

**TO BE PUBLISHED IN PART 1 SECTION-1 OF  
GAZETTE OF INDIA- EXTRAORDINARY**

Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Anti-Dumping & Allied Duties  
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi

**Dated the 30<sup>th</sup> June, 2018**

**FINAL FINDINGS**

**Subject: Anti-dumping duty investigation on the imports of Belting Fabric originating in or exported from People's Republic of China**

1. F. No. 14/35/2016/DGAD: 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.
2. And whereas, M/s SRF Limited (hereinafter also referred to as "**Petitioner**" or "**Applicant**" or "**domestic industry**" or "**SRF**") filed an application in the present case before the Designated Authority ( hereinafter also referred to as "**the Authority**"), Directorate General of Anti-Dumping and Allied Duties in accordance with the Act and the Rules for initiation of anti-dumping investigation and imposition of appropriate duty thereof on dumped imports of "**Belting Fabric**" (hereinafter referred to as "**the subject goods**" or "**the product under consideration**") originating in or exported from People's Republic of China (hereinafter also referred to as "**the subject country**").
3. And whereas, the Authority on the basis of prima facie evidence submitted by the Applicant justifying initiation of anti-dumping investigation, issued a public notice vide Notification No. 14/35/2016-DGAD dated 23<sup>rd</sup> August, 2017 in accordance with the Rule 5 of the Rules to examine and determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the subject country, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry

**A. PROCEDURE**

4. Procedure described herein below has been followed with regard to this investigation, after issuance of the public notice notifying the initiation of the

above investigation by the Authority:

- i. The Authority notified the Embassy/Representatives of the subject country in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
- ii. The Authority sent a copy of the initiation notification to the embassy of the subject country in India, known producers/exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
- iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country and Importers/users in India in accordance with Rule 6(3) of the Rules supra.
- iv. The Embassy of the subject country in India was also requested to advise the exporters/producers from the subject country 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 the Embassy along with the names and addresses of the known producers/exporters from the subject country.
- v. The Authority sent Exporter's Questionnaire and Market Economy Treatment Questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:
  - a. Zhangjiangang City East Ocean Technical Fabric Co. Ltd, China PR
  - b. Foshan Nanhai Jiarunliang Industrial Belt Co., Ltd., China PR
  - c. Zhejiang Hongbang Industry Ltd., China PR
  - d. Feicheng Taishan Plastic-Coated Canvas Co., Ltd., China PR
  - e. Hebei Lanyu Rubber & Plastic Products Co., Ltd., China PR
  - f. Hengshui Jintaiyang Conveying Machinery & Eng. Co., Ltd., China PR
  - g. Zhejiang Unifull Industrial Fibre Co., Ltd., China PR
  - h. Shandong Helon Polytex Chemical Fibre Co. Ltd., China PR
  - i. Wuhu S.H.Z Industrial Fabric Co. Ltd., China PR
  - j. Oriental Industries (Suzhou) Limited, China PR
- vi. In response to the above notification, the following exporters/ producers responded and submitted questionnaire responses.
  - a. Shandong Helon Polytex Chemical Fibre Co., Ltd., China PR
  - b. WUHU S.H.Z Industrial Fabric Co. Ltd., China PR
  - c. Jiangsu Taiji Industry New Materials Co. Ltd., China PR
  - d. Oriental Textile (Holding) Limited "OTTI"
  - e. Oriental Industries (Suzhou) Ltd. OTZI, China PR
  - f. Zhejiang Unifull Hi-Tech Industry Co. Ltd., China PR
- vii. Further, Jiangsu Taiji Industry New Materials Co. Ltd., China PR filed the Market Economy Treatment Questionnaire response but withdrew it later.
- viii. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

- a. Filatech Enterprises Private Limited, Haryana
  - b. Rachna Textiles India Private Limited, MP
  - c. Arvind Limited, Gujarat
  - d. Marc Industries, Tamil Nadu
  - e. Sanrhea Technical Textiles Limited, Gujarat
  - f. Madhura Industrial Textiles Limited, Maharashtra
- ix. In response to the initiation notification, none of the importers filed importer questionnaire response. However, M/s ARB conveyers has filed submissions with certain data. M/s Sanrhea Technical Textiles Limited has filed post hearing submissions.
- x. M/s Oxford Rubbers Private Ltd. filed data/submissions at quite a belated stage through letter dated 5<sup>th</sup> June, 2018. In this letter they have submitted that Designated Authority may consider submissions filed by their Advocate i.e. M/s World Trade Consultants. The Authority has appropriately considered various submissions filed by M/s World Trade Consultants as also narrated in the disclosure. Further post disclosure comments filed by M/s World Trade Consultants have also been appropriately considered. The Authority however does not consider it appropriate to consider specific data filed by M/s Oxford Rubbers Private Ltd. at a belated stage keeping in view the sanctity of timelines and principles of natural justice.
- xi. Further, All India Rubber Industries Association filed objections to the petition and initiation thereof within the time line prescribed by the Authority. During oral hearing All India Rubber Industries Association and its members desired to file importer/user questionnaire response. The submissions were filed at belated stage only by All India Rubber Industries Association on 1<sup>st</sup> May, 2018 which have been considered in this final findings. No other user present in the oral hearing filed any questionnaire response/submissions.
- xii. China Chamber of Commerce of Import and Export of Textile and Apparel also filed objections to the petition and initiation thereof but the same were filed after the prescribed time line.
- xiii. 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;
- xiv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
- xv. The Non-Injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has

- been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xvi. The Authority held an oral hearing on 12<sup>th</sup> March, 2018 to provide an opportunity to the interested parties to present relevant information orally in accordance with Rule 6 (6), which was attended by the representatives of domestic industry and other interested parties. All the parties who presented their views in the oral hearing were requested to file written submissions of their views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and submit their rejoinders thereafter.
- xvii. The verification of the information provided by the domestic industry was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon.
- xviii. Desk verification was carried out of data filed by the following producers/exporters in the subject countries:  
M/s WUHU S.H.Z Industrial Fabric Co. Ltd., China PR; M/s Jiangsu Taiji Industry New Materials Co. Ltd., China PR; M/s Oriental Textile (Holding) Limited "OTTI", China PR and M/s Oriental Industries (Suzhou) Ltd. OTZI, China PR; M/s Zhejiang Unifull Hi-Tech Industry Co. Ltd., China PR; M/s Shandong Helon Polytex Chemical Fiber Co., Ltd., China PR.
- xix. The Period of Investigation (POI) for the purpose of the present review investigation is April 2016 – March 2017 (12 months). The examination of trends in the context of injury analysis covered the period- 2013-14, 2014-15, 2015-16 and the POI.
- xx. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final findings.
- xxi. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xxii. 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 the views/observations on the basis of the facts available.
- xxiii. The Authority issued a disclosure statement under Rule 16 on 28<sup>th</sup> May, 2018 and provided an opportunity to give comments to the disclosure statement till 6<sup>th</sup> June, 2018.
- xxiv. '\*\*\*\*' in this document represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules. ( ) bracket in this final findings indicates negative number/range.

xxv. Exchange rate for POI has been taken by the Authority as Rs.67.95 = 1 US\$.

**B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

**B.1. Views of the Domestic industry**

5. The views of the domestic industry are as follows:

- i. The product under consideration in the present petition is "Belting Fabric" which is usually made of either nylon or polyester or a combination thereof. It is a Rubberized Textile Fabric (RTF) or Conveyor Belt Fabric (CBF) produced from various industrial yarns like Nylon 6 (N6), Nylon 66 (N66) and Polyester Industrial Yarn (PIY). It is being produced and sold either as grey fabric or as dipped fabric. In case of sale of grey fabric, the consumers may do dipping of the fabric in-house before consumption of the product.
- ii. The Applicant's strength lies in customization of the subject goods for its customers and offering a wide range of designs to them. The product line up of the applicant constitutes dipped belting fabrics in both ply belting as well as solid woven variety. The solid woven fabrics are suitable for heavy-duty use, where strength and dynamic strain resistance are required. Besides added strength, the solid woven construction allows for more acute roller angles of monopoly-belt. The most common use of the fabric is in Conveyor Belts.
- iii. It is a woven fabric having length wise threads called "WARP" and width wise threads called "WEFT". It is reinforcement material for manufacturing of Conveyor Belts. Prominent mines and/or industries which use conveyor belts are in the fields of Coal, Steel, Cement, Power etc.
- iv. Model-match criteria or PCN system- Based on raw material consumed and resultant end usage requirement in a conveyor belt, various yarn varieties are used in the following combinations. Accordingly, the product under consideration has been categorized into these product types for the purpose of determination of dumping margin, price undercutting and injury margin for the proposed POI.

| <b><u>Conveyer Belt Fabric Name</u></b>                                 | <b><u>Type of yarn</u></b> |      |
|---|----------------------------|------|
|   | WARP                       | WEFT |
| a. NN( <i>Nylon 6 and Nylon 6</i> )                                     | N6                         | N6   |
| b. EP( <i>Polyester Industrial Yarn and Nylon 66</i> )                  | PIY                        | N66  |
| c. EE( <i>Polyester Industrial Yarn and Polyester Industrial Yarn</i> ) | PIY                        | PIY  |
| d. PP( <i>Nylon 66 and Nylon 66</i> )                                   | N66                        | N66  |

- v. The product under consideration can be divided into four types based on type of yarn. If the interested parties consider that the product under consideration is required to be further categorized in different types, the petitioner has no

reservation against the same. The Designated Authority may decide an appropriate PCN. The petitioner shall provide the data accordingly.

- vi. There is no known difference in the PUC exported from China PR and that produced by the Indian industry. In the present case, both the imported and the domestic product have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable.
- vii. Belting Fabric is classified under subheading 59069990, Chapter 59 of the Customs Tariff. However, the Customs classification is indicative only and in no way binding on the scope of the present investigation.
- viii. The domestic industry has the capability of supplying all types of width & light fabrics which is evident from their website having the description of product categories such as EE 80/ NN 80/ PP 80 /EP80. Based on customer requirement domestic industry can manufacture both wide as well as narrow range of width which goes as low as 52 cm. The petitioner has manufactured and supplied products beyond 315 rating. Relevant evidences have been put on record.
- ix. The domestic industry is commercially capable to cater the demand of the industry. The petitioner is in a position to produce and supply different styles of the product.
- x. Regarding the difference in technology employed for type EE and that employed by Chinese producers, the petitioner submitted that the polyester Yarns does not bond with Resorcinol Formaldehyde Latex (RFL) Brown Dipping Solution naturally. Polyester needs to be activated to bond it with RFL Dipping solution unlike Nylons. If this activation is not provided the fabric/yarns will not stick to RFL solutions. Generally, industry uses activated yarns. The process of activating fabric is more inefficient way of providing needed bonding of yarns with dipping solution. The technology of activating is readily available in India and elsewhere also and is rather considered as obsolete way of making these fabrics. Also fabric activation being inefficient way, generally Industry takes activated yarns. Further, there has been no demand or even query about non-activated adhesive yarn used belting fabric. The petitioner has the technology to manufacture the product following the process. The cost of activating the yarn is 5% of total cost of dipped fabrics. However, that of activating the fabric is 9-10%.
- xi. The claims regarding longer supply cycle, rising capital costs, lack of flexibility and difficulties to meet some customers because of main raw material relied on imports are unsubstantiated, without evidence, irrelevant and uncalled for in an anti-dumping investigation.
- xii. Regarding price of different categories of products, the petitioner has submitted that the petitioner has not adopted weighted average basis approach for the purpose of determining dumping margin and injury margin. Different categories

of product have led to the formation of product control number system. Accordingly, the petitioner has provided category wise information.

- xiii. Regarding consideration of products mix instead of average price of all types and the detailed classification of product price information, the petitioner has submitted that the Authority may decide as it deems fit.

### **B.2. Views of the other interested parties**

6. The following interested parties have made submissions as follows:
- i. The product has been categorized into 4 product types in the write up part and while calculating price undercutting, there is a separate category “other grade/type” category also. DI needs to provide basis for same. If other grades are not part of PUC, they must be excluded.
  - ii. SRF doesn't supply narrow width fabric and certain light grade material due to economies of scale and other commercial factors. SRF doesn't offer EE belting fabric beyond 315 rating. Petitioner has not described scope of PUC clearly and has considered whole range as subject goods.
  - iii. Neither the petition nor the initiation notification is clear on scope of PUC. The DA may specify the scope the PUC clearly specifying the range of same.
  - iv. The industry requires more than 100 styles of belting fabric at once so that they are able to cater to the Indian market, and this is not possible until and unless they import the fabric from China because the domestic industry is unable to cater to their demands
  - v. There is difference in technology employed for type EE and that employed by Chinese producers. This results in substantial reduction of cost, by 20%. Chinese manufacturers use “Non-Adhesive Activated -Polyester Yarn” whereas “Adhesive Activated - Polyester Yarn” is used by DI.
  - vi. The main raw materials relied on imports may also lead to longer supply cycle, rising capital costs, lack of flexibility and difficulties to meet some customers who have tight lead time requirements.
  - vii. Price of different categories of products have huge difference as the cost and price of PP or NN are higher than EP, and that of EP are higher than EE, while the processing costs remains similar. Chinese products exported to India are more of the categories of lower costs and prices, mostly EE (lowest one) and some EP (the second lowest type). Thus, it is inappropriate to calculate the price of belting fabric with high price in the range of the products involved.
  - viii. If the products mix (variety of combination of weights of each category of goods) is not considered by the Authority instead of average price of all types, objective judgment would be difficult. The Authority should conduct detailed classification of product price information.

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

7. The Authority notes that the product under consideration has been comprehensively defined in the Initiation Notification dated August 23, 2017.

The product under consideration in the present investigation is “Belting Fabric” which is classified under Chapter 59, heading 5906 i.e. Rubberized Textile Fabrics, other than those of heading 5902. Point 4 in the Notes of the Chapter 59 clarifies the meaning of expression “rubberised textile fabrics” for the purpose of heading 5906 as:

*“(a) Textile fabrics impregnated, coated, covered or laminated with rubber:*

*i. Weighing not more than 1,500 gram square meter*

*ii. Weighing more than 1,500 gram square meter and contains more than 50% by weight of textile material.”*

8. Belting Fabric is normally made of either nylon or polyester or a combination thereof. It is a Rubberized Textile Fabric (RTF) or Conveyor Belt Fabric (CBF), produced from various industrial yarns like Nylon 6 (N6), Nylon 66 (N66) and Polyester Industrial Yarn (PIY). It is being produced and sold either as grey fabric or as dipped fabric. In case of sale of grey fabric, the consumers may do dipping of the fabric in-house before consumption of the product.
9. The Authority notes the submissions regarding exclusion of EE belting fabric beyond 315 rating, off spec products in imports and inability of Domestic Industry to supply low width fabric and holds that since DI has provided sample evidences on their product range, the PUC is inclusive of all grades, variants and ratings of subject goods. As regards off specs material and other grades, the Authority notes that the imports of subject goods logged under DGCI&S data and that filed by the cooperating producers/exporters almost correlate. The PCN’s mentioned by cooperating producers/exporters have been considered appropriately on an apple to apple basis for evaluating dumping and related injury.
10. Since specific exclusions of PUC as submitted have been addressed, the other grades reported in small quantities in imports are variants of the 4 types of PCN’s and since no other specific exclusion of any PCN has been sought by any cooperating Producer/Exporter, the Authority does not considered any exclusion under the scope of subject goods and has evaluated weighted average Dumping Margin and Injury Margin taking into account the PCN’s reported by the cooperating producers/exporters in their response.
11. It is noted that belting fabric is produced in a large combination of raw material and construction, using different combination of nylon & polyester yarn of different deniers. The product under consideration is a woven fabric having length wise threads called “WARP” and width wise threads called “WEFT”. The product under consideration is reinforcement material for manufacturing of Conveyor Belts. Prominent mines and/or industries which use conveyor belts are in the fields of Coal, Steel, Cement, Power etc.
12. It is further noted that based on raw material consumed and resultant end usage requirement in a Conveyor Belt, various yarn varieties are used in the various combinations. Accordingly, the product under consideration has been categorized into these product types and considered in this investigation.

| <u>Conveyer Belt Fabric Name</u>  | <u>Type of yarn</u> |      |
|---|---------------------|------|
|   | WARP                | WEFT |
| a. NN( <i>Nylon 6 and Nylon 6</i> )                                     | N6                  | N6   |
| b. EP( <i>Polyester Industrial Yarn and Nylon 66</i> )                  | PIY                 | N66  |
| c. EE( <i>Polyester Industrial Yarn and Polyester Industrial Yarn</i> ) | PIY                 | PIY  |
| d. PP( <i>Nylon 66 and Nylon 66</i> )                                   | N66                 | N66  |

13. As regards difference in the production process resulting in cost difference, the Authority notes that the manufacturing processes followed by the producers in China and India are resulting in products with same specification meeting the requirements of the same consumers in the market place. Therefore, it is held that the distinction of production process is not relevant for the purpose of like article in this investigation.
14. It is further noted that industry uses activated yarns generally as the process of activating fabric is more inefficient way of providing needed bonding of yarns with dipping solution as the cost of activating the yarn is 5% of total cost of dipped fabrics. However, that of activating the fabric is 9-10%. Further, the respondents have failed to provide any evidence regarding demand of non-activated adhesive yarn used belting fabric.
15. The Authority notes from the aforesaid aspects and information available on record that the product under consideration produced by the domestic industry is like article to the goods imported from the subject country. Product under consideration produced by the domestic industry and imported from the subject country are comparable in terms of physical & chemical characteristics, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The goods produced by the domestic industry and imported from the subject country are like articles in terms of the Rules. The two are technically and commercially substitutable. The Authority therefore holds that the subject goods produced by the domestic industry are like article to the product under consideration imported from subject country within the scope and meaning of Rule 2(d) of antidumping Rules.
16. The Customs classification of the product under consideration is indicative only and is in no way binding on the scope of the present investigation.

