

**F. No. 07/03/2021-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
Jeevan Tara Building, 5, Parliament Street, New Delhi**

NOTIFICATION

FINAL FINDINGS

Dated: 19.12.2022

Subject: Final Findings in the CESTAT Remand Case in Sunset review anti-dumping investigation concerning imports of “Viscose Staple Fibre” originating in or exported from China PR and Indonesia

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 thereof, as amended from time to time (hereinafter also referred to as 'the Rules' or 'AD Rules' or 'ADD Rules').

A. BACKGROUND OF THE CASE

1. Association of Man-Made Fibre Industry of India (hereinafter also referred to as “applicant” or “AMFII”) had filed an application before the Designated Authority (hereinafter referred to as the “Authority”) on behalf of M/s Grasim Industries Limited (hereinafter referred to as “domestic industry”) seeking initiation of sunset review investigation concerning imports of Viscose Staple Fibre (VSF) excluding Bamboo Fibre, Modal Fibre, Non-Woven Fibre, Flame Retardant Fibre, Eco Fibre, Spun Dyed Fibre, Tencel Fibre (or Lyocell) and Outlast Viscose Fibre”(hereinafter referred as the “subject goods” or “product under consideration” or “PUC”), originating in or exported from China PR and Indonesia (hereinafter referred to as the “subject countries”).
2. The Authority, on the basis of prima facie evidence submitted by the applicant issued a Notification dated 22.02.2021, published in the Gazette of India Extraordinary, initiating sunset review investigation concerning imports of the subject goods from China PR and Indonesia in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine whether there is likelihood of dumping of the subject goods originating in or

exported from the subject countries and likelihood of injury to the domestic industry and to determine whether there is a need for continuation of anti-dumping duty for further period.

3. Pursuant to completion of sunset review investigation, the Authority issued Final Findings 7/03/2021 - DGTR on 31st July 2021 whereby the Authority recommended that anti-dumping duty should not be continued for further period. The Central Government thereafter issued Notification No. 44/2021- Customs (ADD) dated 12th August 2021 withdrawing the anti-dumping duty on the subject goods from the subject countries.
4. The aforesaid findings dated 31st July 2021 were challenged by the domestic industry in appeal under Section 9C of the Act. The Hon'ble Customs, Excise and Service Tax Appellate Tribunal (CESTAT) examined the final findings, and vide its order 50436-50442/2022 held as follows: -

37. It is not possible to accept this contention advanced on behalf of respondent nos. 3, 5 & 8. Neither article 11.3 of the 1994 Agreement nor section 9A(5) of the Tariff Act require any existence of special circumstances for extension of anti-dumping duty beyond a period of five years. The pre-requisites for every extension of duty, whether for five years or upto five years, are the same and they are that there should be a likelihood of continuation or recurrence of dumping and injury.

51. It is not possible to accept this contention of the learned counsel for the respondent, as the list contained in paragraph (vii) of Annexure II is not exhaustive. The Tribunal in SI Group also observed that third country dumping, surplus capacity, export attractiveness of the Indian market, and other parameters used internationally for a likelihood analysis are relevant for sunset reviews.

52. It needs to be remembered that the nature of exercise to be undertaken in a "sunset review" is different from the initial exercise that is undertaken for determining whether anti-dumping duty is to be levied or not. In a review, the focus is on whether withdrawal of anti-dumping duty would lead to continuance or recurrence of dumping as well as injury to the domestic industry. The assessment whether injury will continue or recur would entail a factual analysis of future events based on projected levels of dumped imports, prices and impact on domestic producers.

53. In this connection reference can be made to a decision of the Tribunal in Thai Acrylic Fibre Ltd. vs. Designated Authority¹⁴ wherein it was observed:

"13. Unlike original investigations, sunset reviews are prospective in nature, as they focus on the likelihood of the continuation or recurrence of dumping

and injury, in case antidumping duties are removed. With respect to the question whether dumping is likely to occur in the event that the anti-dumping duties are removed, the D.A. has to consider relevant economic facts which might indicate that in the event the anti-dumping duty is removed, dumping will recur. With respect to the injury determination, if the anti-dumping duty has had the desired effect, the condition of the domestic industry would be expected to have improved during the period the anti-dumping duty was in effect. Therefore, the assessment whether injury will continue, or recur, would entail a counter-factual analysis of future events, based on projected levels of dumped imports, prices, and impact on domestic producers. Thus the D.A. has to address the question as to whether the domestic industry is likely to be materially injured again, if duties are lifted.

14. Sunset review entails a likelihood determination in which present levels of dumping is obviously not so relevant as is the likelihood of continuance or recurrence of dumping. Moreover, during the investigation period, the anti-dumping duty would be in force and hence, the current level of dumping may be non-existent or minimal. The exporters under investigation may also sell at a non-dumped price during this period knowing fully well that a sunset review would be in progress. Hence, the criteria under Section 9A(1) that the anti-dumping duty should not exceed the dumping margin would have no practical application for continuance of the duty under Section 9A(5). There is also no such warrant in law under the said Section 9A(5) to do so."
(emphasis supplied)

54. In Rishiroop Polymers (P) Ltd. vs. Designated Authority & Additional Secretary, the Supreme Court observed as follows:

"36. Otherwise also, we are of the opinion that scope of the review inquiry by the Designated Authority is limited to the satisfaction as to whether there is justification for continued imposition of such duty on the information received by it. By its very nature, the review inquiry would be limited to see as to whether the conditions which existed at the time of imposition of anti-dumping duty have altered to such an extent that there is no longer justification for continued imposition of the duty. The inquiry is limited to the change in the various parameters like the normal value, export price, dumping margin, fixation of non-injury price and injury to domestic industry. The said inquiry has to be limited to the information received with respect to change in the various parameters. The entire purpose of the review inquiry is not to see whether there is a need for imposition of anti-dumping duty but

to see whether in the absence of such continuance, dumping would increase and the domestic industry suffer."

55. In *APAR Industries Ltd. vs. Designated Authority*¹⁶, the Tribunal followed the aforesaid observations of the Supreme Court and held:

"It is to be borne in mind that the scope of the sunset review by the designated authority is limited. He has to satisfy himself as to whether there is justification for continued imposition of anti-dumping duty and that also based on the information received by him. It seems that the sunset review by its very nature, would be limited to see as to whether conditions which existed at the time of imposition of antidumping duty have altered to such an extent that there is no longer justification for continued imposition of duty or to ascertain that if such duty is revoked there is imminent danger of the material injury to the domestic industry. The inquiry is limited to the change in the various parameters like the normal value; export price, dumping margin, fixation of non-injurious price and injury to domestic industry. The sunset review is undertaken for the purpose of not for imposition of anti-dumping duty but to see whether the revocation of such anti-dumping duty, dumping would increase and whether the domestic industry will suffer."
(emphasis supplied)

56. In *Borax Morarji Limited vs. Designated Authority*¹⁷, the Tribunal noted that:

"10. With respect to the injury determination, if the anti-dumping duty had the desired effect, the condition of the domestic industry would be expected to have improved during the period the antidumping duty was in effect. Therefore, the assessment whether injury will continue, or recur, would entail a counter-factual analysis of future events, based on projected levels of dumped imports, prices, and impact on domestic producers. Thus the D.A. has to address the question as to whether the domestic industry is likely to be materially injured again, if duties are lifted."

57. The Tribunal in *M/s SI Group India Private Limited vs. Designated Authority and The Union of India*¹⁸ also observed as follows:

"12. Thus, the object and purpose of the sunset review as explained in the aforesaid judgments, precisely is to examine as to whether on removal of anti-dumping duty, there is likelihood of recurrence of dumping and injury to the domestic industry. It has also been held that the degree and extent of

dumping and consequent injury to the domestic industry during the POI is not of much relevance.

13. The mandate or requirement under Section 9A(5) of CTA, 1975 read with Rule 23 of Anti-dumping Rules, 1995 and Annexure-II (vii) is that the authority has to examine all relevant aspects to ascertain the likelihood of dumping and injury, once the present anti-dumping duty is removed. It is obvious that such determination cannot be based on a guess work or on mere assumption & presumption, but definitely to rest on the past & present facts, influencing the trend of dumping, resultant injury, performance and other relevant economic and other factors relating to the domestic Industries as well as the exporting Industries/countries to analyse and arrive at a probable situation of continuation of dumping and injury in future to the domestic industry. There is no dispute or quarrel on the fact that it should be on the basis of some tangible evidence. Therefore, the procedure prescribed to address the interest of all interested parties for imposition of anti dumping duty are also applicable to the sun set review proceedings even though with different objective."

(emphasis supplied)

58. What transpires from the aforesaid discussion is that though the anti-dumping duty imposed under sub-section (1) of section 9A of the Tariff Act shall cease to have effect on the expiry of five years from the date of such imposition, but under sub-section (5) of section 9A, the Central Government, in a review, can extend the period of such imposition for a further period of five years if the Central Government is of the opinion that cessation of such duty is likely to lead to continuance or recurrence of dumping and injury. Rule 23 of the Anti-Dumping Rules provides that though the definitive anti-dumping duty shall be effective for a period not exceeding five years from the date of its publication, but an exception has been culled out namely that the designated authority can extend the period provided the designated authority comes to a conclusion upon a duly substantiated request by the domestic industry that the expiry of the anti-dumping duty would likely lead to continuation or recurrence of dumping and injury to the domestic industry. It also provides that rule 11 of the Anti-Dumping Rules would also be applicable to sunset reviews and rule 11 of the Anti-Dumping Rules requires the designated authority to determine threat of injury to the domestic industry taking into account all relevant facts in accordance with the principles set out in Annexure II of the Rules. Clause (vii) of Annexure II provides that a determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility and that the change in circumstances which would create a

situation in which the dumping would cause injury must be clearly foreseen and imminent. This has also been provided in the 1994 Agreement. It, therefore, follows that under the aforesaid statutory scheme, the designated authority is mandated to AD/51490/2021 & ors undertake a rigorous examination of all the following three factors before deciding to continue the anti-dumping duty:

- (i) There is a duly substantiated request made by the domestic industry which implies that the domestic industry has to provide cogent evidence to substantiate its claim;*
- (ii) There is a likelihood of continuation or recurrence of dumping in case duties are revoked; and*
- (iii) There is likelihood of continuation or recurrence of injury to the domestic industry in case duties are revoked.*

59. Leaned senior counsel for the appellant submitted that the likelihood of injury on the revocation of anti-dumping duty has to be ascertained from the sale prices of exports to third countries where no anti-dumping duties are in operation and in the present case the designated authority itself found as a fact that 50-60 percent of the exports to third countries by the participating producer/ exporters from China PR are at prices below the NIP and in the case of Indonesia 80-90 percent of exports to third countries by PT Asia Pacific Rayon and PT South Pacific Viscose are at prices below the NIP. The submission, therefore, is that though the designated authority noted that export to third countries are at injurious prices but it failed to draw the obvious conclusion that on the expiry of the duty, the imports were likely to come to India at third country export prices, which would result in significant injury to the domestic industry. In this connection learned senior counsel placed a Table from the final findings contained in paragraphs 129 and 130 and the same is as follows:

“129. Information with respect to third country injurious exports in case of responding producers/exporters from subject countries is given below:

Particulars	Total Exports to third countries (MT)	Exports to third countries at prices below NIP (MT)	% of Exports to third countries at prices below NIP	% of Exports to third countries at prices below NIP (range)
Sateri (Fujian) Fibre Co., Ltd	***	***	***	50-60

PTAsiaPacific Rayon	***	***	***	80-90
PT.SouthPacific Viscose	***	***	***	80-90

130. It can be seen that 50-60% of the exports to third countries by the participating producer/exporter from China PR are at prices below the NIP. In case of Indonesia, 80-90% of exports to third countries by APR and SPV are at prices below the NIP."

60. Learned senior counsel for the appellant also submitted that the likelihood of diversion of exports from other markets to India has to be examined with reference to the price attractiveness of the Indian market. In this connection learned senior counsel pointed out that the designated authority itself found that 55-65 percent of the exports to third countries by the participating producer/exporter from China PR are at prices below the export price to India and in the case of Indonesia 65-75 percent of exports to third countries by PT Asia Pacific Rayon are at prices below the export prices to India and 85-95 percent of exports to third countries by PT South Pacific Viscose are at prices below the export price to India. It is for this reason that the learned senior counsel submitted that since the export price to third countries are much lower than the export prices from the subject countries to India, there is a good possibility of diversion of substantial quantities to India on expiry of the anti-dumping duty. Thus, if the anti-dumping duty, according to the learned senior, is revoked India would become the most attractive destination for dumping since it would be offering much better prices. The Table contained in the final findings, on which reliance has been placed, is reproduced below:

"131. Information with respect to price attractiveness in case of responding producers is given below:

Particulars	Total Exports to Third countries	Exports to third Countries at prices below	%of Exports to Third countries	%of Exports to Third countries
Sateri(Fujian) FibreCo., Ltd	***	***	***	55-65%
PT Asia Pacific Rayon	***	***	***	65-75%

PT. South Pacific Viscose	***	***	***	85-95%
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132. It can be seen that 55-65% of the exports to third countries by the participating producer/exporter from China PR are at prices below the exports price to India. In case of Indonesia, 65-75% of exports to third countries by APR are at prices below the export price to India and 85- 95% of exports to third countries by SPV are at price below the export price to India."

61. Learned senior counsel for the appellant also submitted that the likelihood of injury is also established from the fact that 62 percent of the exports from China and about 24 percent of the exports from Indonesia to India were below the NIP of domestic industry. In this connection learned senior counsel pointed out that a significant quantity of exports made during the period of investigation were already at injurious prices but still the designated authority failed to draw a conclusion that future prices would also be below NIP and would cause significant injury to the domestic industry. Paragraph 133 of the final findings, which have been placed in this connection, are reproduced below:

"133. The Authority has examined the volume of imports which are below the NIP and NSR of the domestic industry and is shown below. It is seen that there are significant imports below the NIP and NSR of the domestic industry.

SN	Particulars	UOM	China PR	Indonesia
1	Total imports (excluding imports for April- June 2020 quarter)	MT	2,112	14,526
2	Imports below NIP	MT	1,308	3,539
3	Imports below NSR	MT	1,331	4,967
4	% of injurious imports	%	62%	24%
5	% of imports below NSR	%	63%	34%

62. These are some of the relevant factors which were required to be examined by the designated authority to determine whether it was necessary to extend the period of anti-dumping duty for a further period of five years after cessation of the existing anti- dumping duty, but they have not been taken into consideration in the final findings.

63. What also transpires from the final findings is that continued dumping by the subject countries in India has continued despite the imposition of anti-dumping duty. The designated authority, while examining the aspect of likelihood of injury, recorded a finding that likelihood or recurrence of injury to the domestic industry was not strong enough to warrant continuation of duties beyond 11 years. The designated authority further held that there are insignificant surplus capacities with the responding producers/exporters in the subject countries, which can be used to increase their exports to India in event of revocation of duty. What was required to be examined by the designated authority was whether withdrawal of anti-dumping duty would lead to continuance or recurrence of dumping as well as injury to the domestic industry. Mere continued levy of anti-dumping duty for 11 years cannot be made a ground to conclude that there is no requirement to continue anti-dumping duty.

64. This apart, the level of future imports cannot be evaluated by taking into consideration only the surplus capacity of the producers who have exported goods during period of investigation or those who have participated in the investigations. There are a large number of producers of the subject goods in China, who may not be exporting the subject goods to India on account of the anti-dumping duty in force. These exporters may start exporting the subject goods to India due to idle capacities available with them. The surplus or idle capacity has to be examined for both China and Indonesia as a whole and information in regard to a small percentage of the total exporters and producers in China for the likelihood analysis would not be a correct method for determination. In fact, in the disclosure statement, the designated authority had examined the surplus capacity for these countries as a whole and found surplus capacity of 36% in China and 64% in Indonesia. It needs to be noted that on the basis of the information furnished by the Sateri Group in China, the disclosure statement recorded that there are significant surplus capacity available with the Sateri Group, but after the disclosure statement the designated authority concluded that there is no surplus capacity with the Sateri Group for the reason that the capacity utilisation of the Sateri Group was low since the production had started only in December 2019. It was incumbent on the designated authority to have examined the relevant factors, including ascertaining whether the production of the Sateri Group in the post period of investigation was exported to India and at what prices. The same error appears to have been committed by the designated authority in the case of PT Asia Pacific Rayon, Indonesia. The exporting companies from Indonesia also admitted surplus capacity in the range of 0-10 percent for PT Asia Pacific Rayon and 40-50 percent for PT South Pacific Viscose.

65. *The information of the participating producers in China constitutes less than 10% of the total capacity in China. It would also be pertinent to refer to the capacity determined by the designated authority in the previous sunset review final findings dated 08.07.2016 and the relevant portion is reproduced below:*

“122. In case of China also there are huge production capacities in the country. The total Indian demand is in the range of 300,000 MT which is less than 10% of the total installed capacity in China. In case of cessation of Anti-Dumping Duties, the Indian market will become very attractive to the exporters and there is every likelihood that imports at dumped prices from the subject countries will further intensify.”

66. *The findings recorded in the earlier sunset review assume importance unless it is demonstrated, as a fact, that the surplus capacity in China has reduced sufficiently, more particularly when the data furnished by the Sateri group is not representative of China as a whole. In fact, it has been pointed out that the capacities available with the Sateri group alone are nearly 4.90 times of the total demand in India for the subject goods. The Indian market will, therefore, become very attractive for this group, in case of cessation of anti-dumping duty.*

67. *The designated authority had, in this connection, relied upon the Hawkins Report and the Wood Mackenzie Red Book in the disclosure statement, but has discarded them in the final findings without assigning any good reason and relied solely on the data of the participating producers.*

68. *The contention of learned counsel for the respondent is that the Hawkins Report and the Wood Mackenzie Red Book cannot be taken into consideration as they have not been disclosed to the interested parties.*

69. *This report was relied upon by the appellant to substantiate that there existed unutilized surplus capacity of the subject goods with the exporting countries. A claim for the confidentiality of the report was made on the following basis:*

“The documents containing the capacity, demand and production of subject goods in the subject countries are third party information which the applicant is not authorized to disclose. Applicant has provided the source of the information and the actual information.”

70. *Learned senior counsel for the appellant submitted that since the reports were confidential and the appellant was specifically barred from sharing these reports*

with third parties, the same could not have been disclosed but a non-confidential version of the report had been supplied. In this connection reliance has been placed on article 6.5 of the 1994 Agreement, which is reproduced below:

“6.5 Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the authorities. Such information shall not be disclosed without specific permission of the party submitting it.”

71. The designated authority correctly allowed the claim for confidentiality made by the appellant in terms of rule 7 of the Anti-Dumping Rules.

72. The appellant had also provided a non-confidential summary of the information, which is as follows:

73. According to the appellant, the information contained in the aforesaid two reports have been summarized in the aforesaid table and that even otherwise the capacity of the exporting country is in the knowledge of the foreign exporters and producers. The claim made by the domestic industry based on these reports could have been rebutted by the exporters by providing evidence regarding the actual capacity in the subject countries. In fact the exporters questionnaire part-II requires the participating exporters and producers to not only provide information relating to their own production and sales but also of other producers in domestic market. However, the foreign exporters failed to provide such information.

74. The designated authority, therefore, completely mis-directed itself in restricting the surplus capacity of the producers to those who had exported the goods during the period of investigation instead of examining the capacity of both China and Indonesia as a whole.

