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F. No. 7/26/2019-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi

NOTIFICATION

Dated: 17th August, 2020

(Final Findings)
Case No. ADD-SSR 14/2019

Subject: Sunset Review of Anti-Dumping investigation concerning imports of “Woven Fabric (having more than 50% Flax content)” commonly known as “Flax Fabric” originating in or exported from China PR & Hong Kong.

A. BACKGROUND OF THE CASE

1. Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the ‘Act’) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as ‘the Rules’) thereof; the Designated Authority (hereinafter also referred as “Authority”) had initiated the original investigation concerning imports of Flax Fabric originating in or exported from China PR and Hong Kong vide Notification No.14/8/2008-DGAD dated 3rd October 2008. The Authority vide Notification No.14/8/2008--DGAD dated 17th February 2009 notified the Preliminary Findings recommending provisional anti-dumping duties. The Final Findings Notification was issued by the Authority vide Notification No. No.14/08/2008--DGAD dated 1st October 2009, recommending imposition of definitive duty on the imports of the subject goods, originating in or exported from China PR and Hong Kong. Definitive anti-dumping duties were imposed by the Department of Revenue vide Notification No. 142/2009-Customs (ADD) 21st December 2009.
2. The Authority initiated 1st sunset review investigation vide Notification No.15/30/2013-DGAD dated 10th March, 2014 and conducted the investigation. The Authority thereafter recommended the definitive anti-dumping duties vide Notification No.15/30/2013-DGAD dated 9th June 2015 on imports of Flax Fabric from China PR and Hong Kong. The same was imposed vide Notification No. 39/2015-Customs/ dated 12th August, 2015. The anti-dumping duty imposed, pursuant to the Final Findings in the second sunset review, in force till 11th August, 2020 has been extended till 11/11/2020 through Customs Notification No. 23/2020-Customs (ADD) dated 11/8/2020.

3. Whereas M/s Grasim Industries Limited-Jaya Shree Textiles (hereinafter referred to as the "Applicant") has filed an application before the Authority, on behalf of the domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter 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 referred as the Rules), for Sunset Review of Anti-Dumping investigation concerning imports of "Woven Fabric (having more than 50% Flax content)" commonly known as "Flax Fabric" (hereinafter referred as the "subject goods" or "product under consideration"), originating in or exported from China PR & Hong Kong (hereinafter referred to as the "subject countries")..
4. And whereas, in view of the duly substantiated application, filed by the Applicant, the Authority in accordance with Section 9A (5) of the Act, read with Rule 23 of the Anti-dumping Rules, initiated the sunset review investigation vide Notification No. 7/26/2019-DGTR dated 23rd December, 2019 to review the need for continued imposition of the anti-dumping duties in respect of the subject goods, originating in or exported from subject countries, and 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.

B. PROCEDURE

5. The procedure described below has been followed with regard to the investigation:
 - i. The Authority sent copy of the initiation notification dated 23rd December, 2019 to the Embassy of the subject countries in India, known producer and exporters from the subject countries, known importers and other interested parties, as per available information. The known interested parties were requested to provide relevant information in the form and manner prescribed and make their views known in writing within the prescribed time-limit.
 - ii. Copy of letter and questionnaire sent to the exporters were also sent to Embassy of the subject countries along with a list of known exporters/ producers, with a request to advise the exporters/producers from the subject countries to respond within the prescribed time.
 - iii. Copy of the non-confidential version of the application filed by the applicant was made available to the known producers/exporters of the subject countries and the Embassy of the subject countries in accordance with Rule 6(3) of the Anti-Dumping Rules.
 - iv. The Authority forwarded a copy of the public notice initiating the SSR to the following known producers/exporters in the subject countries and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) and 6(4) of the Rules
 - a. Yangxin Yuandong Textile Co., China PR
 - b. Changshu Tonghe Group Co. Ltd
 - c. Hunan Huasheng Industrial & Trading Co. Ltd.
 - d. Mengyin Cotton Textile Co. Ltd
 - e. Suzhou Zhenlong Textile Co. Ltd.
 - f. Harbin Chaolong Flax Co. Ltd.
 - g. Wujin Huanyu Textiles Co. Ltd.

- h. Jiangsu Fanjia Flax Textile Mill Co.,
- i. HK Zishun Int'l Industry Limited
- j. Suzhou Nanya Group
- k. Binfenzhuang Fabric Co. Ltd.
- l. Qiqihar Zhongtian Textile Co. Ltd
- m. Huafang Ramie Textile Co. Ltd
- n. Changshu Lifeng Linen & Cotton Weaving Co. Ltd.
- o. Hunan Goldentex Co Ltd.
- p. Wujiang Hongji Textile Co. Ltd
- q. Zhucheng Deliyuan Textile Co. Ltd
- r. Yueqing Reliable Electric Co Ltd.
- s. Shaoxing In Hand Textile Co. Ltd
- t. Shaoxing Gucco Import and Export Co. Ltd
- u. Haining Yutex Co. Ltd
- v. Qingdao Yuzhou Knit and Textile Co. Ltd
- w. Wujiang Maishunda Silk Textile Co Ltd.

