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F. No.6/44/2017-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

Dated the 28th September, 2018

FINAL FINDING NOTIFICATION

(Case No. OI-47/2017)

Subject: Final Finding in antidumping investigation concerning imports of Sun/dust control film originating in or exported from China PR, Chinese Taipei, Hong Kong and Korea.

F.No.6/44/2017-DGAD : - Having regard to the Customs Tariff Act 1975 as amended from time to time (hereinafter referred as The Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred as the AD Rules);

1. Whereas M/s. Garware Polyester Limited (hereinafter referred to as the “applicant” had filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and Rule supra, for initiation of anti-dumping investigation and imposition of anti-dumping duty concerning imports of Sun/dust control film originating in or exported from China, Chinese Taipei, Hong Kong and Korea (hereinafter also referred to as the subject countries) alleging dumping of subject goods from subject countries and consequent injury to the Domestic Industry.
2. Whereas, the Authority, on the basis of sufficient prima facie evidence submitted by the applicant, issued a Notification No. 6/44/2017-DGAD dated 17th January, 2018 published in the Gazette of India, initiating the subject investigation in accordance with the Rule 5 of the AD Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from China, Chinese Taipei, Hong Kong and Korea, 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

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

- i. The Authority notified the Embassy and economic and cultural centers of the subject countries 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 issued a Notification No. 6/44/2017-DGAD dated 17th January, 2018 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from subject countries.
- iii. The Embassy and economic and cultural center of subject countries in India was informed about the initiation of the investigations in accordance with Rule 6(2) of the Rules with a request to advise the exporters/producers from subject countries to respond to the questionnaire within prescribed time limit. the Government of the Hong Kong Special Administrative Region (HAKSAR) was also informed about the initiation, who then filed submissions through the trade and Industry department.
- iv. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in subject countries in accordance with Rule 6(4) of the Rules:

SN	Name of Producer/ Exporter
1	M/s Bolex Superoceans International Limited, China
2	M/s Zhejiang Shichuang Optics Film Manufacturing Co. Limited, China
3	M/s Guangdong New Vision Film Co., Limited, China
4	M/s Crystal Hu Sales, China
5	M/s Celadon Technology Company, Taiwan
6	M/s Ever Green Coating Technology Co. Ltd, Taiwan
7	M/s N. Tech window film co., ltd. Korea
8	M/s Conco limited, South Korea
9	M/s CNC Tech. Ltd, South Korea
10	M/s CNK Corporation, South Korea
11	M/s Hang Tai (Far East) Trading Ltd, Hong Kong
12	M/s Global Materials Limited, Hong Kong

- v. In response to the above notification, none of the exporters/ producers have responded or submitted exporter questionnaire response.
- vi. 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.

SN	Name of Importers/Consumers
1	M/s. Grass Impex Pvt. Ltd, Mumbai
2	M/s Balupunkt, Mumbai
3	M/s. Film Shoppe, Surat
4	M/s. Sabharwal Brothers, Delhi
5	M/s. Amcor International, Delhi
6	M/s. Sunmild Corp., Delhi
7	M/s Rajvi Enterprises

8	M/s Raj Agencies [Chennai]
9	M/s Srinivas Car Shoppee
10	M/s Sai Auto Corporation
11	M/s Aambaji Tech Enterprise Pvt Ltd.

