injury to the domestic industry continues, or will recur in case the antidumping duty is ceased. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and the other interested parties.
68. The Authority has taken note of the various submissions made by the domestic industry and the other interested parties on injury and causal link and analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority in the succeeding preceding paras ipso facto addresses submissions made by the domestic industry and the other interested parties.

### **H.3.1. Volume Effect of dumped imports and impact on the domestic industry**

#### **i. Assessment of Demand/ Apparent Consumption**

69. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied upon the import data procured from the DGCI&S. The demand has been determined as the sum of the domestic sales of all the domestic producers and the imports from all the countries. The apparent demand/consumption of the subject goods shows a positive trend throughout the injury period as can be seen from the table below:

<b>Particulars</b>	<b>UoM</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>POI</b>
Domestic Industry sales	MT	***	***	***	***
Trend	Indexed	100	117	139	111
Sales of Other Domestic Producers	MT	***	***	***	***
Trend	Indexed			100	138
Total Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	117	220	223
Imports from Subject Countries	MT	14547	15559	13820	2982
Imports from China	MT	233	69	13	36
Imports from South Korea	MT	3349	2699	3023	2256
Imports from Taiwan	MT	38	85	-	-
Imports from Vietnam	MT	10928	12707	10784	690
Imports from Other Countries	MT	2702	2094	2209	1275
Total Imports	MT	17248	17653	16029	4257
Total Demand	MT	***	***	***	***
Trend	Indexed	100	106	121	69
Market share of Domestic sales in Demand	%	***	***	***	***

Particulars	UoM	2017-18	2018-19	2019-20	POI
Trend	Indexed	100	114	182	327
% Share of Import from Subject Countries in Demand	%	***	***	***	***
Trend	Indexed	100	100	77	30

70. The demand of the subject goods has increased from \*\*\* MT in the base year to \*\*\* MT in the 2019-20. The domestic industry submitted that that due to Covid-19 pandemic, the demand declined in the POI but this is a short phenomenon, which is over. The domestic industry has further submitted that the imposition of the anti-dumping duties helped the applicant to increase its market share, but still the market share of imports from subject countries is very high.

### **H.3.2. Price effect of the imports on the domestic industry**

#### **i. Price Undercutting**

71. Price undercutting has been worked out by comparing the landed price of the imports with the domestic industry's net sales realization. The domestic industry has also analyzed the PCN-wise undercutting which shows that the domestic industry is forced to match the PCN-wise landed value from each of the subject countries in order to retain its customers and market share. From the analysis, it would be seen that the price undercutting from the subject countries as a whole is positive in the POI. In previous years also the difference between the landed value and the net sales realization is very minimal, which shows that the domestic industry was under pressure to match the prices of the exporters. The details of price undercutting are as below:

	UoM	2017-18	2018-19	2019-20	POI
<b>China PR</b>					
Landed value from China PR	Rs/MT	347011	366742	379475	834172
Trend	Indexed	100	106	109	240
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Price Undercutting	Rs/MT	***	***	***	***
Trend	Indexed	-100	-479	-976	-12672
Price Undercutting	%	***	***	***	***
Trend	Indexed	-100	-453	-892	-5271
Price Undercutting	Range	(5) - 5	(5) - 5	(10) - 0	(60) - (50)

	UoM	2017-18	2018-19	2019-20	POI
<b>Vietnam</b>					
Landed value from Vietnam	Rs/MT	353602	373351	347555	326282
Trend	Indexed	100	106	98	92
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Price Undercutting	Rs/MT	***	***	***	***
Trend	Indexed	-100	-236	-39	406
Price Undercutting	%	***	***	***	***
Trend	Indexed	-100	-223	-40	440
Price Undercutting	Range	(5) - 5	(10) - 0	(5) - 5	10-20
<b>South Korea</b>					
Landed value from Korea RP	Rs/MT	368186	404665	366473	371238
Trend	Indexed	100	110	100	101
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Price Undercutting	Rs/MT	***	***	***	***
Trend	Indexed	-100	-223	-92	-13
Price Undercutting	%	***	***	***	***
Trend	Indexed	-100	-203	-93	-13
Price Undercutting	Range	(10) - 0	(20) - (10)	(10) - 0	(20) - (10)
<b>Subject countries as a whole</b>					
Landed value from Subject Countries	Rs/MT	356463	377515	351724	366430
Trend	Indexed	100	106	99	103
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Price Undercutting	Rs/MT	***	***	***	***
Trend	Indexed	-100	-216	-62	11

	UoM	2017-18	2018-19	2019-20	POI
Price Undercutting	%	***	***	***	***
Trend	Indexed	-100	-204	-63	11
Price Undercutting	Range	(5) - 5	(10) - 0	(5) - 5	0-10

72. A detailed analysis was carried out PCN-wise and the Authority notes that the domestic industry has suffered price undercutting in respect of some of the deniers from some of the subject countries in various combinations. This further proves that only because of existing anti-dumping duties, the imports have declined and the domestic industry is able to get current realization which is still below the cost. The domestic industry firmly believes that if duties are not extended, the imports from the subject countries, especially from China and Taiwan will again increase multifold.

73. The Authority has also observed that different PCNs have been exported by the exporters from different subject countries and therefore, consolidated data is not reflective of the correct price pressure on the Domestic Industry. The Authority has therefore, carried out detailed PCN-wise analysis. It is further observed from the consolidated data that the prices of the Domestic Industry are in the range of (+/-) 5% of the landed value from subject countries. This further proves the credence of the submissions of the Domestic Industry that they have to match PCN-wise imports from subject countries. The PCN-wise analysis for the POI is tabulated below:

<b>China PR/PCN</b>	UoM	C015025	C025035	C035045	C065075	Other
<b>Particulars</b>	MT	17	17	0	0	1
Import Volume	Rs.	144	133	1	1	6
	Lacs					
Imports value (CIF)	Rs. /MT	829,561	767,169	570,621	569,703	579,487
CIF Price	%	5%	5%	5%	5%	5%
Customs Duty (Rate)	Rs.	41,478	38,358	28,531	28,485	28,974
	/MT					
Customs Duty	Rs. /MT	4,148	3,836	2,853	2,849	2,897
Cess on custom duty amount	Rs. /MT	875,187	809,364	602,005	601,037	611,359
Landed price of imports	Rs. /MT	426,104	375,675	340,674	349,261	426,104
Domestic Selling Price	Rs. /MT	***	***	***	***	***
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	(45)-(35)	(60) - (50)	(40) - (30)	(45) - (35)	(35) - (25)

<b>South Korea</b>	UoM	C015025	C025035	C035045	C055065	C065075	Others
Import Volume	MT	818	143	573	18	630	74

<b>South Korea</b>	UoM	C015025	C025035	C035045	C055065	C065075	Others
Imports value (CIF)	Rs. Lacs	3,024	553	1,914	61	2,134	253
CIF Price	Rs./MT	369,596	386,485	334,270	333,641	338,925	340,260
Customs Duty (Rate)	%	5%	5%	5%	5%	5%	5%
Customs Duty	Rs./MT	18,480	19,324	16,713	16,682	16,946	17,013
Cess on custom duty amount	Rs./MT	1,848	1,932	1,671	1,668	1,695	1,701
Landed price of imports	Rs./MT	389,924	407,741	352,655	351,992	357,566	358,975
Domestic Selling Price	Rs./MT	***	***	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***	***	***
Price undercutting	%	***	***	***	***	***	***
Price undercutting	Rs./MT	5-15	(10) - 0	(10) - 0	(5) - 0	(10) - 0	15-25

