

F. No.6/3/2018-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

NOTIFICATION

Dated 18th September, 2018

(Final Findings)

Subject: Anti-dumping duty investigation on the imports of Flax Yarn of below 70 Lea Count originating in or exported from China PR.

F. No. 6/3/2018/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, Jaya Shree Textiles- Unit of M/s Grasim Industries Limited (previously Jaya Shree Textiles- Unit of Aditya Birla Nuvo Ltd.) (hereinafter also referred to as the “Applicant” or “domestic industry” or “Jaya Shree”) filed an application in the present case before the Designated Authority (hereinafter also referred to as “the Authority”), Directorate General of Trade Remedies (erstwhile 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 thereon on dumped imports of “Flax Yarn of below 70 Lea Count” (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. 6/3/2018-DGAD dated 7th February, 2018 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 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 to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:
 - a. Zhejiang Golden Eagle Company Limited, China PR,
 - b. Heilongjiang Yanshou Jijia Flax Textile Company Limited, China PR,
 - c. Huzhou A Xiang Import & Export Trading Company Limited, China PR,
 - d. Tongling Worldbest Ramie Company Limited, China PR,
 - e. Hangzhou Shanglu Silk Company Limited, China PR
- vi. In response to the above notification, the following exporters/ producers responded and submitted questionnaire responses:
 - a. Great Eastern Textiles (Tongling) Company Limited, China PR,
 - b. Ningbo Win Way Trading Company Limited, China PR,
 - c. Yixing Sunshine Linen Textile Company Limited, China PR,
 - d. Changzhou Meiyuan Flax Textile Company Limited, China PR,
 - e. Tung Ga Linen & Cotton (Changzhou) Company Limited, China PR,
 - f. Huzhou Axiang Import and Export Trading Company Limited, China PR,
 - g. Zhejiang Axiang Flax Textile Company Limited, China PR,
 - h. Zhejiang Golden Eagle Company Limited, China PR,
 - i. Zhejiang Golden Eagle Spun Silk Company Limited, China PR,
 - j. Zhejiang Golden Eagle Yili Linen Textile Company Limited, China PR,
 - k. Zhejiang Jinyuan Flax Company Limited, China PR,
 - l. Zhejiang Kingdom Linen Company Limited, China PR,
 - m. Hangzhou Shanglu Silk Company Limited, China PR,
 - n. Jiangsu Jinyuan Flax Company Limited, China PR.

vii. Market Economy Treatment (MET) questionnaire was also forwarded to the known producers/exporters in China PR and the Embassy of China PR in India with the request to provide relevant information to the Authority within the prescribed time limit. However, none of the responding producers/exporters from China have claimed MET.

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. Bombay Rayon Fashions Limited, Maharashtra,
- b. Siyaram Silk Mills Limited, Maharashtra,
- c. Raymond Luxury Cottons Limited, Maharashtra,
- d. Shri Damodar Yarn Manufacturing Private Limited, Daman
- e. Bharat Vijay Mills, Gujarat

ix. In response to the initiation notification, the following importers/users/consumers responded and submitted questionnaire responses and detailed objections to the petitioner and initiation thereof:

- a. Texventures LLP,
- b. Kottex Industries Private Limited,
- c. Silver Line Fashion Fabrics Limited,
- d. Ujjawal Textiles,
- e. M/s Vrijesh Corporation,
- f. Vrijesh Natural Fibre & Fabrics (India) Private Limited,
- g. M/s Viraat Fashion,
- h. WFB Baird & Company (India) Private Limited.

x. In addition to above named importers, following importers along with China Chamber of Commerce of Import and Export of Textile and Apparel filed detailed objections to the petition and initiation thereof within the prescribed time line:

- a. K.K.P. Fine Linen Pvt. Ltd.
- b. Jagdamba Textiles Pvt. Ltd.
- c. Anantnath Silk Mills Pvt. Ltd.

xi. In addition to above, following interested parties filed letters in response to the initiation notification within the time line prescribed by the Authority:

- a. Linyarn Textiles
- b. Al Champdany Industries Limited
- c. JainvatiImplex
- d. WFB Baird & Company (India) Pvt Ltd.

xii. The Authority made available non-confidential version of the documents presented by various interested parties in the form of a public file kept open for inspection by the interested parties;

- xiii. The Designated Authority had notified PCN vide notification dated 22.5.2018 calling for PCN wise information from interested parties including domestic industry in order to have fair comparison.
- 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 5th June, 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 and such verified information has been relied upon.
- xviii. The verification of producers and exporters was also carried out in the subject country and some exporters' verification was conducted in table study by calling documents in the Directorate.
- xix. The Period of Investigation (POI) for the purpose of the present review investigation is October, 2016 to September, 2017 (12 months). The examination of trends in the context of injury analysis covered the period 2014-15, 2015-16, 2016-17 and the POI.
- xx. The submissions made by the interested parties, during the course of this investigation, and found relevant have been addressed by the Authority, in this Notification.
- 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. A Disclosure Statement was issued on 13.8.2018 containing essential facts under consideration of the Designated Authority, giving time up to 21.8.2018 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately
- xxiii. ‘***’ 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 Notification indicate negative number/range.
- xxiv. Exchange rate for POI has been taken by the Authority as Rs.66.70 = 1 US\$.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

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 “Flax Yarn of below 70 Lea Count (42 Nm)”. Flax yarn of 70 and above lea is specifically excluded from the scope of the product under consideration.
 - ii. Flax Yarn is a linen yarn. It is a natural cellulosic fiber, highly moisture absorbent, has higher conductivity and possesses naturally antimicrobial, antifungal properties. The Yarn made out of the Flax Fiber is called Flax Yarn/Linen Yarn. All other natural cellulosic fibers such as cotton, hemp, jute and ramie are beyond the scope of product under consideration for the purpose of present petition. If the product under consideration is described as linen/flax yarn, this is well understood in customs and market parlance.
 - iii. The use of flax yarn is in making flax fabric. Flax fabric is used for apparel such as dresses, suits, separates, skirts, jackets, pants, blouses, shirts, children’s wear etc., and home textiles such as curtains, draperies, upholstery, bedspreads, table linens, sheets, dish towels etc.
 - iv. 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 and thus, are like article.
 - v. The product under consideration is generally imported under HS code 5306 1090 and 5306 2090. However, import can also take place under other HS codes, therefore, it is clarified that the HS codes are only indicative and the product description shall prevail in all circumstances.

- vi. Model-match criteria or PCN system- The Designated Authority decided a PCN system after proposing a PCN and seeking comments from all interested parties thereon. The petitioner has put on record all relevant information including PCN wise cost of production of the domestic industry.
- vii. Long/short fiber, original color/semi bleached, etc. criteria are largely subsumed in the present product control number. Not every parameter can become the basis of product control number. Reasonability, appropriateness and requirement needs to be seen. The Authority may decide appropriately.
- viii. The cost of production of flax yarn varies with three parameters – (a) lea count, (b) whether the yarn is made out of short fiber or long fiber, and (c) whether the yarn is grey or dyed. However, (a) analysis of import data will show that more than 95% of the imports are in grey form as the market for dyed form of yarn is very limited; (b) the yarns are made either from short fiber or from long fiber. There are counts where both may be used and the proportion of short and long fiber will depend upon the manufacturer. However, the import data does not very precisely mention whether the yarn was made out of short fiber or long fiber in all imports. The interested parties have not shown how they have distinguished and differentiated these yarns in their sales records and how the information can be verified

Views of the opposing interested parties

- 6. The following interested parties have made submissions as follows:
 - i. The PCN proposed by the Designated Authority may not be appropriate for fair comparison in the present investigation. The proposed PCN overly simplifies the analysis because Lea count is not the only factor affecting the price of the product concerned. The price of the subject goods could also be influenced by Long/short fiber, original color/semi bleached, etc. Such differences are important and affect the cost and selling price.
 - ii. With the same NM number, the price of the subject product made of long fiber is generally higher than the price of the one made of short fiber; and the price of the subject product with original colour is often higher than the price of the one that is semi bleached. The respondents proposed that PCNs should also be distinguished as per Long/short fiber and original color/semi bleach.

Examination by the Authority

- 7. The product under consideration for the purpose of present investigation is “Flax Yarn of below 70 Lea Count (equivalent to 42 Nm)”.
- 8. Flax Yarn is a natural cellulosic fiber having naturally antimicrobial, antifungal properties. The Yarn is generally made out of the 100% flax fiber and is called Linen Yarn or Flax

Yarn. The flax fiber can also be blended with other fibers for making flax yarn or linen yarn. The primary use of flax yarn is in making flax fabric. Flax fabric is used for apparel and in home textiles.

9. All other natural cellulosic fibers such as cotton, hemp, jute and ramie are beyond the scope of product under consideration for the purpose of present investigations. Flax yarn of 70 and above lea is specifically excluded from the scope of the product under consideration.
10. The Authority proposed to notify PCNs for the purpose of determining dumping margin and injury margin for undertaking fair comparison and sought views from various interested parties with regard to the proposed PCN. All the interested parties submitted information. Some parties contended that the proposed PCN may not be appropriate for fair comparison in the present investigation. The Authority considered all submissions and after taking into consideration all the relevant parameters notified the following PCNs, having regard to the facts and circumstances of the present case.

SN	Lea Category	Nm Category	PCN
1	Upto 5 lea	Upto 3 Nm	01
2	Above 5 and upto 10	Above 3 and upto 6	02
3	Above 10 and upto 15	Above 6 and upto 9	03
4	Above 15 and upto 20	Above 9 and upto 12	04
5	Above 20 and upto 25	Above 12 and upto 15	05
6	Above 25 and upto 30	Above 15 and upto 18	06
7	Above 30 and upto 35	Above 18 and upto 21	07
8	Above 35 and upto 40	Above 21 and upto 24	08
9	Above 40 and upto 45	Above 24 and upto 27	09
10	Above 45 and upto 50	Above 27 and upto 30	10
11	Above 50 and upto 55	Above 30 and upto 33	11
12	Above 55 and upto 60	Above 33 and upto 36	12
13	Above 60 and upto 65	Above 36 and upto 39	13
14	Above 65 and Less than 70	Above 39 and Less than 42	14

11. The Authority considered information on record and observed that 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 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.
12. The product under consideration is generally classified under Chapter 53 of the Customs Tariff Act under head 5306 and sub heading 53061090 and 53062090. The HS codes are considered only indicative and the product description is decisive for the purpose of the present investigations.

C. SCOPE OF DOMESTIC INDUSTRY AND STANDING

Views of the Domestic industry

13. Following submissions have been made by the domestic industry:

- i. The petition has been filed by M/s Grasim Industries Limited – Jaya Shree Textiles (previously–Aditya Birla Nuvo Ltd. Unit – Jaya Shree Textiles). Jaya Shree accounts for substantial share (68.84%) in production of the product concerned in India.
- ii. At the time of filing the petition, three others companies were producing subject goods in the country i.e M/s Linen Art Pvt. Ltd., M/s Golden Fibers and M/s A.I. Champdany Industries Ltd which continue to be in commercial production. Amongst these, M/s Golden Fibers and M/s Linen Art are supporting the present petition. Letter from these supporting companies have already been placed on record.
- iii. Further, M/s Raymond Luxury Cottons, M/s Kamarhati Jute Mills, M/s Bharat Vijay Mills and M/s WFB Baird & Co. India Pvt. Ltd. were setting up new plants for production of the product under consideration and shall be in commercial production by 2018-19. While Raymond has started its commercial production in April, 2018, Bharat Vijay Mills' (Sintex industries) is scheduled to commence production in June, 2018 followed by further capacity expansion in August, 2018.
- iv. The petitioner has imported small quantities of subject goods from China during October - December, 2016 under duty free advance authorisation scheme. The imports were to the extent of ***% of total Indian demand. There are no imports by petitioner after this period. The yarn so imported during this period was consumed in production of the goods exported from India and did not compete with the yarn produced and supplied by Indian producers in the Indian market.
- v. As regards the contention of the interested parties that there is no law which allows ignoring “duty free” imports for the purpose of standing in an anti-dumping investigation, the petitioner submitted that it had imported the subject goods during the first quarter of the period of investigation under duty exemption scheme of the Govt. of India. The yarn so imported was consumed in production of the downstream products exported from India and did not compete with the yarn produced and supplied by Indian producers in the Indian market. A manufacturer exporter is eligible to operate under the Advance Authorization Scheme. The Foreign Trade Policy 2009 – 2014 and 2015 – 2020 provides Duty Exemption / Remission Schemes under Chapter 4. A company has to be an exporter in order to receive the Advance License. Eligibility criteria are contingent upon exports by the company. It is not contingent upon use of domestic rather than imported inputs and the industry to which company belongs or the region in which Company is located. Thus, the imports made by the petitioner during the period of investigation were not meant for consumption in India and did not compete in the market.

