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F. No. 7/03/2023-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
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Dated: 16th July 2023

NOTIFICATION
FINAL FINDINGS

(Case No. AD (SSR) – 02/2023)

Subject: Final Findings - Sunset review investigation of anti-dumping duty on the imports of “flax yarn of below 70 lea count” originating in or exported from China PR-reg.

F. No. 07/03/2023/DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as “the Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred to as the “Rules” or the “AD Rules”) thereof.

The Designated Authority (hereinafter also referred to as the “Authority”) received an application filed by M/s Grasim Industries Limited (Jaya Shree Textiles) and Sintex Industries Ltd (hereinafter also referred to as the “Applicants” or “domestic industry”) in accordance with Act and Rules for sunset review investigation of anti-dumping duty on imports of Flax Yarn of below 70 Lea Count (hereinafter also referred to as the “subject goods” or the “PUC”) originating in or exported from China PR (hereinafter referred to as the “subject country”).

A. BACKGROUND OF THE CASE

1. The original anti-dumping investigation concerning imports of "flax yarn of below 70 lea count" originating in or exported from China PR was initiated vide Notification no. F.No.6/3/2018-DGAD dt 07.02.2018. The Authority recommended anti-dumping duty on the imports of "flax yarn of below 70 lea count" from China PR vide its final finding dated 18.09.2018. Based on the recommendations, the anti-dumping duty was imposed vide Customs Notification No. 53/2018-Customs (ADD) dated 18.10.2018. The said duties were levied for a period of 5 years.

2. In terms of Section 9A(5) of the Act the anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition. The Authority is required to review whether the expiry of anti-dumping duty is likely to lead to the continuation or recurrence of dumping and injury.

3. Further, Rule 23(1B) of the Rules provides as follows:

"any definitive anti-dumping duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry."

4. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of anti-dumping duty is likely to lead to the continuation or recurrence of dumping and injury.
5. In view of the duly substantiated application by the domestic industry with sufficient evidence of the likelihood of dumping and injury filed on behalf of the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated a sunset review investigation vide Notification No. F. No. 07/03/2023-DGTR dated March 31 2023, to review the need for the continued imposition of the duties in force in respect of the subject goods originating in or exported from the subject country and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
6. The scope of the present review covers all aspects of the previous investigation concerning the subject goods issued vide final finding No. 6/3/2018/DGAD, dated September 18, 2018, which were implemented vide Notification No. 53/2018-Customs (ADD) dated 18.10.2018.

B. PROCEDURE

7. The procedure described herein below has been followed with regard to the subject investigation:
 - i. The Authority notified the embassy of the subject country in India about the receipt of the anti-dumping application before proceeding to initiate the investigation.
 - ii. The Authority issued a public notice dated March 31 2023, published in the Gazette of India Extraordinary, initiating the sunset review anti-dumping investigation concerning the imports of the subject goods from China.

- iii. The Authority sent a copy of the initiation notification dated March 31 2023, to the Embassy of the subject country in India, known producers/exporters from the subject country, known importers/users in India, other Indian producers and other interested parties, as per the information made available by the applicants.
- iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the subject country in India in accordance with Rule 6(3) of the Rules.
- v. In the initiation notification, the Authority had called for comments on the proposed PCN methodology from the interested parties in order to have a fair comparison. No comments were received from the interested parties and thereafter, vide letter dated 29th May 2023, the interested parties were requested to file their questionnaire response in accordance with the finalised PCN methodology.
- vi. The interested parties were requested to provide relevant information in the form and manner prescribed and to make their views known in writing within the prescribed time, in accordance with Rules 6(2) and 6(4) of the Rules.
- vii. The embassy of the subject country in India was also requested to advise the producers/exporters from its country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to the embassy along with the names and addresses of the known producers/exporters from the subject country.
- viii. The Authority sent questionnaires to the following known producers/exporters in the subject country, in accordance with Rule 6(4) of the Rules:
 - a. Zhejiang Jinyuan Flax Company Limited, China PR,
 - b. Heilongjiang Yanshou Jijia Flax Textile Company Limited, China PR,
 - c. Nanhai Textiles Import and Export Company Limited of Guangdon, China PR
 - d. Jiamusi Sanhe Linen Textiles Company Limited, China PR
 - e. Jiangsu Jinyuan Flax Company Limited, China PR
 - f. Ningbo Win Way Company Limited, China PR
 - g. Huzhou A Xiang Import & Export Trading Company Limited, China PR,
 - h. Changzhou Meiyuan Flax Textile Company, China PR
 - i. Huzhou Goldrich Linen Textile Company Limited, China PR
 - j. Tongling Worldbest Linen and Ramie Company Limited, China PR,
 - k. Hangzhou Shanglu Silk Company Limited, China PR
 - l. Tung Ga Linen and Cotton (Changzhou) Company Limited, China PR
 - m. Yixing Sunshine Linen Textile Company Limited, China PR
 - n. Heilongjiang Kingdom Enterprise Company Limited, China PR
 - o. Suzhou Xinshen Linen Imp Andexp Company Limited, China PR

- p. Kunshan Dalixi Trading Company Limited, China PR
- q. The Lurex Company Limited, China PR
- r. Huaren Linen (Hk) Company Limited, China PR
- s. Tongxiang Jieka Import And Export Company Limited, China PR
- t. Great Eastern Textiles (Tongling) Company Limited, China PR
- u. Zhejiang Axiang Flax Textile Company Limited, China PR
- v. Zhejiang Golden Eagle Company Limited, China PR
- w. Zhejiang Golden Eagle Spun Silk Company Limited, China PR
- x. Zhejiang Golden Eagle Yili Linen Textile Company Limited, China PR
- y. Zhejiang Jinyuan Flax Company Limited, China PR
- z. Zhejiang Kingdom Linen Company Limited, China PR

ix. In response, the following exporters/producers from the subject country filed exporter's questionnaire response in the prescribed format:

- a. Zhejiang Kingdom Linen Company Limited, China PR
- b. Heilongjiang Kingdom Linen Company Limited, China PR
- c. Jiangsu Jinyuan Flax Company Limited, China PR
- d. Zhejiang Jinyuan Flax Company Limited, China PR
- e. Heilongjiang Yanshou Jijia Flax Textile Company Limited, China PR
- f. Yixing Sunshine Linen Textile Company Limited, China PR

x. The Authority sent importer's questionnaires to the following known importers/users of the subject goods in India, calling for necessary information in accordance with Rule 6(4) of the Rules:

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

xi. In response, the following importers/users have responded and filed importer's / user's questionnaire responses:

- a. Texventures LLP

xii. Further information was sought from the applicants and the other interested parties to the extent deemed necessary.

xiii. Due to the ongoing global pandemic of COVID-I9, all interested parties were asked to share the non-confidential versions of all their submissions with the other interested parties via email. Submissions made by all the interested parties to the extent considered relevant have been taken into account in the final findings' Notification.

- xiv. The petition was filed based on the import data obtained from market intelligence and secondary source for the period 2019-20 to September 2022. A request was made by the Authority to the Directorate General of Systems (DG System) to provide the transaction-wise details of imports of the subject goods for the past three years and the period of investigation, which was received by the Authority. In this investigation, it was brought to the notice of the Authority that substantial imports are being made in SEZ units, therefore, the Authority has considered the data obtained from DG Systems and SEZ online for the period April 2019 to September 2022 in the present investigation. The import data from DG Systems have been duly corroborated with the SEZ import data and response filed by the responding exporters.
- xv. The domestic industry has submitted its financial data. The non-injurious price (NIP) has been determined based on the optimum cost of production and the cost to make & sell the subject goods in India as per the information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non- injurious price has been considered to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xvi. Physical inspection through on-spot verification of the information provided by the applicants, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of the present final findings.
- xvii. The verification of the information provided by the producers/exporters to the extent deemed necessary, was carried out by the Authority and such verified information has been relied upon for the purpose of the present final findings.
- xviii. The period of investigation for the purpose of the present anti-dumping investigation is from October 2021 to September 2022 (12 Months). The injury investigation period has, however, been considered as the period 2019-20, 2020-21, 2021-22 and the POI. The overlap of six months between 2021-22 and the POI has been kept in consideration, while conducting the injury analysis.
- xix. In accordance with Rule 6(6) of the Rules, the Authority conducted an oral hearing on June 20 2023, to provide an opportunity to the interested parties to present the relevant information orally before the Authority. All the parties attending the oral hearing were advised to file written submissions of the views expressed orally. Non-confidential versions of the written submissions were circulated to the interested parties by email, and an opportunity was given to them to submit rejoinder submissions, if any.
- xx. The arguments made in the written submissions/rejoinders received from the interested parties have been considered in the present final findings.
- xxi. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final findings.
- xxii. Information provided by the interested parties on a confidential basis was examined with regard to the 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 the other interested parties. Wherever possible, parties providing information on a confidential basis were directed to provide sufficient non-confidential version of the information filed on a confidential basis.

- xxiii. 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 its final findings on the basis of the facts available.
- xxiv. In accordance with Rule 16 of the Rules Supra, the essential facts were disclosed by the Authority on 6th July 2023 to the concerned interested parties. Comments were requested by 11th July 2023. Comments received on the disclosure statement to the extent considered relevant by the Authority have been considered in this final findings.
- xxv. The exchange rate adopted by the Authority for the subject investigation is US\$1 = ₹77.48
- xxvi. In this Notification, *** represents information furnished by an interested party on a confidential basis and so considered by the Authority under the Rules.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 8. Keeping in view that the present investigation is a sunset review, at the stage of initiation, the scope of the product under consideration as defined in the original investigation was retained. The product under consideration was accordingly defined as follows:

“7. The product under consideration for the purpose of present investigation is “flax yarn of below 70 lea count (equivalent to 42 Nm)”.

8. Flax Yarn is a natural cellulosic fiber having naturally antimicrobial, antifungal properties. The Yarn is generally made out of the 100% flax fiber and is called Linen Yarn or flax yarn. The flax fiber can also be blended with other fibers for making flax yarn or linen yarn. The primary use of flax yarn is in making flax fabric. Flax fabric is used for apparel and in home textiles.

9. All other natural cellulosic fibers such as cotton, hemp, jute and ramie are beyond the scope of the product under consideration for the purpose of present investigations. Flax yarn of 70 and above lea is specifically excluded from the scope of the product under consideration.”

C.1. Views of the other interested parties

- 9. None of the other interested parties have made any submissions in regard to the scope of the product under consideration and like article.

C. 2. Views of the Domestic industry

- 10. The views of the domestic industry with regard to the product under consideration and like article are as follows:

- i. The product under consideration in the present petition is “flax yarn of below 70 lea count (42 Nm)”. Flax yarn of 70 and above lea is specifically excluded from the scope of the product under consideration.
- ii. Flax yarn is a linen yarn. It is a natural cellulosic fibre, highly moisture absorbent, has higher conductivity and possesses naturally antimicrobial, antifungal properties. The yarn made out of the flax fibre is called flax yarn/linen yarn. All other natural cellulosic fibres such as cotton, hemp, jute and ramie are beyond the scope of product under consideration for the purpose of present petition. If the product under consideration is described as linen/flax yarn, this is well understood in customs and market parlance.
- iii. The use of flax yarn is in making flax fabric. Flax fabric is used for apparel such as dresses, suits, separates, skirts, jackets, pants, blouses, shirts, children’s wear etc., and home textiles such as curtains, draperies, upholstery, bedspreads, table linens, sheets, dish towels etc.
- iv. There is no known difference in the PUC exported from China PR and that produced by the Indian industry. In the present case, both the imported and the domestic product have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable and thus, are like article.
- v. The product under consideration is generally imported under HS code 5306 1090 and 5306 2090. However, import can also take place under other HS codes, therefore, it is clarified that the HS codes are only indicative, and the product description shall prevail in all circumstances.
- vi. The Designated Authority adopted a PCN methodology after seeking comments from all interested parties. The applicants have put on record all relevant information including PCN-wise cost of production of the domestic industry.

C.3. Examination by the Authority

11. The present investigation is a sunset review and the scope of the product under consideration remains the same as defined in the final findings of the original investigation.

“Flax Yarn of below 70 lea count (equivalent to 42 Nm)”. It was noted that in Para 9 of the original final findings that the scope of PUC is “All other natural cellulosic fibers such as cotton, hemp, jute and ramie are beyond the scope of the product under consideration for the purpose of present investigations. Flax yarn of 70 and above lea is specifically excluded from the scope of the product under consideration”.

12. It is clarified that the scope of the PUC is limited to “flax yarn of below 70 lea count (equivalent to 42 Nm)”.

13. The product under consideration is generally classified under Chapter 53 of the Customs Tariff Act under head 5306 and subheadings 53061010, 53061090, 53062010 and 53062090.

The HS codes are considered only indicative, and the product description is decisive for the purpose of the present investigation.

14. Flax yarn is a natural cellulosic fibre having naturally antimicrobial, antifungal properties. The yarn is generally made out of 100% flax fibre and is called linen yarn or flax yarn. The flax fibre can also be blended with other fibres to make flax yarn or linen yarn. The primary use of flax yarn is in making flax fabric. Flax fabric is used for apparel and in-home textiles.

15. The Authority notes that the subject goods are being imported in various Lea Counts. The applicants had proposed product control numbers (PCN) in order to make PCN to PCN comparison. Considering the parameters that impact the associated cost and prices of the product, the Authority invited comments on the proposed PCN methodology vide the initiation notification. However, no comments were received by the interested parties within stipulated time. The Authority notified a PCN methodology vide communication no 7/3/2023-DGTR, dated 29th May 2023. The PCN methodology adopted in the present investigation is as follows:

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

16. The Authority notes that the product under consideration produced by the domestic industry and imported from the subject country are comparable in terms of physical & chemical characteristics, functions & uses, product specifications, pricing, distribution & marketing, and tariff classification of the goods. The goods produced by the domestic industry and imported from the subject country are like articles in terms of the Rules. The two are technically and commercially substitutable. The Authority holds that the subject goods produced by the domestic industry are like article to the product under consideration imported from the subject country within the scope and meaning of Rule 2(d) of anti-dumping Rules.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1. Views of the other interested parties

17. None of the other interested parties have made any submission regarding the standing and scope of domestic industry.

D.2. Views of the Domestic industry

18. Following submissions have been made by the domestic industry with regard to standing and scope of the domestic industry:

- i. The application has been filed by M/s Jaya Shree Textiles Limited and M/s Sintex Industries. The applicants account for a major proportion in total Indian production of the product concerned in India.
- ii. The application was supported by M/s Linen Art Pvt. Ltd., M/s Golden Fibre LLP and M/s Raymond Luxury Cottons Ltd. at the time of filing the application.
- iii. The applicants are neither related to any producer/exporter of the product under consideration in China PR, nor are they related to any importer in India or exporter in the subject country. Further, the applicants have not imported the product under consideration from China. Thus, the applicants should be considered eligible to constitute domestic industry in terms of Rules.
- iv. The applicants are not related to any producer-exporter of the subject goods in China or importer in India.
- v. The applicants have sufficient standing and constitute domestic industry within the meaning of the Rules, even though this is not a condition mandatory for a sunset review investigation.