- v. None of the exporters filed the response to exporter's questionnaires, nor have they filed any other submissions.
- vi. Questionnaire was sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-Dumping Rules:
 - a. K. Mohan Textiles, Bangalore, Karnataka
 - b. Prateek Apparels Pvt Ltd., Karnataka
 - c. Ambattur Clothing Co. Ltd, Tamil Nadu
 - d. Aditya Birla Nuvo Ltd, Karnataka
 - e. Shahi Exports, Pvt. Ltd, Faridabad
 - f. Richa & Co., New Delhi
 - g. Leela Scottish, Chennai, Tamil Nadu
 - h. Colourplus Fashions Pvt. Ltd., Tamil Nadu
 - i. Mulberry Silk Limited, Karnataka
 - j. Indian Terrian Clothing Pvt. Ltd, Tamil Nadu
 - k. Orient Clothing Co. P. Ltd, Haryana
 - l. Mohan Clothing Co (P) Ltd., Haryana
 - m. Anish India Export, Haryana
 - n. Gokaldas Images, Karnataka
 - o. Prasam Exports, Maharashtra
 - p. Raymond Ltd. (Textile division), Mumbai
 - q. Chopda Associates, Mumbai
- vii. None of the importers or users have filed the response to questionnaires, nor have they filed any other submissions, in response to the Initiation notification.
- viii. Exporters, foreign producers and other interested parties who have not responded to the Authority, or not supplied information relevant to this investigation, have been treated as non-cooperating interested parties.
- ix. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority

has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

- x. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties. Whenever they requested inspection of public file and copies of the documents therefrom were provided with the same.
- xi. Verification of the information and data submitted by the domestic industry was carried out to the extent deemed necessary.
- xii. The period of investigation (POI) for the present investigation is April 2018 to June 2019 (15 Months). However, injury examination was conducted for the periods April 2015 to March 2016, April 2016 to March 2017 and April 2017 to March 2018 and POI.
- xiii. The Directorate General of Commercial Intelligence and Statistics (DGCI&S) were requested to provide details of imports of subject goods for the past three years, and the period of investigation, and the said information was obtained from the DGCI&S and has been adopted for the purpose of present investigation.
- xiv. The Authority has examined the information furnished by the domestic industry to the extent possible on the basis of guidelines laid down in Annexure III of the Rules to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xv. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in a hearing. The first oral hearing was held on 28.5.2020 and thereafter a 2nd oral hearing was held on 09th July, 2020 due to change of DA. Only Applicants attended the oral hearing, who was requested to file written submissions of the views expressed orally.
- xvi. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded the disclosure on the basis of available facts.
- xvii. A Disclosure Statement was issued on 27.7.2020 containing essential facts under consideration of the Designated Authority, giving time up to 29.7.2020 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- xviii. ‘***’ in this final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the AD Rules.
- xix. The average exchange rate of 1US\$ = Rs. 70.73 prevailing during the POI has been adopted by the Authority.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1 Views of the Domestic Industry

6. The Domestic Industry has made the following submissions with regard to the product under consideration and like article:

- i. The product under consideration is Flax Fabric having Flax content more than 50% originating in or exported from China PR and Hong Kong. It is normally classified under Chapter 53 of the Customs Tariff Act
- ii. “Flax” and “Linen” are synonyms and the word flax is also known as Linen and can be used to produce yarn and fabric made from flax fibres. It is often used as in generic term to describe a class of woven bed, bathtub, table and kitchen textiles because traditionally flax was widely used for towels sheets etc.
- iii. The present investigation being a sunset review investigation, product under consideration remains the same as defined in the previously conducted investigation.
- iv. No significant development has taken place over the period with regard to product under consideration.
- v. Product under consideration is made from cellulosic plant called flax, grown in Northern European countries mainly in France and Belgium. These fibers are then converted to linen yarn through wet spinning process, which is unique to any other spinning process. This linen yarn is used as grey or dyed as required for weaving. After weaving it is processed and finished and sold in the market.
- vi. The product produced by the domestic industry is like article to the product imported from subject countries.

C.2 Views of the other interested parties

7. No submissions have been made by the exporters/other interested parties with regard to the product under consideration and like article.

C.3 Examination by the Authority

8. The product under consideration in the original investigation, previous sunset review, as well as in the present sunset review is Flax Fabric. In the previous investigation, the product under consideration was defined as under:

“The product under consideration is flax fabric originating in or exported from China PR and Hong Kong is normally classified under Chapter 53 of the Customs Tariff Act. “Flax” and “Linen” are synonyms and the word flax is also known as Linen and can be used as in generic term to describe a class of woven bed, bathtub, table and kitchen textiles because traditionally flax was widely used for towels, sheets etc. This product is classified under Customs Tariff Chapter 53 at subheading 53.09. The Custom classification is indicative only and not binding on the scope of investigation.

Woven fabric (having more than 50% flax contents) produced by the domestic industry and those being imported from the subject countries are like articles and is the Product under Consideration within the meaning of the rules.

The Authority notes that as per the grade-wise production statement, the domestic industry has produced fabric having flax content of 30-50%. This is 0.62% of the total production. As the domestic industry is not making substantial production of fabric having flax content of up to 50%, the Authority has therefore concluded the product under consideration to have flax content of more than 50%”

9. The Authority found that the subject goods produced by the domestic industry and that imported from the subject countries are comparable in terms of characteristics such as physical & chemical 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 consumers are using the two interchangeably. The consumers importing the product under consideration have also purchased the same from the domestic industry. In view of the same, the product under consideration produced by the domestic industry were treated as like article to the product under consideration imported from subject countries.
10. None of the importers, exporters and other interested parties have advanced any argument with regard to the scope of the product under consideration and like article. In view of the above the investigation conducted and information on record, the scope of the product under consideration in the present review investigation remains the same as that in the original investigation.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1 Views of the Domestic Industry

11. Following submissions have been made by the domestic industry with regard to standing and scope of the domestic industry:
 - a. The present application has been filed by M/s Grasim Industries Limited – Jaya Shree Textiles. The application is supported by the 25 producers of the product under consideration. The applicant has not imported the subject goods from the subject country nor is related to any exporters or producers in the subject countries. The applicant constitutes a major proportion of the Indian production. A number of producers of the product under consideration are supporting the application. Therefore, the Applicant satisfies the standing requirement under Rules and the applicant constitutes “Domestic Industry”.
 - b. The applicant is related to Aditya Birla Fashion and Retail Ltd., an importer of the product under consideration. However, the imports were made after payment of applicable ADD and to test the Chinese fabric. The imports of the product under consideration made by the importer are in negligible volumes.
 - c. The applicant has determined standing based on actual production of product under consideration of domestic industry, fifty per cent (50%) of production of supporters and fifty per cent (50%) of the production of other Indian producers.

