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**F. No. 7/21/2022-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building,
5, Parliament Street, New Delhi -110001**

Dated: 6th April, 2023

FINAL FINDINGS
(Case No. AD (SSR) – 10/2022)

Subject: Sunset review of anti-dumping duties levied on imports of “High Tenacity Polyester Yarn” originating in or exported from China PR.

A. BACKGROUND OF THE CASE

F. No. 7/21/2022-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 thereof, as amended from time to time (hereinafter also referred to as the “AD Rules”);

1. The Designated Authority (hereinafter also referred to as the “Authority”) received an application, from M/s Reliance Industries Limited (hereinafter also referred to as the “applicant”) requesting initiation of a sunset review investigation of the anti-dumping duties imposed on the imports of High Tenacity Polyester Yarn (hereinafter also referred to as the “product under consideration” or the “subject goods”) from China PR (hereinafter also referred to as the “subject country”).
2. The original anti-dumping investigation concerning the imports of the subject goods from the subject country was initiated by the Authority vide F. No. 6/12/2017 dated 15th June 2017 to examine the nature and extent of dumping and its injurious effect on the domestic industry with respect to the product under consideration originating in or exported from the subject country. The Authority vide its Final Findings Notification No. 6/12/2017-DGAD dated 24th May 2018 recommended imposition of definitive anti-dumping duties on the imports of the subject goods from the subject country, which was given effect vide Customs Notification No. 35/2018 – Customs (ADD) dated 9th July 2018. The said duties were levied for a period of five years and are set to expire on 8th July 2023.
3. Thereafter, M/s Reliance Industries Limited filed an anti-circumvention application alleging circumvention of the existing anti-dumping duties by producers from China PR.

The Authority vide F. No. 7/9/2022-DGTR initiated an anti-circumvention investigation of anti-dumping duties imposed on the imports of High Tenacity Polyester Yarn from China PR. The authority has issued final findings of the anti-circumvention investigation of ADD vide F. No. 7/9/2022-DGTR dated 31st March 2023.

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

5. Further, Rule 23(1B) of the AD Rules provides as follows.

“any definitive antidumping 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.”

6. 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 duties is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
7. The applicant filed an application, requesting initiation of a sunset review of the anti-dumping duties imposed earlier and seeking continuation of the existing anti-dumping duties on the imports of the subject goods from the subject country. The request was based on the grounds that the expiry of the measures is likely to result in continuation or recurrence of dumping and consequent injury to the domestic industry.
8. The Authority, on the basis of *prima facie* evidence submitted by the applicant, issued a public notice vide Notification No. 7/21/2022-DGTR, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with Section 9A (5) of the Act read with Rule 23 of the AD Rules to review the need for continued imposition of anti-dumping duties in respect of the subject goods, originating in or exported from China PR and to examine whether the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
9. The scope of the present review covers all aspects of the Final Finding No. 6/12/2017 dated 24th May 2018 and Notification No. 35/2018 – Customs (ADD) dated 9th July 2018.

B. PROCEDURE

10. The procedure described below has been followed with regard to the present investigation:
- a. The Authority notified the Embassy of the subject country in India about the receipt of the application before proceeding to initiate the investigation in accordance with Rule 5(5) of the AD Rules.
 - b. The Authority issued a public notice dated 30th September 2022, published in the Gazette of India, Extraordinary, initiating sunset review investigation of anti-dumping duty on import of the subject goods from the subject country.
 - c. The Authority sent a copy of the initiation notification to the Government of the subject country, through its Embassy in India, known producers and exporters from the subject country, known importers / users and the domestic industry as well as other interested parties and requested them to make their views known in writing within the prescribed time limit.
 - d. The Authority also provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject country, through its Embassy in India, in accordance with Rule 6(3) of the AD Rules. A copy of the non-confidential version of the application was also circulated to other interested parties.
 - e. The Authority forwarded a copy of the public notice initiating the sunset review investigation along with exporter's questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the AD Rules:
 - i. Huzhou Unifull Industrial Fibre Co. Limited
 - ii. Hyosung Advance Materials Corporation
 - iii. Hyosung Chemical Fiber (Jiaxing) Co. Limited
 - iv. Jiangsu Hengli Chemical Fibre Co. Limited
 - v. Oriental Industries (Suzhou) Limited
 - vi. Oriental Textile (Holding) Limited
 - vii. Qindao Weifeng Fibre Company Limited
 - viii. Zhejiang Guxiandao Industrial Fibre Co. Limited
 - ix. Zhejiang Guxiandao Polyester Dope Dyed Yarn Co. Limited
 - x. Zhejiang Hailide New Material Co. Limited
 - xi. Zhejiang Unifull Industrial Fibre Co. Limited
 - f. The Embassy of the subject country in India was also requested to advise the exporters/producers from its country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the Embassy along with the list of the known producers/ exporters from the subject country.
 - g. In response to the initiation notification of the subject investigation, following producers/exporters from the subject country have responded by filing questionnaire response:
 - i. Huzhou Unifull Industrial Fibre Co., Ltd.

- ii. Hyosung Advanced Materials Corporation, Korea RP
 - iii. Hyosung Chemical Fiber (Jianxing) Co. Ltd.
 - iv. Jiangsu Hengli Chemical Fibre Co. Ltd
 - v. Jiangsu Taiji Industry New Materials Co., Ltd
 - vi. Oriental Industries (Suzhou) Ltd.
 - vii. Zhejiang Guxiandao Polyester Dope Dyed Yarn Co., Ltd.
 - viii. Zhejiang Unifull Industrial Fibre Co., Ltd.
- h. The Authority sent questionnaire to the following known importers / users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:
- i. Arvind Limited
 - ii. Arvind OG Nonwovens Private Limited
 - iii. Autoliv India Private Limited
 - iv. Bimban Industries Private Limited
 - v. Centennial Fabrics Limited
 - vi. Chavo Overseas
 - vii. Cliovenus Inc
 - viii. Coated Sales Company Pvt. Ltd.
 - ix. Composite Strap India Private Limited
 - x. Deepak Textiles
 - xi. Entremonde Polycoaters Limited
 - xii. Fenner Conveyor Belting Private Limited
 - xiii. Ferreteria India Pvt. Ltd.
 - xiv. Filatech Enterprise Private Limited
 - xv. Filink Exim Private Limited
 - xvi. G.R. Corporation
 - xvii. Ganeriwala & Sons
 - xviii. Garware Technical Fibres Limited
 - xix. Geosys India Infrastructures Private Limited
 - xx. Global Impex Inc.
 - xxi. Grabtech Fabrics LLP
 - xxii. Himalyan Polycords
 - xxiii. Indica Conveyors Limited
 - xxiv. International Conveyors Limited
 - xxv. Jagrit Polymers Private Limited
 - xxvi. Kanpur Plastipack Limited
 - xxvii. Karan Polymers Private Limited
 - xxviii. Khosla Profil Private Limited
 - xxix. Kohinoor Ropes Private Limited
 - xxx. Lift and Lash Private Limited
 - xxxi. M.G. Poly Coats Private Limited
 - xxxii. Madhuram Fabrics Private Limited
 - xxxiii. Madura Coats Private Limited

- xxxiv. Madura Industrial Textiles Limited
- xxxv. Mangalchand Tubes Private Limited
- xxxvi. Maruti Lift & Safe Technique Private Limited
- xxxvii. Meher Fashions Private Limited
- xxxviii. Mehler Engineered Products India Private Limited
- xxxix. MRS Exports
- xl. Multitech Products Private Limited
- xli. National Exports Corporation
- xlii. Newage Fire Protection Industries Private Limited
- xliii. Noble Tex Industries Limited
- xliv. NRC Corporation
- xlv. NRC Industries Limited
- xlvi. Plastene India Limited
- xlvii. PN International
- xlviii. PNP Polytex Private Limited
- xlix. Polyhose India (Rubber) Private Limited
- l. Pragati Enterprises
- li. Sanathan Textiles Private Limited
- lii. Sankalp Safety Solutions LLP
- liii. Sankhla Industries
- liv. Sanrhea Technical Textiles Limited
- lv. Shakti Cords Private Limited
- lvi. Shan Fab (India)
- lvii. Sky Industries Limited
- lviii. SRF Limited
- lix. Strata Geosystems (India) Private Limited
- lx. Sunpure Technologies Private Limited
- lxi. Symbolic Fabtex Private Limited
- lxii. Techfab (India) Industries Limited
- lxiii. Techno Fabrics
- lxiv. Texperts India Private Limited
- lxv. Threads (India) Limited
- lxvi. Todi Mills
- lxvii. Tufropes Private Limited
- lxviii. Vardhaman Yarns and Threads Limited
- lxix. Vilax Industrial Fabrix Private Limited
- lxx. VR Enterprises

- i. The Authority also sent the questionnaire to the known Association of the subject goods in India, that is, Indian Technical Textile Association, for circulation and calling of necessary information in accordance with Rule 6(4) of the Rules.
- j. In response to the initiation of the subject investigation, the following importers/users have responded by filing questionnaire response.

- i. Autoliv India Private Limited
 - ii. Techfab (India) Industries Limited
 - iii. Vardhman Yarns and Threads Limited
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- k. The Authority made available the non-confidential version of the evidence presented by various interested parties for inspection by the other interested parties by directing them to circulate the same to all the interested parties.
 - l. A request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of the subject goods for the injury period and the period of investigation. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
 - m. The information/data submitted by the domestic industry has been verified to the extent deemed necessary and relied upon for the purpose of this final finding. Information was sought from the domestic industry and the other interested parties to the extent deemed necessary.
 - n. The non-injurious price (NIP) has been determined based on the cost of production and reasonable profits to sell the subject goods in India as per information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD 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.
 - o. A list of all interested parties was uploaded on DGTR's website along with the request therein to email non-confidential version of their submissions to all other interested parties.
 - p. The period of investigation for the purpose of the present investigation is 1st April 2021 – 31st March 2022. The injury analysis period covers 1st April 2018 – 31st March 2019, 1st April 2019 – 31st March 2020, 1st April 2020 – 31st March 2021 and the period of investigation.
 - q. The Authority had invited views from the other interested parties regarding the PCN methodology proposed by the domestic industry. All other interested parties were requested to make their views known in writing within the prescribed time limit. Based on the comments received from all the interested parties, the Authority notified the final PCN methodology vide letter dated 23rd November 2022.
 - r. The submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority, in this Final Findings.
 - s. In accordance with Rule 6(6) of the AD Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 24th January 2023 via digital video conferencing. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions. The parties shared their non-

- confidential submissions with all other interested parties and were advised to offer their rebuttals.
- t. A disclosure statement containing essential facts in the investigation which have formed the basis of the Final Findings was issued to the interested parties on 31st March 2023. The comments on the disclosure statement received from the interested parties have been considered, to the extent found relevant in the Final Findings.
 - u. The Authority, during the course of the investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this Final Findings, to the extent possible and verified the data documents submitted by the domestic industry and the interested parties to the extent considered relevant, practicable and necessary.
 - v. The information provided by the interested parties on 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 as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
 - w. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views/observations on the basis of the facts available.
 - x. ‘***’ in this Final Findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
 - y. The exchange rate adopted by the Authority for the subject investigation is 1 US\$ = ₹ 75.37

C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1. Submissions of the other interested parties

- 11. The submissions made by the other interested parties with regards to the product under consideration and like article are as follows:
 - a. The circumvented product cannot be considered as part of the scope of the present investigation as no final findings have been issued in the anti-circumvention investigation. Further, the Authority has stated in the initiation notification of the sunset review that the scope of the product under consideration remains the same as in the original investigation.
 - b. Any measure imposed pursuant to anti-circumvention investigation can run concurrently to only the original measure, which in the present case is, until 8th July 2023. Since the anti-circumvention investigation was initiated under Rule 25 of the AD Rules and thus, is in respect to only the original investigation, any

recommendation made under this sunset review investigation would not lead to automatic extension of the recommended anti – dumping duties on the circumvented product. In order to continue the measures beyond the aforesaid date on the circumvented products, a review under Rule 28 of the AD Rules would have to be initiated. The review under Section 9A (5) read with Rule 23 of the AD Rules relates to the original investigation only.

- c. The Authority cannot evaluate the undermining of the existing anti – dumping duties on the circumvented product, as is required for imposition of anti-circumvention measures, in the present review, since such power is provided only under Rules 25 and 26 of the AD Rules.
- d. Circumvented product cannot be included within the scope of the PUC in a sunset review investigation. Even in the sunset review concerning imports of jute products from Bangladesh and Nepal, the Authority did not include the circumvented product in its determination of dumping or injury margin.
- e. If anti-dumping duty is continued by the Authority pursuant to the sunset review, then such anti-dumping duty will also be extended to PUI if the Authority determines that there is circumvention of anti-dumping duty.
- f. The inclusion of tolerance limits within the scope of the product under consideration would amount to enlargement of the scope of the PUC. It has been a long-standing principle that the scope of the PUC cannot be enlarged in a sunset review investigation. On the other hand, it may be curtailed. The same has been upheld in *Leather Cloth and Plastic Manufacturers Association v. Union of India*¹.
- g. In the original investigation, the applicant had itself excluded yarns of less than 1000 deniers.
- h. When goods produced by the domestic industry were not considered as like article to certain imported goods in the original investigation, they cannot subsequently be considered as ‘like article’ in an anti-circumvention or a sunset review investigation.
- i. The use of yarn of 940 deniers has increased since it is better suited to make twine than yarn of 1000 deniers. Further, a 6% increase in denierage means 6% reduction in length of the goods.
- j. 940 denier is a new product and is not circumventing product, unlike yarn of 990 or 985 deniers.
- k. There is difference a between the purchase price of the PUC and the PUI, and the two cannot be used interchangeably. With the increase in the denierage of the yarn, the yarn becomes thicker. Consequently, when it comes to application, a needle with a bigger hole would be required.
- l. Finer denier yarn is used for OEM specification-driven applications, whereas the product under consideration is used for sole stitching.
- m. Breaking load increases with the increase in denierage. If a product’s breaking load requirements are met by using 700 deniers, instead of 750 deniers, then the

¹ 2012 (282) ELT 438.

customer can save 6% in raw material consumption. Same is the case for 940 vs. 1000 deniers, or 1000 vs. 1100 deniers.

- n. The product under consideration has not been declared and purchased as PUI. The denier is mentioned on the invoice, individual pallet and the final package. In case of any variation of the product from the declared denier, the same be verified by a laboratory and does not require any documentary proof.

C.2. Submissions of the domestic industry

12. The submissions of the domestic industry with regard to product under consideration and like article are as follows:

- a. The product is produced and sold in standard deniers globally, as is evident from brochures of major producers submitted by the domestic industry.

Hyosung Advance Materials	Hengli Griup	Guxiandao	Hailide America	Reliance India Limited
			126	
	210			
250	250		250	250
300	300			
			380	
	420		420	
500	500	500	500	500
630			630	
750				750
	840	840	840	840
1000	1000	1000	1000	1000
1300	1300	1300	1300	
1500	1500	1500	1500	
	2000	2000	2000	
		2500		
			2600	2600
	3000	3000	3000	3000
	4000	4000	4000	4000
	5000	5000	5000	
				5200
	6000	6000	6000	6000
	8000			

- b. The applicant had originally requested the imposition of duty on imports of high tenacity polyester yarn as a whole. However, the product scope was modified through a corrigendum to exclude yarn below 1000 denier and pursuant to the investigation, yarns of more than 6000 deniers, and adhesive activated yarn of more than 1000 deniers were excluded.