<b>Vietnam</b>	UoM	C000015	C015025	C035045	C055065	C065075	C075085	C105115	C135150
Import Volume	MT	4	139	253	53	198	14	12	18
Imports value (CIF)	Rs. Lacs	14	538	765	155	634	39	43	63
CIF Price	Rs./MT	355,985	387,424	303,000	293,004	319,451	288,604	355,985	356,480
Customs Duty (Rate)	%	0	0	0	0	0	0	0	0
Customs Duty	Rs./MT	0	0	0	0	0	0	0	0
Cess on custom duty amount	Rs./MT	0	0	0	0	0	0	0	0
Landed price of imports	Rs./MT	355,985	387,424	303,000	293,004	319,451	288,604	355,985	356,480
Domestic Selling Price	Rs./MT	***	***	***	***	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***	***	***	***	***

Vietnam	UoM	C000015	C015025	C035045	C055065	C065075	C075085	C105115	C135150
Price undercutting	%	***	***	***	***	***	***	***	***
Price undercutting	Rs./MT	15-25	5-15	5-15	10-20	5-15	5-15	0-10	0-10

Subject countries as a whole	UoM	C000015	C015025	C025035	C035045	C055065	C065075	C075085	C105115	C135150	Others
Import Volume	MT	4	975	160	825	71	828	14	12	18	75
Imports value (CIF)	Rs. Lacs	14	3,706	686	2,680	215	2,769	39	43	63	259
CIF Price	Rs./MT	355,985	380,343	427,747	324,741	303,407	334,288	288,604	355,985	356,480	343,457
Customs Duty (Rate)	%	0.00%	4.27%	5.00%	3.57%	1.41%	3.86%	0.00%	0.00%	0.00%	5.00%
Customs Duty	Rs./MT	-	16,258	21,387	11,600	4,271	12,888	-	-	-	17,173
Cess on BCD amount	Rs./MT	-	1,626	2,139	1,160	427	1,289	-	-	-	1,717
Landed price of imports	Rs./MT	355,985	398,227	451,273	337,502	308,105	348,464	288,604	355,985	356,480	362,348
Domestic Selling Price	Rs./MT	***	***	***	***	***	***	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***	***	***	***	***	***	***
Price undercutting	%	***	***	***	***	***	***	***	***	***	***
Price undercutting	Rs./MT	15-25	0-10	(20)-(10)	0-10	5-15	0-10	15-25	0-10	0-10	15-25

74. From the above, PCN-wise detailed analysis, the Authority notes that the Domestic Industry has suffered price undercutting against some of the deniers from some of the subject countries in various combinations. The Domestic Industry has claimed that they could not increase its selling price due to price pressure of low-priced dumped imports from the subject countries.

**ii. Price suppression/depression**

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

<b>Particulars</b>	<b>UoM</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>POI</b>
<b>Landed value from Subject Countries</b>	Rs/MT	356,463	377,515	351,724	366,430
Trend	Indexed	100	106	99	103
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Cost	Rs/MT	***	***	***	***
Trend	Indexed	100	96	86	92
<b>China PR</b>					
Landed value from China PR	Rs/MT	347,011	366,742	379,475	834,172
Trend	Indexed	100	106	109	240
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Cost	Rs/MT	***	***	***	***
Trend	Indexed	100	96	86	92
<b>Vietnam</b>	<b>UoM</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>POI</b>
Landed value from Vietnam	Rs/MT	353,602	373,351	347,555	326,282
Trend	Indexed	100	106	98	92
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Cost	Rs/MT	***	***	***	***
Trend	Indexed	100	96	86	92
<b>South Korea</b>	<b>UoM</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>POI</b>
Landed value from Korea RP	Rs/MT	368,186	404,665	366,473	371,238
Trend	Indexed	100	110	100	101
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Cost	Rs/MT	***	***	***	***
Trend	Indexed	100	96	86	92

76. It is seen that the selling price of the domestic industry and landed price of the imports increased till 2018-19. The quantum of increase in landed price of imports was higher than the selling price of the domestic industry. The prices declined during 2019-20. However, in the POI, the cost of sales and the selling price of the domestic industry increased more than the increase in the landed price of the imports. The fact that the domestic industry is still selling in losses, makes it amply clear that the domestic industry is keeping its prices in accordance with the import price to sell their goods in the market and in that sense the imports from the subject countries have depressed the prices of the domestic industry in the POI.

77. From the above Table, it is clear that due to the low-priced landed value of imports from subject countries, the domestic selling is forced to match their prices in order to retain their customers. Since selling price of the Domestic Industry is lower as compared to the cost of the Domestic Industry, it shows adverse price pressure as they are not able to increase their

sales price. This clearly proves that the prices of the Domestic Industry are suppressed and depressed.

### H.3.3. Impact on economic parameters of the domestic industry

78. 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 the 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 the 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, the various injury parameters relating to the domestic industry are discussed herein below.

#### i. Capacity, production, sales & capacity utilization

79. The performance of the domestic industry with regard to the production, the domestic sales, the capacity and the capacity utilization is as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	157	157	157
Production – Total	MT	***	***	***	***
Trend	Indexed	100	113	128	96
Production – PUC	MT	***	***	***	***
Trend	Indexed	100	113	126	92
Capacity utilization based on Total production	%	***	***	***	***
Trend	Indexed	100	72	82	61
Domestic sales	MT	***	***	***	***
Trend	Indexed	100	117	139	111

80. The capacity of the domestic industry has increased in the POI as compared to the base year. The Authority notes the submission of the domestic industry that it continued to produce at a high level of capacity in order to reduce its fixed cost which is approximately 30% of the total cost of sales of the subject goods. This approach allowed the company to remain afloat despite lower prices from the subject countries. The difference between the cost of sales and the selling price could not be bridged due to aggressive pricing by the exporters of the subject goods from the subject countries. The production and the sales of the company declined in the POI due to Covid-19 pandemic. It is further notices that imports also followed the same trend of demand.

81. The applicant has claimed capacity as reported by the management and as reflected in the cost audit report. However, the Authority has considered the capacity as reported in the Pollution Control Board Certificate submitted by the applicant.
82. With regard to the utilization of capacity in this investigation, the Authority notes that the issue as to what capacity of the applicant is to be considered for the PUC was also discussed at length in another anti-dumping investigation conducted by the Authority involving the same applicant and the same PUC. That anti-dumping investigation was concerning the import of "Elastomeric Filament Yarn" originating in or exported from Singapore. In that investigation, the final findings notification was issued on 28<sup>th</sup> September, 2021. In that investigation, the domestic industry had argued on the modification of the capacity, production, regrouping/disallowance of certain expenses while computing the NIP and the Authority had noted that each element of the cost in the NIP along-with the capacity considered for optimization was disclosed to the applicant domestic industry vide email dated 27<sup>th</sup> August, 2021. As regards the capacity, the domestic industry had provided the certificate dated 11.10.2018 of the installed capacity issued by the Department of Industries, Government of Himachal Pradesh and approval of the Board of Directors of the domestic industry dated 05.09.2016. On the website of Indorama Industries (<https://www.indorama.com/affiliated-companies/indorama-industries-limited>) also, the installed capacity of \*\*\* MT was mentioned. Therefore, the capacity of \*\*\* MT per annum was considered in the NIP workings. However, the domestic industry had submitted that the Authority need not consider these aforesaid documents as its increased installed capacity is based on different assumption and its real installed capacity is different. The domestic industry had also submitted subsequent Board resolution dated 10<sup>th</sup> August, 2021, which stated the achievable and the practical capacity of \*\*\*MT. The domestic industry was requested several times to provide supporting documents like internal project report, capacity evidence submitted to any other authority, 3<sup>rd</sup> party project report submitted to any bank, technical evidence for different assumptions and other documents to substantiate its claim. However, the domestic industry could not provide any evidence. Accordingly, the capacities mentioned in the certificate issued by the Department of Industries (Government of Himachal Pradesh) and also supported by the domestic industry's own Board of Directors approval was considered for working out the NIP on the basis of the best available facts and in terms of Rule 6(8) of the ADD Rules.
83. Therefore, in the present sunset review investigation also, the capacity of \*\*\* MT per annum has been considered in the NIP working.

