

File No. 14/4/2010-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES
UDYOG BHAVAN, NEW DELHI-110011

NOTIFICATION

Final Findings

Udyog Bhavan, New Delhi-110011

Dated the 29th July, 2011

Subject: Anti-dumping investigation involving imports of PVC Flex Films originating in or exported from China PR.

NO. 14/4/2010-DGAD: - Having regard to the Customs Tariff Act 1975, as amended from time to time, (hereinafter referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time, (hereinafter referred to as the Rules) thereof;

A. Background Of The Case:

1. Whereas M/s Pioneer Polyleathers Pvt. Ltd (hereinafter referred to as the petitioner) has filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Act and the Rules alleging dumping of PVC Flex Films (hereinafter referred to as the subject goods) originating in or exported from China PR (hereinafter referred to as the subject country) and requested for initiation of anti-dumping investigation for levy of anti-dumping duty on the imports of the subject goods, originating in or exported from the subject country.
2. And whereas, the Authority on the basis of sufficient evidence, submitted by the applicant issued a Public Notice dated 1st February, 2010, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods, originating in or exported from the subject country, in accordance with the Rule 5 of the Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied would be adequate to remove the injury to the domestic industry. The Authority had notified the Embassy of the subject country in New Delhi about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with Rule 5(5) of the Rules.
3. The Authority had issued the Preliminary Findings vide Notification No.14/4/2010 - DGAD dated 22nd June, 2010 recommending provisional anti-dumping duties on the imports of the subject goods originating in or exported from the subject country. The

provisional duties were imposed by the Central Government vide Notification No. 79/2010-Customs, dated the 30th July, 2010.

4. Subsequent to the issue of the preliminary findings, the Authority had issued corrigendum notifications dated 7th July, 2010 and 19th October, 2010.

B. Procedure

5. The procedure described below has been followed by the Authority:
 - i. The Authority notified the Embassy of the subject country in India about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
 - ii. The Designated Authority sent copies of initiation notification dated 1.02.2010 to the Embassy of the subject country in India, known exporters from the subject country, importers, consumers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
 - iii. The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassy of subject country in accordance with Rule 6(3) supra.
 - iv. The Embassy of the subject country in India was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters were also sent to them, along with the names and addresses of the exporters.
 - v. The Authority sent questionnaires, to elicit relevant information to the following known exporters in subject country in accordance with Rule 6(4).

S. No.	Name of the Company
1.	Zhejiang MSD Warp knitting and Coating Co. Ltd., China
2.	Shanghai LanQuan Plastic Products Co. Ltd., China
3.	Zhejiang Minglong Holding Ltd., China
4.	Zhejiang Tianxing Technical Textiles Co. Ltd., China
5.	Haining ganglong Knitting Clothes Co. Ltd., China
6.	Hangzhou Hongze New Material Co. Ltd., China
7.	Julong Tent & Advertisement Materials Industrial Co. Ltd., China
8.	Shanghai oursign Indutrial Co. Ltd., China
9.	Zhejiang Chengbang New Materials Co. Ltd., China
10.	Habei Hongding Plastic Manufacturing Co. Ltd., China

- vi. The Authority extended the time limits till 31st March, 2010 for the submission of the response on the request of the interested parties.
- vii. In response to the above notification, following exporters/producers of the subject country have responded to the initiation notification:

S. No	Name of the Company
1.	Jiangjin Nanwei Plastics Co. Ltd., China (Producer) & Jiangjin Nanwei International Trade Co. Ltd., China (Exporter)
2.	Heytex Technical Textiles (Zhangjiagang) Co. Ltd., China
3.	Zhejiang Botai Plastic Co. Ltd., China
4.	Zhenjiang Tianchang Plastic Fabric Co. Ltd., China
5.	M/s Zhejiang Ganglong New Material Co., Ltd, China
6.	M/s Shanghai Nar Industrial Co. Ltd (NAR), China (Producer) and M/s Shanghai Inflex Signage Co. Ltd, China (Exporter)
7.	M/s Zhejiang Hailide New Material Co. Ltd., China
8.	M/s Guangzhou Dina Membrane Structure Co. Ltd, China (Producer) & M/s Guangzhou Hongxin Economic Development Co. Ltd., China (Exporter)
9.	Shanghai Lanquan Plastic products Co. Ltd, China
10.	Zhejiang Minglong plastic Cement Co. Ltd, China
11.	Cixi Linyun Plastics Wart Co. Ltd, China
12.	M/s Zhejiang Yuli Plastic Co. Ltd, China

- viii. M/s Hebei Yuxin Industry & Trade Co Ltd had submitted an incomplete questionnaire response at a very belated stage which was not accepted by the Authority.
- ix. Questionnaire was sent to the following known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4).

S. No	Name of the Company
1.	Graphic Aids Print Sales Company, Kolkata
2.	Goldstone Imaging Pvt. Ltd., Delhi
3.	X Print RBCPL, New Delhi
4.	Hi-Sign Durga International, Delhi
5.	E sys Information Technologies Pvt. Ltd.
6.	Kumar Distributors, Pariamet, Chennai
7.	Shubh Plastics, Mumbai
8.	Tech-Zone Global Trading Co., Chennai
9.	Aditya International, Mumbai
10.	Spectrum, Delhi
11.	Krishna tarpaulin Industries, Chennai.

- x. In response to the above notification, following importers have responded to the initiation of the investigation and submitted importers questionnaire response/submissions:

S. No	Name of the Company
1.	M/s Rationale Business Corporation Pvt Ltd.
2.	M/s Max Flex & Imaging Systems Pvt Ltd.

- xi. The following interested parties have also made submissions during the course of the investigation:
- a. Revel Compu_Con Pvt Ltd
 - b. eSys Information Technologies Pvt Ltd.
 - c. 3 M India Ltd
 - d. Tower Overseas Ltd
 - e. Canadian Speciality Vinyls
 - f. All India Sinage Printers & Merchants Association (Subsequently renamed as Sinage Printers & Merchants Association (India))
 - g. Unity International Foundation
 - h. Avery Dennison (India) Pvt Ltd
 - i. Technova Imaging Systems Pvt Ltd.
- xii. 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;
- xiii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigation.
- xiv. Optimum cost of production and cost to make and 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 Domestic Industry.
- xv. Investigation was carried out for the period starting from 1st April 2008 to 30th September 2009 (18 months, POI). The examination of trends, in the context of injury analysis, covered each quarter of POI (April-June 2008, July-September 2008, October-December 2008, January-March 2009, April-June 2009 and July-September 2009), considering that the petitioner has commenced production only in April 2008.
- xvi. Transaction-wise data in respect of the imports of the subject goods under various customs classifications for the period of investigation and preceding three years has been provided by Directorate General of Commercial Intelligence and Statistics (DGCI&S). Domestic Industry has furnished data based on IBIS (Secondary Source) in respect of imports of the subject goods from the subject country under various custom classifications. On examination of the import data from both the above stated sources, the Authority notes that the data from IBIS source shows substantially higher volume of imports than

the DGCIS source. In view of the above position, the Authority has relied upon IBIS (secondary source) data for volume as well as price effect analysis.

- xvii. The confidentiality claims of various interested parties in respect of the data submitted by them were examined and duly considered by the Authority. The information, which is by nature confidential or which has been provided by an interested party on a confidential basis has been treated as confidential in this finding and has not been disclosed to other interested parties. However, the non-confidential version of such confidential information has been disclosed in this finding to such an extent that the same permits a reasonable understanding of the substance of information provided on confidential basis.
- xviii. Market Economy Treatment (MET) questionnaire was forwarded to all the known exporters and Embassy of China PR. Exporters were informed that authority proposes to examine the claim of the applicant in the light of para 7 and para 8 of Annexure I of Anti Dumping Rules, as amended. The exporters/producers of the subject goods from China PR were therefore requested to furnish the necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 to enable the Authority to consider whether market economy treatment be granted to the co-operating exporters/producers.
- xix. Authority recorded preliminary finding on 22nd June, 2010, a copy of which was forwarded to all the interested parties including the Embassy of the subject country in India. All interested parties were asked to file their comments on preliminary findings.
- xx. The Authority held oral hearings on 20th August, 2010 and 2nd May, 2011 to hear the interested parties, which were attended by representatives of interested parties. The submissions received from interested parties, to the extent considered relevant, have been considered in this finding.
- xxi. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry.
- xxii. On the spot verification of the data of the responding exporters who filed their submissions and invited the Authority for verification, was carried out to the extent necessary.
- xxiii. In accordance with Rule 16 of the Rules supra, the essential facts were disclosed to the known interested parties vide disclosure statement of even No. dated 20th July, 2011 and the comments received on the same to the extent considered relevant by the Authority have been addressed in this finding.
- xxiv. *** In this finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxv. The exchange rate adopted for the POI is 1 US \$ = Rs. 46.95.

6. The Submissions made by domestic industry and other interested parties during the course of the investigation have been examined and addressed in the respective areas of this finding.

C. Product under Consideration and Like Article

7. In the initiation notification the product under consideration (PUC) was defined by the Authority as follows:

“The product under consideration for the present investigation is PVC Flex Films, also known as PVC Flex Banners, PVC Flex Sheets for advertising signage, billboards, PVC films and tarpaulins etc., (hereinafter referred to as subject goods). The product is a multi-layered PVC film with sand-witch lamination of reinforcement textile. This laminated product called flex is used for advertisement industry. The PVC Flex Film can be of different types depending upon its quality and characteristics like front lit or back lit and glossy or Mattie.

4. PVC Flex Films are classified under Chapter 39 of the Customs Tariff Act, 1975, under Tariff Heading Nos. 3920 and 3921. The information received from IBIS shows that the material is being imported and cleared under a large number of other customs classifications, which includes 39201019, 39201012, 39204900, 39219026, 39219029, 39269099, 39199090, 39181090, 39189090, and 39269080. The customs classification is however, indicative only and in no way binding on the scope of the present investigation.”

8. In the preliminary findings the product under consideration (PUC) has been defined by the Authority as follows:

“5. The product under consideration is ‘PVC Flex Film’ PVC Flex Films are also known as PVC Flex Banners, PVC Flex Sheets for advertising signage, billboards, PVC films and tarpaulins etc., (hereinafter referred to as subject goods). The product is a multi-layered PVC film with sand-witch lamination of reinforcement textile. This laminated product called flex is used for advertisement industry. The PVC Flex Film can be of different types depending upon its quality and characteristics like front lit or back lit and glossy or Mattie. The product is used by advertising industry for applications such as hoardings, billboards, POP, banners, sign boards etc. However PVC Rigid Films and Cotton / Canvas Tarpaulins are outside the purview of this investigation.

6. PVC Flex Films are classified under Chapter 39 of the Customs Tariff Act, 1975, under Tariff Heading Nos. 3920 and 3921. The information received from IBIS shows that the material is being imported and cleared under a large number of other customs classifications, which includes 39201019, 39201012, 39204900, 39219026, 39219029, 39269099, 39199090, 39181090, 39189090, and 39269080. The customs classification is however, indicative only and in no way binding on the scope of the present investigation.”