- vii. However, none of the importers/user responded to the questionnaire issued by the Authority.
- viii. The submissions made by interested parties have been made available in the public file and also addressed appropriately in this Final Finding. Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- ix. Further information was sought from the applicant and verification of the data provided by the domestic industry was also conducted. The domestic Industry was asked to provide further information for the purpose of working out proper cost and price etc.
- x. Information provided by the domestic industry on confidential basis was examined with regard to sufficiency of the confidentiality claims. The party was asked to furnish non-confidential version of the information filed on confidential basis and the same were kept in the public file maintained by the Authority as per the Rules.
- xi. The Non-Injurious Price (NIP) was computed in terms of Annexure III to the Anti-dumping Rules.
- xii. Investigation was carried out for the period starting April 2016 to June 2017 (15 months). The examination of trends, in the context of injury analysis, covered the period from 2013-14, 2014-15, and 2015-16 and the Period of Investigation (POI).
- xiii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the POI. The authority has relied upon import data procured from DGCI&S in the present investigation.
- xiv. The Authority held an oral hearing on 7th 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 Taipei Economic and Cultural Centre. The Government of HAKSAR was also informed about the hearing but they did not attend it. Subsequent to the hearing, written submissions were filed by DI and Taipei Economic and Cultural Centre only.
- xv. The various submissions made by the interested parties including the Governments of Subject Country, considered relevant by the Authority have been addressed in this Final Finding.
- xvi. A Disclosure Statement was issued to interested parties on 19.9.2018 containing essential facts under consideration of the Designated Authority, giving time up to 26.9.2018 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- xvii. *** in this Final Finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xviii. The exchange rate adopted by the Authority for the subject investigation is 1 US \$ = Rs. 67.45.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. The product under consideration in the present case is sun and/or dust control film. Sun and/or dust control film is a kind of specialty polyethylene/polyester film. It is in the form of Self Adhesive plate, sheet, film, foil, tape, strip and other flat shapes of plastics whether or not in rolls. The product under consideration is known by different names in the trade and market parlance, such as Sun films, Sun and/or dust control film, Window Film, Solar films, Solar Control Films, Solar Window Films etc. The scope of the product under consideration excludes plain or metallized polyethylene/polyester films. The scope of the present investigations included all possible names & descriptions of the product under consideration.
5. The product under consideration is used for the purpose of reducing heat and radiation caused by the sun's rays. It is used for various other purposes such as decorative, protective, reflective, safety & security etc.
6. The subject goods are classified under Chapter 39 of the Customs Tariff Act, 1975 under subheading 3920 69 (3920 6921/ 3920 6922/ 3920 6929). However, the product under consideration is being also imported under the HS code 3919 and 3921. It is clarified that the HS codes are indicative only and product description is the determining factor for the purpose of present investigation and determination.
7. The domestic Industry claimed that the product under consideration produced by the domestic industry is like article to the goods imported from the subject countries. Product under consideration produced by the domestic industry and imported from the subject countries are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. They have further stated that goods produced by the domestic industry and imported from the subject countries are like articles in terms of the Rules. The two are technically and commercially substitutable.
8. As none of the interested parties have advanced any argument with regard to the differences in the domestic and imported product. The Authority examined the transaction wise import data and noted that though the description of import is sun dust film, the import prices are significantly different. The difference is so wide that it makes comparison of imported goods with domestic goods unrealistic.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

9. The petition has been filed by M/s Garware Polyester Limited. The applicant is the sole producer of the subject goods in India and accounts for 100% production of the product under consideration in India. The applicant certified that they are not related to a producer/exporter of the product under consideration in subject countries or an importer in India. The Authority determines that the applicant company constitutes eligible domestic

industry within the meaning of Rule 2 (b) of the Anti- Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the anti- dumping Rules.

D. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN.

10. The Provisions pertaining to normal value are given in Section 9A(1)(c) of the Act and Annexure-I to AD Rules.
11. None of the producers/exporters from China PR, Chinese Taipei, Hong Kong and Korea RP have filed the response to questionnaire; therefore, the Authority has proceeded based on the principles of best available information.
12. In view of non-cooperation from any producer exporter from the subject countries, the Authority is not able to determine individual dumping margin and is constrained to proceed with the principles of best available information. The Authority determined normal value as per facts available in terms of Rule 6(8) of the Rules. Accordingly, Constructed Normal value has been determined is as shown in the dumping margin table below.
13. The Authority notes that none of the exporters have furnished information to the authority in the form and manner prescribed which could be used for determination of the export price and individual dumping margin. Therefore, the Authority has determined the export price for producers/exporters in subject countries on the basis of the DGCI&S transaction wise data. The export price has been adjusted on account of Freight, Marine Insurance, Bank Charges, Port Expenses to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for exports from subject countries is as shown in the dumping margin table below.