75. Learned authorised representative for the Department has, however, placed reliance upon the decision of the Delhi High Court in Eveready Industries India Ltd. to contend that the Tribunal should refrain from deciding the correctness of the final findings of the designated authority.

76. *This decision would not come to the aid of the respondent for the reason that the High Court had, in a Writ Petition under article 226 of the Constitution, refused to interfere with the final findings of the designated authority since the final findings addressed all the legal requirements. This decision does not hold that the final findings of the designated authority cannot be examined by the Tribunal. The relevant observations of the High Court, contained in paragraph 42 of the judgment, are reproduced below:*

“42. The Court cannot don the mantle of an economic analyst to decide whether the DA adopted the correct approach; as long as the final findings addressed all the legal requirements, and considered the factors outlined in the rules (as the DA did in this case) without a showing of procedural irregularity or illegality, the Court cannot interfere under Article 226 of the Constitution.”

77. *Learned counsel for the respondent also submitted that the aforesaid two reports contain information on capacity of all types of viscose staple fibre, including the categories that were excluded from the scope of the product under consideration.*

78. *Learned senior counsel for the appellant, however, submitted that it is not open to the respondent to raise this issue for the first time before the Tribunal as this objection was not raised in the written submissions filed pursuant to the public hearing nor such objection is recorded in the disclosure statement. Even otherwise, according to the learned senior counsel, the production process and the plant for all types of viscose staple fibre other than Lyocell are similar.*

79. *When the respondent had not raised this objection at the appropriate time, it is not open to them to raise this objection for the first time in this appeal.*

80. *Learned counsel for the respondent also submitted that the domestic industry unilaterally altered the scope of the product and consideration in the sunset review, which alteration was wrongly accepted by the designated authority.*

81. *This submission cannot be accepted. The applicant had requested for imposition of anti-dumping duty on a narrower scope of the product under consideration and had not made any claim for enlargement of the product under consideration in the sunset review proceedings. It is the prerogative of the domestic industry to make a claim for imposition of duty on the types of product and neither section 9A (5) of the Tariff Act nor rule 23 of the Anti-Dumping Rules bars the*

designated authority from restricting the scope of the product under consideration in a sunset review. No prejudice can be said to have been caused to the foreign exporters if the product under consideration is restricted in a sunset review and in fact the foreign exporters would benefit if the anti-dumping duty is not levied on the products excluded from the scope of the product under consideration. The designated authority in the final findings had rejected this contention of the respondents and the observations are as follows:

“14..... In the application for current sunset review investigation, the applicant requested Authority to exclude Modal Fibre, Non-Woven Fibre, Flame Retardant Fibre, Eco Fibre, Spun Dyed Fibre, Tencel Fibre (or Lyocel) and Outlast Viscose Fibre. The exclusion request was accepted by the Authority at the time of the initiation of the investigation and accordingly the scope of the product under consideration was restricted/ narrowed down. The Authority notes that there is no bar either under the Act or under the Rules on narrowing down the scope of product under consideration in a sunset review particularly when the domestic industry has itself requested for narrowing down the scope of production under consideration as they no longer need protection on the excluded grades/types.

15. The Authority has restricted the scope of product under consideration in several sunset review investigations in the past at the time of initiation. Further, it has not been established by the interested parties how curtailment of the scope of the product under consideration has caused prejudice to their interests. The Domestic industry did make the request for limiting the scope of the product under consideration at the initiation stage itself. Had the Authority proceeded with the investigation without acceding to the request for the exclusion of these type/ grades of production under consideration, it might have resulted in imposition of anti-dumping duty on the types/grades for which the applicant/domestic industry did not want any protection. Moreover, curtailment of the scope of product under consideration cannot cause prejudice to the interested parties opposing imposition of anti-dumping duty. Therefore, the scope of product under consideration was curtailed at the stage of initiation itself.

139. With regard to the submission concerning exclusion of certain product types from the scope of the production under consideration at the time of initiation itself, the Authority notes that Article 11 of Anti- dumping Agreement states that an anti- dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping, which is causing

injury. This implies that it is within the powers of the Authority to restrict the scope of production under consideration at the time of initiation itself if the domestic industry has categorically made a request that it no longer requires extension of anti-dumping duty on certain product types. It is noted that Article 11.1 of the Anti-Dumping Agreement which sets the applicable requirement for a Review Investigation reads as under:

“An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury.”

Similarly, Rule 23 (1) of the Anti-Dumping Rules, 1995 is an umbrella provision for review investigations which puts forth an obligation on the Authority that an anti-dumping duty imposed under Section 9A of the Act, shall remain in force only for the time period and to the extent it is necessary to counteract dumping which is causing injury.

Ordinary meaning of the word extent is “point, degree, or limit” and the meaning of the term necessary is “needed to be done, achieved, or present; essential.”

Thereby Rule 23(1) provides for a limitation on the Authority while carrying out a Sunset Review Investigation under Rule 23(1B) that an extension of the duty/imposition of duty is an exceptional circumstance and this extension can only be done to the extent necessary to counteract dumping causing injury.

In consonance with the above Rules and as per the request made by applicant to exclude Modal Fibre, Non- Woven Fibre, Flame Retardant Fibre, Eco Fibre, Spun Dyed Fibre, Tencel Fibre (or Lyocel) and Outlast ViscoseFibre, the Authority has considered the request particularly when the applicant itself is not interested in extension of duty on the above product types which were earlier within the scope of the product under consideration. Therefore, by applying Article 11.1 which sets a guiding principle for review investigations and Rule 23(1), which is verbatim Article 11.1 for the Indian Review Investigations, the Authority has restricted the product scope applying the principle “to the extent necessary” as envisaged under Rule 23(1) at the stage of initiation itself preventing the futile exercise by the Authority. Had the Authority initiated the review investigation on the above said products despite the request of the domestic industry, it would have been a waste of resource and time.”

82. *The inevitable conclusion, therefore, that follows from the aforesaid discussion is that the designated authority should re-examine whether the cessation of anti-dumping duty would likely lead to continuation or recurrence of injury so as to warrant imposition of anti-dumping duty for a further period of five years. It needs to be noted that the designated authority had recorded a categorical finding that cessation of anti-dumping duty would lead to continuation or recurrence of dumping and even with regard to the injury aspect, the designated authority did hold that cessation of anti-dumping duty would lead to continuation or recurrence of injury, but it further held that such injury was not strong enough to warrant continuation of anti-dumping duty for a further period of five years. Thus, all that would have to be re-examined by the designated authority, on remand, is as to whether cessation of anti-dumping duty would likely lead to continuation or recurrence of injury warranting imposition of anti-dumping duty for a further period of five years.*

83. *In Anti-Dumping Appeal No. 51832 of 2021, Anti-Dumping Appeal No. 51833 of 2021, Anti-Dumping Appeal No. 51834 of 2021, Anti-Dumping Appeal No. 51868 of 2021, Anti-Dumping Appeal No. 51869 of 2021 and Anti-Dumping Appeal No. 50570 of 2022 the following submissions have been made:*

- (i) The designated authority committed an error by initiating and conducting investigation when anti-dumping duties had already lapsed;*
- (ii) The scope of the product under consideration was unilaterally altered in the sunset review investigation;*
- (iii) The designated authority committed an error in holding that there was a likelihood of continuation and recurrence of injury; and*
- (iv) The designated authority committed an error in this regarding the findings recorded by the Competition Commission of India against the domestic industry.*

84. *The first, second and third submissions have already been considered and rejected.*

85. *The fourth contention is that the findings recorded by the Competition Commission of India against the domestic industry have been disregarded.*

86. *This submission cannot be accepted. The findings recorded by the Competition Commission of India would have no relevance when the designated authority proceeds to take a decision in the context of imposition of anti-dumping duty for the reason that the Tariff Act and the Competition Act, 2002 operate in different*

fields. This apart, the period examined by the Competition Commission for determining anti-competitive behavior was upto financial year 2016-17, whereas the injury period in the sunset review was for 2017-18, 2018-19, 2019-20 and 01.10.2019 to 30.09.2020. This issue has also been correctly appreciated by the designated authority in its final findings and the relevant portion is reproduced below:

87. Anti-Dumping Appeal No. 51872 of 2021 has been filed raising the following issues:

- (i) Initiation of the second sunset review by the designated authority was illegal because there was no legally valid anti-dumping duty in force;*
- (ii) The revision of the scope of the product under consideration by the designated authority was arbitrary and unjustified;*
- (iii) Complete disregard of Competition Commission of India report by the designated authority; and*
- (iv) Non-consideration of post-investigation period data of domestic industry was against established principles.*

88. The first three issues raised have already been considered and rejected. It needs to be noted that the designated authority, in its final findings, has considered the information for the injury investigation period, including the post investigation period data in paragraph 143 of the final findings.

89. In the result, for all the reasons stated above,

- (i) Anti-Dumping Appeal No. 51490 of 2021 is allowed to the extent that the designated authority shall re-examine and give a fresh finding as to whether cessation of anti-dumping duty would likely lead to continuation or recurrence of injury so as to warrant imposition of anti-dumping duty for a further period of five years. The final findings dated 30.07.2021 of the designated authority, therefore, stand modified to this extent. The final findings shall thereafter, be submitted to the Central Government for further action in accordance with the provisions of the Tariff Act;*
- (ii) Anti-Dumping Appeal Nos. 51832 of 2021, 51833 of 2021, 51834 of 2021, 51868 of 2021, 51869 of 2021, 51872 of 2021 and 50570 of 2022 are dismissed.*

B. PROCEDURE

5. The procedure described below has been followed in this remand investigation:

- i. The Designated Authority requested interested parties vide email dated 12th July 2022 and 19th July 2022 to provide post POI data for the period of 1st October 2020 – 31st March 2022 in the prescribed format. The Designated Authority conducted an oral hearing in the remand proceedings on 26th July 2022. The Designated Authority directed interested parties to provide post POI data by 1st August 2022, file written submissions on 5th August 2022 and rejoinder submissions on 10th August 2022. The Authority additionally conducted a physical hearing with the user industry and directed them to file written submissions. The domestic industry was granted an opportunity to give their rejoinder submissions to submissions raised by the user industry.
- ii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority holds to accept the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- iii. The Authority made available the non-confidential version of the submissions made by the various interested parties to all the parties participating in the investigation. An updated list of all the interested parties was uploaded on the DGTR website along with the request to all of them to email the non-confidential version of their submissions to all the other interested parties since the public file was not accessible physically due to the ongoing COVID-19 global pandemic.
- iv. The period of investigation for the purpose of the present investigation has been considered from 1st October 2019 – 30th September 2020 (“**POI**”). The injury investigation period is the period of 1st April 2017 – 31st March 2018, 1st April 2018 – 31st March 2019, 1st April 2019 – 31st March 2020 and the POI. Additional/supplementary information requested from interested parties for the post POI period has also been examined by the Authority.
- v. Following interested parties have participated and made submissions during the course of remand investigation:
 - a. Association of Man-Made Fibre Industry of India on behalf M/s Grasim Industries Ltd.
 - b. P.T. Indo Bharat Rayon, Indonesia
 - c. Birla JingwelFibres Company Limited, China PR
 - d. Embassy of Indonesia
 - e. PT Asia Pacific Rayon – Indonesia

- f. Asia Fibre Trading Pte. Ltd. – Singapore
 - g. Sateri (Fujian) Fibre Co. Ltd. – China PR
 - h. PT.South Pacific Viscose (SPV)– Indonesia
 - i. Indian Manmade Yarn Manufactures Association
 - j. Confederation of Indian Textile Industries (CITI)
 - k. Indian Texpreneuers Federation (ITF)
 - l. Denim Manufacturers Association (DMA)
 - m. The Southern India Mills’ Association (SIMA)
 - n. Tamilnadu Spinning Mills Association
 - o. Indian Spinners Association
 - p. Pallava Textiles Private Limited
 - q. Sri Cheran Synthetics (India) Private Limited
- vi. Verification of the data provided by the domestic industry and other interested parties was conducted to the extent considered necessary for the purpose of the investigation.
 - vii. The Non-injurious Price (NIP) is based on the cost of production and cost to make and 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 AD Rules. It has been worked out so as to ascertain whether duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
 - viii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and DG-Systems to provide the transaction-wise details of imports of subject goods for the injury period. The same has been relied upon for computation of the volume and value of imports.
 - ix. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final finding.
 - x. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded this final finding on the basis of the facts available.

- xi. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 22nd September 2022 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these final findings.
- xii. *** in this final finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xiii. The exchange rate adopted by the Authority during the POI for the subject investigations is 1 US\$= Rs. 74.38.

C. PRODUCT UNDERCONSIDERATION AND LIKEARTICLE

- 6. The Authority at the stage of initiation of second sunset review, read with corrigendum to the initiation notification, defined the product under consideration as under:

“Viscose Staple Fibre excluding

- a. Bamboo fibre*
- b. Modal fibre*
- c. Non-woven fibre*
- d. Flame retardant fibre*
- e. Eco fibre (Eco Vero or EV)*
- f. Spun Dyed fibre*
- g. Tencel fibre (or Lyocell) and Outlast Viscose fibre”*

C.1. Submissions made by the applicant

- 7. There are no submissions by the applicant regarding the scope of the PUC in this remand investigation.

C.2. Submissions made by other interested parties

- 8. There are no submissions by other interested parties regarding the scope of the PUC in this remand investigation.

C.3. Examination by the Authority

9. The Authority has already examined the issue of scope of the PUC in Section C in the final findings issued in second sunset review investigation. CESTAT has not directed the Authority to re-examine the scope of the PUC.
10. The Authority confirms the following scope of the PUC as per the final findings dated 31st July 2021.

“The scope of product under consideration in the present investigation is restricted to only Viscose Staple Fibre (VSF) excluding:

- a) Bamboo Fibre*
- b) Modal Fibre*
- c) Non-Woven Fibre*
- d) Flame Retardant Fibre*
- e) Eco Fibre (Eco Vero or EV)*
- f) Spun Dyed Fibre*
- g) Tencel Fibre (or Lyocel) and Outlast Viscose Fibre”*

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

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

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

D.1. Submissions made by the applicant

12. There are no submissions by the applicant regarding the standing of the domestic industry in this remand investigation.

D.2. Submissions made by the other interested parties

13. There are no submissions made by other interested parties regarding the standing of the domestic industry in this remand investigation.

D.3. Examination by the Authority

14. The Authority has already examined the issue of standing of the domestic industry in Section D in the final findings issued in second sunset review investigation. CESTAT has not directed the Authority to re-examine the standing of the domestic industry.
15. The Authority holds to reconfirm the standing of the domestic industry as per the final findings dated 31st July 2021 as follows:

“Having regard to the definition under Rule 2(b) of AD Rules, past determinations made by the Authority in original and the first sunset review investigation, and considering the facts on record of the present case, the Authority concludes that there is no justification to consider Grasim Industries Limited as ineligible domestic industry under Rule 2(b) of the AD Rules. Accordingly, the Authority considers Grasim Industries Limited as eligible domestic industry within the meaning of Rule 2(b) of the AD Rules.

Considering the above, the Authority holds that application satisfies the requirement of standing and Grasim Industries Limited constitutes ‘domestic industry’ within the meaning of the AD Rules.”

E. CONFIDENTIALITY

16. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provide as follows:

“Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and sub-rule(4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.”

E.1. Submissions made by the applicant

17. There are no submissions made by the domestic industry with regard to confidentiality in this remand investigation.

E.2. Submissions made by the other interested parties

18. There are no submissions made by the other interested parties with regard to confidentiality in this remand investigation.

E.3. Examination by the Authority

19. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties as per Rule 6(7).
20. The Authority notes that the information provided by the interested parties on confidential basis was duly 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 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. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.
21. Updated list of all interested parties for this remand investigation was uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to ongoing global pandemic.

F. MISCELLANEOUS ISSUES

F.1. Submissions by the applicant

22. The applicant made the following submissions during the remand proceedings:
 - a. There is no requirement for examination of post POI data in this remand investigation. The Authority did not consider it appropriate to examine post POI data at the time of sunset review investigation. CESTAT has not directed the Authority to examine post POI data.
 - b. Even if post POI data is examined, the relevant post POI period of October 2021 to March 2022 should be examined. Post POI period of October 2020 to September 2021 is irrelevant because anti-dumping duty was in existence during this period. The relevant post period of investigation is required to be seen in detail by segregating the same into two quarters.
 - c. Views considered by the Authority in the disclosure statement and the final finding of the sunset review investigation were completely contradictory to each other. The Authority has to either confirm the disclosure statement or disclose the facts that the Authority has found after issuing disclosure statement which has led to change in conclusion.

- d. Disregarding the information for the very first time in the final findings is clearly in breach of the principles of natural justice. Comments to disclosure statement is not the stage to bring in new evidence or fact.

F.2. Submissions made by the other interested parties

23. The other interested parties have made following submissions during the remand proceedings:
 - a. Oral hearing conducted by the Authority was pre-mature as the same was conducted without waiting for post-POI data received from the interested parties. Oral hearing should be re-conducted after receiving post-POI data.
 - b. The Authority is justified in seeking post POI data. Examination of post POI data will allow determination of likelihood of injury based on the facts instead of conjectures.
 - c. Post POI data has been considered in the remand investigations in the past even when post POI data was not considered at the time of investigation. Entire post POI data from October 2020 to March 2022 is relevant.

F.3. Examination by the Authority

24. The Authority has requested the interested parties to furnish the post POI data so that latest and most recent information regarding imports into India from subject countries, situation of the domestic industry, and the surplus capacities and export orientation of foreign producers/exporters can be examined. Post POI data period will also include the period of six months during which no anti-dumping duty was in force on imports of the PUC from the subject countries. Actual situation of imports and the domestic industry during this period will be relevant for determining likelihood of injury if the same situation of no anti-dumping duty is continued.
25. All the facts and observations made by the Authority in the disclosure statement and in the final findings of the sunset review investigation regarding assessment for likelihood of injury are *ipso facto* irrelevant for the purpose of present remand proceedings unless specifically contained or admitted in the present disclosure statement.
26. The present final finding discloses all essential facts and information that are considered relevant. Consideration or non-consideration of information in the disclosure statement issued at the time of sunset review investigation is irrelevant for the purpose of present remand investigation.
27. The Authority has given sufficient opportunity to the interested parties to furnish post POI data and also to respond to the post POI data submitted by the other interested parties.

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

G.1. Submissions made by the applicant

28. There are no submissions by the applicant regarding determination of normal value, export price and dumping margin.

G.2. Submissions made by the other interested parties

29. There are no submissions by the other interested parties regarding determination of normal value, export price and dumping margin.