9. After issue of Preliminary Findings on 22nd June, 2010, the Authority issued a Corrigendum Notification on 7th July, 2010 vide which it was notified inter alia as follows:

*“*The imports are also reported under ITC (HS) codes 39201019, 39201012, 39219026, 39219029, 39269099, 39199090, 39181090, 39189090, and 39269080 as well. Therefore the Customs Classification is indicative only.*

***PVC Flex Film are also known as PVC Flex Banners, PVC Flex Sheets for advertising signage, billboards, PVC films and tarpaulins, PVC Flex sheets in Rolls (Flex banner Frontlit/Backlit), and all these are within the purview of this investigation.*

***PVC Rigid Films and Cotton/Canvas Tarpaulins are outside the purview of this investigation.”*

10. The Authority issued a further Corrigendum Notification on 19th October, 2010 amending the PUC to read inter alia as under

*“**PVC Flex Film are also known as PVC Flex Banners, PVC Flex Sheets for advertising signage, billboards, tarpaulins, PVC Flex sheets in Rolls (Flex banner Frontlit/Backlit), and all these are within the purview of this investigation*

***PVC films and Cotton/Canvas Tarpaulins are outside the purview of this investigation.”*

Submissions made by Interested Parties on PUC and Like Article

Submissions made by Exporters/Importers/Other Interested parties

11. The following are the submissions made by the exporter/producers/importers/other interested parties regarding scope of the PUC and like article:

- a. Since, as per definition, the subject product is a ‘sand-witched’ one, the product variants like “One-side-lamination (OSL)”, “Coated flex”, “High density flex” and other non-sand-witched variants must be excluded from this anti-dumping case.
- b. Since the domestic industry has lamination technology for manufacturing the subject products, the products manufactured through coated technology must be excluded from this case.
- c. Since the domestic industry produces the product concerned from the calendaring stage, the product types produced from the lamination stage should be excluded from the purview of the investigation.
- d. There is a significant quality difference in the imported product and the ones produced by the Domestic Industry. The products of the exporters are catering to a different segment.

- e. Because domestic Industry has excluded Self-Adhesive Vinyl, One way vision film/Perforated Window Film, Coloured Vinyl, Mesh Banner/fabric, Cotton or canvas Tarpaulins and PVC Rigid Film from the scope of the PUC, injury analysis should be done by Authority by excluding these products.
- f. The different grades of PVC Flex Films Black-back Frontlit Banners, Mesh Banner, Block-out banner, 18 Oz Banner and RoHS compliant banner, not manufactured by the Domestic Industry, must be excluded from the scope of the PUC and the purview of this case.

Submissions made by domestic industry

12. The Domestic industry has made the following submissions with regard to product under consideration and like article:

- The technology and the production process of the domestic industry and the subject producers from the subject country are comparable.
- There are two processes of manufacturing of PVC Flex viz. Coated Process and Laminated Process. The PVC flex films produced by both the processes of manufacturing are one and like products.
- Differences in the production process, technology and quality do not make the output different. While it is possible that some PVC Flex Films might have some specific end applications and catering to some market segments, all PVC Flex Films have application in advertising industry such as making hoardings, billboards, POP, banners, sign boards, etc.
- The subject goods produced by the domestic industry and those produced and exported by the subject country are technically and commercially substitutable and used by the consumers interchangeably.
- The scope of the product under consideration (PUC) should not be modified as no sufficient evidence for such exclusion has been submitted by these interested parties. Merely because the product can be described by different names, it does not become a different product.
- Different types of PVC Flex Films fall in the same tariff classification. However, the material is being imported and cleared under a large number of other customs classifications.
- Following are the various types/nomenclature of the product under consideration prevalent in the market. The raw materials and manufacturing process are same with minor differences to suit the desired output:
 - ❖ PVC Flex Film
 - ❖ PVC Flex Banners
 - ❖ Banners (Front lit/backlit/Glossy/ Mattie)

- ❖ PVC Flex Sheets
 - ❖ PVC Flex Billboards
 - ❖ PVC films and tarpaulins
 - ❖ PVC Flex sheets in Rolls
 - ❖ Black-back Frontlit Banner (Glossy/Mattie)
 - ❖ Blockout Banner
 - ❖ Coated PVC Flex Film
 - ❖ Laminated PVC Flex Film
 - ❖ 18 OZ Banner
 - ❖ RoHS Compliant Banner with a low heavy metal content
 - ❖ One Sided laminated (OSL)
- The following Product types have been produced and supplied by the domestic industry during the Period of investigation:

- ❖ **Frontlit Flex/ Backlit Flex – Glossy/Matty**

There are two types of PVC Flex Films/banners/sheets, the Frontlit wherein the banner is illuminated from the front side and the Backlit wherein the illumination is provided from the backside. Depending on customer's preference these can be made Mattie or Glossy.

- ❖ **Tarpaulin made of PVC Flex Film**

Tarpaulin is one of the types of the PVC Flex film which is of higher GSM with the only difference that it cannot be sold in roles but only in cut-pieces with mounted eyes on all the four sides of the sheet. This needs to be included under purview of investigation to avoid circumvention.

- The following Product types have been produced and supplied by the domestic industry post POI:

- ❖ **Black Back Flex**

When a black coloured film is used on the backside and a white coloured film on the front side, with reinforcement fabric, it is called Blackback Frontlit Flex banner. The only difference between the normal Flex Banner and Blackback Flex banner is the difference in colour of the backing film.

- ❖ **Grey Out Flex**

Grey out PVC Flex film is with the grey coloured backing film. The only difference is the change in the pigment used for manufacturing the backing film.

- ❖ **One Sided laminated (OSL)**

One side laminated film is nothing but one of the types of PVC Flex Films with the difference that it is laminated only from one side. Till the period of investigation there was neither such type of PVC Flex Film known in the

market nor it was imported. The nomenclature is generated after the imposition of provisional duty with the intention to circumvent the duty. The manufacturing process, raw materials, technology and end use of the product are same.

- The following Product types have not been produced and supplied by the domestic industry but domestic industry has the capacity to produce the same:

- ❖ **Block Out Flex**

The product is nothing but the product under consideration with a slight difference in the lamination process. In case of black back banner or both sided white coloured banner, two layers of film are laminated with fabric in between, whereas, in the case of Block-out banner, there are three different layers of PVC films i.e. Front film which is milky white colour, back film which is again milky white colour with one additional film in black colour inserted between the two. This is effective to stop the passage of light from the back side to the front side and also from the front side to back side, as a result of which the Flex Banner can be printed on both the sides independently. The manufacturing process is same; the raw material required is same with the additional black film.

- ❖ **18 OZ Banner**

18 OZ Banner means PVC Flex film Banner in 18 Oz weight, which is equivalent to 610 GSM.

- ❖ **RoHS types**

This is a standard imposed by some European countries to reduce metal contents in PVC Flex film to make it environment friendly. The domestic industry has the capacity and ability to produce the same considering the demand in the market.

- The following products may be excluded since they do not constitute PUC:
 - ❖ Self Adhesive Vinyl
 - ❖ One way vision film/Perforated window film
 - ❖ Coloured Vinyl
 - ❖ Mesh Banner/Fabric for fencing
 - ❖ Cotton or Canvas Tarpaulins
 - ❖ PVC Rigid Film

- The product under consideration is being sold in different GSMs. Petitioner also sells the same in different GSMs starting from 220 GSM up to 550 GSM depending upon the product mix and customers' preference.
- The material is being imported and cleared under a large number of other customs classifications. Petitioner therefore requests the Authority that the definitive anti-dumping duty may kindly be recommended on imports of the product under consideration falling under all relevant Chapters and in any case under Chapter 39, 47, 48, 53 and 59.

Examination by the Authority

13. The Authority has examined the submissions of interested parties on the issue of product under consideration and like article. The Authority notes that the various type/nomenclatures of the product under consideration in market parlance, as claimed by the interested parties, are as follows:
- PVC Flex Film
 - PVC Flex Banners
 - Banners (Front lit/backlit/Glossy/ Mattie)
 - PVC Flex Sheets
 - PVC Flex Billboards
 - PVC Flex sheets in Rolls
 - Black-back Frontlit Banner (Glossy/Mattie)
 - Blockout Banner
 - Coated PVC Flex Film
 - Laminated PVC Flex Film
 - 18 OZ Banner
 - RoHS Compliant Banner with a low heavy metal content
 - One Sided laminated (OSL)
 - PVC Flex Tarpaulin.
14. The Authority notes that the domestic industry has produced and supplied Frontlit/Backlit Flex – Glossy/Matty types of PVC Flex Films and PVC Flex Tarpaulin during the period of investigation. It is further noted that post POI the domestic industry has produced and supplied the Black Back Flex, Grey out Flex and One Side laminated (OSL) PVC Flex Films.
15. The Authority notes that the Domestic Industry has the capacity to produce Block Out Flex, 18 OZ Banner and RoHS types of PVC Flex Films.
16. Since the various types/nomenclature/grades of the PVC Flex Films are like articles and technically and commercially substitutable and can be manufactured through the same manufacturing process, plant and machinery and the same basic raw materials, as being adopted by the Domestic Industry, the Authority considers Black Back Flex, Grey Out Flex, One Side laminated (OSL) PVC Flex Films, Block Out Flex, 18 OZ Banner and RoHS as part of the PUC.

17. The Authority notes that the PVC Flex Films are primarily used as signage material in advertising sector. The product is manufactured through two processes- Laminating process and Coating Process. The Authority further notes that the major raw materials used in both the process of manufacturing are the same. Further, as far as the various types/nomenclature/grades of the PUC is concerned, they are manufactured through either of the processes and by using same raw materials, with modification in the product mix to suit the requirement. The Authority considers that they are technically and commercially substitutable and like articles in terms of the Rules and therefore cannot be excluded from the purview of the present investigation. Besides, exclusion of any such type/nomenclature/grade of the PUC may.
18. In view of the above position, the Authority considers that the following types/nomenclature/grades of PVC Flex Films constitute PUC and are like articles:
- PVC Flex Film
 - PVC Flex Banners
 - Banners (Front lit/backlit/Glossy/ Mattie)
 - PVC Flex Sheets
 - PVC Flex Billboards
 - PVC Flex sheets in Rolls
 - Black-back Frontlit Banner (Glossy/Mattie)
 - Blockout Banner
 - Coated PVC Flex Film
 - 18 OZ Banner
 - RoHS Compliant Banner with a low heavy metal content
 - One Sided laminated (OSL)
 - PVC Flex Tarpaulin.
 - Grey Out Flex
19. After examining the submissions of various interested parties, the Authority clarifies that PVC Rigid Films, Cotton/Canvas Tarpaulins, PVC Film, Self-Adhesive Vinyl, One way vision film/Perforated window film, Coloured Vinyl and Mesh Banner/Fabric are not within the ambit and scope of the present investigation.
20. In view of the above, the product under consideration (PUC) within the scope of this investigation is as follows :

The product under consideration is 'PVC Flex Film'. PVC Flex Films are also known as PVC Flex Banners, PVC Flex Sheets for advertising signage, billboards and PVC Flex Tarpaulins, etc., (hereinafter referred to as subject goods). However, PVC Films, PVC Rigid Films, Cotton/Canvas Tarpaulins, Self Adhesive Vinyl, One way vision film/Perforated window film and Mesh Banner/Fabric do not constitute PUC and therefore are outside the purview of this investigation.

PVC Flex Films are classified under Chapter 39 of the Customs Tariff Act, 1975, under Tariff Heading Nos. 3920 and 3921. The Authority notes that the material is being imported and cleared under a large number of other customs classifications as well, which includes 39201019, 39201012, 39204900, 39219026, 39219029, 39269099, 39199090, 39181090,

39189090, and 39269080. The customs classifications are however, indicative only and in no way binding on the scope of the present investigation.