Dumping margin of the subject countries

14. Considering the normal value and export price as above, the dumping margin for all exporters of the subject goods from the subject countries is determined as below:

SN	Particular	UOM	China	Hong Kong	Korea	Taiwan
1	Import Volume	MT	138	142	183	93
2	Constrcted Normal Value	Rs/KG	***	***	***	***
3	Net Export Price	Rs/KG	***	***	***	***
4	Dumping Margin	Rs/KG	***	***	***	***
4a	Dumping Margin	%	***	***	***	***
4b	Dumping Margin	Range	700-720	2070-2080	1560-1570	1635-1645

E. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

Submissions of Domestic Industry

15. Following submissions have been made by the domestic industry with regard to injury and causal link:

- i. Demand for the product under consideration has increased throughout the injury period.
- ii. Volume of imports has significantly increased throughout the injury period. Imports from subject countries have increased in period of investigation not only since base year but also as compared to previous year.
- iii. Market share of subject countries in total imports declined in 2014- 15 but increased in 2015-16 and further increased in period of investigation.
- iv. The imports from subject countries have increased in relation to production and consumption in India.
- v. The imports in relation to sales of the domestic industry are quite significant and constitutes 1.5 times of the sales by the domestic industry despite the fact that the domestic industry is holding unutilised capacities and is producing the product in volumes far more than demand in India.
- vi. The import price from the subject countries declined significantly throughout the injury period. Import prices have almost become one fourth in the period of investigation since the base year.
- vii. The dumped imports are drastically undercutting the prices of the domestic market and price undercutting from all the subject countries is significant.
- viii. Applicant is aware that a significant volume of the import of product under consideration is off grade or stock lot material. However, the cost of production cannot be different for this reason. Thus, the issue is irrelevant as far as dumping margin is concerned.
- ix. The importers imports off grade material sort the same in India and then compete with the material offered by the domestic industry. Even if the importers loose some material as “unsaleable”, the price difference between the domestic and imported product remains very significant.
- x. Landed price of the subject countries are significantly below the cost of sales and selling price of the domestic industry.
- xi. The selling price has declined significantly throughout the injury period. The prices declined over the injury period by about **%, even when costs declined only by **%.
- xii. Whereas the cost of sales has increased in the Period of investigation, the selling price declined in the Period of investigation.
- xiii. The dumped prices are depressing and suppressing the prices of the domestic industry.
- xiv. Production, sales and capacity utilization has increased over the injury period. Even when the demand has increased by **% over the period, the domestic industry was not able to utilize its capacities fully.
- xv. Even though the sales of the domestic industry increased over the injury period, (a) the domestic industry had to reduce prices by about whopping 37% over the period, (b) the domestic industry was faced with significant unutilised capacities. The domestic industry was forced to reduce its prices drastically in order to retain its customers and market share thereby suffering huge financial losses.

- xvi. Market share of the domestic industry declined in 2014-15, and increased thereafter till the Period of investigation. Still the domestic industry is facing unutilised capacities.
- xvii. Domestic industry is exporting to more than 30 countries globally in developed and developing countries, but holding minority share in its own home market as against imports holding the majority of the share.
- xviii. Profit per unit, total profit, profit before interest and cash profit have all declined throughout the injury period and have become negative in the Period of investigation. The return on investment has declined over the injury period and became negative in the Period of investigation. The domestic industry is faced with cash losses in the POI. Growth of the domestic industry in terms of profit, cash profit and ROI has been very negative.
- xix. Applicant's export price increased by ***, domestic selling price declined by *** due to dumping in the Country.
- xx. While applicant has significant exports and the same are profitable, the applicant is facing significant financial losses in its home market.

Examination by Authority

Cumulative Assessment

16. In the present case, the margin of dumping from each of the subject countries have been found to be more than the de minimis limit prescribed; the volume of dumped imports from each of the subject countries is more than the limits prescribed; and the exports from the subject countries directly compete inter se and with the like goods offered by the domestic industry in the Indian market. In terms of Annexure II (iii) of the AD Rules, the Cumulative assessment of the effects of the dumped imports is appropriate in the light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product. The Authority, therefore, considers it appropriate to cumulatively assess the effect of dumped imports from the subject countries.

Examination on Injury

17. The Authority has taken note of various submissions made by interested parties on injury to the domestic industry and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.

