

**Government of India**  
**Ministry of Commerce & Industry**  
**Department of Commerce**  
**Directorate General of Anti Dumping and Allied Duties**

**NOTIFICATION**

New Delhi 5<sup>th</sup> August 2009

**Preliminary findings**

**Subject: Anti-dumping Investigation concerning import of 'Viscose Staple Fibre excluding Bamboo fibre' originating in or exported from China PR and Indonesia-Preliminary findings**

No. 14/6/2009-DGAD – Having regard to Customs Tariff Act 1975 as amended from time to time (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

**A . PROCEDURE**

2. The procedure described below has been followed.
  - i. The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written application from Association of Man Made Fibre Industry of India (AMFII) on behalf of the domestic industry, alleging dumping of 'Viscose Staple Fibre excluding Bamboo fibre' (hereinafter also referred to as the subject goods); originating in or exported from China PR and Indonesia (hereinafter referred to as subject countries).
  - ii. Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the Applicant. The application was, therefore, considered as properly documented.
  - iii. The Authority on the basis of sufficient evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject countries. The Authority notified the Embassies of the

subject countries in India about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.

- iv. The Authority issued a public notice dated 19th March 2009 published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.
- v. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicant) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
- vi. The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.
- vii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of the subject goods made in India during the past three years and the period of investigation. The information received from DGCI&S was analyzed and the same was compared with the information received from the respondents from Indonesia. It was found that the respondents have reported higher volumes of exports of subject goods to India during the POI. Thus, the imports data has been compiled and collated on the basis of DGCI&S data and the information received from the respondents from Indonesia.
- viii. The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassies of the subject countries in India in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.
- ix. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4) of the AD Rules:
  - P.T.South Pacific Viscose
  - Hebei Jigao Chemical Fiber Co.,Ltd

- Kunshan Hengsheng Chemical Fiber Co
- Zibo Hualong Chemical Fiber Co., Ltd.
- Hubei Chemical Fiber Group Ltd.,
- Gaomi Silver Hawk Chemical Fibre Co. Ltd
- Sateri(Jiangxi)Chemical Fiber Co., Ltd
- Fulida Group Holding Co.,Ltd
- Manasi Aoyang Technical Co.,Ltd
- Yibin Grace Group Co.,Ltd
- PT. Indo Bharat Rayon

x. In response to the initiation notification, the following exporters / producers from Indonesia have responded:

- M/s PT Indo Bharat Rayon
- M/s PT South Pacific Viscose

xi. Neither the producers and exporter from China PR have responded, nor have they filed any relevant information and made any submission.

xii. Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

<ul style="list-style-type: none"> <li>• Pallava Textiles</li> <li>• Cheran Spintex (I) Ltd.,</li> <li>• Pallipalayam Spinners,</li> <li>• Shri Cheran Syn. India Ltd.</li> <li>• Keshar Multiyarn Mill Ltd.</li> <li>• Soundararaja Mills Ltd.,</li> <li>• Ginni Filaments Ltd.</li> <li>• PKPN Spinning Mills (P) Ltd.</li> </ul>	<ul style="list-style-type: none"> <li>• RSWM Ltd.</li> <li>• Reliance Chemotex Ind Ltd,</li> <li>• Shree Rajasthan Syntex</li> <li>• Pallipalayam Spinners,</li> <li>• Rajaguru Spinning Mills,</li> <li>• Deepak Spinners Ltd,</li> <li>• Ankur Ugyog,Chola Spg Mills</li> <li>• PKPN Spinning Mills (P) Ltd –</li> </ul>
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- Adani Enterprises Ltd.
- Rajapalayam Mills Ltd.
- Sutlet Inds. Ltd.
- Pallava Textiles
- Zenith Spinners,
- Cheran Spintex (I) Ltd.,
- Pee Vee Textiles,
- Birla Textiles Mills,
- AGT Mills P. Ltd.
- Mothi Spinner Ltd,
- Orient Syntex,
- SMP Textile Mills (P) Ltd.
- Keshar Multiyarn Mill Ltd.
- Keshar Multiyarn Mill Ltd.
- Sarmangal Synthetics,
- Shree Rajasthan Syntex Ltd,
- Maharaja Sathayam Ind. Pvt.
- SMP Textile Mills (P) Ltd.
- Nahar Spinning
- Chola Spinning Mills P Ltd,
- PKPN Spinning Mills (P) Ltd
- Sri Karthikeya Spg & Wvg Mills,
- KRV Spinning Mills P. Ltd.
- Velatal Spinninh Mills P Ltd,
- Sree Dinakar Fabrics

- Gimatex Industries Pvt. Ltd.,
- Sri Bhagirath Textiles Ltd,
- Soundararaja Mills Ltd.,
- Suryalata Spinning Mills
- Gillanders Arbuthnot & Co.
- Victory Spg. Mills,
- Arunkumar Spinning Mills P.,
- RSWM Ltd
- Cheran Spinner Ltd
- Shree Bharani Spinning
- Sutlet Inds. Ltd.
- Rajaguru Spinning Mills,
- Pallava Textiles
- Sidharth Exports Pvt. Ltd.,
- Choleeswarar Spinning Mills,
- Soundararaja Mills Ltd., \
- Sree Karpagambal Mills
- Sri Hariprasath Textiles
- Vardhman Textile Ltd.
- Sri Nallathal Spinning Mills
- Mothi Spinner Ltd,
- Supertex Mills India Pvt. Ltd.,
- GVS Spinners,
- Nru Spinning Mills
- Saraf Yarn Pvt.Ltd

<ul style="list-style-type: none"> <li>• Arcot Textile Mill Ltd</li> <li>• Valli Spg Mills</li> <li>• Banswara Syntex Ltd,</li> </ul>	<ul style="list-style-type: none"> <li>• Sangam Spinners Ltd.</li> <li>• Chenab Textile Mills ,</li> <li>• Spentex Industries Ltd</li> <li>• Suryalata Spinning Mills</li> </ul>
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xiii. In response thereof, following have responded:

- Indian Spinners Association – Mumbai
- Shree Rajasthan Syntex Ltd
- Suryalata Spinning Mills Ltd
- Spentex Industries Ltd
- Pee Vee Textiles Ltd
- Shree Cheran Synthetics India Ltd
- Pallava Textiles Ltd
- RSWM Ltd
- Pallipalayam Spinners Pvt Limited

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

xv. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

xvi. Investigation was carried out for period starting from 1st July 2008 to 31st Dec 2008 (POI). The examination of trends, in the context of injury analysis, covered the period from 2005-06, 2006-07, 2007-08, April 08-June 08 and POI.

xvii. \*\*\* in this notification represents information furnished by interested parties on confidential basis and so considered by the Authority under the AD Rules.