G.3. Examination by the Authority

30. The Authority has already examined the issue of determination of normal value, export price and dumping margin in the Section G in the final findings issued in second sunset review investigation. CESTAT has not directed the Authority to re-examine the determination of normal value, export price and dumping margin.
31. The Authority holds to confirm its examination in Section G of the final findings regarding determination of normal value, export price and dumping margin. Accordingly, Authority confirms to confirm the dumping margin determined by the Authority in the sunset review investigation as follows:

Quarter-wise Dumping Margin:

Sateri (Fujian) Fibre Co. Limited.					
Quarter	Qty-KG	Export Price (USD)	Export Price USD Per MT	NV US\$ per MT	DM US\$
Oct- Dec 2019	***	***	***	***	***
Jan- March 2020	***	***	***	***	***
July- Sep 2020	***	***	***	***	***
Wt. Avg	***	***	***	***	***
PT Asia Pacific Rayon					
Quarter	Qty-KG	Export Price (USD)	Export Price USD Per MT	NV US\$ per MT	DM US\$
Jan- March 2020	***	***	***	***	***
July- Sep 2020	***	***	***	***	***
Wt. Avg	***	***	***	***	***

PT. South Pacific Viscose (SPV)					
Quarter	Qty-KG	Export Price (USD)	Export Price USD Per MT	NV US\$ per MT	DM US\$
Oct- Dec 2019	***	***	***	***	***
Jan- March 2020	***	***	***	***	***
July- Sep 2020	***	***	***	***	***
Wt. Avg	***	***	***	***	***

Dumping Margin Table

SN	Particulars	Normal Value	Export price	Dumping margin	Dumping margin	Range
		USD/MT	USD/MT	USD/MT	%	
1	China PR					
a	Sateri (Fujian) Fibre Co. Limited.	***	***	***	***	10-20%
b	Any other producer	***	***	***	***	20-30%
2	Indonesia					
a	PT Asia Pacific Rayon	***	***	***	***	15-25%
b	PT. South Pacific Viscose (SPV)	***	***	***	***	30-40%
c	Any other producer	***	***	***	***	60-70%

32. It can be seen from the above table that the dumping margin is above de-minimis level. The Authority concludes that the product under consideration has continued to be dumped in the Indian market.

H. INJURY AND CAUSAL LINK

H.1. Submissions made by the applicant

33. There are no submissions by the applicant regarding determination of material injury during the injury investigation period in this remand investigation.

H.2. Submissions made by the other interested parties

34. There are no submissions by the other interested parties regarding determination of material injury during the injury investigation period in this remand investigation.

H.3. Examination by the Authority

35. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve an examination of factors that may indicate injury to the domestic industry, “... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India or whether the effect of such imports is otherwise to depress prices to a significant degree or to prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.
36. The Authority has examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury.
37. In order to reduce the extent of the impact of Covid-19 pandemic on the injury analysis, the lockdown period of Apr-Jun 2020 has been taken out and data for remaining nine months of POI has been annualized to bring objectivity in injury analysis.

H.3.1. Assessment of Demand

38. The Authority has determined demand or apparent consumption of the PUC in India, as the sum of domestic sales of the Indian Producers, and imports from all sources. The demand so assessed is given in the table below.

SN	Particulars	UOM	2017-18	2018-19	2019-20	POI	
						9M	Ann
1	Imports from subject countries	MT	15,429	25,290	24,799	16,638	22,185
2	Imports from other countries	MT	1,065	1,066	7,687	3,552	4,736
3	Domestic sales	MT	***	***	***	***	***
	Trend	Indexed	100	127	135	132	132
4	Total demand	MT	***	***	***	***	***
	Trend	Indexed	100	129	139	133	133

39. It is seen that the demand of the subject goods continuously increased till the year 2019-20 but declined slightly in the period of investigation because of Covid-19 pandemic.

H.3.2. Volume effect of dumped imports

40. The effect of the volume of dumped imports from the subject countries as well as imports from other countries has been examined by the Authority as follows.

SN	Particulars	Unit	2017-18	2018-19	2019-20	POI	
						9M	Ann
1	Subject Countries	MT	15,429	25,290	24,799	16,638	22,185
A	China PR	MT	1,223	2,337	4,340	2,112	2,816
B	Indonesia	MT	14,206	22,953	20,459	14,526	19,368
2	Subject countries import in relation to -						
A	Indian production	%	100	134	121	110	110
B	Consumption	%	100	127	116	108	108
C	Total imports	%	93.54%	95.96%	76.34%	82.41%	82.41%

41. It is seen that the volume of dumped imports of the PUC from the subject countries have declined in the period of investigation.

H.3.3. Price effect of dumped imports

42. The impact on the prices of the domestic industry on account of dumped imports of the subject goods from the subject countries has been examined with reference to price undercutting and price suppression/depression, if any. For the purpose of this analysis the cost of sales and Net Sales Realization (NSR) of the domestic industry have been compared with the landed price of imports from the subject countries.

a. Price undercutting

43. Price undercutting has been determined by comparing the landed price of imports from the subject countries with the net sales realization of the domestic industry in India.

SN	Particulars	UOM	2017-18	2018-19	2019-20	POI	
						9M	Ann
1	Net Sales Realisation	Rs/MT	***	***	***	***	***
2	Subject countries as a whole						
A	Landed Price	Rs/MT	1,30,229	1,40,253	1,23,389	1,11,135	1,11,135
B	Price Undercutting	Rs/MT	***	***	***	***	***
C	Price Undercutting	%	***	***	***	***	***
D	Price Undercutting	Range	0-10%	0-10%	(0-10)%	(0-10)%	(0-10)%
3	China PR						
A	Landed Price	Rs/MT	1,37,973	1,45,553	1,20,477	1,12,476	1,12,476
B	Price Undercutting	Rs/MT	***	***	***	***	***
C	Price Undercutting	%	***	***	***	***	***

D	Price Undercutting	Range	0-10%	(0-10)%	0-10%	(0-10)%	(0-10)%
4	Indonesia						
A	Landed Price	Rs/MT	1,29,562	1,39,713	1,24,007	1,10,940	1,10,940
B	Price Undercutting	Rs/MT	***	***	***	***	***
C	Price Undercutting	%	***	***	***	***	***
D	Price Undercutting	Range	0-10%	0-10%	(0-10)%	(0-10)%	(0-10)%

44. The landed price of imports from the subject countries is above the selling price of the domestic industry during the period of investigation. Therefore, the price undercutting is negative.

b. Price suppression/depression

45. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority notes the changes in the costs and prices over the injury period.

SN	Particulars	UOM	2017-18	2018-19	2019-20	POI (Ann)
1	Landed price of imports	Rs/MT	1,30,229	1,40,253	1,23,389	1,11,135
	Trend	Indexed	100	108	95	85
2	Cost of sales	Rs/MT	***	***	***	***
	Trend	Indexed	100	104	98	89
3	Selling price	Rs/MT	***	***	***	***
	Trend	Indexed	100	103	87	78

46. It can be seen that the landed price of imports during the POI is significantly higher than the cost of sales and selling price of the domestic industry. Therefore, the imports cannot be said to be causing any price suppression or depression on the domestic industry.

c. Price underselling

SN	Particulars	UOM	Q3 2019-20	Q4 2019-20	Q2 2020-21	Average
1	Non-Injurious Price	Rs/MT	***	***	***	***
2	Subject countries as a whole					
A	Landed Price	Rs/MT	118,952	108,081	103,553	111,135
B	Price Underselling	Rs/MT	***	***	***	***
C	Price Underselling	%	***	***	***	***
D	Price Underselling	Range	Negative	0-10%	Negative	Negative
3	China PR					
A	Landed Price	Rs/MT	116,122	106,566	109,505	112,476

SN	Particulars	UOM	Q3 2019-20	Q4 2019-20	Q2 2020-21	Average
B	Price Underselling	Rs/MT	***	***	***	***
C	Price Underselling	%	***	***	***	***
D	Price Underselling	Range	Negative	0-10%	Negative	Negative
4	Indonesia					
A	Landed Price	Rs/MT	119,562	108,357	103,287	110,940
B	Price Underselling	Rs/MT	***	***	***	***
C	Price Underselling	%	***	***	***	***
D	Price Underselling	Range	Negative	0-10%	Negative	Negative

47. The price underselling from China PR and Indonesia are negative. Therefore, imports from the subject countries are coming into India at a price above the non-injurious price of the domestic industry.

H.3.4. Impact on economic parameters of the domestic industry

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

a. Capacity, production, capacity utilization and sales.

49. The Authority has considered capacity, production, capacity utilization and sales volume of the domestic industry over the injury period.

SN	Particulars	UOM	2017-18	2018-19	2019-20	POI	
						9M	Ann
1	Capacity	MT	5,05,725	5,45,605	5,84,820	4,44,745	5,92,993
	Trend	Indexed	100	108	116	117	117
2	Production - Plant	MT	4,99,250	5,41,151	5,67,008	4,05,178	5,40,237
	Trend	Indexed	100	108	114	108	108
3	Production - PUC	MT	***	***	***	***	***
	Trend	Indexed	100	122	132	131	131
4	Capacity Utilization	%	99%	99%	97%	91%	91%

	Trend	Indexed	100	100	98	92	92
5	Domestic sales	MT	***	***	***	***	***
	Trend	Indexed	100	132	152	146	146
6	Deemed export sales	MT	***	***	***	***	***
	Trend	Indexed	100	103	57	64	64
7	Gross Domestic Sales	MT	***	***	***	***	***
	Trend	Indexed	100	127	135	132	132

50. It is seen that: -

- a. The domestic industry has expanded its capacity continuously over the injury period.
- b. The domestic industry was operating at almost full capacity utilisation till 2019-20. The capacity utilisation of the domestic industry reduced during the POI due to Covid-19 disruption.
- c. Production and sales of domestic industry increased till 2019-20 but declined slightly in the period of investigation due to Covid-19 disruption.

b. Market share of the domestic industry in demand

51. The effect of the dumped imports on the market share of the domestic industry have been examined below.

SN	Particulars	UOM	2017-18	2018-19	2019-20	POI
1	Subject countries	%	100	127	116	108
2	Other countries	%	100	78	521	334
3	Domestic industry	%	100	99	98	99

52. It is seen that the market share of the domestic industry has constantly been more than 92% throughout the injury investigation period. The market share of domestic industry has increased during the POI despite Covid-19 disruption.

c. Inventory

53. Inventory position of the domestic industry over the injury period is given below: -

SN	Particulars	Unit	2017-18	2018-19	2019-20	POI
1	Opening inventory	MT	***	***	***	***
2	Closing inventory	MT	***	***	***	***
3	Average inventory	MT	***	***	***	***

	Trend	Indexed	100	70	162	222
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54. It is seen that the average inventory of the domestic industry declined in 2018-19 but increased in 2019-20 and further increased in the period of investigation.

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

55. Performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed.

SN	Particulars	UOM	2017-18	2018-19	2019-20	POI	
						9M	Ann
1	Cost of sales	₹/MT	***	***	***	***	***
	Trend	Indexed	100	104	98	89	89
2	Selling price	₹/MT	***	***	***	***	***
	Trend	Indexed	100	103	87	78	78
3	Profit / Loss	₹/MT	***	***	***	***	***
	Trend	Indexed	100	96	36	27	27
4	Profit / Loss	₹ Lacs	***	***	***	***	***
	Trend	Indexed	100	122	48	36	36
5	Cash profits	₹ Lacs	***	***	***	***	***
	Trend	Indexed	100	122	61	50	50
6	PBIT	₹ Lacs	***	***	***	***	***
	Trend	Indexed	100	121	55	41	41
7	Return on capital employed	%	***	***	***	***	***
	Trend	Indexed	100	101	48	37	37

56. It is seen that the domestic industry has been earning healthy profits and return on capital employed during the injury investigation period.

e. Employment, wages and productivity

57. The situation of the domestic industry with regard to employment, wages and productivity was examined.

SN	Particulars	UOM	2017-18	2018-19	2019-20	POI	
						9M	Ann
1	No of employees	Nos	***	***	***	***	***
	Trend	Indexed	100	98	94	92	92
2	Salary & wages	₹ Lacs	***	***	***	***	***
	Trend	Indexed	100	118	122	119	119

3	Productivity per day	MT/Day	***	***	***	***	***
	Trend	Indexed	100	108	114	108	108
4	Productivity per employee	MT/Nos	***	***	***	***	***
	Trend	Indexed	100	110	121	118	118

58. It is seen that employment levels of the domestic industry have remained more or less stable over the injury period. The productivity per employee and per day increased till 2019-20 but slightly declined in POI due to decline in production.

f. Magnitude of dumping

59. It can be seen that the dumping margin is more than *de-minimis*.

g. Ability to raise fresh capital

60. The Authority notes that the domestic industry has been continuously undertaking capacity expansion during the injury investigation period and also during the post POI period. Therefore, their ability to raise fresh capital has not been impacted.

I. CAUSAL LINK

61. The Authority has already examined the issue of determination of causal link in Section I in the final findings issued in second sunset review investigation. CESTAT has not directed the Authority to re-examine the determination of landed value, non-injurious price and injury margin.

62. Authority confirms its examination in Section I of the final findings regarding existence of causal link as follows:

a. Volume and price of imports from third country

63. Besides the subject countries, imports above *de-minimis* limits are from Thailand. It is seen that the landed price of imports from Thailand is above the selling price and the non-injurious price of the domestic industry.

b. Contraction in Demand and / or Changes in pattern of Consumption

64. The demand of the subject goods has declined in the period of investigation. As already examined above, the decline in demand was due to Covid-19. The pattern of consumption with regard to product under consideration has not undergone any change.

c. Development of technology

65. The Authority notes that technology for production of the product has not undergone any change.

d. Trade restrictive practices

66. The Authority notes that there is no trade restrictive practice.

e. Export performance

67. It is seen that the exports of the domestic industry have increased in the period of investigation. In any case, Authority has considered data for the domestic operations only.

f. Performance of other products

68. The Authority has considered the data relating to the performance of the subject goods only.

J. MAGNITUDE OF INJURY MARGIN

69. The Authority has already examined the issue of determination of landed value, non-injurious price and injury margin in Section J in the final findings issued in second sunset review investigation. CESTAT has not directed the Authority to re-examine the determination of landed value, non-injurious price and injury margin.

70. Authority also confirms the landed value, non-injurious price and injury margin determined by the Authority in the sunset review investigation as follows:

Quarter-Wise Injury Margin

Sateri (Fujian) Fibre Co. Limited.

Quarter	Qty-KG	CIF Price (US\$)	Landed Value US\$ Per MT	NIP US\$ per MT	Injury Margin US\$ per MT
Oct- Dec 2019	***	***	***	***	***
Jan- March 2020	***	***	***	***	***
July- Sep 2020	***	***	***	***	***
Wt. Avg	***	***	***	***	***

PT Asia Pacific Rayon

Quarter	Qty-KG	CIF Price (US\$)	Landed Value US\$ Per MT	NIP US\$ per MT	Injury Margin US\$ per MT
Jan- March 2020	***	***	***	***	***
July- Sep 2020	***	***	***	***	***
Wt. Avg	***	***	***	***	***

Sateri (Fujian) Fibre Co. Limited.

Quarter	Qty-KG	CIF Price (US\$)	Landed Value US\$ Per MT	NIP US\$ per MT	Injury Margin US\$ per MT
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PT. South Pacific Viscose (SPV)

Quarter	Qty-KG	CIF Price (US\$)	Landed Value US\$ Per MT	NIP US\$ per MT	Injury Margin US\$ per MT
Oct- Dec 2019	***	***	***	***	***
Jan- March 2020	***	***	***	***	***
July- Sep 2020	***	***	***	***	***
Wt. Avg	***	***	***	***	***

Injury Margin Table

SN	Particulars	Non-Injurious Price	Landed Value	Injury Margin	Injury Margin	Range
		USD/MT	USD/MT	USD/MT	%	%
1	China PR					
a	Sateri (Fujian) Fibre Co. Limited	***	***	***	***	Negative
b	Any other producer	***	***	***	***	5-15%
2	Indonesia	***	***	***	***	
a	PT Asia Pacific Rayon	***	***	***	***	Negative
b	PT. South Pacific Viscose	***	***	***	***	Negative
c	Any other producer	***	***	***	***	10-20%

K. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

71. All essential facts determined during the remand investigation based on examination of likelihood of injury afresh are disclosed herewith.

K.1. Submissions made by the applicant

72. The following submissions have been made by the applicant during the course of investigation: -

- a. CESTAT has held that Authority has already examined and held that cessation of anti-dumping duty would lead to continuation or recurrence of injury. Therefore, the scope of the present remand proceeding should be restricted to decide if duties are to be recommended for a period of 5 years or not.
- b. Since conditions for likelihood of injury are satisfied, it automatically follows that duties should be extended. The law or the rules do not provide that likelihood should be strong enough to allow extension of duties for a period of more than 10 years.
- c. As per provision of sub-section (5) of section 9A of the Customs Tariff Act, 1975, all that is required to be examined is likelihood of continuation or recurrence of dumping and injury.
- d. Dumping margin increased in the 1st sunset review investigation as compared to the original investigation and further increased in the 2nd sunset review investigation. The Authority has concluded that there exists likelihood of dumping in the event of expiry of duty.
- e. List of factors in Annexure II of the rules is not exhaustive. Tribunal in matter of M/s SI Group India Private Limited vs. Designated Authority and Union of India had also observed that third country dumping, surplus capacity, export attractiveness of the Indian market, and other parameters used internationally for a likelihood analysis are relevant for sunset reviews.
- f. The Designated Authority has consistently examined other factors such as export orientation, injurious exports, capacity expansions, price attractiveness, third country dumping etc. in addition to factors mentioned in paragraph (vii) of Annexure II of the Rules.
- g. The Authority in the present investigation has restricted itself to only a few factors and other factors such as export orientation, capacity expansions etc. have not been examined.
- h. Information regarding several factors which have been examined by the Authority in the past were available, but they were not examined by the Authority.
- i. The Authority noted that there are insignificant surplus capacities with the responding producers in the subject countries but only examination of surplus capacities is not relevant. The likelihood parameters cannot be seen in isolation and are required to be seen in connection with other factors.

- j. In sunset review investigation concerning imports of Styrene Butadiene Rubber from European Union, Korea RP and Thailand, the Authority found that responding producer was operating at full capacity. However, the Authority took a note of the fact that the producer was heavily export oriented and the same was considered relevant for the purpose of extension of duties.
- k. Above examination becomes more critical because the Authority found the same producers to be export oriented in the 1st sunset review investigation.
- l. Producers in Indonesia are governed by the Regulation of the Director General of Customs and Excise Number Per 19/BC/2018 which mandates that they can sell maximum of 50% of production in domestic market. The fact that producers have to mandatorily export 50% of their production shows the degree of export orientation. Both Government of Indonesia and producers from Indonesia participated and none of the interested parties disputed the same.
- m. Asia Pacific Rayon had expanded its capacity by 2,40,000 MT in Indonesia. Sateri Fibre Co. Limited in China is also expanding capacity by 10,00,000 MT. The fact that there have been capacity expansions undertaken by the producers in Indonesia itself shows that there will be likelihood of increase in imports.
- n. Mere fact that producers have idle capacity and would want to achieve 100% capacity utilisation, shows likelihood of increase in exports.
- o. It cannot be accepted that producer will not achieve 100% capacity utilisation because the Authority has itself found Sateri (Fujian) Fibre Co. Ltd. operating without idle capacities.
- p. Even if it was considered that responding producers had no surplus capacities, the Authority was required to take into consideration the price attractiveness of the Indian market. A significant share of exports of the responding producers to third countries were at prices below the export price to India.
- q. Not only did the Authority find India as an attractive market, but the Authority also found that significant exports to third countries were at injurious prices.
- r. CESTAT has considered price attractiveness and injurious exports as relevant parameters for likelihood determination. However, the Authority has not considered it in arriving at the conclusion.
- s. Views considered by the Authority in disclosure statement and the final finding are completely contradictory to each other.
- t. Rule 16 states that “designated authority shall, before giving its final findings, inform all interested parties of the essential facts under consideration which form the basis for its decision.” Since decision to be taken is whether or not to recommend imposition of measures, all facts leading up to the said decision must be disclosed.
- u. WTO Appellate Body Report, in case of China – Countervailing and Anti-Dumping Duties on Grain Oriented Flat-Rolled Electrical Steel from the United

States, observed that all the “essential facts” underlying the findings and conclusions relating to these elements form the basis of the decision to apply definitive measures and should be disclosed.