I. Assessment of Demand

18. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product concerned in India as the sum of domestic sales of the applicant and imports from all sources. Exports made by the applicant have been excluded from the

computation in order to ascertain apparent consumption. The demand so assessed is given in the table below:

SN	Particulars	Units	2013-14	2014-15	2015-16	POI*
1	Sales of Domestic Industry	MT	***	***	***	***
2	Sales of Other Indian Producers	MT	-	-	-	-
3	Subject Countries	MT	236	301	425	445
4	Other	MT	29	52	48	30
5	Total Demand	MT	422	522	715	768

**The POI figures are annualised*

19. It is seen that the demand for the product under consideration has increased throughout the injury period.

II. Volume Effects of Dumped Imports

i. Import volumes and market share in Imports

20. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCIS.

SN	Particulars	Units	2013-14	2014-15	2015-16	POI*
1	Subject Countries	MT	235	301	425	445
1a	China	MT	88	44	53	110
1b	Hong Kong	MT	-	-	-	114
1c	Korea	MT	144	255	372	146
1d	Taiwan	MT	3	2	-	75
2	Others	MT	29	52	48	30
3	Total imports	MT	264	353	473	475
4	Subject countries imports in relation to					
4a	Indian Production	%	14	17	24	25
4b	Demand	%	56	58	59	58
4c	Total Import	%	89	85	90	94

**The POI figures are annualised*

21. It is seen that:

- i. Imports from the subject countries as a whole have increased in absolute terms throughout the injury period.
- ii. Import from China has decreased during 2014-15 and thereafter increased during the POI as compared to the base year as well as the previous years.
- iii. Import from Hong Kong was Nil during the injury period and thereafter started importing during the POI.
- iv. Import from Korea has increased during the entire injury period and thereafter decreased during the POI to a level same as the base year.

- v. Import from Taiwan was insignificant during the entire injury period and thereafter increased during the POI.
- vi. Imports from subject countries in relation to production have increased over the entire injury period and POI.
- vii. The imports from subject countries in relation to demand has remained consistent over the entire injury period and the POI.
- viii. The imports from subject countries in relation to total imports has remained almost consistent over the entire injury period and the POI.

III. Price Effect of the Dumped imports on the Domestic Industry

22. In terms of Annexure II (ii) of the Rules, the Designated Authority is required to consider the effect of the dumped imports on domestic prices in terms of price undercutting, price underselling, price suppression and price depression, if any.

i. Price Undercutting

23. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed value of imports with net sales realization of the domestic industry. In this regard, a comparison has been made between the landed value of the product and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level. The domestic prices and margin of undercutting is shown as per the table below:

SN	Particulars	Unit	China	Hong Kong	Korea	Taiwan
1	Landed price of imports	Rs./KG	167	68	85	83
2	Net Sales Realisation	Rs./KG	***	***	***	***
3	Price undercutting	Rs./KG	***	***	***	***
3a	Price undercutting	%	***	***	***	***
3b	Price undercutting	Range	495-505	1360 -1370	1070 -1080	1095 -1105

24. It is seen that the landed price of imports from each of the subject countries is significantly lower than the Net sales realization of the Domestic Industry, resulting into significant and positive price undercutting.

ii. Price Underselling

25. Authority considers that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the Domestic Industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules.

SN	Particular	UOM	China	Hong Kong	Korea	Taiwan
1	Import Volume	MT	138	142	183	93
2	Non Injurious Price	Rs/KG	***	***	***	***
3	Landed Price	Rs/KG	***	***	***	***
4	Price Underselling	Rs/KG	***	***	***	***
4a	Price Underselling	%	***	***	***	***
4b	Price Underselling	Range	625-635	1690-1700	1330-1340	1365-1375

**The POI figures are annualised*

26. It is seen that the landed price of the subject goods from each of the subject countries is significantly lower than the NIP determined for the Domestic Industry resulting into significant and positive price underselling effects.

iii. Price Suppression/Depression

27. In order to determine whether the effect of imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred, the Authority examined the changes in the costs and prices over the injury period as below:

SN	Particulars	Unit	2013-14	2014-15	2015-16	POI*
1	Landed price of imports	Rs./KG	373	255	154	101
2	Cost of sales	Rs/KG	***	***	***	***
2a	Trend	Indexed	100	96	89	97
3	Selling price	Rs/KG	***	***	***	***
3a	Trend	Indexed	100	85	69	63