- c. Post imposition of the anti-dumping duties, the exporters from the subject country began changing the product description, name, or composition to circumvent the applicable duties. "Abnormal" deniers are being imported into the country to avoid payment of existing anti – dumping duties and have compelled the applicant to apply for anti-circumvention investigation.
- d. Import data for the previous investigation would show that the applicant had excluded yarns of 840 deniers and below and 8000 deniers and above. There were no yarns imported between 840 and 1000 deniers or 6000 to 7000 deniers.
- e. At the stage of excluding yarn of below 1000 deniers, it was reasonably believed that it would allow yarns of 840 deniers and below to be imported.
- f. Imports of product under consideration have declined, while that of circumventing product have increased.
- g. Imports of circumventing product have entered from China only. Even the producers that were awarded nil duty in the original investigation have not exported such abnormal deniers.
- h. The circumvention could have been avoided if originally the yarns of denier of 840 and below had been excluded, instead of yarns of below 1000 deniers. The past practice in India as well as other jurisdiction demonstrates that circumvented product can be included within the scope of the product under consideration in a sunset review investigation.
- i. In this regard, reliance is placed on the findings in the sunset review of antidumping duty on imports of Polytetrafluoroethylene (PTFE) originating in or exported from China PR in which the Authority had recommended extension of anti-dumping duties on the circumvented product as well. The same approach was adopted by the Authority in the recently concluded sunset review of anti-dumping duty on imports of jute products originating in or exported from Bangladesh and Nepal.
- j. The volume of imports of the product under consideration has declined, while that of circumventing product has increased.
- k. The imports of circumventing product have entered from China PR only. Even the producers that were awarded 'nil' duty in the original investigation have not exported such abnormal deniers.
- l. The contention that if the anti-dumping duties are extended to yarns of above 840 deniers, circumvention of yarn less than 840 deniers would begin cannot be accepted. A yarn of 840 deniers is a genuine product, and cannot be used as a substitute for a yarn of 1000 deniers. If yarns of 840 deniers and below is dumped in the future, it can only be addressed in a fresh investigation.
- m. The Rules do not require the circumvented product to be a like article to the product under consideration or that the domestic industry produce a like article to the circumvented product.
- n. The circumvented product was not being imported at the time of the original investigation, and thus, the issue of like article was not examined.
- o. Since the product under investigation is produced using the same raw materials and manufacturing process, and is used for the same applications as PUC, and the

- domestic industry is producing like article to PUC, the domestic industry has produced like article for PUI as well.
- p. If using a lower denierage was offering benefits, the interested parties should explain why they became aware of such benefits only after imposition of duties. If lower deniers allow cost savings, the consumers can use 840 deniers.
 - q. The interested parties have not shown any new downstream product that has been introduced after the duties were imposed that would require 940 deniers. Further, such deniers are not being procured from domestic producers, other countries, and exporters from China PR subject to nil duty. The contention of the interested parties that 940 deniers is not circumvented product, but 985 and 990 deniers has no basis.
 - r. In order to produce a lower denier, only the speed of the machine is reduced, which leads to higher cost. However, there is no price difference between the product under consideration and the circumvented goods.
 - s. As regards the claim that the circumventing product is used by OEMs, it was submitted that OEMs have been in India for several years but such deniers were not being imported prior to imposition of duty.
 - t. Lower denier yarn is priced higher by 5-7% than the yarn of 1000 deniers. No savings would flow to the customers for using a lower denier.
 - u. Contrary to the claim of interested parties, the applicant has not claimed misdeclaration, but circumvention of duty.
 - v. The scope of product under consideration should include the circumventing products.
 - w. In past cases as well, the Authority has included the circumventing product within the scope of continuation of measures recommended. The Customs notification issued in jute case, relied upon by other parties, appears to be an accidental omission, and the domestic producers in the case may pursue appropriate remedy in this regard.
 - x. Past practice in other jurisdictions as well demonstrates that circumvented product is included within the scope of product under consideration in a sunset review investigation.
 - y. Contrary to the submissions of the other interested parties, Rule 26 provides that an anti-circumvention investigation of the anti-dumping duty in force may be initiated, which includes original imposition as well as any continuation of duty pursuant to a sunset review. Further, Rule 23 provides that anti-dumping duty should expire unless the Authority finds that there is likelihood of continuation or recurrence of dumping and injury while Rule 28 does not require lapse of measure after a particular period. Thus, anti-circumvention measures once imposed shall continue in force as long as the duty on product under consideration is in force, unless revoked pursuant to a review under Rule 28.

C.3. Examination by the Authority

13. The product under consideration as per the final findings of the Authority in the original investigation and at the stage of initiation of the present review investigation was as follows:

“The product under consideration in the present investigation is "High Tenacity Polyester Yarn" also known as Polyester Industrial Yam (PIY) or Industrial Yam (IDY) in the market parlance. The product scope excludes yams having denier below 1000, denier above 6000, twisted yarns, colored yarns, adhesive activated yarns with denier higher than 1000 and yarns with HMLS properties. The scope of the PUC remains the same as in the original investigation.”

14. Pursuant to a request by the applicant, an anti-circumvention investigation into imports of (a) High Tenacity Yarns of less than 1000 denier but more than 840 deniers, both adhesive activated and others; (b) High Tenacity Yarns of more than 6000 denier but less than 7000 denier and (c) adhesive activated yarns of more than 1000 denier but less than 1300 deniers was initiated by the Authority on 27th July 2022. A number of submissions have been made by the applicant and other interested parties relate to such alleged circumvention of duty, and the scope of the product under investigation.
15. The Authority sought comments from interested parties with regard to the PCN methodology in the initiation notification dated 30th September 2022, within a period of 15 days. Since no comments were received by any interested party, the Authority has considered the following PCN methodology for the purpose of the present investigation:

Parameter	PCN Digit	Explanation
Denier	XXXX (4 Digits)	0000 = unknown 1000 = 1000 denier 2200 = denier, and so on
Type	XX (2 Digits)	HT – High Tenacity HM – High Modulus Low Shrinkage (HMLS) LS – Low Shrinkage OT – Others
Coating	XX (2 Digits)	AA – Adhesive Activated NA – Non Adhesive Activated

16. None of the interested parties have contested that the goods produced by the applicant are not like article to the subject goods being imported from the subject country. Therefore, on the basis of the information on record, the Authority, holds that there are no known differences in the goods produced by the domestic industry and the product under consideration imported from the subject country. The Authority, notes that the goods produced by the domestic industry and the product under consideration imported from the subject country are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product

specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers use the two interchangeably. In view of the same, the Authority concludes that the goods produced by the domestic industry are like article to the product under consideration imported from the subject country.

17. The other interested parties have submitted that the scope of product under consideration cannot be changed in a sunset review investigation. They have further submitted that the circumvented product cannot become part of the product under consideration in the present investigation. The Authority notes that the product scope is not being enlarged pursuant to the sunset review. Any circumvention of duty shall be addressed pursuant to the anti-circumvention investigation. The Authority has concluded that the duties in force are being circumvented and finds it appropriate to recommend extension of duty to the product under investigation, continuation of duty recommended pursuant to the present review shall also apply to such product under investigation, as has been the consistent practice of the Authority to extend ADD to the circumventing products in case the Authority decides to extend the duty under Section 9A (5).
18. As far as the Authority's conclusion with respect to the PUC in the sunset review investigation concerning imports of jute products from Nepal and Bangladesh is concerned, it is noted that that the recommendation for imposition of duties made on the subject goods is equally applicable on the circumventing product.
19. It has also been contended that only circumvention of original imposition of duty can be addressed under Rule 25, and another review is required to be conducted under Rule 28 if the duties are to be continued for the circumventing product after the present sunset review. However, the Authority does not find the argument tenable. Rule 26 of the Rules provides that the Authority "*may initiate an investigation to determine the existence and effect of any alleged circumvention of the anti-dumping duty levied under section 9A of the Act*". Since both original imposition and continuation pursuant to sunset review are covered under Section 9A, circumvention of both can be addressed under Rule 26. Further, Rule 28 is clearly intended for review of anti-circumvention measures already in force, and does not have any relation to whether the duties in force are pursuant to original investigation or sunset review. The Authority also notes that the Authority has in the past extended duty to such circumventing products in case the Authority has considered it appropriate to recommend extension of ADD under Section 9A (5).
20. The other interested parties have argued that circumvention proceedings arising out of original duties cannot continue beyond the period of imposition of such duties and that for continuation of such duties after sunset review would require a review in terms of Rule 28. This submission is not tenable. It is noted that the none of the provisions pertaining to circumvention of duties lay down any period for expiry of such duties. Duties recommended as a consequence of circumvention investigation is co-terminus with the duties imposed through original investigation. Given the fact that in a sunset review

investigation, the original duties are extended, and therefore, any circumvention measure adopted as a consequence of such original investigation remain equally applicable to the sunset review investigation as well.

21. In view of the above, the product under consideration in the present sunset review investigation is proposed as follows

"High Tenacity Polyester Yarn" also known as Polyester Industrial Yarn (PIY) or Industrial Yarn (IDY) in the market parlance. The product scope excludes yarns having denier below 1000, denier above 6000, twisted yarns, colored yarns, adhesive activated yarns with denier higher than 1000 and yarns with HMLS properties.

22. It is also noted that post the issuance of the final findings in the original investigation, the Authority conducted an anti-circumvention investigation. Through its final finding dated 31st March, 2023 vide Notification No. 7/9/2022-DGTR, the Authority concluded that the duties imposed on PUC was being circumvented through exports of product under investigation (PUI) i.e., (a) High tenacity polyester yarns of less than 1000 denier, but more than 840 deniers, both adhesive activated and others (PUI I). However, yarn of 840 deniers and below, when imported within permissible tolerance of 2.4% is specifically excluded from the product scope. (b) High tenacity polyester yarns of more than 6000 denier, but less than 7000 denier (PUI II). However, yarn of 7000 deniers, when imported within permissible tolerance of 2.4% is specifically excluded from the product scope. (c) Adhesive activated high tenacity polyester yarns of more than 1000 denier, but less than 1300 denier (PUI III). However, yarn of 1300 deniers, when imported within permissible tolerance of 2.4% is specifically excluded from the product scope from China PR, and consequently through final findings dated 31st March, 2023 vide notification no 7/9/2022, anti-dumping duty was also recommended on PUI imported from China PR.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1. Submissions by other interested parties

23. The following submissions have been made by the other interested parties with regard to the domestic industry and standing:
- a. The reason for non-participation of SRF must be examined since it is one of the largest producers, had participated in the original investigation and has reported its highest-ever sales volumes in the polyester industrial yarn segments.
 - b. There is a tendency on the part of the domestic industry to provide information of selective producers having the least improvement in performance and highest level of non-injurious price.
 - c. The applicant has not disclosed its relationship with Recron Malaysia Sdn. Bhd, a related company in Malaysia.

- d. Since Rule 5 is not applicable in case of sunset reviews, support letters of three other companies are inconsequential and have no bearing on the present sunset review.
- e. Support letters by the three supporters do not include information as required under Trade Notice 13/2018 or 5/2021. They should be directed to submit their basic economic parameters and the same should be examined in the final finding.
- f. Even though the applicant has not claimed it satisfies the requirements of Rule 2(b) or Rule 5(3), it is not clear how the Authority concluded the same.
- g. Considering the new entrants in the market post imposition of duty, non-participation of SRF Limited, shut down of one of plants of the applicant and the fact that both SRF and applicant combined had accounted for 90% in the original investigation, the standing of the domestic industry needs to be examined.

D.2. Submissions by Domestic Industry

- 24. The following submissions have been made by the domestic industry with regard to the domestic industry and standing:
 - a. The petition has been filed by Reliance Industries Limited and supported by Wellknown Polyesters Limited, Sanathan Textiles Private Limited and Fairdeal Jumbo Packaging Private Limited.
 - b. Although SRF Limited is a producer of the subject goods, it is importing the product under consideration and the product under investigation, and thus, should not be considered as eligible to constitute domestic industry.
 - c. RIL accounts for a major proportion of total Indian production, irrespective of whether production of SRF is included or excluded.
 - d. The initiation notification clearly states that the Authority satisfied itself that the applicant meets the requirements of standing in terms of Rule 5(3) and constitutes domestic industry within the meaning of Rule 2(b).
 - e. There is no bar on change in scope of the domestic industry in a sunset review and a producer is not obligated to participate in the sunset review, merely because it participated in the earlier investigation. SRF Limited has engaged in and contributed to the continued dumping in India and circumvention of duty, should not be considered as a part of the eligible Indian production in the present investigation.
 - f. As noted by the Appellate Body, it is likely that weaker-performing producers participate in the investigation. However, if such producers constitute major proportion, there is no impropriety as a result.
 - g. The applicant was not required to disclose related parties in a third country as the eligibility for constituting domestic industry is determined based on relationship with exporters of dumped articles only.
 - h. As per Trade Notice 11/2018, parties which do not file information, as per prescribed formats shall also be allowed to participate in the investigation. The Authority has considered support in multiple investigations, even if the information was not filed as per prescribed formats.

- i. Rule 5, relating to support by a domestic producer, is not applicable to sunset reviews.
- j. Even if support letters are not considered, the applicant satisfied the requirements of Rule 5(3).
- k. In the original investigation, the applicant only had a plant at Hazira, whereas it has set up a higher capacity plant at Patalganga during present injury period. Thus, the total capacity and production of the applicant is significantly higher in present period of investigation than that of the original investigation.

D.3. Examination by the Authority

- 25. The present application has been filed by Reliance Industries Limited. Apart from the applicant, there are 5 other producers of the subject goods in India. Wellknown Polyesters Limited, Sanathan Textiles Private Limited and Fairdeal Jumbo Packaging Private Limited have supported the application. The applicant has not imported the subject goods and is not related to an importer or exporter thereof.
- 26. Some of the interested parties have argued that the support letters are inconsequential in a sunset review and do not fulfil the requirements under Trade Notice 13/2018. The Authority notes that the provisions of Rule 5 are not applicable in a sunset review. Nevertheless, as per its consistent practice, while the Authority has considered the other domestic producers as supporting the application, the Authority has determined the scope of the domestic industry, on a standalone basis excluding producers who have merely supported the application.
- 27. The interested parties have emphasized the non-participation of SRF Limited, particularly in view of its public statements with regard to significant profitability. However, the applicant has claimed that SRF Limited has imported the product under consideration from the subject country and has also engaged in imports of the product subjected to circumvention investigation. The Authority has examined the DGCI&S data in this regard. It is noted that SRF Limited has imported a significant volume of the subject goods from the subject country (***) MT during the POI), and has also imported ***)MT the product under investigation in the circumvention investigation. Further, SRF Limited has not filed any response to the questionnaire, nor cooperated with the Authority for the present review. In view of the same, the Authority finds that SRF Limited cannot be considered as part of the domestic industry. Nevertheless, the Authority has examined the share of the applicant both including and excluding the production of SRF Ltd. Based on the information available, the Authority determines that the share of the applicant in total Indian production is *** % including production of SRF and *** % (excluding production of SRF).
- 28. Some of the interested parties have argued that the applicant has not disclosed the details of a related party in Malaysia. However, the interested party has not shown relevance of such information to the present investigation. It is noted that Malaysia is not a subject

country in the present investigation, and its imports do not constitute imports of alleged dumped article. There is no known import of the product from Malaysia during the current injury period. Relationship of applicant to a producer in Malaysia does not impact the eligibility of the applicant as a domestic industry.

29. Some of the other interested parties have claimed that impact of closure of one of the plants of the applicant, increase in number of producers and non-participation of SRF on the share of production of the applicant should be analysed. In this regard, it is noted that whereas there were only 3 producers at the time of original investigations (namely, SRF Limited, RIL and Fairdeal Jumbo Packaging Private Limited) with collective production capacity of about *** MT, there are 6 producers at present (namely, SRF Limited, RIL, Fairdeal Jumbo Packaging Private Limited, Wellknown Polyesters Limited, Sanathan Textiles Private Limited and Ferreteria India Private Limited) with collective production capacity of *** MT. The production of the applicant is much higher in the present period of investigation, as compared to the period of investigation of the original investigation. During the period of investigation of the original investigation, the applicant had a lower-capacity plant at Hazira, which was shut down during the present injury period. However, owing to commencement of production at the plant at Patalganga, which was not in production during the period of investigation of the original investigation, the overall production of the applicant has increased.
30. Based on the information on record, the Authority, note that the production by the applicant constitutes a major proportion of Indian production. Accordingly, the Authority concludes that the applicant constitutes domestic industry in terms of Rule 2(b).

E. CONFIDENTIALITY

E.1. Submissions by other interested parties

31. The following submissions have been made by the other interested parties with regard to the confidentiality:
- a. The applicant has claimed the PCI Wood Mackenzie Redbook Report confidential, without providing details of the author or any additional information required to verify the legitimacy of such a report.
 - b. The non-confidential version of the petition does not contain justification table as required under Trade Notice No. 1/2013.
 - c. The non-confidential version of the petition is not a replica of the confidential version, as required under Trade Notice 1/2013.
 - d. The domestic industry has not disclosed production of other producers, as required under Trade Notice 10/2018, and its own share in total production.
 - e. Even information such as names of raw materials, which are relevant for understanding production process.
 - f. The percentage profit/loss, return on capital employed, price underselling/injury margin have been claimed confidential.