- v. The conclusions arrived by the Authority on profitability and surplus capacities in final finding changed completely from the disclosure statement. No reason has been provided by Authority to arrive at a “changed” conclusion.
- w. Likelihood examination is undertaken for the country as a whole and is not restricted to a producer. The Authority has relied only on responding producers’ capacity for likelihood analysis.
- x. There are 29 producers in China and Sateri (along with its 5 related producers) holds less than 1/4th of total capacity in China. By relying on such a small share of capacity, the Authority has reached erroneous conclusion.
- y. CESTAT has also held that likelihood is required to be examined for the country as a whole.
- z. The Authority had in disclosure statement examined surplus capacity and found surplus capacity of 36% in China and 64% in Indonesia. Examination was based on report provided by the applicant which upto the stage of disclosure statement was not disputed.
- aa. The fact that there were surplus capacities of 36% in China is sufficient to establish why only the data of the responding producer should not have been considered.
- bb. Similar view has been taken by the Appellate Body in the matter of US - Sunset Reviews of Anti-dumping Measures on CRCS Flat Products from Japan and in the matter of US – Corrosion-Resistant Steel Sunset Review.
- cc. With more than 35 years of experience, Hawkins Wright is a trusted source of market intelligence for the international pulp, paper and bioenergy industries. Similarly, Wood Mackenzie is also a global research and consultancy organisation with around 100 years of experience.
- dd. The Authority has in the sunset review investigation on imports of Fully Drawn Yarn from China PR, Thailand & Vietnam, sunset review on imports of Purified Terephthalic Acid, from Korea RP and Thailand and anti-dumping investigations on the imports of Polyethylene Terephthalate from China PR relied on these reports.
- ee. Details of clients of reports includes corporates like Goldman Sachs, IFC World Bank, Mitsubishi Corp, KPMG etc. Sateri Group is also one of the clients of the Hawkins Wright Agency. Sateri group had access to these reports but did not provide the same to the Authority.
- ff. The fact that the producers of subject countries or the Government of Indonesia did not raise any issue is tantamount to the acceptance of the fact that the information provided in the report was reliable. Further none of the interested parties have

- provided any evidence or information disputing the information provided by the domestic industry.
- gg. As per part II of the exporter questionnaire response, a producer is required to provide information on capacity, production, demand, imports and exports of product under consideration in their respective countries. None of the producers have provided the relevant information.
 - hh. Responding producers had an obligation to provide relevant information and have failed to provide it. They cannot plead ignorance to the information that is a part of the questionnaire response and then question the accuracy of the information provided. Further, the responding foreign producers failed to provide the information, specially sought in the questionnaire response and should be treated as non-cooperative to that extent and the Authority should base its findings on the facts available.
 - ii. During the oral hearing, legal representatives of Sateri (Fujian) Fibre Co., Ltd, and PT Asia Pacific Rayon had shown a document in support of their contention that the report provided by the domestic industry contained unreliable information which justified rejection of the same. However, the same has not been disclosed.
 - jj. The applicant was never given an opportunity of being heard on reliability of report. The fact that the Authority disregarded reports the very first time in the final findings is clearly in breach of the principles of natural justice.
 - kk. Rule 16 is penultimate stage at which all facts get frozen and the purpose of issuance of disclosure statement is precisely to disclose essential facts under consideration to all interested parties. At no stage of this investigation, the DGTR ever pointed out that the accuracy and credibility of the report was questionable.
 - ll. The Applicant has provided individual capacity of Indonesian producer, exports from Indonesia, imports into Indonesia and assessed production of the Indonesian industry. Designated Authority may kindly verify the same from the responses. Correlation of this information with the data filed by foreign producers will further establish credibility of the information contained in the report.
 - mm. Rule 6(8) states that in a situation where an interested party does not cooperate with the Authority or does not provide relevant information, the Authority shall make determination based on facts available.
 - nn. The Authority had in disclosure statement observed that Sateri (China) Fibre Co. Ltd had surplus capacities available with it. However, in the final finding it was held that the company's production has stabilized in the post period of investigation and there is no surplus capacity. This was clearly a new information on record. Nowhere in the final finding has it been provided when the information was provided by the producer and how the Authority has verified it.
 - oo. Even if information provided was to be rejected, interested parties were required to show how facts from the 1st sunset review investigation have changed. Unless it is

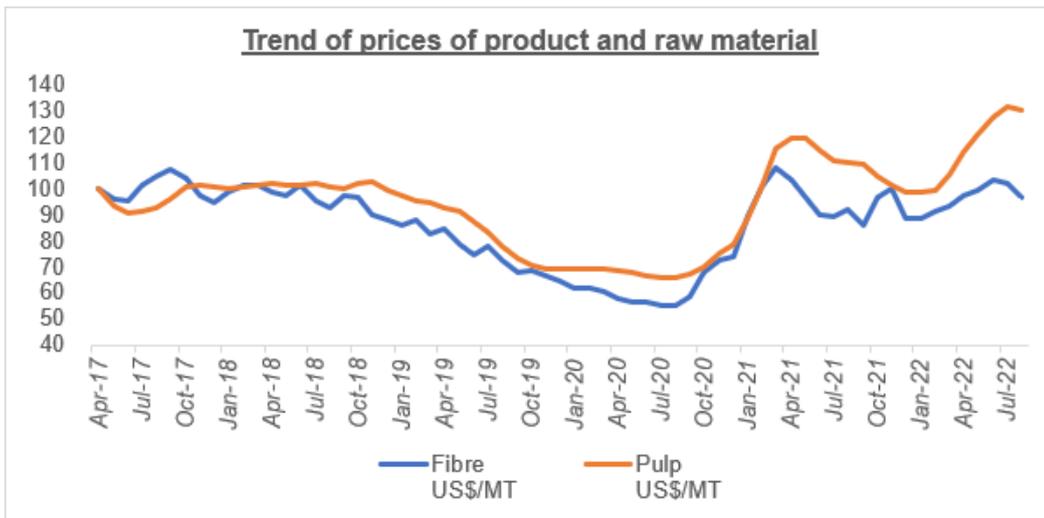
shown that, earlier final finding recorded continues to hold good. Similar observation has been made by the CESTAT in the present matter.

- pp. Dumped imports in the present investigation are more than dumped imports in 1st sunset review investigation in both absolute terms as well in relation to production and consumption. While the Authority found those imports significant enough to warrant extension of duties, in the current investigation it has held that market share of imports from subject countries is very low.
- qq. In the 1st sunset review, decline in selling price was lower than decline in the 2nd sunset review. The Authority found imports to be causing suppressing or depressing effect on the imports in 1st sunset review. However, a steeper decline has not been considered relevant enough.
- rr. Even though the Authority excluded the period of Covid-19, the Authority has noted that decline in production and sales was due to Covid-19.
- ss. The capacity utilization of the domestic industry in the 2nd sunset review is lower than the capacity utilization in the 1st sunset review.
- tt. The Authority never considered that decline in imports also have been due to Covid-19. Further despite Covid and anti-dumping duty in force, the imports have increased as compared to the base year.
- uu. Market share of dumped imports in 1st sunset review was lower than market share of dumped imports in 2nd sunset review investigation. However, the same has not been considered by the Authority.
- vv. Per unit profit and return on investment of domestic industry are almost in the same range in the 1st sunset review and 2nd sunset review. While it was considered as significant decline in the 1st sunset review, it has been considered reasonable in the 2nd sunset review.
- ww. The Authority had in 1st sunset review investigation found that imports from the subject countries had increased and the domestic industry had once again suffered injury from dumped imports. However, while the domestic industry has earned almost similar level of profits in the 2nd sunset review, the Authority has found the domestic industry to be not suffering from injury.
- xx. The facts of the present case were similar to the previous investigation as the dumping margin intensified and dumped imports had increased, the Authority did not consider it relevant enough for arriving at the final conclusion for extension of duties.
- yy. Faced with surplus capacities, the producers in subject countries have continued to dump their goods in the global market. The same has however not been considered by the Authority for arriving at the final conclusion.
- zz. The Authority had in the 1st sunset review investigation found that producers in the subject countries were heavily export oriented. However, the Authority has, for

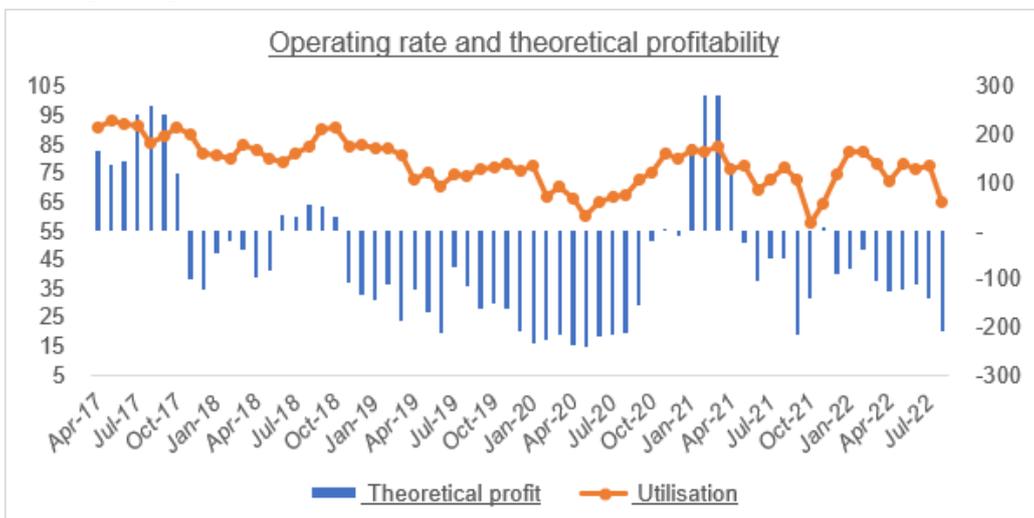
reasons which are not recorded in the final finding, considered it appropriate to not examine it

- aaa. The Authority had found price attractiveness in the previous investigation, the same has however not been considered by the Authority for arriving at the final conclusion.
- bbb. Facts of the present investigation had more justification for extension of duties as compared to the original case.
- ccc. The Tribunal have taken cognizance of the fact that the Authority called for data for the period upto March 2021 and that the domestic industry submitted that it was not relevant and the interested parties submitted that the same was relevant. The Authority had thereafter recorded findings, which has been upheld by the Tribunal in so far as this issue is concerned.
- ddd. Post period of investigation data has not been used by the Designated Authority in several investigations.
- eee. In the sunset review investigation concerning imports of Flat Base Steel Wheels, injury margin was negative, and likelihood was established based on third country dumping margin and injury margin, instead of post period of investigation data.
- fff. In the remand back proceedings of anti-dumping investigation concerning imports of Nonyl Phenol from Chinese Taipei, the Authority did not recall the post period of investigation data and arrived at its decision on the basis of the injury investigation period data.
- ggg. If the objective of post period of investigation data is to ascertain the impact of cessation of duty, the Authority should consider the data for October 21 to March 2022.
- hhh. Up to H1 2021-22, the antidumping duty was in place and the landed price of imports was above the cost of production of the domestic industry. The domestic industry was able to earn profits during this period. Though landed price of imports increased in the H2 2021-22, the increase in landed price of imports was far lower than the increase in cost of production, and the antidumping duty was not in operation. Further, the landed price of imports was now materially below the selling price, cost of sales and non-injurious price of the domestic industry.
- iii. Imports are undercutting the domestic industry prices. Further, imports are now below selling price and the cost of sales of the domestic industry which clearly shows that these are likely to have suppressing/depressing effect on the price of the domestic industry.
- jjj. Profitability of the domestic industry has declined significantly over the period. The profits in the last quarters were almost the same as profits in the period of investigation (POI) of the present investigation and the previous sunset review investigation

- kkk. Relevant post period of investigation is required to be seen in detail by segregating it into two quarters. There has been a continuous deterioration in performance of the domestic industry over the relevant post period of investigation.
- lll. If the performance over the post period of investigation is examined on quarterly basis, it would be seen that there was a steep deterioration as soon as duty ceased. Further, such deterioration intensified in January 2022 to March 2022.
- mmm. The duty in the present case expired in August 21 and immediately thereafter there was a price correction in the market and import increased and price undercutting became positive.
- nnn. The domestic industry was prevented from increasing its price in proportion to the increase in the cost of production.
- ooo. Considering that the dumped, price attractive and injurious exports to third countries assessed in the region of 1.27 lac MT is more than the demand in India, there is a likelihood of diversion of significant exports from third countries to India.
- ppp. If producer maintains its prices, customers will shift to the cheaper imports and the producer would lose its customer base and its production, sales, capacity utilization would decline, and it would lose the benefits of economies of scale resulting in increase in cost per unit and it would run down into losses.
- qqq. If the producer may opt to retain its customers, it would have to reduce its prices to compete with the imports. Consequently, the imports would suppress or depress the prices of the domestic producer and its profits, cash profits, return on investment, etc. would suffer and it would run down into losses.
- rrr. Deterioration in performance of the domestic industry after cessation of duty clearly establishes likelihood of injury in the event of cessation of duty. As soon as the duty ceased, the domestic industry was prevented from effecting price increases to account for cost increases.
- sss. Since no report has provided information on production and demand in Indonesia, the domestic industry had relied on the information provided by its related entity in Indonesia P.T. Indo Bharat Rayon for information on production and demand in the country. There are only 4 producers in Indonesia, it was not significantly difficult for the related entity to provide this information on estimated basis
- ttt. At the time of filing of the exporter questionnaire response by P.T. Indo Bharat Rayon, it was found that the domestic industry had not considered the capacity of Asia Pacific Rayon in arriving at the total capacity in Indonesia. However, the fact was duly corrected by P.T. Indo Bharat Rayon in the questionnaire response filed.
- uuu. In the most recent period, whereas the prices of pulp have increased over the period by around 30%, the prices of VSF have declined.



vvv. The Chinese producers are operating with significant idle capacities and are exporting at losses.



www. Views expressed in the name of association was without getting views from the members of these associations and includes individual representation by Pallava group. In fact, the consumers of fibre producing 100% spun yarn have confirmed that they have not authorized any association or body to oppose the present antidumping duty, and all these associations have represented before the DGTR without due authorization from the spinners.

xxx. Some of these associations are not even concerned with Viscose Staple Fibre. None of these association have taken a decision to oppose the recommendation/ imposition of anti-dumping duty after seeking views of their members.

yyy. CITI is the industry chamber of entire textile and clothing sector of India, and not an organization dedicated to Viscose. The primary objective of CITI is to focus on growth of cotton sector and was earlier known by the name Indian Cotton Mills' Federation.

- zzz. Indian Manmade Yarn Manufacturers Association concerns those members who are engaged in viscose yarn spinning and it has 50 members at present. More than 40 members of this association have supported the extension of anti-dumping duty on VSF.
- aaaa. Indian Texpreneurs Federation is primarily related to cotton industry and meant for sharing information to members.
- bbbb. Denim Manufacturers Association is association of limited denim manufacturers who are primarily into cotton.
- cccc. Southern India Mills' Association is primarily cotton association, and only 3-5 viscose spinners are part of this association.
- dddd. Tamil Nādu Spinning Mills Association had consented to Grasim that they will not object to the anti-dumping duty, if more than 50% of their viscose consuming members support the duty. More than 80-90% of the members of the association have supported the extension of duties. If the association is now opposing duty, it is clearly without getting the views of their members.
- eeee. Indian Spinners Association is primarily an association of those who are dealing in polyester. Viscose Staple Fibre is not the primary input for their members.
- ffff. Pallava Textiles Private Limited and Sri Cheran Synthetics (India) Private Limited are part of one group only and effectively there is only one group which has represented against imposition of duty.
- gggg. More than 40 consumers who account for about 60% consumption have supported the domestic industry and have expressed no reservation against the levy of ADD.
- hhhh. Consideration of post period of investigation data for the period Oct., 2021 – March, 2022 would rather show that the domestic industry's position is once again adverse.
- iiii. Since the purpose of calling post period of investigation data is to consider most recent period. The Authority in the findings had noted that even the post POI period has been affected due to disruption caused by Covid-19 pandemic. The Authority has divided subsequent period into three semesters ["H1" – Oct 20 – March 21, "H2" – Apr - Sept, 21 and H3- Oct.21-March, 22]. H3 period should form the basis for determination.
- jjjj. Market situation deteriorated not only in H3, but also thereafter. Imports have increased significantly in April-July 2022 period and is now at highest levels.