- vi. Rule 2(b) does not automatically exclude the domestic producer from the purview of domestic industry if it has imported the subject goods itself. The core business of the petitioner needs to be seen. The imports have declined throughout the injury period and there were no imports made after the first quarter of POI. Prior to POI, there were duty free imports also among others.
- vii. The petitioner is committed to production as may be seen from the various expansions undertaken by Jaya Shree. The petitioner has undertaken full production, is committed to production of the subject goods and has a significant volume of flax yarn to sell in the market.
- viii. The imports made by the petitioner from China during the POI constitutes a minor fraction compared to the total imports entering India, total imports from China, total Indian production, production of Jaya Shree, domestic sales of Jaya Shree and Indian demand.
- ix. The petitioner's business has never shifted from production to imports. Such imports only supplemented the production effort and not substituted its production efforts. It is established practice that the imports made to supplement the production efforts should not be considered as sufficient reason to treat such company as ineligible.
- x. It is the submission of DI that Earlier the Designated Authority has accepted an importer as the DI, for example, the case of Phenol originating in or exported from Japan and Thailand. Further, vide paragraph no. 37 (b) of the petition, the petitioner submitted that prior to POI, the subject goods were imported by the petitioner for creating market for its products to produce from the new facility. The two parts needs to be read as referring to two different periods.
- xi. The petitioner is not related to any producer-exporter of the subject goods in China or importer in India
- xii. The petitioner has sufficient standing and constitutes domestic industry within the meaning of the Rules.

Views of the opposing interested parties

14. Following are the issues raised by other interested parties with respect to standing:

- i. The petitioner has imported the subject goods during the injury period including in the POI and has benefitted from the alleged low-priced imports of the subject goods to capture the Indian market, it does not deserve to be treated as domestic industry. The fact that the Petitioner has imported the subject goods under Advance License does not entitle it to any exemption from Rule 2(b) of the AD Rules.
- ii. Even the supporters have imported during the injury period including the POI. These companies also do not qualify to support the Petitioner.

iii. The petitioner has imported the subject goods regularly even during the investigation period. Importing the subject goods under advance license scheme does not affect the fact that the petitioner has imported the subject goods from the subject country during POI, therefore, they shall not be treated as Domestic Industry as per the definition given under Rule 2(b).

Examination by the Authority

15. The present petition was filed by M/s Grasim Industries Limited – Jaya Shree Textiles (previously–Aditya Birla Nuvo Ltd. Unit – Jaya Shree Textiles). The Petitioner accounts for a major share in production of the product concerned in India.

16. The petitioner itself has imported some types of the products from China. Imports made by the petitioner were examined in detail. Following facts have been considered to determine whether the petitioner should be treated as eligible domestic industry under Rule 2(b)

17. The Authority notes that not all kinds of imports are condemned under Rule 2(b). Rule 2(b) has been amended with the sole objective of providing discretion to the Designated Authority to decide whether to include or exclude a company who has itself imported the alleged dumped product. Such discretion has been exercised in an even manner by the Designated Authority in the present case. The AD Agreement or the Rules does not list any specific test or criteria to be applied for determining whether such domestic producer should be included or excluded from the definition of the domestic industry.

18. The Authority examined the imports made by the petitioner over the injury period. It is seen that the imports were made only during one quarter of the POI and that too in small quantity under duty free scheme for export production. The volume of imports made by the petitioner are as below:

SN	Period	Total imports	Duty free imports
1	2014-15	***	-
2	2015-16	***	-
3	2016-17	***	***
4	Oct'16-Sep'17 (POI)	***	***
4a.	Oct,16 to Dec, 16	***	***
4b.	Jan'17 to Mar'17	-	-
4c.	April'17 to Jun'17	-	-
4d	July'17 to Sep'17	-	-

19. The imports made by petitioner were examined with respect to total imports into India, imports from China, Indian production, production of Jaya Shree, domestic sales of Jaya Shree and Indian demand, as detailed below:

SN	Description	Share%
Imports by Jaya Shree in relation to		
1	Total Import of PUC into India	***
2	Total Import of PUC from China	***
3	Indian production	***
4	Production of Jaya Shree	***
5	Domestic sales of Jaya Shree	***
6	Indian demand	***

20. It is seen that imports have steeply declined over the period. There were no imports by the petitioner after Dec'16. The share of imports by petitioner with respect to total imports and Indian demand are insignificant. The share of imports of PUC by petitioner with regard to their production is also not significant, indicating that imports were only incidental and not main line of activity.

21. As regards the imports made by the supporters, the Authority notes that since these companies have merely supported the petition and since production of these companies in any case is quite low as compared to the petitioner, it is not necessary to decide their inclusion or exclusion from the scope of the domestic industry. The Authority notes that if these companies are treated as eligible domestic industry, the production of the petitioner still constitutes more than 50% of Indian production and if these supporter companies are treated as ineligible domestic industry, then share of production of the petitioner would further increase. In any case, the production of the Petitioner alone constitutes 'a major proportion' of Indian production of the like product in POI. The application is therefore deemed to have been filed by and on behalf of the domestic industry, the application satisfies the requirements of 'standing' under Rule 5 of the AD Rules.

22. Raymond Luxury Cottons have also supported the petition and requested imposition of duty. However, since the company has not produced the subject goods during the POI, the Authority has not examined its status for the purpose of present investigation.

23. On examination of the material on record as above, and considering the legal provisions, the Authority holds that the petitioner constitutes domestic industry in terms of Rule 2(b) read with Rule 5(3) of the Rules.

D. ISSUES RELATED TO CONFIDENTIALITY

Views of the Domestic Industry

24. Following submissions have been made by the domestic industry in regard to confidentiality claimed by it and respondents:

i. The petitioner has claimed only such information as confidential which is neither in public domain not mandated by law to disclose. Further, the petitioner has provided reasons, at appropriate places, for claiming confidentiality.

- ii. The information related to production (own, supporters, other producers, total in India), export sales volume, domestic sales volume (own, supporters, other producers), imports of subject goods by petitioner and supporters, market share, captive consumption, capacity utilization, inventory and employment of the petitioner are business sensitive information, disclosure of which would seriously jeopardize the commercial interests of petitioner.
- iii. The law does not mandate the disclosure of actual information with regard to volumetric parameters. The same is decided on case to case basis and industry to industry basis. Flax Yarn industry is booming in India and many new players are coming up. Disclosure of the volumetric information about the sole petitioner would give advantage to others and would adversely affect the interests of the Petitioner. The same is in line with the past practice of the Directorate General of Trade Remedies (erstwhile Director General of Anti-Dumping).
- iv. Costing information by nature is highly business sensitive and therefore claimed as confidential. Petitioner has not prepared its injury information on the basis of published information of the legal entity. The petitioner maintains separate financial records for Jayashree Textiles, which operates as a division or unit of the company. All information has been taken from the financial accounts of Jayashree Textiles, which are separately audited. The financial information related to Jayashree textiles is not separately available in public domain. The relevant information has been provided to the Authority on confidential basis as the disclosure of same would jeopardize the interest of the petitioner.
- v. The petitioner has estimated the allowances/deductions used for calculation of net export price and sales of other Indian producers. The exporters have not shown (in fact, not even claimed) that the amounts adopted by the petitioner are excessive. In any case, the Authority will consider the data submitted by the exporters after due verification.
- vi. The details of imports made by the Petitioner and the supporters are business sensitive information and therefore cannot be disclosed. The information has been provided in the indexed form which is justifiable as per the law.
- vii. The information related to raw material, utilities, other conversion cost and interest cost reported in Format C1 is confidential in nature and disclosure of which would seriously jeopardize the interests of the petitioner
- viii. The respondents have claimed excessive confidentiality in the exporter questionnaire response and the same curtails our right to comment as the responses does not provide meaningful summary without assigning any good cause for the same. The submissions of all the exporters and producers from the subject countries should be disregarded and deny them the individual treatment.

Views of the opposing interested parties

25. Following submissions have been made by the respondents in regard to confidentiality claimed by them and the domestic industry:

- i. The petitioner has claimed excessive confidentiality on several information and data in the petition without providing good cause which impairs the ability of respondents to defend their interest (Referred to Rule 7 of the AD Rules and Article 6.5 of the ADA).
- ii. The petitioner has claimed confidentiality and indexed information contained in table “injury information of domestic industry” on pages 32, 33 and 34 of the petition which violates Rule 7 of the AD Rules and Article 6.5 of the ADA.
- iii. Production (own, supporters, other producers, total in India), export sales volume, domestic sales volume (own, supporters, other producers), imports of subject goods by petitioner and supporters, market share, captive consumption, capacity utilization, inventory and employment of the petitioner should be reported as actual and should not be indexed. The petitioner has not provided any good cause for claiming this information confidential and such information cannot be regarded as confidential by nature.
- iv. The information and data on volume parameters cannot be deemed as being confidential.
- v. The petitioner has claimed confidentiality on costing information and not even non-confidential information is being provided. The same does not permit reasonable understanding. (Referred to Rule 7 of the AD Rules and Article 6.5 of the ADA, Trade Notice 1/2013 dated 9 December 2013, Argentina – Ceramic Tiles and Sterlite Industries (India) Ltd v. Designated Authority [2003(158) ELT 673]).
- vi. Before the amalgamation as well as after the amalgamation, Jayashree Textiles remained a part of a public limited company listed on Indian stock exchanges. Such publicly listed companies face strict requirements of disclosure under the Indian Company Law and are mandatorily required to make their annual reports and financial information public. We fail to understand the basis on which the Petitioner has claimed confidentiality on the annual reports and other financial information when the same is supposed to be public and available freely.
- vii. The allowances used for the calculation of the net export price do not contain any source and the data cannot be verified. All these allowances have been claimed confidential. Even a range is not provided for these allowances. Without prejudice, the ex-factory export price should be calculated based on the data filed by producers/exporters and the allowances claimed on actual basis.
- viii. The imports by the Petitioner and supporters should also be disclosed so that other interested parties can objectively comment on the Petitioner’s eligibility to be treated as domestic industry under Rule 2(b) of the AD Rules.

- ix. Information pertaining to raw material, utilities, other conversion cost and interest cost reported in Format C1 are treated in confidence without being accompanied by a non-confidential summary.
- x. 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 December 09, 2013. Our right to defense is curtailed as significant data is not properly indexed in NCV petition.
- xi. In response to Section VI of the application, the petitioner has not furnished any information at all. Various question of Part 6 is answered as - “as per annual report/balance sheet” and Grasim Industries Limited-Jayashree Textiles being a multi-product company, this answer is misleading. Accordingly, petitioner has not provided complete information as required under the Application.

Examination by the Authority

26. As regards submissions concerning confidentiality of information, the interested parties have provided non-confidential version of information filed by them and have given reasons for claiming confidentiality. The various submissions made by the interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority were examined. 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 of interested parties and accordingly not disclosed the same to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

E. MISCELLANEOUS ISSUES

Views of the Domestic Industry

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

- i. The information provided in the petition clearly show that the domestic industry has suffered material injury. The Authority had initiated the present investigations on the basis of sufficient *prima facie* evidence of dumping of the subject goods from the subject countries, injury to the domestic industry and causal link between dumping and injury suffered by the domestic industry.
- ii. 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.