**The POI figures are annualised*

28. It is seen that the cost of sales of the domestic industry is almost consistent throughout the injury period and the POI. The selling price of the domestic industry has decreased during the entire injury period and the POI. The selling price is above the cost of sales during 2013-14 and 2014-15 but thereafter became lower than the cost of sales during 2015-16 and the POI. Further, the landed value of imports from the subject countries has declined throughout the injury period and the POI and is significantly lower than the cost of sales of the domestic industry. It is thus seen that the prices of the dumped imports are depressing and suppressing the prices of the domestic industry.

IV. Economic parameters of the Domestic Industry

29. Annexure II to the Anti-dumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. The 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. The various injury parameters relating to the Domestic Industry are discussed below

i. **Production, Capacity, Capacity Utilization, & Sale Volumes**

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

SN	Particulars	Unit	2013-14	2014-15	2015-16	POI*
1	Capacity (Total)	MT	***	***	***	***
1a	Trend	Indexed	100	100	100	100
2	Production	MT	***	***	***	***
2a	Trend	Indexed	100	106	103	103
3	Capacity Utilization	%	***	***	***	***
3a	Trend	Indexed	100	106	103	103
4	Domestic Sales	MT	***	***	***	***
4a	Trend	Indexed	100	108	154	187
5	Export Sales	MT	***	***	***	***
5a	Trend	Indexed	100	102	97	122

**The POI figures are annualised*

31. The Authority has taken the capacity of the Domestic industry from the cost audit report. It is seen that the capacity has remained constant throughout the injury period and the POI. Production and capacity utilisation with the domestic industry has remained consistent throughout the injury period and the POI with slight increase during 2014-15. Domestic Sales has improved marginally over the entire injury period and the POI whereas export sales has improved significantly. It is stated by the petitioner that they hold sufficient capacity to meet the current demand for the product under consideration and imports could not have occurred or increased for that reason.

ii. **Market share in Demand**

32. The effects of the dumped imports on the market share in demand of the domestic industry have been examined as below:

SN	Market Share in Demand	Units	2013-14	2014-15	2015-16	POI*
1	Sales of Domestic Industry	%	***	***	***	***
2	Imports from Subject Countries	%	56	58	59	58
3	Others	%	7	10	7	4
4	Total Demand	%	100	100	100	100

**The POI figures are annualised*

33. It is seen that the share of sales of Domestic Industry and share of imports in total demand has almost remained consistent throughout the injury period and the POI. The share of imports from other countries is insignificant throughout the entire injury period and the POI.

iii. **Inventories**

34. The data relating to inventory of the subject goods are shown in the following table:

Particulars	Unit	2013-14	2014-15	2015-16	POI*
Average	MT	***	***	***	***
Trend	Indexed	100	132	163	155

**The POI figures are annualised*

35. It is seen that the inventories with the domestic industry have increased over the entire injury period and POI, however, in absence of information regarding permissible average inventory stocks to be maintained by the industry for the subject goods, the present numbers cannot be a substantive indicator of the present investigation

iv. **Profit/Loss, Return of Investment PBIT & Cash Profit**

36. The profit/loss, cash profits, profit before interest and return on investment of the domestic industry is as follows:

SN	Particulars	Unit	2013-14	2014-15	2015-16	POI*
1	Profit/Loss	Rs/Kg	***	***	(***)	(***)
1a	Trend	Indexed	100	46	(3)	(61)
2	Profit/Loss	Rs.Lacs	***	***	(***)	(***)
2a	Trend	Indexed	100	49	(5)	(113)
3	Cash Profit	Rs.Lacs	***	***	***	(***)
3a	Trend	Indexed	100	51	4	(94)
4	Profit before Interest	Rs.Lacs	***	***	***	(***)
4a	Trend	Indexed	100	50	0	(103)
5	Return on Capital Employed-NFA	%	***	***	***	(***)
5a	Trend	Indexed	100	64	0	(116)

**The POI figures are annualised*

37. It is seen that the Profit per unit, total profit, PBIT, cash profit and ROCE have declined throughout the injury period and have become negative in the POI.