## **B. PRODUCT UNDER CONSIDERATION AND DOMESTIC LIKE ARTICLE**

3. The product under consideration is “**Viscose Staple Fibre (VSF) excluding Bamboo fibre**”. Viscose Staple Fibre is described as “Viscose rayon staple fibre not carded/combed” under the Customs Tariff and is also known as “Rayon Fibre” in some markets. The product under consideration is classified under Custom Headings 5504.10.00. The Customs classification is indicative only and is in no way binding on the scope of the present investigation.

3.1 Viscose Staple Fibre was the first man-made fibre, and unlike other man-made fibres, is not a synthetic fibre. It is made through wet spinning technology and is a regenerated cellulose fibre made from wood pulp, which is essentially cellulose extracted from a sustainable natural resource i.e. wood, by subjecting it to various chemical and mechanical processes. On account of its cellulosic base, viscose staple fibre properties are similar to those of natural cellulosic fibres than those of thermoplastic, petroleum based synthetic fibres such as nylon or polyester. Further, it has a distinct advantage of engineered specification and uniformity.

3.2 Viscose Staple Fibre has silk-like aesthetic with superb drape, soft feel and retains rich brilliant colours. Fabrics made from it are moisture absorbent (even more than cotton), breathable, comfortable to wear, and easily dye able in vivid colours. They do not build up static electricity, and are pill-resistant.

3.3 Main strength of VSF is its versatility and ability to blend easily with nearly all other textile fibres to impart lusture, softness, absorbency and resulting comfort to the fabric made from such blends. Bamboo fibre, one of the types of Viscose Staple Fibre is excluded from the scope of this investigation. In the initiation notification, Designated Authority has specifically requested the interested parties to make their submissions with regard to exclusion of Bamboo Fibre. None of the interested parties had made any submissions in this regard.

3.4 With regard to like article, Rule 2(d) of the AD rules provides as under:

"like article " means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation

3.5 The applicant has claimed that there is no known difference in subject goods produced by the domestic industry and exported from subject countries. Subject goods produced by domestic industry and imported from subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods. None of the opposing interested parties have raised any objection in this regard.

3.6 The available information at this stage does not show that there is any material difference in the domestic like article and imported subject goods. Thus, subject goods produced by the domestic industry is being treated as like article to the subject goods imported from subject countries in accordance with the AD rules for the purpose of the present investigation.

**C. SCOPE OF DOMESTIC INDUSTRY AND STANDING**

4. Rule 2 (b) of the AD rules defines domestic industry as under:

“Domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers may be deemed not to form part of domestic industry:

4.1 The application has been filed by Association of Man Made Fibre Industry of India on behalf of the domestic industry. M/s Grasim Industries Ltd. is the sole producer of the Like Article in India and has provided injury and costing information. The applicant has claimed that there is no other producer of the Like Article in India. As per the evidence available on record, production of M/s Grasim Industries Ltd. accounts for a major proportion of the domestic production. The production of M/s Grasim Industries Ltd. is more than 50% of Indian production.

4.2 M/s Grasim Industries Ltd. has affiliated companies in Indonesia and China PR producing & selling the product, namely Birla Jingwai Fibres Company Limited, China and PT Indo Bharat Rayon, Indonesia. The Chinese affiliated company has not exported the product to India, whereas the Indonesian Company has exported small quantity to India, which is less than 3% of imports and negligible with reference to Indian production. Since the volume of these imports are quite small, the Authority considers it appropriate to hold that the Applicant is not required to be excluded from the scope of the domestic industry under Rule 2(b). None of the opposing interested parties have raised any issue in this regard. M/s PT Indo Bharat Rayon – Indonesia have also filed their detailed response to the questionnaire sent.

4.3 Thus, the Authority has determined that the application satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. Further, M/s Grasim Industries Ltd. is being treated as ‘domestic industry’ within the meaning of Rule 2(b) of the AD Rules.

## **D. OTHER ISSUES**

5. Following submissions have been made by Indian Spinners Association:

- They have objected to the data collected by domestic industry from secondary source. They consider that it was bounden responsibility of the Applicant to give official data. Since data given by the Applicant is not official, conclusion reached by the applicant is wrong.
- Due to recession conditions, consumption of fabric has been greatly affected all over the world and it has impacted prices of not only fabrics but also yarn and fibre including viscose staple fibre
- The Applicant has always operated on full capacity except when there is water shortage at its NAGDA plant. But in 2008-09 because of recession, it has closed down its Kharach Plant and capacity utilization is also affected.
- Average CIF price of imports during the POI is higher than average CIF price of 2007-08.
- Basic problem with the domestic industry is continuous increase of capacity without taking into account changing of trends.
- The Applicant has vast resources and worldwide contacts, must be on front foot to help spinning industry.
- Applicant is the sole producer of product concerned in India. Imposition of anti dumping duty will create monopolistic situation in favour of Grasim and their group companies, which has large VSF capacities in other countries including Thailand.

### **5.1 Submissions made by P T South Pacific Viscose**

- Six month period of investigation is too short for assessment and analysis of dumping and injury to the domestic industry. Trade notice issued by the Designated Authority earlier also clearly mandates that the period of investigation should normally be twelve months.
- Product concern has dedicated customs code; therefore, consideration of secondary source as basis of imports is not justified.

- DGCI&S data shows much higher volumes compared to secondary source and at higher prices.
- There have been imports from other countries as per DGCI&S, however, Applicant claims that no imports have been made from other than subject countries.