## **C. SCOPE OF DOMESTIC INDUSTRY AND STANDING**

### **C.1. Views of the Domestic industry**

17. Following submissions have been made by the domestic industry:
  - i. The petition has been filed by M/s SRF Limited. SRF accounts for substantial share (around 61.69%) in production of the product concerned in India.

- ii. The petitioner has neither imported subject goods from any country nor is related to a producer-exporter of the subject goods in China or an importer in India.
- iii. There are five other producers of subject goods in the country i.e Madhura Industrial Textiles, Sanrhea Technical Textiles, NRC Limited, Johnson Rubber Industries Limited and Brij Textiles.
- iv. The petitioner has sufficient standing and constitutes domestic industry within the meaning of the Rules.
- v. MIT has put on record its support for the imposition of duty and its data for the product concerned. Brij Textiles has also conveyed its position to the DGAD with regard to the present investigation.
- vi. If NRC and Johnsons Rubber are manufacturing textile reinforced conveyor belt, the same does not mean that they are not the producers of Belting Fabric. Both these manufacturers supported the imposition of duty during public hearing.
- vii. Just because Sanrhea manufactures a host of industrial textiles, the same do not mean that it is not a producer of belting fabric.

**C.2. Views of the other interested parties**

- 18. None of the interested parties has raised any issues with respect to the standing of the applicant in the present investigation. However, following issues were raised regarding the name of other producers:
  - i. MIT-MOL and Brij Textiles are not manufacturers of Belting fabric as mentioned in the petition.
  - ii. NRC and Johnson Rubber are manufacturers of “textile reinforced conveyor belt” and their small capacities of belting fabric are mostly for their captive consumption.
  - iii. Sanrhea manufactures a host of industrial textiles and belting fabric is only 25-30% of their total capacity. Their range is also limited.

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

- 19. The Authority notes that the petition has been filed by M/s SRF Limited which accounts for a substantial share i.e. \*\*\*% in production of the product concerned in India. It is further noted that they have neither imported the product under consideration, nor they are related to any importer or exporter of the product under consideration. The production by the Petitioner constitutes ‘a major proportion’ of Indian production of the like product. The application is therefore considered to have been made by and on behalf of the domestic industry and the application satisfies the requirements of ‘standing’ under Rule 5 of the AD Rules. Thus, Authority holds the Petitioner constitutes ‘Domestic Industry’ in terms of Rule 2(b) of the AD Rules.
- 20. It is further noted that two other producers i.e. Madura Industrial Textiles Ltd.

and Sanrhea Technical Textiles Limited have also supported and requested for imposition of Anti-Dumping Duty. Share of Domestic Industry and the 2 supporters becomes \*\*\*%.

21. The Authority further notes that NRC, Johnson and Sanrhea cannot be excluded from the scope of Domestic Industry on the grounds that they are in production of other products including the downstream product.

## **E. Determination of Normal Value, Export Price and Dumping Margin**

### **E.1. Views of the Domestic Industry**

22. The following are the submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority:
- i. Market economy status cannot be granted to the respondents unless the responding exporters satisfy that none of their major shareholders is a state owned/controlled entity, that the prices of major inputs substantially reflect market values; unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the rules and that the responding company has participated in the present investigation along with its related parties involved with PUC.
  - ii. Market economy treatment cannot be given where Chinese exporters are unable to establish that their books are consistent with International Accounting Standards (IAS).
  - iii. It is for the responding Chinese exporters and not for the Authority to establish that they are operating under market economy conditions.
  - iv. In a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
  - v. The normal value for China in such a case can be determined only in accordance with the provisions of para 7 of the Annexure I to Anti-dumping Rules in view of the aforementioned facts and circumstances.
  - vi. While Art. 15(a)(ii) of China's Accession Protocol expired on December 11, 2016, the Authority must treat China PR as a non-market economy (NME) in the present investigation for the reason that a major part of the POI was prior to December 11, 2016 as the situation prevailing during the POI becomes the relevant consideration.
  - vii. Normal value in China of the product under consideration could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available
  - viii. Applicant has determined Normal Value in China on the basis of cost of production in India, by taking the import price into India of the major raw materials and duly adjusted with selling, general and administrative expenses

and considering the consumption norms of the applicant. 5% profit has been considered.

- ix. The export price is constructed based on the information available from the import data after making due adjustment based on the best available information with the industry to make it comparable with normal value.
- x. The dumping margin is positive and substantial.
- xi. The response of the respondents should not be accepted given the fact that they have failed to disclose vital information, such as name of their related parties, details of their related party producing product under consideration, suppression of facts regarding benefits & incentives received by them.
- xii. The petitioner has made submissions and claims on normal value as per the best available information available to it. The Authority may appropriately adopt the methodology to determine normal value.
- xiii. None of the parties barring one i.e. Jiangsu Taiji have claimed MET. For the reasons mentioned above, none of the Chinese producers/exporters including Jiangsu Taiji Industry New Materials Co. Ltd., China PR should be given the market economy treatment. Also, almost each and every information was claimed confidential in the MET QR which hampers our right to make effective comments. Further, Wuxi Taiji Industry Company Ltd., a listed, state holding company and Wuxi government (State owned bureau-Wuxi State Owned Assets Administration) holds significant shares in it, is 100% shareholder of Jiangsu Taiji Industry New Materials Co. Ltd. and this fact has not been disclosed in the MET QR which raises apprehension regarding involvement of government in the management of the company
- xiv. The very fact that the exporters have resorted to dumping gets established by their tacit admission in not denying existence of dumping.
- xv. Regarding the claims of Shandong HelonPolytex, the petitioner submitted that the respondent has made a blank statement without any evidence or support. Hence, the petitioner is not in a position to comment. The Designated Authority may decide as it deems fit in accordance with law and facts of the present investigation.

## **E.2. Views of other interested parties**

23. The submissions made by the opposing interested parties are as follows:
- i. The methodology of determination of the export price and dumping margin is not correct in accordance with the law and that the authority is deviating from the same.
  - ii. DA should grant MET to China based on the development of market economy of China, conduct any normal value calculation in accordance with Article 2 of ADA and apply the data and prices provided by the Company in this response for the determination of the normal value rather than applying analogue country data.
  - iii. Shandong HelonPolytex Chemical Fibre Co. Ltd. is not engaged in dumping of subject goods and the Authority is requested to determine individual dumping margin in terms of Section 9A of Customs Tariff Act, 1975.

- iv. As regards the claim of Domestic industry regarding receiving benefits under various incentive schemes in China, it is submitted that the Domestic industry has not furnished any evidence in this regard; question A.4 of exporter questionnaire does not talk about the incentives, subsidies etc. and that the present is an anti-dumping investigation. Thus, such issues are not relevant here.
- v. Jiangsu Taiji Industry New Materials Co. Ltd. has submitted that anti-dumping duty is imposed on prospective basis and hence, imposition of anti-dumping duty after December, 2016 shall be based on the treatment of China PR as market economy.

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

#### **Normal Value**

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

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

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

*(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under subsection (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 transhipped 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.*

25. The Authority notes that Article 15 (a) (i) of the China's Accession Protocol in WTO requires the producers/exporters of China to establish their claim for market economy treatment. Para 7 and Para 8 of the AD Rules also stipulates requirements for such claims.

26. Only M/s Jiangsu Taiji Industry New Materials Co. Ltd. (producer/exporter) from China PR has claimed market economy treatment which was later withdrawn. In view of this, as none of the producers/exporters have claimed market economy treatment, the Authority has therefore adopted the constructed normal value approach in view of the AD Rules. The normal value for all producers/exporters has been evaluated keeping in view Rule 6 (8) i.e. best available information of the AD Rules which reads as *"In a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances."*

27. In view of the foregoing para, the normal value for the subject goods has been constructed considering optimum consumption norms for the major raw materials and utilities, international prices of purchased raw materials, prices of captively produced raw material, including reasonable conversion cost, interest, SGA, and reasonable profit etc.

28. The weighted average normal value for different grades in US\$/MT is as under:

| S. No. | Grades | Value in US\$/MT |
|--------|--------|------------------|
| 1.     | EE     | ***              |
| 2.     | EP     | ***              |
| 3.     | NN     | ***              |
| 4.     | PP     | ***              |

The constructed normal value is applied for all cooperating and non-cooperating producers/exporters.

### **Export Price**

29. The Authority notes that five exporters from China PR have provided exports data in the questionnaire response which has been verified on a sample basis on desk study. The Net Export Price for the five cooperating exporters has been determined as follows:

#### **i. Shandong Helon Polytex Chemical Fibre Co., Ltd., China PR**

30. The Authority notes that M/s Shandong Helon Polytex Chemical Fibre Co., Ltd. (“SHP”) as a producer and exporter of subject goods has exported only NN grade and has filed questionnaire response containing data on domestic selling price, export price to India, export price to other countries and cost of production. However, no market economy treatment questionnaire claiming market economy has been filed. During the desk verification of response, the representative of the producer/exporter further confirmed that they are not claiming market economy treatment. The documents related to export price to India including invoices, payments and adjustments have been provided by the producer/exporter on a sample basis. The Authority notes that producer/exporter has exported \*\*\* MT of NN type of subject goods at a CIF value of \*\*\* US\$ at per unit CIF of \*\*\* US\$/MT.
31. The producer/exporter has claimed adjustments on inland freight, handling charges, credit expense, ocean freight, ocean insurance and bank charges to an extent of \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT respectively and provided sample evidences. The Authority after considering the above adjustments referenced exfactory export price as \*\*\* US\$/MT.

**ii. WUHU S.H.Z Industrial Fabric Co. Ltd., China PR**

32. The Authority notes that M/s WUHU S.H.Z Industrial Fabric Co. Ltd., as a producer and exporter of subject goods has exported EE, EP and NN grade and has filed questionnaire response containing data on domestic selling price, export price to India, export price to other countries and cost of production. However, no market economy treatment questionnaire claiming market economy has been filed. During the desk verification of response, the representative of the producer/exporter further confirmed that they are not claiming market economy treatment. The documents related to export price to India including invoices, payments and adjustments have been provided by the producer/exporter on a sample basis. The Authority notes that producer/exporter has exported \*\*\* MT, \*\*\* MT and \*\*\* MT of EE, EP and NN grade of subject goods respectively at per unit CIF of \*\*\* US\$/MT, \*\*\* US\$/MT and \*\*\* US\$/MT of EE, EP and NN grades respectively.
33. The producer/exporter has claimed adjustments for EE grade on Inland Transportation, Handling, Overseas Transportation, Insurance, Credit, Foreign Bank Charge, Domestic Bank Charge to an extent of \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT respectively; \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT respectively for EP grade; \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT respectively for NN grade and provided sample evidences. The Authority after considering the above adjustments referenced exfactory export price as \*\*\* US\$/MT, \*\*\* US\$/MT and \*\*\* US\$/MT of EE, EP and NN grades respectively.

### **iii. Jiangsu Taiji Industry New Materials Co. Ltd., China PR**

34. The Authority notes that M/s Jiangsu Taiji Industry New Materials Co. Ltd., as a producer and exporter of subject goods has exported EE, EP and NN grade and has filed questionnaire response containing data on domestic selling price, export price to India, export price to other countries and cost of production. However, market economy treatment questionnaire claiming market economy has been withdrawn by the producer/exporter. During the desk verification of response, the representative of the producer/exporter further confirmed that they are not claiming market economy treatment. The documents related to export price to India including invoices, payments and adjustments have been provided by the producer/exporter on a sample basis. The Authority notes that producer/exporter has exported \*\*\* MT, \*\*\* MT and \*\*\* MT of EE, EP and NN grade of subject goods respectively at per unit CIF of \*\*\* US\$/MT, \*\*\* US\$/MT and \*\*\* US\$/MT of EE, EP and NN grades respectively.
35. The producer/exporter has claimed adjustments for Inland Freight, Handling Charge, Ocean Insurance, Overseas Freight, Bank Charges and Credit Cost to an extent of \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT respectively for EE grade; \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT respectively for EP grade and \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT respectively for NN grade and provided sample evidences. The Authority after considering the above adjustments referenced exfactory export price as \*\*\* US\$/MT, \*\*\* US\$/MT and \*\*\* US\$/MT of EE, EP and NN grades respectively.

### **iv. Oriental Textile (Holding) Limited "OTTI" and Oriental Industries (Suzhou) Ltd. OTZI, China PR**

36. The Authority notes that Oriental Industries (Suzhou) Ltd. has exported the subject goods to India during the POI directly and also through M/s Oriental Textile (Holding) Ltd to an extent of \*\*\* MT and \*\*\* MT respectively. M/s Oriental Industries (Suzhou) Ltd. and M/s Oriental Textile (Holding) Ltd has filed questionnaire response containing data on domestic selling price, export price to India, export price to other countries and cost of production. However, no market economy treatment questionnaire claiming market economy has been filed. During the desk verification of response, the representative of the producer/exporter further confirmed that they are not claiming market economy treatment. The documents related to export price to India including invoices, payments and adjustments have been provided by the producer/exporter on a sample basis. The Authority has allowed adjustments on Inland Transportation, Handling, Overseas Transportation, Insurance, Credit, Bank Charge. Accordingly the weighted average net export price has been determined as \*\*\* US\$/MT.

**v. Zhejiang Unifull Hi-Tech Industry Co. Ltd., China PR**

37. The Authority notes that M/s Zhejiang Unifull Hi-Tech Industry Co. Ltd., as a producer and exporter of subject goods has exported EE and EP grade and has filed questionnaire response containing data on domestic selling price, export price to India, export price to other countries and cost of production. However, no market economy treatment questionnaire claiming market economy has been filed. During the desk verification of response, the representative of the producer/exporter further confirmed that they are not claiming market economy treatment. The documents related to export price to India including invoices, payments and adjustments have been provided by the producer/exporter on a sample basis. The Authority notes that producer/exporter has exported \*\*\* MT, \*\*\* MT of EE and EP grades of subject goods respectively at per unit CIF of \*\*\*US\$/MT and \*\*\* US\$/MT of EE and EP grades respectively.

38. The producer/exporter has claimed adjustments for EE grade on Credit Expense, Inland Transportation (including Handling fee), Overseas Freight, Overseas Insurance and Bank Charges to an extent of \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT for EE grade; \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT respectively for EP grade and provided sample evidences. The Authority after considering the above adjustments referenced exfactory export price as \*\*\* US\$/MT and \*\*\* US\$/MT of EE and EP grades respectively.