D.3. Examination by the Authority

19. Rule 2(b) of the Anti-Dumping 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”.

20. The present application is filed by M/s Grasim Industries Limited (Jaya Shree Textiles) and Sintex Industries Ltd. M/s Raymond Luxury Cottons, M/s Linen Art Pvt. Ltd. and M/s Golden Fibre LLP have also supported the petition and requested imposition of the duty. There are three more domestic producers of the subject goods, namely, M/s Champdani Industries, M/s Kamarhati Jute Mill and M/s WFB Baird & Co. India Pvt. Ltd. It is seen that the number of domestic producers has increased from the original investigation.

21. Further, the production by the applicants constitutes around ***% of the total Indian production and constitutes a major proportion of Indian production. However, relevant information provided by the supporters as made available has been nevertheless separately examined at

relevant places in order to ascertain whether its performance shows a materially different position as compared to the applicants.

22. On examination of the material on record as above, and considering the legal provisions, the Authority holds that the applicants constitute domestic industry in terms of Rule 2(b) of the Anti-dumping Rules and the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. ISSUES RELATED TO CONFIDENTIALITY

E.1. Views of the other interested parties

23. Following submissions have been made by other interested parties in regard to confidentiality claimed by them and the domestic industry:

- i. The domestic industry has claimed confidentiality on information that is not confidential, such as their financial statements and the statement of Indian production. This is preventing other interested parties from making their submissions, as they do not have access to this information.
- ii. The imports by the petitioner and supporters should also be disclosed so that other interested parties can objectively comment on the petitioner's eligibility to be treated as domestic industry under Rule 2(b) of the AD Rules.
- iii. Information pertaining to raw material, utilities, other conversion cost and interest cost reported in Format C1 are treated in confidence without being accompanied by a non- confidential summary.
- iv. The petitioner has claimed excessive confidentiality and thus, the right of defence cannot be fully exercised. The petition fails to meet the standards laid down in Rule-7 of the Rules and Trade Notice No. 01/2013 dated December 09, 2013. Our right to defence is curtailed as significant data is not properly indexed in NCV petition.

E.2. Views of the Domestic Industry

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

- i. The applicants have claimed only such information as confidential which is neither in public domain nor mandated by law to disclose. Further, the petitioner has provided reasons, at appropriate places, for claiming confidentiality.
- ii. The information related to production (own, supporters, other producers, total in India), export sales volume, domestic sales volume (own, supporters, other producers), imports of the subject goods by petitioner and supporters, market share, captive consumption, capacity utilisation, inventory and employment of the petitioner are business sensitive information, disclosure of which would seriously jeopardise the commercial interests of petitioner.
- iii. Costing information by nature is highly business sensitive and therefore claimed as confidential. Petitioner has not prepared its injury information on the basis of

published information of the legal entity. The applicants maintain separate financial records for divisions dealing in the subject goods, which operates as a division or unit of the company. All information has been taken from the financial accounts of the applicants, which are separately audited. The financial information related to applicants is not separately available in the public domain. The relevant information has been provided to the Authority on a confidential basis as the disclosure of the same would jeopardise the interest of the applicants.

- iv. The applicants have estimated the allowances/deductions used for the calculation of net export price and sales of other Indian producers. The exporters have not shown (in fact, not even claimed) that the amounts adopted by the applicants are excessive. In any case, the Authority will consider the data submitted by the exporters after due verification.
- v. The details of imports made by the applicants and the supporters are business-sensitive information and, therefore cannot be disclosed. The information has been provided in the indexed form which is justifiable as per the law.
- vi. The information related to raw material, utilities, other conversion cost and interest cost reported in Format C1 is confidential in nature and disclosure of which would seriously jeopardise the interests of the applicants.
- vii. The respondents have claimed excessive confidentiality in the exporter questionnaire response and the same curtails our right to comment as the responses do not provide a meaningful summary without assigning any good cause for the same. The submissions of all the exporters and producers from the subject country should be disregarded and deny them the individual treatment.

E. 3. Examination by the Authority

- 25. Various submissions have been made by the applicants as well as the other interested parties during the course of the investigation with regard to confidentiality, to the extent considered relevant by the Authority, have been examined below.
- 26. With regard to the confidentiality of information, Rule 7 of the Anti-Dumping Rules provides 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 subrule (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 authorisation 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 summarisation 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 generalised or summary form, it may disregard such information."

27. The Authority considers that 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 the parties to an investigation shall, upon good cause shown, should be treated as such by the Authority. Such information cannot be disclosed without the specific permission of the party submitting it.
28. The Authority has considered the claims of confidentiality made by the applicants and the other interested parties and on being satisfied about the same, the Authority has allowed the claims on confidentiality. The Authority made available to all the interested parties the non-confidential version of evidence submitted by various interested parties for inspection.

F. MISCELLANEOUS SUBMISSION

F.1. Views of other interested parties

29. Following miscellaneous submissions have been made by the other interested parties:
 - i. The petitioner has not brought any substantive evidence to provide the condition for initiation of AD investigation while the investigating Authority has not carried out appropriate scrutiny of facts.
 - ii. Domestic supply of the PUC in the Indian market falls significantly as most of the Indian producers of the PUC, including the DI, are more concerned towards fulfilling their own captive demand. They increase their captive consumption of the PUC when the demand is high (peak season), to manufacture and supply linen textile and apparel to their own retail stores. DI itself imports from Bangladesh to fulfil its captive demand. Its own production falls short. Downstream users are forced to import from China and other countries to fulfil their demand by paying higher prices.
 - iii. The applicants have themselves imported from Bangladesh and have stated that the prices of Bangladesh to India should not be considered for construction of normal value as these are dumped imports. This should be considered as a self-admission of DI that they are importing from Bangladesh at dumped prices for themselves. They are self-inflicting injury.
 - iv. The applicants are seeking excess protection, which is not the purpose of ADD. ADD is supposed to create a level playing field, which it has done already. Therefore, there is no need for the continuation.
 - v. The Authority to verify whether the applicants are manufacturing different products on the same production line as the PUC and any inconsistencies in apportionment should be addressed.

- vi. Paper book should be circulated with all interested parties before the hearing.
- vii. The petitioner, Grasim Industries, takes benefit of anti-dumping measures when it undergoes negative circumstances, and enough protection has already been given in other products of the petitioner. It is a habitual user of anti-dumping measures.
- viii. The Competition Commission of India has imposed a penalty of Rs. 302 crore on Grasim Industries for adopting monopolistic practices and abusing its dominant position. In case the duty is recommended, they may misuse the anti-dumping mechanism to lead to a monopolistic situation in flax yarn also.

F.2. **Views of the domestic industry**

30. Following miscellaneous submissions have been made by the domestic industry:

- i. The information provided in the petition clearly show that the domestic industry has performed better after the imposition of ADD. The Authority had initiated the present investigation on the basis of sufficient evidence of likelihood of dumping of the subject goods from the subject country, and injury to the domestic industry and causal link between dumping and injury suffered by the domestic industry.
- ii. The captive demand of the Indian industry is below 15% of the total demand. A significant portion of the capacity of Indian industry is still left underutilised, especially with other producers. The captive demand cannot be the reason for increase in imports as there is still sufficient capacity to meet the entire Indian demand.
- iii. The performance of the domestic industry has improved after imposition of ADD. However, the position of the domestic industry is still vulnerable as is evident with the post POI performance which shows that the industry has started incurring losses.
- iv. The domestic industry has not suffered injury due to imports from Bangladesh. The interested parties have contended that a volume of 3,407 MT from China was not capable of causing injury and a volume of *** MT imported by one of the applicants caused injury to the domestic industry.
- v. Imports from Bangladesh were very low in volume in relation to production and consumption in India. Further, share of imports made by one of the domestic industry were quite insignificant considering its production and Indian consumption.
- vi. Even with a total of 8 producers in India with capacity to meet the entire Indian demand, the imports from China have amounted to around 20% throughout the injury period instead of the base year, despite duties in place. This signifies that the performance of Indian industry is of no substance to the Chinese producers.
- vii. The performance of the domestic industry has improved however is not as strong as has been projected by the respondents.
- viii. 3,407 MT of imports is still significant as these imports are taking place when there is no demand supply gap, unlike the situation that was prevalent in OI where imports was a necessity. Imports have maintained almost 20% share in the demand and the

same cannot be considered as insignificant.

- ix. The applicants are helpless against unfair trade practices and dumped foreign imports causing injury. The only remedy available against said practices in law is trade remedial measures. The industry facing injury due to dumping can only seek remedy to the injury via an ADD investigation, and therefore participation in unrelated ADD investigations is of no essence for the present investigation.
- x. The paperbook contained information that was all available in the NCV of the application as shared with the other interested parties. As there was no new information shared during the oral hearing, the paperbook wasn't circulated beforehand as all the information had already been shared in the NCV.
- xi. The CCI investigation is unrelated to the ongoing review investigation. The CCI action has no impact on the ongoing investigation. Additionally, the present review investigation is for the entire Indian industry and not merely for one company.

F.3. Examination by the Authority

31. Miscellaneous submissions by the interested parties have been examined as under:

- i. With regards to the submissions made by the interested parties that the domestic industry has not brought any substantive evidence to provide the condition for initiation of AD investigation and the investigating Authority has not carried out appropriate scrutiny of facts, the Authority notes that the applicants had provided sufficient information that meets the required conditions for initiation of the present review investigation. The investigation was initiated after satisfying that sufficient evidence, as required under Rules, was available justifying the initiation.
- ii. As regards the argument that the domestic supply of the PUC in the Indian market falls significantly due to the Indian producers being more inclined towards fulfilling their captive demand. Captive consumption of the Indian Industry as per the information provided by the domestic industry, is under 15% of the total Indian demand. The Authority further notes that the Indian industry is left with unutilised capacity, which surpasses the volume that is being consumed captively by the Indian producers. This shows that captive consumption is not the reason for imports made by the downstream industry. The Authority notes that, the other interested parties have not provided any evidence to establish their argument. In any, case, the Authority considers that a gap in demand and supply cannot be a reason for depriving the domestic industry of seeking redressal against the likelihood of dumping and injury by the subject imports.
- iii. Regarding the submission that the applicants have imported from Bangladesh and the industry is causing self-inflicted injury, the Authority notes that imports made by the applicant company is insignificant in relation to its production and Indian consumption. Further, total imports from Bangladesh are low in relation to Indian consumption as against imports from China which remains significant even with the imposition of duties. The DG Systems data considered shows that the price from Bangladesh is higher than the price at which goods are being exported from China.'

- iv. As regards the contention that domestic industry should circulate paperbook, the Authority has noted that the domestic industry had shown figures and information already provided in the NCV of their application. This NCV of the application was already circulated with other interested parties by the applicant. Further, the applicants circulated the paperbook following the oral hearing in order to enable the interested parties to give comments in its written submissions.
- v. As regards the contention that applicants are a frequent and habitual user of anti-dumping measures, the Authority notes that anti-dumping duties are remedial measures that can only be imposed after extensive scrutiny and investigation. These measures are only imposed after establishing the existence of dumping, injury and a causal link between the two. The Authority considers that the applicant's participation in other AD investigations in other products has no effect on the present review investigation.
- vi. Regarding the submission that the Competition Commission of India has imposed penalties on Grasim for monopolistic practice, the Authority notes that the investigation by the CCI is unrelated to the present review investigation. The CCI had investigated Grasim for practices in an unrelated product. In addition to the above, the role of CCI and remedy under the AD rules are on a different premise, and therefore to say that since there is a penalty imposed by the CCI on one of the applicants constituting the domestic industry in the current investigation and therefore remedy under AD Rules cannot be provided is untenable. The Authority notes that the scope of the present investigation is with regard to examining the possibility of likelihood of continuation or recurrence of dumping of the product under consideration, whether the same is likely to cause injury to the domestic industry and whether anti-dumping duties are required to be extended.

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

G.1. Views of other interested parties

32. The submissions made by the other interested parties on determination of normal value, export price and dumping margin are as follows:

- i. Prices from Ethiopia should not be discarded merely because the investment in Ethiopia is from Chinese manufacturers. Goods produced in Ethiopia are neither of Chinese origin nor are affected by prices in China. The Ethiopian producer's relation with Kingdom Group, China is irrelevant. Further, the applicants have not provided any evidence as to how the investments in Ethiopia affects the price of the PUC from Ethiopia. Ethiopian prices are in fact higher than prices from Bangladesh during the POI.
- ii. Determination of normal value based on constructed cost in India with reasonable returns is illegal and contrary to Para 7 of Annexure-I. Normal value is required to

be determined having regard to the various sequential alternatives provided under Para 7 of Annexure-I.

- iii. The normal value must be determined in accordance with the hierarchy of methods prescribed in Para 7 of Annexure-I of the AD Rules. The price of the PUC from Bangladesh should be used as the normal value in the second option under paragraph 7 of Annexure-I to the 1995 Rules.
- iv. Export price of Kingdom Group should be determined based on their questionnaire responses. Respondents filed both parts of questionnaires meant for SSR investigation along with the transaction wise details of exports to third countries and identified PCNs.
- v. Disregard PCNs with negative dumping margin and considering only PCNs with positive dumping margin is called zeroing, which is illegal. There is no provision for zeroing under the Indian law. Reference made to Appellate Body Report in European Communities –cotton-type Bed Linen from India, and the Appellate Body Report in United States –Softwood Lumber, where it was held that zeroing fails to fully and duly account for actual prices of export transaction that take place during a POI and result in inflated dumping margin.
- vi. The applicants have also not provided any evidence for claiming that there is targeted dumping in the present review.
- vii. The applicants have not provided any data to the other interested parties that performance of the domestic industry has deteriorated post POI.
- viii. As a result of the strong protection afforded to the domestic industry the subject imports declined from 9,371 MT in the POI of the original investigation to 3,407 MT in the POI of the present review. The import price from China has also almost doubled in the POI of the current review compared to the POI in the original investigation.
- ix. The domestic industry has not shown that the company is dumping the PUC into India, nor had it showed that it has excess or surplus capacities. It has also not shown that there is price suppression or depression in the market and also has not provided any other relevant evidence to support its claim.
- x. Provisions of Section 9A(6A) of the Customs Tariff Act, 1975, which states that the margin of dumping for an exporter has to be determined based on the information provided by that exporter. This provision applies both in original investigations as well as sunset reviews conducted pursuant to Section 9A(5) of the Customs Tariff Act, 1975.

G.2. Views of the Domestic Industry

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

- i. The subject country has continued to dump into India despite the imposition of antidumping duty.
- ii. The dumping margin for some of the PCNs where imports are higher is far more significant. This implies “targeted dumping”.