## **5.2 Submissions by the Domestic industry**

- Period of investigation – The petition contains specific reasons for consideration of six months as the investigation period. It is not even the argument of interested parties that six months investigation period is impermissible. Even the trade notice uses the word “normally” and not “always”. Relevant extracts of decision of CESTAT in the matter of HAS have been enclosed, wherein the Tribunal has clearly held that there is no bar in consideration of six months as investigation period. As regards reasons for choosing six months period, the petition contains the same. The argument to such an extent is factually incorrect.
- The petitioner clearly mentioned that the information has been procured from TIPS. Such being the case, the argument that the source has not been mentioned is without basis. As regards use of DGCI&S data, the same could not have been adopted for the reason that the product under consideration does not have dedicated customs classification. The interested parties appear to have some misunderstanding that the product under consideration has dedicated customs classification. Further, transaction-by-transaction data can be available only after an application is filed before the Designated Authority. As regards comparison of DGCI&S data with petition data, since the product scope itself does not include all types of VSF, any comparison with the DGCI&S data is, at the least, misleading.
- Kharach plant of the company earlier had two production lines. Two more lines were added, which commenced production in March-April 2008 period. These capacity additions were based on the market feedback given by the consumers. In fact, the company had planned capacity expansion only upon feedback received from the customers that the product had good demand. However, because of dumping and adverse market situation, these two lines could not be fully utilized in the investigation period.

## **Examination by the Authority**

5.3 The Authority has noted the submissions made by the interested parties regarding period of investigation and is of the view that the period of investigation chosen in the instant matter has been appropriately chosen considering the facts of the case, which also covers the most recent available data on the subject. Besides, the decision to take six-months period as POI has also been upheld by the Hon'ble tribunal in the matter of Virchow laboratories ltd. v/s Ministry of Finance.

5.3.1 The Authority notes that product under consideration in the present investigation is Viscose staple fibre – except bamboo fibre. Customs classification for the product under consideration does not exclude bamboo fibre. Therefore, summary information published by the Applicant cannot be relied upon as it may include imports of product other than product under consideration. The domestic industry has furnished information as provided by TIPS, which was accepted at the time of initiating the investigation

5.3.2 The domestic industry has alleged that significant import volumes have been reported under customs subheading no. 5504 9090. The Authority requested the O/o DGCI&S for import information for custom classification nos. 55041000 and 55049090, which has been received and analysed. Accordingly imports volumes of the subject goods have been determined. A comparison of imports claimed by the Applicant as per TIPS data and as per DGCI&S data shows the following:

	TIPS data		DGCI&S data	
	Qty Kg	Rs./Kg	Qty Kg	Rs./Kg
China PR	907252	96.03	1023971	94.13
Indonesia	4533741	98.44	4689364	98.47

5.3.4 From the material available on record, it is seen that there are no imports of the subject goods from any other country except from the subject countries. The volume and price as per DGCI&S and TIPS are broadly comparable.

**E. DUMPING MARGIN**

6. The Authority sent the questionnaire to known exporters and producers of product under consideration in Indonesia and China PR. Only the following two producers from Indonesia have responded thereto and filed their responses.

- M/s PT Indo Bharat Rayon
- M/s PT South Pacific Viscose

**DETERMINATION OF NORMAL VALUE FOR COOPERATING EXPORTERS AND PRODUCERS FROM INDONESIA**

### **M/s P T SOUTH PACIFIC VISCOSE**

6.1 M/s. P T South Pacific Viscose from Indonesia has responded and provided information. Certain deficiencies were observed in the response filed and clarifications sought. The company has furnished information relating to domestic sales in Appendix 1 and exports to India in Appendix 2. The Company has furnished information relating to cost of production in Appendix 5, 6 to 8. A perusal of the data shows that the company's weighted average domestic sales price is lower than the weighted average domestic cost of production. The cost of production of the respondent has been compared with the transaction-wise domestic sales and it has been found that \*\*\*% of the domestic sales are profitable. Thus, the Normal value has been determined on the basis of profitable domestic sales. The adjustments claimed on account of commission, bank charges and credit cost are being provisionally allowed, subject to further investigation and spot verification. Thus, the Normal value is worked out as USD \*\*\* per KG.

### **M/s PT INDO BHARAT RAYON**

6.2 M/s. P T Indo Bharat Rayon from Indonesia has responded and provided information in the form and manner prescribed. The respondent has furnished information relating to domestic sales in Appendix 1. The respondent has furnished information relating to cost of production in Appendix 5 to 9. The Authority notes that the respondent has made profit on overall basis on its domestic sales. The cost of production of the respondent has been compared with the transaction-wise domestic sales and it has been found that \*\*\*% of the domestic sales are profitable. Thus, the Normal value has been determined on the basis of profitable domestic sales. The adjustments claimed on account of freight, insurance and credit cost are being provisionally allowed, subject to further investigation and spot verification. Thus, the Normal value is worked out as USD \*\*\* per KG.

### **Methodology: One normal value – country as a whole**

6.3 Normal value has been determined for Indonesia as a whole. For this purpose, the Normal values determined for cooperating exporters as discussed above and weight of their profitable sales in domestic market have been considered as shown in the table below:-

Name	M/s P T SOUTH PACIFIC VISCOSE	M/s PT INDO BHARAT RAYON	Weighted Average
Normal Value	***	***	***
Profitable Domestic Sales in KG	***	***	***

### **F EXPORT PRICE**

### **M/s P T SOUTH PACIFIC VISCOSE**

7.1 The information/data submitted by the respondent is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. The respondent has claimed adjustments on account of ocean transportation, credit costs and

bank charges; the same are provisionally accepted subject to further investigation and spot verification. Thus, the Authority has determined the export price for the exporter as USD \*\*\*per KG for the purposes of the preliminary findings.

### **M/s PT INDO BHARAT RAYON**

7.2 The information/data submitted by the respondent is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. The respondent has claimed adjustments on account of international freight, inland transportation, international insurance, internal insurance and other expenses; the same are provisionally accepted subject to further investigation and spot verification. Thus, the Authority has determined the export price for the exporter as USD \*\*\*per KG for the purposes of the preliminary findings.

### **DETERMINATION OF NORMAL VALUE & EXPORT PRICE FOR NON-COOPERATING EXPORTERS AND PRODUCERS FROM INDONESIA**

7.3 No other exporter and producer from Indonesia has responded to the Questionnaire. The Authority has determined their Normal value & Export price based on facts available on record.

### **DETERMINATION OF NORMAL VALUE FOR CHINA PR.**

7.4 The Authority sent questionnaire to the known exporters from China PR, advising them to provide information in the form and manner prescribed. However, no response has been received to the questionnaires from any of the Chinese producer/exporter.