21. With regard to like article, Rule 2(d) of the AD Rules provides *inter alia* 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;
22. The Authority notes that the PVC Flex films are manufactured through two manufacturing processes i.e. Laminating Process and Coating Process. While in the coating process the PUC is manufactured by coating the fabric with PVC, in the Laminating process the PVC Films are produced through calendaring process and then the fabric get laminated as a continuous process. The Authority further notes that the PUC can also be manufactured from the stage of lamination by procuring PVC Films and Fabric and then getting the same laminated. The Authority notes that some of the Chinese producers/exporters are manufacturing the subject goods from the stage of lamination by procuring PVC Films and Fabric. However, the Authority notes that the PUC produced through either of the processes or stages are technically and commercially substitutable and like article under the Rules. Moreover, interested parties have not been able to establish with positive evidence that the difference in manufacturing process/stage make the products as dislike products.
23. The Authority notes that PVC Flex Films primarily have application in advertising sector for making hoardings, billboards, POP, banners, sign boards, etc. Although the PUC is being imported and cleared under a large number of other customs classifications, the products produced and supplied by the domestic industry are comparable in terms of essential product characteristics to the various other types of PUC imported in to India. The Authority notes that there is no known difference between subject goods produced by the Domestic Industry and imported from China. The subject goods produced by the Domestic Industry and those 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 are using the two interchangeably. In view of the above, the Authority notes that subject goods produced by the Domestic Industry are like article to the subject goods imported from subject country, in accordance with the Rules.

D. Scope of the Domestic Industry & Standing

Submissions by the domestic industry

24. The Domestic Industry has submitted that they hold 100% share in the domestic production during POI and therefore constitutes Domestic Industry and satisfies the standing requirement under the Rules.

Submissions by Exporters, Importers and other interested parties

25. The following are the submissions made by the Exporters, Importers and other interested parties with regard to standing and scope:
- a. Petitioner has no right to claim to be a Domestic Industry since they import a major constituent of the subject goods.
 - b. Only a bald statement has been made by the domestic industry that two companies commenced production of the subject goods after the POI. The details about those manufacturers have not been provided.
 - c. Designated Authority has erred in accepting the Petitioner's submission that it is the sole producer of the product under consideration and accounts for 100% of the production.

Examination by the Authority

26. Rule 2(b) of the Anti-Dumping Rule, as amended by Notification No. 18/2010-Customs (N.T.) – New Delhi dated 27th February, 2010, provides as follows:

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

27. From the information available on record, the Authority notes that the petitioner is the sole producer of the subject goods in the country and accounts for 100% of domestic production of the subject goods during the POI. No information to the contrary was brought before the Authority by any interested party with substantive evidence. It is further noted that domestic producers, who have come to the notice post POI, do not fall within the purview of the present investigation as per the Rules. The Authority further notes that importing raw materials/components of the PUC from the subject country does not tantamount to disqualification for the status of domestic industry under the Rules. Therefore, the Authority notes that the applicant constitutes the domestic industry in terms of Rule 2(b) and being the sole producer of the subject goods in the country commands the standing in terms of Rule 5(3).

E. Confidentiality

Submissions by the Domestic Industry

28. The following are the submissions made by the Domestic Industry with regard to confidentiality:

- a) The rules clearly permit confidentiality treatment to certain information which has been rightly exercised by the domestic industry.
- b) The information relating to cost of production, cost of sales, project report etc are highly sensitive and cannot be disclosed.
- c) Project report contains highly sensitive commercial information and therefore cannot be disclosed.
- d) Other interested parties demanding disclosure of commercially sensitive information pertaining to the domestic industry have themselves not disclosed many information in their responses/submissions.

Submissions by Exporters/ Importers/ Other Interested Parties

29. The following are the submissions made by the Exporters, Importers and other interested parties with regard to confidentiality:
- a. The information provided to Designated Authority on confidential basis is not required to be treated as confidential merely because it is provided to the Designated Authority on a confidential basis. Substantial information such as date of trial production, date of commercial production, production process flow chart, annual reports, transaction wise import data received from IBIS, detailed project report, source and information for Korean price, evidence for ocean freight, adjustments, details of plant and machinery, variety and types of subject goods produced, production quantity(actual and projected), actual capacity utilisation, domestic sales quantity(actual and projected), export sales quantity, market share of subject countries, etc have been kept confidential.
 - b. The Designated Authority has not disclosed the details regarding the export price, dumping margin, injury margin, computation of Normal Value, Non Injurious Price, etc.

Examination by the Authority

30. The Authority has examined the confidentiality claims of the interested parties. The Authority made available to all interested parties the public file containing non-confidential version of evidences submitted by various interested parties for inspection, upon request as per Rule 6(7).
31. With regard to confidentiality of information Rule 7 of Anti-dumping Rules provides as follows:-

Confidential information: (1) Notwithstanding anything contained in sub-rules and (7) of rule 6, sub-rule (2), (3) (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.

32. The provision for disclosure of essential facts before giving final findings has been laid down at Rule 16 of the Anti-dumping Rules. Even under Rule 16, the confidential facts are required to be disclosed to “respective interested parties”, while non-confidential facts are required to be disclosed to all interested parties. At no stage the Designated Authority is empowered to disclose the confidential information to the parties with competing and conflicting interests. Thus it would be sufficient if full explanation of the reasons for the methodology used in the establishment and comparison of the export price, normal value and Non-injurious price are disclosed by the Designated Authority instead of disclosing the actual figures. Normal Value, export price and non-injurious price are based on the confidential information submitted by the parties and disclosure of computation of the same would be of significant competitive advantage to a competitor and its disclosure could have a significantly adverse effect upon the person supplying the information.
33. It is noted that disclosure of the commercially sensitive and confidential information, provided by the interested parties to the Designated Authority, by reposing trust and confidence, to facilitate the investigation, will completely vitiate the market atmosphere both in the domestic as well as international fronts. The disclosure of confidential information relating to the cost of production, cost of sales, project report, etc. of the domestic industry will provide undue advantage to its domestic as well as overseas competitors and place the domestic industry in a disadvantageous position before the consumers. Likewise disclosure of the confidential information relating to the exporters such as normal value, net export price, landed price etc. will jeopardize their commercial interest vis-à-vis their competitors as well as buyers.
34. The Authority notes that details regarding export price, dumping margin, injury margin, CNV, NIP, etc, which are based on commercially sensitive information of the Domestic Industry and producers/exporters cannot be disclosed. Further, a conclusion drawn by the Authority based on confidential information also becomes confidential, if disclosure of such conclusion can in any way effectively lead to disclosure of information provided on confidential basis. However, as per practice NIP is disclosed to the concerned domestic industry and export price is disclosed to the concerned

exporters only. However, methodology of calculation of dumping margin, injury margin and Constructed Normal Value (CNV) is disclosed in this finding.

F. Miscellaneous Issues

Submission made by Exporters/Importers/Other Interested Parties.

35. The following are the submissions made by the Exporters, Importers and other interested parties with regard to miscellaneous issues:

- The Petitioner has claimed in the 1st Public Hearing that its capacity is 50,000 MT per annum. The Petitioner is now claiming in effect that the capacity of 12500 MT shown by it is a quarter breakup of its total capacity. However, its production figures clearly belie such an argument.
- The production capacity claimed by domestic industry is false. The domestic flex producing plant set up by the petitioner consists of two Laminators. The total production that the total number of Lamination Machine(s) finishes in a day in any flex manufacturing unit would amass the total production of that day. A laminator finishes (laminates) 25 mtrs of PVC flex sheet in one minute at its optimum. If the biggest width size PVC flex roll i.e. 3.20 Mtrs. is produced, then its one day's production will be 96,000 Sqm. If the Average width size PVC flex roll i.e. 1.93 Mtrs. is produced, then its one day's production will be 57,900 Sqm. Therefore, the total production in MT in a quarter year will be 2770 MT per quarter. The petitioner's claim of 12500 MT per quarter as their total production capacity is false.
- Preliminary finding was issued by the Authority without verifying the data.
- The domestic sales figures are shown in range whereas the import figures are shown in specific numbers. How any specific number can be compared with a figure in range?
- *The petitioner had purchased second-hand laminator from Aditya Rajasthan in 2010.*
- The month of start of domestic factory was April 2008 & the Anti-dumping Initiation application was moved during the same month (April 2008) too. It is evident that the petitioner started of with this new manufacturing unit with an ill-intention of getting anti-dumping duties imposed.
- The basic issue as to when do the dumping start has remained unanswered. It is apparent that the applicant has purposely avoided the critical information from the Designated Authority which could have a serious bearing on the issue of initiation itself.
- Investigation is not in accordance with the Trade Notice No.2/2004. It is submitted that the domestic industry in the present case has given the

information for the period April 2008 to September 2009 (18 Months) only. There is no reason as to why at least the transaction-wise import data could not be supplied for the previous years.

- It is submitted that the POI for dumping has to be different from the POI for injury analysis. If the two coincide, then there is no possibility of any comparison.
- 18 months POI is inadmissible because POI for dumping has to be different from POI for injury. For proper comparison of injury and dumping, the POIs for both the analysis should be different.
- The cost or injuries, if suffered by the domestic industry are the result of normal start up problems faced by any new company, poor infrastructure, and implementation.
- The Authority has recommended duty on the basis of kilograms while the data provided by the interested parties is based on square meters. The basis of conversion has also not been provided by the Authority.
- No deduction towards non-refundable portion of VAT is required to be made from the export price in China.
- Despite substantial imports from Korea, petitioner has deliberately kept it out to destroy competition vis-à-vis China PR.
- The domestic industry does not have production capacity to cater to the domestic market demand.
- The levy of AD duties would adversely affect SMEs.
- This is a case of under-invoicing and not anti-dumping.
- The anti-dumping duty, if any, may be imposed on reference price basis as the prices of PVC Flex have increased phenomenally in the recent past and there is huge difference in price between various grades of PVC Flex.
- Calculation of domestic industry's capacity during POI by authority as 359 million SQM at an average thickness of 277 GSM gives a production of 99443 MT of production, which is incorrect. Further, the conclusion of the authority that DI's actual capacity utilization during POI works out to 21.64% as against 13.81% is baseless.
- Capacity of the domestic industry is wrongly calculated taking in to consideration the capacity of 2 calendars where as it should be as per the laminating machines. The actual production capacity should be the production capacity of laminator and not the production capacity of calendar machine.

- The domestic industry had installed only 2 laminators during POI. Admittedly, the 3rd laminator was not in working condition since machines imported from Korea was not suitable for production in Indian conditions.
- DGAD should not place reliance on project report alone to compare the performance of the domestic industry. Even otherwise, a non confidential version of such reports should be made available to other interested parties.
- Methodology has not been provided for computation of dumping margin. DGAD has merely listed out the components considered while computing normal value.
- In order to determine a proper margin of injury, it is essential to compare both, NIP and landed value, at the same level of trade. As a rule of thumb, DGAD calculates the NIP and landed value without considering the local excise duty or its equivalent duty imposed on imports, i.e., CVD. Since the duties are numerically equal, no distortion is caused in the accounting treatment if both are offset against each other or not considered. Domestic Industry is benefiting from an area based exemption on payment of local excise tax, whereas CVD continues to be applicable on the imports. As a result, excise duty on domestic manufacture and CVD on imports cannot be offset against each other and thus, fair determination of injury margin is impeded.
- Annexure III to the AD Rules makes it obligatory on the part of DGAD to determine non injurious price of the domestic like product as per the principles laid therein.
- Material injury and material retardation cannot co-exist. Alleged economic and financial impact of the alleged dumped imports and determination of alleged material injury to the domestic industry/ material retardation of the establishment of the domestic industry must be based on evaluation of all relevant economic factors.