- iii. The Authority should determine why the dumping margin should be determined on the basis of all imports when exporters have resorted to targeted dumping in the Indian market.
- iv. PCNs with negative dumping margin should be disregarded and only PCNs with positive dumping margins should be adopted.
- v. Market economy status cannot be granted to the respondents unless the responding exporters satisfy that none of their major shareholders is a state owned/controlled entity, that the prices of major inputs substantially reflect market values; unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the rules and that the responding company has participated in the present investigation along with its related parties involved with the PUC.
- vi. Market economy treatment cannot be given where Chinese exporters are unable to establish that their books are consistent with International Accounting Standards (IAS).
- vii. It is for the responding Chinese exporters and not for the Authority to establish that they are operating under market economy conditions.
- viii. The normal value for China in such a case can be determined only in accordance with the provisions of para 7 of the Annexure I to Anti-dumping Rules in view of the aforementioned facts and circumstances.
- ix. Normal value in China of the product under consideration could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available.
- x. Normal value in China could not be determined on the basis of price from such third country to other country, including India as the relevant information is not publicly available pertaining to exports from market economy third countries to other countries. Regarding imports into India, apart from China, imports are from Ethiopia and Bangladesh. Imports from Ethiopia are from related party of the Chinese producer and is in the same group exports (Kingdom group) and the import price from Bangladesh is dumped, therefore both these prices are not appropriate to be taken for determination of normal value.
- xi. The applicant has determined Normal Value in China on the basis of the cost of production, considering consumption norms of the domestic industry for raw material and utilities, taking the price of all raw materials as per the domestic industry and duly adjusted with selling, general and administrative expenses and considering the consumption norms of the applicants.
- xii. The export price is constructed based on the information available from the import data after making due adjustments based on the best available information with the industry to make it comparable with normal value.
- xiii. The dumping margin is positive and substantial.
- xiv. The response of the respondents should not be accepted if the exporters have not filed transaction wise details of exports to third countries and have not identified PCN therein, in any case, the Authority should not accept the EQR.
- xv. The very fact that the exporters have resorted to dumping gets established by their tacit admission in not denying the existence of dumping.

xvi. None of the exporters have claimed market economy treatment. In fact, they have stated that they do not request market economy treatment and that they accept the normal value determined by DGTR.

G.3. Examination by the Authority

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

- (i) *the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
- (ii) *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either –*
 - (a) *comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - (b) *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub- section (6):*

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

35. Article 15 of the China's Accession Protocol with the WTO provides as follows:

"Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

- "a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*
 - i. If the producers under investigation can clearly show that my conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for*

the industry under investigation in determining price comparability;

ii. The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.

d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector."

36. It is noted that while the provisions contained in Article 15(a)(ii) have expired on 11.12.2016. However, the provisions under Article 2.2.1.1 of the WTO read with obligation under 15 (a) (i) of the Accession protocol require the criterion stipulated in para 8 of Annexure I of India's AD Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming the market economy status.

37. At the stage of initiation, the Authority proceeded as per the information given by the applicants. Upon initiation, the Authority advised the producers/ exporters in China PR to respond to the notice of initiation and provide information relevant to the determination of their market economy status. The Authority sent copies of the supplementary questionnaire to all the known producers/ exporters for rebutting the presumption of non- market economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules and furnish relevant detailed information. The Authority also requested the Government of China PR to advise the producers/ exporters in China PR to provide the relevant information. The following producers/exporters have co-operated in this investigation by filing the

questionnaire response:

- a. Zhejiang Kingdom Linen Company Limited, China PR
- b. Heilongjiang Kingdom Linen Company Limited, China PR
- c. Jiangsu Jinyuan Flax Company Limited, China PR
- d. Zhejiang Jinyuan Flax Company Limited, China PR
- e. Heilongjiang Yanshou Jijia Flax Textile Company Limited, China PR
- f. Yixing Sunshine Linen Textile Company Limited, China PR

38. None of the exporters/producers contested the NME status of China. Thus, in view of the above position and in the absence of rebuttal of the non-market economy presumption by any Chinese exporting company, the Authority, consider it appropriate to treat China PR as a non-market economy country in the present investigation and proceeds with para 7 of Annexure-I to the Rules for determination of normal value in case of China PR.

39. As regards the argument of targeted dumping margin should be determined in the present case, it is noted that sufficient evidence has not been made available showing that the export price by the exporters varies significantly depending on the purchaser, region or time period. Thus, the Authority has not determined the targeted dumping margin.

G.4. NORMAL VALUE FOR CHINA PR

40. The Authority notes that no evidence has been provided by the domestic industry or other interested parties on prices in market economy third countries. The global trade data also could not be used to consider price from a market economy third country in view of the fact of various PCNs involved. Further, as regards imports into India is concerned, it is seen that imports from Ethiopia and Bangladesh are significant. The applicants have contended that the price of imports into India from Ethiopia is distorted due to the exporter being an extension of a Chinese producer. The applicants have also reported the existence of subsidies being granted to the Ethiopian producer. The countervailability of schemes prevailing in Ethiopia is not a subject concerning the present investigation. The Authority notes that the imports from Ethiopia are only of 2 PCNs and imports from Bangladesh are only of 3 PCNs. These 2/3 PCNs cannot represent the 14 PCNs considered by the Authority for this investigation. Thus, the normal value could not be determined on the basis of the price from such countries to India.

41. Therefore, the Authority has determined the normal value for the subject imports in China as per the “price actually paid or payable in India” as stipulated in para 7 of Annexure – I to the AD Rules, 1995. It has been computed based on the cost of production of the domestic industry, with reasonable addition for selling, general and administrative expenses, and profits. The normal value was constructed PCN wise for a fair comparison. The weighted average on the basis of quantities of various PCN by the respective producer exporter is shown in the dumping margin table below.

G.5. EXPORT PRICE

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

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

- i. Zhejiang Kingdom Linen Company Limited, China PR -
- ii. Heilongjiang Kingdom Linen Company Limited, China PR
- iii. Jiangsu Jinyuan Flax Company Limited, China PR
- iv. Zhejiang Jinyuan Flax Company Limited, China PR

43. The above-mentioned four companies have filed separate responses to the Exporter's Questionnaire. Zhejiang Kingdom Linen Co., Ltd. was not involved in direct exports of the subject goods during the POI, it exported to India through Zhejiang Jinyuan Flax Co., Ltd. and Jiangsu Jinyuan Flax Co., Ltd., during the POI.

44. The volume of imports claimed by the exporters/producers in the EQR was compared with the DG system's data. The Authority noted a difference between the data reported by the exporters when compared with the data from DG Systems. The Authority proposed to use exports made by these exporters/producers as reported in DG Systems data for the purpose of determining export price. Upon issuance of the Disclosure Statement, all the responding exporters/producers have contended that the export price should be considered based on the response made by the exporters in their EQR. In the submissions made by the responding exporters/producers, they have explained that the mismatch in data may be on account of the fact that (a) sales made to units located in SEZs may not have fully reflected in DG Systems data (b) transfer of the subject goods to FTWZ may not have reflected in database and (c) time differences between date of shipping and date of landing in India. The Authority has therefore considered export price based on the response filed by the exporters. Adjustments claimed by the exporters have been duly considered by the Authority.

45. The Authority while doing the analysis of the EQR data and cross-verifying with DG system data had found that the company "*Heilongjiang Kingdom Linen Company Limited*" had not exported any volume during the POI contrary to what they reported in their EQR. The invoices presented by the exporter bear the name of some other company. The exporters have thereafter clarified, based on the evidence already on record of the investigation through business license, invoices, export documents that the Chinese name of the entity is the same and the entity bears a unique Uniform Social Credit Code confirming that the entities are same. The Authority has considered "*Heilongjiang Kingdom Enterprises Co. Ltd*" as reported in the export documents in the duty table.

46. Accordingly, the NEP has been worked out PCN wise for comparison with the respective

CNV and then weighted average has been calculated. The weighted average net export price determined for exports to India is as shown in the dumping margin as per Table in the following paragraphs.

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

47. M/s Yixing Sunshine Linen Textile Co., Ltd has filed exporter questionnaire response. It is noted that M/s Yixing Sunshine Linen Textile Co., Ltd., is a producer as well as exporter of the subject goods. During the POI, M/s Yixing Sunshine Linen Textile Co., Ltd., exported the subject goods to India directly.
48. As per the EQR submissions, the volume claimed by the exporters/producers was compared with the DG system's data. The Authority noted that there exists a difference between the data reported by the exporter when compared with the data from DG Systems. The Authority proposed to use exports made by these producers as reported in DG Systems data for the purpose of determining export price. Upon issuance of the disclosure statement, the responding exporters/producers have contended that the export price should be considered based on the response made by the exporters in their EQR including all export sales to SEZ. It has been submitted that the authority considered export sales to SEZ in the past investigation. The Authority has verified the accuracy of data from DG Systems and SEZ data and therefore considered export price based on the response by the exporters. Adjustments claimed by the exporters have been duly considered by the Authority.
49. Adjustments as per the claim of the responding producer/exporter except for ocean freight which was not provided by the responding producer/exporter, has been considered by the Authority. For ocean freight, the Authority has considered the information provided by the largest exporter of the subject country. It was argued that commission has not been paid by the exporter, thus the adjustment made towards commission paid has been corrected.
50. Accordingly, the NEP has been worked out PCN wise for comparison with the respective CNV and then the weighted average has been calculated. The weighted average net export price determined for exports to India is as shown in the dumping margin as per Table in the following paragraphs.

C) M/s Heilongjiang Yanshou Jijia Flax Textile Co. Ltd. (Producer/Exporter)

51. M/s Heilongjiang Yanshou Jijia Flax Textile Co. Ltd. has filed exporter questionnaire response. It is noted that it is a producer and exporter of the subject goods. During the POI, it has exported the subject goods directly. Adjustments towards inland transportation and others, overseas freight, overseas insurance, bank charges and credit have been claimed by the producer and exporters and the same have been allowed by the Authority.
52. As per the EQR submissions, the volume claimed by the exporters/producers was compared with the value in DG system's data. The Authority noted that there exists a difference between the data reported by the exporter when compared with the data from DG Systems. The Authority proposed to use exports made by these producers as reported in DG Systems data for the purpose of determining export price. Upon issuance of the Disclosure Statement, all the responding exporters/producers have contended that the export price should be

considered based on the response made by the exporters in their EQR including all export sales to SEZ. It has been submitted that the authority considered export sales to SEZ in the past investigation. The Authority has verified the accuracy of data from DG Systems and SEZ data and therefore considered export price based on the response by the exporters. Adjustments claimed by the exporters have been duly considered by the Authority.

53. Accordingly, the NEP has been worked out PCN wise for comparison with the respective CNV and then the weighted average has been calculated. The weighted average net export price determined for exports to India is shown in the dumping margin as per the table in the following paragraphs.

H. DETERMINATION OF DUMPING MARGIN

54. The dumping margin determined for each co-operating producers/exporters based on PCN wise constructed normal value and net export price, is determined as follows:

SN	Producer/Exporter	Quantity	CNV	NEP	Dumping Margin		
		MT	USD/Kg	USD/Kg	USD /Kg	%	% Range
1	Jiangsu Jinyuan Flax Co., Ltd/ Zhejiang Jinyuan Flax Co., Ltd./ Zhejiang Kingdom Linen Co., Ltd/ Heilongjiang Kingdom Enterprises Co., Ltd	***	***	***	***	***	Negative
2	Yixing Sunshine Linen Textile Co., Ltd	***	***	***	***	***	Negative
3	Heilongjiang Yanshou Jijia Flax Textile Co., Ltd	***	***	***	***	***	Negative
4	Any other than the producers at Sl. No. 1-3	***	***	***	***	***	25-35

I. ASSESSMENT OF INJURY AND CAUSAL LINK

I.1. Submissions made by the other interested parties

55. The following submissions have been made by the other interested parties with regard to injury and causal link:

- i. Even the applicants did not claim injury due to the subject imports but stated improvement due to ADD and that protection is required as the industry is in a fragile state. Conditions of Indian industry improved to the level where there is healthy

competition between Indian manufacturers. Based on market intelligence, respondents plotted average selling prices of the domestic industry and other Indian producers, which the Authority can verify.

- ii. The domestic industry is not vulnerable in terms of price sensitivity. There is a healthy competition between the Indian producers. So much so that the other Indian manufacturers have been undercutting the exporters as well as the applicants.
- iii. Legally untenable submission that that even if one condition is satisfied, duty cannot be revoked, as no one factor can be a decisive guidance for determination of likelihood of continuance of material injury.
- iv. The applicant's contention is false that none of the respondents argued against likelihood or threat of injury. Respondent raised arguments against the likelihood or threat of injury during the oral hearing dated 20th June 2023 and also in written submission.
- v. The burden of proof is with the applicants to establish likelihood of injury. However, the applicants have failed to provide any positive evidence. The applicants are merely alleging or remote possibilities to contend likelihood of injury. It is contravention to WTO Panel Report in Pakistan- Biaxially Oriented Polypropylene Film from UAE and WTO Appellate Body Report in US- Oil Country Tubular Goods (OCTG) from Mexico.
- vi. The Authority should use average cost of production of the applicants and not the cost of production during the POI for construction of NIP. This is in direct contravention of paras 3 and 4 of Annexure III of the AD Rules. Actual data relating to cost of production for POI of domestic industry only needs to be considered for determination of NIP.
- vii. Domestic industry's own statement is that there is no price suppression or depression. They have not shown how there could be price suppression/depression on account of imports in the event of expiry of duties.
- viii. The Authority to consider weighted average of NIP of individual domestic producers and take the respective share of domestic production of the subject goods for computation of weighted average NIP for domestic industry as a whole.
- ix. Profitability of the applicants increased throughout injury period of present review. Thus, no relation between imports from China PR and profitability. Market share also remained stable over the period. Other producers managed to increase their share. Failure of the applicants to perform as well as their competitors in the Indian market not due to imports. The domestic industry is oriented towards exports and is growing its business in the export markets quite profitably. The focus of the Indian industry is their own captive consumption and export market.
- x. The market share of the domestic industry has remained stable throughout the injury period, and imports from the subject country or other countries is too low to affect the market share of the domestic country.
- xi. In the present case, anti-dumping duty has been in force for five years. The economic situation of the domestic industry and the Indian producers has significantly improved since then. There are now eight domestic producers of the subject goods in India, which is a substantial increase from four domestic producers during the

original investigation in the year 2018.