**ii. Market share**

84. The market share of the alleged dumped imports and the domestic industry have been examined as below:

Market Share	UoM	2017-18	2018-19	2019-20	POI
Total Demand	MT	***	***	***	***
Trend	Indexed	100	106	121	69
Domestic Sales	%	***	***	***	***
Trend	Indexed	100	114	182	327
Subject Countries	%	***	***	***	***
Trend	Indexed	100	100	77	30

Market Share	UoM	2017-18	2018-19	2019-20	POI
Other countries	%	***	***	***	***
Trend	Indexed	100	75	67	67

85. It is noted from the above that the demand / apparent consumption for the product under consideration has increased till 2019-20. However, the same declined in the POI. The market share of the domestic industry increased in the POI as imports were restricted due to covid pandemic. The domestic industry claims that only due to low priced imports, the imported goods are preferred over their goods.

### iii. Inventories

86. The inventory with the domestic industry has been examined as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Average inventory	MT	***	***	***	***
Trend	Indexed	100	72	103	71

87. It is seen that the average inventory level of the domestic industry has shown increasing trend till 2019-20. However, during the POI the inventory declined.

### iv. Profits, Return on Investment and Cash Profit

88. The performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed:

Particulars	UoM	2017-18	2018-19	2019-20	POI
Sales	MT	***	***	***	***
Trend	Indexed	100	117	139	111
Sales value (Rs. Lacs)	Rs. Lacs	***	***	***	***
Trend	Indexed	100	119	139	119
Selling price	Rs. /MT	***	***	***	***
Trend	Indexed	100	102	100	107
Landed Value without ADD	Rs. /MT	356,463	377,515	351,724	366,430
Indexed	Indexed	100	106	98	99
Anti-dumping duty (average)	Rs. /MT	21,456	22,655	21,488	12,771
Landed Value with ADD	Rs. /MT	377,919	400,170	373,212	379,202
Cost	Rs. Lacs	***	***	***	***
Trend	Indexed	100	113	119	103
Cost	Rs. /MT	***	***	***	***
Trend	Indexed	100	96	86	92
Profit/loss	Rs. Lacs	***	***	***	***
Trend	Indexed	(100)	(77)	(11)	(12)

Particulars	UoM	2017-18	2018-19	2019-20	POI
Profit/loss per unit	Rs. /MT	***	***	***	***
Trend	Indexed	(100)	(66)	(8)	(11)
Depreciation	Rs. Lacs	***	***	***	***
Trend	Indexed	100	123	137	135
Depreciation	Rs. /MT	***	***	***	***
Trend	Indexed	100	108	108	143
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	(100)	56	350	344
Cash Profit	Rs. /MT	***	***	***	***
Trend	Indexed	(100)	(3)	141	187
Capital employed	Rs. Lacs	***	***	***	***
Trend	Indexed	100	92	102	96
ROCE	%	***	***	***	***
Trend	Indexed	(100)	(84)	(11)	(12)

89. The domestic industry has submitted that due to the imposition of the anti-dumping duties against the subject countries, the domestic industry was on the path of recovery. It is further noted that the domestic industry has increased its capacity post imposition of the duties against the subject countries, as dumped imports have reduced from China PR and Taiwan. It may also be seen that the losses of the domestic industry have come down in the year 2019-20. However, they have again increased in the POI. It is claimed by the domestic industry that the high losses in the year 2018-2019 were on account of the high raw material prices which the industry could not pass on to their customers in view of the fact that the import prices from the subject countries prevented them from increasing their prices in tandem with the increase in the raw material prices. It is noted that the profitability of the domestic industry has been adversely affected in the period of investigation due to dumped imports from the subject countries. It clearly indicates that due to the dumped imports from the subject countries, the domestic industry is not able to increase its prices to a remunerative level. The Table shows that the financial performance of the domestic industry has been adversely affected. This is essentially on account of the dumped imports from the subject countries coming at very low prices due to which the domestic industry is forced to lower its prices and that has caused injury to them. Consequently, the profitability per MT of the domestic industry, return on capital employed, cash profits and profit before interest were also impacted.

**v. Employment, Wages and Productivity**

90. The Authority has examined the information relating to employment, wages and productivity, as given below:

Year	Unit	2017-18	2018-19	2019-20	POI
Production	MT	***	***	***	***
Trend	Indexed	100	113	128	96
Employees	Nos	***	***	***	***
Trend	Indexed	100	104	106	108

Production/employee	MT/Nos	***	***	***	***
Trend	Indexed	100	110	118	87
Wages	Rs. Lacs	***	***	***	***
Trend	Indexed	100	110	127	118
Wages / Employee	Rs. Lacs	***	***	***	***
Trend	Indexed	100	106	120	109

91. It is noted from the below table that the number of employees engaged by the domestic industry has increased throughout the injury investigation period. However, in order to reduce its cost and to remain competitive in the market, the wages per employee declined in the POI as compared to the previous years.

**vi. Magnitude of dumping**

92. The magnitude of dumping is an indicator of the extent to which the imports are being dumped in India and are consequently causing injury to the domestic industry. The dumping margin from the subject countries except China PR is positive.

**vii. Growth**

93. The parameters such as production, sales, capacity utilization, profits, profit before interest, return on capital employed were analysed.

**viii. Ability to raise fresh investment**

94. The applicant has submitted that the profitability of the domestic industry has been impacted by the dumped imports in the past and considering the significant capital investment being undertaken in the country by other producers, protection against the dumped imports is necessary.

**ix. Observations on injury**

95. Considering the various parameters relating to the material injury, it is seen that overall performance of the domestic industry improved post imposition of the anti-dumping duties. However, they are yet to fully recover due to low priced imports from the subject countries. The volume of the subject imports declined during the injury investigation period, primarily on the ground that Hyosung India has started production and with anti-dumping duties in place, the exporters from China and Taiwan are not able to compete with the Indian producers. The Authority has thus considered that the deterioration in the production, capacity utilization, sales and the market share in the POI is not fully due to imports, and is also due to COVID-19 pandemic, but the same is temporary and will improve gradually. The fact that landed value of the subject goods from the subject countries as a whole is still below the cost of the domestic industry and their selling price, gives clear indication that the injury to the domestic industry is due to the dumped imports from the subject countries.

**x. Magnitude of Injury Margin**

96. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP of the PUC have been

determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practising accountant for the POI. 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. The best utilisation of the 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.

97. Based on the landed price and the NIP determined as above, the injury margin for producers/exporters as determined by the Authority is provided in the table below:

Country	Producer / Exporters	NIP (USD/MT)	Landed value (UDS/MT)	Injury Margin (USD/MT)	Injury Margin (%)	Range
China PR	Any producer	***	***	***	***	(40)-(50)
Korea RP	Hyosung TNC Corporation, Korea RP	***	***	***	***	(30)-(40)
Korea RP	T K Chemical Corporation, Korea RP	***	***	***	***	10-20
Korea RP	Any other	***	***	***	***	20-30
Vietnam	Hyosung VietNam Co. Ltd., Vietnam & Hyosung Dongnai Co. Ltd., Vietnam	***	***	***	***	30-40
Vietnam	Any other producer	***	***	***	***	40-50
Taiwan	Any producer	-	-	-	-	-

## **I. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS**

98. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which are injuring or are likely to cause injury to the domestic industry so that the injury caused by these other factors is not attributed to the dumped imports. While the present investigation is a sunset review investigation and causal link has already been examined in the original investigation, the Authority still 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.