All figures are on annualized basis

Particulars	UOM	POI	Oct 20 – March 21	Apr - Sept, 21	Oct.21- March, 22	Apr to July 2022
Import volume	MT	22,185	21,582	10,861	16,524	44,622

- kkkk. Considering the import prices, projections of the September 2022 look very bleak, and the industry is likely to suffer losses.
- llll. The parties have contended that the domestic industry cannot be expected to operate at 100% capacity utilization, whereas the Authority has itself found the responding producer to operate without idle capacities. The domestic industry has historically operated at 99% capacity utilization.
- mmmm. The domestic industry is suffering injury even after fully stabilizing the new capacity.
- nnnn. With regard to the submission that the production of non-product under consideration should be ignored, it is submitted that segregated information regarding production, sale volumes, costs, prices, cash profit, return on capital employed have been provided in respect of product under consideration alone. The producers globally have combined capacities which can be used for production of the product under consideration and non-product under consideration and the applicant has also reported gross production for both product under consideration and non-product under consideration to determine capacity utilization.
- oooo. On the submission of the other parties regarding transfer of profits to caustic soda division on account of increase in its prices, it is submitted that the issue of valuation of captive production is well settled by the Directorate. The DGTR has publicly issued a transparent methodology that is being applied in such cases.
- pppp. While Grasim is engaged in production of caustic soda as well, caustic soda and viscose fall into two separate business segments having independent operations. The company follows consistent valuation policy. Grasim provided a copy of the policy document dated 2001 revised in 2014 which has been the basis for valuation since this period for all caustic soda sale from caustic division to fibre division of the company. As per this document, all pricing of caustic soda by the caustic soda division to fibre division is based on market price of caustic soda. In fact, fibre division is given a discount over and above the price at which caustic soda division sells it in the market.
- qqqq. The fact that the performance of products excluded from the scope of PUC is better than performance of the product included in the scope of PUC coupled with the fact that the domestic industry faces competition in the included product and does not face competition in the excluded product establishes likelihood of injury to the domestic industry in the event of cessation of anti-dumping duties.
- rrrr. On the submission that the new plant is providing off grade material, as per accounting policy followed by the company, any plant needs to run at a capacity utilization of more than 80% consistently before it can declare commercial production. Any production prior to declaration of commercial production is treated as start-up production. The start-up production may contain some off grade material but also contains premium grade production The “downgraded product

alleged” was part of trial production before declaring commercial production. This sale and expense have not been charged to income statement. Sale of fibre during trial production was capitalized and not charged to P&L account.

ssss. It is highly misleading that the demand supply gap is 40%. Analysis of imports will show that imports were cumulatively in the region of 26000 MT to 27000 MT constituting 7% of the gross demand. Further, against a demand of 4,23,115 in the period of investigation, the capacities reported in the period were in the range of 5,74,773 MT. The domestic industry has undertaken further expansion and its capacities are now 7,92,750 MT.

tttt. The user industry has projected a growth rate of 14%, which is highly exaggerated. A trend of demand increase over the history of the product would establish that such a significant increase has not happened in the past, and, there is no independent document to support this statement.

uuuu. Demand of Viscose Staple Fibre (including NPUC) had never exceeded 625 KT and the capacity with Grasim was at least 600 KT. It would be seen that the demand supply gap was never in the region of 40%. In fact, a demand supply gap of 40% implies a gap of about 320KT. The cumulative imports over last ten years were not in this region.

vvvv. The domestic industry has expanded its capacity and the current capacities are around 820KT and are much above the demand in the country.

wwww. On the submission that that the domestic industry charges 3% premium on prevailing market price, it is submitted that the Authority had found that the price undercutting was negative in the present period of investigation even without including antidumping duty, as illustrated from the table below:

Period	Selling Price	Landed Price w/o ADD	Landed Price with ADD	Price Undercutting with ADD
	Rs/MT	Rs/MT	Rs/MT	Rs/MT
2005-06	72,940	77,764	77,764	(4,824)
2006-07	84,890	87,400	87,400	(2,510)
2007-08	1,02,620	1,02,797	1,02,797	(177)
Apr'08- Dec'08	98,720	1,00,136	1,00,136	(1,416)
2011-12	1,34,631	1,40,934	1,45,892	(11,261)
2012-13	1,28,312	1,23,410	1,29,040	(727)
2013-14	1,23,326	1,18,257	1,24,524	(1,198)
2014-15	1,20,126	1,13,477	1,19,831	295
2017-18	1,38,999	1,30,227	1,36,956	2,043
2018-19	1,42,636	1,40,253	1,47,547	(4,911)
2019-20	1,21,406	1,23,389	1,30,769	(9,363)

Oct'19-Sept'20	1,08,613	1,11,135	1,18,797	(10,184)
H2 2020-21 (Ann)	1,20,535	1,08,588	1,16,236	4,299
H1 2021-22 (Ann)	1,44,987	1,43,609	1,51,315	(6,328)
H2 2021-22 (Ann)	1,60,738	1,50,723	1,50,723	10,014

xxxx. On the submission that the domestic industry is able to realize substantially better sales price than the global VSF prices, it is submitted that the fact is that dumping margin found by the Authority is positive, which shows that the exporters are selling in their domestic market at higher price, and exporting to India at lower price.

yyyy. On the submission that imports of yarn have declined with the cessation of duty, the fact is that the average VSY imports when the product was attracting anti-dumping duty were in the region of 19,366 MT (from 2009-10 till September 21). However, post expiry of anti-dumping duty, and in the recent period, imports of yarn have increased. Imports of yarn increased in recent period, after cessation of duty, rather than showing a decline. Further, imports of yarn were largely from China PR, whereas dumped imports of fibre are largely from Indonesia.

zzzz. Growth of consumption has been positive and significant during the anti-dumping duty period, which clearly shows that the growth of fibre and yarn has not suffered due to this duty. There is significant capacity addition or shift from other types of yarns to viscose yarn over one decade, which further shows that yarn industry has grown when this duty has been in force. Number of spindles have increased from 1.5 million to 4 million over the duty period. Further, the user industry had no MVS (Murata Vortex Spinning) machines in the past, whereas the number has increased to 520 in recent period.

aaaaa. Considering consumption pattern of yarn, fabric production has also increased from around 13 lakhs meters per month in base year of original investigation to around 28 lakh meters per month at present.

bbbbbb. Analysis of consumption and fibre price shall show that the consumption of fibre shows no relationship with the price of fibre. Consumption of fibre increased significantly despite increase in fibre price, and consumption of fibre declined despite decline in fibre price.

SN	Period	Demand	Selling Price
		MT	Rs/MT
1	2005-06	2,23,345	72,940
2	2006-07	2,32,952	84,890
3	2007-08	2,44,482	1,02,620
4	Apr'08- Dec'08	2,14,508	98,720

5	2011-12	2,36,696	1,34,631
6	2012-13	2,45,115	1,28,312
7	2013-14	2,58,529	1,23,326
8	2014-15	3,05,437	1,20,126
9	2017-18	3,17,350	1,38,999
10	2018-19	4,08,730	1,42,636
11	2019-20	4,39,761	1,21,406
12	Oct'19-Sept'20	4,23,115	1,08,613
13	H2 2020-21 (Ann)	4,61,915	1,20,535
14	H1 2021-22 (Ann)	3,63,211	1,44,987
15	H2 2021-22 (Ann)	4,90,613	1,60,738

cccc. VSF is primarily imported from Indonesia where customs duty is zero, but yarn is subject to a customs duty of 5%, whereas fabric and garment is subject to customs duty of 20%. Thus, even after payment of antidumping duty, the yarn producers had net positive customs duty protection. Average incidence of anti-dumping duty over the years was Rs 6,774 per MT of fibre, the average incidence of basic customs duty on yarn was Rs 8,521 per KG. Thus, even after payment of antidumping duty, the yarn producers had net positive customs duty protection.

Year	Yarn Prices	Custom Duty + Cess/SWS	ADD on Fibre Imports	Difference
	Rs/MT	Rs/MT	Rs/MT	Rs/MT
2011-12	1,93,859	9,984	4,862	5,122
2012-13	1,65,750	8,536	5,659	2,877
2013-14	1,72,221	8,869	6,243	2,626
2014-15	1,50,301	7,740	6,377	1,363
2015-16	1,53,482	7,904	6,779	1,126
2016-17	1,81,245	9,334	7,004	2,330
2017-18	1,78,176	9,176	6,727	2,449
2018-19	1,96,914	10,830	7,324	3,506
2019-20	1,62,979	8,964	7,386	1,578
2020-21	1,43,181	7,875	7,744	131

dddd. Yarn producers have been protected more than fibre producer and the imposition of anti-dumping duty is not resulting in payment of higher duty on fibre as compared to yarn.

eeee. Fibre producer suffers an inverted duty structure. Whereas the incidence of duties on inputs is 2.5% to 7.5%, the product has preferential rate of customs duty on imports from Indonesia and Thailand.

- fffff. Indonesia has gross domestic demand of only around 400 KT, the installed capacity in Indonesia is 875 KT. Producers have statutory obligation to export at least 50% of their production and they target optimum capacity utilization. Therefore, they continue to remain export oriented.
- ggggg. The domestic industry has worked towards larger interests of development and growth of the entire value chain. Letters from downstream value chain industry have been provided acknowledging Grasim's contribution to the downstream industry.
- hhhhh. Share of viscose in total textiles has increased from 3% (in 2015) to 6% at present and viscose has witnessed higher growth than other textiles despite the anti-dumping duty.
- iiii. Share of viscose in the final price of cloth is hardly 5%, and impact of anti-dumping duty is less than 0.25%.
- jjjj. Grasim is not only continuously investing in capacity additions, but has also made significant investments exceeding Rs. 1200 crores in product and skill development, benefit of which has been reaped by the downstream industry, including spinners. Given MSME nature of spinners, they could not have even made these efforts. It is such efforts, amongst others, which are responsible for the growth of yarn industry.
- kkkkk. Capacity of Grasim has increased from 3,33,975 MT in 2010-11 to 8,10,000 MT at present through cumulative investment of Rs. 7,187 crores in addition to an investment of Rs 1200 crore in skill development.
- llll. Had the anti-dumping duty been the reason for the increase in the imports of yarn, the cessation of duty would have led to a fall in yarn imports. The yarn imports have however increased. When the product was subject to antidumping duty, yarn imports were highly limited. When the product is now not subject to antidumping duty, yarn imports have significantly increased.
- mmmmm. Lucky Yarn Tex India Private Ltd., Mothi Spinner Private Limited, K&H Textiles, Mehala Mills Chendhoor Murugan Yarn Tex India Private Limited, Bhaarathi Spintex India Private Limited, Arupadai Arulmurugan Spinners Pvt. Ltd, Dhanalakshmi Synthetics Pvt. Ltd., GVS Spinners Private Limited, Rineile Micro Fabrics Pvt. Ltd., Hariharan Spinners (I) Pvt. Ltd., Sri Hariprasath Textiles Pvt. Ltd., Victory Spinning Mills Private Limited, Arunachala Gounder Textiles (AGT) Mills, Anangoor Textiles Mills (P) Ltd, Unit-II, Chola Spinning Mills Private Limited, Sri Choleeswarar Spinning Mills, Dharanii Cotton Mills Private Limited, Dineshraj Spintex, Hari Krishnaa Spinning Mills (P) Ltd., Shrie Harivallabi Spinners Private Limited, Jayashree Weaves (India) Pvt. Ltd., Sri Jaya Maaruthi Yarn India Pvt. Ltd., JPP Mills Pvt. Ltd., Sri Karvembu Textiles P Ltd., K.K.P. Textiles Pvt. Ltd., K.P.N. Textiles Mills Private Ltd., Kumaragiri Spinners (P) Ltd., Kurinji Spinning Mills (P) Ltd., Meenakshi Textile Mills, Mouli Spinner Limited,

Sri Nallathal Spinning Mills Private Limited, Pavathal Spinning Mills Private Ltd. Rakshana Spintex, Roghit Spintex (India) Private Limited, Sri Santhanalakshmi Spinners Private Ltd., Saravanagiri Spinning Mills Private Ltd., Shiv Ganes Spinning Mills (P) Ltd., SreeMoulie Export, Sri Vinayakha Spinning Mills Private Ltd. and Sri Thirumalai Balaji Spinning Mills are some of the users who have supported the duty.

nnnnn. Vikas Syntex Private Limited , Vanitha Textiles, Shree Vishnu Weaving Work, Santipur Handloom Innovation Producer Company Limited, Santosh Suitings, Rajakarishna Weave Private Limited, NEHHDC Limited, Nataraja Textiles, NABARD, Loyal Super Fabrics, Kutch Weavers Association, KEN Enterprises Private Limited, Jindba Processors Private Limited, Jain Cord Industries Private Limited, Haryana Texprints (Overseas) Limited, Gupta Exim (India) Private Limited, G.T. Process, Fabric Plus, Elampillai Textile Manufacturers Association, Balgopal Textiles Private Limited, Arthanari Clothing Private Limited, Badrivishal Fashiontex Private Limited, Vishnu Dyeing & Printing Works, S.S.M. Processing Mills Limited, Shree Sakthi Vinayagar Weavers Private Limited, South Gujarat Textile Processor Association, S.P. KNIT Industries, Mevaba Fashion Kreatex, The Matrix Enterprises, GruruKarunna Textile Mills Private Limited, Exim Knits Private Limited, Creative Dyeing & Printing Mills Private Limited, Continuous Dyeing & Printing Mills, Banbury Exports, Ichalkaranji Shuttleless Fabrics Manufacturers Association, Federation of Gujarat Weaver's welfare Association, Federation of Surat Textile Traders Association, The Southern Gujarat Chamber of Commerce & Industry are some of the value chain users who have acknowledged the downstream industry's contribution towards growth.

ooooo. Mothi Spinner Group, Chola Spinning Mills Private Limited, Victory Spinning Mills Private Limited, Cheran Group, JPP Mills Pvt. Ltd., Arunachala Gounder Textiles (AGT) Mills, Mouli Spinners, Dhanalakshmi Synthetics, Aakavi Spinning Mills, G.V.S Spinners Group, Aadhavan Spinners, Sri Jaya Maaruthi Yarn India Pvt. Ltd., Kumaragiri Spinners (P) Ltd., Saravanagiri Spinning Mills Private Ltd. and Sri Hariprasath Textiles are some of the users who have stated that the association did not seek the member's views before filing representation opposing the duty before the Authority. Further, these users have stated that the anti-dumping duty has not had any adverse impact.

K.2. Submissions made by the other interested parties

73. Following submissions have been made by the other interested parties during the remand investigation:

- a. Claim of the applicant that the scope of the present remand proceedings should be restricted to decide if there is a need to recommend duties for a period of 5 years or not is incorrect. Had that been the case, CESTAT would have specifically observed that there is a clear likelihood of continuation or recurrence of injury as per the information on record and the matter is remanded back to the Authority to determine appropriate amount of anti-dumping duty and whether the anti-dumping duty for full period of 5 years or less would be appropriate.
- b. CESTAT has specifically directed the Authority to examine if the likelihood of injury is material enough to warrant continuation of anti-dumping duty for further period.
- c. CESTAT has specifically directed the Authority to make finding 'afresh' as to whether cessation of anti-dumping duty would likely lead to continuation or recurrence of injury to the domestic industry.
- d. Direction of CESTAT for examination of likelihood of injury afresh is not subject to any specific restrictions or conditions. Claim of the domestic industry that fresh examination of likelihood of injury is subject to certain limitations and/or that interested parties are not permitted to raise certain factual and legal issues is incorrect.
- e. There is no direction for re-examination of likelihood of dumping and therefore re-examination of likelihood of dumping based on dumped exports to third countries is irrelevant in the present remand proceedings.
- f. Other parameters such as export orientation, injurious exports, capacity expansions, price attractiveness, etc. are of limited or of no relevance for examining likelihood of injury when the producers/exporters in the subject countries do not have any surplus capacities.
- g. PT Asia Pacific Rayon is a new producer who has commenced production in 2019 and therefore it cannot be expected to achieve 100% capacity utilisation immediately.
- h. That there is no surplus capacity with the producers/exporters in Indonesia and China PR in the post POI period. They are operating at optimum capacity utilisation in the post POI period.
- i. Average price of exports to third countries is consistently higher than average price of exports to India during the post POI period.
- j. Relevant non-confidential summary of Hawkins Wright Sept 2020 Report and Red Book Wood Mackenzie Reports is not provided to the other interested parties.
- k. Government of Indonesia understands that the data extracted from Hawkins Wright Sept 2020 Report and Red Book Wood Mackenzie Reports is manipulated and unreliable.
- l. Hawkins Wright Sept 2020 Report refers to capacity in Indonesia for "VSF as a whole" and not the PUC. The Hawkins Report does not account for the 6 types of exclusions in the calculation of VSF capacity and production figures.

- m. It is admitted that the information provided by the domestic industry regarding production of VSF in the Republic of Indonesia is as per “industry estimate” and not based on these Reports. The domestic industry has also not made any attempt to explain the methodology used to arrive at such industry estimate.
- n. Data perused by the Authority on capacity and production of VSF in Indonesia underwent changes during the sunset review investigation without any justification. While Hawkins Wright Report was noted in the disclosure statement to ascertain capacity of VSF in Indonesia, the following figures got increased during the course of the investigation without any explanation:
 - i. Capacity in Indonesia for the years 2020, 2021 and 2022
 - ii. Surplus capacity in Indonesia for the years 2020, 2021 and 2022
- o. Hawkins Wright Report is of September 2020. It cannot claim that all the information provided regarding capacity for 2020, 2021 and 2022 are based on actual figures.
- p. The Authority should not rely on the Hawkins Wright Report because information regarding capacity and production is unverifiable and owned by private third parties not answerable or accountable to the Authority. It includes capacity of related parties of the domestic industry and is partly based on future assumptions of total capacity.
- q. There is no decline in demand in China PR indicating possibility of increase in exports to India. As per the estimate of demand in China PR provided by the applicant itself, there is increase in demand of VSF in China PR in the coming years.
- r. There is no decline in exports to third countries by producers/exporters in China PR indicating loss of market or possibility of shift in exports in the future.
- s. Absence of surplus capacities is a relevant factor for assessment of likelihood of injury as it indicates that they do not have any flexibility to increase their exports to India even if anti-dumping duty is withdrawn.
- t. Government of Indonesia is aware that producers/exporters in Indonesia are incurring profit on their export sales.
- u. It cannot be presumed that producers/exporters in the subject countries will shift their exports to India merely because export price to India is somewhat higher than export price to third countries. They have their well-established customer base in different countries and it would not be feasible or desirable for the respondent to abandon their customer base in these countries.
- v. No country other than India has imposed trade remedy measures or any other types of import restrictions on imports of viscose staple fibre from China PR and Indonesia. Therefore, there is no indication that access to third county markets is restricted.

- w. Post POI data of October 2020 to March 2022 will be relevant for examining likelihood of injury. Post-POI data from 13th August 2021 to 31st March 2022 will also show the situation of imports into India from the subject countries and the injury to the domestic industry due to such imports when no anti-dumping duty was in force.
- x. Assessment of likelihood of injury to domestic industry in India by the Authority in July-August 2022 based on export pattern to third countries in October 2019 to September 2020 would not be representative.
- y. CCI Report dated 6th August 2021 was issued against Grasim Industries Ltd. about the abuse of its dominant position in the VSF market. The CCI Report covering the period of 2017-18 observed that Grasim has continued to abuse its dominant position in the Viscose Staple Fibre market in India.
- z. Imports of VSF into India from the subject countries have declined substantially during the post POI period.
- aa. Producers/exporters of VSF in the subject countries are not increasing their exports of VSF to India in the absence of anti-dumping duty as apprehended by the domestic industry. Clearly, India is not a focus market for VSF producers in the subject countries.
- bb. Performance of the domestic industry for the viscose segment in the immediate post-POI period of 1st October 2020 – 31st March 2021 (6 months) has improved substantially.
- cc. There is no volume effect or price effect on the domestic industry due to withdrawal of anti-dumping duty. Capacity, production and domestic sales have increased post withdrawal of anti-dumping duty.
- dd. There is no price effect on the domestic industry due to withdrawal of anti-dumping duty. Domestic sales realisation and landed price of imports have increased post withdrawal of anti-dumping duty.
- ee. Profitability of the domestic industry in the viscose segment has improved substantially in the post POI period as compared to the POI period.
- ff. Decline in profitability in the period of October 2021 to March 2022 is because of sudden increase in interest cost and depreciation due to new addition of capacity during this period.
- gg. The Authority should rely on actual volume of exports during October 2021 to March 2022 by participating producers/exporters to examine if there is any increase in exports to India because of withdrawal of anti-dumping duty.
- hh. Exports to India by producers/exporters in China PR, even in the absence of anti-dumping duty, were insignificant and constituted less than 1% of Indian demand.
- ii. Examination of likelihood of injury should also involve examination of factors such as improvement in performance of the domestic industry in the post POI period.

- jj. The domestic industry has increased its capacity by 35%, post withdrawal of the anti-dumping duties in the period of investigation. Production of the product under consideration increased by around 16%, during the same period. Domestic sales increased by 9%, whereas export sales increased by around 269%, post withdrawal of the duties.
- kk. Depreciation and finance cost of the domestic industry have increased because of new investment and, therefore, fall in profitability to the domestic industry cannot be attributed to imports from the subject countries.
- ll. Performance of the domestic industry has improved significantly post-withdrawal of the anti-dumping duties.
- mm. No reliance can be placed on the Trade Map data, as the information available is consolidated exports by Indonesia for the entire HS Code 55041000 without accounting for the PUC exclusions.
- nn. The Authority should compare post-POI data with the POI data as the base period, as only this will reveal if there is any likelihood of recurrence or continuation of injury.
- oo. The domestic industry cannot operate at 100% at any time as there may be many planned and unplanned stoppages due to maintenance schedules, etc. Any operating capacity above 90% can be considered good.
- pp. The domestic industry has claimed that their installed capacity in the H2 of FY 2021-22 as 792 KTPA and their utilisation has dropped from 92% to 83% owing to higher imports. But available information in public domain shows that the available capacity of the domestic industry has to be much lesser than the installed capacity since the new capacities were just being installed.
- qq. Grasim Earnings conference call dated 14.02.2022 stated that first new line of 110 KTPA was commissioned only in the month of November 2021 and the second line of 110 KTPA was commissioned in the mid of February 2022. Considering the actual date of commissioning the new capacity, the following should be the actual installed capacity even without factoring the initial teething challenges that occur when installing a new capacity. It will show that the entire rated capacity including NPUC in H2 FY 2021-2022 cannot be more than 703 KTPA.