Submission by Domestic Industry

36. The following are the submissions made by the Domestic Industry with regard to the miscellaneous issues:
- The interested parties are deliberately trying to mislead the Designated Authority. The domestic industry had achieved a production level 1128.72 MT in the month of March 2009 during the period of investigation itself. Post period of investigation, the domestic industry achieved a production level of 1758.18 MT in March 2011. This leads to an annualized production of 31650 MT respectively, as against which the actual production during the period of investigation (on annualized basis) was 8389 Mt only in last four quarters of the POI. This significant difference between achievable production and achieved production further establishes volume injury.
 - The capacity as shown in the project report submitted by the Company is 50000 MT on weight basis. This project report has been appraised and a loan

of Rs.*** Crores has been sanctioned by the State Bank of India. Further, the certificate issued by the Pollution Control Board shows capacity of 150 MT per day which comes to 50000 MT per annum and the certificate issued by Secretarial for Industrial Assistance – Ministry of Commerce and industry also shows capacity of the Company as 50000 MT.

- The petitioner had two calendar machines and three laminators prior to the commencement of commercial production and POI.
- PUC of higher GSM on 3rd laminator has been produced and supplied during POI.
- The level of capacity in absolute terms is not a factor on which the Designated Authority is required to record a finding. What the Designated Authority is required to consider is that whether dumping has adversely impacted utilization of production capacities and whether the domestic industry could have produced significantly beyond the levels achieved.
- None of the laminators were purchased from any concern called Aditya – Rajasthan. The domestic industry had purchased some spare parts from Aditya (Rajasthan) post POI.
- As per the WTO guidelines, the Authority is required to consider a longer injury period subject to the condition that the party should have been in existence for a longer period. In case the company has existence for shorter period, the guideline itself makes it evident that the Designated Authority is required to consider such shorter period.
- Quarterly comparison is not prohibited under the Rules.
- Some interested parties assumed that the petitioner holds a production capacity of mere 12,500 MT/annum. Petitioner submits that it has capacity to produce 50,000 MT PVC Flex Film in a year. Given that the demand for the product in the period of investigation on annualized basis was 40745 (actual demand - POI -61118) MT, it is evident that the petitioner would have been in a position to cater to the entire demand of the product in the market. In other words, in the absence of dumping, petitioner could have achieved 100% market share in the Country. However, the petitioner could achieve hardly 24.25% market share in Q4 of POI, which also declined significantly thereafter. Given that petitioner has set up a new plant, it was the normal expectation of the petitioner that its market share would gradually increase. The same however substantially declined in the last quarter.
- Petitioner submits that it has the capacity to meet the entire Indian demand and imports are wholly unnecessary on this account. Further, two more companies have already come in production after the POI. Combined Indian capacity is therefore sufficient to meet the entire Indian demand. However, these capacities are lying significantly unutilized due to dumping of the product in the Country.

- Interested parties have argued that project report should not be attached absolute sanctity. The Project Report of the company was approved by competent authorities for finalizing the project.
- The quantum of interim anti-dumping duty recommended by the Authority in its preliminary determination on some of the exporters is considerably low. Further, benchmark or variable form of anti dumping duty would lead to evasion of anti dumping duties. While the interim duties are in the form of fixed duties and the same itself justifies recommendations of fixed form of duty, petitioner submits that given the disclosure statement relating to export price claims by the foreign producers and Indian importers, it is evident that any benchmark form of duty shall be easily evaded by these parties by over reporting the import values. In view of the same, petitioner requests to recommend fixed form of anti dumping duty.
- Only interested parties should be allowed to participate in the investigation. The Authority should reject the submissions made by eSys, 3M, the All India Signage Printers & Merchants Association (AISPMA), etc on the same ground.
- Dumping margin and injury margin in respect of Shanghai NAR industrial Co. Ltd and Shanghai Inflex Signage Co. Ltd may be reviewed since they have suppressed vital information that one of their related companies namely M/s Shanghai NAR international Development Co. Ltd has exported the product under consideration to India during POI.
- Unless the exporters show full evidence of payment having been made by the importer concerned, it must be concluded that export price is not fully established to the extent claimed.

Examination by the Authority

37. The Authority notes that the Domestic Industry had commenced its commercial production on 22nd April, 2008 and the period of investigation is from April, 2008 to September 2009. The unit has reported in its audited accounts, project report and other documents that its capacity is 50000 Mt. It is observed from the details provided by the Company in the project report that it had installed 2 calendar lines capable of producing 115 million sqm of finished products on 3 shift basis for 330 days. Taking the average weight of the thickness of the film as 435 grams per square meter, the capacity of the plant in terms of Mt was computed as 50000 Mt per annum.
38. The Authority notes that the capacity of the plant is dependent on the weight as well as the sqm of the product produced and change in any one of the parameters will alter the capacity of the plant. During POI the Domestic Industry has produced 35.9 million sqm of the finished product with average thickness of 277 grams per square meter.

Since the products produced are not identical and homogenous and the assumptions made at the time of declaring installed capacity and at the time of actual production significantly vary, the installed capacity needs to be reassessed in terms of the actual mix of products produced during POI.

39. The capacity so reassessed works out to 31890 Mt per annum and the actual capacity utilization during POI works out to 21.64% as against 13.81% based on original declared capacity of 50000 Mt per annum.
40. The Authority further notes from the bill of entry and other relevant documents that the domestic industry had purchased two calendar machines, other associated machines and three laminators prior to the commencement of commercial production and the POI (and not two laminators as claimed by the opposing parties). It is noted that the domestic industry produced Chartered Accountants certificate showing that it had indeed put to use 3 laminators as on 22nd April 2008. The Authority further notes that the domestic industry had supplied PUC of 220-560 GSM during the period of investigation.
41. It was also observed by the Authority during the verification that the Laminator which was purchased in 2007 was not in operation. The domestic industry explained that the particular laminator is suitable for higher GSM product and due to change in market scenario the demand for higher GSM product has declined and therefore, this laminator is being converted to make it suitable for manufacture of lower GSM products.
42. The Authority further observed that the domestic industry has procured and installed the 4th laminator post POI meant for lower GSM, which was observed to be operational during on the spot verification.
43. Authority notes that domestic industry had initially submitted an anti-dumping application to the DGAD in September, 2009, whereas the Company had commenced commercial production w.e.f. 22nd April, 2008. Thus the argument of the interested parties that the month of start of domestic industry was April 2008 & the Anti-dumping Initiation application was moved during the same month (April 2008) does not hold good.
44. The Authority has considered actual number while determining demand market share and sale.
45. As regards the argument in respect of period of investigation and injury period cannot be the same and 18 months period adopted by the Authority is incorrect. The Authority notes that there is no bar under the Rules for taking period of investigation as 18 months.
46. The Authority further notes that there is no specific period for period of investigation and period of injury examination mentioned either in the AD Rules or the WTO's AD Agreement. It is noted that the Authority has been considering a period ranging from 6 months to 18 months as the POI based merits of each case. Considering the facts in the instant matter, particularly that the domestic industry in the present case has

commenced commercial production only in April 2008, the POI for 18 months has been appropriately considered.

47. With regards the argument that investigation is not in accordance with the Trade Notice No. 2/2004, the Authority notes that the need for providing data for 3 years prior to POI is not applicable in the case of petitions claiming material retardation.
48. As regards the argument that during initiation, DI has not provided information regarding the issue as to when did the dumping start, The Authority notes that petitioner has provided relevant information as to the dumping both in the confidential and non-confidential versions of the petition.
49. As regards the argument that as per 2008 proposal to WTO which states that an industry can under no circumstance be considered to be in establishment if the collective production capacity of the established producers exceeds 10% of the domestic demand, the Authority notes that the proposal is not yet part of AD Agreement and AD Rules.
50. The interested parties have argued that the cost or injuries, if suffered by the domestic industry are the result of normal start up problems. The Authority has examined the matter and notes that the claim of injury is not due to start up problems.
51. As regards the argument that imports from South Korea, despite being significant, has not been taken in to consideration in present investigation, the Authority notes that about 93% of imports are from subject country during POI. Although imports from Korea are above deminimis, the prices are much higher as compared to the prices from the subject country.
52. As regards the argument of gap between demand and supply the Authority notes that imposition of anti dumping duty would not restrict the imports in any manner, and therefore, would not affect the availability of the product to the domestic consumers.
53. As regards the issue of under invoicing, the Authority notes that under invoicing is an offence under the Customs Act and other relevant Acts and is beyond the mandate of the DGAD.
54. As regards the issue of injury period in the instant matter, the Authority notes that the period of data collection for injury analysis could be less than three years in a case where the domestic industry from which data is being gathered has existed for a lesser period. However, in such a case the injury period should include the entirety of the period of data collection for the dumping investigation which has been followed in this case as well. This view is also buttressed by the recommendations of the WTO's Committee on Anti Dumping practices of May, 2000.
55. Post disclosure some interested parties submitted that anti-dumping duty, if any, should be imposed on reference price basis. However, the submission was not corroborated with supporting documents. The Authority notes that during the course of the investigation the interested parties have alleged under invoicing in the imports of the subject goods from the subject country and the Authority has not granted individual dumping margin to many respondent exporters of the subject goods from

the subject country in view of mismatches in the export data and failure of such exporters to furnish documents towards receipt of payment from the Indian importers. The Authority notes that in such a situation imposition of reference price duty may result in circumvention of anti-dumping measures through over invoicing of export prices. Further, the provisional duty was imposed by the Central Government on fixed duty basis and the Authority does not find any reason to recommend otherwise.

56. The Authority has not relied only upon the project report to compare the performance of the domestic industry. The performance of the domestic industry has been assessed on the basis of various economic parameters and verified data.
57. As already mentioned, the Domestic Industry had three laminators in operation during POI. The Authority has considered the speed of the two laminators observed during verification as well as the technical data made available by the domestic industry and found that the Domestic industry is capable of producing a maximum of 97.3 million square meters or 27000 Mt (based on 277 GSM) of the subject goods per annum by using the two new laminating machines installed before commercial production. In addition the domestic industry was having one more laminating machine capable of producing higher GSM of the subject goods. The Authority therefore observes that even if one goes by the installed capacity based on two laminating machines the domestic industry's capacity utilization would be about 25% and therefore would not affect the injury analysis made in this finding. Further, the Authority notes that capacity utilization is not the only parameter for determination of material injury and material retardation to the domestic industry.
58. Post disclosure the opposing interested parties submitted that in order to determine a proper margin of injury, it is essential to compare both, NIP and landed value, at the same level of trade and calculate the landed value by considering the local excise duty or its equivalent duty imposed on imports, i.e., CVD. The Authority notes that the excise duty exemption benefit given by the Central Government is intended to compensate and encourage the industries to come up in geographically disadvantageous areas. The Authority therefore observes that such duties cannot be taken while calculating landed value.

G. Methodology for determination of Dumping Margin

Market Economy Claims

Submissions by the Domestic Industry

59. The following are the submissions made by the Domestic Industry with regard to market economy claim:
 - The Authority shall consider China and Chinese producers as not entitled for market economy treatment; unless one or more Chinese producers establish that they are entitled for market economy treatment.