**Determination of Dumping Margin**

39. Based on normal value and export price determined as above, the dumping margin for producers/exporters from subject countries has been determined by the Authority and the same is as follows:

| S. No | Country  | Producer  | Exporter  | Normal Value – US\$/MT | Export price - US\$/MT | Dumping Margin - US\$/MT | Dumping Margin - % | Dumping Margin Range- % |
|-------|----------|---|---|------------------------|------------------------|--------------------------|--------------------|-------------------------|
| 1     | China PR | Shandong Helon Polytex Chemical Fibre Co., Ltd., China PR | Shandong Helon Polytex Chemical Fibre Co., Ltd., China PR | ***                    | ***                    | ***                      | ***                | 30 - 40                 |
| 2     | China PR | WUHU S.H.Z Industrial Fabric Co. Ltd., China PR           | WUHU S.H.Z Industrial Fabric Co. Ltd., China PR           | ***                    | ***                    | ***                      | ***                | 30 – 40                 |
| 3     | China PR | Jiangsu Taiji Industry New Materials Co. Ltd., China PR   | Jiangsu Taiji Industry New Materials Co. Ltd., China PR   | ***                    | ***                    | ***                      | ***                | 50 – 60                 |
| 4     | China PR | Oriental Industries (Suzhou) Ltd. OTZI, China PR          | Oriental Industries (Suzhou) Ltd. OTZI, China PR          | ***                    | ***                    | ***                      | ***                | 20 – 30                 |

|   |          |  |  |     |     |     |     |         |
|---|----------|--|--|-----|-----|-----|-----|---------|
|   |          |  | Oriental Textile (Holding) Limited "OTTI", China PR  |     |     |     |     |         |
| 5 | China PR | Zhejiang Unifull Hi-Tech Industry Co. Ltd., China PR | Zhejiang Unifull Hi-Tech Industry Co. Ltd., China PR | *** | *** | *** | *** | 20 – 30 |
| 6 | China PR | Any other than the producers at Sl. No. 1-5          | Any other than the exporters at Sl. No. 1 -5         | -   | *** | *** | *** |         |

## **F. DETERMINATION OF INJURY AND CAUSAL LINK**

### **F.1 Views of the Domestic industry**

40. Following are the material injury related submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority:
- i. The domestic demand of the product under consideration has increased over the injury period and has been significant.
  - ii. Imports from the subject country have increased throughout the injury period and are significant in relation to total production and consumption in India also.
  - iii. The increase in subject imports is more than the increase in demand in India. The increase in market share of dumped imports is higher, in fact more than twice, than the increase in the demand.
  - iv. The imports from other countries are 8% of the total imports entering India. The subject imports are 2279 MT more than what it is entering from the other countries. Though the volume from other countries has increased over the injury period but the prices are higher as compared to the Chinese prices and average CIF price and almost twice to that of China.
  - v. Market share of the domestic industry as well as other Indian producers has declined over the proposed injury period; whereas that of subject country imports has increased during the same period.
  - vi. Subject imports are significantly undercutting the domestic sales price.
  - vii. Subject imports have had significant depressing effect on the prices of the domestic industry.
  - viii. The domestic industry has enhanced its capacities in view of increased demand in India and resultantly the production and capacity utilization has increased over the injury period.
  - ix. Inventories with the domestic industry have increased significantly since base year. Despite demand being more than what domestic industry can produce and sell, the domestic industry is unable to dispose of its accumulated inventories.
  - x. Performance of the domestic industry has been adverse in respect of parameters such as profits, profit before interest, cash profits and return on

capital employed. The same shows deterioration throughout the injury period and the same is due to the dumped imports.

- xi. Employment and wages are not reflective of the adverse effects of the dumping on the domestic industry, as these factors are governed by overall operations of the company and the economy.
- xii. Productivity per day and per employee has increased over the injury period.
- xiii. Growth of the domestic industry has been adverse.
- xiv. Because of the adverse impact on profitability due the dumping resorted by Chinese exporters, the applicant does not find it prudent to make any further investments.
- xv. The benchmark for the Indian producer's prices is the import prices from subject countries. There is no viable substitute to this product. The demand for the product has increased. It is thus evident that the only factors responsible for the domestic industry prices are the import prices of the product from subject country and the cost of production of the domestic industry.
- xvi. The injury margin is significant and positive.
- xvii. Various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury.
- xviii. The respondent has failed to point out what material facts have been suppressed by the petitioner or what has been manipulated/fabricated. The domestic industry has suffered material injury and the same has been demonstrated by the petitioner.
- xix. Regarding capacity utilization being 100% as claimed by other interested parties, the petitioner submitted that the respondent is reading the indexed figures as actual figures. The actual capacity utilization was \*\*\*% in the POI
- xx. Regarding the comparison of decline in selling price in domestic and exports market, the petitioner submitted that in an anti-dumping investigation, only the information regarding the domestic market is relevant.
- xxi. Regarding difference in profit claimed and the decrease in cost & sale, the petitioner submitted that while the fall in selling price is more than the fall in cost of sales, the fall in profits is steeper. The Authority may take verified data.
- xxii. Regarding the data given in annual report, the petitioner submitted that the information in the petition and data related to PUC filed for the purpose of present anti-dumping investigation only needs to be seen. Nonetheless, tyre Cord fabric is the major contributor in the textile division (around 90% revenue).
- xxiii. Regarding the unsubstantiated allegation that belting fabric business in India is doing well and that the South African business not doing well, the petitioner vehemently denied these unsubstantiated allegations. The Petitioner further stated that the performance of the business in some other country is not relevant for the present investigation.
- xxiv. Re-designing is a regular exercise in any business to meet the changing end market requirement. This in no way is linked to higher or lower cost. Despite this re-designing, the domestic industry suffered decline in profits.

- xxv. Regarding cost audit report for TTB, the petitioner submitted that the information related to only belting fabric is relevant here.
- xxvi. Regarding comparison of data with the official website of MOC, the petitioner submitted that it has relied upon DGCI&S T/T Listing data. It appears that the respondent is relying on the aggregate data published by DGCI&S.
- xxvii. Regarding 22% ROCE, the petitioner submitted that the Authority may provide ROCE as per its consistent practice, even though the domestic industry has sought higher ROCE. The DA has a practice to allow 22% return in all situations and, therefore, principles of equity demand that the same is applied to all situations.
- xxviii. Regarding self-infliction of injury, the petitioner submitted that the respondent has made a blank statement without any evidence or support or even explaining the term “self-infliction”. Hence, the petitioner is not in a position to comment
- xxix. Regarding the competitiveness of Indian prices, the petitioner submitted that approximately \*\*\*% of raw materials are imported and rest is domestically procured. The domestic industry has suffered injury despite captive yarn. The respondents are themselves accepting the fact that the Chinese producers have cost advantage which results in low cost and thus, are able to dump the goods in India.
41. The domestic industry submitted as follows as regard to the causal link
- i. The imports from countries other than the subject country are either not significant in volume or not at dumped prices and hence, not causing injury to the domestic industry.
  - ii. Demand for the product under consideration during period of investigation is quite significant and hence, is not a cause of the injury to the domestic industry.
  - iii. The other known factors viz. export performance, technology, performance of the other products of the company, trade restrictive practices listed in the anti-dumping agreement or in the Rules have not caused injury to the domestic industry.
  - iv. Imports are undercutting the prices of the domestic industry. Resultantly, the volume of imports has increased significantly; which forced the domestic industry to reduce the prices, thus, resulting in deterioration of financial performance of the domestic industry.
  - v. The deciding factors for the domestic industry to price its product are – cost of inputs and price offered by foreign producers. Thus, if price offers by the foreign producers are too low compared to the price that the domestic industry works out based on its cost changes, the only option with the domestic industry is to offer a sub-optimal price.
  - vi. Because of increase in subject imports, sales volumes of the domestic industry have been adverse and market share of the domestic industry has declined.
  - vii. The respondents have failed to show the presence of other factors that had caused or are causing injury to the domestic industry.

- viii. The delivery/requirement types of conveyor belts which are medium to long term (general belt order constituting 18-20%), immediate need for maintenance (15-18%) and generic or scheduled belt replacement (62-65%) determine pricing. The Chinese producers are aggressively pricing to reduce barriers to encourage domestic users in India to shift to them. SRF has idle capacity of 16% in POI. Imports from China have increased throughout injury period. Subject imports are 2279 MT above the imports from other countries. The per unit CIF prices from other countries are much above than prices from China.

## **F.2 Views of other interested parties**

42. Submissions made by the other interested parties are as under:
- i. Petitioner has suppressed the material facts and exaggerated the increased imports of subject product and deliberately invented material injury. The claims are concocted, manipulated and fabricated in order to show injury.
  - ii. Subject imports have increased from 1878 MT in base year to 2490 in POI which is 19% share in Indian demand in POI against the increase in imports from other countries which have gone up by 229%.
  - iii. Indian demand has increased by 16% whereas subject imports in comparison to total demand have increased from 16% during base year to 19% in POI.
  - iv. Capacity, production and capacity utilization have been at the highest level during POI. The capacity utilization was 100%
  - v. Sales volume in domestic market has increased from base year to POI. While cost has decreased by 12% in domestic and exports market both, correspondingly their selling prices have also decreased. In fact decline in export selling price is much more than decline in domestic selling price.
  - vi. Cost has decreased by 12% whereas selling price has decreased by 13%. However, profit is claimed to be reduced by 49% & which is quite huge when compared with reduction in cost of sales and selling price. Petitioner has exhausted profits under some other heads of expenses within the organization.
  - vii. Wages have increased.
  - viii. As per the Annual report of SRF which is consolidated for three divisions-technical textile, chemicals and packing film demonstrates as: Textile Business which included belting fabric has fared better than the overall business on parameters like - asset turnover ratio, capital employed to turnover ratio, EBITA on sales% and EBITA on capital employed % ever after getting the lowest capital employed. Belting fabric is an integral part of TTB segment and plays a substantial role in performance of this division. If the product belting fabric would not have been doing well, it would have showed up in the performance of this division. Capital commitment to TTB segment is not the highest but ROCE, among others, is.
  - ix. Audit categorically reports that belting fabric business in India is doing well and that in South Africa is adversely affected due to aggressive Chinese competition.

- x. The overall performance of the domestic industry is robust, with no injury being reflected from their audit reports and annual reports.
- xi. SRF Ltd focused on redesigning of fabric for lowering the cost which means their current design of fabric is resulting in higher cost.
- xii. SRF is required to provide cost audit report for TTB to ascertain injury to belting fabric as claimed in the petition
- xiii. Import volume and price in the petition doesn't tally with the official website of MOC.
- xiv. Petitioner has claimed 26% return on gross fixed assets and calculations has been done for 22%. Such claim is inflated and not in accordance with law.
- xv. The DA determines NIP on the basis of cost of production of DI, such determination is highly inflated and is not based on real situation as per para-4 of the Annexure III of the Rules.
- xvi. Adoption of 22% ROCE to arrive at NIP is not reasonable. Adoption of a practice cannot be a ground for reasonability. Basis of 22% ROCE designed by GOI in Drugs (Prices Control) Order, 1987 (DPCO, 1987) cannot be termed reasonable after 30 years when parameters like interest rate and corporate tax were different. DA should adopt ROCE earned by the industry when there was no allegation of dumping as reasonable profit margin and not 22% ROCE. Providing 22% is incorrect because (i) debt portion of capital employed which attracts about 10-12% interest rate is provided 22%, (ii) this in turn result in providing more than 22% return on net worth portion of capital employed, (iii) during an era of global recession allowing such a high return to DI is totally incorrect and is unheard of.
- xvii. Calculation of return by adopting 22% uniformly on both the components of capacity employed is incorrect. As per the sample calculation provided below, 22% ROCE gives undue advantage and protection of 41% profit margin on equity to the DI.

|  |       |       |       |
|--|-------|-------|-------|
| Debt equity ratio                            | 2:1   | 1:1   | 1:2   |
| Capital employed                             | 100   | 100   | 100   |
| Net worth (equity + reserves)                | 66    | 50    | 34    |
| Debt   | 34    | 50    | 66    |
| ROCE @ 22% (as per the DGAD practice)        | 22.00 | 22.00 | 22.00 |
| Actual interest paid (12%)                   | 4.08  | 6     | 7.92  |
| Actual return considered                     | 17.92 | 16.00 | 14.08 |
| Effective profit on net worth considered (%) | 27.15 | 32.00 | 41.41 |

- xviii. As per the decision in Bridge Stone Tyre vs DA, 22% ROCE has colored the injury determination and has inflated the price underselling and injury margin. DA should adopt the actual profit earned by the DI during the period when there was no allegation of dumping as a basis for calculating reasonable return. European Union also follows the same practice.
- xix. The overall performance of domestic industry is positive. There is no volume or price injury to domestic industry on account of subject imports.

- xx. The injury to domestic industry is self-inflicted. Therefore, the investigation should be terminated forthwith.
- xxi. Indian prices are not competitive as the main raw materials(industrial yarn) are imported from foreign countries which cause increase in cost significantly while the same is self-produced or domestically procured by Chinese producers which results in low cost. The Indian domestic industry does not have such cost advantage.
- xxii. Any injury allegedly suffered by the DI is due to factors other than imports from subject countries.
- xxiii. In terms of pricing, following is the situation:  
 $N 66 > N 6 > PIY$   
 Thus,  $PP > NN > EP > EE$   
 The share of EE in imports is 61.34% and the main reason for Chinese EE belting fabric being cheaper than EE belting fabric manufactured by SRF is technology difference and use of adhesive activated polyester yarn by SRF which results in higher cost. The conversion cost of SRF from yarn to fabric is USD 1.2 to USD 1.4/kg due to old technology and machinery whereas that of Chinese producers is USD 0.60 to USD 0.70/kg due to ultra-modern new generation technology. Thus, the conveyor belt fabric produced by China is cheaper than the fabric made by SRF.
- xxiv. If conversion cost of USE 0.70/kg is added to the price of PIY during 2015-16 and 2016-17 i.e USD 1.34/kg, the resultant fabric should not cost more than USD 2.10/kg to USD 2.2./Kg at the relevant period. However, the imports during the same period are around USD 2.54/kg and USD 2.17/kg respectively. Thus, there is no price undercutting as being claimed by SRF.
- xxv. The quantities of import reflected in year 2016-17 may also contain quantities of "off spec fabric" for which no data is provided. It must be clearly verified that volume and price of only prime fabric be considered while deciding the merit of the application.
- xxvi. SRF has closed their South African manufacturing unit and the machinery are being shifted to India for increasing their production capacities by 300-400 MT/per month i.e for conveyor belt fabric which will result in a substantial hike in their monthly capacity by 40-50%. This exercise is expected to be completed shortly and in next 6-9 months, regular production is expected to commence. If a unit is already suffering injury, why will it add further capacity? SRF is enjoying monopoly and in case they succeed, the additional capacity will be utilized without any challenges.
- xxvii. M/s ARB conveyers has submitted that there are 6-7 manufacturers of subject goods in India i.e Madura, Sanrhea, NRC, Deepak, Brij Textile, Jonson. SRF cannot cater to 38 to 40 conveyer belt manufacturers. Also there are limitations on part of others i.e Madura and NRC consumes fabric captively, Sanrhea and Deepak have low capacity, Brij Textile manufactures for sunshine conveyors. The China imports are competitive due to price, buyer credit availability and are with less delivery time. SRF made huge profits in past and have only lowered prices due to imports from China but are still higher than import prices.

### F.3 Examination by the Authority

43. The Authority taking note of the submissions made by various interested parties and domestic industry with regard to the injury in accordance with the Anti-dumping Rules. The Authority herein below has examined the injury in accordance with Annexure II(iv) of the Rules:

#### F.3.1 Volume Effect of dumped imports and impact on domestic industry

##### a) Demand and Market Share

44. The demand or consumption of the product in India is computed by summing of domestic sales of all the Indian producers and imports from all sources.

| Particulars                             | Unit | 2013-14 | 2014-15 | 2015-16 | POI    |
|---|------|---------|---------|---------|--------|
| <b>Demand/Consumption in India</b>      |      |         |         |         |        |
| Sales of Domestic Industry              | MT   | ***     | ***     | ***     | ***    |
| Sales of Other Indian Producers         | MT   | ***     | ***     | ***     | ***    |
| Imports from Subject country – China PR | MT   | 1,878   | 2,168   | 2,428   | 2,490  |
| Imports from other countries            | MT   | 92      | 179     | 127     | 211    |
| Total Demand in India                   | MT   | 12,194  | 13,443  | 12,758  | 14,265 |
| <b>Market share in demand</b>           |      |         |         |         |        |
| Share of Domestic Industry              | %    | ***     | ***     | ***     | ***    |
| Share of Other Indian Producers         | %    | ***     | ***     | ***     | ***    |
| Share of Indian Industry                | %    | ***     | ***     | ***     | ***    |
| Share of Subject country - China PR     | %    | 15.40   | 16.13   | 19.03   | 17.45  |
| Share of Other Countries                | %    | 0.75    | 1.33    | 1.00    | 1.48   |
| Total Share in Demand                   | %    | 100.00  | 100.00  | 100.00  | 100.00 |

45. The Authority notes that the demand for the product under consideration has increased throughout the injury period. The share of imports from the subject country in domestic demand/consumption has also increased. Market share of imports from other countries have remained at the same level and is less than 2% throughout the injury period. The share of the domestic industry in demand remained more or less stable.