- g. The domestic industry has not disclosed the name/sources of import data they relied on, and such data may not be reliable
- h. The applicant has neither provided the essential costing formats nor have they disclosed the sources of the third-party information relied upon to establish likelihood. The data in the costing formats may be confidential and can be indexed / redacted, however, the costing formats as such including the name of raw material, utilities, etc. must be enclosed in non-confidential disclosures to other interested parties.
- i. The sources containing third party information as relied upon by the applicant ought to have been examined by the Authority for the accuracy and adequacy of evidence as stipulated by Rule 5(3)(b) of the AD Rules. This has further been mandated by the rulings of the Hon'ble Supreme Court in T. Takano v. SEBI [(2022) 8 SCC 162) and the Hon'ble CESTAT in All India Laminated Fabrics Manufactures Association vs Designated Authority & Ors. (Anti-dumping Appeal No. 52173 OF 2021).
- j. The Hon'ble Customs and Excise Appellate Tribunal ("CESTAT") in the case of All India Laminated Fabrics Manufactures Association vs Designated Authority & Ors., vide its decision dated 28.02.2022, has held that such unsubstantiated report must not be relied upon as it violates Rule 7 of the AD Rules, which mandates the Authority to satisfy itself of the accuracy of the information supplied by the parties.
- k. The applicant has neither provided the essential costing formats nor have they disclosed the sources of the third-party information relied upon to establish likelihood. The data in the costing formats such as the name of raw material, utilities, etc. must be enclosed in non-confidential disclosures to other interested parties.

E.2. Submissions by Domestic Industry

- 32. The following submissions have been made by the domestic industry with regard to the confidentiality:
 - a. As opposed to the contentions of the other interested parties, PCI Redbook has been submitted to the Authority. Since the same is a world-renowned market research agency, it is a credible source of information.
 - b. No prejudice has been caused to the other interested parties due to the confidentiality claimed with regard to PCI Redbook as they were free to obtain it themselves after payment of relevant fees. However, the petitioner is barred from sharing the same as it is third party information and the copyright of such report vests only with the relevant agency.
 - c. Contrary to the claim of the other interested parties, the applicant has provided the justification table as required under Trade Notice 1/2013.
 - d. The information contained in Section VI relates to business proprietary information and cannot be disclosed.
 - e. While the interested parties have claimed that the non-confidential version is not a replica of the confidential version, they have not highlighted the difference.

- f. Contrary to the contention of other interested parties, the total Indian production has been disclosed. Individual production and share of production of other producers cannot be disclosed as it would lead to disclosure of production of the applicant and various parties.
- g. As regards the contention that formats should have been provided on redacted basis to allow identification of raw material, it was clarified that the manufacturing process along with names of raw material was provided in the non-confidential version of the application.
- h. The percentage profit/loss, return on capital employed, price underselling and injury margin are confidential business proprietary information which cannot be disclosed.

E.3. Examination by the Authority

- 33. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties for inspection as per Rule 6(7) of the Rules.
- 34. With regard to confidentiality of information, Rule 7 of the 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 sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information

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

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

- 35. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has

been considered confidential and not disclosed to other interested parties. The Authority made available the non-confidential version of the evidence submitted by various interested parties in the form of public file. The information related to imports, performance parameters and injury parameters of the domestic industry has been made available in the public file. Business sensitive information has been kept confidential as per practice. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

36. The Authority has considered the claims of confidentiality made by the interested parties and on being satisfied about the same, the Authority has allowed the claim on confidentiality. The Authority directed all interested parties to circulate the non-confidential version of evidence submitted by them.
37. The other interested parties have claimed that since PCI Wood Mackenzie Redbook Report has been claimed confidential, it should not be relied upon by the Authority. The Authority notes that the domestic industry has submitted that the report is a third-party information and the applicant is not authorized to disclose the same publicly. Therefore, the Authority considers that confidentiality of such evidence is protected under the rules. It is also noted that the applicant provided all relevant information relied upon by the applicant from this report in the non-confidential version. Therefore, the interested parties have not shown prejudice caused to them by such confidentiality. The Authority notes the claim made by the domestic industry that these interested parties were free to procure the report themselves, directly from PCI, as the report can be procured by any party after necessary payment. It is further noted the applicant has provided adequate non-confidential summary of the report in their application.
38. The interested parties have contended that the domestic industry has not disclosed information pertaining to capacity, production, sales, return on investment, costs and information contained in Section-VI. The domestic industry has provided the indexed numbers pertaining to all injury parameters. The Authority notes that such information is confidential by nature, and has accepted the confidentiality claimed by the domestic industry.
39. Concerning the allegation that import data used by the domestic industry may be unreliable, the Authority notes that the concern of the interested parties is addressed inasmuch as the Authority has relied upon DGCI&S data for the purpose of the present findings.

F. MISCELLANEOUS ISSUES

F.1. Submissions by other interested parties

40. The following miscellaneous submissions have been made by the other interested parties with regard:

- a. Expiry of duty after 5 years is the general rule under Section 9A(5), and continuation is an exception as per proviso to the aforesaid provision.
- b. Any further extension of existing duty will be in violation of Article 11.1 of the Anti-Dumping Agreement and Rule 23(1) of Customs Tariff Rules, 1995 as the duty has served its purpose and its existence no longer justified to counteract dumping. There are no special/exceptional circumstances calling for the continuance of the anti-dumping duty.
- c. The information provided by the applicant is manifestly 'insufficient' to justify the initiation of an investigation under Rule-5(3) of the Rules, and as required by Article 5.3, and in accordance with the findings of the WTO Panel in United States – Softwood Lumber from Canada, Mexico – Steel Pipes and Tubes and Guatemala – Cement II.
- d. The extension of duties will not serve purpose as majority of imports are cleared under advance license and exported by 'nil' rated exporters in the original investigation.
- e. In view of the provisions of Rule 23(1) and 23(3), Rule 4(d), Rule 17(1) and Annexure-III of the Anti-Dumping Rules, duty is required to be re-quantified in sunset review, especially if a new producer participates in the investigation. Such producer should not be subject to residual duties.
- f. OTIZ, with nil dumping margin and nil duty rate in the original anti- investigation, cannot be subjected to the sunset review. There can be no examination of continuation or recurrence of dumping when the Authority has already determined that OTIZ was not dumping at the stage of original investigation or has effectively terminated the investigation, in accordance with Article 5.8 of the WTO AD Agreement read pari materia to Rule 14(c) of Anti-Dumping Rules and Mexico – Definitive Anti-dumping measure on Beef and Rice.
- g. Since the Authority has prescribed the revised procedure for procuring import data under Trade Notice 1/2022, the applicant must seek DGCI&S import data, and thereafter, provide methodology for segregation of such data. The investigation should not be proceeded with, in the absence of such information.
- h. The PCI Redbook data shows relevant nation-wide macro level data and is not sensitive information. The Supreme Court in T. Takano v. SEBI held that all information relating to the proceedings must be disclosed. The Tribunal in India Laminated Fabrics Manufactures Association vs Designated Authority & Ors. held that unsubstantiated reports cannot be relied upon.
- i. Capacity and production as per PCI Redbook should not be accepted, since such data is not specifically provided for high tenacity polyester yarn and product under consideration, and there is participation by a significant number of producers. Further, the relevant pages of the said report are claimed confidential from other parties. The Authority should consider actual capacity, production to determine excess and idle capacity.
- j. Concerning the PCI Redbook, it was submitted that the Tribunal in India Laminated Fabrics Manufactures Association vs Designated Authority & Ors. held that unsubstantiated reports cannot be relied upon.

F.2. Submissions by the domestic industry

41. The following miscellaneous submissions have been made by the domestic industry with regard:

- a. The interested parties have claimed that a proviso is an exception to the rule. Thus, a proviso stating that duty may be extended if there is likelihood of continuation or recurrence of dumping and injury implies that duty may expire in 5 months except where the situation mentioned in the proviso exists. Once the exception exists, duty may not expire.
- b. As held by the Courts in various cases, only *prima facie* evidence is required at the stage of initiation.
- c. While the interested parties have contended that the investigation was initiated without sufficient evidence, they have not highlighted which parameter was not duly substantiated. The Authority has initiated the investigation after satisfying the accuracy and adequacy of the evidence provided by the applicant.
- d. In view of the observations of Tribunal and past practice of the Authority, exporters that were given nil rate of duty in the original investigation should be considered within the purview of the present investigation.
- e. The quantum of duty for exporters that were awarded nil duty in original investigation should be determined having regard to present data, and post POI information.
- f. Regarding the claim that duty should be re-quantified especially where a new producer participated, it was emphasized that a new producer should file an application for new shipper review, or general re-quantification can be done in mid-term review. A new producer can only be subjected to residual duty, as was done in the case of TDI and VSF.
- g. The duty should be modified only after considering post POI information and if it is established that the import volumes and import price show undistorted situation.
- h. While the applicant has requested for the DGCI&S data, it has not received it yet, and thus, has not been able to provide import information on that basis.
- i. The exporters should also be asked to provide post POI data, and any exporter not providing the same should be treated as non-cooperative.
- j. Since the domestic industry has requested extension of duty with suitable enhancement, duty should not be reduced. In any case, need for reduction can be examined only once the exporters furnish post POI data.
- k. While the other interested parties have argued that PCI Redbook data should not be accepted since it was not made available to them, PCI has been considered a reputed source in the past. In case the other parties wish to correlate the data, they can procure the report themselves.
- l. In the absence of direct information, the applicant had applied the ratio of capacity of HTPY to the overall capacity to determine production and demand for HTPY. However, even if HTPY capacities with total production and demand is considered, it would still show significant idle capacities.

F.3. Examination by the Authority

42. Insofar as submissions regarding period of duty are concerned, the Authority notes that the purpose of anti-dumping duty is to prevent dumping and consequential injury to the domestic industry, thereby providing a level playing field, and relief to the domestic producers against injurious dumping. The ADD was imposed earlier since the Authority found after an application was filed by the domestic industry that the foreign producers resorted to dumping of the goods in the Indian market and the same had caused injury to domestic industry. The present investigation has been initiated to examine the likelihood of continuation or recurrence of dumping or injury, in the event of expiry of present duty. If the Authority determines that dumping and injury are likely to continue or recur, in the absence of the extant duties, the anti-dumping duties are required to be statutorily extended, notwithstanding the period of imposition of duties.
43. Some of the other interested parties have argued that the information provided by the applicant was not sufficient to justify the initiation. The parties have, however, failed to provide any specific details or evidence as to why the data filed by the applicant was insufficient to justify initiation. Further, the Authority initiated the sunset review in view of the duly substantiated application with evidence of the likelihood of dumping and injury filed in accordance with Section 9A (5) of the Act, read with Rule 23 of the Rules. Thus, the Authority finds no merit in such contentions.
44. Some of the other interested parties have stated that duties should be re-quantified for new producers / exporters. The matter has been examined, and it is noted that in the present review, the Authority shall make a determination, in accordance with statutory provisions and past practice.
45. As regards the request for termination of investigation against producers found not to be dumping in the original investigation, the Authority notes that such termination would not be in accordance with the settled jurisprudence and its own practice. During the original investigation, nil duty was levied on the exporter, but the investigation against it was not terminated. The Authority has consistently taken a view that it can conduct sunset reviews against an exporter having zero duties in the original investigation. In the case of *Robin Resources vs. Union of India*, the Hon'ble CESTAT also noted as follows:

"9. We note that the DA can consider where an exporter was awarded zero duty in the original investigation and has now found to be dumping which is likely the cause injury to DI, then AD duty can be considered for imposition with reference to dumping margin and injury margin established during the review. We note that the DA followed the requirements of Articles 2 and 3 of the ADA and the relevant provisions of AD Rules. We also note that regarding appellants, the DA has examined and reviewed all the aspects of original investigation and in addition examined whether expiry of initial notification is likely to lead a recurrence of

dumping/injury to the DI. As already noted, that this is like a fresh investigation insofar as appellant is concerned and we find no legal infirmity in such action by the DA..."

46. Some of the interested parties have submitted that the applicant must provide DGCI&S data and the investigation cannot proceed without it. The Authority notes, that it procured DGCI&S data for the purpose of the present sunset review investigation. The information as per the said data was provided in the disclosure statement and all interested parties were given an opportunity to comment on the same. Hence, no prejudice has been caused to the interest of any of the interested parties.
47. Some of the interested parties have claimed that report of market research agency cannot be relied upon. The Authority notes that the interested parties have, however, not established that PCI Wood Mackenzie does not have sufficient reliability and acceptability for the present purposes. PCI and Wood Mackenzie reports have been considered as reliable evidence by the Authority in the past as well, such as in the investigations concerning imports of PTA, PET resin and Fully Drawn Yarn. Accordingly, the Authority does not find any cause for disregarding the information contained in the report. Since this report is a propriety report and has been purchased for a specific purpose, it cannot be shared. However, other interested parties are at liberty to purchase the same report.

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

G.1. Views of other interested parties

48. Following submissions have been made by the other interested parties with regard to the normal value, market economy treatment, export price and dumping margin are as follows:
- a. In the original investigation, the Authority had granted market economy status to HCF after detailed examination of the relevant facts. The Authority had also conducted an on-site verification of the producer and exporter on their site in China PR and Korea RP, respectively. All the facts on the basis of which the MET status was granted in the original investigation has remained the same. Therefore, the MET status should be continued in the present sunset review as well.
 - b. All the directors and shareholders in HCF are Korean citizens and entities. Therefore, there is no state intervention in their operations.
 - c. The negotiations for sales conditions with the Indian customers are done by Hyosung- Korea directly and orders are placed through a transparent SAP system to HCF. For domestic sales, HCF is authorized by Hyosung - Korea to negotiate sales conditions with Chinese customers. Key Raw materials are procured from unrelated companies.
 - d. HCF adopts commercial exchange rate as per the rates announced by the State Administration of Foreign Exchange on the first day of each month to transfer foreign currency transactions into reporting currency transactions. There are no restrictions on the use of HCF's export revenue.
 - e. The Authority also noted that HCF did not avail itself of any derogation or exemption under the Company Law, Labour Law, Accounting Law, Contract Law, Bankruptcy Law or Property Law of China PR. The major raw material used in manufacture of the PUC is the PET chips. The price at which PET chips are purchased by HCF reflects the international prices. Further, the oiling agents used in manufacture of the PUC are imported by HCF from market economy countries.
 - f. The utilities used in the manufacture of the PUC are purchased at negotiated prices and are comparable to international prices.
 - g. There is no other government restriction on the operations and activities of HCF.
 - h. China PR should not be treated as a non-market economy and normal value should be calculated in accordance with Article 2 since Article 15 of the Accession Protocol has expired on 11th December, 2016. As such, the practice of determining 'surrogate country' for normal value determination should not be used. Reference can be made to the recent Appellate Body report in EC-Fasteners (China). Consideration of China as a non-market economy would entitle China to challenge such determination before the WTO.

- i. India is bound by the principle of “pacta sunt servanda” as a member of WTO and must recognize China’s full market economy status from 11th December 2016.
- j. Statement issued by White House and Explanatory Memorandum attached to EU Council decision reveal that US and European Union also shared the understanding that China PR can be treated as a non-market economy only till 11th December 2016.
- k. The Authority has no legal provisions or methodology for considering Chinese producers as operating on non-market economy principles for disregarding their domestic prices and costs. The normal value for Chinese producers be determined on the basis of their domestic prices and cost of the subject goods.
- l. Determination of dumping margin for the exporters from China on the basis of their domestic prices and costs would indicate that there is no likelihood of dumping.
- m. Injury, if any, to the domestic industry is due to inter se competition. Moreover, the domestic industry has admitted the improvement in their performance over the injury investigation period.
- n. The market economy claim of Hyosung must be accepted, as was done post verification in the original investigation.
- o. The Indian Authority should not use surrogate country methodology in calculating normal value for this case, and instead consider domestic prices and costs.
- p. Under para 7 of Annexure I of Rules, normal value can be determined based on price paid or payable, if information for the market economy third country is not available. The domestic industry is under an obligation to inform, without unreasonable delay, the selection of an appropriate market economy country. This is also in line with the decision of Supreme Court in Shenyang Matsushita.
- q. Adjustments to Export price claimed are not substantiated by evidence.
- r. The Authority should verify the responses filed and assess dumping margin and injury margin on the basis of actual data provided.
- s. The Authority must undertake a holistic assessment of the likelihood of dumping & injury by examining the performance of DI for 6 months post POI and not the pre-POI performance. (Para 17.30 of MOP)
- t. Despite shutting down of one of the plants of DI, the sales, profit, return, capital utilization etc. have increased during the POI.
- u. The reason behind increased imports from the subject country is not dumping, but the demand in domestic market following the development of downstream industry.
- v. Domestic Industry is deliberately refraining from providing the post-POI data which is important for establishing the likelihood of injury.
- w. Imports from China PR increased just to fill the demand & supply gap in India.
- x. When the domestic industry has not claimed injury from imports coming from third countries (Taiwan & Vietnam), there cannot be likelihood of dumping & injury from China.