- Market economy status cannot be granted unless the responding exporters satisfy each & every of the following conditions:
 - i. Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity.
 - ii. Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values.
 - iii. Market economy status cannot be given unless the responding exporter establishes that their books are audited in line with international accounting standards.
 - iv. Market economy status cannot be granted even if one of the parameters is not satisfied.
 - v. Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected.
 - vi. Market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
- Grant of market economy treatment by EU is not mandatory on the Designated Authority.
- The question of company specific normal value shall arise only if the Chinese companies are able to establish that they are entitled for market economy treatment.

Submissions by Exporters, Importers and other interested parties

60. The following are the submissions made by the Exporters, Importers and other interested parties with regard to market economy claim:
- Blanket denial of MET claims and construction of normal value is wrong.
 - Rejection of market economy claims of the exporters on the basis of 'impossible standards' set by the Authority.

Examination by the Authority

61. The Authority notes that in the past, China PR has been treated as a non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of para 8 (2) of the annexure 1 of AD rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules.
62. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China

PR provides information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China PR 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 Designated 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.

G1. Zhejiang Botai Plastic Co., Ltd

63. After the provisional findings, an on the spot verification was conducted at the premises of the producer and exporter. A detailed verification report was issued to the company asking for their comments. In particular, the company was asked about various deficiencies found in their submissions and also the fact that the company was not able to produce relevant records in support of their claim for market economy treatment.
64. Post disclosure the subject company stated that the verification team asked for several documents but it was physically impossible for them to provide all the documents. The Authority notes that the comments received from the subject company were incomplete, evasive and therefore unacceptable. In particular, the company was not able to rebut the presumptions mentioned under para 8(3) of the Annexure 1 of the Anti-dumping Rules as it was not able to submit relevant records required for rebutting the presumptions of market economy at the time of verification. In view of the above reasons, the Authority does not grant market economy status to the subject company.

G2. Heytex Technical Textiles (Zhangjiagang) Co. Ltd

65. The following are the observations of the Authority:
 - As per the response filed with the Authority, M/s Heytex Technical Textiles (Zhangjiagang) Co. Ltd. is a 100% owned subsidiary of Heytex Bramsche GmbH, Germany, established in the year 2006.

- From the information submitted by the subject company subsequent to verification of data by the Authority, it has come to the notice of the Authority that the company had procured substantial quantum of the major raw materials from some companies namely M/s Haining Tianchang Plastic Fabric Co Ltd, M/s Hainjng Ganglong Knitting Clothes Co, etc who are respondents in the present investigation and have been declared as non-market economy by the Authority.
 - In the response filed by M/s Zhejiang Ganglong New Material Co., it is stated that prior to May 2009 the company was known as M/s Hainjng Ganglong Knitting Clothes Co.Ltd. Further, from the public domain information of M/s Zhejiang Ganglong New Material Co., Ltd., it is evident that this company is also known as M/s Hainjng Ganglong Knitting Clothes Co. Ltd. As per the information furnished by the subject company they have procured significant quantum of PVC Films from M/s Zhejiang Ganglong New Material Co., Ltd.(M/s Hainjng Ganglong Knitting Clothes Co. Ltd) at a price lower than the prices of other suppliers.
 - They have also procured significant quantum of polyester mesh from a company named Haining Tianchang plastic Fabric Co. Ltd in China. It is noted that this company is none other than M/s Zhejiang Tianchang Plastic Fabric Co. Ltd., a respondent producer/exporter in the present investigation, who has been accorded non-market economy status by the Authority.
66. Post disclosure the subject company stated that the ground on which the Authority has rejected the MET claim of the subject company is factually incorrect and legally untenable. However, the subject company has not disputed the observations of the Authority that they have procured substantial quantum of the major raw materials from non-market sources. The Authority notes that the subject company has not conclusively and substantively proved that the raw materials procured by the subject company from non-market sources are not impacted by non-market forces. In view of the above, the Authority does not grant market economy status to M/s Hytex Technical Textiles (Zhangjiagang) Co. Ltd.

G3. Shanghai NAR Industrial Co., Ltd & Shanghai INFLEX Signage Co., Ltd

67. The following are the observations of the Authority:
- Shanghai NAR Industrial Co., Ltd is the parent company of Shanghai INFLEX Signage Co., Ltd. MET claim has been made by the parent company, but the subsidiary company has not made MET claim.
 - Shanghai NAR was claimed to have been established in the year 2005. The first Articles of Association was issued on 20th October

2005. The Capital Verification of the Company was carried out on the same date as the issue of Articles of Association i.e. 20th October, 2005. On being asked about the same, there was no satisfactory reply. Thus the genuineness of the CVR of the company, which was issued before the incorporation of the Company itself, is doubtful.

68. After the provisional findings, an on the spot verification was conducted at the premises of producer and exporter. A detailed verification report was issued to the company asking for their comments. In particular, the company was asked about various deficiencies found in their submissions and also the fact that the company was not able to produce relevant records in support of their claim for market economy treatment.
69. It is noted that no comments were received from the subject company on the verification report. In particular, the company was not able to rebut the presumptions mentioned under para 8(3) of the Annexure 1 of the Anti-dumping Rules as it was not able to submit relevant records required for rebutting the presumptions of market economy at the time of verification. Post disclosure, the subject companies reiterated their market economy claim without furnishing any substantive supportive documents. In view of the above reasons, the Authority does not grant market economy status to the subject company.

G4. Zhejiang Tianchang Plastic Fabric Co., Ltd

70. After the provisional findings, an on the spot verification was conducted at the premises of producer and exporter. Despite advance intimation the company did not keep required documents ready for verification. Further, the costing related documents were not produced for verification. The subject company claimed to have been established in the year 2004 as a Sino-Foreign Joint Venture. However, in the Product Brochure of the Company made available to the verification team, it is noticed that the Company was established in the year 2002 by the name of “ATC (Zhejiang Tianchang) Plastic Fabric Company Ltd.” Further, it also came to notice of the verification team during interaction with the officials that the company had been set up initially in the Year 1994. The Authority notes from the web based information that the company was originally set up in 1997. The Authority notes that none of the available information appears to be reliable to establish the formation and the growth of the company.
71. A detailed verification report was issued to the company asking for their comments. In particular, the company was asked about various deficiencies found in their submissions and also the fact that the company was not able to produce relevant records in support of their claim for market economy treatment.
72. Post disclosure the subject company stated that the verification team asked for several documents but it was physically impossible for them to provide all the documents. The Authority notes that the comments received from the subject company were incomplete, evasive and not satisfactory. The Authority further notes that the company did not provide required documents, including costing related documents,

for verification. Further, the origin and growth of the subject company has not been substantiated with adequate material evidence and record. Moreover, the subject company failed to furnish the details of fixed assets acquired by them since its inception, with details of the source of procurement and requisite payments made to suppliers.

73. In particular, In particular, the company was not able to rebut the presumptions mentioned under para 8(3) of the Annexure 1 of the Anti-dumping Rules as it was not able to submit relevant records required for rebutting the presumptions of market economy at the time of verification. In view of the above reasons, the Authority does not grant market economy status to the subject company.

G5. Zhejiang Yuli Plastic Co. Ltd

74. M/s Zhejiang Yuli Plastic Co. Ltd, originally named as Haining Yuli Plastic Co., Ltd, was claimed to be originally set up in Nov. 11 2005 as a limited liability company. The major shareholders of the subject company, who have invested in cash, are the employees of another respondent non-market economy company in the present investigation. After the provisional findings, an on the spot verification was conducted at the premises of producer and exporter. A detailed verification report was issued to the company asking for their comments. In particular, the company was asked about various deficiencies found in their submissions and also the fact that the company was not able to produce relevant records in support of their claim for market Economy Company.
75. The Authority notes that the much belated comments received from the subject producer/exporter are incomplete, irrelevant, evasive and therefore not acceptable. The Authority notes that the majority of the shareholders are connected to another respondent non-market economy company. The Authority further notes that the subject Company has procured substantial quantum of major raw materials from another respondent non-market economy company. Moreover, the financial accounts of the company show discrepancy in terms of shareholding and income statement. In particular, the company was not able to rebut the presumptions mentioned under para 8(3) of the Annexure 1 of the anti dumping rules as it was not able to submit relevant records required for rebutting the presumptions of market economy at the time of verification. Post disclosure the subject company disputed the observation of the Authority and reiterated its market economy status. However, the arguments of the subject company were without any supportive documentary evidence. The subject company has not disputed the observations of the Authority that they have procured substantial quantum of the major raw materials from non-market sources. The Authority further notes that the subject company has not conclusively and substantively proved that the raw materials procured by the subject company from non-market sources are not impacted by non-market forces. In view of the above, the Authority does not grant market economy status to M/s Zhejiang Yuli Plastic Co. Ltd.

G6. Zhejiang Hailide New Material Co., Ltd

76. After the provisional findings, an on the spot verification was conducted at the premises of producer and exporter. A detailed verification report was issued to the company asking for their comments. In particular, the company was asked about various deficiencies found in their submissions and also the fact that the company was not able to produce relevant records in support of their claim for market economy treatment.
77. The Authority notes that the comments received from the subject company were incomplete, evasive and not satisfactory. The Authority further notes that the company did not provide required documents, including costing related documents, for verification. In particular, the company was not able to rebut the presumptions mentioned under para 8(3) of the Annexure 1 of the anti dumping rules as it was not able to submit relevant records required for rebutting the presumptions of market economy at the time of verification. Post disclosure the subject company reiterated its market economy claim. However, the Authority notes that the Company has not disputed the fact that they have procured the major raw materials from non-market sources. Further, the post-disclosure rebuttal of non-market status is not satisfactory. In view of the above reasons, the Authority is not able to grant market economy status to the subject company.

G7. Cixi Linyun Plastic Wart Co. Ltd

78. During the on the spot verification by the Authority Cixi Linyun Plastic Wart Co. Ltd submitted a written statement that they abandon the claim of MET status. Subsequently, at a much belated stage, the subject company had informed through their new legal representatives that they had abandoned their MET claim under duress. Post disclosure they reiterated that they have not abandoned their MET claim. However, the Authority notes that the company had consciously and willingly foregone their MET claim during the verification.

G8. M/s Guangzhou Dima Membrane Structure Co Ltd. (Dima)

79. M/s Guangzhou Dima Membrane Structure Co Ltd, a producer of the subject goods, has foregone their claim for Market Economy Treatment.

G9. Guangzhou Hongxin Economic Development Co. Ltd. China PR

80. M/s Guangzhou Hongxin Economic Development Co. Ltd. China PR (Hongxin) has foregone their claim for Market Economy Treatment.

Zhejiang Ganglong New Material Co., Ltd, China PR (Ganglong)

81. M/s Zhejiang Ganglong New Material Co., Ltd, China PR (Ganglong) has foregone their claim for Market Economy Treatment.

G10. M/s Jiangyin Nanwei Plastic Co. Ltd., Jiangyin, China PR & M/s Jiangyin Nanwei International Trade Co. Ltd., Jiangyin, China PR (Nanwei International)

82. M/s Jiangyin Nanwei Plastic Co. Ltd., Jiangyin, (producer) and M/s Jiangyin Nanwei International Trade Co. Ltd. (exporter) have foregone their claim for Market Economy Treatment.

H. De Minimis Limits

83. As per the import data received by the Authority from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and other secondary sources, as well as the data furnished by the cooperating exporters from China PR, the import volume of the subject goods from the subject country are above the de minimis level.