##### b) Import volumes and share of subject country

46. With regard to this parameter, 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. The volume of imports of the subject goods from the subject country have been analyzed as under:

| Particulars          | Unit | 2013-14 | 2014-15 | 2015-16 | POI   |
|----------------------|------|---------|---------|---------|-------|
| <b>Import Volume</b> |      |         |         |         |       |
| China PR             | MT   | 1,878   | 2,168   | 2,428   | 2,490 |
| Other Countries      | MT   | 92      | 179     | 127     | 211   |
| Total Imports        | MT   | 1,970   | 2,347   | 2,555   | 2,701 |

| Particulars   | Unit | 2013-14 | 2014-15 | 2015-16 | POI    |
|---|------|---------|---------|---------|--------|
| <b>Market Share in Imports</b>                          |      |         |         |         |        |
| Subject country   | %    | 95.33   | 92.37   | 95.03   | 92.18  |
| Others  | %    | 4.67    | 7.63    | 4.97    | 7.82   |
| Total Imports   | %    | 100.00  | 100.00  | 100.00  | 100.00 |
| <b>Imports from the subject country in relation to-</b> |      |         |         |         |        |
| Indian Production                                       | %    | 18.34   | 19.51   | 23.76   | 21.42  |

47. The import volume from the subject country has increased throughout the injury period in absolute terms. Imports from other countries have also increased over the same period. The subject country imports are 92.18% of the total subject imports in India.
48. It is further noted that the volume of imports from the subject country as a proportion of India production has also increased in the injury period, except for a decline in the POI as compared to the preceding year.

### **F.3.2 Price Effect of dumped imports**

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

#### **a) Price suppression and depression effects of the dumped imports**

50. 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 to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

| Particulars   | Unit            | 2013-14 | 2014-15 | 2015-16 | POI     |
|---------------|-----------------|---------|---------|---------|---------|
| Cost of Sales | Rs./MT, Indexed | 100     | 98      | 97      | 87      |
| Selling Price | Rs./MT, Indexed | 100     | 102     | 95      | 87      |
| Landed Price  | Rs/MT           | 211,868 | 215,805 | 192,533 | 169,469 |
| Trend         | Indexed         | 100     | 102     | 91      | 80      |

51. It is noted that both cost and selling price of the domestic industry has decreased in the injury period. However, the decline in selling price is more than the decline in cost. Further, the landed value of imports from the subject country has also declined in the injury period and the decline is more than the decline in cost and selling price of the domestic industry. The exporters from the subject country are selling the subject goods below the cost and selling price of the domestic industry throughout the injury period. The imports were depressing the prices of the domestic industry in the market.

**b) Price Undercutting**

52. Price undercutting has been determined by comparing the landed price of imports from the subject countries with the net sales realisation of the domestic industry in India which is positive and significant:

| Particulars              | Unit       | 2013-14 | 2014-15 | 2015-16 | POI     |
|--------------------------|------------|---------|---------|---------|---------|
| <b>Overall</b>           |            |         |         |         |         |
| Landed Price             | Rs. Per MT | 211,868 | 215,805 | 192,533 | 169,469 |
| Net Sales Realization    | Rs. Per MT | ***     | ***     | ***     | ***     |
| Price Undercutting       | Rs. Per MT | ***     | ***     | ***     | ***     |
| Price Undercutting       | %          | 15-25   | 15-25   | 20-30   | 25-35   |
| <b>EE Grade/Type</b>     |            |         |         |         |         |
| Landed Price             | Rs. Per MT | 207,015 | 203,190 | 186,455 | 164,580 |
| Net Sales Realization    | Rs. Per MT | ***     | ***     | ***     | ***     |
| Price Undercutting       | Rs. Per MT | ***     | ***     | ***     | ***     |
| Price Undercutting       | %          | 1-10    | 1-10    | 1-10    | 10-20   |
| <b>EP Grade/Type</b>     |            |         |         |         |         |
| Landed Price             | Rs. Per MT | 237,495 | 225,531 | 205,599 | 180,024 |
| Net Sales Realization    | Rs. Per MT | ***     | ***     | ***     | ***     |
| Price Undercutting       | Rs. Per MT | ***     | ***     | ***     | ***     |
| Price Undercutting       | %          | 1-10    | 5-15    | 10-20   | 15-25   |
| <b>NN Grade/Type</b>     |            |         |         |         |         |
| Landed Price             | Rs. Per MT | 233,718 | 243,771 | 207,005 | 188,048 |
| Net Sales Realization    | Rs. Per MT | ***     | ***     | ***     | ***     |
| Price Undercutting       | Rs. Per MT | ***     | ***     | ***     | ***     |
| Price Undercutting       | %          | 20-30   | 15-25   | 25-35   | 20-30   |
| <b>Others Grade/Type</b> |            |         |         |         |         |
| Landed Price             | Rs. Per MT | 202,965 | 237,358 | 235,119 | 148,350 |
| Net Sales Realization    | Rs. Per MT | ***     | ***     | ***     | ***     |
| Price Undercutting       | Rs. Per MT | ***     | ***     | ***     | ***     |
| Price Undercutting       | %          | 20-30   | 5-15    | 0-10    | 65-75   |

## Month-wise Price undercutting for the period of investigation

### a. Overall

| Month              | Import Volume (MT) | Landed (Rs/MT) | Net Sales Realization (Rs/MT) | Price Undercutting (Rs/MT) | Price Undercutting % |
|--------------------|--------------------|----------------|-------------------------------|----------------------------|----------------------|
| Apr/16             | 178.92             | 162,239        | ***                           | ***                        | ***                  |
| May/16             | 143.33             | 173,719        | ***                           | ***                        | ***                  |
| Jun/16             | 234.90             | 172,416        | ***                           | ***                        | ***                  |
| Jul/16             | 264.54             | 179,848        | ***                           | ***                        | ***                  |
| Aug/16             | 364.50             | 175,268        | ***                           | ***                        | ***                  |
| Sep/16             | 227.96             | 175,651        | ***                           | ***                        | ***                  |
| Oct/16             | 158.29             | 174,000        | ***                           | ***                        | ***                  |
| Nov/16             | 127.69             | 169,484        | ***                           | ***                        | ***                  |
| Dec/16             | 187.95             | 166,887        | ***                           | ***                        | ***                  |
| Jan/17             | 174.82             | 172,926        | ***                           | ***                        | ***                  |
| Feb/17             | 235.25             | 155,059        | ***                           | ***                        | ***                  |
| Mar/17             | 191.38             | 150,000        | ***                           | ***                        | ***                  |
| <b>Grand Total</b> | <b>2,489.53</b>    | <b>169,469</b> | <b>***</b>                    | <b>***</b>                 | <b>25-35</b>         |

### b. EE Type/Grade

| Month              | Import Volume (MT) | Landed (Rs/MT) | Net Sales Realization (Rs/MT) | Price Undercutting (Rs/MT) | Price Undercutting % |
|--------------------|--------------------|----------------|-------------------------------|----------------------------|----------------------|
| Apr/16             | 87.63              | 160,419        | ***                           | ***                        | ***                  |
| May/16             | 90.65              | 166,051        | ***                           | ***                        | ***                  |
| Jun/16             | 111.56             | 163,134        | ***                           | ***                        | ***                  |
| Jul/16             | 134.50             | 166,275        | ***                           | ***                        | ***                  |
| Aug/16             | 210.51             | 166,525        | ***                           | ***                        | ***                  |
| Sep/16             | 145.03             | 167,460        | ***                           | ***                        | ***                  |
| Oct/16             | 53.05              | 160,715        | ***                           | ***                        | ***                  |
| Nov/16             | 103.12             | 164,408        | ***                           | ***                        | ***                  |
| Dec/16             | 144.55             | 159,779        | ***                           | ***                        | ***                  |
| Jan/17             | 149.84             | 171,088        | ***                           | ***                        | ***                  |
| Feb/17             | 181.06             | 162,227        | ***                           | ***                        | ***                  |
| Mar/17             | 149.03             | 162,601        | ***                           | ***                        | ***                  |
| <b>Grand Total</b> | <b>1,560.53</b>    | <b>164,580</b> | <b>***</b>                    | <b>***</b>                 | <b>10-20</b>         |

### c. EP Type/Grade

| Month              | Import Volume (MT) | Landed (Rs/MT) | Net Sales Realization (Rs/MT) | Price Undercutting (Rs/MT) | Price Undercutting % |
|--------------------|--------------------|----------------|-------------------------------|----------------------------|----------------------|
| Apr/16             | 40.41              | 161,074        | ***                           | ***                        | ***                  |
| May/16             | -                  | -              | -                             | -                          | -                    |
| Jun/16             | -                  | -              | -                             | -                          | -                    |
| Jul/16             | 15.73              | 197,395        | ***                           | ***                        | ***                  |
| Aug/16             | 36.34              | 169,493        | ***                           | ***                        | ***                  |
| Sep/16             | 39.13              | 186,514        | ***                           | ***                        | ***                  |
| Oct/16             | 32.08              | 181,000        | ***                           | ***                        | ***                  |
| Nov/16             | -                  | -              | -                             | -                          | -                    |
| Dec/16             | 17.44              | 201,016        | ***                           | ***                        | ***                  |
| Jan/17             | -                  | -              | -                             | -                          | -                    |
| Feb/17             | 10.00              | 202,412        | ***                           | ***                        | ***                  |
| Mar/17             | -                  | -              | -                             | -                          | -                    |
| <b>Grand Total</b> | 191.13             | 180,024        | ***                           | ***                        | 15-25                |

**d. NN Type/Grade**

| Month              | Import Volume (MT) | Landed (Rs/MT) | Net Sales Realization (Rs/MT) | Price Undercutting (Rs/MT) | Price Undercutting % |
|--------------------|--------------------|----------------|-------------------------------|----------------------------|----------------------|
| Apr/16             | 50.88              | 166,301        | ***                           | ***                        | ***                  |
| May/16             | 52.68              | 186,914        | ***                           | ***                        | ***                  |
| Jun/16             | 99.76              | 191,529        | ***                           | ***                        | ***                  |
| Jul/16             | 114.31             | 193,403        | ***                           | ***                        | ***                  |
| Aug/16             | 73.96              | 194,850        | ***                           | ***                        | ***                  |
| Sep/16             | 25.80              | 181,143        | ***                           | ***                        | ***                  |
| Oct/16             | 51.96              | 185,405        | ***                           | ***                        | ***                  |
| Nov/16             | 13.60              | 205,584        | ***                           | ***                        | ***                  |
| Dec/16             | 25.96              | 183,548        | ***                           | ***                        | ***                  |
| Jan/17             | 24.98              | 183,951        | ***                           | ***                        | ***                  |
| Feb/17             | -                  | -              | -                             | -                          | -                    |
| Mar/17             | -                  | -              | -                             | -                          | -                    |
| <b>Grand Total</b> | 533.88             | 188,048        | ***                           | ***                        | 20-30                |

**e. Others Type/Grade**

| Month  | Import Volume (MT) | Landed (Rs/MT) | Net Sales Realization (Rs/MT) | Price Undercutting (Rs/MT) | Price Undercutting % |
|--------|--------------------|----------------|-------------------------------|----------------------------|----------------------|
| Apr/16 | -                  | -              | -                             | -                          | -                    |
| May/16 | -                  | -              | -                             | -                          | -                    |
| Jun/16 | 23.59              | 135,473        | ***                           | ***                        | ***                  |
| Jul/16 | -                  | -              | -                             | -                          | -                    |

| Month              | Import Volume (MT) | Landed (Rs/MT) | Net Sales Realization (Rs/MT) | Price Undercutting (Rs/MT) | Price Undercutting % |
|--------------------|--------------------|----------------|-------------------------------|----------------------------|----------------------|
| Aug/16             | 43.68              | 189,051        | ***                           | ***                        | ***                  |
| Sep/16             | 18.00              | 210,163        | ***                           | ***                        | ***                  |
| Oct/16             | 21.20              | 168,704        | ***                           | ***                        | ***                  |
| Nov/16             | 10.97              | 172,452        | ***                           | ***                        | ***                  |
| Dec/16             | -                  | -              | -                             | -                          | -                    |
| Jan/17             | -                  | -              | -                             | -                          | -                    |
| Feb/17             | 44.20              | 114,980        | ***                           | ***                        | ***                  |
| Mar/17             | 42.35              | 105,661        | ***                           | ***                        | ***                  |
| <b>Grand Total</b> | 203.99             | 148,350        | ***                           | ***                        | 65-75                |

**c) Price Underselling (during POI)**

53. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from the subject country.

| Particulars         | Unit        | Total   | EE      | EP      | NN      |
|---------------------|-------------|---------|---------|---------|---------|
| Import Volume       | MT          | 2,490   | 1,561   | 191     | 534     |
| Non Injurious Price | US\$ per MT | ***     | ***     | ***     | ***     |
| Non Injurious Price | Rs./MT      | ***     | ***     | ***     | ***     |
| Landed Price        | US\$/MT     | 2,494   | 2,422   | 2,649   | 2,767   |
| Landed Price        | Rs./MT      | 169,469 | 164,580 | 180,024 | 188,048 |
| Price Underselling  | US\$/MT     | ***     | ***     | ***     | ***     |
| Price Underselling  | Rs./MT      | ***     | ***     | ***     | ***     |
| Price Underselling  | %           | ***     | ***     | ***     | ***     |
| Price Underselling  | % Range     | 40-55   | 35-55   | 35-55   | 35-55   |

**F.3.3. Examination of Economic Parameters relating to Domestic Industry**

54. Annexure II to the AD Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the AD Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth,

ability to raise capital investments.

55. Accordingly, various economic parameters of the domestic industry are analyzed herein below:

**a) Volumetric Parameters**

56. The quantity (volume) parameters viz production, domestic sales, capacity, capacity utilization, and market share have been stable and progressive. The performance of the domestic industry with regard to production, capacity, capacity utilization, sales, market share in demand and inventories are as follows:

| Particulars                     | Unit        | 2013-14 | 2014-15 | 2015-16 | POI |
|---------------------------------|-------------|---------|---------|---------|-----|
| Capacity                        | MT, Indexed | 100     | 100     | 100     | 108 |
| Production                      | MT, Indexed | 100     | 106     | 100     | 115 |
| Capacity Utilization            | %, Indexed  | 100     | 106     | 100     | 107 |
| Domestic Sales                  | MT, Indexed | 100     | 107     | 104     | 115 |
| Share of Domestic Industry      | %           | ***     | ***     | ***     | *** |
| Share of Other Indian Producers | %           | ***     | ***     | ***     | *** |
| Share of Indian Industry        | %           | ***     | ***     | ***     | *** |
| Average Stock                   | MT, Indexed | 100     | 27      | 62      | 127 |

57. The Authority notes that:

- (i) Domestic industry has increased its capacity over the injury period
- (ii) Production, capacity utilization and domestic sales volume of the PUC have also increased over the injury period.
- (iii) The market share of the domestic industry and other Indian producers has marginally declined over the injury period.
- (iv) The average inventory level has shown marginal increase over the injury period.

**b) Financial Performance**

58. Performance of the domestic industry with regard to domestic profitability, PBIT, return on investment and cash profit is as follows:

|                                  | Unit    | 2013-14 | 2014-15 | 2015-16 | POI |
|----------------------------------|---------|---------|---------|---------|-----|
| <b>Overall</b>                   |         |         |         |         |     |
| Cost of sales                    | Rs./MT  | 100     | 98      | 97      | 87  |
| Selling Price                    | Rs./MT  | 100     | 102     | 95      | 87  |
| Profit/( Loss)                   | Rs./MT  | 100     | 180     | 56      | 70  |
| Profit/( Loss)                   | Rs/Lacs | 100     | 193     | 58      | 80  |
| Profit before Interest and Taxes | Rs.Lacs | 100     | 181     | 71      | 82  |
| Cash Profit                      | Rs.Lacs | 100     | 177     | 65      | 87  |

|                                | Unit | 2013-14 | 2014-15 | 2015-16 | POI |
|--------------------------------|------|---------|---------|---------|-----|
| Return on Capital Employed-NFA | %    | 100     | 156     | 45      | 70  |

Grade-wise profitability for the period of investigation

| Particulars     | Unit   | EE  | EP  | NN  | Others |
|-----------------|--------|-----|-----|-----|--------|
| Cost of Sales   | Rs./MT | *** | *** | *** | ***    |
| Selling Price   | Rs./MT | *** | *** | *** | ***    |
| Profit / (Loss) | Rs./MT | *** | *** | *** | ***    |

59. After an increase from the base year to the subsequent year, the domestic industry's economic performance based on the above parameters has shown down trend including in the POI. The profits have declined over the injury period. The domestic industry is also earning lowered ROI.