- iii. The petitioner fails to understand as to what information was not provided in the petition and that why such the present investigation should be terminated.
- iv. The petitioner has received the Info drive data at the time of filing the application on confidential basis. The same is third party information whose confidentiality is protected and therefore the information as sought by the respondents cannot be disclosed. Nonetheless the petitioner has submitted the DGCI&S data in compliance with the recent trade notice and the same can be procured from the Authority after following due procedure.
- v. The objective of anti-dumping duties is not to block the imports but to address the issue of dumping of subject goods and consequent injury faced by the domestic industry. The arguments related to demand and supply gap have been raised in the past before the Hon'ble Authority but have been rejected consistently.
- vi. The subject goods used for captive consumption have been transferred at cost. The Authority may take the verified data.
- vii. The annual report of the Holding company of the largest producer/exporter group of China i.e. Kingdom Holdings Limited, involved in the product concerned makes it clear that the Chinese producers/exporters have strategically reduced its export prices. A perusal of the report would make it clear that the company has reduced its selling prices of linen yarn since April, 2016; that the sales to India has increased by approximately ***% and that the decrease in selling costs as a percentage of revenue during the period of investigation was mainly due to the increased sales in China and to India with lower commission incurred. In other words, the company was able to increase its sales in India and China thereby increasing its profits.
- viii. The Indian producers are making significant fresh investments for production of subject goods in India. The petitioner, supporters and other companies have invested ***crores (*** MT Capacity and *** no. of spindles), *** crores (*** MT Capacity and ***no. of spindles) and*** crores (*** MT Capacity *** no. of spindles) respectively.
- ix. Allegation made during the public hearing regarding late deliveries and non-supply of 60 and 70 Lea products by the petitioner are baseless and without any evidence.
- x. Levy of anti-dumping duty will not block the imports and the consumers would continue to have choices. While there is already more than one producer of the PUC in the Country, there shall be more producers of the PUC in due course, as new capacities are coming up in the Country.
- xi. The end-users do not have to solely depend on the petitioner. The present option to import or buy from other Indian producers will continue to be available to them later also. In

fact, few more producers are coming up in India. Further, if the petitioner's capacity had been meant only for captive consumption, it would not have expanded its capacity. More than 60% of the capacity of the petitioner was available for domestic sales in India in the period of investigation. As on date, the same amounts to 74% approximately.

Views of opposing interested parties

28. The following miscellaneous submissions have been made by other interested parties in this regard:
 - i. The petitioner has not brought any substantive evidence to provide the condition for initiation of AD investigation while the investigating authority has not carried out appropriate scrutiny of facts.
 - ii. Initiation of the investigation is short of factual and legal basis is baseless and thus, the same should be terminated. The DGAD should not have initiated the present investigation on the basis of information contained in the petition.
 - iii. The Respondents request the Designated Authority to provide Info Drive data in MS Excel format, both in raw and refined form, along with the methodology applied to refine the data. The Designated Authority also intends on using DGCI&S transaction-wise import data during the course of the investigation. In such case, the Respondents also request access to DGCI&S transaction-wise import data and shall file a separate request in this regard.
 - iv. The domestic industry has not produced enough quantity to serve the total demand of the subject goods. Thus, users are tending to import the same from other countries. The petitioner is unable to fulfil the demand of the Indian Industry which leads to import from other countries.
 - v. The subject goods are captively consumed by the petitioner. The Authority is requested to ask the petitioner to provide the details of the price at which such goods were transferred for captive consumption. The same shall be critically examined by the Authority.
 - vi. Majority of importers are end users. The end users do not want to solely depend on the Petitioner, as both are competitors in the flax fabrics market. Petitioner might have reduced its imports of the subject goods over the injury period, but the end-users continue to import as well as procure the subject goods domestically. The end-users will have to continue to import the subject goods, because the capacities set-up by the Petitioner is largely for captive consumption and not merchant market.
 - vii. The petitioner has agreed that they have imported the subject goods during the POI however initiation notification is silent about the same. The Authority must give speaking order whether they have considered the same or not while issuing initiation notification.

Examination by the Authority

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

- i. As regards the allegation that initiation is on wrong premise, the Authority notes that the investigation was initiated on the basis of *prima facie* evidences/facts provided by the Domestic Industry in the petition. Subsequently, the Authority has conducted the verification of the information and the same have been considered in this Notification.
- ii. As regards manipulation in import data, the Authority notes that petitioner has submitted DGCI&S transaction wise import data in compliance with the trade notice no. 07/2018 dated 15th March, 2018 and the same was part of the petition and non confidential version was placed in the public file for inspection by other interested parties. The interested parties could collect the same after following due procedure. Further, the Authority has prescribed a procedure vide trade notice no 07/2018 dated 15th March, 2018 permitting any interested party to obtain DGCI&S transaction wise data from the DGCI&S after following the laid down procedure.
- iii. As regards demand and supply gap, the Authority notes that though there is a demand supply gap during the injury period, the same in itself does not address dumping of the product in the Country. Any demand-supply gap can be filled by imports from any country at fair prices. Further, a situation of demand-supply gap, does not entitle a foreign producers exporter to indulge in unfair trade practices and export at dumped prices.
- iv. As regards the contention of interested parties regarding the price at which the subject goods were captively transferred by the petitioner, the Authority notes that the valuation of captive input has not vitiated the present determination. The valuation of captive input can impact either the profitability of downstream product (i.e., flax fabric) or profitability of the captive consumption. The Authority has not considered profitability of downstream industry or captive consumption for the present purposes. Thus, the captive valuation has not had any impact on the present determination. For sake of clarification the petitioner has valued captive consumption at its cost of production.
- v. As regards the contention of the domestic industry regarding the strategic reduction of prices by Kingdom group as also indicated in its annual report, the Authority has taken into account the relevant facts after detailed deliberations with the producer exporter during the physical verification and further verification of the data of the exporter.
- vi. As regards allegations of late deliveries and non-supply, the Authority notes that none of the interested parties have placed verifiable evidence on record to support their claim made at the time of public hearing and submissions made thereafter. The petitioner has admitted that their plant was shut down for some time on account of labour strike but strongly refuted claims of late deliveries and non-supply of goods. The domestic industry has stated that they have been in continuous production since then. As the labour strike

was an unforeseen event which took place after 22 years of their existence and uninterrupted operations which has since been resolved. Therefore this fact cannot be held against the domestic industry.

vii. The Authority notes that the petitioner also captively consumes the subject goods, yet it has made available significant percentage of its capacity (about 60%) for domestic sales in the period of investigation. The petitioner has set up capacities which are far higher than its own captive requirement and demand. The commitment of production and sale of subject goods in the domestic market can be seen by the large investments made by the domestic industry.

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

Views of the Domestic Industry

30. 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. 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

- vii. Applicant has determined Normal Value in China on the basis of cost of production, considering consumption norms of the domestic industry for raw material and utilities, taking the price of all raw materials as per the domestic industry and duly adjusted with selling, general and administrative expenses and considering the consumption norms of the applicant. 5% profit has been considered.
- viii. The export price is constructed based on the information available from the import data as per DGCI&S after making due adjustment based on the best available information with the industry to make it comparable with normal value.
- ix. The dumping margin is positive and substantial.
- x. 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.
- xi. GETCL, Yixing Sunshine, Changzhou, Tung Ga Linen, Zhejiang Axiang, Golden Eagle Yili Linen, Z. Jinyuan Flax, Z. Kingdom Linen, J. Jinyuan Flax has mentioned that there is no incentive given by the government on export sales of PUC. Golden Eagle Co., Golden Eagle Spun Silk, provided that they are entitled for VAT refund but the rate has been kept confidential. Ningbo Ltd., Huzhou Axiang has stated that the Government of China PR provides Vat Rebate @ 17% on exports of the product concerned. Thus, the exporters from the same country, governed by the same laws have contradictory declarations with regard to the incentives received, which ultimately leads to the conclusion that the statements are flawed and deceptive.
- xii. The very fact that the exporters have resorted to dumping gets established by their tacit admission in not denying existence of dumping.
- xiii. None of the interested parties have claimed market economy treatment. In fact, below mentioned companies have stated that they do not request market economy treatment and that they accept the normal value determined by DGAD:
 - (a) Yixing Sunshine Linen Textile Co., Ltd (Producer and Exporter)
 - (b) Changzhou Meiyuan Flax Textile Co., Ltd. (Producer and Exporter)
 - (c) Tung Ga Linen & Cotton (Changzhou) Co., Ltd. (Producer and Exporter)
 - (d) Huzhou Axiang Import and Export Trading Co., Ltd. (Trading Company)
 - (e) Zhejiang Axiang Flax Textile Co., Ltd. (Producer and Exporter)
- xiv. Regarding the contention of other interested parties that the methodology of normal value violates the provision of paragraph 7 of Annexure I, the petitioner submitted that it has not been able to determine the normal value of flax yarn in China on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not available to the petitioner. The product is produced only in China and

India. Thus, therefore, it is not possible in the facts of the present case, to consider normal value on the other basis laid down under Rule 7.

- xv. Regarding the source of the information contained in Annexure 3.2, the petitioner submitted that it has estimated the allowances/deductions used for calculation of net export price and sales of other Indian producers. The exporters have not shown (in fact, not even claimed) that the amounts adopted by the petitioner are excessive.
- xvi. The Petitioner has calculated the normal value at ex-factory level and therefore no further adjustment was considered necessary. The Petitioner has explained the computation of net export price at ex-factory level in sufficient detail including the adjustments made to arrive at the net export price.
- xvii. The domestic industry has provided sufficient evidence in the petition for the purpose of determining the dumping margin. The Authority in any case will determine the net export price based on the information provided by the domestic industry and the exporters after due verification.

Views of opposing interested parties

- 31. The submissions made by the opposing interested parties are as follows:
 - i. The determination of the normal value violates the provisions of paragraph 7 of Annexure I and is not supported by any evidence and thus is in violation of Rule 5(2) and Rule 5(3) of the AD Rules. The Designated Authority has accepted the Petitioner's way to compute the normal value based on the last option, i.e. on the basis of cost of production in India, duly adjusted, without exhausting the first two options. Referred to Shenyang Matsushita S. Battery Co. Ltd. v. Exide Industries Ltd. and others [(2005) 3 SCC 39].
 - ii. The source of the information used to construct the normal value is unknown to the Respondents and we urge the Petitioner to provide the sources of the information contained in Annexure 3.2 and Format C1.
 - iii. The Petition does not mention the adjustments made to compute the normal value. Article 2.4 of the Anti-Dumping Agreement and paragraph 6(i) of Annexure I to the AD Rules provide that the comparison between the normal value and the export price to determine the dumping margin shall be made at the same level of trade. The adjustments made to the constructed normal value, if any, cannot be considered as being confidential by nature and should be disclosed.
 - iv. Dumping margin as claimed in the Petition is very high. This is because the constructed normal value is inflated due to abnormally high cost of the Petitioner. The Designated Authority is requested to calculate constructed normal value in a fair manner to remove any abnormal cost components.

- v. The petitioner has made adjustments to calculate export price but has not provided any information on these adjustments or how these have been computed. These cannot be confidential by nature. The Authority should not have initiated the present investigation in the absence of sufficient evidence supporting the existence of dumping.
- vi. 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 at the very least, 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.

Examination by the Authority

I. NORMAL VALUE

- 32. At the stage of initiation, the Authority proceeded as per the information given by the petitioner. Upon initiation, the Authority advised the producers/ exporters in China PR to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the supplementary questionnaire to all the known producers/ exporters for rebutting presumption of non-market economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules and furnish relevant detailed information. The Authority also requested Government of China PR to advise the producers/ exporters in China PR to provide the relevant information.
- 33. The Authority notes that the known Chinese producers/ exporters and the Government of China PR have been adequately notified about the requirement of submission of information in the form and manner prescribed and adequate opportunity was also granted to them to make their submissions in this regard. However, none of the producers/exporters have claimed market economy treatment. In fact, some of them have mentioned that they do not request market economy treatment.
- 34. In view of the above position and in the absence of rebuttal of non-market economy claim by any Chinese exporting company, the Authority considers it appropriate to proceed with para-7 of Annexure-I to the Rules for determination of normal value.
- 35. In view of the foregoing para, the normal value for the subject goods has been constructed based on the raw material rates of imports by China PR and other cost as per domestic industry covering all expenses and profit. The normal value was constructed PCN wise for fair comparison. The weighted average on the basis of quantities of various PCN by the respective producer exporter is shown in the dumping margin table below.