D.2 Views of the other interested parties

12. No submissions have been made by the exporters/other interested parties with regard to the product under consideration and like article.

D.3 Examination by the Authority

13. Rule 2 (b) of the Rules defines domestic industry as under:

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

14. The Authority notes that the product under consideration in present case is Flax Fabric having Flax content more than 50%. Flax fabric may contain flax yarn content ranging from almost 100% to as low as 30% was noted in the original investigations. Further, its production of the product in the country is quite dispersed including in unorganized MSME sector. A weaver in the Country can weave different kind of fabrics, including flax. A number of producers who are otherwise producing cotton fabric also produce low volume of flax fabric. The applicant submitted that there are no published data with regard to gross domestic production of the product in the Country, production of flax fabric being in unorganized sector and therefore the production is required to be assessed on the basis of raw material consumption and referencing the consumption pattern and earlier two investigations. The issue was considered in the original findings and previous sunset review investigations as well. Final findings notified in the matter of flax yarn and final findings notified in the present product clearly establish that majority production of flax yarn in the country is consumed in production of flax fabric below 50%. The Authority found production of flax fabric in 2013-14 as 202 lac SQM, whereas consumption of flax yarn in 2014-15 was found as 15,698 MT (in the final findings relating to flax yarn). Considering consumption factor for flax fabric yarn, it is seen that the yarn consumption in 2013-14 was only in the region of 5,000 MT. It is also seen that there is no significant jump in the pattern of consumption.
15. The issue was considered in detail in the original finding and also previous sunset review investigation. Production of flax fabric being in unorganized sector, there is no publicly available information with regard to its production. Therefore, the production of PUC can best be assessed on the basis of raw material consumption and referring to the consumption pattern adopted in the earlier two investigations. It is noted that production of the product has been assessed in the present case and in the previous investigations on the basis of consumption of flax yarn. While there was only one producer of flax yarn in the country at the time of previous investigations, flax yarn is now being produced by seven companies. Further, flax yarn is also being imported in the Country. As was also found in the previous investigations, some of the producers of fabric are in SEZ or EOU. Imports by SEZ have not been included to arrive at gross Indian production. The petitioner has provided information with regard to flax yarn sold by them for consumption in the Indian market. Consumption of flax yarn has therefore been determined on the basis of sales made by flax yarn producers. Imports made into India has been added to these sales. In a situation where production is wide spread and is in MSME sector, the Authority has determined gross Indian production on the basis of raw material

consumption in other investigations as well in the past. It is not feasible to cumulate production of all individual companies in the present case. Nor there is any agency in the Country who has collated such precise information. Therefore, it is most appropriate to quantify Indian production in such situations either by considering raw material consumption or by considering finished downstream product consumption. In a product like present, the production can be scientifically quantified on the basis of raw material consumption. The approach is consistent with the past practice as well. The Authority also notes that challenges of scope of DI in case of fragmented industry are well recognized globally in AD investigations.

16. Considering the consumption of flax yarn in the Country, after excluding consumption by Jayashree and considering 50% of the remaining consumption as consumption for the product concerned, the gross Indian production of PUC is found to be 269.16 lac sqm, whereas the production of the applicant was *** lac sqm. The production of applicant alone therefore was 25-35% of gross domestic production.
17. Further, the application has been supported by a large number of other domestic producers, including B K Textiles, Baleshwar Synfab LLP, Baleshwar Synthetic Textiles Pvt. Ltd., Bhavna Fabrics, Bombay Rayon Fashion Limited, C & R Textiles Pvt. Ltd., Dharshan Creation Pvt. Ltd., Jagdamba Farbics, Jagdamba Textiles Pvt. Ltd., Keshari Industries Ltd., Kottex Industries Pvt. Ltd., Lee Weaving, Madhusudan Weaves, Nath Brothers Exim International Ltd. Raghav Enterprises, Raymond Luxury Cottons Limited, RSL Dyecot Pvt.Ltd., Shree Krishna Silk, Silverline Fashion Fabrics Ltd., Swasti Vinayaka Synthetics Ltd., Topman International Ltd., Varni Wellweave, Viraat Fashion weaving trends, Vrijesh Natural Fibre & Fabric (India) Pvt. Ltd. However, barring Varni Wellweave, Madhusudan Weaves, Dharshan Creation Pvt. Ltd. Silverline Fashion Fabrics Ltd and Baleshwar Synfab LLP. Production of the applicant including production of the supporters is well above 50 %.
18. The Applicants have certified that they are not related to exporters of the subject goods in the subject countries, nor have they imported subject goods from subject countries. The applicant has stated that it is related to Aditya Birla Fashion & Retail Limited (ABFR), which imported subject goods from subject countries which is less than 0.5 % of total imports and less than 0.1% of total demand or total Indian production. None of the interested parties have raised any argument against eligibility of the applicant to constitute Domestic Industry within the meaning of the rules. Notwithstanding the fact that Rule 5 is not mutatis mutandis applicable for Rule 23, the Authority adopting the above stated approach hereby confirms the standing and eligibility of the petitioner on its won. The production of the applicant petitioner along with the supporters is well above 50% of the total Indian production.

E. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

E.1 NORMAL VALUE

19. Under section 9A (1) (c), normal value in relation to an article means:
 - a. *The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*

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

- a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
- b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely 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.