99. It is noted that the listed known factors have not caused injury, as is seen from the following:

- a) The imports of the subject goods from sources other than the subject country are below de-minimis or non-dumped or subject to the anti-dumping duties.
- b) There is no contraction in demand for the products under consideration in India, except for during the period of investigation, that too due to COVID-19 pandemic.
- c) The pattern of consumption with regard to the product under consideration has not undergone any change. Therefore, the changes in the pattern of consumption cannot be considered to have caused injury to the domestic industry.
- d) There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.
- e) The technology for production of the product concerned has not undergone any change. Thus, the developments in the technology cannot be regarded as a factor of causing injury to the domestic injury.
- f) The Authority has considered the data for the domestic operations only for the injury analysis. Therefore, the export performance is not the cause for the injury to the domestic industry.

## **J. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY**

### **J.1. Submissions made by the other interested parties**

100. The submissions of the other interested parties with regard to the likelihood of injury are as below:

- i. The applicant has failed to prove that cessation of such duty is likely to lead to continuation or recurrence of dumping and injury. There is no evidence to show that cessation of duty will translate into injury in future.
- ii. There is no price attractiveness of the Indian market. The users prefer to buy from the Indian producers and only some specific brands are being imported.

- iii. There is no surplus capacity with the participating exporters.
- iv. Threat parameters listed in Annexure II are mandatorily required to be examined as per Hon'ble Gujarat High Court decision in the case of Nirma Limited vs Union of India. The Authority has examined the same in the sunset review investigation of Certain Rubber Chemicals and Sodium Nitrite.
- v. The domestic industry is required to prove that there is likelihood of continuation or recurrence of dumping and injury in event of cessation of duty which cannot be shifted to the exporters. The contention that the exporter should establish no likelihood of continued dumping is deprived of merit.

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

101. The submissions of the domestic industry with regard to the likelihood of injury are as below:
- i. The domestic industry is still suffering injury from the dumped imports from the subject countries. This in itself is a good indicator for extension of the anti-dumping duties. Even other investigating authorities around the world consider current injury due to dumped imports a strong ground for continuation of the anti-dumping duties.
  - ii. The decline in the imports post imposition of the duty and positive dumping margin and price undercutting in such imports implies likelihood of dumping in the event of withdrawal of duty and it in itself justifies extension of anti-dumping duty.
  - iii. Post imposition of the duties, Hyosung Corporation (Korean producer) has started its operation in India to cater the growing Indian demand. This shows as to how important the Indian market is, if duties are removed at this stage from the subject countries, not only applicant's investment, but the investment of Hyosung India (the only other producer of the subject goods in India) will be at risk.
  - iv. In terms of the attractiveness of the Indian Market, it is submitted that due to high growth chances, India is the prime market for the subject goods for the subject countries.
  - v. The domestic industry has submitted that India ranks 6<sup>th</sup> in terms of the preferred export destination for the Chinese producers. It is also submitted that countries ahead of India do not have enough demand to consume the Chinese sales fully. Since India has the capability to consume Chinese exports, the current level of imports will unquestionably increase in case of any revocation of duties at this moment.
  - vi. The domestic industry has submitted that as per China Spandex Industry Outlook Report, their existing capacity is 872,000 MT, which is \*\* times of the Indian demand. It is further submitted that Chinese producers are also about to increase new capacity of 120,000 MT which is around \*\* times of the Indian demand. Post increase in demand, the Chinese capacity will be around \*\* times which is substantial and can ruin the Indian market, which is protected by way of the anti-dumping duties.
  - vii. The domestic industry has submitted that the operating rate of spandex plant in China has increased/is expected to increase from 83% in 2020 to 95% in 2021. With increase in the capacity and the operating rate, Chinese exports are also like to

- increase by 24%. At this time, if duties are not extended, Indian market will be captured by the Chinese exports. Therefore, extension of duties is very important.
- viii. The domestic industry has submitted that in addition to above, the domestic industry has also submitted that by 2022, about 112,000 MT (232,000-120,000) of capacity is also about to be added in China. This addition of capacity clearly indicates that if the anti-dumping duties are removed at this stage, it will be detrimental for the Indian industry's current and future investment.
  - ix. In the case of Vietnam, India ranks at 3<sup>rd</sup> position in terms of the preferred export destination for the Vietnamese producers.
  - x. Similarly, India ranks 5<sup>th</sup> in terms of the preferred export destination for the South Korean producers.
  - xi. None of the producers have participated from Taiwan. However, based on trade map data the dumping and injury margin are positive. Hence, Taiwan is also an export attractiveness for India.
  - xii. India is placed 10<sup>th</sup> for exports of the subject goods from China PR. This low % in comparison to the other subject countries is also because of duties and if duties are removed, the subject goods will again flow into the Indian market. Even the Korean exporters and their association have also requested for extension of the anti-dumping duties on China PR.
  - xiii. The domestic industry has submitted that as per the reports of the Trade Map, there is significant untapped export potential from the subject countries. Therefore, if the duties are not continued against the subject countries, the producers / exporters from the subject countries will increase their exports to India.

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

102. In a review investigation, the Authority has to determine whether the subject goods are continuing to enter or likely to enter the Indian market at dumped prices and whether injury to the domestic industry is likely to continue or recur due to these dumped imports if the duty is removed.
103. The Authority observes that this is a sunset review investigation, the focus of this investigation is to examine the likely scenario of continued dumping and consequent injury if anti-dumping duties is to be allowed to expire even if there is no current injury. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping.
104. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping or injury in the event of cessation of the duty. The Authority has considered various information, as made available by the domestic industry, in order to evaluate the likelihood of continuation or recurrence of dumping or injury.
105. There are no specific methodologies available to conduct such a likelihood analysis. However, the Authority has examined the likelihood of continuation or recurrence of injury considering the requirement laid down under Section 9A (5), Rule 23 and parameters relating to the threat of material injury in terms of Annexure - II (vii) of the Anti-dumping Rules, and other relevant factors brought on record by the interested parties. Clause (vii) of

Annexure II of the Rules provides, inter alia, for factors which are required to be taken into consideration viz.:

- i. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- ii. 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;
- iii. 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
- iv. Inventories of the article being investigated.

106. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry.

107. Insofar as the arguments of the cooperative foreign producers regarding their own capacities and exports are concerned, it is noted that the likelihood analysis must be conducted for the subject countries as well, and not for individual producers in those countries only. Therefore, in addition to the information given by the responding exporter, the Authority has also considered information for exporting country cumulatively for all producers/ exporters.

**a. Continued dumping of the subject goods**

108. The Authority notes that the dumping of the subject goods has continued from subject countries, in spite of the duties in force, except China as their quantities are too small and prices are not representative

109. It is submitted by the domestic industry that only because of higher anti-dumping duties exporters from China and Taiwan are not able to export the subject goods to India. The duties from each of the subject countries is tabulated below:

Country of Import	Anti-dumping duties*		Import Quantity
	\$/Kg	Rs. / Kg	MT
Vietnam	0.36*	26.6	690
Korea	0.15*	11.1	2256
China	3.44*	254.6	36
Taiwan	2.50*	185.0	0

\*Highest duty from respective Country

110. From the above, it is noted that the import quantities from the subject countries are directly in proportion to the duties imposed on them. It is also noted that since the product under consideration is a commodity product, slight variation in prices, changes the buying decision of the customers. It is also noted that the anti-dumping duties are lowest against South Korea, so imports were highest from there. Further, due to higher duties from China and Taiwan,

imports are negligible from these two countries. This clearly proves that in the absence of duties, the dumping of the subject goods is likely to increase, and they are likely to injure the domestic industry in India.

111. It is further noted that there are other producers in China who have not cooperated in the present investigation. Even the producer who has participated from China had not provided the complete PCN wise details and thereby its data has been rejected. In view of the non-representative quantities and non-cooperation from China, it is difficult for the Authority to ascertain the fair prices of the subject goods from China.