- xii. The domestic industry's cash profits have increased drastically throughout the injury period, but its PBT has decreased due to high interest costs.
- xiii. The landed value of the Chinese imports is similar to the average selling price of the domestic industry. The broad range of 0-10% price undercutting given in the table above is only to hide the very low or nil price undercutting. Further, with such high landed prices from China that are comparable with domestic industry's selling prices, price suppression or price depression is out of the question. For Kingdom Group, the landed value of the imported goods is [higher and at instances, at par with the selling price of the domestic industry and other Indian producers].
- xiv. There is no volume effect and price effect. Economic Parameters have improved.
- xv. Fresh calculation of dumping margin, injury margin and rate of duty should be done for Heilongjiang Yanshou Jijia as it did not export during the original investigation and only in the SSR. In case, the Authority intends to recommend duty, it should consider the Rule 23(1), Rule 23(3), Rule 4(d) and Rule 17(1) read with Annexure 3 and incorporate the same while calculating dumping margin. List of investigations where anti-dumping duty was increased or decreased SSR investigation and list of investigations where anti-dumping duty was withdrawn by the Authority are provided on pages 7 and 8 in the rejoinder submission.
- xvi. The domestic industry is importing products from Bangladesh, which it claims are dumped. This suggests that the domestic industry may be contributing to its own injury.
- xvii. The financial mismanagement of Sintex Industries Ltd., which was facing insolvency proceedings and was acquired by Reliance Industries Limited this year, cannot be attributed to the exporters and the importers of the PUC.
- xviii. Sintex Industries Limited, being an insolvent and bankrupt company has a very high interest cost. Normalisation of interest costs has been a practice of the Designated Authority in previous investigations as held in saturated fatty alcohol case.
- xix. Injury allegedly suffered by domestic industry due to other factors than China PR.
- xx. CCI imposing penalty on Grasim for adopting monopolistic practice and abusing dominant power played a very important role in the deterioration of the performance of the domestic industry, which is attributed to alleged dumping of the subject goods and petitioners failed to provide this to the authority.
- xxi. They are inflicting self-injury. Further, they have not provided evidence as how the imports from Bangladesh are dumped imports.

I.2. **Submissions of the Domestic Industry**

56. The following submissions have been made by the domestic industry with regard to injury and causal link.

- i. Imports from China PR declined in 2019-20 as compared to high volumes during the original case, i.e., 2014 – 2017. The imports have once again increased from 2020-21 onwards including in the POI.
- ii. Chinese imports still constitute around 82% of total imports into India.

- iii. Kingdom group in China (the largest exporter of the subject goods), has established capacities in Ethiopia and thus imports from Ethiopia are pseudo-Chinese imports, with price comparable to Chinese price.
- iv. Imports from China in relation to Indian production and consumption has declined deeply after imposition of duty in 2018. However, same have started increasing thereafter and are now significant.
- v. Imports did not cause significant injury only due to the existence of duties in place.
- vi. Imports are undercutting prices in the domestic market, however, the duties in place have prevented the imports from causing price suppression or depression in the market in the POI.
- vii. Landed price of imports are below the non-injurious price of the domestic industry, higher in PCNs with high import volumes. Absence of ADD would have had depressing effect on the prices of the domestic industry in the market.
- viii. After increase in capacity of the domestic industry from OI, the Indian industry is now sufficient to cater to the Indian demand. Despite this, the market share of imports has however increased over the present injury period.
- ix. The imports from the subject country first declined, but then have been increasing continually. Further, volume of imports remained significant in the present POI.
- x. The ROI of the industry has improved. However, the same is still below the reasonable levels considered by the Authority. The DI suffered losses in the first two years of the present injury period, the DI has now come back to the profits in the region of pre-dumping period i.e. 2014-15. The Cash profits follow the same trend.
- xi. Inventories have increased again in the POI with increase in imports.
- xii. Imposition of duties led to a positive growth; however the DI is still in a fragile condition, vulnerable to injury.
- xiii. Dumping margin is still positive and significant.
- xiv. In case duty ceases, imports from the subject country would increase further. Consequently, the domestic industry would be forced to reduce the price of the product resulting in adverse price effect of dumping on the domestic industry.
- xv. Should the domestic industry be forced to reduce the prices, its natural impact would be on the profitability of the domestic industry, and consequently ROI and cash profits.
- xvi. Should the domestic industry choose to maintain its current price levels, it will suffer adverse volume effect, considering the significant price undercutting.
- xvii. Should the domestic industry prefer to lose sales volumes, it would spell much bigger injury. Decline in sales volume would result in increase in inventories level and consequent decline in production, capacity utilization, and productivity.

I.3. Examination by the Authority

57. The Authority has examined the evidence submitted by all the interested parties with regard to injury to the domestic industry. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties.

58. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall,

unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

59. The Authority notes that this being a sunset review of anti-dumping duty already in force, the continuation of material injury to the domestic industry, as well as the likelihood of continuation or recurrence of material injury, needs to be examined in the context of actual or likely imports of the subject goods from the subject country. In the instant case, the Authority notes that imports have declined from the original investigation, however, imports have increased in the POI compared to the base year of the present injury period.

60. In consideration of submissions received in this regard, the Authority has first examined the current injury, if any, to the domestic industry before examining the likelihood aspects of dumping and injury on account of imports from the subject country.

Volume effect of dumped imports and impact on domestic industry

i. Assessment of Demand

61. The Authority has defined, for the purpose of the present investigation, demand, or apparent consumption of the subject goods in India as the sum of domestic sales of the Indian producers and imports from all sources. The demand for the product under consideration is given below:

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Sales of Domestic Industry including Captive	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	64	107	118
2	Sales of Supporters including Captive	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	82	114	132
3	Sales of Other Producers	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	67	116	117
4	Imports from Subject Country	MT	3,167	2,061	3,315	3,455
5	Import from Other Countries	MT	186	110	557	830
6	Total demand including captive	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	68	111	123
7	Total demand excluding captive	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	69	108	120

62. It is seen that the demand of the PUC declined in 2020-21 from the base year and increased thereafter till the POI.

ii. Import volumes and share of the imports from the subject country

63. With regard to the volume of the subject imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. The volume of imports of the subject goods from the subject country has been analysed as under:

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Subject Country Imports	MT	3,167	2,061	3,315	3,455
2	Other Country imports	MT	186	110	557	830
3	Total Imports	MT	3,353	2,172	3,873	4,285
4	Subject Imports in Relation Indian production	%	***	***	***	***
5	Subject Imports in Relation Indian consumption	%	***	***	***	***

64. It is seen that:

- The imports from the subject country have declined since the original investigation period. Imports in the present injury period declined in 2020-21 and increased thereafter over the injury period.
- Imports in relation to production and consumption have marginally declined, however, remain significant.

65. Despite the industry enhancing capacity to meet the domestic demand, imports still constitute a significant share of domestic consumption.

iii. Price effect of the subject imports and impact on domestic industry

66. With regard to the effect of dumped imports on prices, the Authority has considered whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such dumped imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

iv. Price undercutting

67. Price undercutting has been worked out by comparing the landed price of the imports with the selling price of the domestic industry for the investigation period. The price undercutting has been determined separately for each PCN produced by the domestic industry and thereafter for the product under consideration as a whole. The weighted average undercutting computation is as under:

POI	QTY MT	LV Rs/ Kg	NSR Rs/Kg	Price Undercutting (Rs/Kg)	Price Undercutting (%) Range
Subject Country	3,455	1,424	***	***	0-10

68. The Authority notes that the weighted average undercutting is positive during the POI.

v. Price underselling / Injury Margin

69. The Authority has worked out non-injurious prices of the subject goods and compared the same with the landed value of the imported goods to arrive at the extent of price underselling. The price underselling/ injury margin has been determined separately for each PCN and thereafter for the product under consideration as a whole.

70. It is noted from the below table that the price underselling/ injury margin is positive, indicating that the imports have entered the market at injurious prices. The injury margin for cooperative producers/exporters is also evaluated as under:

Country	Producer	NIP	Landed Price	Injury Margin	Injury Margin	Injury Margin
	Wt. Avg.	USD/Kg	USD/Kg	USD/Kg	%	Range
China PR	Jiangsu Jinyuan Flax Co., Ltd/ Zhejiang Jinyuan Flax Co., Ltd./ Zhejiang Kingdom Linen Co., Ltd/ Heilongjiang Kingdom Enterprises Co., Ltd	***	***	***	***	0-10
	Yixing Sunshine Linen Textile Co., Ltd	***	***	***	***	Negative
	Heilongjiang Yanshou Jijia Flax textile Co., Ltd	***	***	***	***	Negative
	Others	***	***	***	***	15-25
	China PR as a whole	***	***	***	***	Negative

vi. Price suppression and depression

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

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Cost of sales	Rs. /Kg	***	***	***	***
2	<i>Trend</i>	<i>Indexed</i>	100	90	93	105
3	Selling price	Rs./Kg	***	***	***	***
4	<i>Trend</i>	<i>Indexed</i>	100	92	110	122

72. It is seen that the cost of sales of the domestic industry has declined initially but has increased more than the base year in the POI, and the selling price has increased constantly. Thus, the imports were not having any suppressing or depressing effect on the prices of the domestic industry in the market. The weighted average Landed Value for China PR in POI is 1,424 Rs/Kg which is below the level of weighted average selling price resulting into positive undercutting.

Economic Parameters relating to the domestic industry

73. The Rules require that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to the consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The Authority has, accordingly, herein under-examined the performance of the domestic industry over the injury period.

i. Production, capacity, capacity utilization and sales

74. The position of the domestic industry over the injury period with regard to production, capacity, capacity utilization, domestic sales and export is as under:

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Capacity	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	100	100	100
2	Production - Total	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	61	115	125
3	Production - PUC	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	61	116	126
4	Capacity Utilization	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	61	115	125
5	Domestic Sales	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	64	104	116
6	Export Sales	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	42	137	168

75. The Authority notes that the capacity of the domestic industry has remained at the same level over the injury period. The capacity utilization of the domestic industry decreased during 2020-21 during the COVID period but improved thereafter.

76. The information provided by the supporters on capacity, production and sales is given below:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Capacity	MT	***	***	***	***
<i>Trend</i>		100	100	100	110
Production	MT	***	***	***	***
<i>Trend</i>		100	84	120	119
Capacity Utilization	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	84	120	107
Domestic Sales	MT	***	***	***	***
<i>Trend</i>		100	87	102	122

77. It is seen that the capacity with the supporters have shown increase. Production and sales by the supporters have also shown increase.

ii. Market Share in demand

78. The market share of the domestic industry and domestic producers over the injury period is as under:

SN	Market Share	Unit	2019-20	2020-21	2021-22	POI
1	Sales of Domestic Industry	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	93	96	96
2	Sales of supporters	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	121	102	108
3	Sale of Other Producers	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	98	104	95
4	Subject Country	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	95	94	89
5	Other Countries	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	87	269	363
6	Total Demand	%	100	100	100	100

79. Post-original investigation, several new producers established production capacities considering the demand in India. It has been submitted that the capacity of the Indian industry is now sufficient to cater the Indian demand and resultantly market share of Indian industry increased from the original investigation and that of China declined, however, the market share of the subject imports remains significant, despite domestic industry now having capacity to cater to almost entire Indian demand. The subject imports still hold ***% of the domestic demand when the capacities with the domestic industry is not utilised at optimum level.

iii. Profit or loss, cash profits and return on capital employed

80. The position of the domestic industry in terms of profit or loss, cash profits and return on

investment is as under:

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Cost of sales	₹/kg	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	90	93	105
2	Selling price	₹/kg	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	92	110	122
3	Profit/(Loss)	₹/kg	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	-100	-52	167	176
4	Profit/(Loss)	₹ Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	-100	-33	173	205
5	PBIT	₹ Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	13	319	425
6	Cash Profits	₹ Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	321	1,481	1,671
7	ROCE	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	13	325	449

81. The Authority notes that:

- a. The domestic industry suffered losses in the initial two years of the injury period which the industry attributed to COVID, as well as higher interest cost and corresponding lower selling price in one of the petitioner companies.
- b. The domestic industry however started making profits from 2021-22 onwards including in the POI.
- c. Cash profits, PBIT and return on capital employed of the domestic industry have also followed the similar trend and have shown increase in the injury period. The applicants have claimed that the ROI despite being the highest level in POI is below the reasonable level.

iv. Inventories

82. The data relating to inventories of the subject goods is as follows:

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Average Inventory	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	57	75	82

83. It is noted that the average inventories decreased in 2020-21 and increased thereafter in the injury period.

v. Employment, wages and productivity

84. The situation of the domestic industry with regard to employment, wages and productivity

during the injury period is as under:

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Wages	₹ Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	91	120	127
2	Employment	Nos	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	78	93	98
3	Productivity per day	MT/Day	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	61	116	126
4	Productivity per employee	Per No	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	79	125	129

85. It is seen that the wages and productivity has increased, but the number of employees has decreased over the injury period.

vi. Growth

86. The trends of volume and profit parameters of the domestic industry showed as under-

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Production	%	-	-39%	89%	9%
2	Domestic sales	%	-	-36%	62%	12%
3	Profit per unit (Profit Before Tax)	%	-	-48%	-420%	5%

87. It is noted that there is positive growth in production, sales and profit per unit of the domestic industry as compared to previous year and base year.

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88. As per Annexure II of the AD Rules, factors which are relevant in this respect include, *inter alia*, volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practises and competition between the foreign and domestic producers, developments in the technology and the export performance and productivity of the domestic industry. The Authority examines whether the factors other than dumped imports could be a cause of injury to the domestic industry.

a. Volume and prices of imports from third countries

89. The imports from other countries are either low or at higher price than China. Further, import price from Bangladesh is low, however, the performance of the domestic industry has not shown injury in the POI and thus third country imports are not causing injury.

b. Contraction of demand and changes in the pattern of consumption

90. The Authority notes that there is no contraction of demand. Further, there has been no change in the consumption pattern.

c. Conditions of competition and trade restrictive practises

91. The Authority notes that the investigation has not shown any change in the conditions of competition or any trade restrictive practises.

d. Developments in technology

92. None of the interested parties have furnished any evidence to demonstrate any change in the technology.

e. Export performance of the domestic industry

93. It is noted that injury analysis is based on domestic performance of the applicants. Further, the exports made by the domestic industry is not significant in relation to its production.

f. Performance of other products being produced and sold by the domestic industry

94. The Authority has considered data related to the performance of the subject goods only. Therefore, performance of other products produced and sold by the domestic industry are not a possible cause of the injury to the domestic industry.

J. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

J.1. Submissions by other interested parties

95. The following submissions were made by the other interested parties with regard to likelihood of continuance or recurrence of dumping and injury:

- i. Kingdom Group's product commands premium value. They have no intention of lowering their price. They export to India at high prices and are not interested in lowering the prices as the price of raw materials is already very high. Kingdom's price to India is much higher than raw material price.
- ii. Para 4-10 of DI's WS states how their condition has improved. This and the applicant's statement, "the impact of the measures is reflected not only in the performance parameters of the Indian industry but also by other parameters", shows that ADD has served its purpose.
- iii. There is no likelihood as there is no dumping, no excess and surplus capacities (which can be verified from EQRs filed). The demand for the PUC in the local market has increased due to an increase for finished goods. Considering the demand in the local market and export market, there are no excess and surplus capacities. Further, there is no price suppression/depression and the applicant have not given any information on inventory. The applicants have inflated their capacities in China to suit their needs.
- iv. The applicants have not provided any clarity on what exports to third countries have been taken in the analysis in the table provided in likelihood submission.