E.2 Submissions by the domestic industry

20. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:

- a. None of the exporters have responded to the questionnaire issued by the Authority. Exporters should therefore be considered non-cooperative as per Rule 6(8) and the Authority should proceed according to the best information available.
- b. The Applicant has cited and relied upon Article 15(a) (i) of China's Accession Protocol and stated that the Chinese producers should be directed to show that consistent with the provisions of Article 15(a) (i), market economy conditions prevail in the industry producing the like product, with regard to the manufacture, production and sale of that product under consideration, so that Chinese prices or costs can be used for the industry under investigation. Additionally, the Applicant has provided evidence which is relevant in establishing that market economy conditions prevail in the industry producing the like article with regard to manufacture, production and sale of product under consideration. i
- c. The Applicant has claimed that should the above-stated stand be inapplicable, in accordance with provisions of Para 1-6 of the Rules, Chinese domestic costs and prices nevertheless cannot be accepted unless the Chinese exporters pass the tests of market economy. In view of the above non-market economy presumption and subject to rebuttal of the same by the responding exporters from China, normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules.
- d. In view of the above the Applicant has determined Normal Value in China on the basis of cost of production in India, based on the cost of the domestic industry duly adjusted with selling, general and administrative expenses.

- e. . The Applicant has claimed that France should be considered as a surrogate country and has determined normal value on the basis of export price from France to other countries forming part of European Union, after due adjustments.
- f. The Applicant has claimed normal value in Hong Kong based on consumption price in Hong Kong, determined considering import price of product into Hong Kong, after due adjustments.
- g. The export price is adjusted on account of ocean freight, inland freight expenses, port expenses, bank charges and marine insurance and VAT difference in case of China to arrive at net export price.
- h. The dumping margin calculated is not only significant, but also substantial.

E.3 Submissions by other interested parties

- 21. No submissions have been made by the exporters/other interested parties with regard to normal value, export price and dumping margin.

E.4 Examination by the Authority

Market economy status for Chinese Producers

- 22. 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 benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing

terms and conditions before considering the use of terms and conditions prevailing outside China.

(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 as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector."

23. It is noted that while, the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of the India's Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. As none of the producers from China PR has not participated, the normal value has been determined in accordance with para 7 of Annexure I of the Rules.

E.5 Determination of Normal Value for all Producers in China PR

24. Para 7 of Annexure I of the Rules provides as under

"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."

25. In the absence of sufficient information on record, regarding the other methods as enshrined in Para 7 of Annexure I of the Rules, it is proposed to determine the normal value by considering the method on "any other reasonable basis". The Authority has, therefore, constructed the normal value for China PR on the basis of cost of production in India, duly adjusted, including selling, general and administrative expenses and addition of reasonable profits. The Constructed Normal Value so determined for POI by the Authority is mentioned in the dumping margin table below.

E.6 Normal Value in Hong Kong

26. Since none of the producers and exporters in Hong Kong have responded to the questionnaire in the form and manner prescribed, nor have submitted any evidence with regard to the Normal Value of the subject good in the subject country, the Authority is constrained to determine the normal value in this country on the basis of the facts available. Accordingly the Authority has constructed the normal value in Hong Kong on the basis of the estimates of cost of production based on best information available. The normal value so determined for Hong Kong is mentioned in the dumping margin table below.

E.7 Determination of Export Price

27. As none of the producers/exporters in the subject countries have cooperated, the Authority has adopted the DGCIS import data for determining the CIF price. The export price has been determined based on weighted average import price into India.

28. Price adjustments have been made on the basis of claims made by the Applicant in view of non-cooperation from exporters from China PR and Hong Kong. The export price has been determined at ex-factory level, after considering adjustments on account of ocean freight, marine insurance, commission, bank charges, inland freight expenses, port expenses and VAT difference in case of China.

E.8 Determination of dumping margin for producers and exporters in the subject countries

29. Considering the normal value and export price as above, the dumping margins for all producers/exporters of the subject goods from the subject countries are determined as below. It is seen that the dumping margin is more than deminimis and significant. Thus, dumping of the product has continued in the present period.

Particulars	Unit	China	Hong Kong
Basis of Normal Value		Constructed	Constructed
Normal Value	(USD/Mtr)	***	***
Export Price	(USD/Mtr)	***	***
Dumping Margin	(USD/Mtr)	***	***
Dumping Margin	%	***	***
Dumping Margin	Range	80-100	20-40

F. ASSESSMENT OF INJURY AND CAUSAL LINK

30. 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.

31. 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. In case the performance of the domestic industry shows that it has not suffered injury during the current injury period, the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.
32. The Authority notes that the application for imposition of antidumping duty has been filed by M/s Grasim Industries Limited (Jaya Shree Textiles) and supported by many supporters as stated in relevant para earlier. In terms of Rule 2(b) of the Rules, the Applicant has been treated as the domestic industry for the purpose of this investigation. Therefore, for the purpose of this determination the cost and injury information of the Applicant has been examined.

F.1 Submissions by the domestic industry

33. The submissions of the domestic industry with regard to injury and causal link are reproduced herein below:
 - i. Dumping margin determined in all previous investigations relating to the product have been positive.
 - ii. Significant imports in presence of anti-dumping duty showing likelihood of increased imports in the event of cessation of duty.
 - iii. Imports from subject countries are causing severe price undercutting which shows that in the event of cessation of duties the price undercutting would deepen further.
 - iv. Excess production capacities held by foreign producers in subject countries are significant. Cessation of present duty will resume dumping from subject countries ultimately causing injury to the domestic industry.
 - v. There exist huge capacities for the product under consideration in China far beyond the demand in China.
 - vi. Majority of the producers in the subject countries export the product under consideration rather than selling it in their respective domestic markets. This clearly establishes the export orientation of the manufacturers in the subject countries.
 - vii. Since the exporters hold significant surplus capacities, the exporter would find the Indian market attractive. Indian market is highly price sensitive. The consumers decide their procurement with the price being the foremost consideration. In the event of cessation of current ADD, the domestic industry will have to reduce the selling price otherwise the availability of low-priced imports from the subject countries will cause an adverse impact on domestic industry.
 - viii. The prices at which subject goods are being imported are substantially lower than the price at which the goods are being sold in the domestic market. The exporters from China are not only dumping in India, but they are also dumping in other countries. The relevance of third country dumping is that it brings out the pricing behaviour of the exporters. It demonstrates that the exporters in the subject country adopt unfair pricing to sell the subject goods in different countries, which destroys fair competition in the market.
 - ix. In case of likelihood even if one or two parameters are satisfied the duty may be continued.