**b. Untapped export potential of the subject countries**

112. The Authority notes that the domestic industry has adduced evidence of untapped export potential from the subject countries. The information on record is as under:

Particulars	UoM	Export Potential	Current Exports	Untapped Potential	Untapped Potential %
China	USD	21400000	5500000	15900000	74%
South Korea	USD	788200	13100	775100	98%
Taiwan	USD	708700	306000	402700	57%
Vietnam	USD	1000000	85000	915000	92%

113. The Authority further notes that the above information is for Elastomeric Filament Yarn (EFY) as a whole and not for the product under consideration as defined. The Authority has, therefore, checked the reasonableness of this information by analyzing the product under consideration percentage to overall production of EFY from the data submitted by the producers / exporters from the subject countries and also by the domestic industry.

Particulars	Total Production (In MT) POI	PUC Production (In MT) POI	% Of PUC Production	% Of PUC Production Range
Domestic Industry	***	***	96.66%	90-100%
Hyosung TNC, Korea	***	***	58.52%	55-65%
T K Chemicals, Korea	***	***	99.60%	90-100%
Hyosung Dong Nai, Vietnam	***	***	100.00%	90-100%
Hyosung VietNam, Vietnam	***	***	84.77%	80-90%
Chuanglai Fiber (Foshan) Co., Ltd, China	***	***	100.00%	90-100%
Total	***	***	84.43%	80-90%

114. From the above, it is noted that around 80-90% of the total production of the EFY is accounted by the production of the product under consideration. In view thereof, the data presented by the domestic industry about export potential is found to be reasonable and thereby accepted by the Authority for likelihood examination.

**c. Freely disposable capacities present with subject countries and their export Orientation**

115. From the information on record, shows the capacity available with the producers of the subject goods in the subject countries.

Particulars	Total Capacity	Surplus Capacity	Current Exports	Export Orientation	Export Orientation Range
Hyosung TNC	***	***	***	42%	40-50%
T K Chemicals	***	***	***	88%	80-90%
Korea	***	***	***	64%	60-70%
Hyosung Dong Nai	***	***	***	83%	80-90%
Hyosung Vietnam	***	***	***	67%	65-75%
Vietnam	***	***	***	73%	70-80%
Chuanglai Fiber (Foshan) Co., Ltd	***	***	***	56%	50-60%

116. In relation to China, the domestic industry has submitted data showing that the current capacity in China, i.e., 872000 MT is more than \*\*\* times of the demand in India.

**d. Imminent significant expansion in production capacities**

117. The domestic industry has provided information regarding expansion of capacities, which shows that the capacities in China PR are likely to increase by 232000 MT per annum by 2022, implying an average capacity expansion of about 116000 MT per annum, which is also around \*\*\* times of the Indian demand during POI. Further, the Chinese producers are already holding surplus capacities. The domestic industry has also provided data indicating increase in operating rate of spandex plant in China from 83% in 2020 to 95% in 2021.

**e. Likely Dumping margin and Injury margin is positive from Taiwan**

118. The domestic industry has submitted that none of the producers from Taiwan has participated in the investigation, as they cannot compete with the domestic industry with current anti-dumping duties. It is noted that this is the reason why they are not exporting the subject goods to India. The domestic industry has, however, provided information about likely dumping and injury based on the available data from secondary sources. From the data, it is noted that the dumping margin and the injury margin is not only positive but also significant, indicating strong likelihood of increased in dumped and injurious imports from Taiwan.

**Likely Dumping and Injury Margin Calculation**

Taiwan Exports to World	KG	603911
FOB value	USD	1519000
FOB Rate	USD/KG	2.52
Less: Inland Freight @ 5% of FOB	USD/KG	0.13
Less: Port charges @ 1% of FOB	USD/KG	0.03
Net Export Price	USD/KG	2.36
Constructed normal value	USD/KG	3.768
Dumping Margin	USD/KG	1.40
Dumping Margin	%	59%

Dumping Margin	Range	55-65
Taiwan Exports to World	KG	603911
FOB value	USD	1519000
FOB Rate	USD/KG	2.52
FOB Rate	USD/MT	2515
Ocean Freight	USD/MT	98.8
Insurance @.5% of FOB	USD/MT	13
Landed Value	USD/MT	2,627
NIP	USD/MT	5,915
Injury Margin	USD/MT	3,289
Injury Margin	USD/MT	125%
Injury Margin	Range	110-120

**f. Price attractiveness of the Indian market**

119. The domestic industry has submitted that in case of expiry of duty, exports from the subject countries would channelize their output in the Indian market in view of the growing demand in India. The domestic industry has submitted as under:

- a. Post imposition of the duties, Hyosung Corp. (Korean producer) has started its operation in India to cater the growing Indian demand. If duties are removed at this stage from subject countries, not only applicant investment, but the investment of Hyosung India (the only other producer of subject goods in India), will be at risk. Moreover, future investigation in India will also be stopped.
- b. In terms of the attractiveness of the Indian Market, it is submitted that due to high growth aspect, India is the prime market for the subject goods.
- c. Based on the secondary source data, there is evidence of the preference of the Indian market for the exporters from the subject countries despite imposition of the anti-dumping duties. The domestic industry has also submitted that if anti-dumping duties are removed at this stage, ranking of the India as export destination would further go up.
  - i. India ranks 6<sup>th</sup> in terms of the preferred export destination for the Chinese producers. Here, it is important to note that countries ahead of India do not have enough demand to consume much Chinese sales. Since India has the capability to consume Chinese exports owing to huge demand, revocation of duties at this moment will jeopardize the position of Indian producers.
  - ii. India ranks 5<sup>th</sup> in terms of the preferred export destination for the South Korean producers. Similarly, for Taiwan also there is export attractiveness for India. India is placed 10<sup>th</sup> for exports of the subject goods This low % is also because of duties and if the duties are removed, India's ranking would further go up as preferred export destination.
  - iii. India ranks 3<sup>rd</sup> position in terms of the preferred export destination for the Vietnamese producers.

**K. POST-DISCLOSURE SUBMISSIONS**

120. The post disclosure submissions have been received from the interested parties and the domestic industry, and it is noted that most of the issues raised are reiterations and have already been raised earlier and also addressed appropriately. Additional submissions have been analyzed as under:

**K.1. Submissions made by the other interested parties**

121. The submissions made by the other interested parties are as under:

- a. The DGTR even in its procedure part did not mention anything about PCNs or correspondence was sent to the interested parties to file PCN information, whereas in recent investigations, the Authority has issued instructions to file PCN-wise information. This further shows that the DGTR never intended to issue PCN.
- b. It is further submitted by CFF and SGP that they have requested DGTR in their various submissions that if the Authority requests for the PCN information, it will be provided. Since no communication was received from DGTR, the same is not provided to the Authority even during the verification process. The Authority had not called for PCN-wise information. Therefore, the rejection of the CFF and SGP on non-filing of PCN-wise data is completely incorrect and illegal.
- c. That the LYCRA® products produced and exported by the exporters constitute unique products manufactured through patented processes which are protected under multiple intellectual property registrations. The exporters had also provided detailed evidence of such intellectual property protection in their preliminary and written submissions and, therefore, LYCRA should be excluded from the scope of the PUC.
- d. That since the domestic industry has itself claimed exclusion of Lycra from product scope in the investigation against Singapore on the grounds of patented product and commercially higher prices, the same should be excluded from the instant sunset review investigation also. It is further submitted that since the Authority can restrict the scope of the product under consideration in the sunset review as indicated in their manual and also as per the practice of the Authority emerged out of recent findings, the same principles is requested to exclude LYCRA from the scope of the product under consideration.
- e. That the Authority must take into consideration public interest of the user industry before making any determination for continuation of ADD.
- f. It is further submitted that the users are buying Creora brand products manufactured by other exporters as the domestic industry is also not manufacturing brand Creora and, therefore, the same should be excluded.
- g. The Authority has not made any observation regarding the status of HIPL as an interested party. Since the Authority in the past has considered even those producers as domestic industry who are related to exporters / importers or are themselves importers, the DGTR should include HIPL as part of the DI.
- h. In the disclosure statement, the Authority has not made statement that whether domestic industry has fulfilled its obligation under Trade Notice or not. This shows that their information is not as per format. Further, the petitioner has failed to discharge its burden

as the petition lacks reliable evidence of likelihood of continuation or recurrence of dumping and injury.