7.5 Para 7 of Annexure I of the AD Rules provides that

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.

7.6 The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the AD Rules.

7.7 As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:-

- a) the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- d) the exchange rate conversions are carried out at the market rate.

7.8 The Authority notes that consequent upon the initiation notice issued by the Authority; none of the Chinese producers/exporters have submitted any response including the market economy questionnaire response and sought to rebut the non-market economy presumption. In the initiation notification itself, the Authority had indicated that the Applicant has suggested Indonesia as appropriate surrogate country. Interested parties were requested to make submissions in this regard. However, none of the exporter/producer from China PR has responded and made any submissions in this regard. The Authority has therefore considered Indonesia as appropriate surrogate country for China PR and determined Normal value in Indonesia as USD \*\*\*per KG. The Authority also constructed the Normal value for China PR but found that the Normal value based on Indonesia as appropriate surrogate country is lesser than the constructed Normal value and therefore the Authority has determined the Normal value for China PR based on Indonesia as the appropriate surrogate country for the purposes of the preliminary findings.

#### **DETERMINATION OF EXPORT PRICE FOR CHINA PR.**

8. As none of the producer/exporter from China PR has responded, the Authority has therefore, determined the Export price as per facts available on record. The Authority notes that Applicant has furnished transaction-wise information as per secondary sources. Subsequently, the Authority procured the imports data from DGCI&S. The Authority has therefore determined export price for all exporters/producers from China PR based on facts available on record. The Export price has been adjusted for ocean freight, marine insurance, commission, inland freight, port expenses and bank commission, as per information available on record. The Export price so determined works out to USD\*\*\*per KG.

**G. DETERMINATION OF DUMPING MARGIN**

9. Considering the Normal value and the Export price as determined above, the dumping margin works out as follows:

	Normal Value	Export Price	Dumping Margin	Dumping Margin %
<i>Indonesia</i>				
M/s PT South Pacific Viscose	***	***	***	6.30%
M/s PT Indo Bharat Rayon	***	***	***	11.26%
All Other except the two Companies mentioned above	***	***	***	54.91%
<i>China PR</i>	***	***	***	
All exporters and producers	***	***	***	14.16%

9.1 The Authority notes that dumping margins from China PR and Indonesia are more than the de-minimis limits prescribed.

**H. INJURY**

**Submissions by M/s PT South Pacific Viscose – Indonesia**

10. It has been contended by the M/s PT South Pacific Viscose that:

- There is decline in demand, which have affected the domestic industry; therefore, alleged dumped imports are not responsible for injury to the domestic industry.
- Price revision offered by the domestic industry has nothing to do with the alleged dumped imports from subject countries.
- Lower profitability of the domestic industry is mainly on account of increased input cost, lower volumes and weak margins. Interest and depreciation cost appears to be very high, which may be reason of lower profitability of domestic industry.
- Domestic industry, despite the restrained outlook, expended its capacity in March 2008. It is not possible for any industrial unit to achieve same level of capacity at very beginning of operations.
- Sales volume declined but not because of alleged dumping.
- Domestic industry is continuing with expansion project despite the alleged dumping of subject goods and the global recession. Therefore, there is no injury to the domestic industry so far investment and expansion program are concerned.
- No evidence is given with regard to threat of any material injury.
- Domestic industry follows a pricing policy through it gives a substantial rebate. Designated Authority should analyze the pricing policy before accepting any claim of injury to the domestic industry.
- Major imports from Indonesia are against advance license.
- There is no causal link between the alleged dumping and injury to the domestic industry.

- The petitioner is selling significant volumes in the domestic market on deemed exports basis on which significant discounts are being offered by the petitioners. These sales are not domestic sales and should be excluded from the domestic sales for the purpose of the present investigation.
- The company is offering significant discounts in sales in domestic market, which is evident from the price list of petitioners itself. Injury to the domestic industry, if any is on account of its own pricing policy and not due to alleged dumping.

### **Submissions by the domestic industry**

10.1 It has been contended by the domestic industry that:

- The performance of the domestic industry in respect of most of the parameters was improving till 2007-08. However, the performance deteriorated in terms of domestic sales, production, capacity utilization, productivity, inventories, market share, profits, return on investments, cash flow, etc. Performance of the domestic industry in respect of some of the more critical parameters started dramatically deteriorating in POI, which position worsened at the end of POI.
- The current price offers coupled with huge unutilized capacities with the Foreign Producers is threatening further deterioration in performance. The domestic industry has suffered injury as a result of dumping.
- The rate of increase of dumped imports is significant, indicating the likelihood of substantially increased importation;
- Significant price difference and consequent potential increase in imports is having significant depressing effect on domestic prices;
- The Foreign Producers and Indian Producers are resorting to production cuts. Subject exporters are holding significant freely disposable capacity 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.

- The present offers being made by the Foreign Producers mean unprecedented price reductions. These price reductions are an outcome of huge surpluses with them. Should the domestic industry match the prices being offered by the Chinese producers, it would lead to huge financial losses. Should the domestic industry prefer not to reduce the prices, it would mean a still higher disaster in terms of reduction of sales, followed by reduction of production -- increase in cost of production - increase in Financial losses.
- Price revisions and reductions –the pricing policy clearly establishes that the company fixes its price primarily based on landed price of imports. As regards letter to shareholders in the annual report for the year 2007-08, the investigation period in the present case is July-Dec.08 (and not 2007-08). Reference to annual report is highly misplaced.
- Profitability – The interested parties concede that lowering of profitability is due to “increasing input cost”, “lower volume” and “weak margin” – all of which are linked to dumped imports. While inability to pass on increasing input costs is reflective of adverse price effect, weak margin is another factor reflective of price suppression caused by imports. As regards lower volumes, while the decline in demand has already impacted in terms of lowering of sales, the increased imports have further compounded the injury of the domestic industry. As regards higher interest and appreciation compounded, reference is invited to the decision of the CESTAT in the matter of NBR, wherein it has been held that the domestic industry must be seen as it exists and not under ideal conditions. Indeed annual report for 2007-08 clearly refers to increasing input costs and softening VSF prices. Given the pricing policy of the company, it is evident that softening VSF price is because of softening of import prices. The Q2 and Q3 FI 2008-09 presentations clearly highlight inability of the company to pass on the cost increases to the customers.
- Capacity, production and capacity utilization – Capacity expansions are undertaken based on medium and long-term business outlook and not based on short-term adverse business situations created due to dumping. Before undertaking capacity expansion, the company took feedback from the consumers. The capacity additions were done by the company considering market analysis/ feedback from customers. In fact, the company has not even fully expanded to the extent the consumers had suggested the market demand. Such being the case, it is incorrect on the part of these consumers now to

allege that the company has expanded beyond capacity. It would also be relevant to point out that the expanded capacity commenced commercial production from March-Apr., 2008. The profitability of the company was much better in the period April-June, 2008. The alleged impact of interest & depreciation must have been felt in this period as well.