v. **Employment and wages**

38. The employment and wages are below:

SN	Particulars	Unit	2013-14	2014-15	2015-16	POI*
1	No of Employees	Nos	***	***	***	***
1a	Trend	Indexed	100	119	123	114
2	Wages	Rs.Lacs	***	***	***	***
2a	Trend	Indexed	100	127	150	161
3	Wages per Unit	Rs/MT	***	***	***	***
3a	Trend	Indexed	100	119	147	156

**The POI figures are annualised*

39. It is seen that the number of employees during the POI are at the same level as that of the base year though it had increased during 2014-15 and 2015-16. The wages and wages per

unit increased throughout the injury period and the POI which could be a normal response to the economy.

vi. Magnitude of Dumping

40. It is seen that the imports from the subject countries are far above the de minimis level of dumping margin. The dumping margin for subject countries is quite significant.

vii. Ability to raise capital investment

41. It is stated by the petitioners that they are suffering significant financial losses during the period of investigation. While the petitioner is a multi-product company, long term losses could impact its ability to raise capital, however, there is no direct evidence for the same.

viii. Factors Affecting Domestic Prices

42. It is stated by the petitioners that imports are at a price materially below the cost of production and NIP of the domestic industry, since the only competition to the domestic industry is import it is the import price that is solely responsible for the steep decline in the selling prices and consequent financial & cash losses being suffered by the domestic industry.

ix. Overall assessment of Injury

43. It is seen that the imports from the subject countries have increased throughout the injury period in absolute terms. The share of imports in relation to production and consumption has remained consistent throughout the injury period and the POI. The landed price of imports from the subject countries has declined throughout the injury period and the POI. Dumping margin from the each of the subject countries is positive. Subject imports are positively undercutting and underselling the domestic prices and causing suppressing and depressing effect on the domestic prices. The performance of the domestic industry has deteriorated in terms of profits, PBIT, cash profits and ROCE.

44. The Authority also noted that the difference in prices of imported goods and domestic goods is very large pointing to the fact that these possibly are not the same goods. It also gets supported from the facts mentioned by domestic industry in writing, as mentioned in above paragraphs, and during the interactions that imports are of “off grade goods” called “stock lots”. Therefore, it is incorrect to compare the prices of prime goods of the domestic industry with the “off grade goods” being imported.

45. The Authority also noted that product under consideration is fetching significantly higher prices in exports market in comparison to that of domestic markets. Further, Product under consideration is in profits when both domestic and export sales are considered in total.

V. MAGNITUDE OF INJURY AND INJURY MARGIN

46. The non-injurious price of the subject goods produced by the domestic industry, as computed by the Authority in terms of Annexure III to the AD Rules, has been compared with the landed value of the exports from the subject countries for determination of injury margin during the POI and the injury margin so worked out is as under:

SN	Particular	UOM	China	Hong Kong	Korea	Taiwan
1	Import Volume	MT	138	142	183	93
2	Non Injurious Price	Rs/KG	***	***	***	***
3	Landed Price	Rs/KG	***	***	***	***
4	Injury margin	Rs/KG	***	***	***	***
5	Injury margin	%	***	***	***	***
5a	Injury margin	Range	625-635	1690-1700	1330-1340	1365-1375

F. OTHER KNOWN FACTORS & CAUSAL LINK

47. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Rules and Agreement on Anti-dumping, the Authority proceeded to see whether any factor, other than the dumped imports could have contributed to injury to the domestic industry.

i. Imports from Third Country

48. The imports from countries other than subject countries are not significant in volume terms so as to cause or threaten to cause injury to the domestic industry. About 94% of total imports during the POI are from subject countries. The share of subject countries has remained almost consistent during the entire injury period.

ii. Contraction in demand

49. The demand for the subject goods has shown an increasing trend in absolute terms. Accordingly, fall in demand cannot be the reason for injury to the domestic industry. The share of DI during the entire injury period has remained consistent.

iii. Trade restrictive practices of and competition between the foreign and domestic producers

50. The Authority notes that there is no trade restrictive practice which could have impacted the DI.

iv. Developments in technology

51. The technology for production of the product concerned has not undergone any change. Thus, developments in technology had no impact on the growth of the DI.