- v. It has been claimed that the subject goods are being imported at a price lower than the price at which the goods are being sold in the domestic market and in case of expiry of duty, Chinese exporters would channelize their third countries' exports to the Indian market. This is denied, as India is a secondary market for Chinese exporters. Chinese producer exports to India at un-dumped prices and is not interested in lowering prices of their goods. Goods exported by Kingdom Group command premium value.
- vi. The applicants in paragraph 56 claimed that Kingdom Group produced 20,756 MT of the PUC despite COVID-19. However, this to applies to the applicants as well since their economic parameters also improved despite onset of COVID-19.
- vii. The Authority to determine likelihood based on responses and submissions filed by the Chinese exporters. Data would show that prices of Chinese exporters are higher, and the export volume has reduced as India is a secondary market for cooperating exporters.
- viii. The factors submitted by the petitioners on likelihood of recurrence of injury on withdrawal of ADD are not supported by the price realizations and price trends of the subject goods during the POI.
- ix. Due to the strong domestic industry in India and high inter se increasing competition among them, the Indian market has become a minor market for Kingdom Group.
- x. The domestic industry has not provided any evidence to suggest that Kingdom Group has significant unutilized capacities that will be diverted to India if the ADD is not continued.
- xi. Possibility of Chinese-owned entities in Ethiopia starting to dump the PUC into India in the future is incorrect as the as the imports from Ethiopia is low.
- xii. There is no likelihood of continuation or recurrence of injury as there was no dumping. with the increase in demand, the imports and sales of the petitioners have also increased. The economic parameters of the petitioners have also increased significantly as provided in Para 4 to 10 of the written submissions of petitioners.
- xiii. The claim of the petitioners regarding freely disposable capacities with the producers in the subject country is baseless and unsubstantiated. The capacity utilisation is at 70% out of which only 5% is exported to India.
- xiv. The petitioner must prove that there is a likelihood of diversion of surplus capacities to India. In Indian Spinners Association v. Designated Authority, 2004 (170) ELT 144, it was held that mere existence of surplus production capacity cannot be taken as posing a clearly foreseen and imminent threat of injury to the domestic industry.
- xv. The claim of the petitioners that there is significant volume of material which were sold at prices lower than the normal value is baseless as if the products were dumped in the third countries, such countries would have undertaken the investigation against them, however, no such investigation has been initiated.

J.2. Submissions by the domestic industry

96. The following submissions were made by the domestic industry with regard to likelihood of continuance or recurrence of dumping and injury:

- i. Continuous dumped and injurious exports from China. After the imposition of duties the imports the declined in 2019-20. However, despite the duty being in place the imports in POI have reached 245% of the imports in the base year.

- ii. There is significant freely disposable capacity with China. Known capacity with the Chinese producers is around 1 lac MT. Chinese producers have significant capacities exceeding Indian demand.
- iii. China is highly export oriented, it is the largest global producer of the PUC and is the largest exporter as well.
- iv. The subject country's export orientation along with their enormous capacity poses a significant threat to the Indian industry. With around 28,000 MT exports of the subject goods globally.
- v. Capacity with the exporters in the subject country is largely underutilised as it has been built far in excess of the domestic demand. Thus, the producers in the subject country are always looking for favourable markets to utilise their capacities.
- vi. The European Confederation of Flax and Hemp in their publication has stated that around 100,000 spindles are left unutilised with the Chinese producers, which converts to around 20,000 MT, which is equivalent to the entire Indian demand. The same can be easily diverted towards India.
- vii. Producers in China are highly export oriented. In 2020, China exported \$163M in flax yarn, largest exporter in the world.
- viii. In the POI the dumped exports to third countries by Chinese producers amounts to around 40% in relation to the Indian demand
- ix. In the POI the exports to third countries that were priced below the price to India. Around 118% of third country exports are price attractive volume in relation to the Indian demand
- x. In the POI the price of Chinese exports to third countries is compared with the NIP. Accordingly, 14% of the imports are injurious volume in relation to the Indian demand
- xi. Indian market is highly price sensitive. Low-priced imports would cause an adverse impact on the domestic industry.
- xii. Despite COVID-19, significant volumes of imports came in from China PR.
- xiii. The Indian market is still at a very nascent stage and therefore it is highly vulnerable to price sensitivity of the product.
- xiv. The performance of the domestic industry has improved after the imposition of ADD. However, the position of the domestic industry is still vulnerable as is evident with the post POI performance submitted which shows that the industry has started incurring losses.
- xv. China has maintained a share of around 20% through the injury period apart from the base year, which in no way can be described as low. This is when there is no demand-supply gap in India and the Indian Industry is capable to fulfilling the entire Indian demand.
- xvi. Question of likelihood is a country-wide determination and not company specific.
- xvii. Possibility of Chinese owned entities in Ethiopia starting to dump the PUC into India in future.
- xviii. Since this is a sunset review case, the causal link is not required to be examined and established again. Causal link was already established in the original investigations. The causal link is not required to be examined yet again in the present case, only likelihood needs to be examined.

- xix. the Kingdom group has itself claimed that India is one of its biggest markets multiple times, as well as the amount of imports to India had declined due to the imposition of duty and no other reason.
- xx. The Indian Bed & Bath Linen Market size is expected to grow from INR 487,566 million in 2023 to INR 716,372 million by 2028, at a CAGR of 8.00% during the forecast period (2023-2028). The lower lea counts are the PCNs which have witnessed low import volumes from the subject country through the current injury period. This would mean that the PCNs of lower lea counts which have small and minimal imports from the subject country at the moment will have the market to start increasing. This adds to the likelihood of increase in dumped imports from the subject country in future years.

J.3. Examination by the Authority

- 97. The present investigation is a sunset review investigation, and the purpose of this investigation is to examine the continuation or recurrence of dumping and consequent injury if anti-dumping duty is allowed to expire even if there is no current injury. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping.
- 98. It is further noted that though the domestic industry has stated that there is no continuing injury, the same is on the account of the existing anti-dumping duty which is preventing the same. The domestic industry has further claimed that there is a likelihood of recurrence of injury if the anti-dumping duty is removed. The domestic injury has been able to improve performance.
- 99. All factors brought to the notice of the Authority have been examined to determine whether there is a likelihood of continuation or recurrence of dumping and injury in the event of cessation of the duty. The Authority has considered various information, as made available by the interested parties during the course of the investigation, in order to evaluate the likelihood of continuation or recurrence of dumping or injury. The Authority has considered the invoice value at the level of trade reported by the Responding producer/exporter.
- 100. There are no specific methodologies available to conduct such a likelihood analysis. However, Clause (vii) of Annexure II of the Rules provides, *inter alia* for factors which are required to be taken into consideration viz.:
 - i. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased imports;
 - ii. 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;
 - iii. 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
 - iv. Inventories of the article being investigated.
- 101. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic

industry. The examination of the parameters of the likelihood as follows:

a. Continued imports from the subject country

102. The imports of the subject goods from China PR declined from the original investigation and increased thereafter. Imports have remained significant in absolute and relative terms despite domestic industry having sufficient capacity to meet the entire domestic demand. 17% of the domestic demand is still with the subject country when the capacities with the Indian industry is not fully utilised.

b. Surplus capacities in the subject country

103. The responding interested parties have not provided capacity prevalent in the subject country in its SSR questionnaire response part-II. The domestic industry has provided information on the capacity of various producers along with evidence. Interested parties commented that the one of the producers listed by the applicants did not produce flax yarn which is found appropriate and has thus not been considered. The capacity information for the producers made available during the course of the investigation is as follows:

Producer/Exporter	Capacity (in tons)
Kingdom Group	***
Heilongjiang Yanshou Jijia Flax Textile Co. Ltd	***
Yixing Sunshine Linen Textile Co., Ltd	***
Jinjiang Xinglilai Yarns Co., Ltd	10,000
Yixing Yongye Linen Textile Co. Ltd	14,600
Great Eastern Textiles (Tongling) Co. Ltd,	2,000
Changzhou Meiyuan Flax Textile Co. Ltd	1,500
Henan Pingmian Textile Group Co., Ltd	7,200
Total capacity of known producers	69,834 MT
Range	60,000 -80,000MT

**Information by the responding exporters has been considered based on the response provided.*

104. The information on capacity and production as provided by the exporters shows as follows:

SN	Particulars	POI
1	Capacity (MT)	
a	<i>Yanshou Jijia</i>	***
b	<i>Yixing Sunshine</i>	***
c	<i>Zhejiang Kingdom</i>	***
d	<i>Heilongjiang Kingdom</i>	***
e	<i>Jiangsu Jinyuan</i>	***
f	<i>Zhejiang jinyuan</i>	***
	Total	34,534

2	Production (PUC + NPUC) (MT)	
a	<i>Yanshou Jijia</i>	***
b	<i>Yixing Sunshine</i>	***
c	<i>Zhejiang Kingdom</i>	***
d	<i>Heilongjiang Kingdom</i>	***
e	<i>Jiangsu Jinyuan</i>	***
f	<i>Zhejiang jinyuan</i>	***
	Total	30,722
3	Capacity Utilisation (%)	
a	<i>Yanshou Jijia</i>	***
b	<i>Yixing Sunshine</i>	***
c	<i>Zhejiang Kingdom</i>	***
d	<i>Heilongjiang Kingdom</i>	***
e	<i>Jiangsu Jinyuan</i>	***
f	<i>Zhejiang jinyuan</i>	***
	Total	89%

105. It is seen that the excess capacity with the Kingdom group is *** MT, for Yanshou Jijia is *** MT and that with Yixing Sunshine is *** MT. The cumulative excess capacity with the responding exporters is 3812 MT.

106. The Authority notes that information on record indicates that China PR is the largest producer and exporter of the subject goods. Authority notes the evidence submitted by the domestic industry of excess capacity in China as reported by CELC, i.e., the European Confederation of Flax and Hemp. The excess capacity reported for 2022 is 1,00,000 spindles which is around 20,000 MT.

c. Third country dumping

107. The domestic industry has provided information with regard to exports from the subject country to show that the producers in the subject country are exporting significant volume of the subject goods to third countries at dumped prices. The data, however, is not at PCN level and can also include the NPUC as well. The Authority has thus examined information provided by the responding exporters. The exports made by the respondents have been compared with the normal value determined for China with the export price reported by the responding producers/exporters after due adjustments. Table below shows the factual information.

Particulars	POI
Dumped exports to third country (in MT)	6,653
Total exports to third country (in MT)	14,956
% of dumped exports	44%
Dumped exports in relation to Indian demand in %	30-40
Indian Demand (in MT)	***

108. The total exports reported by the responding exporters is 14,956MT. Of these, 44% of these exports have been made at dumped price. This volume constitutes 32% of Indian demand. In the event of cessation of existing anti-dumping duty, these third country dumped exports may likely to be diverted to India.

d. Injurious volume of exports

109. The domestic industry has provided information regarding the exports from the subject country to show that the producers in the subject country are exporting significant volume of the subject goods to third countries at price injurious to India. However, this data is not at PCN level and thereby is likely to include the NPUC as well. The Authority has thus examined information provided by the responding exporters. The price of the exports to made by the respondents have been compared with the NIP determined for the POI and the injury period. Table below shows the factual information.

Particulars	POI
Exports at injurious price (in MT)	6,138
Total exports to third country (MT)	14,956
% of exports at injurious price	41%
Injurious volume in relation to Indian demand (%)	25-35
Indian Demand (MT)	***

110. The total exports reported by the responding exporters is 14,956 MT. Of these. 41% of exports are at injurious price which constitutes around 30% in relation to Indian demand. In the event of cessation of existing anti-dumping duty, these third country exports may likely to be diverted to India. Which will force the domestic industry to sell the PUC at injurious price in order to maintain its market share and eventually suffer losses.

e. Price attractiveness of Indian market

111. The domestic industry has provided information regarding the exports from the subject country to show that the producers in the subject country are exporting significant volume of the subject goods to third countries at a price below the level at which the subject goods are being exported to India. However, this data is not at PCN level and thereby is likely to include the NPUC as well. The Authority has thus examined information provided by the responding exporters. The exports made by the respondents have been compared with the landed value determined for the subject goods imported into India from China with the export price reported by the responding producers/exporters after due adjustments. Table below shows the factual information.

Particulars	POI
Exports at prices below the prices to India (MT)	9,598
Total exports to third country (MT)	14,956
% of Exports at prices below the prices to India	64%

Price attractive volume in relation to Indian demand (%)	40-50
Indian Demand (MT)	***

112. The total exports reported by the responding exporters is 14,956 MT. Of these, 64% of these exports are made at price below the level at which goods are being exported to India. This volume constitutes 40-50% in relation to total Indian demand.

113. As per the submission made by domestic industry it is noted that the capacity reported by the responding exporters is almost half of the capacity of the capacity with the known producers. The dumped, injurious and price attractive volume that is likely to get into the Indian market will be much higher from China.

Conclusion on likelihood of dumping and injury

114. There is likelihood of continuation and recurrence of injury to the domestic industry in the event of cessation of existing anti-dumping duty due to the following:

- i. As a result of anti-dumping duties in place, the import volume from the subject country has declined in 2021 and increased thereafter and remain significant in absolute and relative terms.
- ii. The Authority in order to evaluate the likelihood of dumping and injury in the event of cessation of anti-dumping duties considered idle capacity, dumped exports, injurious exports, export orientation and price attractiveness. The Authority has been consistently looking at these factors while evaluating the likelihood of dumping and injury in the event of cessation of antidumping duties as per Rules. In the instant case, since the weighted average of capacity utilization of cooperative exporters in China PR is 89%, the third country diversion of exports by the cooperative producers/exporters to India is considered to be of immense importance. Notwithstanding the above, the capacities of responding producers/exporters is half of the known capacity in China and even the existing idle capacity is significant enough when compared with demand in India. The reported evidence of excess capacity of 20,000 MT is sufficient to cater the entire merchant market demand (excluding captive) in India.
- iii. The likelihood analysis of imports of the subject goods from China PR reveals that about 44% of exports of the subject goods by cooperative producers/exporters from China PR to third countries are at dumped price. These dumped exports to third countries are 30% - 40% of total Indian demand.
- iv. In case of China PR, around 41% of exports of the subject goods by the cooperative exporters/producers from China PR to third countries are at injurious volume. These exports at injurious price to third countries are 25-35% of Indian demand.
- v. Further analysis of imports of the subject goods from China PR reveals that about 64% of exports of the subject goods by cooperative producers/exporters from China PR to third countries are at price below the level at which the subject goods are exported to India. This volume constitutes 40-50% in relation to total Indian demand.
- vi. Besides, the idle capacity of China constitutes a significant quantity compared to total Indian demand.

- vii. The cooperating producers/exporters are utilizing a significant share of their production for export purposes, signifying the export orientation of the producers/exporters from the subject country.