G.2. Views of the domestic industry

49. Following submissions have been made by the domestic industry with regard to the normal value, export price and dumping margin are as follows:
- a. China can be treated as a non-market economy by virtue of the provisions of Article 15(a)(i) of the Accession Protocol, which have not expired. The Authority has considered China as a non-market economy in all recent cases.
 - b. India has not acted inconsistently with the provisions of “pacta sunt servanda”, as China has not removed distortions and allowed prices to be set by the market.
 - c. USA and European Union have also continued to treat China as a non-market economy. In fact, China approached the WTO Dispute Settlement Body against such treatment, but withdrew its request.
 - d. Except Hyosung, none of the producers have filed the NME Questionnaire.
 - e. Since except one producer, none of the other have shown that market economy conditions prevail in their industry, the Authority is not required to determine the normal value based on domestic prices or costs in China.
 - f. Since no public information is available regarding the prices of the subject goods in third market and PCN-wise price of imports from third countries, the normal value should be determined based on the price payable in India after adjusting a reasonable profit margin.
 - g. The interested parties have failed to explain why the Authority should not consider surrogate country methodology for calculating normal value.
 - h. Contrary to the submissions of the other interested parties, the applicant is not required to inform the selection of the appropriate market economy country. The other parties were also free to suggest the same.
 - i. The constructed normal value should be determined on actual cost of production since it is not appropriate to assume that producers in China are operating their plants at the most optimum cost of production.
 - j. While Hengli has claimed that dumping margin should be based on domestic prices or cost, it has not filed response to the MET questionnaire.
 - k. The adjustments to the export price have been claimed as per the consistent practice of the Authority. Since the producers have participated in the investigation, the export price would, in any case, be determined based on their data.
 - l. The exporters should also be asked to provide post POI data, and any exporter not providing the same should be treated as non-cooperative.

G.3. Examination by the Authority

50. Article 15 of China's Accession Protocol in 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 market economy 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 nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector.”

51. It is noted that while the provision contained in Article 15 (a)(ii) have expired on 11th December 2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15(a)(i) of the Accession Protocol require the criterion stipulated in para 8 of the

Annexure I of the Rules to be satisfied through information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producers/ exporters from China PR have not submitted information substantiating that they are operating under market economy conditions, the normal value is required to be determined as per provisions of para 7 of Annexure I of the Rules. It is noted that barring one producer from China PR, none of the producers have submitted information substantiating that they are operating under the market economy conditions.

52. The Authority notes that M/s Hyosung Chemical Fiber (Jiaxing) Co., Ltd., China PR along with its trader, M/s Hyosung Advanced Materials Corporation, Korea RP have filed market economy treatment (MET) questionnaire in the present investigation.
53. The exporters questionnaire responses and the market economy treatment questionnaire responses of these responding producers and exporters were examined. The position on the market economy claim, arising out of the verifications, is summed up as below.

Market Economy Treatment for Hyosung Chemical Fiber (Jianxing) Co. Ltd. (“HCF”) and Hyosung Advance Materials Corporation, Korea RP (“HAMC”)

54. The Authority has examined the market economy treatment claim made by the Hyosung Chemical Fiber (Jianxing) Co. Ltd., as the company has filed a response to market economy treatment questionnaire. The Authority notes that Hyosung Chemical Fiber (Jianxing) Co. Ltd. has two shareholders namely, Hyosung Advanced Material Corporation (“HAMC”) and Hyosung Spandex (Jiaxing) Co., Ltd. (“HSJC”). Both the shareholders are wholly owned subsidiary of the Hyosung Group. Thus, the ultimate holding company of HCF is Hyosung Corporation, Korea RP.
55. The Authority notes that HCF is the producer of the product under consideration in China PR and has exported the product under consideration through its related exporter namely, HAMC, Korea RP. Both the entities have filed Exporters’ Questionnaire Response in the present investigation.
56. In the original investigation, spot verification of the information/data submitted by M/s Hyosung Chemical Fiber (Jiaxing) Co., Ltd., China PR (HCF) and its trader, M/s Hyosung Advanced Materials Corporation, Korea RP (Hyosung - Korea) was conducted at the premises of the companies in China PR and Korea RP, respectively, and detailed verification reports were issued to them. In the present review investigation, the Authority has conducted desk verification of the records relating to the market economy claim of M/s Hyosung Chemical Fiber (Jiaxing) Co., Ltd., China PR and the trader M/s Hyosung Advanced Materials Corporation, Korea RP (“HAMC”).
57. The Authority verified the records of HCF during the desk verification. It was noted that HCF operates under the control of *** which is wholly owned by *** Even Hyosung Spandex (Jiaxing) Co., Ltd., China PR (“HSJC”) which holds minor shareholding in HCF

is ultimately owned by ****. The Board of Directors of HCF comprises entirely of Korean citizens and there are no Chinese (government or otherwise) citizens on the Board of Directors of HCF.

58. The Authority considers that the company was granted market economy treatment in the original investigation. During the present review, the domestic industry has not brought any evidence on record to show any changed circumstances warranting a review of the previous determination, nor there is any other information/evidence on record warranting a review of the previous determination and the present investigation is a sunset review investigation of ADD in force. Therefore, the Authority grants HCF and HAMC market economy treatment in continuation with the original investigation.

Normal Value for M/s Hyosung Chemical Fiber (Jiaying) Co., Ltd., China PR (HCF) and M/s Hyosung Advanced Materials Corporation, Korea RP (HAMC)

59. The producer/ exporter was found to be operating under the market economy conditions as explained above.
60. From the response filed by HCF and HAMC, the Authority notes that HCF and HAMC has exported only one PCN to India during the POI. Accordingly, the Authority has determined the normal value for the same PCN. It was noted that during the POI, HCF has sold [*** MT] of the comparable PCN in the domestic market. All sales in the domestic market were made to non-affiliated parties during the POI. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of the subject goods. It was noted that profitable transactions were less than 80%. Accordingly, only profitable domestic sales have been taken into consideration for computation of normal value.
61. HCF has claimed adjustments on account of inland freight and credit expense from the domestic selling price. The Authority has allowed the adjustments for the same after desk verification. Accordingly, normal value for HCF has been computed and mentioned in the dumping margin table below.

Determination of Normal Value for all other producers from China PR

62. The Authority notes that barring one producer from China PR, none of the producers have claimed determination of normal value on the basis of their own data/information, the normal value has been determined in accordance with para 7 of Annexure I of the Rules which reads as under:

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including

India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

63. The Authority also notes that as per the provisions of para 7 of Annexure I to the Rules, the normal value may also be determined based on price or constructed value in a market economy third country, or price of exports from such country to other countries, including India. However, no information has been provided by the interested parties with regards to selling price or cost of production in a market economy third country. Further, the Authority notes that export price from a market economy third country to any other country, including India cannot be considered in the present investigation due to adoption of PCNs in the present investigation. It is necessary to undertake PCN-wise comparison in the present investigation.
64. The Authority, has therefore, computed the normal value for the subject imports from China PR into India “any other reasonable basis”. The normal value for all other producers from China PR has been determined based on the cost of production in India, duly adjusted and after reasonable additions for the selling, general & administrative expenses, and a reasonable profit margin. The same has been mentioned in the dumping margin table below.

Determination of Export Price

65. The followings producers / exporters have filed exporter questionnaire response:
- i. Huzhou Unifull Industrial Fibre Co., Ltd.
 - ii. Hyosung Advanced Materials Corporation, Korea RP
 - iii. Hyosung Chemical Fiber (Jianxing) Co. Ltd.
 - iv. Jiangsu Hengli Chemical Fibre Co. Ltd
 - v. Jiangsu Taiji Industry New Materials Co., Ltd
 - vi. Oriental Industries (Suzhou) Ltd.
 - vii. Zhejiang Guxiandao Polyester Dope Dyed Yarn Co., Ltd.
 - viii. Zhejiang Unifull Industrial Fibre Co., Ltd.

Oriental Industries (Suzhou) Ltd.

66. Oriental Industries (Suzhou) Ltd., (hereinafter referred as "OTIZ") is a producer of the subject goods from China PR. OTIZ has produced and exported the subject goods directly to unrelated customers in India. OTIZ has provided relevant information as prescribed in the exporter questionnaire response.
67. OTIZ has provided PCN wise information relating to exports of the subject goods to India in Appendix 3A of its response. It is noted that OTIZ has exported *** MT of the subject goods to unrelated customers in India. OTIZ has claimed adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses, credit cost and bank charges, which have been allowed by the Authority after due verification.
68. The Authority has verified the PCN wise information for the exports to India reported in the questionnaire response by OTIZ. The export determined for OTIZ has been in the dumping margin table below.

Zhejiang Guxiandao Polyester Dope Dyed Yarn Co., Ltd.

69. Zhejiang Guxiandao Polyester Dope Dyed Yarn Co., Ltd., (hereinafter referred as "Guxiandao") is a producer of the subject goods from China PR. Guxiandao has produced and exported the subject goods directly to unrelated customers in India. Guxiandao has provided relevant information as prescribed in the exporter questionnaire response.
70. Guxiandao has provided PCN wise information relating to exports of the subject goods to India in Appendix 3A of its response. It is noted that Guxiandao has exported *** MT of the subject goods to unrelated customers in India. Guxiandao has claimed adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses, credit cost and bank charges, which have been allowed by the Authority.
71. The Authority has verified the PCN wise information for the exports to India reported in the questionnaire response by Guxiandao. The weighted average export price determined for Guxiandao has been mentioned in the dumping margin table below.

M/s Jiangsu Taiji Industry New Material Co., Ltd., (Producer/Exporter) China PR,

72. Jiangsu Taiji Industry New Material Co., Ltd. (hereinafter referred to as "Taiji") is a producer from China PR.
73. Taiji has provide PCN- wise information relating to exports to India in Appendix 3A of its questionnaire response. During the POI, Taiji has exported *** MT directly to India on FOB basis. Taiji has claimed adjustments on accounts of inland transportation, port and other related expenses, bank charges and credit cost were allowed after desk verification. Accordingly, export price was determined at the stage of disclosure statement. However, post issuance of disclosure statement, the domestic industry alleged that the exporter had only exported High Modulus Low Shrinkage (HMLS) Yarn, which is excluded from scope of product under consideration. The Authority examined the issue and found that Jiangsu Taiji had exported HMLS Yarn. Since such yarn is excluded from scope of product under consideration, no margin has been quantified for the exporter.

M/s Zhejiang Unifull Industrial Fibre Co., Ltd.(Producer/Exporter)China PR and M/s Huzhou Unifull Industrial Fibre Co., Ltd.(Exporter/Trader) China PR

74. Zhejiang Unifull Industrial Fibre Co., Ltd., China PR (hereinafter referred to as Unifull) is producer of the subject goods in China PR. Over the past three years, the company structure has undergone certain changes. The major change to the company's structure on 28th September 2019 ***.
75. Unifull has provided PCN-wise information relating to exports of the subject goods to India in Appendix 3A of its questionnaire response. During the POI, Unifull, has exported ***MT of the subject goods directly to India on CIF basis. It is further noted that Unifull has also exported ***MT of invoices value ****\$ of the subject goods indirectly to India through a related exporter/trader namely Huzhou Unifull Industrial Fibre Co., Ltd. The producer/exporter has claimed adjustments on accounts of ocean freight, insurance, inland transportation and port related expenses, credit cost and bank charges and credit cost which has been allowed after desk verification. Accordingly, the weighted average export price so determined and has been mentioned in the dumping margin table.

Export price for M/s Hyosung Chemical Fiber (Jiaying) Co., Ltd., China PR (HCF) and M/s Hyosung Advanced Materials Corporation, Korea RP (HAMC)

76. Hyosung Chemical Fiber (Jiaying) Co. Ltd., China PR is a producer of the subject goods from China and has a related trader, namely, Hyosung Advanced Materials Corporation, Korea RP. Hyosung has provided PCN -wise information of the export made to India in its questionnaire response. It is noted from the response filed by the aforesaid related companies that during the POI, the producer has exported *** MT of the subject goods to India through its related party. The Authority has verified the data through desk verification. The exporter has claimed adjustments, and the same have been allowed after desk verification. Accordingly, the export price so determined has been mentioned in the dumping margin table below.

Determination of Export Price of M/s Jiangsu Hengli Chemical Fibre Co., Ltd.

77. The Authority notes that the M/s Jiangsu Hengli Chemical Fibre Co., Ltd. (hereinafter referred to as Hengli) is a producer of the subject goods from China PR and has exported the subject goods to India directly during the POI. Hengli has provided PCN-wise information of the exports to India.
78. During the POI, Hengli has exported to India a total quantity of *** KG of the subject goods to India. Hengli has claimed adjustments on account of inland transportation, port and handling expenses and credit cost, which has been allowed by the Authority after desk verification. Accordingly, the weighted average export price so determined has been mentioned in the dumping margin table below.

For all other producers/exporters from China PR

79. The export price for all other producers and exporters, that have not participated in the present investigation, has been determined as per facts available. The same has been mentioned in the dumping margin table.

Dumping Margin

80. The normal value, export price and dumping margin proposed in the present investigation are as follows: -

S N	Country	Producer Name	CNV/NV US\$ per Kg	NEP US\$ per Kg	Dumping Margin US\$ per Kg	Dumping Margin %	Range
1	China	Zhejiang Guxiandao Polyester Dope Dyed Yarn Co., Ltd.	***	***	***	***	20-30%
2	China	Oriental Industries (Suzhou) Ltd.	***	***	***	***	10-20%
3	China	Hyosung Chemical Fiber (Jianxing) Co. Ltd.	***	***	***	***	0-10%
4	China	Jiangsu Hengli Chemical Fibre Co. Ltd	***	***	***	***	30-40%
5	China	Zhejiang Unifull Industrial Fibre Co., Ltd.-Total	***	***	***	***	40-50%
6	China	All others	***	***	***	***	40-50%

H. ASSESSMENT OF INJURY AND CAUSAL LINK AND LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

H.1. Submissions by the other interested parties

81. The following submissions have been made by other interested parties regarding injury, causal link and likelihood of continuation or recurrence of dumping and injury:
- a. Section 9A (5) and Rule 23, makes it clear that termination of Anti-dumping Duty is the norm, and its continuation is an exception. It is also affirmed by the decisions of the WTO Appellate Body in United States - Corrosion-Resistant Carbon Steel Flat Products and US – OCTG Sunset Reviews. In the present case, no such exceptional circumstances exist, and it is only appropriate that the Authority conclude in the present review that sufficient protection has been extended to the domestic industry through anti-dumping measures and no further protection is warranted.
 - b. Since the product scope cannot be changed at this stage, the data for product under investigation must be excluded from demand and other injury information.
 - c. Claims of the domestic industry in the oral hearing regarding fragility and continuous adverse effect on the performance due to import of circumvented products, are not in line with the claims made in application by the domestic industry.
 - d. RIL does not belong to MSME sector. It is a large-scale enterprise and cannot be considered as fragile industry.
 - e. Contrary to the claim of the domestic industry, the imports of the product under consideration have increased over the period.
 - f. The imports have increased to fill the demand-supply gap, since the capacity and sales of the domestic industry did not increase in line with the increase in demand, which witnessed a growth following the development of the downstream industry. This is also evident from reducing inventories of the domestic industry.
 - g. There is no correlation between the imports from China and the performance of the domestic industry since the performance of the domestic industry improved as the volume of imports increased.
 - h. The petitioner has exaggerated the increased imports of the subject goods, and deliberately invented injury to the domestic industry. The deterioration of the Indian petitioner's financial situation, if any, is the result of other factors.
 - i. The overall performance of the domestic industry in terms of capacity utilization, sales, profit, returns, etc. has significantly improved despite shutdown of one of its plants and positive price undercutting.
 - j. The Authority can examine export price and domestic selling price of the applicant before relying on the claim that the applicant was forced to export.
 - k. Despite the decline in capacity owing to plant shutdown, the production, and capacity utilization and sales of the petitioner have increased substantially.