F.2 Submissions by other interested parties

34. No submissions have been made by the exporters/other interested parties with regard to injury and causal link.

F.3 Examination by the Authority

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

36. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. 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

37. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure II of the Rules states as under-

"(iv) The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments."

38. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has taken note of the various

submissions made by domestic industry and has examined the injury to the domestic industry in accordance with the Rules.

39. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some may not. The Authority considers all injury parameters and, thereafter, concludes whether the domestic industry has suffered injury or not. The Authority has examined the injury parameters taking into account the facts and submissions made by the domestic industry as under:

G. Assessment of Demand

40. For the purpose of assessment of the domestic consumption/demand of the subject goods, the sales volume of the domestic industry and other Indian producers have been added to the total imports into India and the same have been summarized below.

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Sales of Domestic industry	000 Mtr.	***	***	***	***	***
Trend	Index	100	89	92	90	90
Sales of Supporters + Other Indian producers	000 Mtr.	***	***	***	***	***
Trend	Index	100	87	82	111	111
Imports - Subject Countries	000 Mtr.	5,224	4,555	4,855	7,021	5,617
Trend	Index	100	87	93	108	108
China (Subject Country)	000 Mtr.	5,088	4,466	4,781	6,421	5,137
Trend	Index	100	88	94	101	101
Hongkong (Subject Country)	000 Mtr.	136	88	74	600	480
Trend	Index	100	65	55	353	353
Imports - Other Countries	000 Mtr.	177	223	259	421	337
Trend	Index	100	126	146	190	190
Total Demand	000 Mtr.	30,020	26,245	26,116	39,660	31,728
Trend	Index	100	87	87	106	106

41. It is noted that the demand for the product under consideration has declined from 2015-16 in 2016-17 and 2017-18 but restored the same level as 2015-16 in POI.

H. VOLUME EFFECTS OF DUMPED IMPORTS

a. Import volume and market share

42. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. In the present case, however, ADD has been in force. The volume of imports of the subject goods from the subject countries have been analyzed as under –

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Imports Volume						
Imports - Subject Countries	000 Mtr.	5,224	4,555	4,855	7,021	5,617
Trend	Index	100	87	93	108	108
China (Subject Country)	000 Mtr.	5,088	4,466	4,781	6,421	5,137
Trend	Index	100	88	94	101	101
Hongkong (Subject Country)	000 Mtr.	136	88	74	600	480
Trend	Index	100	65	55	353	353
Other Countries	000 Mtr.	177	223	259	421	337
Trend	Index	100	126	146	190	190
Total Imports	000 Mtr.	5,401	4,778	5,115	7,442	5,953
Trend	Index	100	88	95	110	110
Imports from subject countries in relation to						
Total Imports	%	96.73	95.33	94.93	94.35	94.35
Trend	Index	100	99	98	98	98
Total Indian Production	000Mtr	25,972	22,972	21,552	33,645	26,916
Indian Production	%	20.12	19.83	22.53	20.87	20.87
Trend	Index	100	99	112	104	104
Total Indian Demand	000Mtr	30,020	26,245	26,116	39,660	31,728
Indian Consumption	%	17.40	17.35	18.59	17.70	17.70
Trend	Index	100	100	107	102	102

43. It is seen that:

- i. Imports from the subject countries declined in 2016-17 but increased thereafter in 2017-18 and further in the POI. The Applicants have submitted that imports have significantly increased during post period of investigation period.
- ii. Share of imports from subject countries in total imports in India is significant in the period of investigation. The imports from subject countries constitute 94% of the total imports of subject goods in India.
- iii. Imports from subject countries in relation to Indian production and demand have increased over the injury period.

I. Price effects of dumped imports

44. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products 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. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For

the purpose of this analysis, the cost of production, net sales realization and non-injurious price of the domestic industry have been compared with the landed cost of imports from the subject country.

a. **Price Undercutting**

45. In order to determine whether the imports are undercutting the prices, the Authority has undertaken comparison between the landed price of the product and the average selling price of the domestic industry. The landed price of imports, domestic prices and margin of undercutting are shown as per the table below:

China PR

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Net Sales Realisation	₹/Mtr	***	***	***	***	***
Landed Price	₹/Mtr	280.96	267.94	236.73	277.81	277.81
Price undercutting	₹/Mtr	***	***	***	***	***
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	40-60	40-60	60-80	40-60	40-60

Hong Kong

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Net Sales Realisation	₹/Mtr	***	***	***	***	***
Landed Price	₹/Mtr	314.80	318.19	290.99	364.10	364.10
Price undercutting	₹/Mtr	***	***	***	***	***
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	20-40	20-40	40-60	20-40	20-40

Average

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Net Sales Realisation	₹/Mtr	***	***	***	***	***
Landed Price	₹/Mtr	281.84	268.92	237.56	285.18	285.18
Price undercutting	₹/Mtr	***	***	***	***	***
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	40-60	40-60	60-80	40-60	40-60

46. It is seen that landed price of imports from each of the subject countries is below the net sales realization of the domestic industry, showing positive price undercutting.

b. Price Suppression or depression

47. In order to determine whether the effect of imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred, the Authority has examined the changes in the landed price of imports, and costs & prices of the domestic industry over the injury period, when ADD was in force.

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Cost of sales	₹/Mtr	***	***	***	***	***
Trend	Index	100	119	124	122	122
Selling price	₹/Mtr	***	***	***	***	***
Trend	Index	100	100	102	107	107
Landed price	₹/Mtr	281.84	268.92	237.56	285.18	285.18
Trend	Index	100	95	84	101	101

48. It is seen that the cost of production & selling price of the domestic industry and landed price of imports increased over the injury period. It is also noted that the landed price of the imports was below the cost of production throughout the injury period. Resultantly, the domestic industry is unable to increase its selling price in proportion to increase in the cost. It is thus noted that subject imports are suppressing the prices of the domestic industry in the market.

c. Price Underselling

49. The price underselling has been evaluated by comparing the non-injurious price with the landed price of the subject imports.