**c) Other Economic Parameters**

60. Performance of the domestic industry with regard to employment, wages, productivity and growth as compared to previous year is as follows:

| Particulars                         | Unit    | 2013-14 | 2014-15 | 2015-16 | POI    |
|-------------------------------------|---------|---------|---------|---------|--------|
| Salary & Wages                      | Rs.Lacs | 100     | 116     | 125     | 134    |
| Employment                          | Nos.    | 100     | 98      | 96      | 95     |
| Productivity per day                | MT/day  | 100     | 106     | 100     | 115    |
| Productivity per Employee           | MT/Nos  | 100     | 108     | 104     | 121    |
| Growth as compared to previous year |         |         |         |         |        |
| Domestic Sales Volume               | %       | -       | 7.29    | (2.62)  | 10.14  |
| Production                          | %       | -       | 5.94    | (5.39)  | 14.86  |
| Return on Capital Employed          | %       | -       | ***     | ***     | ***    |
| Selling price domestic              | %       | -       | 1.75    | (6.42)  | (9.05) |
| Cost of sales domestic              | %       | -       | (1.91)  | (1.05)  | (9.97) |
| Average stock                       | %       | -       | (72.64) | 128.05  | 103.53 |

61. It is noted from the table above that:
- The wages paid by the domestic industry have shown increase,
  - The employment level has marginally declined over the injury period,
  - Productivity per day and per employee has increased over the period.
  - The domestic industry has registered positive growth in the POI for with respect to production, sales, profitability per day and return on capital employed after a negative growth trend in 2015-16.

**d) Ability to raise Capital Investment**

62. No submissions have been made by any of the interested parties concerning the domestic industry's ability to raise capital investments.

**e) Level of dumping & dumping margin (DM)**

63. The Authority has evaluated specific DM's for cooperating producers/exporters. For the residual category highest dumping margin and injury margin is referenced.

**f) Factors affecting domestic Prices**

64. The Authority has evaluated domestic prices levels due to imports from subject country and non-subject country along with the cost of inputs.

**g) Magnitude of Injury and Injury Margin**

65. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the imports from the subject country for determination of injury margin during the POI as under:

| S. No | Producer  | Exporter  | Landed Value in US\$/MT | NIP in US\$/MT | IM US\$/MT | IM% | IM % Range |
|-------|---|---|-------------------------|----------------|------------|-----|------------|
| 1     | Shandong Helon Polytex Chemical Fibre Co., Ltd., China PR | Shandong Helon Polytex Chemical Fibre Co., Ltd., China PR | ***                     | ***            | ***        | *** | 30 - 40    |
| 2     | WUHU S.H.Z Industrial Fabric Co. Ltd., China PR           | WUHU S.H.Z Industrial Fabric Co. Ltd., China PR           | ***                     | ***            | ***        | *** | 30 – 40    |
| 3     | Jiangsu Taiji Industry New Materials Co. Ltd., China PR   | Jiangsu Taiji Industry New Materials Co. Ltd., China PR   | ***                     | ***            | ***        | *** | 50 – 60    |
| 4     | Oriental Industries (Suzhou) Ltd. OTZI, China PR          | Oriental Industries (Suzhou) Ltd. OTZI, China PR          | ***                     | ***            | ***        | *** | 20 – 30    |
|       |   | Oriental Textile (Holding) Limited "OTTI", China PR       |                         |                |            |     |            |
| 5     | Zhejiang Unifull Hi-Tech Industry Co. Ltd., China PR      | Zhejiang Unifull Hi-Tech Industry Co. Ltd., China PR      | ***                     | ***            | ***        | *** | 10 – 20    |
| 6     | Any other than the producers at Sl. No. 1-5               | Any other than the exporters at Sl. No. 1 -5              | -                       | -              | ***        | *** | 50 – 60    |

#### **F.3.4. Other Known Factors & Causal Link**

66. The Authority with regard to various injury parameters and causal link aspects notes the following:
- (i) The production in POI is increased as compared to the base year though in 2015 – 16 it decreased as compared to 2014 – 15.
  - (ii) The domestic sales of subject goods by domestic industry increased in POI over the base year i.e. 2013-14 of injury period and also preceding year though it declined slightly in 2014-15 as compared to base year.
  - (iii) The demand of subject goods have increased since the base year of the injury period.
  - (iv) Imports from China increased continuously over the Injury period and thereafter in POI.
  - (v) The Authority in this regard also notes that there is a Demand-Supply gap which thereby requires unserved demand to be met by imports.
  - (vi) The price undercutting over the entire Injury period has been positive and has increased significantly during POI. The Price underselling computed with regard to NIP is positive during POI.
  - (vii) The selling price of Domestic Industry has been consistently above the landed value over the Injury Period and POI.
  - (viii) The Authority notes the submissions of interested parties regarding SRF lowering its price in response to imports from China and also SRF's submissions on different market segments which determines its selling price. The Authority in this regard notes that despite landed values being low, the Domestic Industry is able to realise selling prices above the Landed Value consistently though the intensified price undercutting has impacted profitability of Domestic Industry. While examining the quantum of injury, the Authority proposes to factor in this aspect in its conclusions.
67. Having examined the volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price undercutting and price suppression and depression effects, other indicative parameters listed under AD Rules have been examined by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry, as follows
- a) **Volume and prices of imports from third countries:** As noted above, the imports from other countries though have increased but the same is negligible as compared to the subject imports. The volume of imports from the other countries as a share of the overall demand in India has remained at the same level throughout the injury period and is less than 2%. Further; the prices of imports from other countries are higher as compared to the Chinese prices and average CIF price.

| Particulars of Other Countries                   | Unit  | 2013-14 | 2014-15 | 2015-16 | POI     |
|--|-------|---------|---------|---------|---------|
| Market Share of other countries in Indian demand | %     | 0.75    | 1.33    | 1.00    | 1.48    |
| Import Volume from other countries               | MT    | 92      | 179     | 127     | 211     |
| Market Share of other countries in total Imports | %     | 4.67    | 7.63    | 4.97    | 7.82    |
| Import Price- China PR                           | Rs/MT | 190,181 | 193,716 | 172,825 | 152,122 |
| Import Price- Other Countries                    | Rs/MT | 473,233 | 388,982 | 364,694 | 281,694 |
| Average CIF Import Price                         | Rs/MT | 203,388 | 208,605 | 182,361 | 162,260 |

- b) **Change in demand:** As noted above, the demand of the product concerned is stable and progressive over the injury period. Thus, possible decline in demand cannot be a reason for injury to the domestic industry.
- c) **Developments in technology:** Technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor causing injury to the domestic injury.
- d) **Conditions of competition and trade restrictive practices:** There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry. The Authority notes that the subject goods are not subjected to any trade restrictive practices in India. Moreover, apart from the competition that is obvious in any market economy, no inter se competition or competition between supplies from various domestic and international sources exhibit any such impact that could be construed as injurious to the domestic industry.
- e) **Export performance of the domestic industry:** The Authority notes performance of the domestic industry has been segregated for domestic and export market. The information related to domestic market is only relevant for present purpose.
- f) **Performance of other products produced and sold by the domestic industry:** The information considered by the Authority is with respect to the product under consideration only.
- g) **Productivity of the domestic industry:** No submissions have been made by any of the interested parties concerning the productivity of the domestic industry. It is noted that productivity per day and per employee of the petitioner has increased over the period. Thus, possible decline in productivity is not a reason for the injury to the domestic industry.
68. The following factors establishing causal link are relevant for examination:
- The subject imports are undercutting the prices of the domestic industry over the entire injury period.
  - There is decline in profitability of the domestic industry.
  - There is deterioration in return on capital employed and cash profits.
  - Selling prices have continued to be above landed values.

## **G. MISCELLANEOUS ISSUES**

### **G.1 Views of the Domestic Industry**

69. Following miscellaneous submissions have been made by Domestic industry:

#### **Confidentiality**

- i. The petitioner has claimed only such information as confidential which is neither in public domain not mandated by law to disclose. The confidentiality of which has been permitted under the rules and as per consistent practice of the Authority. Costing information by nature is highly confidential.
- ii. Regarding answering various questions of part 6 of petition as “as per annual report”, the petitioner submits that the relevant details for PUC were provided to the Authority in pursuance to the various discussions held on confidential basis. The Designated Authority has since conducted verification and all relevant information has been provided to the Designated Authority.
- iii. The respondents have claimed excessive confidentiality in the exporter questionnaire response and the same curtails our right to comment. The submissions of all the exporters and producers from the subject countries should be disregarded and deny them the individual treatment.

#### **Import data**

- iv. The petitioner has received the DGCI&S data which is third party information whose confidentiality is protected. Nonetheless the petitioner has provided a summary of the T/T data with the petition.
- v. In view of the trade notice 7/2018 dated 15<sup>th</sup> March; the petitioner has filed sorted DGCI&S NCV data.

#### **Communication to the importers/users**

- vi. The petitioner has given the name of known importers as the law does not require the petitioner has to identify all the importers. The petition identifies NRC Limited and Johnson Rubber Industries as the interested parties who produce belting fabric and Textile Reinforced Conveyor Belts both. Regarding list of users, the petitioner submits that that via the initiation notification; the Designated Authority had invited the interested parties other than those separately addressed to make its submissions relevant to the investigation via the initiation notification which is a Gazette Notification. Ignorance of law is no excuse. The notice of hearing was sent to only those interested parties who participated at the stage of initiation. It is quite evident that these parties were aware of the initiation, but ignored the same at their own will.
- vii. Regarding asking the known users/importers in India to file their questionnaire response and offer comments on the application, the petitioner submits that the same has already been done and the DA cannot be waiting for such responses wherein the parties are not concerned about the notice of initiation.

### **Undue protection to the domestic industry**

- viii. Regarding captive yarn production, it is submitted that the yarn consumed by belting fabric is being transferred at cost and hence, there is no question of making profit on earlier stages.
- ix. Also, the rate customs duty at 10% is irrelevant as the subject goods are being dumped in India.

### **Monopolistic situations**

- x. The petitioner is not the sole producer of subject goods in India. Also, DGAD is not the right platform to raise the issue of monopolistic situation.

### **Demand-Supply Gap**

- xi. There is no demand-supply gap. The total capacity with the Indian producers is more than the demand in India.

### **Issues regarding other products and industries**

- xii. Regarding contention of the other parties that the industry is deteriorating and facing a lot of grave issues because of the anti-dumping duty on various other products like carbon black, various rubber compounds, etc, the petitioner submits that that the anti-dumping duty on other products doesn't have any relevance here. The information related to product under consideration in present investigation is only relevant.
- xiii. The respondents have not furnished any evidence to show that MSME sectors will close down. The domestic industry is seeking relief under the law for the injury suffered by domestic industry due to dumped imports.
- xiv. About understanding the market size of conveyor belt, the petitioner submits that the information related to PUC is only relevant for the present purpose and not that of downstream products.
- xv. Regarding SRF putting pressure of Chinese manufacturers to protect their South African business, the petitioner submits that the same is mere allegation without any proof and should be rejected out rightly.

### **Rejection of late submissions by other parties**

- xvi. The objections raised by other parties during and post public hearing should not be accepted as they failed to file any response within 40 days of the initiation notification as mentioned in the Initiation notification.

### **Public interest**

- xvii. Imposition of ADD will not block the imports. The consumers would still maintain multiple sources of supply. The imposition might affect the price levels of the product in India in short term but the same would promote fair competition.

### **Others**

- xviii. The respondents have failed to specify about specific short of legal or factual basis or any discrepancy in the data submitted by the petitioner. The Authority had initiated the investigation on the basis of prima facie evidence and thus, the same cannot be terminated on the basis of such unsubstantiated claims.
- xix. Petitioner is unaware of which international recession the interested parties are referring. The demand for the product in the Indian domestic market is showing a positive trend. Also, the domestic industry cannot be left in lurch when the exporters are resorting to dumping causing material injury.
- xx. The petitioner consumes the yarn manufactured from its own facilities and accordingly treating them as captive consumption. Captive valuation has been done having regard to Annexure-III to the Rules.
- xxi. The volume of belting fabric consumed in the manufacture of conveyer Belt is only 15-18% of its total production.
- xxii. ADD does not impact imports by EOU or against Advance Authorization. The import of subject goods from China is not made only by conveyor belt manufacturers but by other users also. The domestic industry is materially injured due to the dumped imports.
- xxiii. EE Belting Fabric is being used by Indian conveyer belt industries specially cement and construction sector. A perusal of import summary provided with the petition would show that imports of NN type has also increased over the period.

### **G.2 Views of other interested parties**

70. The following miscellaneous submissions have been made by other interested parties in this regard:

#### **Confidentiality**

- i. The petitioner has claimed excessive confidentiality and thus, the right of defense cannot be fully exercised. The petition fails to meet the standards laid down in Rule-7 of the Rules and Trade Notice No. 01/2013 dated Dec 09, 2013.
- ii. In response to Section VI, the petitioner has not furnished any information at all.
- iii. Market share in demand, productivity has been claimed confidential.
- iv. Various question of Part 6 is answered as - "as per annual report" and SRF being a multi-product company, this answer is misleading.
- v. The respondents have provided all the information in accordance with law and the claim of DI is irrelevant. The respondents are willing to provide any further information which the Authority may require in this regard.

#### **Import data**

- vi. Petitioner has knowingly not provided import data (T/T) so that the manipulation did while forming the PCNs and for the injury analysis cannot be caught.
- vii. The import data, on the basis of which the investigation is based, is incomplete and manipulated.

### **Communication to the importers/users**

- viii. Petitioner has neither given the complete list of importers of belting fabric nor enclosed Annexure 1.6 list of known users and may be asked to provide the same. Neither the petition nor the initiation notification lists any of the manufacturers of “Textile Reinforced Conveyor Belts” who are the main users and importers of the product in India.
- ix. List of known users/importers in India identified by respondents should be asked to intimate their interest and file their questionnaire response and offer comments on the application.

### **Undue Protection**

- x. SRF is already enjoying undue protection in the Indian market as due to their captive yarn production, they have economies of backward integration which allows the opportunity to transfer the profit of belting fabric division to yarn division in order to justify injury to belting fabric division.
- xi. They are already enjoying the peak rate of customs duty of 10% on imports of PUC and that they have huge capacity.

### **Monopolistic situations**

- xii. Apart from the petitioner, there are four other manufacturers of PUC in India and out of those, three are themselves manufacturing textile reinforced conveyor belt. There is a conflict of interest with other manufacturer of conveyor belts. As per the “Report” there are about 43 manufacturers of “Textile reinforced Conveyor Belt” in India out of which top 5 manufacturer account for about 80% market share. Thus, rest of the manufacturer of conveyor belt has no option but to purchase the “Belting fabric” from SRF Limited only which positions them into a monopolistic situation.

### **Demand Supply Gap**

- xiii. There is demand supply gap- there still remains a gap of about 268 MT/ Month as per the current statistics.

### **Issues regarding other products and industries**

- xiv. Industry is deteriorating and facing a lot of grave issues because of the anti-dumping duty on various other products like carbon black, various rubber compounds, etc.
- xv. Bulk of the belting manufacturers fall in MSME sectors and would have to close their units if ADD is imposed.
- xvi. In order to understand the market size of belting fabric, it is relevant to understand market size of “textile reinforced conveyor belts” in India.
- xvii. SRF intend to put pressure on Chinese manufacturers, to bring them on negotiation table, to protect their South African business.

### **Public interest**

- xviii. Levy of will not be in public interest as it would block Chinese imports which is around 92% of total imports of subject goods entering India and catering the Indian demand. Further, the petitioner could easily manipulate the prices which will result in costs of the downstream industries beyond control and even a significant decrease in demand of belting fabric from downstream users. Also, Performance of the downstream textile industry will be adversely affected.

### **Others**

- xix. Initiation of the investigation in the subject matter is short of factual and legal basis is baseless and thus, the same should be terminated.
- xx. In view of current international economic recession, trade remedies would not be in favor of interest of India, including downstream industries, especially for the bilateral trade relation between China and India.
- xxi. Details of transfer pricing at which the raw material was transferred for the captive consumption for the production of belting fabric must be given by the petitioner as it itself produces Nylon and Polyester.
- xxii. As per report "Tata Strategic Management Group" ("Report"), the "synthetic fabric reinforced conveyor belt i.e. belting fabric" commanded a market share of about 64%. Indian conveyor market is about 1500 Crores and 77000 MT. However, the petition mentions the demand to be 13210 MT per year.
- xxiii. Petition doesn't show as to whether the quantities of import from China and other countries are against import entitlement of manufacturers of "Textile reinforced Conveyor belt" i.e. against their exports (duty free against advance authorization or by EOU). Exporters of conveyor belt have a duty free import entitlement of 311MT/month against which only about 212MT/month is being imported. Thus, there is no causal link in imports and alleged injury to SRF.
- xxiv. There is hardly any demand of Type EE as reinforcing material by domestic consumers of textile reinforced conveyor belt when 62% of total imports of belting fabric from China is of type EE. Indian market including PSUs and larger private sector companies seek for type NN and EP and that the belting fabric is to be procured from named companies including SRF (evident by their tender documents). Approx. 45-50% of the total domestic demand of textile reinforced conveyor belts comes from PSUs and large private companies as can be verified from their tender documents which works out be about Rs.650to 750 Crores out of 1500 Crores market.