- l. Average stock of the petitioner declined over the period, which means the petitioner is able to sell whatever they are producing.
- m. The decline in market share of the domestic industry is on account of plant shutdown, while the increase in share of imports is due to the demand-supply gap. Nevertheless, major market share is still being captured by the domestic producers.
- n. In past cases as well, the Designated Authority has not recommended continuation of duties, where the domestic industry was earning significant profits.
- o. The decline in number of employees and wages can be attributed to the shutdown of a plant of the domestic industry, and productivity has increased.
- p. It must be examined whether the decline in cost is on account of decline in cost of raw materials.
- q. The domestic industry is making this analysis on the basis of weighted average prices with regard to decline in import prices not in accordance with the raw material prices.
- r. The applicant must be required to provide PCN-wise dumping margin, injury margin and price undercutting.
- s. The applicant has failed to arrive at PCN-wise margin and has disregarded the difference in various kinds of products which may have substantial difference in price, while being sold in the market. Such generalization of incomparable goods is counterproductive to the exercise of submission of data and any analysis thereof.
- t. The Authority should examine the post POI performance of the domestic industry in order to ascertain the likelihood of recurrence or continuation of dumping and injury.
- u. There is no notable decline in performance of the domestic industry in terms of volume parameters in the post POI period as compared to the POI.
- v. The basis for submitting post POI data for April-September 2023 is unclear and has no basis in the books of accounts.
- w. There is gap between POI and post POI data which has not been explained. There is no legal basis to consider post POI data with a gap of one financial year from the POI.
- x. The losses incurred in the post POI data is due to increase in cost of sales without corresponding increase in selling price, as the applicant became inefficient.
- y. Despite increase in net sales realization per unit, reduction in depreciation and interest cost, fixed assets and almost no change in capacity utilisation on post POI data, the applicant has shown negative PBIT, PBDIT, and cash profit.
- z. There is no evidence that losses in post POI are caused due to exports from OTIZ or Guxiandao.
- aa. The imports of the subject goods from China PR subject to anti-dumping duties have been miniscule in the injury period. The majority of the subject imports from China PR were cleared under advance license and imported from producers who were awarded "nil" rate of the duty in the original investigation. Further, more than 85% of the imports from China PR in the injury period were not subject to anti-dumping duties and only on 3-11% imports from China PR, anti-dumping duties

- were paid. If the Authority extends the anti-dumping duty, the imports under advance license will continue and the duty will not serve any purpose.
- bb. The continuation of duty would not provide any tangible benefit to the domestic industry, while adversely impacting the users.
 - cc. Imports from China PR are not market capturing as they have been imported under advance license.
 - dd. There is no injury and no likelihood of continuation of injury to the domestic industry as its performance has improved over the period.
 - ee. The contention of the domestic industry that circumvention of duty shows likelihood of dumping and injury, and that it has not been able to compete at fair prices due to circumvented imports, cannot be accepted, since the circumvention investigation has not yet been concluded.
 - ff. There has been significant growth in number of domestic producers over the period, from 3 producers to 6 producers, which shows that there is no likelihood of injury.
 - gg. Since the domestic industry has not established price attractiveness of the Indian market, the imposition of measures by European Union and USA and export orientation of producers from China PR, and thus, there is no likelihood of diversion of excess capacity to Indian market.
 - hh. The product scope in this review investigation is limited as compared to the investigation in the EU or the USA.
 - ii. Since Autoliv has not imported the circumvented product, there can be no likelihood of dumping or injury because of its imports.
 - jj. HCF and HAMC have not exported the alleged circumvented products to India, and hence there is no injury caused to the domestic industry. Therefore, this cannot be the possible ground of likelihood of recurrence of dumping and injury to the domestic industry. Further HCF and HAMC have not exported the subject goods to the EU or USA market in the POI or in the injury period. Therefore, the imposition of measures by EU and USA will not force HAMC or HCF Ltd. to divert their volumes to India.
 - kk. Hyosung has not increased capacity, but the capacity utilization has increased, and it has no excess capacity available.
 - ll. Since there is no likelihood of dumping and/or injury on account of Hengli, the duties are required to be discontinued in the present investigation. Claim of dumping is exaggerated and correct dumping margin, based on domestic prices and cost would indicate no dumping margin and no likelihood of dumping.
 - mm. There is no likelihood of injury due to exports by OTIZ and Zhejiang Guxiandao, since it did not undertake capacity expansion, has capacity utilization of 85-95%, it sells majorly in domestic market and third countries and its exports to India have reduced. OTIZ is also exporting to third countries at higher prices than the price to India. Moreover, there is no circumvention by OTIZ.
 - nn. The claim regarding the fragile state of the domestic industry due to imports from the subject country is not tenable as throughout the injury period, the imports from the third countries i.e., Taiwan and Vietnam have been significant. The imports from these countries have caused injury to the domestic industry. Further, the

- import prices of Taiwan and Vietnam are much lower than the average price of China PR.
- oo. Anti-dumping duty cannot be subjectively imposed on China PR as significant imports are coming at lower prices from Vietnam and Taiwan. If such imports are not suppressing or depressing the prices of the domestic industry, then there is no likelihood of such suppression / depression on account of higher priced imports from China, in the event of expiry of duty.
 - pp. The price undercutting is higher from Taiwan (21%) and Vietnam (10%) than China (5%). Furthermore, if the cost of sales and selling price of the domestic industry is lower than the prices from China then the cost of production and selling price of the domestic industry would be lower than the prices from Vietnam and Taiwan.
 - qq. The applicant has claimed that dumping margin for China PR is positive. However, the dumping margin for Vietnam and Taiwan have also been found to be positive and significant. The dumping margin for Taiwan in the POI is 21%, while that of Vietnam is 10%. Hence, there is no likelihood of continuation or recurrence of dumping and injury only due to imports from China PR.
 - rr. The injury to the domestic industry, if any, is on account of inter-se competition, lower-priced imports from other countries and reduced export performance.
 - ss. The applicant has based its arguments on the not yet concluded anti-circumvention investigation. Mere conjecture of such circumvention aims to illegally expand the product scope in the review proceedings and artificially create such “exceptional circumstances” to continue the imposition of the duties in the present review. The same is unfounded in law and such averments ought to be rejected.
 - tt. The applicant has compared the increase in cost of the PUC and PUI vis-à-vis the change in cost of raw material. The applicant has taken 2018-19 as the base year and have compared the said data with that of the POI only. It is submitted that an analysis of the data warrants a year-on-year analysis as well, as was held in by the WTO Appellate Body in Argentina – Footwear (WT/DS/121).

H.2. Submissions by the domestic industry

- 82. The domestic industry has made the following submissions with regard to injury, causal link and likelihood of continuation or recurrence of dumping and injury.
 - a. The allegation of the other interested parties that the increased imports and injury are exaggerated is contrary to the information on record.
 - b. While the other interested parties have claimed that other factors are impacting the performance of the domestic industry, they have not denied dumping.
 - c. The dumping margin is significant for the exporters subject to nil duties as well as other exporters, which indicates likelihood of continued and aggravated dumping. The dumping margin for the circumvented goods is even higher.
 - d. The fact that the producers from China PR are resorting to circumvention of the extant anti – dumping duties demonstrates that they cannot compete at non - dumped prices.

- e. Although the volume of imports of the product under consideration decreased after 2016-17, the volume of imports of the product under investigation has increased, leading to an overall increase in imports from China PR.
- f. As opposed to the contentions of the other interested parties, the increase in imports of the product under consideration is due to increase in imports under advance authorization and from exporters not subject to anti – dumping duties as well as of circumventing goods.
- g. In a sunset review, significant volume of imports and a positive dumping margin are sufficient to show the need for continuation of duties.
- h. The imports are not necessitated to fulfil the demand-supply gap as the Indian capacity exceeds the demand in the country.
- i. The imports are undercutting the prices of the domestic industry.
- j. The decline in the landed price is far higher than the decline in the cost of raw material. If the decline in raw material cost is excluded, then the decline in landed price would be more significant.
- k. The sales of the domestic industry has not increased in line with the increase in demand.
- l. While the market share of producers from China PR has steeply increased, the market share of the domestic industry has only decreased.
- m. The inventories of the applicant have reduced due to the significant exports undertaken by them and anti – dumping duties in force. The domestic industry was forced to export a significant share of their production, which could have otherwise satisfied additional demand in India.
- n. Even though the profitability of the domestic industry has improved, the situation remains fragile as can be seen from the low cumulative profitability, significant exports by the domestic industry, significant imports from China PR. In case of a sunset review, continued adverse performance should be construed as continued injury.
- o. The decline in selling price of the domestic industry is not attributable to the decline in the raw material cost, as profits have increased even though contribution has reduced. The increase in profits is due to the efforts made by the applicant to reduce their conversion cost.
- p. The domestic industry has been able to earn profits as the duty-added landed price is higher than its selling price.
- q. The performance of the domestic industry has deteriorated in April to September 2022 period and it has suffered financial losses, cash losses and negative return on investment.
- r. If the anti-dumping duty is removed, then the import price would be much lower than the cost of production and selling price of the domestic industry.
- s. Mere improvement in the performance of the domestic industry does not mean that there is no injury.
- t. The only reason behind the domestic industry's profits is because the low volume of imports of the product under consideration and its own competitiveness.

- u. If the domestic industry is forced to compete at the prices without the anti – dumping duty, it is likely to earn significant losses, cash losses and negative return on investment.
- v. In a number of past cases, the Authority has recommended continuation of duty, in view of the fragile nature of the industry.
- w. Contrary to the allegation of the other interested parties, the claims regarding fragility of the domestic industry were made in the application itself.
- x. Since performance may vary year to year due to several other factors, the performance over the entire period, on an overall or cumulative basis, should be analysed.
- y. The applicant has not claimed likelihood of continuation or recurrence of dumping or injury on account of the decline in number of employees and wages.
- z. The producers from China PR are export oriented. The capacities held by them exceed even the global demand. The capacities are 40 times the demand in India.
- aa. The producers from China PR have significant idle capacities, which is almost 16 times the demand in India.
- bb. The producers in China PR have expanded their capacity, and are still planning further expansions.
- cc. The Indian market comprises 7% of the total exports from China PR and is the third largest export market for the Chinese producers, making it an important market.
- dd. While one of the responding producers have claimed that Indian market is not important for them, publicly available information shows that 87% of its supplies are made to India.
- ee. USA has increased the tariff on imports of the product under consideration from China PR to 25% and EU has imposed duties on the product under consideration.
- ff. The expiry of the anti – dumping duties not only impacts the imports presently subject to duty, but also imports not presently subject to duty. Due to the duties in place, the imports from exempted exporters and under advance authorization were also made at a relatively higher price. However, in the absence of duty, the price of such imports would also be forced to reduce, as the imports presently subject to duty would undercut such imports.
- gg. The expiry of anti – dumping duties would lead to cessation of imports of the circumventing product, and instead imports of the product under consideration itself would increase, since there would be no need for exporters to circumvent the duties.
- hh. Considering the reasonable return considered by the Authority and the re-investment economies of the subject goods, the present return on investment of the domestic industry is too low.
- ii. Contrary to the contentions of the other interested parties, mere increase in the number of domestic producers does not mean there is no likelihood of injury.
- jj. As regards the claim that there is no evidence of likelihood of diversion of goods to Indian market, it was highlighted that the information on record shows importance of India as a market, idle capacities and tariffs and duties by US and EU.

- kk. The total capacity of the Indian industry is much higher than the total Indian demand. If the demand met by imports from third countries and under advance authorisation is further removed, it would be seen that there is no reason for dumped imports in the country.
- ll. As observed by the Appellate Body in US-OCTG, there is no requirement to establish a causal link between the likely dumping and the likely injury in a sunset review investigation.
- mm. The injury to the domestic industry is not on account of other factors.
- nn. Imports from Taiwan are higher priced than the imports from the subject country and imports from Vietnam have commenced recently and are low in volume. Such imports have not lead to decline in performance of the domestic industry, and the present case is that of inadequate growth despite anti-dumping duty in place and not of material injury. In any case, dumping from a new source is not a reason for withdrawal of anti-dumping duty on the original source.
- oo. The circumvention investigation has been initiated after *prima facie* satisfaction, and the information on record shows circumvention. Even if circumvented product is causing injury to the domestic industry, it does not mean that the present anti-dumping duty should cease. The law requires the subject imports to be “a” cause of injury, and not “the” only cause.
- pp. Contrary to the submissions of Autoliv, merely because it has not engaged in circumvention, it cannot be said that there is no likelihood of dumping or injury because of its imports.
- qq. Contrary to the submissions by the other interested parties, likelihood analysis is country wide and not company specific.
- rr. Contrary to the submissions of the other interested parties, the applicant has provided PCN-wise information in the petition as well as post POI data. However, if other parties have not provided such information, they should be treated as non-cooperative.

H.3. Examination by the Authority

- 83. The Authority has taken note of the submissions and evidence presented by all interested parties with respect to injury to the domestic industry. The injury analysis by the Authority hereunder addresses the various submissions made by the interested parties.
- 84. Rule 11 of the Rules read with its Annexure-II thereto provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles.”
- 85. The Rules requires that in case the performance of the domestic industry shows that it has not suffered continued injury during the current injury period, the Authority should

examine and determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.

86. The Authority has first examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country. It has been examined as to whether there is an increase in imports, or volume continues to be significant, in absolute terms or in relation to production or consumption in India. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure-II of the Rules. The Authority has taken note of various submissions of the domestic industry and the other interested parties and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the parties.
87. With regards the claims that the performance of other domestic producers in the country have improved while that of the domestic industry has declined, the Authority notes that as per Rule 11(2) of the Rules, the Authority is required to “determine the injury to domestic industry, threat of injury to the domestic industry, material retardation to establishment of the domestic industry”. Therefore, the evaluation of injury is required to be restricted to the defined domestic industry.
88. Several other interested parties have contended that the imports of circumventing product should not be included in the injury assessment. The Authority has conducted the injury examination hereinbelow both including and excluding the imports of circumventing product.
89. The other interested parties have claimed that since majority imports have been made under advance authorization, and by exporters that are exempt from the application of anti-dumping duties, the continuation of duty would not serve any purpose. In response, the domestic industry has claimed that the prices of presently duty-paid import act as benchmark for prices of other imports, and in the absence of duty, the prices of such imports would be lower, which would create a strain on the prices of other imports as well. The Authority further notes that whereas the current volume of imports has remained limited only to duty free category, cessation of duty would lead to a situation where the consumers would be able to source the subject goods from China PR after payment of basic customs duty and no anti-dumping duty. Thus, the landed price of

imports shall reduce by the amount of anti-dumping duty, in the event of cessation of duty.

1. Assessment of demand / apparent consumption

90. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product under consideration in India as the sum of domestic sales of the domestic industry and other Indian producers and the imports from all sources. For assessment of demand, the volume of circumvented product from China PR has also been considered as per the Final Findings issued in the anti-circumvention investigations. The demand so assessed is given in the table below.

Particulars	Unit	2018-19	2019-20	2020-21	2021-22	2021-22 (Dumped Imports)
Sales of applicant	MT	***	***	***	***	***
Indexed	Trend	100	99	115	119	119
Sales of other producers	MT	***	***	***	***	***
Indexed	Trend	100	121	110	146	146
Subject imports	MT	4,048	8,503	11,495	11,659	11,659
Circumvented Imports	MT	218	1,599	3,222	6,768	6,768
Other imports	MT	4,354	2,969	4,331	4,815	4,815
Demand Including Circumvented products	MT	30,778	37,234	44,074	52,226	52,226
Demand Excluding Circumvented products	MT	30,560	35,635	40,851	45,458	45,458

91. It is seen that the demand for the subject goods has increased significantly over the period. However, the increase in the subject imports is much higher. While the demand has increased by 70%, imports have increased by 181%.

92. The Authority notes that the installed capacities in India during the POI were *** MT as against above established demand of 52,226 MT. Thus, there is no demand-supply gap in the country.

2. Volume effect of the dumped imports

93. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the volume of dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury

analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. The import volumes of the subject goods from the subject country and share of the dumped imports during the injury investigation period are as follows:

Particulars	Unit	2018-19	2019-20	2020-21	2021-22	2021-22 (Dumped Imports)
Subject imports PUC	MT	4,048	8,503	11,495	11,659	11,659
Circumvented Imports PUI	MT	218	1,599	3,222	6,768	6,768
Other imports	MT	4,354	2,969	4,331	4,815	4,815
Total imports	MT	8,620	13,070	19,049	23,242	23,242
Subject imports (PUC) in relation to						
Indian production	%	9%	23%	33%	26%	26%
Indian consumption	%	13%	23%	26%	22%	22%
Total imports	%	47%	65%	60%	50%	50%
Subject imports (PUI) in relation to						
Indian production	%	1%	4%	9%	15%	15%
Indian consumption	%	1%	4%	7%	13%	13%
Total imports	%	3%	12%	17%	29%	29%

94. The applicant and other interested parties have emphasized that a significant portion of the imports of product under consideration are exempt from the extant anti-dumping duties, either on account of being made under advance authorization, or imports from exporters not subject to the existing anti – dumping duties. The Authority has examined the same, and breakup of imports of product under consideration is as below.