I. Normal Value, export price and dumping margin.

Submission by domestic industry

84. The following are the submissions of the domestic industry regarding the normal value, export price and dumping margin:
- The Exporters' data should be accepted only after verifying with the Indian Customs Data.
 - The fact of unabsorbed VAT cost is well accepted by the Chinese producers and needs to be adjusted.
 - Profits of the related trading parties should be deducted. The normal value includes SGA & profit, which is in respect of production and sale of the product under consideration. Trading company performs only function of sales of the product. Therefore, the SGA & profit included in the normal value determination are not sufficient to account for the expenses involved in selling of the goods.
 - While different grades have significantly different associated cost and price if the unit of measurement is SQM, associated cost and price do not significantly vary if the unit of measurement is weight.
 - None of the exporters has established that weight of the product is not an appropriate parameter for establishing normal value, export price and dumping margin.

Submissions by Exporters, Importers and other interested parties

85. The following are the submissions by Exporters, Importers and other interested parties regarding the normal value, export price and dumping margin:

- The grounds on which Korea is proposed to be selected as the third country market economy should be disclosed. The Korean material is significantly different from the material produced by the Chinese companies and the petitioner.
- Adopting a single normal value, export price, non injurious price for all grades of subject goods is inappropriate. The calculation of dumping and dumping margin are erroneous.
- The Authority has recommended duty on the basis of kilograms while the data provided by the interested parties is based on square meters. Adoption of weight as the common unit of measurement is highly inappropriate.
- Deduction of non-refundable portion of VAT from the export price is not warranted.
- Consumption norms of different specifications differ in great measure based on the weight of PVC and fabric and different companies have different product structures. It is hence unfair to calculate constructed normal value based on domestic industry's data or other exporter's norms.
- The parameters, Normal Value and NIP, should be exporting country specific and importing country specific.

Examination by the Authority issues relating to Normal value

86. As regards selection of the third country market economy, the Authority had indicated in the Initiation Notification that the applicant has proposed South Korea as an appropriate market economy third country. However, some of the interested parties have objected to the appropriateness of South Korea as surrogate country stating that the goods imported from South Korea are primarily of expensive variety, viz., backlit, whereas China mainly exports relatively cheaper type i.e. frontlit variety. Neither the Domestic Industry nor other interested parties have made available the required information to the Authority.
87. The opposing interested parties have argued that adopting a single normal value, export price, non injurious price for all grades of subject goods is inappropriate. Subsequent to the provisional findings, the domestic industry has also requested the Authority to examine the dumping margin by taking into account GSM of the subject goods. The matter has been examined and it is noted that the subject goods have been exported to India under various GSM and they are also denominated in Square meters. It is noted from the information submitted by exporters that if square meters of subject goods are converted into weight (Kgs) after taking into account the GSM of subject goods, then the prices per Kg of different GSM do not vary significantly.
88. With regard to the argument that Authority has recommended duty on the basis of kilograms whereas the data has been provided by interested parties on square meter

basis, the Authority notes that the weight of the product is dependent on the GSM of the product. The interested parties have furnished required data for the PUC in terms of GSM as well as SQM and on this basis the weight has been arrived at and adopted as the unit of measurement.

89. The opposing interested parties have argued that deduction towards non-refundable portion of VAT from the export price is not warranted since in Appendix 1, exporters are required to report the basic price without including VAT component. The Authority notes that there is a VAT differential which is paid to the Chinese Government and hence needs to be adjusted while calculating Net Export Price.
90. The opposing interested parties have argued that Consumption norms of different specifications differ in great measure based on the weight of PVC and fabric and different companies have different product structures. It is hence unfair to calculate constructed normal value based on domestic industry's data or other exporter's norms and exporter specific consumption norms ought to be used. The Authority notes that none of the responding exporters have established during the on the spot verification. Besides weight of the product is an appropriate parameter for establishing normal value, export price and dumping margin, as already explained above.
91. The opposing interested parties have argued that the parameters i.e normal value and NIP, cannot be importers or exporters specific, but rather exporting country specific and importing country specific (India). The authority notes that the CNV and NIP have been calculated and determined as per the Rules and methodology in practice. The Authority has followed the prescribed procedure and consistent practice for determining the normal value, export price, dumping margin and the non-injurious price and the methodology for determination of the same has been disclosed.
92. The Authority would have determined individual normal value for each of the co-operating producer/exporter from China PR in accordance with Section 9A of Customs Tariff Act, 1975, amended from time to time, had they been able to rebut the NME presumption to the satisfaction of the Authority. Since in the present investigation none of the responding producers/exporters could rebut the NME presumption to the satisfaction of the Authority, the Authority has determined the normal value as per Para 7 of Annexure 1 of the anti-dumping Rules. In this connection Para 7 of Annexure I of the Anti-dumping 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.

93. After verification of the producer/exporter's data from the subject country and in view of the non-market economy status meted out to them and since no interested party has provided the data of any appropriate third country, the Authority in the absence of relevant data, adopted the third option available in the Rules, which provides for adoption of 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 and constructed the normal value in respect of the subject country. The Normal Value has been constructed taking into account international prices of all the major inputs. The conversion cost and SGA expenses adopted on the basis of the best information available after due adjustments for optimum level of production, and after adding a reasonable profit margin of 5% of ex-factory cost excluding interest. The constructed normal value has been determined as under:-

US\$ per Kg

Cost of raw materials	***
Conversion Cost	***
SGA Expenses and Finance cost	***
Profit margin	***
Constructed Normal Value	***

J. EXPORT PRICE

94. M/s Shanghai Lanquan Plastic products Co. Ltd, China and M/s Zhejiang Minglong Plastic Cement Co. Ltd, China were not given individual dumping margin in the Preliminary Findings on the ground of mismatch between the export data provided by them and the Customs data. It is noted that both the producers/exporters have not submitted replies to the deficiency letters issued by the Authority after the preliminary findings. Post disclosure both the companies insisted on individual dumping margin. However, in view of the reasons stated above, the Authority does not grant individual dumping margin to M/s Shanghai Lanquan Plastic products Co. Ltd, and M/s Zhejiang Minglong Plastic Cement Co. Ltd.
95. Subsequently, M/s Zhejiang Minglong Plastic Cement Co Ltd requested the Authority to accept the price undertaking offered by them. However, the Authority does not consider it appropriate to accept the price undertaking in view of practical difficulties in monitoring price undertaking.
96. The Authority conducted on the spot verification in respect of the following producers/exporters:
1. Heytex Technical Textiles (Zhangjiagang) Co.Ltd., China
 2. Zhejiang Botai Plastic Co. Ltd., China

3. Zhenjiang Tianchang Plastic Fabric Co. Ltd., China
4. M/s Zhejiang Ganglong New Material Co., Ltd, China
5. M/s Shanghai Nar Industrial Co. Ltd (NAR), China (Producer) and M/s Shanghai Inflex Signage Co. Ltd, China (Exporter)
6. M/s Zhejiang Hailide New Material Co. Ltd., China
7. M/s Guangzhou Dima Membrane Structure Co. Ltd, China (Producer) & M/s Guangzhou Hongxin Economic Development Co. Ltd., China (Exporter)
8. Cixi Linyun Plastics Wart Co. Ltd, China
9. M/s Zhejiang Yuli Plastic Co. Ltd, China.
10. Jiangjin Nanwei Plastics Co. Ltd., China (Producer) & Jiangjin Nanwei International Trade Co. Ltd., China (Exporter)

J.1 Zhejiang Botai Plastic Co. Ltd., China

97. The following are the observations of the Authority:
 - a. As per the details provided in Appendix 2 submitted along with the Exporters Questionnaire Response the subject producer/exporter has claimed to have exported *** Sq. Meters, (***) KG's) of PUC to India during POI through *** transactions. Total Gross invoice value declared in appendix 2 in respect of these *** transactions is US \$ ***. During verification they furnished revised Appendix 2, stating that they had missed to report some transactions and the same was un-intentional. In the revised Appendix, they have reported *** transactions, accounting for export of *** Sq. M. (***)kg) with total gross invoice value of US \$ ***.
 - b. During the on the spot verification it was noticed that the realization certificates produced for verification did not tally with invoice value. During the course of verification, they were provided with the details of Customs data obtained by the Authority from ICD Tughalakabad. These exports were also made during POI but were not found reported in the revised appendix 2 submitted to the verification team.
98. In their response to the verification report, the subject producer/exporter stated that they have no control over the data mismatch. However, the Authority notes that there are mismatches in the data provided by the stated producer/exporter. The Authority further notes that the mismatches in export data and factual discrepancies have not been explained by the said producer/exporter satisfactorily. In view of the above the Authority does not grant individual dumping margin to Zhejiang Botai Plastic Co. Ltd. Post disclosure the subject company stated that the details regarding mismatches in the information/data were not provided to them by the Authority after the verification. In this connection the Authority notes that the detailed verification report sent to the subject company was self explanatory.

99. Subsequently, the subject company has expressed their willingness to offer price undertaking. However, the Authority does not consider it appropriate to accept the price undertaking in view of the mismatches in the data furnished by the subject producer/exporter, non market economy nature of the company and practical difficulties in monitoring price undertaking.

J.2 Zhenjiang Tianchang Plastic Fabric Co. Ltd., China

100. The following are the observations of the Authority:
- a. It is noted that the original documents including proforma invoices, commercial invoices, packing lists, bills of lading, invoices for the inland transportation and other related charges were not provided during verification. It was also noted that a number of customs declarations had not been reported in appendix 2, filed with the Authority. Further, for more than 50% of transactions, they were unable to provide invoices and invoice wise sale payment receipts/realization certificates. It was also noted that exports made to an Indian importer as reported in Customs data in ICD Tughalukabad, was also not found reported in the response filed with the Authority.
 - b. Significantly lower prices of subject goods exported by them to India during POI for which bills of entries of lower values have been filed by the Indian importers.
 - c. In their comments by exporters, it has been submitted that
 - a. The quantity and value reported in some of the Customs Declaration documents has been incorrectly reported due to an inadvertent error.
 - b. The goods exported vide some of the unreported invoices are not for the product under consideration.
101. The Authority notes that there were unreported transactions and mismatches in respect of the exports related data provided by the said producer/exporter. During verification it was noted that the company had not been able to present the details of the payments received from Indian importers. Moreover during exporter's verification, they could not furnish original export documents for verification purpose. The explanation given by the subject producer/exporter in response to verification report is found to be incomplete, evasive and unsatisfactory. In view of the above the Authority does not grant individual dumping margin to M/s Zhenjiang Tianchang Plastic Fabric Co. Ltd. Post disclosure the subject company stated that the details regarding mismatches in the information/data were not provided to them by the Authority after the verification. In this connection the Authority notes that the detailed verification report sent to the subject company was self explanatory
102. Subsequently, the subject company has expressed their willingness to offer price undertaking. However, the Authority does not consider it appropriate to accept the price undertaking in view of the mismatches in the data furnished by the subject

producer/exporter, non market economy nature of the company and practical difficulties in monitoring price undertaking.