Second Half of Financial Year 2022	
Month	Capacity (KTPA)
Oct 21	591
Nov 21	646
Dec 21	701

Jan 22	701
Feb 22	756
March 22	824
Average	703

- rr. Capacities of Lyocell is not fungible and cannot be used for producing the PUC and has to be dedicated only to the production of the Lyocell.
- ss. The domestic industry has been utilising 25-30% of their capacity for the production of NPUC as they make better margins, and their target has always been to maximise the production of NPUC.
- tt. Caustic soda being an important cost of input for the PUC is completely captive and the domestic industry is the largest producer of caustic soda in the country. While the cost of goods sold has suddenly increased during the post POI, the profitability of caustic soda has exponentially increased.
- uu. The domestic industry has created artificial injury by charging higher cost for their caustic soda supplied from their captive source and diverted their profits between VSF division and caustic soda division.
- vv. The domestic industry has claimed that the increase in selling price of the PUC during the period was only 12%, whereas the domestic industry themselves has confirmed that they have increased the grey fibre prices by 27% during last 6 month (i.e., September 2021 to March 2022).
- ww. The imports from the subject countries have actually decreased in terms of volume and in terms of market share as well. The related party of the domestic producer in Thailand has exported more from Thailand to bridge the supply gap. While there are reduced imports, the reason for deterioration of profits for domestic industry in Post POI (FY 2021-22) should not be on account of removal of ADD.
- xx. There was an existing and prevailing demand supply gap for the domestic VSF requirement in India, which was at 40%. With the new capacity addition of 220 KTPA the domestic industry is only able to meet the previous demand supply gap only to certain extent but not completely.
- yy. The domestic producer has been already selling 94% of their overall sales in India post the capacity expansion. While the domestic industry is itself expecting the demand for VSF to grow at 14% CAGR, there is neither any existing capacity available nor any plans for capacity addition.

zz. It takes at least 3-4 years for any planned capacity addition to come into production. With no plans as of now of the domestic industry to expand their capacity, the total Indian capacity is likely to be constant at 824 KTPA for next 3-4 years.

aaa. The domestic industry has achieved the following milestones post 1st sunset review FY'2015 v. Q1 FY'2023:

- Increased the production capacity of VSF by 2x
- Domestic sales volume of VSF increased by 2.5x
- Increase in EBITDA of VSF division by 4x (FY'2015 Vs FY'2022)
- Earned an aggregate EBITDA of more than INR 10,000 Crore in VSF Division

bbb. While ADD was applicable, Grasim followed dual pricing policy, one for domestic consumption (International Price + ADD Premium) and a special pricing known as Deemed Pricing policy (price equivalent to international price) where additional incentive was offered from their domestic price to its customers to promote exports of yarn. The customers can claim this additional incentive after establishing the proof of exports. With the removal of ADD on VSF in August 2021 this dual pricing has been gradually scrapped for the PUC. Even now, the domestic industry is able to charge a reasonable premium for the comfort of buying locally.

ccc. While the ADD was in force the domestic industry alone was earning double digit margins, whereas their customers and the subsequent value chain was finding it difficult to earn PBIT of even 5%.

ddd. With the removal of ADD on VSF, the user industry has certainly benefitted by the availability of VSF at globally competitive prices in India.

eee. VSY imports will increase, and VSY exports will decrease in coming years if the ADD on VSF is allowed to continue. ADD will make the entire value chain uncompetitive as it will cause severe disruption to Indian textile value chain.

fff. CCI Finding shows that Grasim adopted the following practices:

- Prices and discounts are always communicated to customers over the phone by their employees.
- Around 15% of the prices were held back by Grasim as discounts to be reimbursed by the end of the year.
- Grasim locks customers with annual contract with penalty clause so that customers can't switch suppliers even if their prices are not competitive.
- Customers have to accept short supply if Grasim is unable to meet the requirement of customer due to their own reasons.
- As evident from CCI findings, the domestic industry itself has accepted that it charges up to 3% premium over the prevailing market prices.

- ggg. It is clear that the domestic industry is using ADD to charge premium over and above the nominal price for the PUC.
- hhh. The domestic industry has even now been using their dominant position to control not just the user industry, but also the entire performance of the VSF based value chain.
- iii. The domestic industry has already enjoyed ADD on VSF for 11 years. The domestic producer has only used the ADD as a tool to make exorbitant profits at the expense of the user industry and the value chain.
- jjj. Even a slightest increase in the VSF prices will have a direct impact on the majority of India's household income.
- kkk. Though the imports (less than 4% of market size) are very insignificant and not creating any injury to the domestic industry, they would like to enjoy unreasonable profits by claiming articulated injury. Artificial injury is created by mis-representing facts about capacity, utilization, cost of sales, selling price and ROCE.

K.3. Examination by the Authority

74. With regard to the scope of the remand investigation, the Authority notes that CESTAT has directed the Authority to give a fresh finding as to whether cessation of anti-dumping duty would likely lead to continuation or recurrence of injury so as to warrant imposition of anti-dumping duty for a further period of five years.
75. CESTAT has not directed the Authority to re-examine any other aspect of the sunset review investigation except likelihood of continuation or recurrence of injury to the domestic industry. This aspect is not contested by any interested party in this remand proceedings and accordingly all the interested parties have only made submissions during the present remand proceedings regarding likelihood of injury to the domestic industry in absence of anti-dumping duty on imports of the subject goods from the subject countries.
76. All the essential facts concerning determination of likelihood of injury to the domestic industry that have been submitted by the interested parties and have been considered relevant by the Authority are disclosed in the present final findings.
77. The Authority has conducted the examination regarding likelihood of injury based on the facts and information on record, submissions made by the interested parties during the course of the remand investigation and after taking into consideration all the observations made by CESTAT vide its order dated 19 May 2022.
78. The Authority has also examined post POI data in the present remand investigation. Post POI period of 18 months from October 2020 to March 2022 has been examined by the Authority because actual data for this period was available during the present remand investigation. This period also includes the period of September 2021 to March 2022

when no anti-dumping duty was applicable on imports of the subject goods from the subject countries.

79. There are no specific methodologies available to conduct such a likelihood analysis. However, para (vii) of Annexure II of the Rules provides, inter alia, factors which are relevant for threat of injury and the same factors are normally used by the Authority for likelihood analysis in a sunset review as well:
- a) A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
 - b) Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
 - c) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
 - d) Inventories of the article being investigated.
80. Considering the observation of the CESTAT that para (vii) of Annexure II of the Rules is not an exhaustive list of factors that the Authority is required to examine regarding likelihood of injury, the Authority has also examined other relevant factors which could have a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry.
81. The applicant has relied on *Hawkins Wright Sep 2020 Report* and *Red Book 2020 Report of Wood Mackenzie* for the purpose of claiming existence of surplus capacities in Indonesia and China PR. The other interested parties have objected to the use of these reports for the purpose of determining existence of surplus capacities.
82. The Authority has reviewed the information submitted by the domestic industry from *Hawkins Wright Sep 2020 Report* and *Red Book 2020 Report of Wood Mackenzie* regarding existence of surplus capacities in Indonesia and China PR.
83. Specifically with regard to the capacity and production for Indonesia, the Authority notes that only information regarding total capacity is provided by the applicant from the *Hawkins Wright Sep 2020 Report*. Information regarding total demand and total production has not been provided from the *Hawkins Wright Sep 2020 Report* or the *Red Book 2020 Report of Wood Mackenzie*. The domestic industry has submitted that information regarding total demand and total production for Indonesia is based on industry estimate. The domestic industry has also submitted that relevant information regarding total demand and total production in Indonesia was provided by the related responding producer of the domestic industry PT Indo Bharat Rayon in Indonesia.

84. The Authority also notes that the domestic industry has not contested that the information regarding capacity in the subject countries provided by them is of viscose staple fibre segment as a whole and includes non-PUC (excluded types of VSF) as well. While the Authority is required to determine surplus capacity in the subject countries for the PUC alone, it is noted that the capacity for PUC and non-PUC can be used interchangeably and even the information provided by the domestic industry with regard to production and capacity utilization is on the basis of capacity of the plant and gross production of PUC and NPUC. The Authority has determined capacity utilization of the domestic industry by considering gross production for the purpose of injury assessment.
85. The Authority notes that since all the producers in Indonesia have cooperated with the Authority and have provided relevant information, it is not necessary to rely upon third party information with regard to capacity in Indonesia. In so far as China PR is concerned, the participating producer/exporter and its related entities constitutes more than 30% of total capacity in China PR. The domestic industry has not provided any evidence to show that this information regarding surplus capacity is not representative of the surplus capacity of other producers/exporters in China PR.
86. Further, information regarding capacities and surplus capacities provided by the applicant includes capacities and surplus capacities of related producers of the domestic industry in Indonesia and China PR. The Authority notes that capacity and surplus capacity available with related producers/exporters of domestic industry in the subject countries cannot be considered to assess likelihood of increase in dumped imports because such likelihood, if any, would be self-inflicted.
87. The Authority notes that there are only three producers of the PUC in Indonesia who are operational and selling the product in the merchant market. These three producers of subject goods in Indonesia are (i) PT Asia Pacific Rayon (ii) PT South Pacific Viscose & (iii) PT Indo Bharat Rayon. All these three producers in Indonesia have participated and co-operated in the investigation. All these three companies have provided relevant information in the subject investigation. The Authority has also compared the capacities reported in the Hawkins Wright report with the response filed by the responding producers from Indonesia. It is found that that the Indonesian capacities reported in the Hawkins Wright Report and the response filed by the Indonesian producers reconcile.
88. The domestic industry has alleged existence of fourth producer, P.T. Sri RejekiIsman (Sritex) in Indonesia in the present remand investigation. The Authority notes that Sritex is a known producer and exporter of Yarns and further downstream products in Indonesia. The website of Sritex also notes that it is a producer and exporter of Yarn and further downstream products namely textiles and garments. The website of Sritex does not mention that it is the producer and seller of viscose staple fibre. The domestic industry has also not provided any specific source for its claim that Sritex is the producer and supplier of viscose staple fibre.

89. Therefore, the Authority has complete information regarding capacity, production, sales and surplus capacity for subject goods in Indonesia as a whole. Thus, the Authority considers that verified information provided by participating producers/exporters in Indonesia should be relied for determining surplus capacity in Indonesia. As far as China is concerned, since the responding producer group represents only about 30% of known capacities in China, exports from the group constitutes less than 15% of exports from China, and more than 95% of its sales are in domestic market, the information relating to these producer group is insufficient to determine likelihood.

H.3.5. Likelihood of increased imports of subject goods from subject countries

90. The Authority has analysed exports from China PR and Indonesia to India in last 10 years to examine likelihood of increased imports from these countries.

Particulars (MT)	2011-12	2012-13	2013-14	2014-15	2017-18	2018-19	2019-20	POI(A)	October 2020-September 2021	October 2021 to March 2022 (A)
China PR	220	46	-	22	1,223	2,337	4,340	2,816	816	1,110
Indonesia	16,042	8,080	11,308	15,107	14,206	22,953	20,459	19,368	15,992	17,443

91. It can be seen that imports from China PR have remained extremely low during the last ten years. However, imports from Indonesia in last 10 years have been fairly substantial.

92. The details regarding imports of subject goods from the subject countries in the present remand investigation are as follows:

SN	Particulars	UOM	2017-18	2018-19	2019-20	POI (A)	October 2020 to September 2021	October 2021 to March 2022 (A)
1	Subject countries	MT	15,429	25,290	24,799	22,185	16,808	18,554
	China PR	MT	1,223	2,337	4,340	2,816	816	1,110
	Indonesia	MT	14,206	22,953	20,459	19,368	15,992	17,443
2	Subject countries import in relation to							
	Indian production	%	100	134	122	110	84	78
	Consumption	%	100	127	116	108	78	78
3	China PR imports in relation to							

	Indian production	%	100	157	270	178	51	59
	Consumption	%	100	146	254	172	46	59
4	Indonesia imports in relation to							
	Indian production	%	100	132	109	104	87	79
	Consumption	%	100	125	104	102	81	80

93. It can be seen that:

- a. Imports have declined during the POI(A) as compared to previous two years. Imports have further declined in the post POI period as compared to the POI(A). However, imports have increased in the H2 of 2021 -22. Imports from China PR have remained extremely low during the entire injury investigation period and the post POI period.
- b. Imports from subject countries in relation to Indian production and consumption has declined in the post POI period as compared to POI(A) and previous 3 years.
- c. Imports from China PR in relation to Indian production and consumption is less than 1% during the injury investigation period and post POI period.

H.3.6. Surplus capacities

94. Information with respect to surplus capacities in case of responding producers/exporters from subject countries is given below: -

POI

Particulars	Capacity (MT)	Production (MT)	Capacity Utilisation (MT)	Surplus Capacity	Surplus Capacity (range)
Sateri (Fujian) Fibre Co., Ltd	***	***	***	***	NIL
PT Asia Pacific Rayon	***	***	***	***	0-10
PT. South Pacific Viscose	***	***	***	***	40-50
Total for subject countries' responding producers	***	***	***	***	15-25%

95. With regard to the capacity of participating producers/exporters, the Authority notes as follows:

- Small surplus capacity is available with PT Asia Pacific Rayon (APR). However, APR is a new producer who has commenced production in 2019 and therefore it cannot be expected to achieve 100% capacity utilisation immediately. As per questionnaire response filed by APR, they plan to increase their capacity but this capacity expansion will happen only in quarter 4 of 2024.
- Surplus capacity is available with PT South Pacific Viscose. However, the company has submitted that it has regularly been operating at 85% capacity utilisation. Its capacity utilisation was low during POI due to Covid-19 disruptions.
- There is no surplus capacity available with Sateri (Fujian) Fibre Co., Ltd. There are other related companies of Sateri (Fujian) Fibre Co., Ltd. who are engaged in the production of the subject goods in China PR but have not exported to India during POI. The surplus capacities available with such related companies, as indicated in their submission, are shown in the table below:

Particulars	Capacity (MT)	Production (MT)	Capacity Utilisation (MT)	Surplus Capacity	Surplus Capacity (range)
Sateri (China) Fibre Co., Ltd.	***	***	***	***	30-40
Sateri (Jiangsu) Fibre Co., Ltd	***	***	***	***	NIL
Sateri (Jiujiang) Fibre Co., Ltd	***	***	***	***	0-10
Sateri (JiangXi) Chemical Fibre Co., Ltd	***	***	***	***	NIL

96. It can be seen that out of the four related companies, only Sateri (China) Fibre Co., Ltd. has surplus capacities available with it during the POI. However, it was submitted that its capacity during the POI was low because first line of production started during December 2019 and second line of production began in April 2020. Its production has stabilised in post-POI and there is no surplus capacity and analysis of post POI data would show that its production has stabilised in post-POI and there is no surplus capacity.

97. **Post POI period**

China PR

Sateri Fujian (Fibre) Co. Ltd

Particulars	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 Sept 2021	1 October 2021 to 31 March 2022
Total Capacity	MT	***	***	***
	Trend	100	100	100
Production	MT	***	***	***
	Trend	100	96	99
Capacity Utilization	%	***	***	***
	Trend	100	96	99
Surplus Capacity	%	NIL	NIL	NIL
	Range	NIL	NIL	NIL

Sateri (China) Fibre Co. Ltd.

Viscose Staple Fibre (VSF)	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 September 2021	1 October 2021 to 31 March 2022
Capacity	MT	***	***	***
	Trend	100	109	107
Production	MT	***	***	***
	Trend	100	107	110
Capacity Utilisation	%	***	***	***
	Trend	100	94	104
Surplus Capacity	%	***	***	***
Range %	Trend	NIL	0-10	NIL

Sateri (Jiangsu) Fibre Co., Ltd.,

Viscose Staple Fibre (VSF)	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 September 2021	1 October 2021 to 31 March 2022
Capacity	MT	***	***	***
	Trend	100	103	105
Production	MT	***	***	***

	Trend	100	102	100
Capacity Utilisation	%	***	***	***
	Trend	100	98	95
Surplus Capacity	MT	***	***	***
Range	%	NIL	0-10	0-10

Sateri (Jiujiang) Fibre Co., Ltd.,

Viscose Staple Fibre (VSF)	Unit	POST POI (1 October 2020 to 31 March 2021)	POST POI (1 April 2021 to 30 September 2021)	POST POI (1 October 2021 to 31 March 2022)
Capacity	MT	***	***	***
	Trend	100	101	101
Production	MT	***	***	***
	Trend	100	102	102
Capacity Utilisation	%	***	***	***
	Trend	100	101	101
Surplus Capacity	MT	***	***	***
Range	%	0-10	0-10	0-10

Sateri (JiangXi) Chemical Fibre Co., Ltd.

Viscose Staple Fibre (VSF)	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 September 2021	1 October 2021 to 31 March 2022
Capacity	MT	***	***	***
	Trend	100	100	103
Production	MT	***	***	***
	Trend	100	99	101
Capacity Utilisation	%	***	***	***
	Trend	100	98	97
Surplus Capacity	%	NIL	NIL	NIL

98. It can be seen that no surplus capacity is available with Sateri Fujian (Fibre) Co. Ltd. and Sateri (China) Fibre Co., Ltd. and there is negligible surplus capacity with Sateri (Jiangsu) Fibre Co., Ltd., Sateri (Jiujiang) Fibre Co., Ltd., & Sateri (JiangXi) Chemical Fibre Co., Ltd. in the post POI period as well.

Indonesia

PT Asia Pacific Rayon

Particulars	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 Sept 2021	1 October 2021 to 31 March 2022

Total Capacity	MT	***	***	***
	Trend	100	102	102
Production	MT	***	***	***
	Trend	100	95	112
Capacity Utilization	%	***	***	***
	Trend	100	93	104
Surplus Capacity	%	***	***	***
	Range	0-10	0-10	NIL

* Production in this period got slightly affected due to plant maintenance and upgradation

PT South Pacific Viscose

Particulars	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 Sept 2021	1 October 2021 to 31 March 2022
Total Capacity	MT	***	***	***
	Trend	100	100	100
Production	MT	***	***	***
	Trend	100	110	107
Capacity Utilization	%	***	***	***
	Trend	100	110	107
Surplus Capacity	%	***	***	***
	Range	10-20	0-10	5-15%

99. It can be seen that there is no surplus capacity with PT Asia Pacific Rayon in the post POI period. There is small surplus capacity available with PT South Pacific Viscose.

H.3.7. Likelihood of imports entering at prices having suppressing or depressing effect

a. Price undercutting

100. For assessing likelihood of imports at prices having suppressing or depressing effect, price undercutting has been determined by comparing the landed price of imports from the subject country with the net sales realisation of the domestic industry in India.