Particulars	UOM	China	Hong Kong
Non-Injurious Price	US\$/Mtr	***	***
Landed Price	US\$/Mtr	3.93	5.15
Injury Margin	US\$/Mtr	***	***
Injury Margin	%	***	***
Injury Margin	Range	60-80	20-40

50. From a comparison of the landed price with the non-injurious price, it is noted that the price underselling is not only positive but also significant.

J. IMPACT ON ECONOMIC PARAMETERS OF THE DOMESTIC INDUSTRY

51. Annexure – II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. The Anti-Dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed herein below.

a. **Production, capacity, capacity utilization and sales volumes**

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

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Capacity	000 Mtr.	***	***	***	***	***
Trend	Index	100	100	100	100	100
Production	000 Mtr.	***	***	***	***	***
Trend	Index	100	92	84	90	90
Capacity Utilization	% (Range)	80-100	80-100	60-80	80-100	80-100
Trend	Index	100	92	84	90	90
Domestic sales	000 Mtr.	***	***	***	***	***
Trend	Index	100	89	92	90	90

53. It is seen that -

- The capacity installed by the domestic industry has remained the same throughout the injury period, including in the period of investigation.
- The production and capacity utilization declined in 2016-17 and further in 2017-18 but increased during period of investigation. However, the production and capacity utilization during the period of investigation has declined when compared to the base year.
- The domestic sales of the domestic industry has declined as compared to previous year as well as base year.

b. **Market share in demand**

54. The effects of the dumped imports on the market share of the domestic industry have been examined as below –

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Domestic industry	% (Range)	20-30	20-30	20-30	20-30	20-30
<i>Trend</i>	<i>Index</i>	100	101	106	86	86
Other Indian Producers	% (Range)	50-60	50-60	50-60	50-60	50-60
<i>Trend</i>	<i>Index</i>	100	99	95	105	105
Subject Countries	%	17.40	17.35	18.59	17.70	17.70
<i>Trend</i>	<i>Index</i>	100	100	107	102	102
Other countries	%	0.59	0.85	0.99	1.06	1.06
<i>Trend</i>	<i>Index</i>	100	144	168	180	180

55. It is noted that the market share of domestic industry increased till 2017-18 but slightly declined during the period of investigation. The market share of the subject countries has increased throughout the injury period

c. Inventories

56. The data relating to inventory of the subject goods are shown in the following table—

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Average Stock	000 Mtr.	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	136	141	133	133

57. It is seen that through inventory has declined slightly in POI as compared to previous year i.e. 2017-18 but there has been increase in the level of inventory over the injury period when compared with the base year.

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

58. Profit/loss, cash profits and return on investment of the domestic industry are as follows:

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Cost of sales	₹/Mtr	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	119	124	122	122
Selling price	₹/Mtr	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	100	102	107	107
Profit per unit	₹/Mtr	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	(30)	(58)	(4)	(4)
Total Profit/(Loss)	₹ Lacs	***	***	***	***	***

<i>Trend</i>	<i>Index</i>	100	(26)	(54)	(4)	(4)
Cash Profit	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	1	(20)	18	18
Profit before Interest	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	1	(28)	15	15
Return on Capital Employed	% (Range)	20-40	0-20	(0-20)	0-20	0-20
<i>Trend</i>	<i>Index</i>	100	1	(21)	10	10

- a. The profit per unit was positive in 2015-16 and thereafter they have suffered during injury period including POI throughout the injury period and became negative. The domestic industry is suffering losses despite anti-dumping duty in existence.
- b. Cash flow, PBIT and return on investment followed the same trend as that of profits. The domestic industry is faced with negative return on investments during period of investigation.
- c. The domestic industry contended that the deterioration in performance of the domestic industry was continuous throughout the investigation period. The Authority noting the trends in profits, cash profits and return on investments. Proposes to hold that domestic industry is suffering from financial losses with negative return on investments and negative PBIT.

e. Employment, wages and productivity

59. The situation of the domestic industry with regard to employment, wages and productivity was as below –

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Wages	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	156	148	149	149
No of Employees	Nos	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	98	98	100	100
Productivity per employee	Mtr/No.	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	94	86	90	90

60. It is noted that performance of the domestic industry has improved in respect of employment, wages, and productivity in the POI. The domestic industry has, however, submitted that these parameters are not relevant to show the impact of dumping on the domestic industry.

f. Growth year to year basis

61.

Particulars	Unit	2015-16	2016-17	2017-18	POI Annualised
Production MT	%	-	(7.97)	(8.27)	6.04
Domestic Sales MT	%	-	(11.35)	3.91	(1.84)
Capacity Utilisation	%	-	(7.13)	(6.82)	4.56
Average Inventory MT	%	-	35.59	4.19	(5.68)
Profit/Loss ₹ Lacs	%	-	(126.38)	102.92	(92.75)
Cash Profit ₹ Lacs	%	-	(98.99)	(2,093.10)	(188.01)
PBIT ₹ Lacs	%	-	(99.14)	(3,314.40)	(153.75)
Return on Capital Employed	%	-	(33.25)	(7.33)	10.51

62. It is noted that the domestic industry's performance is negative in terms of profits, cash profits, PBIT and return on investments.

Margin of dumping

63. It is found that the margin of dumping is positive from the subject countries. The Authority proposes to hold that there is continued dumping of subject goods from the subject countries.

g. Factors affecting prices

64. The import prices are directly affecting the prices of the domestic industry in the market. It is noted that the landed value of the subject goods from subject countries are not only below its net selling price but also the non-injurious price of the domestic industry, causing significant price undercutting as well as price underselling in the Indian market. Further the landed prices of subject imports have suppressing the prices of the domestic industry leading to significant decline in profitability and financial losses during period of investigation. Thus, Authority proposes to hold that the principal factor affecting the domestic prices is the dumped imports of subject goods from the subject countries.

h. Ability to raise capital investments

65. The domestic industry is suffering financial losses in the period of investigation. With the competition being faced by the domestic industry because of the dumped imports, the operations of the industry have been impacted which has affected its ability to raise capital investment. The domestic industry is a multi-product company and therefore ability to raise capital investment is not governed based on the performance of the product alone.