- Threat of injury – The current capacity with the foreign producers and their domestic demand can be seen in the responses on record. It would be seen that the foreign producers are faced with significant surplus capacities. The Applicant has earlier provided copy of offer in the petition. In any case, the orders placed at these offers have landed in the Country. The Designated Authority may therefore kindly examine the questionnaire responses of the responding exporters.
- Imports under Advance license - By their own admission, not all imports made by the exporter were under advance license. Based on this, there is no justification for exclusion of these imports from the calculation of demand. Furthermore, the domestic industry competes with these imports by offering rebates to the consumers. Thus, the consumer has an option of buying imported material under advance license or buying from the domestic industry and selling the same in export market. In order to compete with these advance license imports, the domestic industry is offering a rebate. Therefore – (a) imports under advance license cannot be excluded for the purpose of assessment of demand and market share and; (b) since imports have generally been made under advance license, customs duty should not be added while determining price undercutting. Comparison of notional customs duty added landed price of import with rebated selling price of domestic industry (wherein rebates have been granted to compensate for customs duty benefits), at the least, would be highly misleading.
- Causal link – The undisputed facts that (a) domestic industry follows a pricing policy wherein the prices are determined based on import prices; and (b) the domestic industry has been forced to resort to price reductions, that too frequently than normal, alone establishes causal link between dumping and injury.
- Inventories of the product under consideration with the domestic industry are alarmingly high. There is decline in export price from subject countries as is evident from the followings:

### **Export Price USD per KG**

	July 2008	Aug 2008	Sept 2008	Oct 2008	Nov 2008	Dec 2008
<b>China PR</b>	2.02	2.02	2.10	2.28	2.09	1.78
<b>Indonesia</b>	2.28	2.17	2.17	2.18	2.24	2.05

- Further, the domestic industry has collected transaction wise information of imports in post POI (table below). It may be seen that there is further decline in prices from subject countries.

Jan-Mar 09	USD KG
China PR	1.57
Indonesia	1.79

- There is further decline in export price from subject countries in post POI. In fact, these are the orders booked at the end of POI and must therefore have been included in the questionnaire responses of the responding exporters.
- Increase in export price between 2007-08 and POI –there was increase in the raw material cost in POI over 2007-08, as would be seen from the table below. This led to increase in the export price.

Rs./kg	2007-08	POI	Change
Raw material	***	***	12.6
Import price			
China PR	107.09	94.13	-12.96
Indonesia	94.55	98.47	3.92

It would be seen that whereas raw material cost in POI increased by 23.48%, export price from China declined by 12.10%, which the same increased by just 4.14% in case of Indonesia.

- Requirement of causal link under the Rules – the interested parties seems to have been interpreting the Rules to mean that the sole cause of injury must be dumped imports. This is not, however, the requirement. Under the Rules, one of the principal causes of injury must be dumped imports. The fact that the domestic industry prices its product based on import prices and the fact that the domestic industry has been forced to resort to price revisions downwards, that too more frequently than the normal itself establishes that dumped imports are causing injury to the domestic industry.

10.2 Regarding issue related to deemed exports sales and significant discount offered by the domestic industry on such sales, domestic industry has stated as under:

- The domestic industry follows a well laid down pricing policy. The domestic industry declares and sells the product as per “price list”. The prices are not negotiated for each sale transaction. The domestic industry does not follow a system of responding to trade enquiries, giving quotations, price negotiations, procurement and execution of order. The domestic industry declares a “price list” and thereafter sells the material on the basis of declared price list. Barring exceptional circumstances, all sales made by the company are as per the price list with little or no discretion to the operating level of marketing executives to modify the prices.
- The domestic industry’s list price must be used for comparison of imported product price with the domestic industry price. In a situation where the company sells material to different customers at different prices, negotiating prices each time, which vary from customer to customer, it might be relevant and appropriate to determine weighted average selling price for the quantities sold over the relevant period. However, in a situation where the company sells its product at pre-determined, declared public price lists and where such price lists are declared after considering international prices, the price comparison between the imported and domestic product must be carried out on the basis of such price lists. Domestic industry reiterates that the selling prices do not vary with customers and therefore there is no necessity of determining weighted average selling price of the quantities sold in a particular period.
- The price is fixed in a scientific and transparent manner. The basis of fixation of price is the prevailing international price. Considering prevailing international prices and various

factors, which must be accounted for the differences which exists in different countries (such as exchange rate, customs duties etc), the company decides its basic price.

- The company has termed certain category of sales as “deemed exports”. They have no disagreement with the opposing interested parties that deemed exports should not form part of domestic sales. However, merely because the company has designated certain sales as deemed exports, these would not become deemed exports.
- Deemed exports have been defined under the Foreign Trade Policy. Essential ingredients of deemed export sales are the following:

“Following categories of supply of goods by main / sub-contractors are regarded as “Deemed Exports” under FTP, provided goods are manufactured in India:

- (a) Supply of goods against Advance Authorisation / Advance Authorisation for annual requirement / DFIA;
- (b) Supply of goods to EOUs or STPs or EHTPs or BTPs;
- (c) Supply of capital goods to holders of Authorisations under EPCG Scheme;
- (d) Supply of goods to projects financed by multilateral or bilateral agencies / Funds as notified by Department of Economic Affairs (DEA), MoF under International Competitive Bidding (ICB) in accordance with procedures of those agencies / Funds, where legal agreements provide for tender evaluation without including customs duty;
- (e) Supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral agencies / Funds as notified by DEA, MoF under ICB, in accordance with procedures of those agencies / Funds, which bids may have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad;
- (f) Supply of capital goods, including in unassembled/ disassembled condition, as well as plants, machinery, accessories, tools, dies and such goods which are used for installation purposes till stage of commercial production, and spares to extent of 10% of FOR value to fertilizer plants;

(g) Supply of goods to any project or purpose in respect of which the MoF, by a notification, permits import of such goods at zero customs duty;

(h) Supply of goods to power projects and refineries not covered in (f) above;

(i) Supply of marine freight containers by 100% EOU (Domestic freight containers-manufacturers) provided said containers are exported out of India within 6 months or such further period as permitted by customs;

(j) Supply to projects funded by UN agencies; and

(k) Supply of goods to nuclear power projects through competitive bidding as opposed to ICB.”