Particulars	Unit	2018-19	2019-20	2020-21	2021-22
Imports under AA	MT	3,136	6,519	10,044	8,784
Imports from exempt exporters	MT	717	1,722	1,030	2,097
Other imports	MT	196	262	421	778
Total	MT	4,048	8,503	11,495	11,659

95. It is seen that:
- The volume of imports of PUC has increased significantly over the period.
 - The volume of circumventing product has also increased significantly during the same period.

- c. While imports of the product under consideration have also increased, a significant share of such imports has been made under advance authorization or has come from exporters who have been exempted from the scope of anti – dumping duties.
 - d. The duty paid imports account for only 7% of the imports of the product under consideration and 4% of the total subject imports into India. By contrast, the imports of alleged circumventing product account for 37% of the total subject imports into India.
 - e. Thus, as a result of imposition of duty, the duty-paid imports have reduced, and instead, the duties were alleged circumvented through increase in imports of circumventing product.
 - f. The imports have increased significantly in relation to production and consumption over the period.
 - g. The share of the subject imports in total imports has also increased significantly.
96. Some parties have contended that the imports have increased on account of the demand-supply gap. However, the information provided by the domestic industry shows that the capacity of the domestic producers as a whole (***) MT) is higher than the demand in the country. Further, the imports from other sources have also lost market share, as their volume has remained relatively constant, despite an increase in demand.

3. Price effect of the dumped imports

97. In terms of Annexure II (ii) of the Rules, with regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed price of imports from the subject country with the net sales realization of the domestic industry for the subject goods.

a. **Price undercutting**

98. To determine price undercutting, a comparison has been made between the landed value of the product and average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level. In order to ensure a fair comparison, the Authority has calculated the PCN-wise price undercutting.

Particulars	Unit	PUC	PUI	Total
Price undercutting	₹/MT	***	***	***
Price undercutting	%	***	***	***
Price undercutting	Range	0-10	5-15	0-10

99. It is seen that price undercutting is positive for the subject country in the period of investigation, for both product under consideration and alleged circumventing product.

b. Price suppression / depression

100. In order to determine whether the subject imports have depressed the prices of the domestic industry to a significant degree or prevent price increases which otherwise would have occurred in normal course, the information given by the domestic industry for the changes in the costs and prices over the injury period has been compared with the landed value to see the desired effect. The domestic industry has, however, contended that the decline in cost of sales is attributable to its own efficiencies. Accordingly, the Authority has also compared the trend of selling price with the trend of raw material cost over the period.

Particulars	Unit	2018-19	2019-20	2020-21	2021-22
Cost of sales	₹/MT	***	***	***	***
Indexed	Trend	100	89	73	87
Selling price	₹/MT	***	***	***	***
Indexed	Trend	100	80	75	92
Landed price	₹/MT	1,28,290	1,05,527	86,975	1,17,532
Indexed	Trend	100	82	68	92
Landed price (with ADD)	₹/MT	1,65,269	1,42,460	1,26,674	1,56,707
Indexed	Trend	100	116	130	105

101. It is seen that both cost of sales and selling price have declined over the period, but the decline in cost of sales is higher.

4. Economic parameters of the domestic industry

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

capital investments. The various injury parameters relating to the domestic industry are discussed hereinbelow.

a. Production, capacity, capacity utilization and sales volume

103. The performance of the domestic industry with regard to capacity, production, sales and capacity utilization over the injury period was as below:

Particulars	Unit	2018-19	2019-20	2020-21	2021-22
Capacity	MT	***	***	***	***
Indexed	Trend	100	100	79	79
Production – PUC	MT	***	***	***	***
Indexed	Trend	100	78	83	93
Production – Plant	MT	***	***	***	***
Indexed	Trend	100	83	81	94
Capacity utilization	%	***	***	***	***
Indexed	Trend	100	83	103	120
Domestic sales	MT	***	***	***	***
Indexed	Trend	100	99	115	119
Export sales	MT	***	***	***	***
Indexed	Trend	100	71	67	69

104. The Authority notes that:

- a. The capacity of the domestic industry has reduced over the period, as it closed one of its plant, located at Hazira.
- b. The production and sales of the domestic industry first declined due to stoppage of one plant, but increased thereafter. Resultantly, capacity utilization has increased.
- c. The export sales of the domestic industry have reduced. However, the domestic industry has still exported 35% of their total volume. The domestic industry contended it has been forced to export only because of absence of demand for its product in the domestic market due to imports and circumvention of anti-dumping duty.

b. Market share

105. Market share of the dumped imports and domestic industry have been examined as below:

Particulars	Unit	2018-19	2019-20	2020-21	2021-22
Sales of applicant	MT	***	***	***	***
Indexed	Trend	100	82	80	70
Sales of other producers	MT	***	***	***	***

Indexed	Trend	100	100	77	86
Subject imports	%	14%	27%	33%	35%
-PUC (dumped)	%	13%	23%	26%	22%
-PUI	%	1%	4%	7%	13%
Other imports	%	14%	8%	10%	9%
Demand	%	100%	100%	100%	100%

106. It is seen that the market share of the subject imports has increased over the injury period. Further, the market share of the domestic industry has declined, along with a decline in the market share of the Indian industry as a whole. The market share of other imports has also declined during this period.

c. Inventories

107. Inventory position of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2018-19	2019-20	2020-21	2021-22
Opening stock	MT	***	***	***	***
Closing stock	MT	***	***	***	***
Average inventory	MT	***	***	***	***
Indexed	Trend	100	104	45	23

108. It is seen that the inventories of the domestic industry have reduced over the period.

d. Profits, cash profits and return on capital employed

109. Profits, return on capital employed and cash profits of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2018-19	2019-20	2020-21	2021-22
Cost of sales	₹/MT	***	***	***	***
Indexed	Trend	100	89	73	87
Selling price	₹/MT	***	***	***	***
Indexed	Trend	100	80	75	92
Profit / (loss)	₹/MT	***	(***)	***	***
Indexed	Trend	100	(1,131)	410	718
Profit / (loss)	₹ lakhs	***	(***)	***	***
Indexed	Trend	100	(1,119)	472	853
Cash profits	₹ lakhs	***	(***)	***	***
Indexed	Trend	100	(63)	140	182

Return on capital employed	%	***	(***)	***	***
Indexed	Trend	100	(260)	356	351

110. The domestic industry had low level of profits in 2018-19. The profits of the domestic industry declined into losses in 2019-20, but have thereafter improved.
111. The cash profits of the domestic industry and return on capital employed have followed the same trend as that of profits. These parameters improved post 2019-20.

e. Employment, wages and productivity

112. The Authority has examined the information relating to employment, wages and productivity, as given below:

Particulars	Unit	2018-19	2019-20	2020-21	2021-22
Number of employees	Nos.	***	***	***	***
Indexed	Trend	100	91	73	65
Salary and wages	₹ lakhs	***	***	***	***
Indexed	Trend	100	95	92	87
Productivity per day	MT/day	***	***	***	***
Indexed	Trend	100	78	83	93
Productivity per employee	MT/Nos	***	***	***	***
Indexed	Trend	100	85	112	144

113. It is seen that the number of employees and wages paid have declined over the injury period with the decline in the capacity. However, the productivity of the domestic industry declined till 2019-20 and has increased significantly thereafter.

f. Growth

114. The Authority has found growth of the domestic industry in respect of volume and price parameters, as given below:

Particulars	Unit	2018-19	2019-20	2020-21	2021-22
Capacity	%	-	-	-21	-
Production	%	-	-22	6	13
Domestic sales	%	-	-1	16	3
Profit/(loss) per unit	%	-	-1,231	136	75
Cash profits	%	-	-164	290	26
Return on capital employed	%	-	-360	237	-1

115. The domestic industry had negative growth in 2019-20, and positive growth thereafter.

g. Ability to raise capital investment

116. The profitability parameters of the domestic industry have improved over the period. However, the domestic industry has highlighted that the profitability is not sufficient to encourage further investment in the product. The domestic industry has submitted that the current profits cannot justify any brown field fresh investment, leave aside any greenfield investment.

Particulars	Unit	2021-22
Investment required	₹/MT	***
Profit before interest earned by the domestic industry	₹/MT	***
Return on investment considering current profits	%	5.5%

h. Factors affecting prices

117. The domestic industry has highlighted that presently, the duty paid price of imports is above its own selling price. However, in the absence of duty, the imports of product under consideration shall undercut the prices of the domestic industry. Thus, in such a situation, the imports are likely to affect the prices of the domestic industry.

i. Margin of dumping

118. It is seen that there is continued dumping of the subject goods in India, despite the anti-dumping duties in force. Further, the dumping margin are significant.

I. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS

119. The Rules do not mandate analysis of causal link or non-attribution analysis in a sunset review. However, as per the practice followed, the Authority has, inter alia, examined any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than the dumped imports could have contributed to the injury to the domestic industry:

a. Volume and prices of imports from third countries

120. It is noted that other than the subject imports, there are significant imports from Taiwan and Vietnam. The other interested parties have argued that the injury to the domestic industry is on account of such imports and not the subject imports. The applicant has contended that the import price from Taiwan is higher, while imports from Vietnam commenced recently and these exports are by an exporter affiliated to one of the Chinese producers.

b. Contraction in demand

121. The Authority notes that the demand for the subject goods increased consistently through the injury period.

c. Pattern of consumption

122. It is noted that there is no change in the pattern consumption of the subject goods.

d. Conditions of competition and trade restrictive practices

123. The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed likelihood of injury to the domestic industry. Some of the interested parties have contended that the injury to the domestic industry is on account of inter-se competition.

e. Developments in technology

124. It is noted that the technology for producing the subject goods has not undergone any change.

f. Productivity

125. The Authority notes that the productivity of the domestic industry has increased over the injury period.

g. Export performance of the domestic industry

126. The Authority notes that the injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market.

h. Performance of other products

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

J. MAGNITUDE OF INJURY MARGIN

128. The Authority has determined the non-injurious price for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period

has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.

129. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below:

S N	Country	Producer Name	NIP US\$ per Kg	Land ed Value US\$ per Kg	Injury Margin US\$ per Kg	Injury Margin %	Range
1	China	Zhejiang Guxiandao Polyester Dope Dyed Yarn Co., Ltd.	***	***	***	***	10-20%
2	China	Oriental Industries (Suzhou) Ltd.	***	***	***	***	0-10%
3	China	Hyosung Chemical Fiber (Jianxing) Co. Ltd.	***	***	***	***	(10-20)%
4	China	Jiangsu Hengli Chemical Fibre Co. Ltd	***	***	***	***	10-20%
5	China	Zhejiang Unifull Industrial Fibre Co., Ltd.-Total	***	***	***	***	0-10%
6	China	All Others	***	***	***	***	20-30%

K. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

130. The Authority observes that this is a sunset review investigation and the focus of this investigation is to examine the likely scenario of continued dumping and consequent injury if the anti-dumping duties is to be 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. In this regard, the WTO Panel in EC – Footwear observed that –

“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”.

131. Thus, in a sunset review investigation, the Authority is required to analyze whether revocation of a measure is likely to result in continuation or recurrence of injury to the domestic industry, contrary to the determination of injury in an original investigation. A similar view was taken by the Hon’ble CESTAT in the decision of P.T. Asahimas Chemicals vs. Designated Authority, Ministry of Finance [2015 (328) E.L.T. 417 (Tri. - Del.)], wherein it was held –

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

11. In the light the aforesaid legal position, we are of the view that the question to be addressed is not whether there is current dumping, but whether revocation of duty would result in recurrence of dumping and injury.”

132. Therefore, in case of a sunset review investigation, the Authority is required to analyze whether there exist likelihood of continuation or recurrence of dumping and injury in the event of cessation of existing measures.
133. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping or injury in the event of cessation of the duty. The Authority has considered various information, as made available by the domestic industry, in order to evaluate the likelihood of continuation or recurrence of dumping or injury.
134. There are no specific methodologies available to conduct such a likelihood analysis. However, Para (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 importation;
 - 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.

135. 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 likelihood is as follows.

a. Continued dumping despite existing anti-dumping duty

136. The Authority notes that there is continued and significant dumping of the subject goods from the subject country in spite of the duties in force. Continued dumping during the existence of duties indicates likelihood of continuation of dumping in the event of cessation of anti-dumping duty.

b. Circumvention of the duties in force

137. The final findings dated 31st March 2023 in the anti-circumvention investigation show that the duties were being circumvented through alteration of name, description or composition of the product. Further, the circumvented product was found to be dumped, in relation to the normal value previously established. The Authority notes that the circumvention of duties in force shows likelihood of increased dumping and volume of imports in the event of expiry of duty, and consequent adverse impact on the domestic industry.

c. Increase in imports despite anti-dumping duty

138. The applicant has submitted that the increase in volume of imports shows likelihood of further increase. The Authority has considered the volume of imports pre and post imposition of duty. The trends reveal as below.

Year		PUC subject to duty	Circumventing product (PUI)
2013-14	Injury period of original investigation	5,903	-
2014-15		7,087	-
2015-16		9,092	-
2016-17		13,412	-
2018-19	Present injury period	4,048	218
2019-20		8,503	1,599
2020-21		11,495	3,222
2021-22		11,659	6,768

139. It is seen that the imports declined in 2018-19 after imposition of duty. However, the imports have increased again thereafter, and are now higher than that during the period of investigation of the original investigation. The increase in imports has been found despite no demand-supply gap in the Country.

d. Third country dumping and third country injurious imports

140. The Authority has examined the information with regard to exports to third countries, as provided by the exporter. The same shows that 85-95% of the exports to third countries are at dumped prices, with an average dumping margin of 30-40%. Further, 80-90% of the exports are at injurious prices, with the average price being 10-20% lower than non-injurious price.

Particulars	Unit	As per responses
Total exports to third country	MT	***
Dumped exports to third country	MT	***
Share of dumped exports in total	%	85-95%
Indian Demand	MT	***
Dumped exports in relation to Indian demand	%	250-300%
Dumping margin	%	25-35%
Exports at injurious price	MT	***
Share of injurious exports in total	%	80-90%
Injurious volume in relation to Indian demand	%	250-300%
Injury margin	%	15-25%

Source- Responses filed by participating producers

141. The Authority further notes that the volume of dumped and injurious imports is significant in relation to Indian demand.

e. Significant exportable capacities held by producers in the subject country

142. The domestic industry has provided a market research report titled PCI Wood Mackenzie Redbook which contains information regarding the capacity, production and demand in the subject country. The report contains information with regard to production and demand for industrial yarn as a whole. The applicant had calculated capacity for HTPY as a % industrial yarn capacity, and applied the same to the total production and demand to calculate the production and demand for HTPY. However, the same has been disputed by the other interested parties, without providing any other counter evidence. Notwithstanding claim by the other interested parties without counter evidence, the Authority has considered the production and demand for HTPY as claimed by the

applicant, as well as total demand and production, in order to determine the exportable capacities and idle capacities.

Particulars	As claimed by applicant ('000 MT)	Considering total production and demand ('000 MT)
Capacity	2,299	2,299
Demand in China PR	857	1,269
Capacity meant for exports (exportable capacity)	1,442	1,030
Production	1,169	1,730
Idle capacities	857	569
Demand in India	52.23	52.23
Exportable capacity in relation to Indian demand	2761%	1972%
Idle capacity in relation to Indian demand	1641%	1089%

Source – PCI Wood Mackenzie report

143. The Authority notes that the producers in the subject country hold significant production capacities, in excess of domestic demand, which are likely to be utilized for exports to India in the absence of duties.
144. The other interested parties have also emphasized that the exportable and idle capacities should be determined based on response filed by the responding producers. While the Authority notes that likelihood examination is country-specific, it is noted that responses filed by participating producers show a significant excess capacity.

Particulars	As per responses filed ('000 MT) – for POI
Capacity	***
Domestic sales	***
Capacity meant for exports	***
Production	***
Idle capacities	***
Demand in India	***
Exportable capacity in relation to Indian demand	1550-1650%
Idle capacity in relation to Indian demand	200-225%

Source- Responses filed by participating producers

145. It is thus seen that even if the data as per responses of participating producers is considered, the excess capacity in China PR is much more than the Indian demand.

f. Capacity addition by Chinese producers

146. The information provided by the domestic industry shows that the producers from China PR (namely Zhejiang Sanwei and Zhejiang Shuangfeng) have expanded capacity by about 230,000 MT, and are further planning capacity addition to the tune of 250,000 MT (namely Jiangsu Hengli Chemical Fibre Co. Ltd. and Zhejiang Kingsway). Jiangsu Hengli Chemical Fibre Co. Ltd. has also revealed expansion plans of 1,400,000 MT of industrial yarns.

g. Inventories of the product under consideration

147. The Authority has also examined trends of inventories of product under consideration held by exporters. Since two of the exporters, Oriental Industries and Zhejiang Guxiandao had not provided inventory information, the same was constructed on the basis of production less sales. Further, since Jiangsu Hengli did not submit information with regard to period of investigation, the information for 2021 was considered instead. The Authority notes as following in this regard.