K. MAGNITUDE OF INJURY AND INJURY MARGIN

66. The non-injurious price (NIP) of the Domestic Industry has been determined and compared with the landed value of the subject goods to arrive at the extent of price underselling. The NIP of the product under consideration has been determined by

adopting the verified information/data relating to the cost of production for the period of investigation on the basis of principles mentioned in Annexure III of the Rules. The analysis shows that during the period of investigation, the landed value of subject imports from subject countries was below the non-injurious price of the Domestic Industry.

L. Overall assessment of injury

67. The examination of the imports of the subject product and performance of domestic industry clearly shows that-

- i. The volume of imports from subject countries has increased in absolute terms and in relation to total imports, Indian production and consumption.
- ii. The imports from subject countries are undercutting the prices of the domestic industry and the price underselling is also positive.
- iii. The imports from subject countries have suppressed the prices of the domestic industry.
- iv. The production, sales and capacity utilization of the domestic industry has declined as compared to the base year.
- v. Performance of the domestic industry has steeply deteriorated in respect of profits, cash profits and return on capital employed. The domestic industry has suffered financial losses during the period of investigation.
- vi. The imports from the subject countries has continued to enter the Indian market at dumped prices.

In view of the foregoing, the Authority holds that the domestic industry has suffered continued material injury.

M. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

68. 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.

M.1 Submissions by the domestic industry

69. The domestic industry submitted as follows with regard to likelihood of continuation or recurrence of dumping or injury –

- i. Dumping margin determined in all previous investigations relating to the product have been positive.
- ii. Significant imports in presence of anti-dumping duty showing likelihood of increased imports in the event of cessation of duty.
- iii. Imports from subject countries are causing severe price undercutting which shows that in the event of cessation of duties the price undercutting would deepen further.

- iv. Excess production capacities held by foreign producers in subject countries are significant. Cessation of present duty will resume dumping from subject countries ultimately causing injury to the domestic industry.
- v. There exist huge capacities for the product under consideration in China far beyond the demand in China.
- vi. Majority of the producers in the subject countries export the product under consideration rather than selling it in their respective domestic markets. This clearly establishes the export orientation of the manufacturers in the subject countries.
- vii. Since the exporters hold significant surplus capacities, the exporter would find the Indian market attractive. Indian market is highly price sensitive. The consumers decide their procurement with the price being the foremost consideration. In the event of cessation of current ADD, the domestic industry will have to reduce the selling price otherwise the availability of low-priced imports from the subject countries will cause an adverse impact on domestic industry.
- viii. The prices at which subject goods are being imported are substantially lower than the price at which the goods are being sold in the domestic market.
- ix. The exporters from China are not only dumping in India, but they are also dumping in other countries. The relevance of third country dumping is that it brings out the pricing behavior of the exporters. It demonstrates that the exporters in the subject country adopt unfair pricing to sell the subject goods in different countries, which destroys fair competition in the market.
- x. In case of likelihood even if one or two parameters are satisfied the duty may be continued.

M.2 Submissions by other interested parties

70. No submissions have been made by the exporters/other interested parties with regard to likelihood of continuation or recurrence of injury.

M.3 Examination by the Authority

71. 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. The Authority notes as under;

a. Continued & existing dumping and injury

72. The Authority notes that, as there are continued dumped imports, the Authority is required to examine whether cessation of anti-dumping duty is likely to lead to continuation of dumping of the product under consideration. Exporters and producers from the subject countries are exporting the subject goods at dumped prices. In the previous investigations also the dumping margin was significant. It is also seen that

these imports are undercutting the domestic industry prices and are at a price below NIP of the domestic industry. Therefore, Authority holds that dumping is likely to continue in case of cessation of duty.

b. Price undercutting in absence of measures

73. It is noted that price undercutting is positive during the POI, and thus cessation of ADD currently in place is likely to lead to increased dumping causing injury in the form of reduced selling price and decline in profits of the domestic industry.
74. Domestic Industry has submitted that the price which the subject goods are being exported by China PR and Hong Kong to India is also an indicator of the likelihood of the price at which the goods are likely to be exported from subject countries in the event of cessation of anti-dumping duty. Thus, Authority holds that with the cessation of anti-dumping duties, there is strong likelihood of increased imports by the Indian consumers.

c. Surplus capacities

75. On the basis of information on record, the Authority notes that the producers in China have significant freely disposable capacity, which can be diverted to India in the event of cessation of anti-dumping duty. Information provided by domestic industry shows capacities with various exporters as follow:

Particulars	Capacity (MT)
Changshu Lifeng Linen & Cotton Weaving Co	2000,000 meters/year
Haining Yutex Co., Ltd,	500000 Meter/month
Wuianq Tanqchao Textile Co., Ltd.	10,00,000 meters/ year
Oinqda Yuzhou Knit And Textile Co., Ltd.	40,000 meters/ year
Wuianq Maishunda Silk Textile Co., Ltd	2000,000 meters/year
Hunan Huashenq Industrial & Trading Co.	12,000 Tons/ year

Since no interested party has rebutted the aforesaid. The exporters are also likely to be encouraged to channelize their output in the Indian market as they have surplus capacities and are selling their products at comparatively lower prices.

76. The Chinese producers have since preferred non-cooperation, the Authority notes that the available information shows significant capacities with the Chinese producers. It is likely that cessation of anti-dumping duty would lead to intensified imports at dumped and injurious price causing recurrence of injury to the domestic industry.

As regards other parameters which may impact DI's performance, the Authority further notes and proposes to hold as under;

- a. The demand of the product under consideration has declined slightly during the period of investigation.