- Since the Govt. of India considers deemed export sales as export sales and further since the injury assessment must be made for domestic sales, the opposing interested parties have rightly claimed that deemed export sales should not be included in the domestic sales.
- The domestic sales made by the domestic industry do not qualify as deemed export sales, even though it is using the terminology deemed exports in the market place. In fact, the consumer claims export benefits on the exports they make and the domestic industry uses the nomenclature “deemed export” simply for the reason that the fibre has been consumed in a product, which has been exported. However, all export benefits have been taken by the consumers and not by the domestic industry. If these were deemed exports sales, the domestic industry would have been entitled for various benefits granted under Foreign Trade Policy.
- It is therefore submitted that these sales are not deemed export sales as understood by opposing interested parties but domestic sales only. Therefore, the sales have been rightly included under the head “domestic sales”.

## **I. Examination by the Authority**

11. The Authority has taken note of submissions made by the interested parties; including the domestic industry’s contention that since no benefit has been obtained by them under the foreign trade policy for the so-called “deemed exports”, such sales should be treated as domestic sales. However, these claims and counter claims would be cross-checked during the course of further investigation and spot verification.

11.1 The Authority has taken on board various submissions made by the interested parties and have undertaken the injury analysis as under:

11.2 Annexure II of AD Rules provides for objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in domestic market, for the like articles; and (b) the consequent impact on domestic producers of such products. While examining the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports either in absolute term or relative to production or consumption in India. With regard to price effect of dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

11.3 As regards the impact of dumped imports on the domestic industry, para (iv) of Annexure-II of AD Rules states as follows.

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

11.4 The Authority has examined the injury parameters objectively taking into account the facts and arguments of the interested parties.

### **Cumulative assessment**

12. Since countries involved in the present investigation are more than one, the Authority has examined whether conditions for cumulative assessment are prima facie satisfied. The Authority observes that:

- i. The margins of dumping from each of the subject countries are more than the limits prescribed;
- ii. The volume of imports from each of the subject countries is more than the limits prescribed;
- iii. Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like articles

offered by the domestic industry in the Indian market. This is evident from the fact that the domestic product and imported product are like Article; imports from each of the subject countries are significant; goods produced by the Indian Producers and imported from subject countries are in direct competition; common parties are resorting to use of imported material and domestic material; Indian Producers'/customers are using domestic material and imported material; the exporters from the subject countries and the applicant have sold the same product in the same periods to the same set of customers, etc.

12.1 In view of the above, the Authority considers it would be appropriate to assess injury to the domestic industry cumulatively from the subject countries.

**Demand and market share:-**

13. Demand of the product in the Country has been assessed as the sum of domestic sales of the domestic producers and imports from all sources.

	2005-06	2006-07	2007-08	April- June 08	POI	April-June 08 - Annualized	POI - Annualized
Sales of domestic industry in MT	223,147	226,178	237,640	49,784	100,925	199,136	201,850
Indexed	100	101	106	89	90	89	90
Imports in India in MT	198	6,774	6,842	1,890	6,329	7,560	12,658
Indexed	100	3,415	3,450	3,812	6,382	3,812	6,382
Demand in MT	223,345	232,952	244,482	51,674	107,254	206,696	214,508
Indexed	100	104	109	93	96	93	96
Market Share							
Subject Countries	0.06%	1.34%	2.77%	3.66%	5.90%	3.66%	5.90%
Other Country	0.03%	1.57%	0.03%	0.00%	0.00%	0.00%	0.00%
Domestic industry	99.91%	97.09%	97.20%	96.34%	94.10%	96.34%	94.10%

13.1 It is noted that demand for the product under consideration was increasing till 2007-08. The same has however declined (on proportionate basis) during April-June 08 period and the

period of investigation. It is also noted that whereas demand for the product under consideration has shown decline during the POI; import volumes have increased significantly (on proportionate basis). It has been contended by some interested parties that there is decline in demand of product in India and therefore, injury to the domestic industry, if any, is not from the alleged imports. The Authority, however, notes that impact of decline in demand should have resulted into decline in imports as well on proportionate basis. However, it is seen that the imports of the subject goods at dumped prices from the subject countries have apparently led to a situation where the demand for the product under consideration has declined and that of imports have increased significantly.

13.2 This effect of the increase in imports is visible in the market share of imports as well. The market share of dumped imports from subject countries is significantly higher during the POI.

### **Import volumes and market share**

14. The imports of the subject goods and the market share are given in the following table:

	2005-06	2006-07	2007-08	April- June 08	POI	April-June 08 - Annualized	POI - Annualized
Imports from Subject Countries (in MT)	125	3,121	6,779	1,890	6,329	7,561	12,658
Imports from Other than Subject Countries (in MT)	73	3,653	62	-	-	-	-
Total Imports (in MT)	198	6,774	6,842	1,890	6,329	7,561	12,658
Dumped imports in relation to Indian production %	0.09%	2.74%	2.46%	3.27%	5.54%	3.27%	5.54%
Dumped imports in relation to demand in India %	0.06%	1.34%	2.77%	3.66%	5.90%	3.66%	5.90%
Market Share in Demand							
Subject Countries	0.06%	1.34%	2.77%	3.66%	5.90%	3.66%	5.90%
Other Country	0.03%	1.57%	0.03%	0.00%	0.00%	0.00%	0.00%
Domestic industry	99.91%	97.09%	97.20%	96.34%	94.10%	96.34%	94.10%

14.1 It is seen that:-

- The imports have shown a significant increase in absolute terms.
- The imports have increased in relation to production and consumption in India.

- While the market shares of the subject countries have increased but that of the domestic industry has declined. It is thus evident that the impact of the imports on the domestic industry has been adverse.