	2019	2020	POI
Total inventory held by exporters	100	102	172
Inventory as number of days of production	100	96	137
Inventory as % of Indian demand*	100-150%	100-150%	100-150%

*Demand taken for 2019-20, 2020-21 and period of investigation

Source- Responses filed by participating producers

148. The Authority notes that the exporters are holding significant inventories, the volume of inventories have increased over the period, with increase in inventory holding period. Further, inventories with producers from China PR constitutes a very significant share when compared to the Indian demand.

h. Measures imposed by other countries

149. The applicant has also emphasized that the exporters are facing duties not only in India, but also in European Union. European Union imposed anti-dumping duties in June 2022, in the range of 5.1% to 5.3%. Further, USA has imposed additional tariffs on the export of the subject goods. It has been contended by the interested parties that the product scope considered by European Union and USA is broader than that during the present investigation. However, the Authority notes that the fact that the Chinese producers are facing these measures on larger basket of product indicates the loss of market not only

for the product under consideration but also other products sharing the same production facilities.

i. Price attractiveness of Indian market

150. The Authority has also examined the price attractiveness of the Indian market as per responses filed by the exporters. The same has been examined by comparing the price of exports to third countries, based on responses of cooperative producers, with the price of imports into the country. Further, the comparison has been made on PCN-wise basis, where the information was provided by the exporters in such manner. Where the exporter has not provided PCN-wise information, the Authority has compared with average price.

Particulars	Unit	As per responses
Total exports to third country	MT	***
Exports priced below the price in India	MT	***
Share of such exports in total	%	75-85

Source- Responses filed by participating producers

151. The Authority notes that India is a price attractive market for the exporters, with 80% of the exports being made at a lower price than the price to the Indian market.

j. Post POI performance of the domestic industry

152. Pursuant to submissions by various parties in this regard, the domestic industry submitted its performance for the period April to September 2022 with its written submissions. Since the information was filed with the written submissions, a copy of the same was made available to other interested parties and some of the interested parties have offered comments on the same, the Authority has examined this information as well. The information shows as follows.

Particulars	Unit	POI	Post POI	Change
Import volume	MT	20,945	14,348	-31%
Landed price	₹/MT	1,11,255	1,37,907	24%
Price undercutting	%	5-15%	0-10%	-91%
Market share of imports	%	25%	16%	-36%
Production	MT	***	***	-1%
Domestic sales	MT	***	***	-12%
Capacity utilization	%	***	***	-1%
Selling price	₹/MT	***	***	14%
Cost of sales	₹/MT	***	***	29%

Profit / (loss)	₹/MT	***	(***)	-223%
Profit / (loss)	₹ lakhs	***	(***)	-209%
Cash profits	₹ lakhs	***	(***)	-137%
Return on capital employed	%	***	(***)	-162%

153. Some of the interested parties have contended that such post POI information should not be relied upon, and that the losses are due to increase in cost of sales, on account of own inefficiency of the domestic industry. However, these interested parties have provided no evidence to support such claim of inefficiency.

Overall conclusions on injury and likelihood of dumping and injury

154. Based on the above analysis, the Authority concludes that the performance of the domestic industry has improved both in volume and price parameters, as a result of the anti-dumping duty in force, and efforts made by the domestic industry to reduce its conversion costs. The domestic industry has not suffered material injury during the present injury period. However, the circumvention of duties has undermined the remedial effect of duty as evident from the positive price undercutting, and decline in market share of the domestic industry.
155. The Authority concludes that there is evidence of likelihood of continuation of dumping and recurrence of injury to the domestic industry. Even during the present period of investigation, the dumping of the subject goods has continued. The present circumvention of duty, coupled with positive price undercutting in case of cessation of duty, the excess capacity, inventories in the subject country, trade remedy measures imposed by third countries, export orientation of the Chinese producers, dumping margin and injury margin in third countries exports, price attractiveness of Indian market, clearly establish a likelihood of increase in imports, and consequent injury to the domestic industry in the event of expiry of duty. The information submitted by the responding producers show that exports to third countries have also been made at dumped and injurious prices, and India is a price attractive market for the producers in the subject country. It is also noted that the domestic industry has already suffered financial losses in post POI. The price undercutting in the event of cessation of anti-dumping duty is quite significant. The volume of imports found in anti-circumvention investigation is quite significant. There is no demand-supply gap in the Country now, and the cumulative capacities of the domestic producers already exceed present demand in the Country. Any imports at dumped prices undercutting the domestic prices are therefore likely to cause adverse price effect on the industry. From the foregoing, the Authority concludes that there is a likelihood of dumping and consequent injury, in the event of expiry of duty.

L. INDIAN INDUSTRY'S INTEREST

L.1. Submissions by the other interested parties

156. The following submissions have been made by the other interested parties with regard to the Indian industry's interest:
- a. No measures should be imposed on grounds of public interest.
 - b. Imposition of anti-dumping measures will both damage legitimate interest of exporters and be not conducive to the remedy and protection of the domestic industry.
 - c. The purpose of any anti-dumping measure is not to facilitate the domestic industry to earn reasonable or sufficient return on investment.

L.2. Submissions by the domestic industry

157. The following submissions have been made by the domestic industry with regard to the Indian industry's interest:
- a. In a sunset review, historic information for the period during which duty existed should form basis of examination of public interest.
 - b. None of the users or importers have filed response to the Economic Interest Questionnaire.
 - c. Despite the fact that there are over 30 users, only 3 participated in the investigation, which shows low level of interest by users.
 - d. No submissions have been made by the users to any government body concerning how the duties have adversely affected them over the years.
 - e. The overall impact of the duties imposed on the user industry is negligible, at only 1.5%.
 - f. The revenue and profitability of the user industry has improved over 2017-18 to 2020-21.
 - g. The downstream industry has also expanded capacity over this period.
 - h. One of the biggest users i.e., the automobile industry is expected to grow over 9% between 2022-27, which would encourage growth of domestic producers.
 - i. Since the duties were imposed, the Indian industry has grown from 3 to 6 producers and has even expanded their capacities, which helped India reduce dependence on imports and move towards Atmanirbhar Bharat.
 - j. The present return on investment is not enough to encourage future investments. If the duties are not continued, then fresh investment would become difficult, increasing dependence on imports.
 - k. Unfair pricing behaviour such as circumvention that distorts the conditions of competition is a mala fide practice must be discouraged. Rs 1,691 Lacs would have been payable as duties to the government if the goods were not circumvented.
 - l. There is sufficient supply and a healthy competition in the Indian market.
 - m. The subject goods can also be imported from third countries such as South Korea, Taiwan, Japan and Indonesia.

- n. If the duties are not extended and the applicant continues to earn significant losses, they would either look for an alternate market or look to utilise its production capacities for other use.
- o. The unnecessary dependence on imports has created a strain on foreign exchange reserves.
- p. The aim of the exporters is only profit maximisation whereas the applicant has long term interest in the country, including the interest of the users.
- q. The production technology used by RIL is comparable to that used by foreign producers.
- r. Procuring from the domestic industry would ensure fair prices, uninterrupted supply, growth of the downstream industry and allow users to reduce inventory holdings.
- s. The support from Chinese government allows the exporters to export at uncompetitive prices.
- t. Contrary to claims of the interested parties, continuation of duty cannot adversely impact users that are importing under advance authorization.
- u. Contrary to the claim of the interested parties, dumping is an unfair trade practice and not a “legitimate right” of the exporter. The duty only addresses any unfair trade practice resorted to by the foreign producer.
- v. While on one hand the interested parties have claimed that continuation of duty would impact their “legitimate right”, on the other hand their responses contain claims that they will not be impacted by the continuation of duties.

L.3. Examination by the Authority

158. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. 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 continuation of anti-dumping measures. On the contrary, continuation of antidumping measures would ensure that no unfair advantages are gained by dumping practice, prevent decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
159. Post initiation of investigation, the Authority issued an Economic Interest Questionnaire to all interested parties. However, a response to the questionnaire was filed only by the domestic industry, and 2 exporters. None of the importers or users of the subject goods, including those participating in the present investigation, filed a response to the Economic Interest Questionnaire. Further, the administrative ministry for the subject goods and the downstream product have also not objected or made any statement regarding the continuation or expiry of duty. The Authority also notes that while the

administrative ministry for the subject goods is Ministry of Textiles, the product is not actually used in textile applications.

160. Further, the Authority notes that while certain interested parties have raised arguments that no measures should be imposed on grounds of public interest, no evidence has been provided to show that the duties in force have resulted in a deterioration in the performance of the users, or may lead to such deterioration. As noted above, despite the Authority providing an opportunity to provide structured and substantiated information, in the response to Economic Interest Questionnaire, the users have abstained from doing so. In view of the same, the Authority notes that it cannot be concluded that the continuation of measures would result in an adverse impact on the domestic industry.
161. The Authority also notes that the level of participation by the users and importers is extremely low. The Authority notes that there are significant imports by SRF Limited, Meher Fashions Private Limited, Fenner Conveyor Belting Private Limited, International Conveyors Limited, Shakti Cords Private Limited, Tufropes Private Limited, Maccaferri Environmental Solutions Private Limited, Strata Geosystems (India) Private Limited, Garware Technical Fibres Limited, Arvind Limited, International Conveyors Limited, Indica Conveyors Limited, PNP Polytex Private Limited, Todi Mills, Filatech Enterprise Private Limited, even though such parties account for more than 40% of the total imports into India over the injury period. The importers / users participating in the present investigation account for only 11% of the subject imports during the period of investigation, as per their own response. Further, as per DGCI&S data where importer has been identified by the Authority for the injury period, such importers / users account for only 3% of the total imports. Thus, the Authority notes that the opposition to continuation of duty by users is extremely low.
162. The domestic industry has provided financial statements of the major users as part of its own response. As per the same, it is noted that the profitability of some users such as Fenner Conveyor Belting Private Limited and Green Field has declined. However, the profitability of some users such as SRF Limited, International Conveyors Limited, Madura Coats Private Limited, Madura Industrial Textiles Limited has increased significantly. Other users such as Vardhman Yarns and Threads Limited, Lift and Lash Limited and Multitech Products Private Limited have been able to maintain their profitability.
163. The Authority notes that the products produced using / incorporating the subject goods account for a very small share of the total revenue of the participating users, barring for Techfab (India) Industries Limited. On an overall basis, such products account for only 8% of the revenue.
164. In this regard, the Authority also notes that the domestic industry had furnished quantified impact of anti-dumping duty on the users. As per the information shared by the domestic industry, the impact on users was in the range of 0.01% to 1.2%. The claim of the

domestic industry has not been disputed by the other parties. Therefore, it is concluded that the users have not been adversely impacted by the anti-dumping duty in force.

165. With regard to availability of the subject goods in the country, the Authority notes that the anti-dumping duty does not restrict imports from the subject country, but only provides a level playing field. Such level playing field has allowed certain producers to enter the market. For instance, Reliance Industries Limited has expanded capacity, while Wellknown Polyesters Limited, Sanathan Textiles Private Limited and Ferreterro India Private Limited have also started producing the subject goods. This shows that the duties have reduced the user's dependency on the imports and allowed the Indian industry to grow and flourish.
166. In fact, as per information provided by the domestic industry, which has not been controverted by any other party; while there was a demand-supply gap in the country earlier, there is no such demand-supply gap now.

Producer	Capacity (MT)
Reliance Industries Limited	***
Wellknown Polyesters Limited	***
SRF Limited	***
Fairdeal Multifilament Private Limited	***
Ferreterro India Private Limited	***
Sanathan Textiles Private Limited	***
Total Indian Capacity	***
Indian demand (2021-22)	52,226
Excess capacity in India	***

167. The higher number of producers, coupled with excess capacity would also ensure inter-se competition between the domestic producers. As a result, the users would be assured competitive prices in the domestic market, and easily availability of the subject goods.
168. Moreover, the subject goods can continue to be imported from other countries as well. As per the PCI Wood Mackenzie report on record before the Authority, there is a total global capacity of 4,623 KT for industrial yarn, and of 3,340 KT of high tenacity yarn. As against this, the global demand for whole of industrial yarn is only 2,649 KT. Thus, there is a global surplus for the subject goods. Other than China, there are significant capacities in European Union, Vietnam, Taiwan, South Korea, Japan, Mexico, and Indonesia. Therefore, the product under consideration can also be imported from these countries. Accordingly, the Authority concludes that the users would continue to have multiple sources available.

M. POST DISCLOSURE COMMENTS

M.1. Submissions by the interested parties

169. The interested parties have reiterated their submissions with regard to scope of product under consideration, constitution of domestic industry, confidentiality, injury to the domestic industry, likelihood of dumping and injury. In particular, the interested parties have submitted as under as comments to the disclosure statement.
- a. The scope of the PUC cannot be enlarged in a sunset review investigation by including circumvented product. This would be like a back door entry.
 - b. The Authority cannot extend duties in a sunset review to the product under investigation in the anti-circumvention investigation, since the present review was initiated under Section 9A(5) read with Rule 23(1B). Since no deliberate link was created between the anti-circumvention investigation and the sunset review at the stage of initiation, the same cannot be done at the present stage.
 - c. In a situation whereby the Ministry of Finance does not impose anti-circumvention duties, the question of automatically extending the duties under a pending review to the PUI would be rendered moot.
 - d. If Rule 5 is not applicable, it is not clear how SRF Limited can be excluded from the examination.
 - e. The volume of imports by SRF Limited in relation to their production, and the share of applicant in total Indian production has not been disclosed.
 - f. The application format asks for information with regard to imports from all sources by the domestic industry. Therefore, determination of standing of RIL with reference to limited information is not appropriate.
 - g. The non-confidential version of the application cannot be accepted on account of not providing replica of the confidential version, declaration of imports and relationship to importers / exporters for injury period as a whole, production of other producers, total production, PCN-wise details, etc.
 - h. In accordance with the decision of the Tribunal in All India Laminated Fabrics Manufactures Association vs Designated Authority, no reliance can be placed on unsubstantiated report under Rule 8 of the AD Rules, unless the veracity of the same has been proven and the report or a summary of the same is shared with the other interested parties.
 - i. If the Authority decides to continue the existing anti-dumping duty pursuant to the sunset review investigation, the same rate of anti-dumping duty rate should be continued without any modification, in accordance with the past practice of the Authority.
 - j. The observations with regard to Market Economy Treatment of Hyosung may kindly be confirmed in the final findings. Further, in view of the negative injury margin, the nil duties may kindly be continued.
 - k. Normal value for all producers should be determined considering the data provided by each producer, as the present approach would imply that there was no purpose of Article 15(a)(ii).

- l. It should be clarified whether the normal value and export price for Jiangsu Hengli have been determined and compared on PCN-wise basis.
- m. Nil rate of anti-dumping duty cannot be granted to the new producer/exporter that participate for the first time in the sunset review investigation as per the consistent practice of the Authority.
- n. It appears that new producer/exporter has exported only small quantity to India during the POI of sunset review investigation. Thus, in accordance with consistent practice, the actual export price of such insignificant volume should not be considered as reliable and individual rate of anti-dumping duty is not granted to such producer/exporter.
- o. Jiangsu Taiji should be allowed an individual duty based on the dumping margin and injury margin determined the present review, and the existing duties should not be continued. The negative margins as per disclosure statement clearly show that there is no likelihood of dumping and injury as a result of its exports.
- p. Under the Anti-Dumping Rules, the Authority is duty-bound to recommend duty based on the present margins. In past cases as well, the Authority has been modifying the duties in the sunset review, based on the margins determined during the review.
- q. Zhejiang Unifull and Huzhou Unifull are related producers. During the period of investigation, only the goods produced by Zhejiang Unifull were exported. However, it is requested that the name of Huzhou Unifull may also be noted in the duty table, so that the parties may not be subjected to any undue hardship in case of future exports.
- r. Since there is no likelihood of dumping and injury on account of exports by Hengli, the duties for it are required to be discontinued.
- s. Majority (more than 75%) of imports entering into India are under advance license and continuation of anti-dumping duty will not impact these imports. Regular imports entering into India are insignificant. It cannot be considered that imports under advance authorization have increased, only because they are exempt from anti-dumping duty, since they such imports are permitted when obligation is undertaken to use imported input in exported product.
- t. Performance of the domestic industry has improved in terms of its volume and profitability parameters. This is reflective of absence of likelihood of injury because majority of imports into India during injury investigation period were not subject to anti-dumping duty.
- u. Post POI data shows that import volume and market share of imports have declined. Landed price of imports have increased and price undercutting is insignificant.
- v. Steep decline in profits in the post POI period cannot be due to imports because imports have reduced and landed value has increased.
- w. There is no information with regard to SRF Limited, which is one of the largest producers.
- x. The significant growth in the number of producers shows that there is no need for continuation of duty.