v. Changes in pattern of consumption

52. The DI is producing the type of goods that have been imported into India. Possible changes in pattern of consumption are not a factor that could have caused any impact on the DI.

vi. Export performance

53. The exports by the DI are significant during the entire period and have not caused any injury to the DI. The domestic sales has been identified and examined for the present analysis.

vii. Performance of the domestic industry with respect to other products

54. The Authority notes that the performance of other products being produced and sold by the DI has not impacted the DI as the information with respect to the product under consideration only has been considered for analysis.

viii. Productivity of the domestic industry

55. The Authority notes that the production and productivity of DI seen an increasing trend.

G. POST DISCLOSURE COMMENTS

56. The post disclosure submissions have been summarized and addressed as below:

Views of the Domestic industry

57. The Domestic Industry made the following submissions:

- i. Price is one of the factors and not the sole reason while deciding whether the domestic product is like article to the PUC. Factors such as product characteristics, production technology, manufacturing process, plant & equipment, raw material used in the production, functions & usage, producer's and consumer's perception, channel of distribution, customs classification and national & international standards concerning the PUC are the facts which have been considered by the Authority in past to determine whether the goods supplied by the DI is a like article to the imported PUC. The DI has given information with regard all the parameters above mentioned and has claimed that the domestic product is like article to the PUC.
- ii. The imported product transactions pertain to the PUC and the DI has produced and sold like article to the imported PUC. The two products are commercially and technically substitutable. The segregation of PUC and NPUC is sourced from DGCI&S and the data clearly shows the description of the product.
- iii. The Authority is not sure of the fact that the domestic goods are like article of the PUC. The language used is "possibly" which makes it clear that the Authority needs more information to reach to the conclusion that the domestic goods are like article.
- iv. The Authority has not considered the fact that the imports of Sun/Dust Control Polyester Film from Chinese Taipei and UAE were subject to AD measure in the past and the scope of PUC in the present investigation is same as the previous investigation.
- v. PCN wise analysis could not be undertaken in the present investigation due to the fact that none of the exporters have responded for conducting fair comparison and the product types cannot be identified from the description of the import listing. The DI

should not be penalized because of non-cooperation of importers or exporters from subject countries.

- vi. The DI has already segregated the PUC into 1, 2 and 3 ply product.
- vii. Stock lot cannot be separated from the scope of PUC. Even if it is assumed that the DI was not producing stock lot, the same could not have been excluded from the scope of PUC. This is because the inclusion of a product type within the scope of PUC does not depend upon whether the DI is making exactly the same type, of the same quality and having the same characteristics. Instead, the DI is only required to produce like article to the PUC, wherein like article is defined under Rule 2(d) of the Act. Even if the Authority comes to the conclusion that the DI is not producing stock lot, the second question which arises is that whether the product produced by the DI has characteristics closely resembling those of the imported product, which has not been dealt.
- viii. The past practice of the Authority, which has also been upheld by the Tribunal makes it clear that a product cannot be excluded merely on the basis that it is of a lower quality.
- ix. The DI was faced with significant unutilized capacities and was forced to reduce its prices drastically in order to retain its customers and market share thereby suffering huge financial losses. There exists a strong nexus between the increase in dumped imports of the subject goods and the material injury being suffered by the domestic industry.
- x. Facts were inappropriately considered based on presumptions and assumptions. There is an implication of introduction of a requirement/obligation which does not exist under the law and in fact is contradictory to the requirement of the law, such as:
 - a. the difference is so wide that it makes comparison of imported goods with domestic goods unrealistic
 - b. absence of information regarding permissible average inventory stocks to be maintained by the industry for the subject goods
- xi. Despite finding it appropriate to conduct cumulative assessment, the Authority has analyzed individual country trends.
- xii. The DI has neither claimed injury nor was asked to provide any evidence on account of petitioner being a multiproduct company and the impact of long term losses on its ability to raise capital.
- xiii. While the DI agrees on higher prices in export market, which clearly shows dumping and consequent impact on the domestic industry in India, consideration of total profits in domestic and exports is an approach directly contradictory to the approach consistently applied by the Authority
- xiv. AD duty may be imposed as a fixed form expressed in US\$/kg.