- i. That the Authority should provide reasons for not complying decision of the Hon'ble CESTAT while providing DGCI&S import data.
- j. That there is no injury to the domestic industry and all the injury parameters are showing improvement. Therefore, it is clear that neither there is any injury nor there is any likelihood of injury to the domestic industry.
- k. That the observation of the Authority in relation to the production of the PUC and the total production for CFF group is incorrect because Lycra is not the PUC and that they are only producing Lycra.
- l. The responding exporters from Korea RP and Vietnam have submitted that for the stability of the supply and demand in the Indian market and the domestic industry, the existing duties from China PR are very critical. Further, if surplus capacities of China PR are exported to India, the market of India will be adversely affected.
- m. There is no injury to the domestic industry from the imports from Korea. Further, since Hyosung has invested heavily in India, the threat of injury from Korean imports will be limited.
- n. Hyosung TNC, Korea has submitted that the Authority should continue their negative duties in the sunset review investigation. They along with other producers from Korea RP and Vietnam have submitted that the Authority has rightly rejected the request for exclusion for Lycra, as domestic producers are producing like article and also supplying in the market. Further, the users are using the imported goods and the domestically produced goods interchangeably. This further shows that Lycra cannot be excluded. Hyosung also submitted that in case the Authority accepts the request of exclusion of Lycra, then their brand Creora should also be excluded from the scope on the same principles.
- o. That there is no need for extension of anti-dumping duty on the imports of the PUC from Vietnam on account of the fact that the respondents are the only known exporters of the PUC from Vietnam and the respondents from Vietnam intend to cease exports of the PUC to India in the coming months. This is because Hyosung India Private Limited ('HIPL'), the related company of respondents and a domestic producer of the PUC in India, plans to achieve full manufacturing capabilities and provide the user industry with good quality PUC, of all types and varieties, in India. The exports from respondents were merely a stop-gap arrangement, to ensure supply of the PUC to the end users in India, as HIPL was unable to produce due to the unprecedented COVID restrictions at a nascent stage of its operations. Thus, there is no likelihood of recurrence of dumping from Vietnam as the exports by the respondents are expected to cease in the upcoming months. However, the duties against China, Taiwan and Korean producers should be continued.

- p. That the ADDs need to be extended on the PUC imported from China PR, Taiwan and TK Chemical Corporation, Korea RP ('TKCC'), as there is strong likelihood of continuation or recurrence of dumping of the PUC and consequent material injury owing to the imports of the PUC from China PR, Taiwan and TKCC, Korea RP.
- q. That as per the Indian anti-dumping law framework, there is no legal requirement to examine the likely effect of ADD on the employment in the downstream sector in an anti-dumping investigation. Further, it may be noted that the issue of public interest is multi-faceted and should also include the concerns of the domestic producers. The continuation of the anti-dumping duties will not be against the interests of the users as impact is very minimal.
- r. That by failing to provide the required PCN-wise information, CFF and LYCRA Co. handicapped the Authority to carry out individual PCN-wise dumping and injury analysis, thereby, vitiating their response and, therefore, the rejection of their response is justified. Since other exporters have provided complete PCN-wise information, acceptance of the data filed by CFF would be unfair and discriminatory toward those exporters who have filed complete information within time.
- s. That the negative injury margin for China PR is irrelevant as the decision of whether to extend the ADD or not depends on the likelihood of continuation or recurrence of dumping and injury. Since none of the exporters from China PR fully participated in the investigation and considering their capacity and surplus exportable capacity, the extension of duty against China is critical for the survival of the domestic producers. The Authority in the recent investigations extended the duties against Chinese exporters despite negative dumping margin and injury margin considering their likelihood and same standard should be applied in this investigation also.

**K.2 Submissions of the domestic industry:**

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

- a. The domestic industry submits that the Authority has accepted the responses of exporters from Vietnam and Korea RP despite the fact that they have not provided their related party responses who are involved in domestic sales transactions and marketing and selling the subject goods in India. This is against the practice of the DGTR and also injustice with the parties who have fully participated in the investigation.
- b. The domestic industry has also submitted that there is no threshold for the related parties which can be exempted and, therefore, the proposal of the Authority to accept response of the exporters on the ground of its minimal transactions is incorrect. The Authority in the past despite having no transactions with related parties has rejected responses of complete group, if one of the entities did not file response. In view thereof, the domestic industry requested the Authority to reconsider its decision of acceptance of their response.
- c. That the Authority has rightly rejected the request for exclusion of Lycra. The domestic industry has further submitted that since they are producing like article, there can be no question of any exclusion from the product under consideration. It is further submitted

by the domestic industry that the Authority in the recent investigation has conducted separate investigation for sunset review for extension of duties and mid-term review investigation for exclusion of a product from the product scope. This clearly established the fact that the Authority does not entertain any request for exclusion from product under consideration in the sunset review investigation.

- d. The domestic industry has also submitted that if the Authority accepts the request of exclusion of Lycra on the basis of its brand name and value despite the fact that the domestic industry is producing like article, then the Authority should confirm that the same approach will be followed in all other cases also. The domestic industry has also requested the Authority to confirm that the product under investigation should be the same in different investigations irrespective of the sources.
- e. In relation to the exclusion of Lycra from the scope of the product under consideration in the investigation against Singapore, the domestic industry has submitted that it is not unusual for the Authority to have different product scope for different investigations. In the past also, there were cases wherein the product under consideration in one investigation becomes non-PUC in other investigation having different sets of countries. Therefore, reliance on the scope of the investigation against Singapore for exclusion of Lycra from the current investigation is not only illogical but also ill-founded in law or practice.
- f. That the rejection of CFF is justified as they have failed to file the complete information despite fully knowing that the Authority has made PCNs in the original investigation and that the domestic industry has filed PCN-wise information in the application for price analysis. Moreover, they have also not filed responses of their related parties in China PR producing the subject goods. In view thereof, their rejection is justified.
- g. The domestic industry submits that since none of the exporters from China PR and Taiwan has fully cooperated in the investigation and participated, the Authority should extend the current duties against China PR and Taiwan as was done in the recent investigations against China PR.
- h. In relation to the public interest, the domestic industry submits that there is less than 0.5% impact on the users of the current duties. Moreover, the fact that the number of users protested in the sunset review in comparison to the original investigation also clearly show that there is no impact on the user industry. On the contrary, current duties have not only helped the domestic industry to reduce their losses but also seen new investment in India. Since the domestic industry is currently incurring losses from the imports of goods from the subject countries, the extension of duties is very critical for the producers of the subject goods in India.
- i. The Authority has erroneously considered their capacity as \*\*\* MT instead of \*\*\* MT as reported by them in their application and also in the cost audit report. It is further submitted that the certification of management also made it absolutely clear that under the present circumstances only \*\*\* MT can be produced. Therefore, the reliance of the Authority on pollution control board document was not only incorrect but unfair to the domestic industry. It is further submitted that even post verification also, the reliance on pollution control board is contrary to the practice of the Authority wherein the Authority verified the claims of the domestic industry to be used in the final findings.

- j. The domestic industry further submits that the decision of the Authority of using capacity as \*\*\* MT is in violation of the Supreme Court order, which clearly says that the plants wherein capacities are indetermined, DGTR should use actual production and not optimum capacity utilization. In view of the aforesaid, the domestic industry requests the Authority to reconsider the capacity issue and redetermine the NIP accordingly.
- k. The domestic industry also submits that the Authority should conclude that there is likelihood of continuous injury and dumping from the subject countries and, therefore, the extension of duties is very critical for the survival of the domestic industry in India.