### **Price effect of imports**

15. It is seen from the following table that there is marginal negative price-undercutting. However, the domestic industry has stated that it fixes the prices of the subject goods in tandem with the landed value of the product under consideration and this comparison should be made after including the turnover discount in the net selling price that it gives to its customers which is evidently contingent upon the turnover achieved; and if this turnover discount is included in the average selling prices, the price undercutting would be significantly positive.

	China PR	Indonesia
CIF Import Price	94.13	95.39
Landed Price	98.89	100.21
Net Selling price of Domestic Industry	***	***
Price Undercutting	***	***
Price Undercutting % range	-1% to 1%	-2% to 2%

15.1 Price effect of the dumped imports has been adverse on performance of domestic industry as is evident from the following:-

The Authority has further made comparison of cost of production and selling price of the domestic industry along with the landed price of imports, which is given in the following table:

Rs/Kg.	2005-06	2006-07	2007-08	April-June 08	POI (July –December 2008)
Cost of Production	***	***	***	***	***
Trend indexed	100	102	108	137	146
Selling Price	***	***	***	***	***
Trend indexed	100	116	140	150	134
Landed Price from China PR	137.65	86.40	112.50	110.64	98.89

Trend indexed	100.00	63	82	80	73
Landed Price from Indonesia	77.08	87.39	99.33	107.62	100.21
Trend indexed	100	113	129	140	131

15.2 It is seen that while selling price of the domestic industry increased from 100 in base year to 134 during the POI. However, its cost of production increased from 100 in the base year to 146 during the POI. Apparently, the domestic industry could not increase its selling price in line with the increase in its cost of production; thereby indicating that the dumped imports are significantly suppressing the prices of the domestic industry.

15.3 The Authority has also examined price underselling of the domestic industry and notes that the landed value from subject countries is significantly below the non-injurious price of domestic industry as may be seen from the following table.

In RS./Kg.

	NIP	Landed price	Price Underselling	Price Underselling % range
China PR	***	98.89	***	5 to 15
Indonesia	***	100.21	***	5 to 15

15.4 Apparently the domestic industry is forced to sell the subject goods below the non-injurious price.

### **Economic parameters of the domestic industry**

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

### **Sales volumes**

17. The sales volume of domestic industry is given in the following table:-

	2005-06	2006-07	2007-08	April-June 08	POI	April-June 08 - Annualized	POI - Annualized
Sales volume	223,147	226,178	237,640	49,784	100,925	199,136	201,850
Trend indexed	100	101	106	89	90	89	90

17.1 It is noted that sales of domestic industry had increased up to 2007-08 and then declined during April-June 08 period and the POI. Though, there has been a decline in demand; however, with the decline in demand, the imports have not declined proportionately, but they have actually increased.

### **Capacity and Capacity Utilization**

18. Information relating to capacity and capacity utilization is given in the following table:

	2005-06	2006-07	2007-08	April-June 08	POI	April-June 08 - Annualized	POI - Annualized
Capacity	257,325	266,450	266,450	82,425	166,935	329,700	333,870
Trend Indexed	100	104	104	128	130	128	130
Production	228,981	246,832	277,818	57,829	114,314	231,317	228,628
Trend Indexed	100	108	121	101	100	101	100
Capacity Utilization	88.99%	92.64%	104.27%	70.16%	68.48%	70.16%	68.48%
Trend Indexed	100	104	117	79	77	79	77

18.1 It is seen that production and capacity utilization of the domestic industry was improving till 2007-08, which declined during the April-June 08 period and the POI. It has been alleged by some interested parties that domestic industry had increased its capacity in March 2008 and a new capacity cannot perform at same level of old capacity. The Authority has examined performance of domestic industry on same capacity level, which was there before expansion and notes that even with same capacity levels, capacity utilization has declined from 104.27% in 2007-08 to 85.8% in the POI.

### **Profit/Loss, return on investment and cash profits**

19. Information relating to profit/loss, return on investment and cash profits is given in the following table:-

	2005-06	2006-07	2007-08	April- June 08	POI	April-June 08 - Annualized	POI - Annualized
PBT Rs. Lacs	***	***	***	***	***	***	***
Trend Indexed	100	169	271	127	73	127	73
PBT Rs. KG	***	***	***	***	***	***	***
Trend Indexed	100	166	255	142	81	142	81
PBIT Rs. Lacs	***	***	***	***	***	***	***
Trend Indexed	100	163	258	130	97	130	97
Cash Profit Rs. Lacs	***	***	***	***	***	***	***
Trend Indexed	100	163	255	131	84	131	84
ROI NFA Basis	***	***	***	***	***	***	***
Trend Indexed	100	149	171	82	57	82	57
ROI GFA Basis	***	***	***	***	***	***	***
Trend Indexed	100	149	186	94	63	94	63

19.1 The Authority notes that the profitability was improving till 2007-08, which declined thereafter significantly. The return on investment and the cash profits have followed the same trend as that of profitability. It is noted that though during the POI, the average return on investment was positive, however, it declined significantly over the injury period. The Authority further examined profits and ROI situation of the domestic industry on quarterly basis within the POI. It is further noted that performance of domestic industry declined significantly in the 2<sup>nd</sup> quarter of POI, as may be seen from the following table:

	Jul-Sept 08	Oct-Dec 08	POI (July –December 2008)
ROI (considering capital employed on NFA basis)	***	***	***
Trend Indexed	76	35	57

ROI (considering capital employed on GFA basis)	***	***	***
Trend Indexed	85	39	63

**Inventories:**

20. Inventory levels of the domestic industry have been as under:

	2005-06	2006-07	2007-08	April-June 08	POI (July – December 2008)
Inventory	13654	5236	8233	13587	13539
Inventory for no. of days sales	20	7	11	21	20

20.1 It is noted that inventory of the domestic industry declined in 2006-07, which again increased in 2007-08. The inventory further increased during April-June 08 period and the POI as compared to the 2007-08 period.