J.3 M/s Zhejiang Hailide New Material Co. Ltd., China

103. The following are the observations of the Authority:
- a. During verification of records, they provided a revised response including appendix 2, showing changed Gross invoice value. However they failed to provide original documents for verification.
 - b. During verification discrepancies were noticed in the various transactions reported in Appendix-2, and reported in Invoices.
 - c. During verification it was noted that the company had not been able to present the details of the payments received from Indian importers through normal banking channel and also has not been able to present or corroborate export volumes and prices with Indian customs port data.
104. The Authority notes that the explanation given by the subject producer/export in response to verification report is incomplete, evasive and unsatisfactory. The Authority further notes that during verification of records the company failed to provide original documents for verification. Post disclosure the subject company stated that they have been fully paid irrespective of the channel of payment. However, the Authority observes that the subject exporter has failed to corroborate receipt of required payments from the Indian importers by producing documents. In view of the above, the Authority does not grant individual dumping margin to M/s Zhejiang Hailide New Material Co. Ltd.

J.4 M/s Guangzhou Dima Membrane Structure Co. Ltd, China (Producer) & M/s Guangzhou Hongxin Economic Development Co. Ltd., China (Exporter)

105. The following are the observations of the Authority:
- a. During verification of Dima it was noticed by the Authority that there were some entries recorded in the sales to Hongxin which were not exported to India during the POI.
 - b. During verification the exporter was asked to provide copies of Ledger Accounts. It was found that since the exporter has exported other products (non subject material), it was not possible to match the transaction to transaction payments from the Exporter.
 - c. An analysis of the ledger accounts revealed that payments have been received from parties other than the importers and therefore, it could not be reconciled with the individual invoices raised for export of the subject goods.
 - d. During verification differences in the invoice values of the subject goods and the landing price of the subject goods, as per port data

available with the Authority were pointed out to the exporter. But no justification with documentary proof could be provided by the subject exporter.

106. The following are the comments received from M/s Guangzhou Dima Membrane Structure Material Co., Ltd., and M/s Guangzhou Hongxin Economic Development Co., Ltd., China PR:

- M/s Guangzhou Dima Membrane Structure Material Co., Ltd., and M/s Guangzhou Hongxin Economic Development Co., Ltd., China PR., have exported subject as well as non subject goods to the importers in India. Accordingly, it is not possible to match sales realization on invoice to invoice basis. It was also pointed out in their reply that the extra credits are advances received from clients for further orders for ongoing business. It was also stated that M/s Guangzhou Dima Membrane Structure Material Co., Ltd. and M/s Guangzhou Hongxin Economic Development Co., Ltd., China PR., issued one invoice for which the importers paid, based on importers convenience and their export value is strictly as per their invoice and as declared to Chinese Customs.

107. During verification it was noted that the company had not been able to present the details of the payments received from Indian importers and also has not been able to present or corroborate export volumes and prices with Indian customs port data. The explanation given by the subject producer/exporter in response to verification report is found to be incomplete, evasive and unsatisfactory. In view of the above the Authority does not grant individual dumping margin to the subject exporter.

J.5 Cixi Linyun Plastics Wart Co. Ltd, China

108. The following are the observations of the Authority:

- Subject producer/exporter submitted revised appendix 2 twice, once before the PF and another amended version after the issue of Preliminary Findings.
- During verification glaring discrepancies were noticed in data reported in Customs Unified invoices vis-a-vs Appendix 2 presented to the Authority.
- During the verification they failed to provide original commercial invoices and other relevant documents related to the transactions reported in appendix 2.
- Glaring discrepancies between the transactions claimed in Appendix 2 and those reported in Indian Customs data were detected by the Authority during verification.

109. The following are the belated comments received from the subject producer/exporter:

- Adequate time was not given to the responding exporter for verification.
- Due to change of manpower (employee) and office premises the requisite data/record could not be arranged at the time of verification.

110. The Authority notes that during verification of records, they provided a revised appendix 2, showing changed Gross invoice value. However they failed to provide original documents. The justification for the discrepancies in the various transactions reported in Appendix-2 and those reported in Indian Customs data, noticed by the Authority during verification, have not been explained by the company with documentary proof. In view of the above the Authority does not grant individual dumping margin to Cixi Linyun Plastics Wart Co. Ltd.
111. Subsequently and post disclosure the subject company has expressed their willingness to offer price undertaking. However, the Authority does not consider it appropriate to accept the price undertaking in view of the mismatches in the data furnished by the subject producer/exporter, non market economy nature of the company and practical difficulties in monitoring price undertaking.

J.6 Jiangjin Nanwei Plastics Co. Ltd., China (Producer) & Jiangjin Nanwei International Trade Co. Ltd., China (Exporter)

112. The following are the observations of the Authority:
- All the export sales were made through a related trading company namely, Jiangyin Nanwei International Trade Co. Ltd. (Nanwei International).
 - During the verification the Authority observed that in many cases the payments were received from sources other than the purchaser of the goods. During verification, the company was asked about the other importers who have imported the subject goods from Nanwei during the POI. Indian Customs port data indicated that Nanwei had exported the subject goods to other importers. In particular, the information was sought about other Indian importers as per Indian customs port data, who had imported the subject goods from M/s Nanwei during the POI. It was informed by the company that they have no information about these importers and they were not their customers.
 - During the verification, it was noted that some exports to India have been through another trader from Hong Kong whose information and details were not submitted by the company in their response. During verification, it was noted that M/s Sun Global was one such trader whose information and details of its export prices to India were not provided to the Authority.
 - The company was asked to produce customer wise ledger for verification of payments against individual invoices. The company explained that it does not maintain customer wise ledger. Instead it maintains only country wise ledger. In the absence of individual accounts of the customers (Importers), the details of realizations against individual importers could not be verified.

- As per terms of payment informed by the company, the payments against individual invoices are remitted by individual customers only by the TT/ DP or by LC Bond.
113. The following comments have been received from M/s. Jiangyin Nanwei International Trade Co. Ltd, China:
- Nanwei International is concerned with the price at which they have exported the goods to India and realization of the entire export proceeds from those sales. They are not concerned about the manner and source from where the export proceeds are received.
 - Nanwei International sold goods to traders in Hong-Kong who in turn could have exported the goods to the Indian traders for which no information is available with Nanwei International.
114. During verification it was noted that the company had not been able to present the full details of the payments received from Indian importers and also has not been able to present or corroborate export volumes and prices with Indian customs port data. Post disclosure the subject producer/exporter reiterated its request for individual dumping margin stating that all payments have been received irrespective of the channel of payment and they have no control over the importers. However, the Authority notes that the contention of the subject exporter is devoid of merit and therefore does not grant individual dumping margin to the subject exporter.

J.7 M/s-Zhejiang Ganglong New Material Co., Ltd, China PR

115. The following are the observations of the verification team:
- During the verification, the company could not establish that it has received the payments from Indian importer for its total invoiced amount through normal banking channels from India. In some cases, it was noticed that payments were received from countries other than India or entities other than Indian importers and in the case of many transactions invoice numbers could not be found.
 - The company could not produce customer wise ledger for verification of payments against individual invoices.
 - Some of the transactions recorded in Appendix 2 have been sent to traders on way to exports to India, but the exporter has not filed details with regard to the prices at which these payments have been made by Indian importers. Also, no information was made available to the Authority with regard to export prices of these traders to Indian importers.
 - Subject goods were exported to Indian customers at significantly lower prices.
116. The following comments have been received from M/s-Zhejiang Ganglong New Material Co., Ltd, China PR:

- M/s-Zhejiang Ganglong New Material Co., Ltd is concerned only about the payments received by them and is not concerned whether these are being made against particular invoice numbers or not, whether coming from the same importers or someone else and whether payments are being made from India or others.
 - During verification it was noted that the company had not been able to present the details of the payments received from Indian importers and also has not been able to present or corroborate export volumes and prices with Indian customs port data.
117. No satisfactory justification along with documentary proof was provided by the subject producer/exporter. The explanation given in response to verification report and disclosure statement is found to be evasive and unsatisfactory. In view of the above the Authority does not grant individual dumping margin to the subject exporter.
118. Subsequently, the subject company requested the Authority to accept the price undertaking offered by them. However, the Authority does not consider it appropriate to accept the price undertaking in view of the mismatches in the data furnished by the subject producer/exporter, non market economy nature of the company and practical difficulties in monitoring price undertaking.

J.8 Shanghai Nar Industrial Co Ltd & Shanghai Inflex Sinage co ltd

119. M/s Shanghai NAR Industrial Co., Ltd is the parent company of M/s Inflex. While Nar is both a producer and exporter of subject goods, Inflex is purely a trading company. Post disclosure it has come to the notice of the Authority that one company namely M/s Shanghai NAR International Development Co Ltd, China PR, having the same address, company logo and website address as that of M/s Shanghai NAR Industrial Co Ltd, had exported the subject goods to India during the POI. However, despite being related company, neither any response was filed by M/s Shanghai NAR International Development Co Ltd, China PR, nor the responses filed by the subject companies provided details about M/s Shanghai NAR International Development Co Ltd. The subject companies were requested by the Authority to clarify the position with supporting documents. In response, it was clarified that M/s Shanghai NAR International Development Co Ltd, China is no longer related to the subject companies since 2nd January, 2008. In support of their claim they furnished an unsigned non-sealed copy of the shareholders resolution of M/s Shanghai NAR International Development Co Ltd. However, the subject companies could not explain how M/s Shanghai NAR International Development Co Ltd, China PR continues to share the address, logo and the website address with M/s Shanghai NAR Industrial Co Ltd. The Authority further notes as per available information that M/s Shanghai Nar International Development Co. Ltd. had exported the subject goods to India during the POI and the payment for such exports were to be made to their Company Nar (Hongkong) Co. Ltd., which is a related company of M/s Shanghai NAR Industrial Co Ltd. The Authority therefore observes that the subject companies have concealed the vital facts about their related company as well as the exports of subject goods to India made by them during POI. In view of the above stated reasons, the Authority

does not grant individual dumping margin to M/s Shanghai Nar Industrial Co Ltd and M/s Shanghai Inflex Sinage Co Ltd, China PR.

J.9 Heytex Technical Textiles (Zhangjiagang) Co.Ltd., China

120. M/s Heytex Technical Textiles (Zhangjiagang) Co.Ltd has reported export of *** Sqm amounting to *** MT of the subject goods to India through *** transactions for the gross invoice value of *** during the POI. The exports were claimed to be on FOB/CNF basis. Adjustments were made on account of VAT loss, inland freight and other charges like handling, customs fee to arrive at ex-factory export price. The Authority has determined net export price (NEP) in respect of the subject producer/exporter after making adjustments as submitted by the producer/exporter and as verified by the Authority.

J.10 Zhejiang Yuli Plastic Co Ltd

121. As per the details provided in Appendix 2. the company has exported *** Sq. Meters of PUC to India during POI through *** transactions. Total Gross invoice value declared in appendix 2 in respect of these *** transactions is US \$ ***. The exports were claimed to be on FOB / CIF / basis. The adjustments were made on account of Ocean Freight and Insurance, Inland Transportation, VAT and handling Charges. The Authority has determined net export price (NEP) after making adjustments as submitted by the producer/exporter and as verified by the Authority.
122. Subsequently and post disclosure, the subject company has expressed their willingness to offer price undertaking. However, the Authority does not consider it appropriate to accept the price undertaking in view of the non market economy nature of the company and practical difficulties in monitoring price undertaking.

J.11 Export price for Non-cooperating Exporters

123. The Authority has determined Export Price for the Non-cooperating Exporters as per facts available in terms of Rule 6(8) of the Anti Dumping Rules.