II. EXPORT PRICE

a. Kingdom Group: M/s Zhejiang Kingdom Linen Co., Ltd., M/s Zhejiang Jinyuan Flax Co., Ltd., and M/s Jiangsu Jinyuan Flax Co., Ltd.

36. From the responses filed, it is noted that Kingdom Group comprises of the following three related entities involved in the production and exports of the product concerned to India:

- i. M/s Zhejiang Jinyuan Flax Co., Ltd. – Producer and Exporter
- ii. M/s Jiangsu Jinyuan Flax Co., Ltd. – Producer and Exporter
- iii. M/s Zhejiang Kingdom Linen Co., Ltd. – Producer

37. The above-mentioned three companies have filed separate responses to the Exporter's Questionnaire. During the POI, Zhejiang Kingdom Linen Co., Ltd. produces the subject goods and sells it to the related companies Zhejiang Jinyuan Flax Co. Ltd. and Jiangsu Jinyuan Flax Co., Ltd, who in turn export the goods to India. Zhejiang Kingdom Linen Co., Ltd. was not involved in exports of the subject goods during the POI, it exported to India only through Zhejiang Jinyuan Flax Co., Ltd. during the POI.

38. M/s Zhejiang Jinyuan Flax Co. Ltd and M/s Jiangsu Jinyuan Flax Co., Ltd have claimed adjustment towards inland freight including handling fee, ocean freight, ocean freight insurance, credit cost and bank charges and storage fee for FTWZ sales. The same were verified and have been allowed by the Authority. Accordingly, the NEP has been worked out PCN wise for comparison with the respective CNV and then weighted average has been calculated. The weighted average net export price determined for exports to India is as shown in the Dumping Margin as per Table in the following paragraphs.

b. M/s Yixing Sunshine Linen Textile Co., Ltd. (Producer/Exporter)

39. M/s Yixing Sunshine Linen Textile Co., Ltd has filed exporters questionnaire response, it is noted that M/s Yixing Sunshine Linen Textile Co., Ltd., is a producer as well as exporter of the subject goods. During the POI, M/s Yixing Sunshine Linen Textile Co., Ltd., exported subject goods to India directly only. Adjustment towards inland freight, Handling charges, overseas insurance and overseas freight have been claimed by the producer/exporter and the same have been allowed by the Authority. Accordingly, the NEP has been worked out PCN wise for comparison with the respective CNV and then weighted average has been calculated. The weighted average net export price determined for exports to India is as shown in the Dumping Margin in Table in the following paragraphs.

c. M/s Zhejiang Axiang Flax Textile Co., Ltd., (Producer) and M/s Huzhou Axian Import and Export Trading Co., Ltd., (Exporter)

40. M/s Zhejiang Axian Flax Textile Co., Ltd. has filed exporters questionnaire response, it

is noted that M/s Zhejiang Axiang Flax Textile Co., Ltd., is a producer and has exported subject goods to India through M/s Huzhou Axiang Import and Export Trading Co., Ltd., during the POI. M/s Huzhou Axiang Import and Export Trading Co., Ltd., has filed response separately. Adjustment towards inland transportation, handling, overseas transportation, overseas insurance, credit and bank charges have been claimed and the same have been allowed by the Authority. Accordingly, the NEP has been worked out PCN wise for comparison with the respective CNV and then weighted average has been calculated. The weighted average net export price determined for exports to India is as shown in Table in the following paragraphs.

d. M/s Zhejiang Golden Eagle Co. Ltd, M/s Zhejiang Golden Eagle Yili Linen Textile Co., Ltd and M/s Zhejiang Golden Eagle Spun Silk Co. Ltd

41. From the responses filed, it is noted that Golden Group comprises of the following three related entities involved in the production and exports of the product concerned to India

- i. M/s Zhejiang Golden Eagle Co. Ltd- Producer and Exporter,
- ii. M/s Zhejiang Golden Eagle Yili Linen Textile Co., Ltd –Producer
- iii. M/s Zhejiang Golden Eagle Spun Silk Co. Ltd –Exporter of (i) above

42. M/s Zhejiang Golden Eagle Co. Ltd, M/s Zhejiang Golden Eagle Yili Linen Textile Co. Ltd and M/s Zhejiang Golden Eagle Spun Silk Co. Ltd, have filed exporters questionnaire response separately. It is noted that while Golden Eagle is a producer and exporter both, whereas M/s Zhejiang Golden Eagle Spun Silk is only an exporter of the subject goods. The Golden Eagle Yili Linen is only a producer who has exported the subject goods through Zhejiang Golden Eagle Co. Ltd.

43. During the POI, Golden Eagle exported the subject goods directly and through Golden Eagle Spun Silk. Adjustment towards inland freight, ocean freight, handling and customs charges, insurance, credit cost, and bank charges have been claimed by the producer and exporters and the same have been allowed by the Authority. Accordingly, the NEP has been worked out PCN wise for comparison with the respective CNV and then weighted average has been calculated. The weighted average net export price determined for exports to India is as shown in Table in the following paragraphs.

e. M/s Hangzhou Sanglu Silk Co. Ltd. (Producer/Exporter)

44. M/s Hangzhou Sanglu Silk Co. Ltd has filed exporters questionnaire response, it is noted that it is a producer and an exporter of the subject goods. During the POI, it has exported the subject goods directly. Adjustment towards inland transportation and others, Overseas freight, overseas insurance, Bank Charges and Credit have been claimed by the producer and exporters and the same have been allowed by the Authority. Accordingly, the NEP has been worked out PCN wise for comparison with the respective CNV and then weighted average has been calculated. The weighted average net export price determined for exports to India is as shown in Table in the following paragraphs.

f. M/s Great Eastern Textiles (Tongling) Co., Ltd., (Producer) and M/s Ningbo Win Way Trading Company Limited, (Exporter)

45. M/s Great Eastern Textiles (Tongling) Co., Ltd., has filed exporters questionnaire response, it is noted that M/s Great Eastern Textiles (Tongling) Co., Ltd., is a producer and has exported subject goods to India through M/s Ningbo Win Way Trading Company Limited. during the POI. M/s Ningbo Win Way Co., Ltd., has filed response separately. Adjustment towards inland transportation, handling, overseas transportation, overseas insurance, credit and bank charges have been claimed and the same have been allowed by the Authority. Accordingly, the NEP has been worked out PCN wise for comparison with the respective CNV and then weighted average has been calculated. The weighted average net export price determined for exports to India is as shown in Table in the following paragraphs.

g. M/s Changzhou Meiyuan Flax Textile Co., Ltd. (Producer/Exporter)

46. M/s Changzhou Meiyuan Flax Textile Co., Ltd. has filed a response, it is noted that M/s Changzhou Meiyuan Flax Textile Co., Ltd., is a producer as well as exporter of the subject goods. During the POI, M/s Changzhou Meiyuan Flax Textile Co., Ltd., exported subject goods to India directly only. Adjustment towards inland freight, handling, ocean freight and overseas freight and ocean freight have been claimed by the producer/exporter and the same have been allowed by the Authority. Accordingly, the NEP has been worked out PCN wise for comparison with the respective CNV and then weighted average has been calculated. The weighted average net export price determined for exports to India is as shown in Table in the following paragraphs.

h. M/s Tung Ga Linen & Cotton (Changzhou) Co., Ltd. (Producer/Exporter)

47. M/s Tung Ga Linen & Cotton (Changzhou) Co., Ltd. has filed exporters questionnaire response, it is noted that M/s Tung Ga Linen & Cotton (Changzhou) Co., Ltd., is a producer as well as exporter of the subject goods. As per the response filed by them, which was verified in a table study, they have a production capacity 2400 MT only. During the POI they have exported a small quantity of subject goods to India directly. Adjustment towards inland freight, ocean insurance, overseas freight, bank charges and credit cost have been claimed by the producer/exporter and the same have been allowed by the Authority. Accordingly, the NEP has been worked out PCN wise for comparison with the respective CNV and then weighted average has been calculated. The weighted average net export price determined for exports to India is as shown in Table in the following paragraphs.

III. DETERMINATION OF DUMPING MARGIN

48. Based on PCN wise constructed normal value and net export price, the dumping margin on weighted average basis for each co-operating producers is determined as follows:

SN	Producer/Exporter	Quantity	CNV	NEP	Dumping Margin		
		MT	US\$/MT	US\$/MT	US\$/MT	%	% Range
1	Zhejiang Kingdom Linen Co., Ltd/ Jiangsu Jinyuan Flax Co., Ltd/ M/s Zhejiang Jinyuan Flax Co., Ltd	***	***	***	***	***	30-40
2	Yixing Sunshine Linen Textile Co., Ltd	***	***	***	***	***	25-35
3	Zhejiang Axiang Flax Textile Co., Ltd./ Huzhou Axiang Import and Export Trading Co., Ltd.	***	***	***	***	***	55-65
4	Zhejiang Golden Eagle Co.Ltd/ Zhejiang Golden Eagle Spun Silk Co.Ltd /Zhejiang Golden Eagle Yili Linen Textile Co.,	***	***	***	***	***	35-45
5	Hangzhou Sanglu Silk Co. Ltd.	***	***	***	***	***	30-40
6	Great Eastern Textiles (Tongling) Co. Ltd./ Ningbo Win Way Trading Co. Ltd.	***	***	***	***	***	20-30
7	Changzhou Meiyuan Flax Textile Co., Ltd.	***	***	***	***	***	15-25
8	Tung Ga Linen & Cotton (Changzhou) Co., Ltd.	***	***	***	***	***	5-15
9	Any other than the producers at Sl. No. 1-8	***	***	***	***	***	120-130

49. It is noted that the dumping margin for all the co-operating producer exporter is positive and quite significant and above de-minimus.

G. DETERMINATION OF INJURY AND CAUSAL LINK

Views of the Domestic industry

50. The petitioner had filed the petition by taking into consideration data procured from a secondary source on the basis of which the Authority initiated the investigation. During the course of investigation, the petitioner procured data from the Directorate General of Commercial Intelligence and Statistics (DGCI&S).

51. Following is the summary of submissions relating to material injury by the domestic industry during the course of the present investigation and considered relevant by the Authority:

- The petitioner requests the Authority to exclude imports made by it while conducting injury analysis as the imports were earlier made to create the market for the subject goods and in POI they were under duty exemption scheme.
- Demand (including captive) has declined only by about 4% over the injury period. However, demand increased by about 16% in POI as compared to the previous year, when the prices declined by 20-25% (Lea wise) during this period. If the decline in the

demand was the reason for injury, the prices should have significantly increased with ***% increase in demand, instead of so sharp decline in the prices.

- iii. Flax yarn being used in fabric would continue to remain in demand and thus, cannot be considered as a reason for the injury caused to the domestic industry.
- iv. The imports of the product under consideration are mainly from China, imports reflected in Info drive are lower than the imports reported in DGCI&S and imports have shown a decline till Jan.-March, 2017, as imports made by Jaya Shree declined steeply. However, imports have shown significant increase thereafter. The imports show increase in POI as compared to preceding year even if Jayashree imports are excluded.
- v. The imports, including and excluding those made by the Indian producers, have significantly increased in the present POI after showing a decline. The imports have increased with steep decline in the prices. Imports in relation to petitioner's production have remained significant throughout the injury period.
- vi. The share of the subject imports in Indian demand (demand both including and excluding captive consumption by the petitioner) has increased in POI after showing a decline in 2016-17. However, if imports made by the petitioner are excluded, it would be seen that imports increased throughout the injury period.
- vii. There is a steep decline in the import prices which is not proportionate to decline in raw material prices as is shown by the data put on record regarding raw material prices, weighted average annual prices, quarter by quarter evolution of prices and prices for 40 Lea and major product types of yarn, imports of which constitute majority of imports in India.
- viii. The price undercutting is positive. The price undercutting should be linked with the profits and not with the import volumes as present case is of price effect. The selling price moved in tandem with the import price and consequently the profit/loss shows significant decline. The price underselling is also positive.
- ix. The investigating authorities globally determine price undercutting only for the POI. In the instant case, the Designated Authority has now prescribed a PCN and the price undercutting is required to be determined considering the PCN. Additionally for this reason, the price undercutting can be determined only for the POI. The Authority can consider determining price undercutting including or excluding the imports made by Indian producers. There shall be no material difference.
- x. While the cost has increased over the injury period marginally, the selling price has declined. Further, change in selling price is far higher and selling prices declined in response to severe decline in the import prices.