SN	Particulars	UOM	POI	October 2020 to March 2021	April 2021 to September 2021	October 2021 to March 2022
1	Net Sales Realisation excluding Freight	Rs/MT	***	***	***	***
2	Subject countries as a whole					
A	Landed Price	Rs/MT	1,11,135	1,13,355	1,45,324	1,52,075
B	Price Undercutting	Rs/MT	***	***	***	***
C	Price Undercutting	%	***	***	***	***
D	Price Undercutting	Range	Negative	Positive	Negative	Positive

101. It is be seen that price undercutting was negative in POI and Apr-Sept., 2021, but positive in Oct., 2020-March, 2021 and thereafter in Oct., 2021-March, 2022.

b. Price suppression/depression

SN	Period	Landed price Rs/MT	Trend	Cost of sales Rs/MT	Trend	Selling price excluding freight Rs/MT	Trend
1	2017-18	1,30,227	100	***	100	***	100
2	2018-19	1,40,253	108	***	104	***	103
3	2019-20	1,23,389	95	***	98	***	87
4	POI	1,11,135	85	***	89	***	78
5	H2 2020-21	1,13,355	87	***	84	***	84
6	H1 2021-22	1,45,324	112	***	103	***	102
7	H2 2021-22	1,52,075	117	***	133	***	112

102. It is seen that landed price of imports was higher than the cost of sales of the domestic industry till Sept., 2021. However, landed price of imports was marginally lower than the cost of sales of the domestic industry in Oct., 2021-Mar., 2022. Further, the landed price of imports were below the selling price of the domestic industry in the Oct., 2021-Mar., 2022.

H.3.8. Impact of imports on economic parameters of the domestic industry during post POI period

103. Various injury parameters relating to the domestic industry for post POI period are discussed herein below:

a. Capacity, production, capacity utilization and sales

104. The Authority has considered capacity, production, capacity utilization and sales volume of the domestic industry during the post POI period.

SN	Particulars	UOM	POI(A)	October 2020 to September 2021	October 2021 to March 2022	October 2021 to March 2022 (A)
1	Capacity	MT	5,92,993	5,82,033	3,96,375	7,92,750
	Trend	Indexed	100	98	-	134
2	Production - Plant	MT	5,40,237	5,43,872	3,28,661	6,57,322
	Trend	Indexed	100	101	-	122
3	Production - PUC	MT	***	***	***	***
	Trend	Indexed	100	99	-	118
4	Capacity Utilization	%	91%	93%	83%	83%
	Trend	Indexed	100	102	-	91
5	Domestic sales	MT	***	***	***	***
	Trend	Indexed	100	107	-	129

105. It can be seen that:

- a. The domestic industry has expanded its capacity during the injury investigation period and also in the post POI period.
- b. Production and sales of the domestic industry increased during the post POI period.
- c. Capacity utilization of the domestic industry has slightly reduced during October 2021 to March 2022.

b. Market Share of the domestic industry in demand

SN	Particulars	UOM	POI	October 2020 to March 2021	April 2021 to September 2021	October 2021 to March 2022
1	Subject countries	%	***	***	***	***
	Trend	%	100	95	57	76
2	Other countries	%	***	***	***	***
3	Domestic industry	%	***	***	***	***
	Trend	%	100	101	103	103

106. It is seen that the market share of the domestic industry has constantly been 95% or more during the post POI period.

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

107. Performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed.

SN	Particulars	UOM	POI(A)	October 2020 to March 2021	April 2021 to September 2021	October 2021 to March 2022
1	Cost of sales	₹/MT	***	***	***	***
	Trend	Indexed	100	94	116	150
2	Selling price	₹/MT	***	***	***	***
	Trend	Indexed	100	111	133	148
3	Profit / Loss	₹/MT	***	***	***	***
	Trend	Indexed	100	367	408	125

108. It can be seen that the profits of the domestic industry increased in the post POI period of October 2020 to September 2021. Thereafter, profits of the domestic industry declined during October 2021 to March 2022.

SN	Particulars	UOM	POI(A)	October 2020 to September 2021	October 2021 to March 2022	October 2021 to March 2022 (A)
1.	Profit / Loss	₹ Lacs	***	***	***	***
	Trend	Indexed	100	378	73	148
2.	Cash profits	₹ Lacs	***	***	***	***
	Trend	Indexed	100	271	70	140
3.	PBIT	₹ Lacs	***	***	***	***
	Trend	Indexed	100	344	78	156

109. It can be seen that total profits, cash profits and PBIT of the domestic industry increased during October 2020 to September 2021 and thereafter declined in the period of October 2021 to March 2022.

H.3.9. Export Orientation

110. Authority has examined the sales information of the producers/exporters to evaluate export orientation of producers/exporters in subject countries.

China PR

Sateri (Fujian) Fibre Co. Ltd.	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 September 2021	1 October 2021 to 31 March 2022
Sale Quantity (PUC)	MT	***	***	***
(a) Domestic Sales	MT	***	***	***
(b) Export Sales-India	MT	***	***	***
(c) Export Sales-Other Countries	MT	***	***	***
Domestic Sales as % of total sales	%	***	***	***
Domestic Sales as % of total sales	Range	80-90	80-90	80-90

111. It can be seen that more than 80% of total sales of Sateri (Fujian) Fibre Co. Ltd. in the POI period and in the post POI period are in the domestic market.

112. Sales of related parties of the Sateri (Fujian) Fibre Co. Ltd. is noted as follows:

Sateri (China) Fibre Co. Ltd.	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 September 2021	1 October 2021 to 31 March 2022
Sale Quantity (PUC):	MT	***	***	***
(a) Domestic Sales	MT	***	***	***
(b) Export Sales-India	MT	***	***	***
(c) Export Sales-Other Countries	MT	***	***	***
Domestic Sales as % of total sales	%	***	***	***
Domestic Sales as % of total sales	Range	90-100	90-100	90-100

Sateri (Jiangsu) Fibre Co., Ltd.,	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 September 2021	1 October 2021 to 31 March 2022
Sale Quantity (PUC):	MT	***	***	***
(a) Domestic Sales	MT	***	***	***
(b) Export Sales-India	MT	***	***	***

(c) Export Sales-Other Countries	MT	***	***	***
Domestic Sales as % of total sales		***	***	***
Domestic Sales as % of total sales	Range	90-100	90-100	90-100

Sateri (Jiujiang) Fibre Co., Ltd.	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 September 2021	1 October 2021 to 31 March 2022
Sale Quantity (PUC):	MT	***	***	***
(a) Domestic Sales	MT	***	***	***
(b) Export Sales-India	MT	***	***	***
(c) Export Sales-Other Countries	MT	***	***	***
Domestic Sales as % of total sales	%	***	***	***
Domestic Sales as % of total sales	Range	90-100	90-100	90-100

Sateri (JiangXi) Chemical Fibre Co., Ltd.	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 September 2021	1 October 2021 to 31 March 2022
Sale Quantity (PUC):	MT	***	***	***
(a) Domestic Sales	MT	***	***	***
(b) Export Sales-India	MT	***	***	***
(c) Export Sales-Other Countries	MT	***	***	***
Domestic Sales as % of total sales		***	***	***
Domestic Sales as % of total sales	Range	90-100	90-100	90-100

113. It can be seen that more than 90% of total sales of related entities of Sateri (Fujian) Fibre Co. Ltd. are in the domestic market.

Indonesia

PT Asia Pacific Rayon	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 September 2021	1 October 2021 to 31 March 2022
Sale Quantity (PUC):	MT	***	***	***
(a) Domestic Sales	MT	***	***	***
(b) Export Sales-India	MT	***	***	***
(c) Export Sales-Other Countries	MT	***	***	***
Domestic Sales as % of total sales	%	***	***	***
Domestic Sales as % of total sales	Range	40-50	30-40	50-60

114. It can be seen that the share of export sales in the total sales of the company is quite significant.

PT South Pacific Viscose	Unit	1 October 2020 to 31 March 2021	1 April 2021 to 30 September 2021	1 October 2021 to 31 March 2022
Sales Quantity (PUC):	MT	***	***	***
(a) Domestic Sales	MT	***	***	***
(b) Export Sales-India	MT	***	***	***
(c) Export Sales-Other Countries	MT	***	***	***
Domestic Sales as % of total sales		***	***	***
Domestic Sales as % of total sales	Range	30-40	20-30	30-40

115. It can be seen that the share of export sales in the total sales of the company is quite significant.

H.3.10. Third country dumping

116. Information regarding third country dumping as provided by the domestic industry is as below:

Particulars	Period	Dumped exports MT	Total third country exports MT	Share of dumped exports	Share of dumped exports(range)
China PR	POI	***	***	***	90-100%
	H2 2020-21	***	***	***	40-50%
	H1 2021-22	***	***	***	0-10%
	H2 2021-22	***	***	***	45-55%
Indonesia	POI	***	***	***	90-100%
	H2 2020-21	***	***	***	25-35%
	H1 2021-22	***	***	***	0-10%
	H2 2021-22	***	***	***	80-90%
Subject countries	POI	***	***	***	90-100%
	H2 2020-21	***	***	***	25-35%
	H1 2021-22	***	***	***	0-10%
	H2 2021-22	***	***	***	60-70%
Indian demand	POI	***	***	***	
	H2 2020-21	***	***	***	
	H1 2021-22	***	***	***	
	H2 2021-22	***	***	***	

117. Information regarding third country dumping during the POI from the response filed by the responding producers is as below:

Particulars	Total Exports to third countries (MT)	Exports to third countries at dumped prices (MT)	% of Exports to third countries at dumped prices	% of Exports to third countries at dumped prices (range)
Sateri (Fujian) Fibre Co., Ltd	***	***	***	90-100
PT Asia Pacific Rayon	***	***	***	80-90
PT. South Pacific Viscose (SPV)	***	***	***	90-100

118. It is seen that the share of dumped exports to rest of the world is almost equal to the Indian demand.

H.3.11. Third country injurious exports

119. Information regarding third country injurious exports as provided by the domestic industry is as below:

Particulars	Period	Injurious exports MT	Total third country exports MT	Share of Injurious exports	Share of Injurious exports (range)
China PR	POI	***	***	***	65-75%
	H2 2020-21	***	***	***	35-45%
	H1 2021-22	***	***	***	0-10%
	H2 2021-22	***	***	***	90-100%
Indonesia	POI	***	***	***	85-95%
	H2 2020-21	***	***	***	15-25%
	H1 2021-22	***	***	***	0-10%
	H2 2021-22	***	***	***	90-100%
Subject countries	POI	***	***	***	85-95%
	H2 2020-21	***	***	***	15-25%
	H1 2021-22	***	***	***	0-10%
	H2 2021-22	***	***	***	90-100%
Demand	POI	***	***	***	
	H2 2020-21	***	***	***	
	H1 2021-22	***	***	***	
	H2 2021-22	***	***	***	

120. Information regarding third country injurious exports determined by the Authority from the responses filed by the responding producers is as below:

Period of Investigation

Particulars	Total Exports to third countries (MT)	Exports to third countries at prices below NIP (MT)	%of Exports to third countries at prices below NIP	%of Exports to third countries at prices below NIP (range)
Sateri (Fujian) Fibre Co., Ltd	***	***	***	50-60
PT Asia PacificRayon	***	***	***	80-90

PT. South Pacific Viscose	***	***	***	80-90
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H.3.12. Price attractiveness

121. Information with respect to price attractiveness during POI determined by the Authority in respect of responding producers is given below:

Period of Investigation

Particulars	Total Exports to third countries (MT)	Exports to third countries at prices below export price to India	% of Exports to third countries at prices below export price to India	% of Exports to third countries at prices below export price to India(range)
Sateri (Fujian)Fibre Co., Ltd	***	***	***	55-65
PT Asia Pacific Rayon	***	***	***	65-75
PT. South Pacific Viscose	***	***	***	85-95

122. Information on third country attractive exports determined by the Authority from the responses filed by the responding producers for the post-POI is as below:

SN	Particulars	Period	Attractive exports to third country MT	Total third country exports MT	Share of attractive exports	Range
1	Sateri (Fujian) Fibre Co., Ltd	H2 2020-21	***	***	***	50-60
		H1 2021-22	***	***	***	0-10
		H2 2021-22	***	***	***	10-20
2	PT Asia Pacific Rayon	H2 2020-21	***	***	***	50-60
		H1 2021-22	***	***	***	40-50
		H2 2021-22	***	***	***	40-50

3	PT. South Pacific Viscose	H2 2020-21	***	***	***	35-45
		H1 2021-22	***	***	***	50-60
		H2 2021-22	***	***	***	40-50

123. It is seen that the share of price attractive exports to rest of the world is significant in case of Indonesian producers.

L. Post disclosure comments

124. Following submissions have been made by the applicant during the remand investigation:

- a. Considering dumped, price attractive and injurious exports to third countries in the quarter 4 of 2021-22, the quantum of exports likely to be diverted to India is more than the Indian demand.
- b. If the domestic industry maintains these prices, it will lose sales and production, capacity utilization, and ultimately benefits of economies of scale and its cost per unit would increase resulting in losses. If the domestic industry retains its customers, it will have to reduce its prices and would thus suffer on account of losses resulting in negative return on investment. These are the likely scenarios given the fact that (a) imports from subject countries have increased drastically and (b) the performance of the domestic industry in this period has been poor.
- c. The domestic industry has provided letter from 48 members of INMA stating that their views were not sought before making the submissions and that the association did not decide to oppose the duty.
- d. Had the Authority examined the credentials of the association, it would have shown that they made submissions without even establishing how they are relevant to the present proceedings and some of these associations are not even concerned with Viscose Staple Fibre.
- e. Denim Manufacturers Association (DMA), Indian Texpreneurs Federation (ITF) and Confederation of Indian Textile Industries (CITI) did not even participate in sunset investigation prior to the remand proceedings.
- f. The Authority has found that responding producers from Indonesia are operating without significant idle capacities, but they are heavily export oriented which should be considered for arriving at final conclusion.
- g. Producers in Indonesia enjoy several advantages namely (a) raw material pulp available locally at lower prices and (b) basic custom duty advantage due to India ASEAN FTA.
- h. The fact that the imports increased as the duties expired clearly establishes that it was only the anti-dumping duties which were keeping a check on the imports of the subject goods.

- i. Average monthly imports in June, July and August (the most recent period) are in the range of 5000 MT per month. This is the monthly highest historical volume.
- j. Profitability of the domestic industry has declined drastically over the 2021-22. Profitability of the period June, July and August when the imports were highest is also poor.
- k. There is no necessity that the domestic industry should be bleeding before any anti-dumping measure can be imposed. In any case, the domestic industry has already started suffering significant decline in profits in the recent period.
- l. Any submission by the interested parties that the increase in cost of production in the FY 2022 was due to capacity expansion is misleading and should be rejected as the cost of production increased not only for domestic industry, but also for producers in Thailand, Indonesia and China PR.
- m. The dumping margin found by the Authority in the present investigation is higher than the existing anti-dumping duty. Therefore, there is sufficient ground for extension of duties. The domestic industry requests the Authority to kindly consider extension of same duties.
- n. The examination of public interest is a wider term and does not limit itself to the consumer industry alone. In fact, it covers within its ambit domestic producers of the subject goods as well.
- o. Even though the extension of anti-dumping duty might affect the price levels of the product manufactured using the subject goods, fair competition in the Indian market will not be reduced by the anti-dumping measure.
- p. It is in the consumers' interest to have a competitive Indian industry capable of supplying the product to the consumers in competition to fair priced imports.
- q. While examining the aspect of public interest, it is equally important to examine the contribution of the domestic industry to the economy as a whole.
- r. The domestic industry invested more than Rs 7000 crores in last one decade in expanding its capacity for the domestic market and more than Rs 1200 crores in the growth of downstream industry.
- s. Barring pulp, the domestic industry sources all raw materials domestically and therefore growth of the domestic industry will lead to growth of upstream industry.
- t. More than 40,000 people (including Staff / workers and contractual manpower) are employed in factories established for the production of product under consideration.
- u. When the domestic industry has been supplying like article in desired quantities and quality, there is no reason for the users to rely on imports.
- v. The domestic industry has undertaken further expansion and its capacities are now 7,92,750 MT. Demand of Viscose Staple Fibre (even after including demand of non-product under consideration of the present product) has never exceeded 6,25,000 MT.

125. Following submissions have been made by the other interested parties during the remand investigation:

- a. The domestic industry has claimed their production and capacity as confidential but is asking respondents to disclose their data. Despite clear evidence submitted by the Respondent, the Authority did not cross verify the capacity and production of the domestic industry.
- b. Domestic industry is using the related company in Thailand for exporting huge quantities of VSF into India under the name of Kennigton Industries Pvt. Ltd.
- c. The domestic industry is able to increase its selling price while the cost of sales has declined. There is no relevance between duty and the profitability of the domestic industry.
- d. The import volumes for 44,662 MT considered by the domestic industry for April 2022 to July 2022 contains imports of non-product under consideration as well. Imports as per DGCI&S published data for HS code 55041010 is only in the range of 631 MTS and imports under 55041090 is of NPUC.
- e. The imports from Thailand have increased four times during the same period as the domestic industry is importing from related party.
- f. The domestic industry has made contradictory statement in their written submission as earlier they said that the VSF industry will not grow at 14% CGAR.
- g. There is a demand and supply gap in India and the domestic industry is the only producer. The users are left on the mercy of the domestic industry.
- h. The domestic industry is misusing their dominant power by threatening the user industry to make statements in their support. Domestic industry does not have supporting data or evidence to show that they are suffering from injury.
- i. Many members of the association have informed that they have been forced to make such statements as they could not risk their business in continuing to get their supplies from the domestic industry.
- j. As per the WTO Agreement, time limit for completion of SSR investigation is 12 months. Further as per Section 9A, there is a restriction that the review cannot exceed for more than 12 months. Since the investigation has gone beyond the prescribed time limit, the DGTR must terminate the investigation.
- k. The DGTR had found that the domestic industry is in healthy profit. The decline in profit in post period of investigation is because it has expanded its capacities.
- l. There was no price undercutting, price underselling or price suppression in the Indian Market. The producers from Indonesia are not dumping and the same was found out by the DGTR.
- m. There is no basis for assuming that there will be an increase in the flow of imports due to price attractiveness.

- n. Domestic industry is deliberately selling the product at 10% below the market rate to claim injury. The users who have met the DGTR in person have resold these at materially higher price.
- o. Even after repeated reminders, the Authority has not disclosed critical and essential information arrived from data pertaining to SPV.
- p. The present investigation has been challenged before the Madras High Court and the Authority should hold back from issuing final findings till the next date of hearing.
- q. The Authority is requested to conduct an oral hearing again as the oral hearing conducted was without waiting for the post-period of investigation data.
- r. Imports from subject countries have declined in relation to Indian production and consumption in the post period of investigation as compared to period of investigation and previous 3 years.
- s. The domestic industry has not made any submissions in regard to imports in the period April to June 2022 in its written submissions. These submissions were made without providing non-confidential version of such submissions to other interested parties.
- t. Domestic industry has not relied on the period of April-July 2022 for claiming decline in its performance but has relied only on import volumes during the same period.
- u. There is no consistent price undercutting in the post period of investigation and no conclusions can be made.
- v. It is admitted that landed price was above the selling price of the domestic industry in the period of investigation. If both have increased commensurately thereafter, it implies that there is no price suppression/depression due to imports.
- w. There is a huge increase in cost of sales, interest cost and depreciation in the post period of investigation of October 2021 to March 2022 because the domestic industry has increased its capacity by 34%.
- x. Market share of the domestic industry has constantly been more than 92% throughout the injury investigation period.
- y. The fact that capacity for product under consideration and non-product under consideration can be interchangeably used is not a relevant factor to justify inclusion of these capacities. It cannot be assumed that the producers/exporters will utilize their entire capacity for production and export of product under consideration.
- z. There is no reason to presume that estimated surplus capacity provided in third party reports is reliable as compared to the actual information provided by participating producer/exporter.