**Employment, wages and productivity**

21. Information relating to employment, wages and productivity of the domestic industry has been as under:

	2005-06	2006-07	2007-08	April-June 08	POI (July – December 2008)
Employment	***	***	***	***	***
Trend Indexed	100	97	96	96	95
Employment per 1000 MT capacity	***	***	***	***	***
Trend Indexed	100	94	93	75	73
Productivity per day (MT)	***	***	***	***	***
Tend Indexed	100	108	121	101	100
Productivity per employee per annum (MT)	***	***	***	***	***
Trend Indexed	100	111	126	105	105

21.1 It is noted that employment level of the domestic industry declined over the injury period. The Authority, however, notes that this decline is not only seen in the POI, but was there even before the POI. The wages of the domestic industry shows normal increase. As regards productivity per employee, it increased till 2007-08 and showed a decline during April-June 08 period and the POI.

### **Dumping Margin:**

22. It is observed that dumping margin in respect of exports from the subject countries is positive and more than the *de-minimis* limits prescribed.

### **Growth**

23. The Authority notes that the growth of the domestic industry is negative in terms of volume parameters such as sales (declined by 10% from the base year and 15% from 2007-08), production (18% from 2007-08) and capacity utilization (declined by 23% from the base year and 34% from 2007-08). The growth in value parameters is also seen as negative. Profits (declined by 27% from the base year and 73% from 2007-08) of the domestic industry and the ROI (declined by 43% from the base year and 67% from 2007-08) too deteriorated significantly in POI.

### **Threat of material injury**

24. The Authority notes that the rate of increase of dumped imports is significant, indicating the likelihood of substantially increased importation. There is a significant price undercutting and significant price suppression indicating potential increase in imports and having significant depressing effect on domestic prices. However, the claims regarding threat of material injury would be examined in detail during the course of the investigation.

### **Conclusion on material injury**

25. It is seen that performance of the domestic industry has deteriorated in terms of profits, return on investments, cash profit, production, sales and capacity utilization and market share. The Authority has also examined quarterly performance of domestic industry within the period of investigation. The deterioration is more pronounced in terms of quarterly performance in the 2<sup>nd</sup> quarter of the period of investigation. The examination of the above parameters shows that the domestic industry has apparently suffered material injury.

## **J. Causal Link**

26. The Authority has examined whether other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It was found as follows: -

### **Imports from third countries.**

26.1. The Authority has collected the transaction-wise imports data of the subject goods from DGCI&S. From the information available on record, the Authority notes that there are no imports of subject goods from any other country.

### **Contraction in demand:-**

26.2 The Authority notes that the demand for the subject goods has shown significant improvement till 2007-08, and then shows decline during the POI, However, as compared to the demand, the imports have increased significantly, which ordinarily should have declined with the

decline in demand. The Authority has not found any significant change in the pattern of consumption. There is no evidence available on record that trade restrictive practices could have contributed to the injury to the domestic industry. The Applicant has claimed that there is no significant changes in technology, and none of the interested parties have disputed the claim of the Applicant. While the export volumes of the domestic industry have marginally declined as compared to the 2007-08 period; the price and profitability in the domestic and export market have been analysed on a segregated basis. Therefore, the analysis on injury is not misrepresentative on account of export performance.

26.3. The Authority notes that the following parameters show that material injury to the domestic industry is due to dumped imports.

- The imports from subject countries have significantly increased over the injury period. It is noted that while the market share of the domestic industry has declined, that of the imports from the subject countries have increased.
- There is price underselling, resulting in a situation where the domestic industry is unable to increase its prices in proportion to the increase in the cost of production.
- The significant price-suppression caused by the dumped imports has adversely impacted the domestic industry, resulting in significant decline in profits and cash flow.

26.4 The Authority therefore, provisionally holds that material injury to the domestic industry has been caused by the dumped imports from the subject countries.

## **K. Conclusions:**

27. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority provisionally concludes that:

- (a) The product under consideration has been exported to India from the subject countries below associated Normal values.
- (b) The domestic industry has suffered material injury in respect of the product under consideration.
- (c) The material injury has been caused by the dumped imports from the subject countries.

## **L. Indian industry's interest & other issues**

28. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way; and therefore, would not affect the availability of the product to the consumers.

28.1 It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

#### **M. Recommendations**

29. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted a preliminary investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having provisionally established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury, pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

29.1 Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of the margin of dumping and the margin of 'injury', so as to remove the 'injury' to the domestic industry. Accordingly, provisional antidumping duty as per amount specified in Col 8 of the table below is recommended to be imposed from the date of the notification to be issued by the Central Government, on all imports of subject goods originating in or exported from subject countries.

Heading / Subheading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
5504.10.00	'Viscose Staple Fibre (VSF) excluding Bamboo fibre'	Indonesia	Indonesia	M/s P T South Pacific Viscose	M/s P T South Pacific Viscose	0.127	Kg	US\$
5504.10.00	'Viscose Staple Fibre (VSF) excluding Bamboo fibre'	Indonesia	Indonesia	PT. Indo Bharat Rayon	PT. Indo Bharat Rayon	0.217	Kg	US\$
5504.10.00	'Viscose Staple Fibre (VSF) excluding Bamboo fibre'	Indonesia	Indonesia	<i>Any combination other than as specified at Sr. No.1 &amp; 2</i>		0.760	Kg	US
5504.10.00	'Viscose Staple Fibre (VSF) excluding Bamboo fibre'	Indonesia	Any country other than Indonesia	Any	Any	0.760	Kg	US\$
5504.10.00	'Viscose Staple Fibre (VSF) excluding	Any country other than attracting	Indonesia	Any	Any	0.760	Kg	US\$

	Bamboo fibre'	Anti-dumping duty						
5504.10.00	'Viscose Staple Fibre (VSF) excluding Bamboo fibre'	China PR	China PR	Any	Any	0.199	Kg	US\$
5504.10.00	'Viscose Staple Fibre (VSF) excluding Bamboo fibre'	China PR	Any country other than China PR	Any	Any	0.199	Kg	US\$
5504.10.00	'Viscose Staple Fibre (VSF) excluding Bamboo fibre'	Any country other than attracting Anti-dumping duty	China PR	Any	Any	0.199	Kg	US\$

#### **N. Further Procedure**

30. The following procedure would be followed subsequent to notifying the preliminary findings:

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(a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;

(b) Exporters, importers, the applicant and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of the these Preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;

(c) The Authority would hold a hearing to hear the views of various interested parties orally;

(d) The Authority would conduct further verification to the extent deemed necessary;

(e) The Authority would disclose essential facts as per the AD Rules before announcing final findings.

(R. Gopalan)

Designated Authority