- xi. The petitioner has enhanced its capacities over the injury period in line with the Indian demand. The capacity utilization of the plant has been more or less same throughout the injury period.
- xii. The overall production of the plant, including that of the subject goods, has increased throughout the injury period.
- xiii. The sales volume of the product under consideration remained at the same level despite increase in capacity as well as production. This is the situation despite sufficient demand, production and capacity, due to dumping of the product in the Country. The market share of the domestic industry (excluding captive consumption) has marginally increased by about 2% over the injury period. The petitioner has commenced its full production on the enhanced capacities and is committed to production of the subject goods and has a significant volume of flax yarn to sell in the market.
- xiv. Exports made by the petitioner are low in volume and irrelevant for the present purpose.
- xv. The petitioner is having captive consumption of the product under consideration. The losses being suffered by the domestic industry in production and sale of the product under consideration in the domestic market in fact is higher than the losses reported in enclosed injury statement. Should captive consumption be considered at market price, it would be seen that the petitioner would have suffered significant financial losses.
- xvi. The performance of the domestic industry in terms of profitability has significantly deteriorated over the injury period. The profits declined considerably in 2015-16 and from thereon, the petitioner has been facing financial losses including in the period of investigation .
- xvii. The cash profits have declined significantly throughout the injury period to the extent that the same is not even 1% in the POI of what it was in the base year. Profit before interest has also declined significantly throughout the injury period to the extent that the same are in negative in the period of investigation.
- xviii. Return on capital employed has also declined significantly throughout the injury period to the extent that the same are in negative in the period of investigation. This shows the injurious effect of dumping.
- xix. Landed price of the imported material from subject country is significantly below the selling price and cost of production of the domestic industry in the proposed period of investigation. The benchmark for the Indian producers' prices is the import prices. There is no viable substitute to this product. The demand is more than the capacity of the domestic industry despite which the sales of the domestic industry remained at the same level and increase in capacity as well as production. Thus, the only factor responsible for the domestic industry's prices is the import prices of the product.

- xx. In the light of the observation by CESTAT in of Acrylic Fiber Manufacturers v. Designated Authority and information on record showing significant deterioration in performance in terms of profitability, cash profits and return on investments, it is clear that the Domestic Industry is suffering material injury.
- xxi. As regards the contention of the interested parties that the petitioner is in losses due to amalgamation, the petitioner submitted that there is no substance in these arguments. The revaluation due to amalgamation has been excluded for the purpose of filing antidumping duty investigation data. Petitioner would provide any further information that may be required by the Authority.
- xxii. The petitioner does not dispute positive trends in the volumetric parameters as it has claimed price injury in the present case.
- xxiii. As regards the exaggeration of imports by the petitioner, the petitioner submitted that the imports made by it should be excluded while conducting analysis.
- xxiv. Regarding the contention of the other interested parties that the petitioner will continue to suffer due to upcoming producers in India, the petitioner submitted that they are not bothered by that as inter se competition is good for the market to maintain it fair and healthy. The consumers would have more choices in future.
- xxv. The analysis of respondent regarding raw material prices is misleading. The raw material cost constitutes ***% of the total cost. Thus, even if the argument of the interested parties is accepted, a decline of ***% in raw material cost would mean a decline in costs only by Rs.*** per kg. However, the landed value by their own claim has declined by ***%. This clearly shows that the landed value has fallen very steeply as compared to the fall in costs on account of raw materials.
- xxvi. The market share of the domestic industry (excluding captive consumption) has marginally increased over the injury period, whereas the profits turned to losses in POI. No producer would increase its market by such small amount for such a huge loss of profits over the injury period.
- xxvii. The decline in profits is not proportion to the increase in depreciation. Data related to profit per unit and depreciation and interest per unit shows that the decline in profits is far more than increase in depreciation and interest cost.
- xxviii. The net fixed assets of the additional capacity cannot be at the same level of the existing capacity as the old plant is depreciated one. Various investments made by the petitioner shows that per unit investment have significantly changed over the period. While the current investments are at full book value, the old investments are at depreciated book value. It is common sense that the investment in any new plant is always higher than the investments made in the depreciated plant. The correctness of the figures submitted by the Petitioner in this regard has already been verified by the Authority.

xxix. Petitioner claimed 22% return, as this is the ROI allowed by the Designated Authority in almost in every case for the last so many years without considering the actual rate of return earned by the domestic industry during the period when there was no dumping. The Authority may consider historical return, considering the arguments of the interested parties.

xxx. The costs, profits and ROI claimed do not include any revaluation. The petitioner has already excluded all these factors. The non-injurious price of the domestic industry has been determined by the petitioner in terms of AD Rules, which has taken care of impact of revaluation of assets if any. Petitioner has claimed NIP and injury margin not after including revaluation.

xxxi. The domestic industry has not faced any technical constraints in achieving optimum production from the additional capacity and has already achieved good production volumes in the expanded capacities. The domestic industry had to sell the subject goods at suboptimal prices in the domestic market. The injury suffered by the domestic industry is not due to enhancement of its production capacity but due to dumped imports suppressing its selling price.

xxxii. As soon as new capacities come up in the Country, the exporters become aggressive in the Indian market in a bid to retain their market and on fear of loss of business, given that the exporters are sitting on significant capacities.

52. The supporters to the petition namely, M/s Linen Art, Golden Fibers and other existing producers in India, and M/s Raymond Luxury, new producer who has commenced production in April 2018, appeared for oral hearing and made submissions. They stated that they are suffering injury on account of dumped imports. The supporters are in the process of expanding the capacities so as to cater to the demand and supply gap in India. In fact, it is the creation of capacities in India, which has made producer/exporters in China to intensify dumping, as the exporters wish to discourage creation of any capacities in India. They requested that duty be recommended at the earliest so as to afford adequate protection and remedy to the producers of the subject goods in India

53. In the course of the hearing, reliance was placed by the exporters, on the Tribunal's decision in the case of Bridge Stone Tyre Manufacturing (Thailand) Vs. Designated Authority. The supporters submitted that the facts in the present case are totally at variance with those in the case of Bridge Stone. The profit as well as the cash profit for the supporting industry has fallen in the POI as compared to base year. In fact there would be no projected profits for Raymond were the imports to continue at the prices prevailing during the POI. The sales of the domestic industry and its supporters have remained stagnant and, therefore, the two cases are distinguishable on facts. Thus, the rational of the decision in Bridge Stone has no applicability to the present investigation.

Views of opposing interested parties

54. Submissions made by the opposing interested parties are as under:

- i. The petition does not contain adequate evidence of dumping and injury to justify initiation. There is neither dumping from the subject country nor any injury suffered by the domestic industry.
- ii. Imports of the subject goods from China declined by 46% during the injury period in absolute terms. Imports in relation to Petitioner's production also declined from 320-350% during 2014-15 to 130-150% during the POI. Thus, decline in volume of imports could not have contributed to the alleged injury suffered by the domestic industry.
- iii. The petitioner is trying to show that its imports volume and that of supporters have declined. However, that of others has increased. There is no legal basis for separating import information of the subject goods. The petitioner and supporters have not claimed that imports of the subject goods by them are not dumped. Thus, they have to be clubbed with imports by others and only then imports of the subject goods should be examined.
- iv. The petitioner's and supporters' imports throughout the injury period should be removed from the import data for the purpose of injury analysis so that the petitioner is not allowed to take benefit of the exaggerated import volume by its own imports of the subject goods. The Petitioner have contributed to the alleged injury through such imports.
- v. The demand, including and excluding captive, has declined by 20% and 40% respectively during the injury period which explains why the petitioner could have suffered alleged injury.
- vi. A number of new producers in India will start commercial production this year, which will increase price pressure on the Petitioner. The petitioner is suffering injury due to decline in demand of the subject goods and will continue to suffer injury due to other upcoming producers in India.
- vii. The Domestic Industry was operating at 100% but with the increase in capacity, the capacity utilization declined marginally. Overall, the Domestic Industry is improving. Despite decline in demand, the petitioner increased its capacity from 2015-16 onwards. While the petitioner's capacity increased by 26% during the injury period, production and domestic sales increased by 29% and 5% respectively during the same period.
- viii. 80% of the petitions filed before the Designated Authority indicates that Domestic Industry has expanded their capacities either during the POI or during the injury period. This shows that injury is mainly caused to them because of undue/unjustified capacities. Domestic Industry is not able to stabilize its capacities which results into higher capital employed, negative return on capital employed and huge losses. This needs to be critically examined by the Authority and shall ignore petitions having this structure.
- ix. The domestic sales of the petitioner have increased during the injury period from 100 to 105 during the POI as compared to the base year 2014-15. The applicant is focusing on the exports rather than selling them in Indian market as its export sales have increased

from 100 to 208, more than double, during the same period. The petitioner's domestic sales and exports were the highest during the POI, whereas imports of the subject goods had reduced by 46%.

- x. Petitioner's exports have increased by two-times over the injury period. Petitioner's losses in the export market have also increased in a similar trend. Such decline in performance should be segregated from the injury analysis, as losses in export market cannot be attributed to imports of the subject goods.
- xi. The raw material price declined by 12% (per unit price) (Source-UN Comtrade Data of world imports into India) and in commensurate with it, the landed value declined by 17%. However, the cost of sales of petitioner increased by 1% during the injury period for domestic sales and for export market, it increased by 63% during the same period rather than declining. The Authority is requested to critically examine the factors affecting the increase in cost and the petitioner may clarify the reason for such huge difference between cost of sales for export and domestic market.
- xii. Petitioner has continuously gained market share during the injury period, even though demand has declined. Market share of supporters have also increased. On the contrary, that of subject country has decreased. The share of the Domestic Industry has increased substantially and is nowhere less than the share held by the subject imports. Petitioner is facing stiff competition from supporters and will face more once other producers commence production.
- xiii. As per the support letter of Golden Fibers LLP, their related company had imported the subject goods during the injury period including the POI. They must clarify whether imports of this related party is captured in the imports by 'Supporters' or imports by 'Others', as this impacts the volume of imports by Supporters in the injury analysis.
- xiv. The Petitioner increased its installed capacity during 2016-17 and the POI. This led to sharp increase in the net fixed assets which led to increase in depreciation. This coincides with the increase in losses. Injury to the Petitioner is due to these reasons only.
- xv. Despite increase in annual capacity and production, the Petitioner has been able to manage its stock well. Stocks declined over the injury period. Stocks were mere 97 indexed points during the POI, though capacity had increased by 29% and production by 26% during the same period in comparison to the base year. The Domestic Industry is selling whatever they are producing. Thus, imports of the subject goods did not cause increase in average stock of the Petitioner.
- xvi. Petitioner's capital employed increased by over three-times over the injury period, but its installed capacity increased only by 29% during the injury period. Therefore, the capital employed during the POI does not seem in line with the increased installed capacity in the same period. The capital employed should accordingly be lower and return on capital should be higher. But the Petitioner has claimed lower return on capital

during the POI contrary to what the data demonstrates. This anomaly should be closely examined.