- y. The excess capacities or export orientation of Chinese producers and tariff increases by other jurisdictions cannot be construed as showing likelihood in the absence of any information regarding attractiveness of the Indian market.
- z. If country wide analysis of likelihood of injury is conducted to recommend continuation of anti-dumping duty on imports from China, then the Authority cannot rely on individual dumping margin and/or injury margin for the producers/exporters in the sunset review. The producer/exporter having higher idle capacity, capacity expansion plans and higher incidence of third country dumping and consequently responsible for determination of country wide likelihood of dumping and injury, may benefit from lower anti-dumping duty if the individual dumping margin or injury margin determined for such producer/exporter during the sunset review investigation is lower.
 - aa. The injury, if any, to the domestic industry is on account of inter se competition in the domestic market, imports from Taiwan and Vietnam, decline in exports and imports under advance authorization.
 - bb. A rate of 22% should not be considered for the determination of non-injurious price, as it allows undue protection to the domestic industry. This is evident from the decision of the Tribunal in the case of Bridge Stone Tyre Manufacturing & others vs. Designated Authority and the decision of the European Courts in the case of European Fertilizer Manufacturer's Association (EFMA) v Council.

M.2. Submissions by Domestic Industry

170. The domestic industry has largely reiterated their submissions made during the course of investigation with regard to injury and likelihood of continuation of dumping and injury, causal link and Indian industry's interest. The following submissions have been made by the domestic industry post issuance of the disclosure statement:
- a. Modification of duty should not be allowed in a sunset review and any new producer should be asked to file an application for new shipper review, in accordance with past practice.
 - b. Jiangsu Taiji Industry New Materials Co., Ltd has exported High Modulus Low Shrinkage (HMLS) Yarn, which does not fall within product scope. Thus, no duty can be allowed to the exporter.
 - c. There is no requirement to establish causal link between likely dumping and likely injury.
 - d. The imports from other countries have not caused injury to the domestic industry during the present period of investigation.
 - e. The likelihood of dumping and injury is also evident from the fragile situation of the domestic industry, impact of imports under advance authorization and from exempt producers, importance of India as a market, likely price suppression or depression in the event of expiry of duty, etc.
 - f. The continuation of duty would be in public interest.

M.3. Examination by the Authority

171. The Authority has examined the post disclosure submissions made by the interested parties and notes that most of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the final findings. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority are however examined below.
172. Some of the interested parties have reiterated their claim that the scope of the present review cannot be enlarged to include the product under investigation. The interested parties rely on the fact that the initiation notification does not link the anti-circumvention investigation to the present review, and the Ministry of Finance may not notify the recommendations of the anti-circumvention investigation. The Authority notes that the contentions of the interested parties are contrary to the past practice. The Authority is not expanding the scope of the product under consideration pursuant to the present sunset review. Once the Authority has found it appropriate to recommend extension of anti-dumping duty to a circumventing product, pursuant to anti-circumvention investigation, any subsequent sunset review finding should also extend anti-dumping duty on such circumventing product. Further, once the Authority has found that the duty has been circumvented, the finding should hold the grounds till such time the Authority conducts a review under the provisions of circumvention law. Further, once the Authority has already conducted anti circumvention investigation and held that circumvention of duty is happening, the Authority is not required to again investigate whether circumvention of duty is occurring in a sunset review.
173. Some interested parties have claimed that since Rule 5 is not applicable in sunset review, SRF Limited cannot be excluded from examination. The Authority notes that the Authority may exclude any producer that is importing the product under consideration under the provisions of Rule 2(b), which are applicable to a sunset review.
174. Regarding the contention that imports by SRF Limited (***) in relation to their product, share of applicant, production of other producers, PCN-wise details of the domestic industry, etc. should have been disclosed, the Authority notes that such information would result in disclosure of business proprietary information of individual producers. Thus, such information has been treated as confidential in accordance with Rule 7 of the AD Rules.
175. The application proforma requires the applicant to disclose information with regard to relationship with “exporter or importer of the alleged dumped article”. In view of the same, the Authority does not find any merit in the contention that the applicant failed to provide relevant information as it did not disclose the relationship to producer / exporter in non-subject countries.
176. With regard to the claims that the non-confidential version of the application was not appropriate, the Authority has examined the confidentiality claimed and found it

appropriate to accept the claims. While the interested parties have claimed that the non-confidential version is not a replica of the confidential version, no difference between the two have been alleged. Insofar as individual production of domestic producers and PCN-wise details of the domestic industry is concerned, the Authority finds that such information is business proprietary information of individual companies, and thus, has found it appropriate to accept the confidentiality claimed.

177. The interested parties have reiterated their contention that the PCI Wood Mackenzie report cannot be relied upon in view of the decision of the Tribunal in the case of All India Laminated Fabrics Manufactures Association vs Designated Authority. The Authority notes that the facts of the two case cannot be compared, inasmuch as the applicant had disclosed in the application itself that it has relied upon the PCI Wood Mackenzie report. No evidence or information was provided by the other interested parties subsequently to suggest that the information provided by the applicant was not reliable. Further, contrary to the contention of the interested parties, adequate summary of the information relied upon in the report was provided to the other interested parties. None of the interested parties has provided any evidence to suggest that the figures of capacity, production and demand as per the PCI Wood Mackenzie report is not reliable.
178. A number of interested parties have contended that the same rate of duty should be continued, while others have claimed that the duty should be re-quantified. The Authority notes that the present case is not that of continued injury to the domestic industry, though the circumvention of duty undermined the remedial effects of the duty in force. Therefore, since the Authority has concluded likelihood of continuation of dumping, and recurrence of injury to the domestic industry, it is appropriate to recommend extension of the same duty.
179. Some interested parties have contended that the normal value should have been determined based on the costs and prices of China PR. The Authority notes that it has considered China PR to be a non-market economy in all recent investigations, relying on provisions of Article 15(a)(i) of the Accession Protocol, read with Article 2.2.1.1 of the WTO AD Agreement. The Authority had notified the claim of the applicant that China PR be considered as a non-market economy at the stage of initiation itself, allowing all parties a chance to rebut the claim. However, barring Hyosung, none of the producers have opted to claim Market Economy Treatment by providing the relevant information.
180. It is clarified that the dumping margin and injury margin for Jiangsu Hengli, as also for all other producers, have been determined on PCN-wise basis.
181. With regard to dumping margin for Jiangsu Taiji, the matter has been examined. The Authority notes that the producer has exported only High Modulus Low Shrinkage (HMLS) Yarn during the period of investigation. The producer had treated such product as product under consideration, relying on the PCN methodology adopted. However, the Authority had notified the PCN methodology, as was adopted in the original

investigation. The Authority notes that, in the original investigation, HMLS Yarn was included in the product scope at the stage of initiation. However, after conducting detailed investigation, the Authority excluded such yarn from the scope of the product under consideration as under.

“19. Regarding the claim for the exclusion of yarns having HMLS properties, it is noted that HMLS yarn is a yarn having dimensional stability without elongation or stretching under pressure and without shrinking despite heat application. We note that the testing criterion for HMLS yarn, in terms of the PCN classification issued, was determined to be its “dimensional stability index” below 10. The Dimensional Stability Index is measured as the sum of elongation at 4Cn/dtex (tested as per ASTM D885) and hot air shrinkage at 177°C for 2 minutes at 0.05Cn/dtex end load (tested as per ASTM D4974). HMLS yarn is used in products such as tire cords (as reinforcement inside tyres used in passenger cars and light commercial vehicles.), conveyors and v-belts for the mechanical rubber goods industry.

20. Upon receipt of PCN wise information from the exporters and the domestic industry, it was observed that RIL has not produced the HMLS yarn during the POI. Even though SRF has produced HMLS yarn during the POI, it has only commercially sold less than 2% of its HMLS yarn production. Thus, inclusion of HMLS yarn within the scope of PUC and the current investigation would not be appropriate. Accordingly, the Authority has excluded yarns having HMLS properties from the scope of PUC for the present investigation.”

Thus, it is evident that HMLS Yarn does not form part of the product scope. In view of the same, no individual dumping margin/injury margin and duty can be conferred to Jiangsu Taiji on the basis of exports of such HMLS yarn.

182. The Authority has found it appropriate to accept the request of Unifull to include both Zhejiang Unifull and Huzhou Unifull as producers in the duty table below.
183. Jiangsu Hengli has reiterated its claim that there is no likelihood of dumping and injury as a result of its exports, and thus, the duty applicable to it should be discontinued. The Authority notes that the dumping margin and injury margin for the exporter are not only positive but also significant. In view of the same, it cannot be concluded that there is no likelihood of dumping and injury on account of its exports.
184. Regarding the contention that significant volume of imports has been made under advance authorization, the Authority has consistently held that duty free imports act as a benchmark for the duty paid imports, the only difference between the two being amount of customs duty. Further, the Authority has determined price undercutting after adding notional customs duty even on duty free imports. It is seen that in the absence of ADD, the price of such dutiable imports would be lower than the selling price of the domestic

industry, causing price undercutting to the domestic industry in the event of cessation of ADD.

185. Regarding the claim that excess capacities or export orientation of Chinese producers and tariff increases by other jurisdictions are not determinative, in the absence of information concerning price attractiveness; the Authority notes that the responses filed by the producers reveal that India is a price attractive market. The same has already been examined in the relevant portion of the present findings.
186. Certain interested parties have expressed concern that individual margins in the review should not be relied upon, since the Authority has conducted a country-wide analysis of likelihood. Since the Authority has found it appropriate to recommend the continuation of existing anti-dumping duty, the concern of the interested parties is already addressed.
187. As regards the claim that the Authority should not consider a return of 22%, the Authority notes that no evidence has provided by the interested party to demonstrate that the return considered allows inordinately high protection, or that a different return is justified. The Authority has considered the return of 22% in accordance with its consistent practice.

N. CONCLUSIONS

188. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority, as recorded in the above findings, and on the basis of above analysis of the likelihood of continuation or recurrence of dumping and injury to the domestic industry, the Authority concludes as follows:
 - a) The product under consideration is “High Tenacity Polyester Yarn” also known as Polyester Industrial Yam (PIY) or Industrial Yam (IDY) in the market parlance. The product scope excludes yams having denier below 1000, denier above 6000, twisted yarns, colored yarns, adhesive activated yarns with denier higher than 1000 and yarns with HMLS properties.
 - b) The volume of imports made without payment of anti-dumping duty and by altering product description is quite significant and clearly establishes the likely behavior of the Chinese producers in the event of cessation of anti-dumping duty.
 - c) The product produced by the domestic industry is like article to the product imported from China.
 - d) The applicant constitutes domestic industry within the meaning of Rule 2(b). Further, the request for extension of anti-dumping duty was supported by Wellknown Polyesters Limited, Sanathan Textiles Private Limited and Fairdeal Jumbo Packaging Private Limited. SRF Ltd. has imported significant volumes of the product under consideration as well as the circumventing product.
 - e) The application contained all the information relevant for the purpose of initiation of the sunset review and the application contained sufficient evidence to justify

- initiation of the present sunset review. Further, the applicant provided all information considered relevant and necessary by the Authority for the purpose of the present investigation.
- f) Based on the information on record, the normal value, export price and the dumping margin for the subject goods have been determined. The dumping margin determined for substantial volume of exports from the subject country remains above *de-minimis*.
 - g) The volume of dumped imports has increased. Further, imports of the circumventing products have also increased significantly. Gross volume of dumped imports of the product including circumventing products has shown significant increase. This is despite significant increase in capacities in India. The current combined capacities for the product in the country exceed the current demand for the product in the country.
 - h) The imports are undercutting the prices of the domestic industry. The extent of price undercutting is quite significant.
 - i) The performance of the domestic industry has improved in terms of various economic parameters. However, the market share of the domestic industry has declined. Further, in the period of investigation, the profitability of the domestic industry improved because of reduction in conversion costs also.
 - j) The domestic industry has not suffered material injury during the present period of investigation in as much as it has not suffered deterioration in its performance. However, the circumvention of duty has undermined the remedial effects of the duty.
 - k) There is a likelihood of recurrence of injury in the event of cessation of anti-dumping duty, as established by the following factors.
 - i. The dumping of the subject goods has continued despite the anti-dumping duties being in force.
 - ii. The volume of imports has also remained significant and in fact increased, in absolute and relative terms.
 - iii. The market share of the subject imports has increased significantly and that of the domestic industry declined.
 - iv. The imports of the circumventing product have increased over the period. After conducting elaborate investigations, the Authority has recommended extension of the duties to the imports of the circumventing product.
 - v. There exist significant surplus capacities for the product in China, and the surplus unutilized capacities are far in excess of the Indian domestic demand.
 - vi. The producers in the subject country are holding significant inventories, higher than the demand in India.
 - vii. The producers in the subject country are not only dumping in India, but are also exporting the subject goods to third countries at prices that are dumped and injurious, compared to the normal value and non-injurious price.
 - viii. India is a price attractive lucrative market for the Chinese producers.
 - ix. The post POI information shows that the performance of the domestic industry has declined and it has suffered financial losses.

- l) In view of the foregoing, in the event of expiry of the existing anti-dumping duty, there is every likelihood that the imports of the subject goods from China would increase at dumped and injurious prices.
- m) The investigation had not brought to light any considerations demonstrating that such continuation of anti-dumping duty would not be in the public interest.

189. In view of the above the Authority concludes that there is a clear likelihood of dumping and consequent 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.

O. RECOMMENDATIONS

190. 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.

191. 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 continuation of the existing anti-dumping duties on the imports of the subject goods from the subject country. Accordingly, the anti-dumping duty for producers from China PR are recommended as per duty table below.

192. 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 8 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

Sl. No.	Heading	Description	Country of Origin	Country of Export	Producer	Amount of duty	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

1	5402.20 90	High tenacity polyester yarns*	China PR	China PR	Hyosung Chemical Fiber (Jiaying) Co., Ltd.	Nil	MT	USD
2	-do-	-do-	China PR	China PR	Zhejiang Guxiandao Polyester Dope Dyed Yarn Co., Ltd.	174	MT	USD
3	-do-	-do-	China PR	China PR	Jiangsu Hengli Chemical Fibre Co., Ltd.	234	MT	USD
4	-do-	-do-	China PR	China PR	Zhejiang Unifull Industrial Fibre Co., Ltd.	316	MT	USD
5	-do-	-do-	China PR	China PR	Huzhou Unifull Industrial Fibre Co., Ltd.	316	MT	USD
6	-do-	-do-	China PR	China PR	Oriental Industries (Suzhou) Ltd.	Nil	MT	USD
7	-do-	-do-	China PR	Any country including China PR	Any combination other than S. No. 1 to 6	528	MT	USD
8	-do-	-do-	Any country other than China PR	China PR	Any	528	MT	USD

* High Tenacity Polyester Yarn also known as Polyester Industrial Yam (PIY) or Industrial Yam (IDY) in the market parlance, excluding

a. yarns having denier below 1000,

b. yarns having denier above 6000,

c. twisted yarns,

d. colored yarns,

e. adhesive activated yarns with denier higher than 1000 and

f. yarns with HMLS properties

193. Further having regard to the Final findings notified by the Authority vide Notification No. 7/9/2022-DGTR, dated 31st March 2023 recommending extension of existing

antidumping duty on imports of the following product under investigation originating in or exported from China PR, the Authority considers that the anti-dumping duty is required to be extended to imports of the following product under investigation:

- i. High tenacity polyester yarns of less than 1000 denier, but more than 840 deniers, both adhesive activated and others (PUI I). However, yarn of 840 deniers and below, when imported within permissible tolerance of 2.4% is specifically excluded from the product scope.
- ii. High tenacity polyester yarns of more than 6000 denier, but less than 7000 denier (PUI II). However, yarn of 7000 deniers, when imported within permissible tolerance of 2.4%, is specifically excluded from the product scope.
- iii. Adhesive activated high tenacity polyester yarns of more than 1 000 denier, but less than 1300 denier (PUI III). However, yarn of 1300 deniers, when imported within permissible tolerance of 2.4%, is specifically excluded from the product scope.

P. FURTHER PROCEDURE

194. An appeal against the determination/review of the Designated Authority in this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.


(Anant Swarup)
Designated Authority