K. POST DISCLOSURE COMMENTS

K.1. Submissions by other interested parties

- 115. Following are the post disclosure submissions made by other interested parties:
 - i. Heilongjiang Kingdom enterprise Co., Ltd” and “Heilongjiang Kingdom Linen Co., Ltd.” pertains to the same company, the English name is “Heilongjiang Kingdom Linen Co. Ltd” but for export activities the company uses “Heilongjiang Kingdom Enterprise Co., Ltd”. The name “Linen Co., Ltd.” appears on business license and the same was submitted in the EQR.
 - ii. Each company in China has unique Uniform Social Credit Code. Since both are the names of the same legal entity, the Uniform Social Credit Code of both is the same.
 - iii. The name “Heilongjiang Kingdom Enterprise Co., Ltd.” is used for export activity by the company. Exporters in China must obtain registration for foreign trade Operators from Chinese Authorities, with Chinese and English name. A declaration by the Company certifying that both are in fact same entity has been submitted to the Authority.
 - iv. The name Heilongjiang Kingdom Enterprise Co., Ltd be included in duty table as it is reflected in the export document to India
 - v. It is clarified that in Zhejiang Kingdom’s case, DG Systems data would record names of traders/exporters namely Zhejiang Jinyuan Flax Co., Ltd and Jiangsu Jinyuan Flax Co., Ltd. Even in original investigation, Zhejiang Kingdom had only exported through related party.
 - vi. Merely because a Chinese company has made an investment in Ethiopia and that Ethiopian company has exported the PUC to India does not mean that the export prices of the Ethiopian entity have automatically become distorted
 - vii. There is no anti-dumping duty or even an anti-dumping investigation against exports of PUC from Ethiopia by India or any other WTO member. Therefore, the Authority is required to establish in its reasoning how mere investment by a third country in Ethiopia can distort the export prices from Ethiopia to India
 - viii. Mere allegation of presence of a subsidy cannot automatically lead to a conclusion that export prices from such a country are distorted.
 - ix. Even if the Applicant does not produce all PCNs that may be the subject to the investigation, the Authority can extrapolate the normal value for such PCNs based on the export prices available for closely resembling PCNs. The same can also be done by the Authority in the present investigation for exports from Bangladesh
 - x. As per Section 9A(6A), the Authority is legally obligated to determine the margin of dumping based on the records of the exporter or producer concerning normal value and export price. Since Kingdom Group is not claiming market economy treatment, the export price of Kingdom Group ought to be determined based on Kingdom Group’s four exporter questionnaire responses, which were filed as per its records.
 - xi. The law mandates the application of “facts available” standard only in a case where the exporter or producer fails to provide records or information for calculation of export price

- xii. Export transactions that were cleared in special economic zones ought to be considered for determining ex-factory export price, landed value, dumping margin, and injury margin for Kingdom Group
- xiii. Imports of the subject goods and domestically produced the subject goods are competing for sales to the SEZ customers, and thus, are in direct competition. Therefore, the Authority's observation that imports of the subject goods are not meant for domestic consumption is not correct
- xiv. The subject goods, whether imported or sourced from DTA, are getting consumed in SEZs and it is only the finished goods such as flax fabric that is not meant for domestic consumption and such finished goods could be exported out of the SEZ. Therefore, the Authority ought to consider all transactions reported by Kingdom Group in its exporter questionnaire responses whether cleared by the Indian customers in DTA or in SEZ.
- xv. Even in the original investigation, Kingdom Group had made exports to customers located in Indian SEZs and the Authority had duly considered the same for determining ex-factory export price, landed value, dumping margin, and injury margin for Kingdom Group. There is no change in the law since the original investigation
- xvi. The DG Systems import data does not record the transactions of the subject goods fully, the Authority may seek clarification from DG Systems as to the reasons for any deficiency in their import data
- xvii. Exports made to an SEZ unit and clearances from such SEZ units to DTA are recorded in the "SEZ Online" portal. Delinking of records of these two data collection agencies of the Indian Government may be a reason that imports in SEZs are not getting reflected in the DG Systems import data in the present case.
- xviii. The Authority's decision to only exclude SEZ sales for calculating export price is violative of the principle of fair comparison enshrined in Article 2.4 of the AD Agreement and Para 6(i) of Annexure-I to the AD Rules.
- xix. The Authority has determined the export price for the Respondent by removing the sales made by the Respondent to the SEZ units. However, no such observation has been made by the Authority while calculating the Normal Value and Non-injurious price of the Domestic Industry.
- xx. The difference in the reported exports in the EQRs and the imports in the DG systems import data could be arising because of the following reasons:
- xxi. Sales made by Kingdom Group to units located in SEZs may not be reflected in DG Systems import data.
- xxii. Transfer of the PUC to FTWZ may not be reflected in the DG Systems import data.
- xxiii. There are timing differences between the date of shipping of the PUC by Kingdom Group and the date of landing of the PUC in India.
- xxiv. In Zhejiang Kingdom's case, the DG Systems import data records the names of the traders/exporters namely Zhejiang Jinyuan Flax Co. Ltd. and Jiangsu Jinyuan Flax Co., Ltd. even in the original investigation, Zhejiang Kingdom had not made any direct exports to India. It had exported to India only through its related party. The Authority had awarded cooperative rate to Zhejiang Kingdom as well
- xxv. Heilongjiang Kingdom uses the name 'Heilongjiang Kingdom Enterprise Co., Ltd.' for export purposes and should be included in the duty table.

- xxvi. Respondent claims that domestic industry is not suffering any material injury, data provided in the petition, and by Respondent's analysis, it is clearly shown that there is no volume effect, price effect or injury due to the subject imports.
- xxvii. Submitted in the oral hearing that the domestic industry's counsel stated that DI is not suffering material injury. Thereby, there is no need to examine material injury.
- xxviii. DI has not shown how price suppression/depression will resume if ADD is allowed to cease. Therefore, there is no price suppression/depression.
- xxix. Analysis of relevant economic parameters show DI has shown marked improvement in all relevant economic parameters.
- xxx. Failure of the applicants to perform as well as their competitors in Indian market cannot be attributed to the subject country imports.
- xxxi. Market share of imports of other countries has increased throughout injury period. Imports from the subject country or other countries is too low to affect market share of the DI. Indian producers and DI still hold significant market share.
- xxxii. There is no futuristic trend of any injury to applicants based on applicant's data.
- xxxiii. The Injury, if any, is self-inflicted by the DI, as DI is an importer of the PUC from Bangladesh.
- xxxiv. The injury is due to inability of the DI to compete with other Indian producers.
- xxxv. Conditions of Indian industry have improved to a level where there is healthy competition between Indian manufacturers of the PUC.
- xxxvi. There is no likelihood of continuation or recurrence. DI has miserably failed to provide positive evidence to satisfy criteria laid in AD Rules and Agreement to provide likelihood.
- xxxvii. Kingdom group is not dumping the PUC in India as can be verified from responses filed by Kingdom.
- xxxviii. Kingdom does not have excess and surplus capacities as can be verified from the EQR. Demand for the PUC in local markets of the subject country has also increased due to increase in demand of the finished goods (downstream).
- xxxix. Domestic industry has not given other relevant evidence such as excess inventory etc.
 - xl. Most of the total production is targeted towards catering domestic demand in China and exporting to third countries. Due to strong Domestic industry and increasing competition in India, the Indian market has become minor market to the group.
 - xli. Factors stated by Authority do not indicate existence of likelihood of injury. It is the duty of the Authority not to determine likelihood based on mere possibility.
 - xlii. Factors analysed by the Authority only indicate that continuation or recurrence of injury is only possible and not likely. This is in direct contravention with the principles laid down in WTO's panel in Pakistan – AD Measures in Biaxially Oriented Polypropylene Film from the UAE.
 - xliii. Authority's reliance on one report of the CELC as evidence for excess capacities is in just and does not amount to either positive or sufficient factual basis to draw reasoned and adequate conclusions.
 - xliv. No clarity in the finding of the Authority whether excess capacity of 1,00,000 is just for flax yarn or flax and hemp yarn combined.
 - xlv. The Authority is requested to rely upon data submitted by exporters to determine whether exporters in China have surplus capacities and not report submitted by the DI.

- xlvi. Excluding export to SEZ unjustified. Questionnaire response was filed considering that there are no specific instructions by the Authority to report export to DTA only and that in the past Authority has considered export to both SEZ and DTA.
- xlvii. Authority proposed PCN in initiation. Hence, participants filed PCN wise data including both DTA & SEZ sales. Authority is requested to clarify if they have worked out PCN-wise export prices.
- xlviii. Authority deducted 2% as commission to determine export price which should be rectified in findings as no commission has been paid to any agent/ importer.
- xlix. Authority found that contrary to their EQR, Heilongjiang Kingdom Linen Co Ltd has not exported during POI. Exporter invoices bear some other company's name. Kingdom filed wrong information. Their response shall be rejected. Authority is requested to grant them residual category duty. Reference made to para 12.20 of the Manual.
- l. It is submitted that Heilongjiang Kingdom ought to be awarded a cooperative rate in the present review, its exporter questionnaire response ought to be considered, and its name ought to be included in the dumping margin table, injury margin table, and the duty table in the Authority's in the present review.
- li. Authority has granted lower DM & IM to residual category than participating parties. Residual category shall be granted highest rate of duty.
- lii. All economic parameters of petitioners show improvement. There is no injury to DI and if any, it cannot be attributed to imports.
- liii. Yixing Sunshine Linen Textile Co. Ltd. participated in OI & was granted separate duty rate. Heilongjiang Yanshou Jijia Flax Textile Co. Ltd. did not participate in OI as it did not export then. Both have fully cooperated at present. Authority needs to calculate DM/IM in SSR based on present circumstances and not continue duty recommended earlier, especially when new producer/exporter is fully co-operative and providing all necessary information.
- liv. In the current SSR, Authority is bound to levy duty according to DM calculated in current Investigation and not continue earlier duty.
- lv. There have been past cases SSR in last 2 years where DGTR worked out and recommended fresh Duty based on export data of participating producers/exporters or recommended withdrawal of duty given.

K.2. Submissions by the domestic industry

- 116. Post Disclosure comments made by the domestic industry are as follows:
 - i. DG Systems data should be considered instead of EQR filed by responding exporters for the purpose of determining export price.
 - ii. The volumes reported by the responding exporters are higher than volumes reported in DG Systems only when the data provided by DG System is incomplete, or the importers cleared the product in some other classification.
 - iii. Either situation, the volume reported by the exporters indeed arrived in India and the exporter was aware of the final destination of the goods. Therefore, the authority is required to consider all the volumes that have been reported by the exporters.

- iv. The authority is required to consider the import values reported in Indian systems data in a situation where the value of imports reported by the exporter is higher than the value of imports reported in DG Systems data (for individual import transactions).
- v. The possibility in the present situation could be that exports have been made by the exporter and the same have been cleared in the Indian customs without payment of appropriate anti-dumping duties. In a situation where import values reported for individual import transaction is higher than the import value reported in the corresponding import data in DG Systems, it clearly points out to a situation where the value of the import transaction does not reconcile with DG Systems data.
- vi. The Authority is required to consider the export volumes reported by the exporter after duly corroborating with the DG Systems data for the import values and thereafter make a determination.
- vii. The authority may kindly consider the export volumes reported by the exporter after duly corroborating for the import values reported in corresponding import transactions.
- viii. The Authority has rightly held that the scope is limited to "flax yarn of below 70 lea count (equivalent to 42 Nm)". No interested party has contested the PCN methodology adopted by the Authority or the scope of the product under consideration.
- ix. The NIP determined by the Authority is very low leading to low level of injury margin. Domestic industry submits that the raw materials utilization and utilities utilization should not be considered at the best achieved levels in the past for the reason that the cause of increase in the consumption is not inefficient utilization of such inputs.
- x. It appears that the Authority has changed the method of apportionment between the PUC and NPUC. However, no reasoning has been provided for disallowing the apportionment methodology adopted by the applicants.
- xi. The actual cost of production should be considered for fixation of normal value, and not the notional cost and that too lowest amongst different domestic producers. The average cost of production of the domestic industry should be considered. Further, consideration of lowest NIP is without legal basis. Rather, the Authority should adopt the highest cost of production found in India.
- xii. The Authority has found existence of excess capacity with the responding producers/exporters from their responses and CELC. This additional capacity is around 23,000 MT. The known capacity with the producers in China is in the region of 1 lac MT as against the entire Indian demand of merely about 20,000 MT.
- xiii. Even though imports had declined post imposition of duty, the same have started increasing after a decline in 2019-20. The dumping margin and injury margin calculated is positive and significant. Further, The Indian market is highly price sensitive.
- xiv. The Chinese exports of the subject goods to third countries are at dumped price, injurious volumes and at price less than the level at which they are exported to India. Further, the producers in China are highly export oriented.
- xv. As claimed by the Kingdom group in their annual report, despite COVID-19 continued to affect all nations, they adapted to changes and produced 20,756 tonnes (2020: 16,704 tonnes) of linen yarn. Thus, they exported significant volumes despite COVID-19.
- xvi. There is sufficient justification for extension of the existing ADD.

xvii. Duties have been beneficial and has made the industry atmanirbhar as the number of Indian producers have increased from 4 to 8. The country is now self-sufficient to cater to the entire demand in the country and thus, there exist no demand-supply gap.

xviii. The additional investments made by the industry needs to be protected from unfair trade as the Indian industry is vulnerable and are earning low level of profits. Despite duties in place and sufficient capacity, imports still hold significant share of the Indian demand. The export sales are neither very significant nor very profitable and the focus of the Indian industry is on the domestic market.

xix. There are huge surplus capacities available with Chinese producers who is the largest producer of the subject goods. Further, India has remained a key destination of exports for China.

xx. Capacity of other producers in China over the ones considered in the Disclosure have been provided.

Particulars of the Company	Capacity (in MT)
Huaren linen (HK) Company Limited	6,000
Changzhou Meiyuan Flax Textile Co Ltd	2,200
Huzhou Goldritch Linen Textile Co Ltd	1,178
Tongling Yinhua Linen & Ramie Textile Co. Ltd.	300
Tung Ga Linen And Cotton Changzhou Co Ltd	2,800
Heilongjiang Yuanbao Textile Co., Ltd	7,500
Zhejiang Haiyan Jinyi Textile Co. Ltd.	1,000
Muling Xinling Linen Textile Co.,Ltd	2,200
Total	23,178 MT

xxi. Present duties need to be extended and modification in the quantum is not warranted. The sunset review therefore focuses on whether the cessation of the duty is likely to lead to continuation or recurrence of dumping and injury, and not the quantum of injury. Similar view has been taken by the Authority in previously concluded sunset review anti-dumping investigations.

xxii. The PUC is a premium textile fabric product and is not used by public at large. The use case is not limited due to the cost of the product, rather it is the cost of regular maintenance being high and recurring which is the primary reason for limiting the usage only by the elite segment of the society. Thus, the impact on the ADD on these segment will be too low.

xxiii. The anti-dumping duties is in the interest of the producer, consumer, and public at large. The duties are essential to ensure a level playing field in the Indian market. It is also in the consumers' interest to have a competitive domestic industry as if consumers become completely import reliant, they will be forced to higher degree of inventory. Encouraging domestic manufacturing activities is essential to make India the manufacturing powerhouse it aims to become.

xxiv. The impact of the past measures has been negligible, to the tune of 0.73% to 2.8% on the end product, signifying no adverse effect was there. Additionally, no user/downstream industry has provided information proving the contrary.

xxv. Yarn constitutes a major cost of fabric production and any increase in the price of yarn is directly passed on to the prices of fabric. Prices of yarn and fabric moves in tandem. The producers have certified the same, evidence has been provided to Authority.

xxvi. The analysis of the downstream industry shows positive growth throughout the injury period. Thus, there have been no adverse effects in any form or manner due to the imposition of past measures and the impact of duty as calculated is merely negligible.