- xvii. Petitioner's cost increased due to increase in capacity but selling price could not increase in a commensurate manner. Selling price also could not increase due to decline in demand during the injury period. Imports have not caused any price suppression and price depression.
- xviii. The Domestic Industry was earning profits during the base year 2014-15 and 2015-16. But, during the year 2016-17, the petitioner faced losses because of increase in capacity and cost of production. It seems that there are some other factors which are causing injury to the Domestic Industry.
- xix. Petitioner claims price undercutting in the range of 0-20% during the POI. The Petitioner has benefitted in expanding its operations by importing from China PR. Petitioner's price undercutting claim should be rejected because the Petitioner has imported the subject goods from China PR throughout the injury period and contributed to decrease in the landed value of the subject goods, which caused price undercutting.
- xx. Price undercutting, one of the most important parameters to establish causal relationship in an anti-dumping investigation, shall not be seen in isolation. Rather in the light of overall performance of the Domestic Industry, whether it is resulting in losses. Price undercutting in isolation does not give any meaningful price effect. It must be analysed that whether such price undercutting is resulting into material injury to the Domestic Industry. In present case, despite having positive price undercutting, Domestic Industry has improved its performance.
- xxi. Domestic Industry is growing in respect of production and sales. However, in respect of price parameters, there are some other factors which are causing injury to the Domestic Industry which needs to be clarified by the petitioners. Overall performance of the Domestic Industry is improving. The imports from subject country are not at all causing injury to the Domestic Industry.
- xxii. The imports from China PR did not have any negative impact on the losses of the Petitioner. Decline in profitability during 2016-17 and the POI directly coincides with sudden increase in installed capacity, net fixed assets, depreciation and interest cost during this period.
- xxiii. Grasim Industries Limited has reported several exceptional expenditures such as payment of stamp duty for acquisition of Aditya Birla Nuvo Limited and many other types of expenses as mentioned in the financial results of Grasim Industries Limited for the quarter ending 31 March 2018. It is requested that such exceptional expenditures be examined in a manner to ensure that they do not abnormally inflate Petitioner's cost. The Petitioner might be able to show injury because of such inflated cost.

- xxiv. During acquisition, assets and liabilities are revalued. Grasim Industries Limited might have paid a premium to acquire Aditya Birla Nuvo Limited. The Designated Authority should make sure that return on capital is granted to actual value of the net fixed assets last captured in the books of Aditya Birla Nuvo Limited and not based on the consideration paid by Grasim Industries Limited or revaluation of the assts as done in the Viscose Filament Yarn case.
- xxv. The domestic industry's claim of 22% return (profit before interest) on capital employed at GFA level is illegal as the norm is to consider historical rate of return in light of the Hon'ble CESTAT's ruling in Indian Spinners Association v. Designated Authority 2004 (170) E.L.T. 144 (Tri. - Del.). The Designated Authority should examine the level of return enjoyed by the linen yarn industry globally and in India, and only then adopt an appropriate return on capital employed in this case.
- xxvi. The DA determines NIP on the basis of cost of production of domestic industry; such determination is highly inflated and is not based on real situation as per para-4 of the Annexure III of the Rules. DA should adopt ROCE earned by the industry when there was no allegation of dumping as reasonable profit margin and not 22% ROCE. 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. By applying the current rates of corporate tax and interest rate on actual basis, ROCE @ 22% gives undue protection to domestic industry.
- xxvii. 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 domestic industry during the period when there was no allegation of dumping as a basis for calculating reasonable return. European Union also follows the same practice.

Examination by the Authority

- 55. The Authority has taken note of the submissions made by various interested parties. The Authority has examined the injury to the domestic industry in accordance with the Anti-dumping Rules and considering the submissions made by all the interested parties.
- 56. The Claims and counter claims of parties, regarding trends in prices of raw material versus the selling price of subject goods, was examined and found that claims of both sides are inflated. The issue has been examined and addressed appropriately.
- 57. The AD Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves 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 the like article and (b) the consequent impact of these imports on

domestic industry. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

58. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure II of Antidumping rules states as under:

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

59. The Authority considers all injury parameters and thereafter concludes on the basis of collective and cumulative examination of all the parameters whether the domestic industry has suffered injury due to dumping. The Authority has examined the injury parameters objectively taking into account the facts, figures and arguments submitted by the interested parties in their responses/submissions/rejoinders.

I. VOLUME EFFECT OF DUMPED IMPORTS AND IMPACT ON DOMESTIC INDUSTRY

a) Total Demand

60. The demand or consumption (including captive consumption by petitioner) of the subject goods in India is computed by summing of domestic sales of all the Indian producers and imports from all sources.

SN	Particulars	UOM	2014-15	2015-16	2016-17	POI
1	Sales including captive of petitioner	MT	***	***	***	***
1a	Trend	Indexed	100	92	101	120
2	Sales of supporter	MT	-	***	***	***
2a	Trend	Indexed		100	233	217
3	Sales of Other Indian producer	MT	***	***	***	***
3a	Trend	Indexed	100	100	100	60
4	Subject Country - China	MT	11,866	13,349	7,640	9,371
5	Imports made by petitioner	MT	***	***	***	***

5a	Trend	Indexed	100	97	21	3
6	Imports made by supporter	MT	***	***	***	***
6a	Trend	Indexed	100	193	48	61
7	Imports from China made by Others	MT	***	***	***	***
7a	Trend	Indexed	100	120	101	141
8	Import from Other Countries	MT	209	111	39	52
9	Demand	MT	15,698	17,547	13,023	15,080

61. It is noted that the sale of the domestic industry including the captive consumption and the sale of supporters has increased, however, the sale of the other producers has decreased. The imports made by the petitioner and the supporters has decreased during the POI, however, the imports made by the other producers have increased. The imports from other countries have decreased significantly. The demand for the product under consideration declined in 2015-16 and further increased in the POI and came to the same level as that of base year.

b) Import volumes in absolute terms

62. 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 Petitioner has submitted details of imports in absolute and in relation to production and consumption in India by (i) excluding imports made by the domestic producers of PUC, (ii) including and excluding captive consumption. The volume of imports of the subject goods from the subject country have been analyzed as under:

SN	Particulars	Units	2014-15	2015-16	2016-17	POI
Imports Volume						
1	Subject Country- China	MT	11,866	13,349	7,640	9,371
1a	Less- Imports made by petitioner	MT	***	***	***	***
1a(i)	Trend	Indexed	100	97	21	3
1b	Less- Imports made by supporter	MT	***	***	***	***
1b(i)	Trend	Indexed	100	193	48	68
1c	Imports from China made by Others	MT	***	***	***	***
1d	Trend	Indexed	100	120	101	141
2	Import from Other Countries	MT	209	111	39	52
3	Total	MT	12,074	13,460	7,679	9,423
Market Share of Imports from						
4	Subject Country- China	%	98.27	99.18	99.49	99.45
5	Import from Other Countries	%	1.73	0.82	0.51	0.55
6	Total	%	100	100	100	100
Imports from the subject country in relation to						
7	Petitioner Production	%	***	***	***	***
7a	Trend	Indexed	100	111	62	62
8	Indian Consumption	%	***	***	***	***
8a	Trend	Indexed	100	107	121	147

63. It is seen that the import of PUC from the subject country declined in 2016-17 and

thereafter increased in the POI, however, it remained low when compared to the base year. The volumes of imports in relation to production has increased during 2015-16, and further declined significantly in 2016-17 and in POI as compared to the base year on account of increased capacities and production in India. The volumes of import in relation to consumption increased during the entire injury period and the POI.

64. Further, the analysis of volume of import was done on quarterly basis including and excluding the imports made by the petitioner and supporters. As per the details furnished by petitioner and supporters, the trends in volume of imports is as below.

SN	Period	Import volumes (MT)			
		Including imports by Petitioner & Supporter	Trend	Excluding imports by Petitioner & Supporter	Trend
1	April- June 2016 (Q1)	***	100	1,620	100
2	July-Sep 2016 (Q2)	***	84	1,706	105
3	Oct-Dec 2016 (Q3)	***	83	1,773	109
4	Jan-March 2017 (Q4)	***	53	1,222	75
5	April-June 2017 (Q1)	***	131	3,017	186
6	July-Sep 2017 (Q2)	***	126	2,935	181

65. It is seen that there was a steep decline in volume of imports from during first quarter of 2016-17 to fourth quarter of 2016-17. However, the imports increased very significantly during first and second quarter of 2017-18 which is more prominent when the imports made by the petitioner are almost negligible during 2017-18.

II. PRICE EFFECT OF DUMPED IMPORTS ON DOMESTIC INDUSTRY

66. With regard to the effect of the dumped imports on prices, the Authority is required to analyze whether there has been a significant price undercutting by the dumped imports as compared to the price of the like products in India, or whether the effect of such imports is 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) Evolution of prices

67. The petitioner submitted details of the import prices on the basis of DGCI&S data for the injury period and POI on month to month basis.

SN	Month	Unit	2014-15	2015-16	2016-17	POI
1	April	Rs/Kg	579	625	588	459
2	May	Rs/Kg	561	618	561	471
3	June	Rs/Kg	588	633	603	485
4	July	Rs/Kg	573	641	602	524
5	August	Rs/Kg	592	632	630	526
6	September	Rs/Kg	589	645	529	510
7	October	Rs/Kg	609	646	555	
8	November	Rs/Kg	570	664	562	
9	December	Rs/Kg	621	680	554	
10	January	Rs/Kg	600	589	492	
11	February	Rs/Kg	606	604	463	
12	March	Rs/Kg	610	615	485	

68. The above data clearly shows the declining trend in prices. During the POI itself the prices have dropped from Rs 555 /Kg to Rs 510/ Kg whereas there has not been a commensurate decline in raw material prices.

b) Price Undercutting

69. Price undercutting has been calculated by the petitioner by comparing the landed price of imports (DGCI&S data) from the subject country with their net selling price. In view of significant difference in costs and prices for various PCNs, the price undercutting has been calculated PCN wise and weighted average is as below:

Import Volume	Domestic Selling Price	Landed Price	Price Undercutting		
			Rs/Kg	%	Range
9,371	***	564.28	(***)	(***)	Negative

70. It is seen that the price undercutting is negative. The petitioner has stated that they had to lower their domestic selling price to match the import price which is the reason for negative undercutting. This is further supported by the analysis of suppression and depression in the subsequent para.

c) Price suppression and depression effects of the dumped imports

71. The petitioner has given details of cost of sales and selling price and compared it with the landed value of imports to determine whether the dumped imports were suppressing or depressing the domestic prices as detailed below:

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Cost of Sales	Rs/Kg	***	***	***	***
1a	Trend	Indexed	100	106	103	97
2	Selling price	Rs/Kg	***	***	***	***
2a	Trend	Indexed	100	100	88	81
3	Landed Value	Rs/Kg	657	705	625	564
Changes over base year						
4	Cost of Sales	Rs/Kg	-	***	***	(***)

5	Selling price	Rs/Kg	-	(***)	(***)	(***)
6	Landed Value	Rs/Kg	-	48	(32)	(93)

72. It is noted that cost of sales of the domestic industry is generally at the same level with a increase in 2015-16 on account of increase in raw material prices during that period and thereafter it declined. Whereas the selling price has not followed the same trend. It has declined much more compare to the cost of sales resulting in losses to the domestic industry. The low selling price were in response to the lower landed value of imports from the subject country during the POI indicating that the imports are causing depressing effect to the prices of the domestic industry in the market.

d) Price Underselling

73. The Authority has also examined the price underselling suffered by the domestic industry on account of dumped imports from the subject country by comparing the landed value of imports with NIP of the domestic industry.