- b. The domestic industry has exported the product under consideration. However, export performance is not relevant here since the Authority proposed to consider only the domestic performance of the domestic industry for injury analysis.
- c. The technology as also the production process for producing product under consideration has not undergone any significant development. Therefore possible development in technology does not appear to be a cause of injury to the domestic industry.
- d. Performance of other products being produced and sold by the Applicant is not a possible cause of injury to the domestic industry. In any event, the Applicant consider that information relating to the product under consideration is the only relevant information for the present purpose and the Applicant has provided this information as the domestic industry.
- e. There is no trade restrictive practice, which could have contributed to the injury to the domestic industry
- f. There have been no material change in the pattern of consumption of the product under consideration. Changes in the pattern of consumption have not caused claimed injury to the domestic industry. In fact, demand for the subject goods has increased over the relevant period.

N. POST DISCLOSURE COMMENTS

77. No interested party other than domestic industry has given comments. Comments by domestic industry are as below;

- 1. Flax fabric is produced in different combinations (30% to 100% flax content) and the production is dispersed and in unorganized MSME sector. Small weavers producing different fabric like cotton fabric can also produce low volume of flax fabric.
- 2. Neither there is any publicly available information with regard to production of Flax Fabric nor is it possible to cumulate production of individual companies in the present case, through an agency or otherwise.
- 3. In similar cases where production is widespread and is in MSME sector, the Authority has determined gross Indian production on the basis of raw material consumption in a number of investigations in the past.
- 4. In a product like present, the production can be scientifically quantified on the basis of raw material consumption. The practice was followed in the previous two investigations as well.
- 5. Indian production has been rightly determined by the Authority in the disclosure statement.
- 6. Petitioners have provided information regarding companies majorly producing Flax Fabric having Flax content less than 50% and supporting extension of ADD.
- 7. In past, the Authority has also considered companies constituting less than 35% in the total Indian production as domestic industry.
- 8. The CESTAT in *Lubrizol (India) Pvt. Ltd vs Designated Authority* held that the share of the petitioner in the total domestic production, being more than 31%, was undoubtedly a significant or important share i.e. a major proportion.
- 9. For Flax Fabrics, VAT rate in China is 17% and the refund provided by the Government of China on VAT paid on exported products is 13%. Therefore, an adjustment to an unrefunded VAT of 4% is done in the export price.

10. As noted in the Disclosure statement, dumping has continued in present period. In fact, the dumping margin has increased for each of the subject countries as compared to the previous findings.
11. DI was able to improve its performance till the year 2015-16 due to imposition of ADD. However, the injury to the DI re-occurred at an increased level thereafter due to intensified dumping of the PUC. The same has been noted in the Disclosure Statement.
12. As noted in the Disclosure statement, it is established the likelihood of dumping and injury to the domestic industry in the event of cessation of anti-dumping duty.
13. The DI requests increase in quantum of duty owing to the intensified dumping, injury and the likelihood of dumping and consequent injury in the current investigation.
14. The DI requests imposition of ADD in increased quantum and in form of fixed quantum of anti-dumping duty due to multiple practical and procedural aspects.
15. As per the practice of Authority, the duty should be imposed in terms of USD (\$). Rupee has depreciated significantly and therefore, the definitive duties may kindly be expressed in US\$. The depreciation of INR has impacted the costs of the raw materials, utilities and other costs.

O. Examination by the Authority

78. The Authority notes that no producer/exporter or importer has participated. Domestic Industry has requested to increase the quantum of AD Duty due to increase in dumping in the current SSR. The Authority holds that both dumping margin and injury margin have been evaluated for the POI adopted in the investigation. The Authority therefore keeping in view the Lesser Duty Rule (LDR) principle recommends the quantum of duty based on the margins evaluated for the POI period. The Authority notes the request of domestic industry on the form of AD duty and recommends fixed duty in dollar terms as was done in the earlier finding.

P. Conclusion

79. Having regard to the submissions made in the investigation, the post disclosure comments and facts available, the Authority concludes that:
 - a. Subject goods exported from the subject countries are at prices below their normal value, thus resulting in dumping.
 - b. Imports are undercutting the prices of the domestic industry in the market.
 - c. Dumping margin and injury margin are positive in respect of imports of the product under consideration from the subject countries.
 - d. In event of cessation of anti-dumping duty undercutting may continue as the producers/exporters in the subject countries are holding significant capacities and the imports which are dumped and injurious despite existence of AD measure, are likely to increase in the event of cessation of anti-dumping duty. Performance of the domestic industry is therefore likely to deteriorate in the event of cessation of anti-dumping duty.
 - e. The Authority, thus, in order to remove likely injury to the Domestic Industry considers it necessary to recommend continuation of definitive ADD on imports of the Subject Goods from the Subject Countries.

Q. Recommendations

80. Having concluded as above, the Authority is of the view that the antidumping measure is required to be extended as specified in the duty table below.

81. Having regard to the lesser duty rule, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the anti-dumping duty equal to the amount indicated in the column no. 8 of table below is recommended to be imposed by the Central Government on the imports of the subject goods, originating in or exported from the subject country.

Duty Table

S.N	Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	5309	Flax or Linen fabric (note below)	China PR	Any	Any	Any	2.36	Per meter	US\$
2	5309	Flax or Linen fabric (note below)	Any other than Hong Kong Hong and country attracting AD duty	China PR	Any	Any	2.36	Per meter	US\$
3	5309	Flax or Linen fabric (note below)	Hong Kong	Any	Any	Any	1.14	Per meter	US\$
4	5309	Flax or Linen fabric (note below)	Any other than China and country attracting AD duty	Hong Kong	Any	Any	1.14	Per meter	US\$

Note: Product Under Consideration (PUC) is "Flax or Linen Fabric having flax content of more than 50%"

82. 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, 1975.



(Bidyut Behari Swain)
Special Secretary & Designated Authority