- aa. Hawkins Wright Sep 2020 Report & Wood Mackenzie Report are of year 2020. Therefore, it cannot even be claimed that all the information provided regarding capacity for 2020, 2021 and 2022 are based on actual figures.
- bb. The fact that actual exports by Asia Pacific Rayon to India during the post period of investigation is very low shows that domestic sales and exports to third countries are priority markets.
- cc. The non-injurious price claimed by the domestic industry for the post period of investigation cannot be simply relied upon without verification of such claim by the Authority.
- dd. Actual share of exports by Asia Pacific Rayon to third countries below export price to India during post period of investigation are much lower than the % share of exports determined by the Authority.
- ee. Price attractiveness need not be examined as actual imports into India in the absence of anti-dumping duty are available for determining likelihood of shift in exports from third countries to India.
- ff. Asia Pacific Rayon will not forego their established market presence and customer base in third countries merely because India is a price attractive market.
- gg. Economic parameters of the domestic industry show an improvement in the post period of investigation.
- hh. There is no surplus capacity with Asia Pacific Rayon and Sateri Fujian in the post period of investigation. Absence of likelihood of dumping and injury is established from the fact that exports from subject countries are not subjected to anti-dumping duty in any other country.
- ii. If the duties are recommended to be continued, Sateri Fujian and Asia Pacific Rayon should be given nil rate of duty as their injury margin is negative. In alternate, lowest duties granted to the producers in the 1st sunset review should be given to these producers.

L.1. Examination by the Authority

126. It is seen that most of the submissions made by the interested parties on the disclosure statement are mere reiteration of their earlier submissions. The Authority has already examined the submissions made by other interested parties at the time of issuance of the disclosure statement. The views expressed by the interested parties which are mere repetition of the submissions made before are not being reproduced again. Submissions made by interested parties on the disclosure statement that are not already examined by the Authority have been addressed herein.
127. As regards the contention that the profitability of the domestic industry has been impacted due to capacity expansion, the Authority notes that it has examined of likelihood of injury

to the domestic industry after considering all relevant factors. Decline in profitability of the domestic industry during October 2021 to March 2022 is not the sole basis considered by the Authority in its likelihood examination.

128. As regards the argument that that the import data provided by the domestic industry for April to July 2022 includes data for non-product under consideration as well, the Authority notes that it has not considered the data beyond March 2022 for arriving at the final conclusion because period beyond March 2022 is not included in the 18 months post POI period examined by the Authority. It is further noted that the Authority cannot permit continuous expansion of post POI period as it would result in an endless proceeding and will prevent timely completion of the remand investigation.
129. With regard to the claim that the current volume of imports from subject countries has declined in the post POI period, the Authority notes that the volume of imports is substantial in absolute terms from Indonesia and has also increased during the period of October 2021 to March 2022 as compared to previous year. The Authority notes that imports of subject goods from China PR have remained very low during the injury investigation period and the post POI period.
130. It has been contended that the capacities reported by the domestic industry for foreign producers include capacities for non-product under consideration as well. The Authority notes that it has considered actual information regarding surplus capacity provided by producers/exporters in Indonesia for product under consideration for determining existence of likelihood of injury due to imports from Indonesia.
131. With regard to the claim that there are no surplus capacities with the responding producers/exporters in Indonesia and therefore there is no likelihood of increased imports in the event of cessation of anti-dumping duty, the Authority notes that a significant volume of production is being exported by the producers from Indonesia to various countries globally. Further, substantial exports to third countries are at prices below the export price to India. Given lower export price to third countries, the Authority considers that India is a price attractive market for the producers/exporters in Indonesia and exporters may divert those third countries exports to Indian market.
132. As regards the submission that the CESTAT order has been challenged in the Madras High Court and the final findings cannot be issued till the disposal of the writ petition in the Madras High Court, the Authority notes that the Madras High Court has not granted stay on the present remand proceedings.

133. As regards, the submission of the APR that percentage share of price attractive exports to third countries is incorrectly analyzed by the Authority, the Authority notes that it has corrected the errors and has revised the information accordingly.
134. With regard to the submission that injurious exports to third countries during the post POI period should not be considered because non-injurious price is not determined for the post POI period, the Authority notes that it has not relied on the injurious exports to third countries during the post POI period in the final findings.

M. PUBLIC INTEREST

135. Following submissions have been made by the domestic industry during the remand investigation:
- a. The examination of public interest is a wider term and does not limit itself to the consumer industry alone. In fact, it covers within its ambit interest of domestic producers of the subject goods as well.
 - b. Even though the extension of anti-dumping duty might affect the price levels of the product manufactured using the subject goods, fair competition in the Indian market will not be reduced by the anti-dumping measure
 - c. It is in the consumers' interest to have a competitive Indian industry capable of supplying the product to the consumers in competition to fair priced imports.
 - d. While examining the aspect of public interest, it is equally important to examine the contribution of the domestic industry to the economy as a whole.
 - e. The domestic industry invested more than Rs 7000 crores in last one decade in expanding its capacity for the domestic market and more than Rs 1200 crores in the growth of downstream industry.
 - f. Barring pulp, the domestic industry sources all raw materials domestically and therefore growth of the domestic industry will lead to growth of upstream industry.
 - g. More than 40,000 people (including Staff / workers and contractual manpower) are employed in factories established for the production of product under consideration.
 - h. When the domestic industry has been supplying like article in desired quantities and quality, there is no reason for the users to rely on imports.
 - i. The domestic industry has undertaken further expansion and its capacities are now 7,92,750 MT. Demand of Viscose Staple Fibre (even after including demand of non-product under consideration of the present product) has never exceeded 6,25,000 MT
 - j. Growth of consumption has been positive and significant during the anti-dumping duty period, which clearly shows that the growth of fibre and yarn has not suffered due to this duty.

- k. Number of spindles have increased from 1.5 million to 4 million over the duty period. Further, the user industry had no Murata Vortex Spinning machines in the past, which has now increased to 520 in the recent period.
- l. Consumption of fibre increased significantly despite increase in fibre price, and declined despite decline in fibre price showing no correlation.
- m. Share of viscose in the final price of cloth is hardly 5%, and impact of anti-dumping duty is less than 0.25%.
- n. Grasim is not only continuously investing in capacity additions, but has also made significant investments exceeding Rs. 1200 crores in product and skill development, benefit of which has been reaped by the downstream industry, including spinners. Given MSME nature of spinners, they could not have even made these efforts. It is such efforts, amongst others, which are responsible for the growth of yarn industry.
- o. Capacity of Grasim has increased from 3,33,975 MT in 2010-11 to 8,10,000 MT at present through cumulative investment of Rs. 7,187 crores in addition to an investment of Rs 1200 crore in skill development.
- p. Had the anti-dumping duty been the reason for the increase in the imports of yarn, the cessation of duty would have led to a fall in yarn imports. The yarn imports have however increased.
- q. When the product was subject to antidumping duty, yarn imports were highly limited. When the product is now not subject to antidumping duty, yarn imports have significantly increased.

136. Following submissions have been made by the other interested parties during the remand investigation:

- a. While the duty was in force the domestic industry alone was earning double digit margins, whereas their customers and the subsequent value chain was finding it difficult to earn PBIT of even 5%.
- b. With the removal of duty on VSF, the user industry has certainly benefitted by the availability of VSF at globally competitive prices in India.
- c. VSY imports will increase, and VSY exports will decrease in coming years if the duty on VSF is allowed to continue.
- d. Duty will make the entire value chain uncompetitive as it will cause severe disruption to Indian textile value chain.
- e. Domestic industry is using anti-dumping to charge premium over and above the nominal price. As is evident from CCI findings, the domestic industry itself has accepted that it charges up to 3% premium over the prevailing market prices.
- f. Domestic industry has even now been using their dominant position to control not just the user industry, but also the entire performance of the VSF based value chain.

- g. Domestic industry has already enjoyed anti-dumping duty on VSF for 11 years. The domestic producer has only used the duty as a tool to make exorbitant profits at the expense of the user industry and the value chain.
- h. Levy of duty will lead to increase in the cost of the imported fibre and no consumer would accept the levy of anti-dumping duty since it would increase the cost/price of their end product consequentially.
- i. Around 2 lakh powerlooms have switched over from cotton to viscose fabric manufacturing during the last two to three years and these unit have been importing due to short supply and high cost in domestic market. With the removal of duty on VSF, the fabric manufacturing segment could get VSF spun yarn at a competitive rate from the domestic market.
- j. The industry is adding around 1.5 million spindles every year and is currently having around 9 million idle spindles due to various reasons including non-availability of fibre at an internationally competitive price.
- k. India needs around 20 Bn Kg of fibre to achieve the target whereas current production is around 10 Bn Kg (6.5 Bn Kg of cotton and 3.5 Bn Kg of MMF). Since the potential to increase the cotton production is limited, the envisaged target could only be achieved by increasing the MMF production capacity by three to four times which is highly impossible at the moment due to duty in force.

M.1. Examination by the Authority

137. Authority considered whether continued imposition of duty will have any adverse impact on the public interest. For this, the Authority has considered information on record and interests of various parties, including domestic industry, importers and users of the product.
138. The Authority issued initiation notification inviting views from all interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/ consumers to provide relevant information with regard to present investigation, including possible effect of anti-dumping duty on their operations. The interested parties have not established impact of anti-dumping duty on the user industry with verifiable information. No evidence has been provided by the user to show that the duties imposed in past have had any adverse impact on the users or the consumers at large.
139. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Anti-dumping duty has been in place for last 10 years and the imports from subject country have continued to happen. Further, the domestic industry has invested more than Rs 7000 crores in total to expand its capacity. Therefore,

continued imposition of duties would not affect the availability of the product to the consumers.

140. It is recognized that the imposition of duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, the domestic industry has provided quantified impact of anti-dumping on the end product prices. As per the information provided by the domestic industry, it is seen that the share of Viscose Staple Fibre in the final end product price is hardly 5% and the impact of anti-dumping duty will be around 0.25% only. The fact that the share of Viscose Spun Yarn is hardly 5% has also been admitted by the user industry. Therefore, it is seen that the extension of anti-dumping duty will not have any significant impact on the end products.
141. It has also been contended that there is a demand and supply gap in the Indian market forcing the users to import. The Authority notes that capacities of the domestic industry are far higher than the demand in the country. Therefore, the argument that imports are happening due to demand and supply gap cannot be accepted. In any case, demand-supply gap does not justify dumping.
142. It has also been contended that the extension of anti-dumping duty will lead to increase in the imports of Viscose Spun Yarn. As per the information provided by the domestic industry, the imports of Viscose Spun Yarn have increased post expiry of anti-dumping duty.
143. The Authority thus concludes that the continuation of anti-dumping duties against imports of subject goods from Indonesia will not be against the larger public interest.

N. CONCLUSIONS

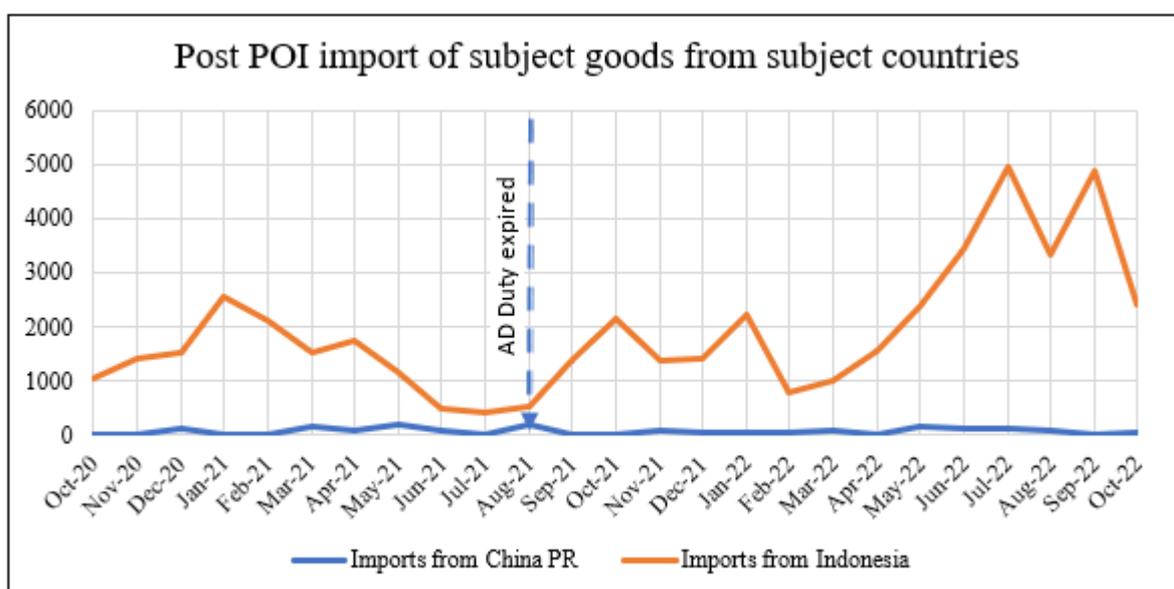
144. Having regard to the contentions raised, information provided, and submissions made by the interested parties, facts available before the Authority and observations and analysis of the Hon'ble CESTAT in the judgment as recorded above in respect of likelihood of recurrence of dumping and consequent injury to the domestic industry, the Authority has examined the likelihood factors.
145. Since the Hon'ble CESTAT has remanded back the finding only to examine if there is a likelihood of continuation or recurrence of injury to the domestic industry, the issues relating to all others aspects examined in final findings dated 31.07.2021 are confirmed.

146. As regards the likelihood of continuation or recurrence of injury to the domestic industry, the Authority concludes as follows: -

- a. There is continued dumping of subject goods from subject countries.
- b. The performance of the domestic industry was stable during the POI and also in the post POI period.
- c. The information on record as noted below shows likelihood of continuation of dumping and recurrence of injury to the domestic industry in case the anti-dumping duty in force is allowed to cease against imports from Indonesia.
 - i. Imports from Indonesia have remained substantial during the injury investigation period and the post POI period.
 - ii. Information provided by all participating producers/exporters from Indonesia shows that substantial sales by producers/exporters are in the export market. This shows that producers/exporters in Indonesia are heavily export oriented and are dependent on exports for optimum utilization of their capacity.
 - iii. Substantial exports to third countries by producers/exporters in Indonesia are at prices lower than the export price to India. Therefore, India is a price attractive market for producers/exporters in Indonesia and there is likelihood of diversion of exports from third countries to India in event of withdrawal of anti-dumping duty.
- d. The information on record as noted below does not show likelihood of recurrence of injury in case the anti-dumping duty in force is allowed to cease against imports from China PR.
 - i. Imports from China PR have remained extremely low during the last 10 years including the injury investigation period and the post POI period.
 - ii. Share of imports from China PR in relation to Indian production and consumption has remained less than 1% during the injury investigation period and the post POI period.
 - iii. Landed price of imports from China PR has remained higher than cost of sales and selling price of domestic industry and is also higher than landed price of imports from Indonesia during the POI.
 - iv. Imports from China PR are not undercutting prices of domestic industry and are not causing price suppression and depression on the domestic industry.
 - v. There is no surplus capacity with participating producers/exporters from China PR representing nearly 30% of the total capacity in China PR.
 - vi. Participating producers/exporters in China PR are not export oriented and more than 90% of sales by participating producers/exporter in China PR are in the domestic market.
 - vii. No conclusive evidence has been provided by the domestic industry to substantiate that the behavior of non-cooperating producers/exporters from

China PR would be different from the behavior of participating producers/exporters from China PR.

147. The Hon'ble Tribunal in its order had pointed that a conclusion regarding discontinuation of antidumping duty cannot be reached merely on the ground of non – existence of surplus capacities. Further, it had pointed out that the Authority's analysis was misdirected insofar as it restricted the analysis on surplus capacities to only participating producers.
148. In this regard, the Authority notes that a negative conclusion with respect to the continuation of the anti – dumping duties was reached in the previous final findings dated 31.07.2021 basis on the data/information available with the Authority at that point of time. The data available with the Authority during the said findings dated 31.07.2021 indicated that the volume of dumped imports from the subject countries had declined in the POI as compared to the previous two financial years.
149. Pursuant to the order of the Hon'ble Tribunal, the analysis has been revisited with respect to the likelihood determination based on the already existing data and further examination of post – POI data till October, 2022 which includes the period when there is no anti-dumping duty in place.



150. As evident from the graph above, the post POI imports from China PR have been abysmally low, even when the anti-dumping duties were no longer in force from August 2021 onwards.
151. The Hon'ble Tribunal had noted in its order dated 19.05.2022 that the capacity of M/s Sateri alone is 4.90 times of the Indian demand. Assuming the fact that Sateri itself accounts for 4.90 times of Indian demand coupled with the fact that there are other

producers/exporters of the product under consideration in China PR who did not cooperate in the subject investigation and who may export once the duties are no longer in place, in such a scenario the import data for the period when there is no anti-dumping duty in place could have shown an increasing trend in import figures from China PR. However, the situation is *contrario* and there are abysmally low imports or imports are in the same trend as was there in the POI period despite having no anti-dumping duty in place from China PR and hence to conclude that there is a likelihood of dumping and injury in case duties are not continued against the imports from China PR would be a too far-fetched possibility or rather a remote possibility on which the anti-dumping duties cannot be extended as has been held in several cases by the Hon'ble Courts and even the WTO.

152. However, in case of Indonesia, the post POI data shows that imports from Indonesia have been increasing rapidly post expiry of duty in August 2021. In fact, the imports in July 2022, were on all time high since the last 4 years when compared on a monthly basis.
153. The increase in post-POI imports from Indonesia can be correlated with the likelihood factors as examined by the Authority in the present findings and therefore the current situation as captured from the transaction wise import data for the recent period establishes the fact that having the surplus capacity, export orientation and other factors as examined by the Authority, there is all the likelihood of dumping and injury in case the anti-dumping duties for the product under consideration is not continued for the imports against Indonesia.

O. RECOMMENDATION

154. Having examined likelihood of continuation or recurrence of dumping and injury to the domestic industry in the event of expiry of measures, the Authority considers it appropriate to recommend continuation of anti-dumping duty on imports of the product under consideration from Indonesia. However, continuation of anti-dumping duty is not recommended on imports of product under consideration from China PR.
155. The Authority, thus, considers it necessary to recommend continuation of definitive anti-dumping duty equal to the amount indicated in Col. 7 of the duty table below for a period of five (5) years on all imports from Indonesia of the product under consideration as described in Col. 3 of the duty table below.

DUTY TABLE

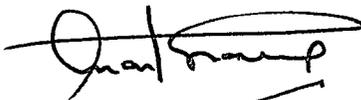
SN	Heading/ Subheading	Description of goods	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	55041010 55041090	Viscose Staple Fibre*	Indonesia	Any country including Indonesia	PT South Pacific Viscose	0.103	KG	US \$
2	-do-	-do-	Indonesia	Any country including Indonesia	PT Asia Pacific Rayon	0.512	KG	US \$
3	-do-	-do-	Indonesia	Any country including Indonesia	Any producer other than those mentioned in S. Nos. 1 & 2	0.512	KG	US \$
4	-do-	-do-	Any country other than Indonesia	Indonesia	Any	0.512	KG	US \$

* Viscose Staple Fibre (VSF) excluding bamboo fibre, modal fibre, non-woven fibre, flame retardant fibre, eco fibre, spun dyed fibre, tencel fibre (or Lyocel) and outlast viscose fibre.

156. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act.

P. FURTHER PROCEDURE

157. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.


Anant Swarup
(Designated Authority)