Import Volume	NIP	Landed Price	Price Underselling		
			MT	Rs/Kg	Rs/Kg
9,371	***	564.28		***	***

74. It is seen that the price underselling is positive and significant causing injury to the domestic industry.

III. EXAMINATION OF ECONOMIC PARAMETERS RELATING TO DOMESTIC INDUSTRY

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

a) Capacity, Production, Capacity Utilization, Sales volume

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

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Capacity – Plant	MT	***	***	***	***
1a	Trend	Indexed	100	100	106	126
2	Production – Plant	MT	***	***	***	***
2a	Trend	Indexed	100	102	104	126
3	Capacity Utilization - Plant	%	***	***	***	***
3a	Trend	Indexed	100	102	98	99
4	Production – PUC	MT	***	***	***	***
4a	Trend	Indexed	100	101	104	128
5	Sales					
5a	Domestic	MT	***	***	***	***
5a(i)	Trend	Indexed	100	72	87	104
5b	Export	MT	***	***	***	***
5b(i)	Trend	Indexed	100	57	135	234
5c	Captive consumption	MT	***	***	***	***
5c(i)	Trend	Indexed	100	129	128	150

77. It is seen that the Domestic industry has increased its installed capacities over the injury period but capacity utilisation has remained at the same level. The production has increased throughout the injury period. The domestic sales of the petitioner (excluding the captive sales) declined in 2015-16 and increased thereafter. The export sales have increased throughout the injury period and the captive consumption of the domestic industry has also shown improvements throughout the injury period and the POI.

b) Market Share in demand

78. The market share of the domestic industry (**including captive consumption by petitioner**) in Indian demand is as shown in the table below:

SN	Particulars	UOM	2014-15	2015-16	2016-17	POI
1	Share of petitioner	%	***	***	***	***
1a	trend	Indexed	100	82	122	125
2	Share of supporter	%	-	***	***	***
2a	trend	Indexed		100	315	252
3	Share of other Indian producers	%	2.55	2.28	3.07	1.59
4	Share of Subject Country- China	%	75.59	76.08	58.66	62.14
4a	Imports made by petitioner	%	***	***	***	***
4a(i)	Trend	Indexed	100	68	25	3
4b	Imports made by supporter	%	***	***	***	***
4b(i)	trend	Indexed	100	173	58	63
4c	Share of Imports from China made by Others	%	***	***	***	***
4c(i)	Trend	Indexed	100	107	121	147
5	Share of Other Countries	%	1.33	0.63	0.30	0.34
6	Total Demand including captive	%	100.00	100.00	100.00	100.00

79. It is seen that the market share of the domestic industry in total demand, including captive consumption by petitioner, has decreased during 2015-16 and thereafter increased over the injury period and POI. The market share of the supporters in total demand has increased over the injury period but declined during the POI. The share of other producers is very small during the injury period and POI. The share of imports from the subject country is significant during the entire injury period and the POI. The share of imports

from other countries was insignificant during the entire injury period and POI.

c) Inventories

80. The level of inventory to be maintained as claimed by DI in regular course is of at least a month's productions. The average inventory level shown by DI are as below:

Particulars	Unit	2014-15	2015-16	2016-17	POI
Average Stock	MT	***	***	***	***
Trend	Indexed	100	87	91	96

81. The level of actual inventory during the POI is not indicative of injury.

d) Profit/loss, profit before interest, cash profit and return on investment

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

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Raw materials rate	Rs/Kg	***	***	***	***
1a	Trend	Indexed	100	108	99	93
2	Cost of Sales	Rs/Kg	***	***	***	***
2a	Trend	Indexed	100	106	103	96
3	Selling price	Rs/Kg	***	***	***	***
3a	Trend	Indexed	100	100	87	81
4	Raw material costs as % of selling price	%	***	***	***	***
4a	Trend	Indexed	100	81	96	130
5	Profit/(Loss)	Rs/Kg	***	***	(***)	(***)
5a	Trend	Indexed	100	58	(11)	(20)
6	Profit/Loss	Rs. Lacs	***	***	(***)	(***)
6a	Trend	Indexed	100	42	(10)	(20)
7	PBIT	Rs. Lacs	***	***	***	***
7a	Trend	Indexed	100	59	23	11
8	Cash Profit	Rs. Lacs	***	***	***	***
8a	Trend	Indexed	100	50	11	10
9	Return on Capital Employed	%	***	***	***	***
9a	Trend	Indexed	100	37	13	5

83. It is seen that:

- The cost of sales is almost at the same level during the entire period with a increase in 2015-16 on account of increase in raw material prices.
- The selling price declined continuously over the entire period as compared to the base year with a steep fall in POI. The petitioner has stated that as a result of low landed value of imports, the domestic industry had to lower their selling price during the injury period.

- iii. The domestic industry was earning profits in 2014-15 which declined significantly in 2015-16 and thereafter the domestic industry started suffering financial losses. The profit before interest and taxes also declined significantly throughout the injury period. The cash profits also declined throughout the injury period. On overall basis, cash profits declined by ***% in POI as compared to the base year.
- iv. The return on capital employed has also shown significant decline throughout the injury period and POI.

e) Productivity, employment and wages

84. Performance of the domestic industry with regard to employment, wages, productivity and growth is as follows:

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Productivity per day	MT/day	***	***	***	***
1a	Trend	Indexed	100	101	104	126
2	Productivity per employee	MT/Nos	***	***	***	***
2a	Trend	Indexed	100	98	107	125
3	Employment	Nos.	***	***	***	***
3a	Trend	Indexed	100	103	98	102
4	Salary & Wages	Rs. Lacs	***	***	***	***
4a	Trend	Indexed	100	112	129	158

85. It is seen that Productivity per day, Productivity per employee and wages paid has increased throughout the injury period. The employment level has marginally increased over the injury period but became almost same during the POI as that of the base year.

f) Growth

86. Growth of the domestic industry in terms of volume and price parameters, it is seen that the domestic industry has registered positive growth in respect of various volume parameters. However, price parameters have remained negative throughout the injury period and the POI.

g) Ability to raise capital investments

87. The Petitioner has stated that they have enhanced capacities and is able to utilize enhanced capacities. Their ability to raise capital investments is not impacted as Jay Shree Textiles is part of professionally managed industrial conglomerate.

h) Factors affecting domestic prices

88. Landed value of the imported material from subject country was significantly below the selling price and cost of production of the domestic industry in the period of investigation. It is stated by the DI that there is no viable substitute to this product. The petitioner has stated that there is no evidence of significant inter-se competition leading to the present

price decline in the market. Thus, the only factor responsible for the domestic industry's prices is the import prices of the product.

i) Magnitude of Injury and Injury Margin

89. The PCN wise non-injurious price for 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 for each of the co-operative exporter from the subject country and the injury margin has been determined on weighted average basis. As for the residual category the NIP for calculation with the landed value (lowest of the co-operative exporter) is the weighted average NIP of the domestic industry.

SN	Producer/Exporter	Quantity	NIP	LV	Injury Margin		
		MT	US\$/MT	US\$/MT	US\$/MT	%	% Range
1	Zhejiang Kingdom Linen Co., Ltd/ Jiangsu Jinyuan Flax Co., Ltd/ M/s Zhejiang Jinyuan Flax Co., Ltd	***	***	***	***	***	25-35
2	Yixing Sunshine Linen Textile Co., Ltd	***	***	***	***	***	25-30
3	Zhejiang Axiang Flax Textile Co., Ltd./ Huzhou Axiang Import and Export Trading Co., Ltd.	***	***	***	***	***	30-40
4	Zhejiang Golden Eagle Co.Ltd/ Zhejiang Golden Eagle Spun Silk Co.Ltd /Zhejiang Golden Eagle Yili Linen Textile Co.,	***	***	***	***	***	25-35
5	Hangzhou Sanglu Silk Co. Ltd.	***	***	***	***	***	30-40
6	Great Eastern Textiles (Tongling) Co. Ltd./ Ningbo Win Way Trading Co. Ltd.	***	***	***	***	***	15-25
7	Changzhou Meiyuan Flax Textile Co., Ltd.	***	***	***	***	***	15-25
8	Tung Ga Linen & Cotton (Changzhou) Co., Ltd.	***	***	***	***	***	1-10
9	Any other than the producers at Sl. No. 1-8	***	***	***	***	***	75-85

IV. OTHER KNOWN FACTORS & CAUSAL LINK

90. 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:** The imports from countries other than the subject country are negligible in volumes and have further decreased over the injury period. Moreover, the third country imports were at a

price higher than import price of the subject goods from China and hence are not a cause of the assessed injury to the domestic industry as may be seen in the table below:

SN	Particulars of Other Countries	Unit	2014-15	2015-16	2016-17	POI
1	Market Share of other countries in Indian demand	%	1.33	0.63	0.30	0.34
2	Import Volume from other countries	MT	209	111	39	52
3	Market Share of other countries in total Imports	%	1.73	0.82	0.51	0.55
4	Import Price- Other Countries	Rs/Kg	511.41	600.26	621.55	536.68

- b) Changes in demand:** As noted above, the demand of the product concerned in India had declined in 2016-17 and increased thereafter in the POI following the trend globally. Even though there was a decline in demand in 2016-17, the same in absolute terms was still far higher than the capacities with the domestic industry. Decline in demand was not a cause of the claimed injury to the domestic industry.
- c) Developments in technology:** Technology for production of the product concerned has not undergone any change. In fact, the petitioner and exporters use the same production technology. Thus, developments in technology cannot be regarded as a factor causing injury to the domestic industry.
- 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. Apart from the normal 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:** The productivity per day as well as per employee has increased throughout the injury period. Thus, possible decline in productivity is not a reason for the injury to the domestic industry.

91. It is thus seen that none of the other listed factors of injury are responsible for the injury to the domestic industry.

92. The Authority examined whether injury to the domestic industry is due to dumped imports. The following factors establishing causal link are relevant for the determination:

- i. Volume of imports has increased once again in the POI after declining till 2016-17;
- ii. There was a steep decline in the import prices. The decline in import prices led to significant price depression in the market..
- iii. The landed price of imports is significantly below the non-injurious price/fair price of the domestic industry and there is significant price underselling due to low priced dumped imports coming in India;
- iv. There has been deterioration in profits which resulted in financial losses in 2016-17 and POI, decline in cash profits and negative profit before interest and return on capital employed
- v. The domestic industry's profitability has been in negative since 2016-17, in spite of increase in its production and sales. Rather, profits declined after 2015-16 and the domestic industry started suffering financial losses from 2016-17. The cash profits have also declined significantly throughout the injury period to the extent that the same is not even ***% in the POI of what it was in the base year. Profit before interest and return on capital employed have also declined significantly throughout the injury period to the extent that the same are in negatives in the period of investigation. This is because of the subject imports being made at dumped prices.
- vi. The producers in subject country reduced their prices in order to retain their volume and market in the country. Resultantly, the domestic industry was forced to reduce the prices in order to sell its production.

H. POST DISCLOSURE COMMENTS

93. The post disclosure submissions have been received from the interested parties. The issues raised therein have already been raised earlier during the investigation and also addressed appropriately. However, for the sake of clarity the submissions by the interested parties are being examined as below:

Views of the Domestic industry

94. The Domestic Industry made the following submissions:

- i. Non-confidential version of the verification report of the exporters/producers from the subject country has not been made available to other interested parties through public file.

- ii. The Authority may kindly disclose the actual dumping margin and the basis of export price adopted for the responding exporter and how the export price claimed by the exporter corroborates with the import data in India.
- iii. The linen yarn whether made of 100% linen fiber or 95% linen fiber is still the product under consideration. While it is generally true that linen yarn is made out of linen fiber, however, in a situation where 5% of the fiber is not linen, the yarn is still linen yarn, even though it is not 100% linen yarn. There would practically be no difference in 100% linen yarn and 95% linen yarn. Also the Authority may kindly specify in duty table that the PUC should attract duty regardless of the customs classifications under which goods are being cleared by the importers.
- iv. The responses of Chinese exporters and producers should not be accepted as they have failed to discharge their obligation by providing correct and certified information. They have conveniently omitted to provide any information as to the incentives in the form of incentive received by them by their respective governments which are amongst one of the major reason for low priced imports. They have also failed to disclose vital information, such as name of their related parties.
- v. M/s Tung Ga has mentioned that it has no related companies dealing with the product concerned. However, as per the information available in public domain, it has one related company i.e. M/s Tongling Worldsum Linen & Kamie Textile Co., Ltd. (Linen Yarn L-36NM) which deals with Linen Yarn. It specializes in spinning, weaving, dying and finishing of varieties of linen products. M/s Tongling Worldsum has not participated in the present investigation. It is impossible to understand whether this company has exported the subject goods to India or not.
- vi. M/s Tung Ga has extremely limited capacity for the PUC and therefore is not entitled for individual ADD. In a situation where the volume of exports made by a company is not significantly high, the rules clearly permit sampling, result of which is that such non sampled companies are awarded dumping margin and injury margin on the basis of weighted average of the sampled companies. In the instant case, few producers are commanding practically entirety of the exports to India. Such being the case, the dumping margin and injury margin can be based on the weighted average of the large volume exports of the PUC to India. Unless a party has exported representative volumes, any dumping margin and injury margin determined would not be representative at all.
- vii. The dumping margin is not only positive but significant. Now when the import price has declined, where there are no imports of PUC by the petitioner from China after November, 2016. It is not a case where the petitioner bought the material at low prices and now complaining against dumping when the prices have increased. It is the reverse situation here.