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

71. The aforesaid general issues raised by various interested parties have been examined and addressed to the extent considered relevant in the following paras:

### **Confidentiality**

- i. The Authority placed and made available non confidential versions of the information provided by various interested parties through the public file to all concerned interested parties as per Rule 6(7).
- ii. Information provided by the domestic industry as well as other interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim as per Authority's consistent practice and AD Rules. The Authority has accepted the confidentiality claims, wherever warranted and such information has not been disclosed to other interested parties.

### **Import data**

- iii. As regards manipulation in import data, the Authority notes that petitioner has put on record DGCI&S transaction wise import data in compliance with the recent trade notice no. 07/2018 dated 15th March, 2018 which is available in the public file. Various interested parties have also collected the same after following the prescribed procedure. The Authority has also directly obtained confidential version of import data from DGCI&S and DG Systems and correlated the same with the claim of the Domestic Industry and the Exporters Questionnaire Response.

### **Communication to the importers/users**

- iv. As regards the incomplete list of importers, the Authority notes that the petitioner is obligated to provide list of importers as per the information best available with it and the same is in consonance with practice and AD Rules.
- v. As regards not providing the list of users, the Authority holds that the initiation, public notice for hearing are gazetted and also available on DGTR's website and are thus in the public domain. The Authority therefore has done its best effort to reach out to all interested parties to participate in the investigation. The Authority further notes that a number of users and importers were present during the oral hearing and they were given time to file the relevant information. However, none of these parties have provided information in the structured questionnaire format available on DGTR's website.

### **Undue protection to the domestic industry**

- vi. The Authority notes the submissions of the interested parties and considered redressal of the injury due to unfair trade practice of Dumping only to the extent warranted as per prevalent Anti-Dumping Rules.

### **Monopolistic situations**

- vii. As regards the monopoly issues, the Authority notes that Anti-dumping measures are applied only to ensure fair trade and to provide a level-playing field to the domestic industry. It is not to provide generic protection to strengthen monopoly of any individual producer. It is also therefore neither a measure to restrict import nor to cause an unjustified increase in prices in the domestic market. The imports from other suppliers including those from the subject country are not prevented from competing in the Indian market.

### **Demand-Supply Gap**

- viii. As regards demand and supply gap, the Authority notes that though there is a gap in demand during the injury period, there is also unutilised capacity of Domestic Industry. The demand-supply gap can be filled even by imports for any country at fair prices.

### **Public interest**

- ix. As regards the public interest, the Authority notes that anti-dumping duty is to ensure fair trade and provide a level-playing field to the domestic industry. They are not a measure to restrict import or cause an unjustified increase in cost of products. The Authority evaluated all aspects of investigation closely so as to ensure that protection of anti-dumping is recommended only if warranted to Domestic Industry as per Rules.

### **Others**

- x. As regards the allegation that initiation is on wrong premise, the Authority notes that the initiation is done on the basis of prima facie evidences/facts provided by the Domestic Industry. Subsequently, the verified information is considered for proceeding in the investigation and final conclusions are based on verification.
- xi. The Authority notes the submissions that bulk of the best manufacturers fall in MSME and that SRF has protected market as PSU's, the users of belts stipulate usage of SRF material, and that this constitutes 50% of demand. The Authority notes that none of the MSME belt manufacturers have provided questionnaire response. Even though 50% of the market is catered by PSU's, the remaining 50% market is open to accept imports of subject goods from the subject country.

## **Post disclosure comments**

### **Post Disclosure Statement Submissions by the Interested Parties**

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

72. The domestic industry, in its post disclosure submissions has submitted as follows:

- Certain essential facts, relating to dumping margin, verification report of exporters/producers and copy of all communications with the other interested parties have not been disclosed, due to which an effective opportunity to make comments has been denied.
- The Authority has rightly defined the product under consideration and included all grades, variants and ratings as the domestic industry has not only supplied all the required variants but also commercially capable to cater the demands of different variants of the subject product.
- The Designated Authority may kindly specify in duty table that the product concerned should attract duty regardless of the customs classification under which it is imported.
- The market share of the domestic industry and other Indian producers has declined over the injury period, though not at the same rate that of increase in demand.
- The average inventory level has shown increase over the injury period. The domestic industry had high level of inventories in April, 2013. The inventories have declined thereafter. The inventories have however once again increased after March, 2015.
- The performance of the domestic industry in terms of profitability, cash profits, profit before interest and taxes and ROI has significantly declined over the injury period including in the period of investigation.
- Growth of the domestic industry was negative in terms of profits, cash profits and ROI, even when the growth was positive in respect of volume parameters. Positive growth in the volume parameters should have led to positive growth in price parameters in normal market situations.
- As per the law and guide circulated by DGAD, the effect of dumped imports may be either on volume front or on price front.
- The Domestic Industry is suffering material injury, as evidenced by the deteriorated performance in terms of profitability, cash profits and negative return on investments.
- Regarding the concern of the Authority of selling price above the landed value, it is submitted that comparison of the import price, cost of production and selling price clearly shows that the selling prices have moved in the direction of import prices while the import prices have not moved in the direction of costs. In fact, in 2014-15, when costs declined, selling price increased, when the import price increased. Thereafter, movement in costs

and prices, even when in the same direction, the prices are more moving in tandem with the import prices.

- The tender documents of SAIL, NTPC and JSW submitted by AIRIA makes it clear that Chinese producers are not excluded as certain Chinese companies are expressly included. Also, belt makers are permitted to use any other source including Chinese fabric by fulfilling the required criteria, as also.
- There is no demand and supply gap as the capacity of petitioner (\*\*\*) MT along with supporters (\*\*\*) MT of MIT and (\*\*\*) MT of Sanrhea) is more than the Indian demand (\*\*\*) MT- computed by the Authority). Further, there are three more producers having capacity of (\*\*\*) MT, (\*\*\*) MT and (\*\*\*) MT (estimated as per the market information) and thus, the total Indian production capacity is (\*\*\*) MT which is (\*\*\*)% more than the Indian demand.
- Anti-dumping duty may be imposed as fixed quantum of anti-dumping duty (fixed form of duty), expressed in US\$/kg.

73. M/s World Trade Consultants representing WUHU S.H.Z Industrial Fabric Co. Ltd., China PR, Jiangsu Taiji Industry New Materials Co. Ltd., China PR, Oriental Textile (Holding) Limited, Oriental Industries (Suzhou) Ltd., China PR and Zhejiang Unifull Hi-Tech Industry Co. Ltd., China PR, All India Rubber Industries Association and China Chamber of Commerce of Import and Export of Textile and Apparel has submitted the following:

- Article 3.1 of Agreement on Implementation of Article VI of The General Agreement on Tariffs and Trade 1994 (“the Anti-dumping Agreement”) provides that a determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products.

We request the Designated Authority to objectively investigate and collect evidence and conduct objective examination in accordance with Article 3.1 of the Anti-dumping Agreement.

- It is submitted that the dumping margin in the present case has not been calculated in accordance with law as the actual cost of production of the subject goods has not been employed and instead, the cost of production of the Domestic Industry has been used to construct the Normal Value of the producers in China. This has been done palpably on a presumption in law that China was a non-market economy. In this regard, it is submitted that this presumption no longer exists.

- It is submitted that in accordance with the relevant provisions of the Protocol on China's accession to the WTO, the China should be accorded Market Economy Status post 11<sup>th</sup> Dec, 2016. Article 15 of the Protocol on China's accession to the WTO makes it clear that China PR has obtained market economy status.

The above provision provides that after 15 years from its accession to WTO, China must be treated in the same way as to any other WTO Member for the purpose of anti-dumping investigations.

- The power of an importing WTO Members to use “a methodology that is not based on a strict comparison with domestic prices or costs in China” expired by virtue of paragraph (d). Therefore, the question of whether China PR is still a NME or not under the national law of an importing WTO Member becomes irrelevant. In other words, it was only till 11<sup>th</sup>December 2016 that the grant to China of market economy status by an importing WTO Member had practical significance.
- In this regard, the WTO Appellate Body has also construed Article 15 in the same manner in the case of EC – Fasteners herein it stated as under:

*“Paragraph 15(d) of China's Accession Protocol establishes that the provisions of paragraph 15(a) expire 15 years after the date of China's accession (that is, 11 December 2016). It also provides that other WTO Members shall grant before that date the early termination of paragraph 15(a) with respect to China's entire economy or specific sectors or industries if China demonstrates under the law of the importing WTO Member "that it is a market economy" or that "market economy conditions prevail in a particular industry or sector"”*

- It has also been stated by the Designated Authority in its Disclosure Statement that the exporters of the subject goods from China have not claimed Market Economy Status during the desk verification. However, it is submitted in this regard that it was not incumbent on them to claim MET post the 11<sup>th</sup> of December, 2016. Therefore, it is submitted that the actual cost of production needs to be relied upon for the purpose of calculation of Normal Value.
- The DA has already noted the various types of yarn used to manufacture the different categories of belting fabric viz. (i) NN Belting Fabric, (ii) EP Belting Fabric, (iii) EE Belting Fabric and (iv) PP Belting Fabric. It is also an undisputed fact that in the manufacture of EE Belting Fabric and EP Belting Fabric, two types of Polyester Industrial Yarn (PIY) are used viz. Adhesive Activated Polyester Yarn and Non-adhesive activated Polyester Yarn. It is an

admitted fact that whereas the Domestic Industry uses Adhesive Activated Polyester Yarn, the Chinese manufacturers use Non-adhesive activated Polyester Yarn. It is further an undisputed fact that Non-adhesive activated Polyester Yarn is cheaper than Adhesive Activated Polyester Yarn.

- In this regard, it has already been brought to the notice of the Domestic Industry that “Adhesive Activated Polyester Yarn” is costlier by around 20% than the “Non-Adhesive Activated Polyester Yarn”. The relevant prices during the FY 2012-13, 2013-2014, 2015-2016 and 2016-2017 have been provided by the Respondent during its submission dated 1st May, 2018. Due to this factor alone Type EE Fabric supplied by Chinese Manufacturers is more cost competitive and cheaper than M/S SRF Limited.
- It was also submitted that the manufacturing process of SRF such as twisting, weaving and dipping has serious technical shortcomings due to old generation equipment as well as outdated technology resulting in wastage and cost. As a result, the **conversion costs** of the Domestic Industry from Yarn to Fabric is fairly high due to old technology, old machineries operating at lower speed, resulting into lower “thorough put”. Due to all these factors combined together, it was submitted that M/s SRF Ltd. was charging a very high conversion cost of **USD 1.2 to USD 1.4 /Kg.**
- The DA sought to address the abovesaid submission by observing the following while dealing with the scope of the product under consideration

*“13. As regards difference in the production process resulting in cost difference, the Authority notes that the manufacturing processes followed by the producers in China and India are resulting in products with same specification meeting the requirements of the same consumers in the market place. Therefore, it is proposed to be held that the distinction of production process is not relevant for the purpose of like article in this investigation.”*

- In this regard, it is submitted that the DA has not correctly appreciated the submission of the Respondent. It was never the contention of the Respondent that the difference in the production process results in a different product. Rather, it was the submission of the Respondent that the difference in procedure and raw material resulted in lower production costs for Chinese producers and hence, resulted in cheaper imports. Therefore, the DA was not required to examine whether the subject goods that were imported were different from that of the subject goods produced by the Domestic Industry. Rather, it was required to make the necessary adjustments in the cost of production for the purpose of determining Normal Value.

- Without prejudice to the submission that China is now to be treated as a market economy country, it is submitted that even if the conversion costs of China cannot be considered due to it being considered a non-market economy country for the purposes of the present investigation, the DA was bound to factor in the cost of non-adhesive activated yarn polyester yarn as the cost of raw material for the purpose of determining the cost of production in China. As admittedly Chinese manufacturers use the aforesaid material instead of adhesive activated yarn polyester yarn, it would be inappropriate to consider the cost thereof for the purpose of constructing the cost of production of the subject goods in China where the same has no application.
- As non-adhesive activated yarn polyester yarn is used in China which is lower than the cost of adhesive activated yarn polyester yarn by around 20%, a fact also evinced by the evidence tendered by the Respondent in its submission dated 1<sup>st</sup> May, 2018, the same has to be used for considering the cost of raw material for constructing the cost of production for the purpose of determining the Normal Value in China. Therefore, the raw material cost of the Domestic Industry has to be reduced by 20% for considering the raw material price to be used for China and thereby, the Normal Value has to be adjusted accordingly. Consequently, the dumping margin for China needs to be recalculated after making the appropriate adjustments in Normal Value.
- The Respondent had submitted that the Domestic Industry does not supply narrow width fabric as well as certain light grade material due to economies of scale and other commercial factors and therefore, Belting Manufacturers requiring such fabric have no choice but to import. It was also submitted that the Domestic Industry does not offer EE belting fabric beyond 315 rating.
- In response to the said submission, the DA has stated the following in the Disclosure Statement:
 

*“The Authority notes the submissions regarding exclusion of EE belting fabric beyond 315 rating, off spec products in imports and inability of Domestic Industry to supply low width fabric and proposes to hold that since DI has provided sample evidences on their product range, the PUC is proposed to be inclusive of all grades, variants and ratings of subject goods...”*
- Apparently, the Domestic Industry has furnished samples and evidence to substantiate the fact that they do indeed supply the same. In this regard, no evidence has been placed in the public file and therefore, the Respondent has been unable to exercise its right of defense and verify the adequacy and veracity of the evidence on the basis of which its submission has been

rejected. At least a duly redacted invoice evidencing the fact that commercial quantities of the abovesaid material had been provided to customers.

- The Domestic Industry has claimed that dumped imports have caused material injury to it. In this regard, the DA is required to determine whether the Domestic Industry is suffering material retardation to its establishment in accordance with Rule 11 read with Annexure II of the AD Rules 1995.
- Annexure II of the AD Rules 1995 provides for the manner in which the DA is required to ascertain whether the Domestic Industry is suffering injury. Para I of Annexure II assumes significance in this regard as it provides that a determination of injury will not only involve (i) an objective examination of volume and price effect of dumped imports on the domestic market but also (ii) whether the same has had a consequent impact on the Domestic Industry
- Para (ii) explains that the parameters contained therein are the conditions precedent before the deterioration of economic parameters [enumerated in Para (iv) of Annexure II of the AD Rules 1995] can be attributed to dumping.
- The parameters contained in Para (ii) are the conditions precedent before the deterioration of economic parameters (enumerated in Para (iv) of Annexure II of the AD Rules 1995) can be attributed to dumping. Without the presence of parameters in Para (ii), any injury suffered by the Domestic Industry cannot be attributed to imports. It is important to note that while assessing the volume effect of dumped imports, the DA is supposed to consider whether there has been a 'significant' increase in the volume of dumped imports, either in absolute terms or in relation to production and consumption in India. The word 'significant' used in Para (ii) indicates that a mere increase in the volume of dumped imports in absolute terms and in relation to production and consumption in India is not sufficient to arrive at a finding that volume effect of dumped imports exist. Similarly, with respect to the price parameters also, the price undercutting needs to be significant or in the alternative, it must be shown that the prices of imports have had a suppressing or depressing effects on the selling prices of the Domestic Industry.
- Further, the manner in which the DA is required to ascertain whether dumped imports have had any effect on the Domestic Industry, is prescribed in Para (iv) of Annexure II.

*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.”*

In terms of the above provisions, the DA must assess whether the 15 economic factors show an actual or potential decline. Furthermore, mere decline of the economic parameters in Para (iv) without the conditions of Para (ii) being present cannot result in a finding of injury. Conversely, mere presence of the conditions enumerated in Para (ii) without a corresponding decline in the economic parameters of the Domestic industry enumerated in Para (iv) cannot also result in a finding of injury.

- Para (v) of Annexure II provides further guidance on how the causal link between dumping and injury to the Domestic Industry must be drawn by the DA.

It is submitted that in the present case, neither the conditions set forth in para (ii), nor the conditions prescribed in para (iv) are met.