K.1. Examination by the Authority

117. The Authority has examined the post disclosure submissions made by the domestic industry and notes that major comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the disclosure statement. New submissions have been examined as under:

- i. The Authority notes that there are 14 PCNs considered in the investigation whereas only 2 PCNs have been imported from Ethiopia. The 2 PCNs cannot represent the 14 PCNs considered by the Authority for this investigation. Thus, normal value could not be determined on the basis of the price from Ethiopia to India.
- ii. As regards the claim that import price from Bangladesh should be considered for the purpose of determination of normal value and adjustments should be made for PCN which are not entering the market based on the comparable PCN information available, the Authority notes that there are 14 PCNs considered in the investigation whereas only 3 PCNs has been imported from Bangladesh.
- iii. Further, even when normal value is determined based on the response filed by the exporters (in a market economy country) and there are no sales or profitable sales of a particular PCN then normal value is constructed considering the cost of production and making due adjustments. Similarly, in case of NIP for a PCN not produced by the domestic industry, the adjustment is made based on the cost of production of such PCNs and its nearest comparable PCN. In this case, there is no information on the difference in cost and price for majority of the PCNs and thus, it would not be appropriate to consider import price from Ethiopia and Bangladesh for the purpose of determination of normal value.
- iv. As regards the argument that the Authority has ignored the requirement to evaluate surplus or freely disposable capacity available with the Chinese producer as it has utilized most of its capacity, it is noted that the volume of third-country dumped exports, third-country injurious exports and volume of exports made by the exporter at a price below the level at which it has been exported to India can also be considered as freely disposable capacity apart from the unutilized capacity available with the producer which it can export to India. Likelihood examination does not just focus on freely disposable capacity; this determination extends to consideration of exports to third countries, surplus capacities with foreign producers, and the prices

at which different exports took place to India and globally. This examination shows that the exporter is likely to intensify dumping and cause injury to the domestic industry.

- v. As regards the argument that the excess capacity information should be considered only based on the response filed by the exporters, it is noted that despite the specific requirement of providing information on capacity, and demand prevalent in the country, none of the exporters has made available information and thus, Authority has to consider the best available information. Furthermore, the responding exporters have not provided any evidence to contradict the evidence submitted by the Authority.
- vi. As regards the clarification sought by the interested parties on the report by CELC referred on excess capacity prevalent in China, it is clarified that the reports has reported 1,00,000 spindles excess capacity for flax yarn alone which is equivalent to 20,000MT.
- vii. As regards the contention that exporters response should be considered for the purpose of determination of export price, the Authority has now considered response by exporters including exports made to SEZs.
- viii. With regard to the claim of Heilongjiang Kingdom Enterprise Co., Ltd., for awarding a cooperative rate in the present review, and its inclusion in the dumping margin table, injury margin table, and the duty table in the present review. The Authority has examined the issue as detailed below;
 - a. As per the exporter questionnaire response filed by Heilongjiang Kingdom Enterprise Co., Ltd., the said Company was established as a limited liability company in accordance with the Company Law of the People's Republic of China on March 11, 2016. The said company has made only one export transaction of *** MT to India during the POI.
 - b. The period of investigation of the original investigation was from October 2016 to September 2017. But the name of the company was not mentioned as a related company in the EQR filed in April 2018 by the three participating companies (Zhejiang Kingdom Linen Co., Ltd., Jiangsu Jinyuan Flax Co., Ltd., Zhejiang Jinyuan Flax Co., Ltd.) of the Kingdom Group in the original investigation.
 - c. The annual report of 2017 (As at 31 December 2017) shows that the Heilongjiang Kingdom Enterprise Co., Ltd., was in production of the PUC in 2017. However same was not reported in the EQR filed in the original investigation.
 - d. Moreover, in the current sunset review investigation, the Authority has examined the likelihood aspect of all the participating producers/exporters and has observed that though there is no current dumping and injury to the domestic industry due to the exports, however, there is a strong likelihood of recurrence of dumping and injury for recommending the continuation of the existing anti-dumping duties.
 - e. Since M/s Heilongjiang Kingdom Enterprise Co., Ltd., the said producer/exporter was not granted an individual rate of duty in the original investigation, the Authority, on an examination of the likelihood of dumping and

injury, recommends the continuation of the existing residual rate of anti-dumping duty for the said producer/exporter.

- f. In view of the above, the Authority has not considered the request of the 'Heilongjiang Kingdom Enterprise Co., Ltd.,' for awarding a cooperative anti-dumping duty rate in the present SSR investigation and & inclusion of its name along with other companies of the Kingdom group in the duty table.
- ix. With regard to the claim of Heilongjiang Yanshou Jijia Flax Textile Company Limited for a new rate of anti-dumping duty, the Authority has examined the issue as detailed below;
 - 1) there are two aspects that need to be examined by the Authority in a Sunset Review investigation:
 - a. Whether there is a continuation of dumping and injury.
 - b. In the absence of continuation of dumping or injury, whether upon revocation of the duty, there is a likelihood of recurrence of dumping and injury.
 - 2) The absence of current dumping and injury to the domestic industry could be because of the duties in place countering the phenomenon of dumping and injury. In such cases, the onus on the Authority is to examine whether the revocation of the duty would lead to a likelihood of recurrence of dumping and injury. The observations of the WTO Panel in EU – Cost Adjusted Methodologies II (Russia)¹, is in this regard:

In original anti-dumping investigations, investigating authorities must determine whether the domestic industry of a Member is materially injured by dumped imports. At this stage, the focus is on the existence of 'material injury' at the time of the determination. That determination is made under Article 3, based on information concerning the necessary and relevant factors for some previous period. In contrast, in an expiry review, an anti-dumping measure has been in place for some time, and investigating authorities must, based on a fresh analysis, determine whether the expiry of that measure would be likely to lead to continuation or recurrence of injury.

- 3) In view of the above, the parameters pertaining to the likelihood of continuation or recurrence of dumping and injury have been examined by the Authority in the case of M/s Heilongjiang Yanshou Jijia Flax Textile Co. Ltd., it is observed that:
 - a) M/s Heilongjiang Yanshou Jijia Flax Textile Co. Ltd has an idle capacity of ***% approx.
 - b) A total of *** MT quantities are being exported to third countries.
 - c) Out of these *** MT that are exported to third countries, *** MT is at an injurious price
 - d) Out of these *** MT that are being exported to third countries, *** MT is at

¹ Panel Report, European Union – Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia (Second Complaint), WT/DS494/R and Add.1, circulated to WTO Members 24 July 2020, appealed 28 August 2020.

dumped price

- e) And out of these *** MT that is being exported to a third country, *** MT is exported at a price below the price of India, making India a price-attractive market in case the existing anti-dumping duty is revoked.
- 4) The Authority further notes that M/s Heilongjiang Yanshou Jijia Flax Textile Co. Ltd., did not participate in the original investigation and had a choice to file a New Shipper Review (NSR) application, but the above-said producer/exporter chose to participate directly in the current Sunset Review investigation.
- 5) In the current sunset review investigation, the Authority has examined the likelihood aspect of all the participating producers/exporters and has observed that though there is no current dumping and injury to the domestic industry due to the exports, however, there is a strong likelihood of recurrence of dumping and injury for recommending the continuation of the existing anti-dumping duties.
- 6) Since M/s Heilongjiang Yanshou Jijia Flax Textile Co. Ltd., the said producer/exporter was not granted an individual rate of duty in the original investigation and currently falling in the residual category, the Authority on an examination of the likelihood of dumping and injury recommends the continuation of existing residual rate of anti-dumping duty for the said producer/exporter.
- x. The Authority has determined the non-injurious price (NIP) for the domestic industry on the basis of information furnished by the domestic industry, principles laid down in the Anti- Dumping Rules read with Annexure III and the Generally Accepted Accounting Principles (GAAP).
- xi. As noted above the domestic industry's performance has improved over the injury period. However, it remains vulnerable to recurrence of dumped imports from the subject country. Therefore, the Authority has examined the likelihood of continuation or recurrence of injury to the domestic industry. As is evident from the examination undertaken in the above paragraphs, in the present investigation, there is likelihood of recurrence of injury to the domestic industry. Therefore, the Authority has recommended the continuation of duties as determined in the original investigation.

L. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

L.1. Submissions by other interested parties

118. The following submissions were made by the other interested parties with regard to public interest:

- i. Imposition of ADD is in interest of only Indian producers of the PUC. Hence, an impact analysis on linen apparel is incorrect. Submission that PUC is a premium product, only used by the elite segment of society, is immaterial and has no bearing on the subject. Moreover, the applicants have stated that consumption of linen apparel has increased with increasing levels of income.
- ii. Indian producers are also captive consumers. Many of them produce linen textile/fabric

and subsequently, linen apparel, which they sell in their retail stores. These captive consumers do not regularly supply the PUC to other fabric manufacturers in Indian market and thus, suppress any competition. Thus, continuation of ADD will not promote healthy competition and will leave the consumers at the mercy of captive consumers.

- iii. Imposition of ADD has had adverse effects on all the downstream users of the PUC as during peak season, Indian producers, who are also captive consumers, do not supply the PUC to other players in the market, effectively eliminating competition. The applicant has been fined by the Competition Commission of India by imposing penalty of ₹302 crore on Grasim Industries Ltd., for abusing its dominant position in the market for supply of Viscose Staple Fibre (VSF). If ADD is continued, a similar situation may arise with respect to the PUC. Indian industry has grown in all aspects after the imposition of ADD, hence continuation of ADD is not warranted.
- iv. Further, impact of ADD should be analysed vis-à-vis linen fabric/textile and not linen apparel.
- v. The applicants have protection of ADD on flax fabric and are now seeking excess protection on the raw material flax yarn. The downstream users in India are having to import flax yarn and flax fabric both by paying ADD in peak seasons as applicants and other Indian producers are more focused on catering to their own captive demand.
- vi. As a result of strong protection afforded to domestic industry, the subject imports declined from 9,371 MT in POI of original investigation to 3,407 MT in POI of present review. Import price from China also almost doubled in the POI of current review compared to original investigation.
- vii. The impact analysis carried out by the domestic industry is inaccurate because it is based on the price of linen apparel, rather than the price of linen fabric/textile.
- viii. The downstream users are heavily impacted by the non-supply of the PUC by Indian producers during peak demand.
- ix. The anti-dumping duty is not in public interest. there are only few producers in the domestic market, there is a high likelihood that they will dominate the market and would create barriers for market entry.
- x. Domestic producers such as Jaya Shree Textiles, Raymond, Linen Art and WFB have their own fabric production units and are focused on supplying the PUC to them during the peak demand periods in the year. This leaves the user industry with very limited supplies from the domestic market who will import from China as the domestic industry is in no position to meet 100% of the Indian user industry's demand during the peak season time.

L.2. Submissions by the domestic industry

- 119. The following submissions were made by the domestic industry with regard to public interest:
 - i. There is no evidence of any adverse impact on the consumers. Neither have the consumers participated in the investigation and have not demonstrated adverse impact of ADD.
 - ii. The price increase in the PUC were absorbed by the market without any adverse effects.
 - iii. Demand for the product increased despite increasing prices.
 - iv. The price of Chinese producers also increased and the same were absorbed by the market

collectively and cumulatively establish that there was no adverse effect of ADD on the market.

- v. Even if it is considered that the impact is required to be calculated on fabric interested parties have provided; no quantifications, no evidence that the domestic industry indeed increased the prices by the quantum of ADD.
- vi. Price undercutting with ADD is significantly negative establishing that consumers did not pay higher prices because of ADD.
- vii. Indian industry as a whole has capacity sufficient to cater to the entire Indian demand including captive.
- viii. No evidence has been provided by the party to show that there is supply constraint by the Indian producers, it is a wild allegation.
- ix. The allegations that since one applicant is involved in a Competition Commission of India's (CCI's) investigation and was liable to pay fine, is not connected to the present review investigation at all. The same is a different investigation pertaining to a separate product altogether.
- x. Imports from China have increased significantly when compared to the base year of the present injury period.
- xi. Total number of Indian producers manufacturing the subject goods have increased from 4 in the OI to 8 in the present review investigation. The duties by providing a level playing field against dumped and injurious imports from China PR have given the Indian industry more reason and confidence, so much so that the investments made by the Indian industry have increased around 15 times as compared to the investment in the OI.
- xii. As a result, the capacity and the utilisation has improved due to existence of level playing field, in-turn increasing the employment, the production process is high employment generating.
- xiii. The Self-reliance of the industry has improved from 1/3rd in the OI to complete in the POI in terms of capacity to consumption ratio.
- xiv. The extension of the anti-dumping duties is essential to ensure a level playing field in the Indian market, the viability of domestic production of the like article, and prevent India from becoming solely import reliant on the product.
- xv. Presence of a vibrant domestic industry is essential to ensure a fair and competitive Indian market, which in its absence would be completely dominated by Chinese imports.
- xvi. It is in the interest of the public at large to have a strong, competitive domestic production of the product. Encouraging domestic manufacturing activities is essential to make India the manufacturing powerhouse it aims to become. Encouraging domestic production will boost employment and increase the GDP of the country.
- xvii. The impact is very negligible ranging from 0.7% to 2.8% only.

L.3. Examination by the Authority

120. The Authority notes that the purpose of imposition 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 re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Continuation of anti-dumping measures does not aim to restrict imports from the subject country in any way. The Authority recognizes that the continuation

of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, continuation of anti-dumping measures would ensure that no unfair advantages are gained by dumping practice, prevent decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

121. The Authority considered whether continuation of anti-dumping shall have any adverse impact on the interest of the public. In order to determine such impact, the Authority weighed the impact of the continuation of duties on the availability of the goods in the Indian market, the impact on the users of the product as well as the domestic industry and the impact on the general public at large. This determination is based on the submissions and evidence submitted over the course of the present investigation.

122. The Authority issued initiation notification inviting views from all the interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/ consumers to provide relevant information about the present investigation including any possible effects of anti-dumping duty on their operations. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers and other interested parties. Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to present investigations, including effect of ADD on their operations. The Authority sought information on, inter-alia, interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of ADD on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of ADD, impact of repealing or maintaining the present duty. The Authority notes that barring one importer, i.e., Texventures LLP, no consumer and importer of the product under consideration filed the questionnaire response or attended the oral hearing. Texventures LLP has also not filed user questionnaire response. The authority notes that there is no evidence showing that imposition of ADD and its existence over last five years has had any significant adverse effect either on the consumers or at public at large.