- viii. The imports are undercutting the price of domestic industry in India and the effect of such dumped imports was to depress the domestic prices. The domestic industry has suffered price injury. Increase in capacities resulted in increase in production which should have resulted in increase in sales and resultantly, increase in profits. However, profit of the domestic industry declined.
- ix. The domestic industry has suffered significant financial losses as a result of dumping which gets further established if the degree of financial losses suffered by the domestic industry is considered and compared with the fresh investments made by the petitioner. So significant was the loss suffered by the domestic industry that its fresh investment would be written off in just 6.32 years, should the domestic industry continue to suffer the financial losses at the rate.
- x. The Domestic Industry is suffering material injury, as evidenced by the deteriorated performance in terms of profitability, cash profits and negative return on investments. The material injury suffered by domestic industry is due to dumping and not due to any other factors including other known factors mentioned in antidumping rules.
- xi. There exists a strong nexus between the increase in dumped imports of the subject goods and the material injury suffered by the domestic industry.
- xii. It is requested that the Authority to impose definitive measure as an ad valorem duty, to be worked out as a percentage of the CIF value of imports of the subject, given the fact that the Authority has considered a PCN system in the present investigation. There is a significant difference in the costs and prices of different PCNs. A definitive duty in terms of reference price or fixed duty would not be appropriate in this case.
- xiii. Petitioner had faced unexpected labor trouble and consequent production suspension for a limited period. While the petitioner faced no labor trouble for past about 2 decades, the present issue arose due to issues concerning labor wage settlement. The issues have however been resolved fully and an agreement has been signed for next five years. The company had recommenced production in the first week of Aug.
- xiv. Other Indian producers have been going on with their plans to set up or enhance capacities.
- xv. The downstream product, flax fabric (woven fabric having more than 50% flax content) is already well covered under anti-dumping duty on which duty has been in force since 17.2.2009 and reviewed in SSR during 2015 (@ 0.63 and 0.75 \$/Meter).
- xvi. Petitioner holds capacities far beyond its own captive requirements. Further, large investments, to the tune of Rs. *** crores, by various other producers has also been made in the Indian market where the production has already started with more quantities coming up soon hence there will be no shortage of availability of subject goods. This will

take care of the prices of the goods in the domestic market by inter se competition amongst the various producers of the flax yarn.

Views of the opposing interested parties

95. The submissions of various interested parties are summarized as follows:

- i. 70 Lea Count is equivalent to 42 NM and not 43 NM.
- ii. The interested parties have not shown how they have distinguished and differentiated these yarns in their sales records and how the information can be verified. There exists 6%-23% price difference between first grade-long fiber made flax yarn and second grade-short fiber made flax yarn. The import data does not very precisely mention whether the yarn was made out of short fiber or long fiber in all imports.
- iii. Even though the dyed yarn is very limited, it shall not become the reason to not consider the natural /semi bleach (dyed) as a parameter of PCN, since this parameter affects the cost of production a lot.
- iv. The Petitioner does not qualify to be treated as domestic industry under Rule 2(b) of the AD Rules, as the Petitioner has been a regular importer of the subject goods throughout the injury period. The Petitioner and supporters have imported throughout the injury period. They have contributed to the alleged injury through such imports. They should not be allowed to take benefit of their contribution to the injury situation. The Petitioner to continue to import the subject goods from China PR for its own use even after imposition of anti-dumping duty.
- v. It is not appropriate to construct normal value or calculate non-injurious price by using consumption of different kinds of utilities since the cost of different utilities are different. The reasonable consumption of utilities shall be considered when calculating the cost of utilities. There is no indication to trace the source of data the Authority used for calculating the constructed normal value and non-injurious price.
- vi. To apply anti-dumping measures in this investigation will affect the long-term and overall interests of the Indian domestic industry and its downstream industries.
- vii. The DI is not able to service requirements for the coming season where a very high demand for flax yarn in India is expected. DI's capacity is less than half of the demand in India. M/s Raymond Luxury Cottons, M/s Kamarhati Jute Mills, M/s Bharat Vijay Mills are either in the process of beginning commercial production or have only recently begun manufacturing and are trying to stabilise the same. The new manufacturers have not given any assurance of stable supply of flax yarn for this year. In fact, no Indian manufacturer produces flax yarn of 55 lea count (33 NM) which is required.
- viii. Procurement contracts is signed with Chinese mills. If anti-dumping duty is given

immediate effect, it will completely jeopardise commercial planning. The anti-dumping duty in the range of 30-40% will result in 15-20% increase in the price of flax fabrics, hence the customers will refuse to buy flax fabrics at such higher prices and result in huge loss.

- ix. The Petitioner and Supporters have not claimed that imports of the subject goods by them are not dumped. There is no legal basis for separating import information of the subject goods. Thus, when imports of the subject goods by the Petitioner and Supporters are also dumped, they have to be clubbed with imports by Others and only then imports of the subject goods should be examined.
- x. Significant losses have already been suffered due to the recent floods in Kerala. If the anti-dumping duty is made applicable in the middle of this season, it will spell doom for the user industry in India. It is requested that the Authority may defer issuance of the final findings till November 2018 so that users who have planned the production of flax fabrics for this season could operate smoothly.
- xi. Price underselling is not a criterion for establishing injury as per the Gujarat High Court judgment in Nirma Limited v. Union of India, Special Civil Applications No.16426/2016. The obligation on the Designated Authority is to establish both volume and price injury in terms of Rule 11(2) read with Annexure II to the AD Rules. A mere increase in the volume of imports and existence of price undercutting is therefore not sufficient to determine that the domestic industry is suffering injury. The complete analysis of the Petitioner's injury information indicates no material injury to the Petitioner.
- xii. Imports of the subject goods from China PR declined by 21% during the injury period in absolute terms. The decline in volume of imports could not have contributed to the alleged injury suffered by the domestic industry.
- xiii. Imports of the subject goods had no negative impact on the Petitioner's performance. ROCE declined during the injury period only because of capacity expansion by the Petitioner. The mere fact that the Petitioner managed to expand its sales in India despite the alleged price undercutting demonstrates the absence of injury.
- xiv. In declining demand, Petitioner gained market share while quantum of imports from China PR reduced leading to decline in their market share. This demonstrates strong position of the Petitioner in the Indian market. Petitioner's export performance also improved significantly during this time.
- xv. Intention to decrease import prices cannot be imputed on all the producers/exporters from China PR without any concrete evidence.
- xvi. The decline in selling price is in consonance of the decline in the prices of raw material flax fiber. The decline in landed value is commensurate to the decline in the raw material

prices. Both the Petitioner and the exporters have benefitted with the decline in the raw material prices of flax fiber. The impact on the Petitioner's cost of sales is because of capacity expansion from 2016-17 onwards.

- xvii. The Petitioner had invested heavily in expanding its capacity from 2016-17 onwards, it takes time to break-even. No industry can expect to earn profits from an immediate expansion in capacity. Decline in profitability during 2016-17 and the POI directly coincides with sudden increase in installed capacity, net fixed assets, depreciation and interest cost during this period. Petitioner was in profits during 2014-15 and 2015-16 when imports of the subject goods were very high. Losses occurred when imports of the subject goods were lowest during 2016-17. This strongly indicates a break in the causal link.
- xviii. The Indian domestic industry has not produced enough quantity to serve the total demand of the subject goods in Indian market. Thus, downstream users are tending to import the same from other countries. If the imported product concerned were suddenly blocked from the Indian market because of heavy anti-dumping duty, Indian downstream industry will inevitably suffer from negative influence such as insufficient supply, much higher purchase price and lower profits or suffering loss.

Examination by the Authority

- 96. It is noted that the issues raised at post disclosure stage have already been examined by the Authority in above relevant paragraphs, however for the sake of the clarity, they are reiterated as below:
 - i. As regards the qualification of petitioner to be treated as domestic industry under Rule 2(b), it is noted that the Authority had dealt this issue in detail in the above relevant paragraph.
 - ii. As regards the PCN, it is noted that the Authority has classified the PUC after taking into consideration all the relevant parameters duly notified in advance and having regard to the facts and circumstances of the present case.
 - iii. The calculation error in the working of an exporter was pointed and after due examination the Authority has rectified it.
 - iv. As regards the objection against an exporter, the submissions were re-examined and found that the Authority has rightly given them individual duty margin.
 - v. As regards the service requirement with respect to high demand of flax yarn in the coming season, it is noted that the purpose of ADD is not to restrict the imports, but to give domestic industry and the exporters a level playing field.
 - vi. As regards Procurement contracts signed with Chinese mills, it is noted that the anti

dumping duty is levied against the unfair trade practice and not to jeopardise commercial planning.

I. CONCLUSIONS

97. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in this finding, the Authority concludes that:

- i. The product under consideration has been exported to India from the subject country below its normal value, resulting in dumping.
- ii. The Domestic Industry has suffered material injury due to dumping of the product under consideration from the subject country.
- iii. The material injury has been caused by the dumped imports from the subject country.

J. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:

98. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. It is recognized that the imposition of anti-dumping duties might affect the price levels of the downstream products and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti- dumping duty is restricted to an amount necessary to redress the injury to the Domestic Industry. On the contrary, imposition of antidumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the Domestic Industry and help maintain availability of wider choice to the consumers of the subject goods. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers

K. RECOMMENDATIONS

99. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the Domestic Industry caused by such dumped imports, the Authority is of the view that imposition of antidumping duty is required to offset dumping and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of subject goods from the subject country for 5 years in the form and manner described hereunder.

100. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of Definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duty equal to the amount indicated in Col 7 of the duty table below is recommended to be imposed for 5 years on all imports of the subject goods originating in or exported from the subject country.

Duty Table

SN	Sub Heading or Tariff Item*	Description of Goods	Country of Origin or export	Producer	Exporter	Duty Amount USD/KG
1	2	3	4	5	6	7
1.	530610 and 530620	Flax Yarn of below 70 Lea Count (or below 42 Nm)	China PR	Zhejiang Kingdom Linen Co., Ltd / Jiangsu Jinyuan Flax Co., Ltd / Zhejiang Jinyuan Flax Co., Ltd	Jiangsu Jinyuan Flax Co., Ltd / Zhejiang Jinyuan Flax Co., Ltd	2.42
2.				Yixing Sunshine Linen Textile Co., Ltd	Yixing Sunshine Linen Textile Co., Ltd	2.29
3.				Zhejiang Axiang Flax Textile Co., Ltd.	Huzhou Axiang Import and Export Trading Co., Ltd.	2.77
4.				Zhejiang Golden Eagle Co.Ltd / Zhejiang Golden Eagle Yili Linen Textile Co., Ltd	Zhejiang Golden Eagle Co.,Ltd / Zhejiang Golden Eagle Spun Silk Co.Ltd	2.02
5.				Hangzhou Sanglu Silk Co., Ltd.	Hangzhou Sanglu Silk Co., Ltd.	2.71
6.				Great Eastern Textiles (Tongling) Co., Ltd.	Ningbo Win Way Co., Ltd.	1.30
7.				Changzhou Meiyuan Flax Textile Co., Ltd.	Changzhou Meiyuan Flax Textile Co., Ltd.	2.06
8.				Tung Ga Linen & Cotton (Changzhou) Co., Ltd.	Tung Ga Linen & Cotton (Changzhou) Co., Ltd.	0.50
9.				Any other than the producers at Sl. No. 1-8	Any other than the exporters at Sl. No. 1-8	4.83

* Custom classification is only indicative and the determination of the duty shall be made as per the description of PUC. The PUC mentioned above should be subject to above ADD even when it is imported under any other HS code.

101. The duty rates as recommended above are applicable for exports by specified producer and exporter mentioned therein. The Customs should verify the name of the producer at

the time of clearance of subject goods.

102. The landed value of imports for this purpose shall be the assessable value as determined by the customs under Customs Tariff Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.
103. The applicant domestic industry is required to inform the Authority regarding any change in constitution/ ownership of the manufacturing facility, along with relevant documents substantiating the said change, for the subject goods against which Anti Dumping Measures are being recommended. The information should reach the Authority within 60 days of the said change, if any.
104. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)
Additional Secretary & Director General