**a. Volume of dumped import and their effect on prices in the domestic market**

***Volume Effect***

- While assessing the volume effect of imports from China, the DA has recorded the following data in the disclosure statement:

| Particulars   | Unit | 2013-14 | 2014-15 | 2015-16 | POI    |
|---|------|---------|---------|---------|--------|
| <b>Demand/Consumption in India</b>                      |      |         |         |         |        |
| Sales of Domestic Industry                              | MT   | ***     | ***     | ***     | ***    |
| Sales of Other Indian Producers                         | MT   | ***     | ***     | ***     | ***    |
| Imports from China PR                                   | MT   | 1,878   | 2,168   | 2,428   | 2,490  |
| Imports from other countries                            | MT   | 92      | 179     | 127     | 211    |
| Total Demand in India                                   | MT   | 12,194  | 13,443  | 12,758  | 14,265 |
| <b>Market share in demand</b>                           |      |         |         |         |        |
| Share of Domestic Industry                              | %    | ***     | ***     | ***     | ***    |
| Share of Other Indian Producers                         | %    | ***     | ***     | ***     | ***    |
| Share of Indian Industry                                | %    | ***     | ***     | ***     | ***    |
| Share of China PR                                       | %    | 15.40   | 16.13   | 19.03   | 17.45  |
| Share of Other Countries                                | %    | 0.75    | 1.33    | 1.00    | 1.48   |
| Total Share in Demand                                   | %    | 100.00  | 100.00  | 100.00  | 100.00 |
| <b>Imports from the subject country in relation to-</b> |      |         |         |         |        |

| Particulars       | Unit | 2013-14 | 2014-15 | 2015-16 | POI   |
|-------------------|------|---------|---------|---------|-------|
| Indian Production | %    | 18.34   | 19.51   | 23.76   | 21.42 |

- When assessing the volume effect, it can be seen that whereas there has been an increase in volume in absolute terms to some extent, the increase in imports in relation to production or consumption in India has been negligible. While the increase of imports in relation to consumption was only 2.05% over a span of 4 years, the increase in relation to production during the same period in India was 3.08%. Such an increase can hardly be termed as 'significant' and therefore, it is submitted that it does not meet the requirement envisaged in Para (ii) of Annexure II. In fact, neither has the DA termed the increase as significant while analysing the volume effect and as such, it is evident that there is no volume effect in the present case.

### **Price Effect**

- In order to determine whether the dumped imports have depressed the domestic prices or whether the effect of such imports was to cause suppression i.e. prevent price increases which otherwise would have occurred to a significant degree, the DA has considered the changes in the costs and prices over the injury period. The data disclosed by the DA in the Disclosure Statement is reproduced below for the sake of convenience:

| Particulars   | Unit            | 2013-14 | 2014-15 | 2015-16 | POI     |
|---------------|-----------------|---------|---------|---------|---------|
| Cost of Sales | Rs./MT, Indexed | 100     | 98      | 97      | 87      |
| Selling Price | Rs./MT, Indexed | 100     | 102     | 95      | 87      |
| Landed Price  | Rs/MT           | 211,868 | 215,805 | 192,533 | 169,469 |
| Trend         | Indexed         | 100     | 102     | 91      | 80      |

- With respect to the abovesaid data, the DA has observed that "*the decline in selling price is more than the decline in cost*" and that "*The imports were depressing the prices of the domestic industry in the market*". It is submitted that the abovesaid observation is erroneous and the DA as both the cost of sales as well as selling price of the Domestic Industry have decreased by exactly 1 indexed points each. Therefore, it is evident that the decrease in selling price has been exactly commensurate with the decline in cost of production. In such a situation, if price depression has to be attributed to imports from China, the DA must explain how the decrease in the landed value of imports and not the decrease in the cost of sales has contributed to the decrease in selling price of the Domestic Industry.

- With respect to price undercutting, the DA has recorded the following data:

| Particulars              | Unit       | 2013-14 | 2014-15 | 2015-16 | POI     |
|--------------------------|------------|---------|---------|---------|---------|
| <b>Overall</b>           |            |         |         |         |         |
| Landed Price             | Rs. Per MT | 211,868 | 215,805 | 192,533 | 169,469 |
| Price Undercutting       | %          | 15-25   | 15-25   | 20-30   | 25-35   |
| <b>EE Grade/Type</b>     |            |         |         |         |         |
| Landed Price             | Rs. Per MT | 207,015 | 203,190 | 186,455 | 164,580 |
| Price Undercutting       | %          | 1-10    | 1-10    | 1-10    | 10-20   |
| <b>EP Grade/Type</b>     |            |         |         |         |         |
| Landed Price             | Rs. Per MT | 237,495 | 225,531 | 205,599 | 180,024 |
| Price Undercutting       | %          | 1-10    | 5-15    | 10-20   | 15-25   |
| <b>NN Grade/Type</b>     |            |         |         |         |         |
| Landed Price             | Rs. Per MT | 233,718 | 243,771 | 207,005 | 188,048 |
| Price Undercutting       | %          | 20-30   | 15-25   | 25-35   | 20-30   |
| <b>Others Grade/Type</b> |            |         |         |         |         |
| Landed Price             | Rs. Per MT | 202,965 | 237,358 | 235,119 | 148,350 |
| Price Undercutting       | %          | 20-30   | 5-15    | 0-10    | 65-75   |

- At the very outset, it is submitted that the analysis of price undercutting is incorrect as the DA has also considered the landed value of imports made against advance authorization wherein no customs duty and other duties have been paid. In this regard, the Respondent has pointed out to the DA in both its Injury Submissions and Written Submissions that the following quantities of “Textile reinforced Conveyor Belts” were exported by Indian manufacturer to various countries between 2013-14 to 2016-17 as per the data sourced from DGCIS.

| S. No | Financial Year | Qty   | UOM      |
|-------|----------------|-------|----------|
| 1     | 2013-14        | 21822 | MT/annum |
| 2     | 2014-15        | 25366 | MT/annum |
| 3     | 2015-16        | 21971 | MT/annum |
| 4     | 2016-17        | 23010 | MT/annum |

It has not been disputed that around 17% of the weight of the “Conveyor Belt” is contributed by “Belting Fabric”. Accordingly, if the quantity of export for conveyor belt in the year 2015-16 i.e. 21971 MT is considered, the total weight of “Belting fabric” used in the exported quantity works out to about 3735 MT/annum or 311 MT/ month.

- Against the above said figure, the DA has arrived at a finding that the volume of imports from China has been 2,490 MT in the POI i.e. 2016-17 which would be approximately 208 MT/month. In view of the export data of “Textile Reinforced Conveyor Belts”, the quantity of “Belting fabric” required is about 311 MT/ Month against which, imports of fabric from China is only around 208 MT/month. It is submitted that the exporters of conveyor belt have a duty free import entitlement of 311MT/ Month against which, only around 208MT/Month was being imported.
- Therefore, when the duty free imports of the subject goods were used in the manufacture of “Textile Reinforced Conveyor Belts” which was then exported, the duty free imports cannot be considered at par with the subject goods imported from China wherein customs duty and other duties of customs and charges were paid. To that extent, such imports ought to have been excluded from consideration while considering the weighted average landed value of the subject goods from China for the reason that the same has dragged down the landed value of imports and has resulted in a warped finding wherein the margin of undercutting has been found in the range of 25-35%.
- Therefore, it is submitted that the DA ought to determine the volume of imports made against advance authorization and either exclude the same while calculating the landed value for the purpose of examining the extent of price undercutting as well as injury margin or in the alternative, make adjustments for duties to bring them at par with the imports employed for manufacture of “Textile Reinforced Conveyor Belts” intended for sale in the domestic market of India.

#### **b. Volume of dumped import and their effect on prices in the domestic market**

##### **Sales, Capacity, Production, Capacity Utilization and Inventories**

- As can be seen from the data furnished by the DA in its Disclosure Statement, the capacity, production, capacity utilization and sales of the Domestic Industry have all increased significantly as well as progressively throughout the entire injury analysis period. The table below reproduces the data regarding the aforesaid parameters:

| <b>Particulars</b>              | <b>Unit</b> | <b>2013-14</b> | <b>2014-15</b> | <b>2015-16</b> | <b>POI</b> |
|---------------------------------|-------------|----------------|----------------|----------------|------------|
| Capacity                        | MT, Indexed | 100            | 100            | 100            | 108        |
| Production                      | MT, Indexed | 100            | 106            | 100            | 115        |
| Capacity Utilization            | %, Indexed  | 100            | 106            | 100            | 107        |
| Domestic Sales                  | MT, Indexed | 100            | 107            | 104            | 115        |
| Share of Domestic Industry      | %           | ***            | ***            | ***            | ***        |
| Share of Other Indian Producers | %           | ***            | ***            | ***            | ***        |
| Share of Indian Industry        | %           | ***            | ***            | ***            | ***        |
| Average Stock                   | MT, Indexed | 100            | 27             | 62             | 127        |

- It can be seen that the Domestic Industry was able to increase its capacity by 8% in the POI. Notwithstanding the increase in capacity by 8%, the Domestic Industry was also able to increase its capacity utilization in the same period by 7%. The gross production figures of the Domestic Industry also increased by 15%. The increase in sales was commensurate with the increase in production i.e. 15%. The DA has also observed that the increase in inventories has only been marginal. Therefore, it is evident that imports have had no impact on the Domestic Industry's ability to produce and sell the subject goods.

### **Employment, Wages and Productivity**

- The table below reproduces the evidence filed by the Domestic Industry regarding employment and productivity:

| <b>Particulars</b>        | <b>Unit</b> | <b>2013-14</b> | <b>2014-15</b> | <b>2015-16</b> | <b>POI</b> |
|---------------------------|-------------|----------------|----------------|----------------|------------|
| Salary & Wages            | Rs.Lacs     | 100            | 116            | 125            | 134        |
| Employment                | Nos.        | 100            | 98             | 96             | 95         |
| Productivity per day      | MT/day      | 100            | 106            | 100            | 115        |
| Productivity per Employee | MT/Nos      | 100            | 108            | 104            | 121        |

- The figures demonstrate that the Domestic Industry has not suffered any injury with respect to the employment, wages and productivity. It is pertinent to note that wages of the Domestic Industry increased significantly by 34%. In this

regard, had the Domestic Industry been actually suffering losses, it would not have been able to increase the wages paid to its employees. Furthermore, both productivity per day and per employee increased by 15% and 21% respectively. Furthermore, the number of employees declined only marginally as rightly observed by the DA.

### **Growth**

- A perusal of the data disclosed by the DA in the disclosure statement clearly reveals that the Domestic Industry has witnessed healthy growth in all relevant parameters such as production, domestic sales, profitability per day and return on capital employed. The relevant data with respect to growth as evinced in the Disclosure Statement is reproduced below for the sake of convenience:

| <b>Particulars</b>                         | <b>Unit</b> | <b>2013-14</b> | <b>2014-15</b> | <b>2015-16</b> | <b>POI</b> |
|--|-------------|----------------|----------------|----------------|------------|
| <b>Growth as compared to previous year</b> |             |                |                |                |            |
| Production                                 | %           | -              | 5.94           | (5.39)         | 14.86      |
| Domestic Sales Volume                      | %           | -              | 7.29           | (2.62)         | 10.14      |
| Profitability per day                      | %           | -              | 5.94           | (5.39)         | 14.86      |
| ROCE                                       | %           | -              | ***            | ***            | ***        |
| Selling price domestic                     | %           | -              | 1.75           | (6.42)         | (9.05)     |
| Cost of sales domestic                     | %           | -              | (1.91)         | (1.05)         | (9.97)     |
| Average stock                              | %           | -              | (72.64)        | 128.05         | 103.53     |

- It is submitted that whereas the relevant parameters for growth such as production, sales and profitability per day have all improved which the DA has correctly acknowledged, the DA may also be pleased to also observe and clarify, as evident from the data, that the reduction in selling price of the Domestic Industry has been commensurate to the reduction in cost of sales and as such, not a parameter showing decline in growth.

### **Ability to Raise Capital Investments**

- The DA has observed that “*No submissions have been made by any of the interested parties concerning the domestic industry’s ability to raise capital investments*”.

In this regard, it is submitted that the Domestic Industry's ability to raise capital investments has not been impacted by imports from China which is evident from the fact that the Domestic Industry has made a capacity addition of 8% in the POI. Therefore, it is requested that the DA may note this fact and record that even on this count, the Domestic Industry has not faced any injury.

### **Factors Affecting Domestic Prices**

- As already submitted in the price effect analysis, the Domestic Industry has not faced any price suppression or depression due to imports from China and the reduction in the selling price of the Domestic Industry was due to a reduction in the cost of sales. This was also reflected in the profitability situation of the Domestic Industry which improved in the POI.

### **Profitability, Cash Flow and Return on Investment**

- The following figures with respect to the financial performance of the Domestic Industry has been recorded by the DA in the Disclosure Statement:

| <b>Particulars</b>               | <b>Unit</b> | <b>2013-14</b> | <b>2014-15</b> | <b>2015-16</b> | <b>POI</b> |
|----------------------------------|-------------|----------------|----------------|----------------|------------|
| <b>Overall</b>                   |             |                |                |                |            |
| Cost of sales                    | Rs./MT      | 100            | 98             | 97             | 87         |
| Selling Price                    | Rs./MT      | 100            | 102            | 95             | 87         |
| Profit/(Loss)                    | Rs./MT      | -100           | -180           | -56            | -70        |
| Profit/(Loss)                    | Rs.<br>Lacs | -100           | -193           | -58            | -80        |
| Profit before Interest and Taxes | Rs.<br>Lacs | -100           | -181           | -71            | -82        |
| Cash Profit                      | Rs.<br>Lacs | -100           | -177           | -65            | -87        |
| ROCE-NFA                         | %           | -100           | -156           | -45            | -70        |

- Though the Domestic Industry did not claim that they were facing negative profitability and return on capital employed in their petition, the DA has recorded that the Domestic Industry was in losses and remained so during the entire injury analysis period. The DA is requested to clarify this aspect if the same has wrongly been recorded in the Disclosure Statement and provide another opportunity to the answering respondent to comment in that case.
- Notwithstanding the abovesaid submission, in case the figures with respect to the financial performance of the Domestic Industry as given in the Disclosure Statement is correct, in that case it is submitted that these parameters do not show any injury to the Domestic Industry inasmuch as the losses of the Domestic Industry have reduced over the injury analysis period i.e. the situation of the Domestic Industry with respect to profitability, cash flow and return on investment has improved. As such, even this parameter does not show any decline and therefore, injury to the Domestic Industry.

### **Magnitude of Margin of Dumping**

- It is submitted that as already submitted in the foregoing paras, the margin of dumping has been wrongly calculated by the DA and it is reiterated that the raw material cost of non-adhesive activated polyester yarn may be used for the purpose of constructing the normal value of Chinese imports. Therefore, it is submitted that till the said adjustment is made, the magnitude of margin of dumping as it stands in the Disclosure Statement cannot be relied upon.

### **Market Share**

- The DA has not disclosed information with respect to market share of the Domestic Industry. It is submitted that information with respect to market share of the Domestic Industry cannot be confidential as the DA has itself disclosed the market share of the Domestic Industry in numerous investigations. It is submitted that the same parameter cannot be held to be both confidential and non-confidential in different investigations by the DA. As the DA performs a quasi-judicial function, it is incumbent on the DA to apply its discretion uniformly against all investigations. Considering the same data as confidential and non-confidential in separate investigations would amount to an abuse of discretion and therefore, it is requested that the said data may be disclosed so that the Respondent may exercise its right to defence effectively.
- Furthermore, the DA has observed that the market share of the Domestic Industry and the domestic producers of the subject goods has marginally declined. However, this is contrary to the Domestic Industry's own admission wherein they have stated as follows in their Annual Report for FY 2016-17 which corresponds with the POI:

*"In Belting Fabrics, we have successfully increased our market share by deeper penetration into Tier II players.*

*Under the current global economic situation, the Company has expanded its customer base in the domestic market...."*

- Without prejudice to the abovesaid submission regarding disclosure of market share data and contradictions contained in the Annual Report, it is submitted that the Domestic Industry could not have lost more than 2.05% market share to that of imports from China which is negligible considering the fact that it was over a period of 4 years.
- In fact, an overall analysis of the economic parameters set out in para (iv) of Annexure II clearly reveal that the situation of the Domestic Industry improved

substantially and that imports from the subject countries have had no impact on its performance. For ease of reference, movement in the economic parameters of the Domestic Industry are summarized below:

- Installed capacity of the Domestic Industry increased by 8%;
  - Production of the Domestic Industry increased by 15%;
  - Domestic sales of the Domestic Industry increased by 15%;
  - Capacity utilization also significantly increased by 7%;
  - Productivity per day and productivity per employee of the Domestic Industry increased by 15% and 21% respectively;
  - Wages paid by the Domestic Industry also increased by 34%;
  - The Domestic Industry demonstrated healthy year on year growth with respect to production, sales, capacity utilization, profits;
  - Ability to raise capital for further investments was also not impacted as the Domestic Industry was able to add to its existing capacity;
  - domestic prices were also not affected by imports as the reduction in selling was a result of reduction in cost of sales.
  - The profitability, cash profits and return on investment of the Domestic Industry improved from that of the base year;
  - Imports from China did not impact more than 2.05% market share and the DA has observed that the loss in market share was only marginal;
  - Employment generated by the Domestic Industry only declined marginally.
  - Inventories increased marginally
- In other words, an evaluation of the mandatory economic parameters under Para (iv) of Annexure II of the AD Rules 1995 demonstrates that an overwhelming majority show improvement or no impact of imports. Only 3 parameters have shown a decline as per the data in the Disclosure Statement which, according to the DA's own observation, were "marginal". On the other hand, the standard of injury required under Section 9B of the Customs Tariff Act, 1975 is that of "material" injury. Therefore, any decline in the parameters of the Domestic Industry have to be significant and a marginal decline in 3 parameters cannot result in a finding of material injury.
  - Therefore, in view of the DA's findings in the Disclosure Statement, it is submitted that no material injury has been caused to the Domestic Industry. In case the DA is of the opinion that the abovesaid parameters show material injury to the Domestic Industry, then the DA must furnish cogent reasons on why a marginal decline in 3 parameters outweigh the positives that have been witnessed in the other 12 parameters.