123. The submissions made by the other interested parties with respect to the impact of the duty have been considered. The authority notes that the present investigation is a sunset review investigation, and therefore before considering the impact of the proposed duties on consumers, the Authority should first consider the impact of the duty that was imposed earlier. In a situation where the ADD has been in place for last more than four years, the increase in the price of the product (after due adjustments for raw material price movements) and the impact of the same is the best indicator of the likely impact of the proposed duty on the consumers. This impact is required to be determined considering the increase in price of the domestic and imported product post imposition of duty. It is seen that there is no material increase in the price of the product either by domestic industry or by Chinese producers, barring the increase that is reported on account of an increase in raw material cost. Further, the return on investment of the domestic industry has improved since the base year, however, is still not very high. It can therefore be concluded that neither the price of the domestic industry nor the price of import has increased by the quantum of anti-dumping duty that was earlier imposed. Therefore, it would not be appropriate to consider that the price of the product would increase in future by the quantum of anti-dumping duty because of the continuation of

duty.

124. The domestic industry has highlighted that the number of producers has increased from about 4 producers in 2018 to 8 producers at present. The industry has installed capacity of more than 20,410 MT from merely 6,378 MT. In order to achieve this growth, the Indian industry has invested more than Rs. 1,500 crores in the product. With the increase in capacities, the employment generated by the Indian industry has increased and the industry is providing employment to about 5300 individuals directly and is expected to increase by double in coming years.
125. The domestic industry has been able to improve in last 5 years and have been able to expand capacities considering the growth in the domestic market. New plants have been set up and new market players have entered the market. Since, these companies have just started producing, they have not been able to set a foothold in the Indian market and are thus vulnerable. Imports at low prices from China would make it difficult for these nascent companies to survive. If the newly established production capacity is under-utilized and does not generate the required ROI, the company will incur losses. In such a case, dumping of product under consideration is likely to adversely impact the performance of the Indian industry.
126. The additional investments and increase in capacity have had a positive impact on the employment offered by the Indian industry. It is seen that there has been an increase of around 2.5 times in employment as compared to the original investigation. The number of employees has more than doubled in the POI as compared to the original investigation. It has been claimed that the Indian industry of the subject goods is the highest employment generator in both (a) textile fibre/yarn and (b) linen garment industry.
127. In view of the foregoing, the Authority notes that the Indian industry has achieved growth as a result of imposition of duty. However, since the industry continues to be vulnerable and there is likelihood of recurrence of injury if the anti-dumping duty is removed, continuation of anti-dumping duty would be in the interest of the industry.
128. The Authority has also examined the impact of the continuation of duty on the interests of the users. The Authority notes that the imposition of duty does not restrict imports, but only ensure that the goods are available at fair prices. The Indian industry has enhanced their capacities and can cater to almost the entirety of demand.
129. There are imports from other countries as well. Therefore, even if there are no imports from the subject country, the domestic supply is more than sufficient to cater to the Indian demand. Imposition of anti-dumping duty would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.
130. The Authority also notes that there are a number of producers in India, and the producers have capacities exceeding the domestic demand. Therefore, there is significant price competition between the domestic producers. This ensures that the users have ample availability of the products at competitive prices. No undue advantage of the antidumping duty is possible in such a situation.
131. The opposing interested parties have not provided any information on how the ADD is adversely impacting the downstream industry and end customers. The domestic industry has

provided calculations on the impact of duty on the garments, which is almost negligible. It is also noted in this regard that the subject goods are premium textile fabric product which is majorly used and worn by the high-income group of society. Linen products are not used by the public at large. Thus, the impact of the ADD on these segments will be too low. The interested parties have argued that the impact should be seen on the fabric manufacturer, it is seen in this regard that the subject goods constitute a major part of the total cost of fabric, and thus it is legitimate that the fabric manufacturer pass on any increase in cost to the end customer. One of the applicants, M/s Grasim Industries Limited (Jaya Shree Textiles), is a producer of both flax yarn and flax fabric. It has certified that the price of fabric is dependent on yarn and that the price of fabric follows the movement of the price of yarn.

132. The Authority further notes that the definitive measures may have an impact on certain users but that should be balanced against the risk of a discontinuation of the domestic industry activity. Not imposing measures will lead to less reliable and unstable sources of supply, particularly when India and China are known to be the major players in flax yarn. The Authority, therefore, concludes that the imposition of duty would be in the larger public interest.

Justification for continuation of duties

i. **The product is a premium textile product meant for high income group of the society due to high maintenance cost.**

133. The subject goods is a premium textile fabric product. It is noted that linen is a very premium textile which is majorly used and worn by the elite section of the society. Linen products are not used by public at large. It has been submitted by the applicants that the usage of linen is limited not due to the cost of the product, rather high cost of regular maintenance is the primary reason for limiting the usage only by the elite segment of the society. Thus, this is not a product that goes into the fabric that is used by the public at large.

ii. **Duties have been beneficial to development and growth of the industry in the Country in the form of capital investment, capacity creation, employment generation, and country becoming Atma-Nirbhar.**

134. The total number of Indian producers manufacturing the subject goods have increased, from four (4) in the original investigation to eight (8) in the POI. Four new producers have set up around 14,032 MT capacity since the original investigation. The installed capacity in India stands at 20,410 MT as against 6,378 MT in the original investigation POI.

135. Investments made by the Indian industry increased around 15 times as compared to the investment in the original investigation. The investment has increased from about Rs. 120 Crores at the time of original investigations to more than Rs. 1,500 Crores in the present POI.

136. The product is a heavily capital-intensive. While the average capital employed by the domestic industry was around Rs. 1 lac per MT, the capital investment in the fresh capacities is around Rs.15 lacs per MT of capacity.

137. The product is a heavily employment intensive. The average employment in the domestic industry is 3 persons per MT. Considering the capacities installed by the domestic industry and Indian industry, this implies an employment of about 5,300 persons in yarn industry itself.

The domestic industry contended that the product under consideration involves highest employment (per MT of capacity) in the value chain as compared to other textiles products such as viscose and polyester.

iii. Product provides highest employment per unit of production in all textile yarn

138. The production of flax yarn due to the process involved is high employment generating in nature. It provides highest employment per unit of production in all textile yarns. It is seen that the requirement is of 3 persons/MT for manufacturing.

139. The reason for the heavy employment in this industry is due to elaborate process involved in making flax yarn (which is unlike any other yarn/fibre spinning). The employment generated by the flax yarn industry is even higher than the employment generated by the downstream industries in fabric and garmenting. While fabric industry generates 2/3rd employment as compared to yarn, the garment industry generates a mere 1/5th of employment generated by yarn industry.

iv. Demand-supply gap bridged:

140. There was a significant demand-supply gap in the product at the time of original investigations. Where, the demand in the original investigation's POI was 15,080 MT, the installed capacities in India were only 6,438 MT. Whereas the demand has since increased to 20,688 MT by the time of the present POI, the installed capacities have increased to 20,410 MT. The duties imposed have thus resulted in increase in capacities to meet the demand for the product in the country. Further, the demand-supply gap was bridged by investments made by new domestic producers. Thus, the country is now self-sufficient in the product.

v. The additional investments made by the industry needs to be protected from unfair trade

141. The Indian industry has made fresh investment in the region of Rs. 1,500 crores. The investment was made by new producers. The profitability of the domestic industry was the best in the present POI. Considering the per unit profit before interest earned by the domestic industry in the present POI, it is seen that the fresh investments would be able to earn a return of 22% should these investments earn similar profit before interest as earned by the domestic industry. Any reduction in the profitability from the POI levels would imply significantly adverse profitability of the new investment. The new investment needs protection from dumped imports which are likely to resume at intensified volumes in the event of cessation of duties.

vi. The Indian industry is vulnerable

142. The Indian industry is vulnerable to material injury, as is evident from the profitability of the domestic industry and the fresh investments undertaken by the Indian industry. It is seen that the volume of dumped, injurious and price-attractive sales by the responding Chinese producers alone is significant and constitutes a significant share of Indian demand. The

Authority has found that the installed capacities with known producers in China are in the region of 70,000 MT, whereas the capacities installed by the responding exporters alone are in the region of 34,500 MT. Thus, considering the volume of dumped, injurious and price-attractive sales by the responding Chinese producers, the Authority considers that the volume of dumped, injurious and price-attractive sales by all Chinese producers is at least the double of what has been found for the responding exporters. This would be significantly more than the entire Indian demand. While the existing ADD has prevented the Chinese producers from increasing their volumes beyond the present volumes, cessation of exiting ADD shall lead to a significant increase in these volumes. The Indian industry is clearly vulnerable to injury in the event of cessation of ADD.

vii. China is the largest producer of the subject goods

143. Various articles and publications submitted by the domestic industry shows that China is the largest manufacturer and exporter of flax yarn. Globally, at present, India and China are known to be the major producers of the subject goods. Yet, the installed capacities in China have been quantified at 70,000 MT, as against installed capacity of 20,410 MT in India. Further, whereas the demand-supply situation in India is balanced, the Chinese producers are faced with excess capacities.

viii. India is a key destination of exports for China

144. Analysis of questionnaire responses filed by the participating Chinese producers show that exports to India ranks amongst top three in global export destinations for these companies. Further, demand for the subject goods in India appears highest after Chinese domestic market, thus making India a lucrative market. Kingdom group has time and gain publicly stated that India is a key market and exports of the group have declined after imposition of ADD.

ix. No adverse impact on consumers

145. Anti-dumping duties were imposed on the product in 2017. No user has participated in the investigation and filed requisite response. There is no evidence of any adverse effect of ADD earlier imposed on the downstream product or ultimate consumer. The domestic industry has quantified impact of ADD in the region of 0.73% to 2.8% and has contended that the cost of the product in anyway is not a major deterrent for the consumers. The primary cost for the consumer is recurring maintenance cost rather than one time purchase cost for the product.

146. The PUC is a premium textile fabric product. It is largely purchased by high income group of the society. The information provided by the domestic industry and the analysis thereof shows that while a garment made out of flax could be available at a price band of the garments made of other fabric, yet garments made of linen fabric are not preferred by public at large owing to high maintenance cost. The domestic industry contended that the PUC is largely used by only the upper income group because of this high maintenance cost.

147. The petitioners have contended, and the opposing parties have not refuted, that production of flax yarn provides highest employment amongst all textile yarns, when measured in terms of per unit of production.

148. It is noted that the investment by the domestic industry per unit of production is in the

region of 15 lacs/MT and the same is much higher as compared to other yarns of polyester, viscose, acrylic or other man-made fibre. The domestic industry submitted that the high employment in the PUC is because of the nature of production process as opposed to other manmade yarns.

M. CONCLUSION

149. Having regard to the contentions raised, submissions made, information provided and facts available before the Authority as recorded above and on the basis of the above analysis of likelihood of continuation/recurrence of dumping and consequent injury to the domestic industry, the Authority concludes that:

- i. Being a review investigation, the scope of the product under consideration has not been enhanced and has been kept the same as the original investigation. Accordingly, the PUC is being defined as “Flax Yarn of below 70 Lea Count”.
- ii. Despite imposition of anti-dumping duty, the imports from the subject country have declined since the original investigation, but remained substantial in absolute terms as well as relative to DI’s production and Indian demand.
- iii. The landed value of the imports without ADD is undercutting Indian prices, the domestic industry is therefore only competing due to the presence of duties.
- iv. The domestic industry remains vulnerable due to the likelihood of recurrence of dumping of the subject goods from the subject country.
- v. The information on record shows likelihood of continuation/recurrence of dumping and injury in case the anti-dumping duty in force is allowed to cease at this stage. The likelihood analysis shows that significant exports of the subject goods from the subject country to third countries other than India are at dumped & injurious prices. And there is significant price attractiveness to make exports to India as price to third countries are below the price to India. These factors cumulatively indicate strong likelihood of diversion of exports of the subject goods from the subject country to India if the existing anti-dumping measure ceases to exist.
- vi. The Authority notes that the imposition of anti-dumping duties on the product under consideration has led to significant increase in number of domestic producers. Despite providing enough opportunities to users to quantify the impact of ADD and elaborate on how imposition of ADD will adversely impact them, none of the users have provided relevant information. The other interested parties have not established impact of ADD on the user industry with verifiable information.
- vii. From the information on record, it is also seen that the impact of ADD on the consumers is quite insignificant. Therefore, there is no reason to believe that continuation of present measure is likely to lead to increase in the prices of the product under consideration in the country.

150. In view of the above the Authority finds that there is a likelihood of continuation or recurrence of dumping and injury in the event of cessation of the existing anti-dumping duties, and therefore, recommends continuation of anti-dumping measures for a further period of five years.

N. RECOMMENDATIONS

151. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, the exporters, the importers, the users and the other interested parties to provide information on the aspects of dumping, injury and the causal link and also on likelihood of dumping and injury to the domestic industry.

152. Having concluded that there is positive evidence of likelihood of dumping and injury if the existing anti-dumping duties are allowed to cease, the Authority is of the view that the anti-dumping duty in force on the imports of the product under consideration from the subject country is required to be continued further. Considering the facts and circumstances of the case, as established hereinabove, the Designated Authority considers it appropriate to recommend extension of the anti-dumping duties on the imports of the subject goods from the subject country. Accordingly, the anti-dumping duties for producers from China is recommended as per the duty table below.

153. Thus, in terms of provision contained in Rule 4(d) and Rule 17(l) (b) of the AD Rules, the Authority recommends the continued imposition of the existing anti-dumping duties, so as to remove the likelihood of dumping and injury to the domestic industry. Accordingly, definitive anti-dumping duty equal to the amount mentioned in column 7 of the duty table below is recommended for the imposition for five (5) years from the date of the Notification to be issued by the Central Government, on all imports of the subject goods originating in or exported from the subject country.

DUTY TABLE

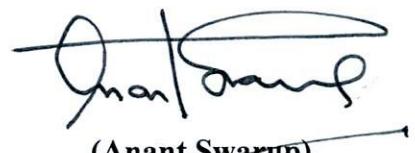
S. No.	Heading/ Subheading	Description of Goods	Country of Origin	Country of Export	Producer/ exporter	Duty Amount (USD/KG)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	5306, 5306 1090, 5306 2010, 5306 2090, 5306 1010	Flax Yarn of below 70 Lea Count (or below 42 nm)	China PR	Any including China PR	Jiangsu Jinyuan Flax Co., Ltd./ Zhejiang Jinyuan Flax Co., Ltd./ Zhejiang Kingdom Linen Co., Ltd.	2.42
2.	-do-	-do-	China PR	Any including China PR	Yixing Sunshine Linen Textile Co., Ltd.	2.29

3.	-do-	-do-	China PR	Any country including China PR	Any other than the producers at Sl. No. 1-2	4.83
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*Note - Customs classification is only indicative, and the determination of anti-dumping duty shall be made as per the description of the PUC

FURTHER PROCEDURE

154. 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