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

123. The Authority notes that most of the submission made by the interested parties are repetitive in nature and were already addressed earlier in the disclosure statement. The finding above ipso facto deal with these arguments of the parties. Further, the Authority has examined submissions of interested parties herein below to the extent relevant and not addressed elsewhere.
124. In relation to mention of PCN-wise information in the procedural part and issuance of instructions for filing PCN-wise information in other investigations, it is noted that since DGTR has not changed the PCNs made and used in the original investigation after detailed discussions with all the interested parties, there was no requirement of reissuing the same PCNs again, specifically when DI in its petition has referred to those PCNs and provided the information according to that. Since the DGTR specifically mentioned *“The applicant has used the product control numbers (PCN) issued by the Authority in the original investigation for price analysis”* in the initiation notification, it is amply clear that the information has to be provided accordingly. However, CFF and SGP decided not to provide information as per original PCNs and to obfuscate the investigation process, reiterated their submission regarding non-filing of information PCN-wise. It is further noted that since all other producers / exporters from South Korea and Vietnam had filed PCN-wise information after reading the same set of information (initiation notification and application of the DI), it is reasonably presumed that CFF and SGP have intentionally not filed the PCN-wise information. In view thereof, the rejection of their response is justified.
125. In relation to the submissions of CFF group relating to no communication from DGTR for providing PCN-wise information, it is noted that DGTR in their communication dated December 30, 2021, requested the above-mentioned companies to provide clarification for not providing PCN-wise information. The exporter, however, at that stage also decided not to provide the PCN-wise information and merely reiterated earlier submissions. Since the exporter decided to obfuscate the process, their rejection is justified. In relation to their filing of PCN-wise information post issuance of the disclosure statement, it is submitted that the same is filed at a much belated stage and, therefore, the same cannot be accepted by the Authority now. In addition, the Authority has also rejected the response of CFF and SGP.
126. In relation to the exclusion of LYCRA from the scope of the product under consideration, the Authority has again analyzed all the submissions filed by the exporter and other interested parties during the course of the investigation and also with the comments on the disclosure statement and noted that the request of the exporter to exclude Lycra was mainly on the ground that is not maintainable for requesting exclusion of any product. The exporter has not provided any evidence that domestic industry is not producing the like article, and

on the contrary, the domestic industry and other exporters have submitted that like article is being produced and supplied in India by the domestic industry. Even the users/user association have also not requested exclusion of Lycra. In this context, it is noted that the domestic industry is producing the like article to the goods imported under the brand "LYCRA" and, therefore, the same cannot be excluded from the scope of the PUC. Moreover, the goods produced by the domestic industry and brand "Lycra" are used interchangeably by the users.

127. The Authority has placed reliance of the original investigation because the issue relating to exclusion of brand Lycra and Creora was discussed and debated in detailed. Since none of the facts have changed, the Authority has referred to the relevant paragraphs and confirmed the definition of the product as defined in the original investigation.
128. In relation to the submissions relating to patents, it is noted that the domestic industry is not producing Lycra but they are producing and supplying like articles. Even other exporters / producers have also supported the examination of the DGTR in relation to non-exclusion of Lycra from the product scope and, therefore, the Authority confirms the scope of the product as defined in the original investigation. If exclusions are agreed only because of differentiation on brand names, then technically every article could be excluded.
129. The exporters from Vietnam and Korea RP have submitted that the Authority should not exclude Lycra from the scope of the product under consideration.
130. The domestic industry and other participating exporters have also supported the rejection of the request for exclusion of Lycra, on the ground that the domestic industry is producing and supplying the like article to the imported PUC. Moreover, the domestic industry has also relied upon the final findings of the Authority, wherein the Authority categorically rejected the exclusion of the product under consideration. In view of the aforesaid, the Authority upholds the definition of the product scope as defined in the original investigation.
131. The Authority notes that certain interested parties have argued exclusion of HIPL from the definition of the domestic industry and others have argued for them to be in the scope of the domestic industry. The Authority in this context notes that since HIPL is not only a self-importer, but also related to the exporters from South Korea RP and Vietnam (100% exporter from Vietnam), they cannot be considered as eligible domestic industry. However, they are domestic producers of the subject goods. In relation to their acceptance as supporter, the Authority notes that since in the absence of any other producer, the applicant accounts for 100% of the total eligible production, there is no relevance of HIPL as supporter in the investigations. As far as their legal submissions are considered, the Authority accepts the same.
132. In relation to the submissions relating to the export price, the normal value and the dumping margin for China PR, it is noted that the Authority has used facts available on record since none of the Chinese producers has participated with complete data in the investigation. The Authority also notes that there are some discrepancies that were found in the calculation of the dumping margin, the same have been corrected in the final findings.
133. In relation to the submissions relating to the injury and the causal link, it is submitted that the same are repetition of the earlier submissions which were analyzed in detail by the Authority in the disclosure statement and also in the final findings at the relevant paragraphs.

134. In relation to the submissions on the issue of the public interest, the Authority is analyzing the impact on the users. In this context, it is noted that none of the users / user association have provided any material to support their claim. On the contrary, the domestic industry has shown that the current anti-dumping duty has very minimal impact (less than 0.5%) on the user industry. It is also noted that on the one hand, the current duties have no adverse impact on the users, and on the other hand, it has not only helped the domestic industry to reduce its losses but also got Hyosung to open manufacturing facility in India. From the aforesaid, it is noted that there will be no negative impact on the user/downstream industry.
135. In relation of the capacity related submissions of the domestic industry, it is noted that the Authority has provided the detailed reasons in the relevant portion of this final findings. Moreover, it is noted that the Authority has used the capacity as \*\*\*, as per its consistent practice. In view of the aforesaid, the Authority notes that there is no need for any modification in either the capacity or the NIP.
136. In relation to the submission on the likelihood analysis in the disclosure statement, the Authority notes that none of the interested parties has provided any evidence or information to show that the analysis done by the Authority is incorrect. Moreover, the producers and exporters from South Korea and Vietnam along with the domestic industry have supported the analysis of the Authority in respect of likelihood analysis. The domestic industry has also requested the Authority to confirm its analysis in respect to likelihood from the subject countries.

**L. Conclusion on the Likelihood of Continuation or Recurrence of Dumping and Consequent Injury to the Domestic Industry.**

137. From the above analysis, the Authority concludes that:
- i. The data regarding the freely disposable capacities present with subject countries shows that the current capacity in China, i.e., 872000 MT is more than 57 times of the demand in India.
  - ii. The data regarding the expansion in the production capacities in China indicates increase in the operating rate of spandex plant in China from 83% in 2020 to 95% in 2021.
  - iii. The likely dumping and injury margin in respect of Taiwan is not only positive but also significant.
  - iv. Due to high growth rate for the subject goods, India is the prime market for the subject goods. That is why post imposition of the duties, Hyosung Corp. (Korean producer) has started its operation in India to cater the growing Indian demand.
  - v. Since the subject goods are price sensitive and a slight variation in prices changes the buying decision of the customers, the import quantities from the subject countries are directly in proportion to the duties imposed on them. The anti-dumping duties are lowest against South Korea and, therefore, the imports were the highest from there. Likewise, due to higher duties on China and Taiwan, the imports are negligible from these two countries. Further, in view of the non-representative quantities and non-cooperation from China, it is difficult for the Authority to ascertain the fair prices of

the subject goods from China. The data shows there is sufficient freely disposable capacities present with subject countries and they have export orientation.

- vi. This clearly shows that in the absence of the duties, the dumping of the subject goods is likely to increase from the subject countries and these exports are likely to injure the domestic industry in India.