Views of the opposing interested parties

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

- i. The DGCI&S data, EXIM Data Bank maintained by Ministry of Commerce in India and Hong Kong customs do not correlate. C&SD statistics do not provide a specific

- breakdown into HS 3920 69 29, thus the comparison could only be made at the 6 digit level i.e. HS 392069, which means C&SD figure for HS 392069 includes products beyond the scope of the current AD investigation.
- ii. The AD investigation was initiated based on fallacious dumping allegations made by the DI and without sufficient evidence of either dumping or injury of the subject goods from subject countries.
 - iii. The import data have included the imports which are not the PUC or the PUC consists of the product types having greatly different unit prices.
 - iv. An observed decline in the average unit prices may actually be the result of a change in the product mix, e.g. due to an increased proportion of the lower priced domestic products being sold in a particular year, rather than due to a genuine change in domestic prices as a result of dumping.
 - v. Department of the HKSAR shows that the HongKong did not have any exports of the subject goods to India during the injury period and the POI.
 - vi. HongKong did not cause any injury to the DI as it only accounts for 2% of the India's total import during the POI. The import of PUC started during POI, thus any factor showing injury prior to the POI should not be linked to imports from HongKong. The two HongKong companies were wrongly cited in the petition as known exporters as one had only sent the PUC as samples or testing rather than for commercial purpose and the other company has not exported any subject products into India.
 - vii. The petitioner has included all imports coming under the heads of "sunfilm", "window film" and "dust control film" as imports of PUC irrespective of the HS Codes, such reclassification based on commercial product descriptions is prone to errors and may have led to the import figures being overstated.
 - viii. There is no causal link between the alleged dumping of the PUC from the subject countries and the alleged injury suffered by the DI. The alleged injury caused to the DI is quite evidently on account of their own inefficiencies. Information concerning the economic parameters of the DI shows that the economic health of the DI has improved, therefore, it can be safely inferred that the DI is not suffering any losses on account of alleged dumping of PUC. The negative ROCE is false as the DI market share and production have shown no decline.

Examination by the Authority

59. It is noted that the issues raised at post disclosure stage have already been examined by the Authority in above relevant paragraphs.
- i. The analysis has been done cumulatively and additionally individually also.
 - ii. This is a fresh investigation therefore the PUC adopted in a previous investigation and findings issued there cannot be the guiding principle for present original investigation as the issue of PUC has been examined and discussed here afresh.
 - iii. The PUC is very wide covering various product types and therefore reasonable comparison between like articles manufactured by DI and being imported is not possible. Even if there was no response from exporters, the DI could have helped

- the Authority in fine tuning the PUC into various PCN in view of their long experience in the subject goods.
- iv. The concept of 'stock lot' and that being the reason for low import prices was explained by the domestic industry themselves through their technical team during discussions. The goods which are rejects or seconds are not the like article to the prime goods and hence comparison of two is most unfair.
 - v. The Authority has relied upon DGCI&S data, since there was no exporter response during the investigation, the specific data could not be cross verified.

H. CONCLUSIONS

60. After examining the issues raised and submissions made by the interested parties and facts available, as recorded in this finding, the Authority concludes that:
- i. The imports of the subject goods from subject countries and the goods produced by the DI are not like articles.
 - ii. There is overall improvement in the health of the DI. The DI is not suffering from injury.

I. RECOMMENDATION

61. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic producers, exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the present investigation into dumping, injury and the causal link thereof in terms of the AD Rules it is established that the domestic industry is not suffering injury on account of the subject imports from the subject countries as there is a vast difference in the goods produced by the DI and that imported from the subject countries. The Authority is of the view that imposition of antidumping duty is not warranted in the present investigation. In view thereof the Designated Authority considers it appropriate to not recommend Anti-Dumping Duty in respect of Sun/dust control film originating in or exported from China, Chinese Taipei, Hong Kong and Korea.
62. An appeal against the orders of the Central Government arising out of this finding shall lie before the Customs, Excise, and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 and the decision on Hon'ble High Court of Delhi in M/s Jindal Poly Film Ltd. v. Designated Authority W.P. (Civil) No. 8202/2017.

(Sunil Kumar)

Additional Secretary & Director General