- In this regard, we draw your attention to the WTO Appellate Body report in *Thailand - H-Beams (WT/DS122/AB/R)*, wherein the Appellate Body has firmly asserted that there should be mandatory evaluation of all the factors listed in Article 3.4 of the Anti-Dumping Agreement. The relevant observations of the Appellate Body Report are reproduced below for ease of reference:

*"121. The Panel found, on the basis of evidence that was disclosed or discernible in the nonconfidential documents, that Thailand had violated Article 3.4 of the Anti-Dumping Agreement. In arriving at its finding, the Panel concluded that it is mandatory that all of the listed factors in Article 3.4 be considered by an investigating authority.*

*122. Thailand appeals specifically from this ruling. According to Thailand, the Panel failed to apply the rule of interpretation in Article 17.6(ii) that directs a panel to accept a Member's interpretation if it constitutes a "permissible" interpretation. For Thailand, its interpretation of Article 3.4 was a "permissible" interpretation.*

*123. Article 3.4 of the Anti-Dumping Agreement sets forth a list of factors to be examined in order to assess the impact of dumped imports on the Domestic Industry. The provision states: 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 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 or investments. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.*

*124. Article 17.6(ii) states that, in examining a dispute brought under the Anti-Dumping Agreement: ... the panel shall interpret the relevant provisions of the Agreement in accordance with customary rules of interpretation of public international law. Where the panel finds that a relevant provision of the Agreement admits of more than one permissible interpretation, the panel shall find the authorities' measure to be in conformity with the Agreement if it rests upon one of those permissible interpretations.*

*125. In determining whether all the factors mentioned in Article 3.4 have to be considered in each case, the Panel began its interpretation in accordance with the customary rules of interpretation of public international law as required by Article 17.6(ii), first sentence, by examining at length the meaning and context of the wording of Article 3.4, and by contrasting it with the wording of Article 3.5. The Panel also examined, with respect to this issue, the interpretation by a previous panel of Article 3.4, and an earlier interpretation given by us of an analogous provision, Article 4.2(a) of the Agreement on Safeguards. The Panel concluded its comprehensive analysis by stating that "each of the fifteen individual factors listed in the mandatory list of factors in Article 3.4 must be evaluated by the investigating authorities ...". We agree with the Panel's*

*analysis in its entirety, and with the Panel's interpretation of the mandatory nature of the factors mentioned in Article 3.4 of the Anti-Dumping Agreement.*

*126. Thailand claims, however, that: ... the Panel never referred nor alluded to the standard of review under Article 17.6(ii) or to any aspect of the standard. It did not refer to or rely upon customary rules of interpretation of public international law. It did not determine whether Article 3.4 admits of more than one permissible interpretation. It did not determine whether Thailand's measure rests upon a permissible interpretation. Instead, the Panel found on its own accord that the text of Article 3.4 was mandatory and consisted of fifteen factors.*

*127. We note that, contrary to what Thailand argues, the Panel did state that it was "mindful of the standard of review in Article 17.6(ii)", even though this statement was made in the section of the Panel Report in which the Panel discussed the standard of review under Article 17.6. We also note that the Panel, by means of a thorough textual and contextual analysis, clearly applied the customary rules of interpretation of public international law. Further, the Panel's interpretation that Article 3.4 requires a mandatory evaluation of all the individual factors listed in that Article clearly left no room for a "permissible" interpretation that all individual factors need not be considered.*

*128. We conclude that the Panel was correct in its interpretation that Article 3.4 requires a mandatory evaluation of all of the factors listed in that provision, and that, therefore, the Panel did not err in its application of the standard of review under Article 17.6(ii) of the Anti-Dumping Agreement.*

- We also draw your attention to the Panel Report in abovementioned case [*Thailand - H-Beams (WT/DS122/R)*], in which the WTO Panel held that a finding on injury, when there is positive movement in a number of factors, would require a compelling explanation from the investigating authorities. For ease of reference, the relevant paragraph is reproduced below:

*"7.249 While we do not consider that such positive trends in a number of factors during the IP would necessarily preclude the investigating authorities from making an affirmative determination of injury, we are of the view that that such positive movements in a number of factors would require a compelling explanation of why and how, in light of such apparent positive trends, the domestic industry was, or remained, injured within the meaning of the Agreement. In particular, we consider that such a situation would require a thorough and persuasive explanation as to whether and how such positive movements were outweighed by any other factors and indices which might be moving in a negative direction during the IP."*

- It is submitted that in terms of Annexure II, a determination of injury requires an objective examination of the impact of imports on the domestic producers of the like product. It is not disputed that the volume of imports from China has increased in absolute terms. However, this increase is only marginal in relation to domestic production and consumption. There is no effect as there is no price

suppression or depression due to imports. Furthermore, a majority of the relevant economic parameters of the Domestic Industry are positive and show improvement instead of decline. Only 3 parameters have shown a “marginal” decline. Therefore, it is submitted that no injury exists in the present case and therefore, the investigation requires to be terminated.

- The respondent had submitted that out of the total Indian “Textile reinforced Conveyor belt” market, about 45% to 50% demand comes from Public sector units (PSUs) and other top private sector companies and the fact that these organizations source conveyor belts by way of tenders since the quantities involved are huge. In this regard, it was brought to notice of the DA that one of the conditions of the “Tender” required the suppliers of Conveyor Belt to procure fabric from SRF/Madura/Nirlon/NRC or from DUPONT USA, Performance Fiber (Formerly Honeywell) and OLBO (Germany) which precludes the manufacturers of Conveyor Belts from sourcing “Belting Fabric” from China for this purpose. Though this submission was also recorded by the DA, it has not addressed the same. Therefore, it is requested that while issuing the Final Findings, this aspect may be examined.

### **Raw Material Cost**

- In line with the submissions made on dumping margin i.e. by factoring in the lower cost of raw material, the NIP of the Domestic Industry has to be adjusted to reflect the raw material cost of non-adhesive activated polyester yarn so that a proper apple to apple comparison can be made for the purpose of determining the injury margin.
- In this regard, it is submitted that the Domestic Industry has not refuted the fact that non-adhesive activated polyester yarn, which is the raw material employed by the Chinese Manufacturers, is cheaper than the raw material used by the Domestic Industry. In fact, even the DA has not disagreed with this submission of the Respondents. Therefore, when the production cost of the Domestic Industry is higher because of the cost of raw material, Chinese imports cannot be penalized on that basis. As such, adjustments to the tune of 20% are required to be made to the raw material cost of the Domestic Industry while calculating its NIP.

### **Imports against Advance Authorization and by Export Oriented Units (EOU)**

- Furthermore, as pointed out earlier in the price undercutting analysis, the DA has also considered the landed value of imports made against advance

authorization and EOUs wherein no customs duty and other allied duties have been paid. Duty free imports used in the manufacture of "Textile Reinforced Conveyor Belts" for export cannot be considered at par with imports meant for manufacture of conveyor belts which are sold in the domestic market wherein customs duty and other charges are paid. To that extent, imports made through advanced authorization and EOUs ought to be excluded from consideration while considering the weighted average landed value of the subject goods from China or in the alternative, adjustments for duties need to be made for imports made against import authorization to bring them at par with the imports meant for manufacture of conveyor belts sold in the domestic market of India.

### **Return on Capital Employed**

- The DA has revealed in Annexure IV of the Disclosure Statement that it has calculated the NIP of the Domestic Industry by considering a 22% return on capital employed (ROCE). It is submitted that this is a highly inflated ROCE which should not be resorted to and a more reasonable return should be adopted based on historical data relating to a period when the Domestic Industry had not claimed of being injured due to imports.
- In *Bridge Stone Tyre Manufacturing & others vs. Designated Authority* [2011 (270) E.L.T. 696 (Tri. - Del.)] the Hon'ble CESTAT has observed that the practice of 22% ROCE adopted by the DA was not correct as calculating the NIP by assuming such a high rate of return gives an inflated picture of price underselling.
- In this regard, the practice followed by EU in determination of ROCE also lends support to the abovesaid submission. In case of *T-210/95 European Fertilizer Manufacturer's Association (EFMA) v Council* [1999] ECR II-3291 the Court held that:

*"It follows that the profit margin to be used by the Council when calculating the target price that will remove the injury in question must be limited to the profit margin which the Community industry could reasonably count on under normal conditions of competition, in the absence of the dumped imports. It would not be consistent with Articles 4(1) and 13(3) of the basic regulation to allow the Community industry a profit margin that it could not have expected if there were no dumping."*

- The above practice establishes that profit margin for arriving at reasonable return should be based on analysis of profit when there was no dumping.

As shown in the NCV Disclosure Statement, the imports from China accounted for 92.18% of the total subject imports in India during the POI, which obviously

meets the majority demand of the Indian market. If anti-dumping duty will be levied, it will provide undue protection for the petitioner who could easily manipulate the price of the product under investigation on the domestic market by then and will probably bring up the price unreasonably in order to earn monopoly profits, which will lead to increase of costs and less competitiveness of the downstream industries and even a significant decrease in demand for belting fabric from downstream users. The performance of the downstream textile industry including exports of the textiles will be adversely affected, which goes against the overall public interest of India.

To apply anti-dumping measures in this case is inconsistent with the long-term and overall interests of the Indian domestic industry and its downstream industries.

AIRIA believes that the purpose of anti-dumping investigation is to protect the fair international trade order. Improper implementation of anti-dumping measures as means of trade protection cannot protect the industry and instead, will cause an unfair competitive environment and cause damage to the fundamental interests of domestic industry in the long term.

74. M/s ARB Conveyors has submitted the following:

- There are only few manufacturers of Belting Fabric in India, SRF Limited is the second largest manufacturer of 'Belting Fabric' in the world (reference website of SRF). Besides SRF Limited, there are other four manufacturers of Belting Fabric' in India namely a) M/s NRS Ltd, b) M/s Madura Ltd & c) M/s Nirlon Ltd and M/s Sunrhea.
- Thus, there is a conflict of interest with other manufacturers of conveyor belts. As per the "Report" there are about 43 manufacturers of Textile reinforced Conveyor Belt" in India out of which top 5 manufacturer account for about 80% market share. In nutshell, leaving aside aforesaid three manufacturers of Belting Fabric, rest of the manufacturer of conveyor belt have no option but to purchase the "Belting Fabric' from SRF Limited only which positions them into a monopolistic situation.
- Users will face delayed delivery problems because of the less production capacity of Indian belting fabric manufacturers. Fabric is already overbooked.
- Due to superior Technology/ machinery, the Chinese manufacturers use NON-ADHESIVE ACTIVATED-POLYESTER YARN" which is the main Raw material for manufacturing of Type EE Belting Fabric.
- Indian fabric manufacturers focused on "Redesigning of Fabric for lowering the cost. The said statement acknowledges that their current design of fabric is resulting in higher cost.

- The industry requires more than 100 styles of belting fabric at once so that they are able to cater to the Indian market, and this is not possible until and unless they import the fabric from China because the domestic industry is unable to cater to their demands.

### **Examination by the Authority**

75. The Authority has examined submissions made by various interested parties in response to the disclosure statement as under. Any minor typographical errors in disclosure statement have been appropriately corrected.

- (i) The Authority notes submissions of various interested parties on the scope of Product Under Consideration. The Authority reiterates that on the basis of sample evidence provided by the Domestic Industry it is established that Domestic Industry has ability to produce the grades requested for exclusion by the exporter and All India Rubber Industries Association. The Domestic Industry has also sold these grades. The Authority further notes that the user industry association has though made submissions on various issues, detailed questionnaire has not been filed by any of their members with any evidence of Domestic Industry not able to supply the grades proposed by them for exclusion. The Authority therefore holds that all grades of belting fabric are within the scope of PUC as stated in the initiation notification and exclusion of no grade is warranted.
  
- (ii) As regards granting status of market economy to various producers/exporters of China, the Authority holds that as per the Accession Protocol of China in WTO, the obligation of evidencing market economy status with appropriate justification and facts rests upon the participating producers/exporters of China. In view of the aforesaid, one of the producer/exporter i.e. M/s Jiangsu Taiji Industry New Materials Co. Ltd. did claim market economy treatment but later withdrew the same. The Authority therefore as per its consistent practice of adopting best available information as per Rule 6 (8) of AD Rules, has constructed the normal value for all producers/exporters of China. For this purpose it has considered inter alia optimum consumption norms for the major raw materials and utilities, international prices of purchased raw materials, prices of captively produced raw material, including reasonable conversion cost, interest, SGA, and reasonable profit etc.
  
- (iii) The Authority notes that Domestic Industry has claimed a copy of exporter verification report. The Authority in the disclosure had stated that exfactory export price and landed value has been validated on the basis of sample evidence regarding adjustments and so produced by the producers/exporters along with relevant export documents on desk study. The Authority as per its consistent practice after the desk study has disclosed the verified exfactory

export price and CIF to the cooperating producers/exporters on a confidential basis to them. The NIP on a confidential basis has been disclosed to the Domestic Industry. The 'NCV' narration of landed value, ex-factory export price and NIP have been stated in the relevant part of the findings as done consistently by the Authority.

- (iv) As regards inclusion of duty free imports of subject goods while computing the landed value, the Authority holds that none of the users provided questionnaire response to the investigation. Further the Domestic Industry has opportunity to supply even against an advance license after invalidation of the same as per the provisions of the FTP. Therefore inclusion of duty free imports for analysis of injury is appropriate which has so been considered by the Authority.
- (v) The Authority notes that the volume parameters i.e. production, sales and capacity utilization of domestic industry during the injury period i.e. 2013 – 14 to 2015 – 16 and period of investigation i.e. 2016 – 17 have been quite stable. In fact in the period of investigation, Domestic Industry has enhanced capacity attaining highest capacity utilization as compared with the injury period. Even though the market share of domestic industry in period of investigation was slightly lowered as compared to the base year and the previous year, the production and domestic sales of domestic industry in absolute numbers were highest in the period of investigation.
- (vi) The Authority notes that price undercutting over the injury period (2013 – 14 to 2015 – 16) and period of investigation remained positive being highest in period of investigation. The Landed value of imports increased in 2014 – 15 over 2013 – 14 but was the lowest in the period of investigation. The cost of sales continued to decline over the injury period and thereafter until the period of investigation i.e. 2013 – 14 to 2016 – 17. The Authority holds that domestic industry has submitted that for emergency requirements, the user industry depends on domestic industry for sourcing the product under consideration but the market for regular maintenance of end products i.e. conveyor belts which provides sufficient lead time for imports is shifting the user industry to source dumped imports. The Authority also notes that domestic selling price of subject goods of domestic industry has declined over the injury period and period of investigation broadly in tandem with cost of sales over the same period.
- (vii) The Authority notes that any coping effort by Domestic Industry to ensure stability in its volume parameters i.e. production, sales, capacity utilization and market share would require a trade off by way of an adverse effect on its various price parameters i.e. NSR, profitability, cash profits and return on capital employed when it protect its market share. The Authority notes that the

Domestic Industry's return on capital employed (ROCE) though reduced in period of investigation, it has not run down into losses and rather been able to maintain positive profitability i.e. profit before interest and taxes, cash profits and positive return on capital employed, with its 'NSR' continuing to be higher than the landed value of imports over the injury period and the period of investigation. The Authority therefore holds that the trend in price parameters do not conclusively establish that adverse impact on DI's performance has been caused by dumped imports.

**Conclusions and Recommendations:**

76. Having examined the contentions of various interested parties and on the basis of the above facts, circumstances, and analysis, the Authority concludes as under:

- (i) 'Net Sales Realization' achieved by Domestic Industry for the subject goods continues to be consistently higher than the landed value of imports of subject goods over the injury period and the period of investigation.
- (ii) Though the dumping margin and injury margin computed for the domestic industry during period of investigation is significant, the trend in price parameters do not conclusively establish that adverse impact on DI's profitability performance has been due to dumped imports.
- (iii) Since the injury lowered return on capital employed and profitability of Domestic Industry cannot be conclusively attributed to dumping of subject goods from the subject country, the Authority terminates the investigation under Rule 14 (b) of Anti-Dumping Rules and does not recommend levy of any Anti-Dumping measure.

**(Sunil Kumar)**

Additional Secretary & Designated Authority