138. Thus, in the event of cessation of the existing anti-dumping duties, the dumping of the subject goods is likely to intensify, causing injury to the domestic industry.

#### **M. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

139. The Authority notes that the purpose of the anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Continuation of the anti-dumping measures does not aim to restrict the imports from the subject countries in any way. The Authority recognizes that the continuation of the anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, the continuation of anti-dumping measures would ensure that no unfair advantages are gained by dumping practice, prevent decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
140. The Authority considered whether continuation of anti-dumping shall have any adverse impact on the interest of the public. In order to determine such impact, the Authority weighed the impact of the continuation of duties on the availability of the goods in the Indian market, the impact on the users of the product as well as the domestic industry and the impact on the general public at large. This determination is based on the submissions and evidence submitted over the course of the present investigation.
141. The Authority issued initiation notification inviting views from all the interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/user association to provide relevant information with regard to the present investigation including any possible effects of the anti-dumping duty on their operations. It is also noticed that users / user association have made mere submissions but not provided any evidence or information that can be considered as relevant. On the contrary, the domestic industry has proved beyond doubt that there will be no adverse impact of continuation of the duties on the users of the subject goods
142. The Authority has also examined the impact of the continuation of duty on the interests of the users. The Authority notes that the imposition of duty will not in any manner restrict the imports, but only ensure that the goods are available at fair prices. Further, there would be no demand-supply gap in the country, post expansion of the capacity of the domestic industry and HIPL's production at optimum levels. Additionally, the product can also be imported from other countries, including Singapore, EU, UAE, Japan and other countries, at fair prices.

143. The Authority has also noted that the effect of the anti-dumping duty measures on public interest is commonly studied from the perspective of three different parties – the producers, the consumers and the general public at large.
144. It is noted that the imposition of the anti-dumping duties on the imports of the subject goods would be in the interest of domestic producers of the subject goods in India. The fact that this is a capital intensive industry, the continuation of the measure would prevent further injury and give time to the domestic producers to compete against the might of the exporters from the subject countries and to increase its utilization.
145. The Authority has also analyzed the effect of continuation of anti-dumping duties from the consumers point of view and observed that it would be in the interest of the domestic consumers of the subject goods to have reliable Indian domestic producers capable of competing with foreign producers. This is possible when the domestic producers are able to recover from the injury suffered due to the dumped imports. If the current situation is allowed to continue, the Indian domestic producers would face further injury, giving foreign producers increased leverage as against the domestic producers. Further, if the domestic industry is allowed to suffer, it will eventually be wiped out and the consumers will be again left at the mercy of the imported goods and will have to face many problems which, inter alia, include high inventory cost, delivery time, exchange fluctuations, no technical support, etc.
146. The Authority while analyzing the impact of the continuation of the anti-dumping duties on public at large, observed that continuation of the anti-dumping duties is in the interest of the public at large. Moreover, this analysis is strengthened by the fact that the numbers of users / association participated in the sunset review were significantly reduced as compared to the original investigation. This is only possible when the users are not feeling the impact of the anti-dumping duties on their ultimate product. The impact of the duties on the public at large is negligible.
147. From the above it is clear that the impact of continuation of the anti-dumping duties on consumer constitutes a negligible percentage on the final product. Consequently, it is established beyond doubt that the end consumer of the subject goods will not face any significant increase in the prices due to extension of the duties. Thus, it is a clear case of protecting the long-term public interest which will eventually be in the interest of the user industry as well.

#### N. CONCLUSION

148. Having regard to the contentions raised, the information provided and the submissions made by the interested parties and facts available before the Authority, as recorded in the above findings, and on the basis of the above analysis of the likelihood of continuation or recurrence of the dumping and the injury to the domestic industry, the Authority concludes that-
- a. The landed value of the subject goods from the subject countries as a whole is still below the cost of the domestic industry and their selling price, which gives clear indication that the injury to the domestic industry is due to the dumped imports from the subject countries. Therefore, in the event of expiry of the existing duty, there is

every likelihood that the domestic industry would suffer injury.

- b. The data on record shows that the exporters in the subject countries have significant surplus capacities. It is also noted that since India has a huge market and is also a very price sensitive market, therefore, in the event of expiry of the existing duty, there is every likelihood that dumped imports from the subject countries would increase.
- c. Despite the existence of the anti-dumping duties, the exporters from Vietnam and South Korea are dumping the subject goods, indicating continuation of the dumping and the injury to the domestic industry. Since there was no cooperation from the exporters from China and Taiwan and the fact that there is huge exportable capacity available with the exporters of these countries, it is necessary to extend the existing anti-dumping duties from these two countries also.
- d. Since the Indian market is price sensitive, it is vulnerable to the dumped imports from the subject countries in case the existing duties are not extended and this would lead to loss of market share of the domestic industry.
- e. There is sufficient evidence to indicate that in the event of cessation of the existing anti-dumping duties, the dumping of the subject goods from the subject countries is likely to intensify, causing injury to the domestic industry.

**O. RECOMMENDATIONS**

- 149. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, the exporters, the importers, the users and the other interested parties to provide information on the aspects of dumping, injury and the causal link.
- 150. Having concluded that there is positive evidence of likelihood of dumping and injury if the existing anti-dumping duties are allowed to cease, the Authority is of the view that the anti-dumping duty in force on the imports of the product under consideration from the subject countries is required to be continued further. Considering the facts and circumstances of the case, as established hereinabove, the Designated Authority considers it appropriate to recommend extension of the existing quantum of anti-dumping duties on the imports of the subject goods from the subject countries, except in respect of those producers who have not participated in the current sunset review investigation. Those non-cooperating producers and exporters in this sunset review investigation have been accorded residual duty as applicable at present. Accordingly, the anti-dumping duties for responding producers and non-cooperative producers from the subject countries are recommended as per the duty table below. The Authority, thus, considers it necessary to recommend continuation of definitive anti-dumping duty as modified, on all imports of the subject goods from the subject countries as per column 7 in the duty table below, for a further period of five years.

**Duty Table**

S. No.	Heading / Subheading*	Description of Goods	Country of Origin	Country of Export	Producer	Amount	Unit of Measurement	Currency
--------	-----------------------	----------------------	-------------------	-------------------	----------	--------	---------------------	----------

1	2	3	4	5	6	7	8	9
1	5404	Elastomeric Filament Yarn_*	China PR	Any Country including China PR	Any	3.44	KGS	USD
2	-do-	-do-	Any Country other than China PR	China PR	Any	3.44	KGS	USD
3	-do-	-do-	South Korea	Any Country including South Korea	Hyosung TNC Corporation	0	KGS	USD
4	-do-	-do-	South Korea	Any Country including South Korea	T. K. Chemicals Corporation	0.15	KGS	USD
5	-do-	-do-	South Korea	Any Country including South Korea	Any producer other than S. No.3 and 54	1.90	KGS	USD
6	-do-	-do-	Any Country other than South Korea	South Korea	Any	1.90	KGS	USD
7	-do-	-do-	Vietnam	Any Country including Vietnam	Hyosung Vietnam: Hyosung Dong Nai	0.36	KGS	USD
8	-do-	-do-	Vietnam	Any Country including Vietnam	Any producer other S. No.7	2.16	KGS	USD
9	-do-	-do-	Any country Other than Vietnam	Vietnam	Any	2.16	KGS	USD
10	-do-	-do-	Taiwan	Any Country including Taiwan	Any	2.40	KGS	USD
11	-do-	-do-	Any Country other than Taiwan	Taiwan	Any	2.40	KGS	USD

\*All deniers upto and including 150 Deniers, excluding coloured yarns and Beam type Elastomeric yarns.

151. Landed value of imports for the purpose of this notification shall be the assessable value as determined by the customs under the customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 88, 9 and 94 of the said Act.

P. **Further Procedure**

152. 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 Customs Tariff Act.



(Anant Swarup)  
Designated Authority