K. Dumping margin

124. Considering the normal value and export price determined, as explained above, the Authority has determined dumping margin as follows;

Particulars	Unit	<u>Heytex Technical Textiles (Zhangjiagang) Co.Ltd., China</u>	<u>Zhejiang Yuli Plastic Co Ltd</u>	Other Exporters
Normal value	<u>US\$/Kg</u>	***	***	***

Export price	US\$/Kg	***	***	***
Dumping margin	US\$/Kg	***	***	***
Dumping margin	%	***	***	***
Dumping margin Range	%	10-15	35-45	50-60

K. Injury Determination

Submissions by the domestic industry

125. The Domestic Industry has made the following submissions with regard to the Injury and causal link:

- The imports from China PR have increased in absolute terms and remained at a very significant level even when the petitioner has commenced the new production facilities for the product under consideration.
- The dumping of the product under consideration is materially retarding the establishment of the domestic industry in India.
- The rules clearly recognize three forms of injury – material injury, threat of material injury and material retardation to establishment of domestic industry. The fact that the petitioner commenced commercial production establishes that material injury cannot be examined in the present case, except for an examination within the investigation period itself. Thus, either the interested parties must agree for examination of injury inter se investigation period, or must agree that material injury cannot be examined & considered in the present case. In the former situation, the performance clearly shows that the domestic industry has suffered material injury.
- Threat of material injury exists in those situations where there is no material injury so far, but the circumstances are such that an imminent threat of injury exists. Thus, in such cases as well, past history (of no material injury) is must. Since the petitioner does not have past history, the Authority cannot examine threat of material injury in the present case. Thus, the only form of injury applicable/relevant in the present case is material retardation to establishment of domestic industry.

- In spite of the significant increase in the demand of the country and commissioning of the production by the petitioner, the sales of the domestic industry have declined due to the presence of the dumped imports in the market.
- Landed price of imports is far below the cost of production of the domestic industry. Further, the selling price of the domestic industry is considerably below its cost of production.
- Exporters from the subject country are exporting the subject goods at prices substantially lower than the prices at which the imports from the other countries are entering in India.
- The weighted average import price even after including the basic customs duties have been significantly below the net sales realization of the domestic industry, thereby resulting in significant price undercutting.
- There is a decline in the capacity utilization and subsequently the production, sales and market share of the domestic industry due to the ill effect of the increased dumped imports. Productivity of the domestic industry showed the similar trend.
- Profitability, cash flow and return on capital which were positive during the commencement of the plant turned negative in the period of investigation due to increase in the imports from the subject country.
- The domestic industry is deprived of the opportunity to grow and establish itself in the light of growing demand in the domestic market on the other hand there has been a considerable level of inventories with the domestic industry.
- With respect to the sanctity of the project report it is argued that the Project Report of the company was approved by competent authorities for finalizing the project. The Authority may examine the project report, actual performance so far and draw its own benchmark of reasonable level of performance that the domestic industry could have expected in the absence of dumping.
- With respect to the argument of interested parties that dumping period of investigation and injury period cannot coincide, the WTO guidelines requires the Authority to consider a longer injury period, which is subject to the condition that the party should have been in existence for a longer period. In fact, the interested parties at the time of hearing conceded the fact that the Authority would have been justified in considering a period shorter than 12 months as the dumping period of investigation.
- Import volumes may not be appropriately reflected on quarterly basis in view of the fact that there might be some over importation in some periods. In the present case, the consumption has been determined considering domestic

sales & imports. This may not imply actual consumption during the quarter. However, since actual consumption is difficult to be established, the Investigating Authorities tend to consider imports plus domestic sales as consumption. Even when imports could be considered as consumed, it is to be considered that such pattern may show a high or low volume in one quarter as compared to other quarter.

- Further, the Designated Authority is not restricted to consider 6 months as the period of investigation. In fact it would have been more appropriate to fix 6 months as a period of investigation in the present case. The deterioration in the performance of the domestic industry in Q5 and Q6 of period of investigation is sufficient enough to establish material injury given that this comprises of the minimum period of 6 months.
- The performance of the domestic industry shows that the company commenced commercial production in 22nd April 2008 and thereafter steadily increased its production till Q4 of POI. This further establishes that the domestic industry was in the process of establishing itself. A situation of continued increase in production and sale will happen only in a new company. In the past cases as well, the Authority considered the performance of the domestic industry to the extent the domestic industry was in production and sale of the product considering it the material retardation.
- As per the guidelines of the Committee on Anti Dumping Practices with regard to period of data collection, it is evident that the Authority must consider injury assessment for as much period as possible and in case the domestic industry was in existence for a period shorter than the minimum, the actual period of existence of domestic industry should be taken into account. Merely because the domestic industry has been in existence for several months does not mean that it cannot be a case of material retardation.
- Petitioner contends that the sub-optimal performance of the domestic industry up to Q1 of the POI, when the petitioner achieved production level of 1.08% can be termed as part of start up operations. However, once the petitioner achieved production level of 22.27%, there is no reason why the same should thereafter decline due to start up factors. The subsequent fall in production is entirely due to presence of dumped imports in the market and inability of the domestic industry to produce and sell the product.
- There is no 10% threshold capacity utilization considered by the WTO. The position of DGAD was that if the current domestic industry is not meeting entirety of the demand, addition of fresh capacities should be construed as material retardation to establishment of domestic industry. Evidently 10% threshold was never agreed by WTO members nor appears reasonable.
- The claim of the interested parties that the petitioner's capacity is only 12,500 MT per annum and the same is wholly utilized is without any factual basis. The capacities held by the petitioner are far more than contested. Petitioner has the capacity to meet the entire Indian demand and imports are

wholly unnecessary on this account. However, these capacities are lying significantly unutilized due to dumping of the product in the Country.

- It would be seen that the market share of the domestic industry improved till Q4. Market share achieved by domestic industry was substantially below the levels that a company with present capacities and market demand should have achieved. Further, the decline in market share after Q4 is clearly a result of intensified dumping. Domestic industry has lost sales disproportionately higher than decline in demand.
- It has been argued by the interested parties that whereas import prices increased over the period, the selling prices of the domestic industry declined and therefore, causal link is missing. The petitioner submits that it fixed the initial price for its product while going commercial. The price was obviously fixed at a much higher level as compared to the import price. This resulted in significant undercutting. Gradually, as the petitioner found difficulty in selling the product and as the consumers continued to resort to imported material, the petitioner kept lowering its prices gradually by offering discount in order to attract the customers thereby reducing price undercutting gradually.
- With respect to the argument advanced by the opposing parties that petitioner cannot produce more than 2661 MT per quarter is without any factual basis. The same can be verified by the Authority with the production actually achieved by the petitioner.
- Even when the imports-share remained constant, the market share of Domestic Industry was fluctuating. Also there is no evidence that the Domestic Industry has suffered on the basis of loss in the market share.
- An industry is said to be in establishment where a genuine and substantial commitment of resources has been made to the domestic production of a like product not previously produced in the territory of the importing member, but the production has not yet been achieved in commercial volumes.
- Authority may consider feasibility studies and investment plans to examine the case of material retardation.
- With respect to the allegation regarding capacity, petitioner submits that the information submitted to the Authority clearly established the fact that it has already produced much higher volume in comparison to what is claimed by the opposing parties.
- Authority has already observed that the establishment of the petitioner is materially retarded and in light of the performance of the domestic industry during the period of investigation it is suffering material injury. Material retardation to the domestic industry led to material injury to the domestic industry.

- The argument with respect to the non-disclosure of date of commercial production is baseless as it was disclosed in written submissions subsequent to the first oral hearing.
- The fact that domestic industry produced much higher levels and production declined in H3 establishes that the difficulties of the domestic industry are not with regard to technical constraints.
- Given the fact that the petitioner had gone into commercial production of a import substitute product with no past production in the country, it follows that the imports were bound to decline in a fair market situation. In fact, this is clearly established post imposition of the anti-dumping duty. Once dumping has been checked through imposition of anti dumping duties, the volume of imports has substantially come down and the market share of domestic industry has substantially increased.
- It has been argued by the opposing interested parties that quarter-wise data analysis showed distorted image of the injury. However, Petitioner provides the injury information on semester basis, which shows the same results.
- Post disclosure the domestic industry submitted that NIP should not be determined by considering notional production volumes. In any case, the expenses other than raw materials and utilities cannot be divided by such notional production as the level of expenditure is directly dependent on the level of operations.

Views / Submissions made by opposing interested parties

126. Interested parties opposing the petition have made submissions on injury which are summed up as follows:

- The entire case for material retardation cannot be sustained as the initiation notification itself does not invoke the provision of material retardation. It is submitted that no industry can logically claim material retardation when admittedly they have been in commercial production for over 18 months. In this context, it may be seen that the concept of “material retardation to the establishment of industry”. An industry which has been in commercial existence for such a long period cannot possibly claim to be in the process of “establishment”.
- The facts of the present case do not support a finding of material retardation and accordingly the present investigation deserves to be forthwith terminated. The domestic industry cannot be considered to be in establishment as a ‘developing’ or even as a ‘nascent’ industry for purposes of an allegation of material retardation and injury based thereon.
- Material injury and material retardation are mutually exclusive and do not co-exist. While the Domestic Industry has itself claimed material retardation, the investigation could not have been initiated considering that there was evidence of ‘material injury’.

- Test of material retardation relied by the petitioner is inapplicable to the petitioner as it has already found its place in the market.
- There is a difference in material retardation and a material injury. The initiation notification states that DI is suffering from material injury. The investigation could not have initiated as the evidence pertains to material injury and not retardation. Even in preliminary finding the Authority failed to appreciate this difference. Material retardation might lead to material injury whereas vice-versa is impossible.
- Price injury is not made available on quarterly basis, which leads to an inappropriate comparison.
- Domestic industry has provided unrealistic projected figures. The requirements as pointed out in 2008 proposal to WTO are not met. The production, capacity or volume as presented by Domestic industry is impossible with the kind of plant and machinery and the infrastructure.
- Failure to seek AD investigation against South Korea despite significant imports is indicative of the flaw in the petitioner's case.
- The argument that the level of imports should have come down as a result of domestic production is without logic as there was an increase in the domestic demand for the subject goods. Rather, imports are unavoidable and levy of AD duty would only mean burdening the end users.
- There is no adverse volume or price effect of the imports. The goods are being exported to India above its normal value.
- The share in the demand/market of the imports from China PR has shown decline of 20% in POI as compared to previous year whereas that of the domestic industry has grown more than 10 times.
- Even when the imports-share has remained constant, the market share of DI is fluctuating. Also there is no evidence that the DI has suffered on the basis of loss in the market share.
- Petitioner even in full capacity cannot meet more than approx 15-20% of even the present demand.
- The prices at which imports are coming in are high and there is no price suppression, depression, underselling or undercutting.
- The petitioner has failed to indicate which sources were relied in calculation of market share & demand data.
- The information on prices has not been provided on a monthly basis. Such changes in comparison parameters lead to incorrect results.
- The performance of DI has improved in terms of production, sales, capacity utilization, market share, etc. There is no injury or material retardation as claimed by the petitioner.
- No causal link has been established. Injury if any, caused to the domestic industry is not attributable to imports.
- DGAD failed to carry out a non-attribution analysis.

- No import is made during the POI and therefore no importers questionnaire is filed by 3M India ltd.
- There is no causal link established by the domestic industry and has observed positive growth in most of the injury parameters.
- If correct capacity is taken into consideration, the domestic industry did not suffer any volume effect. Petitioner has achieved almost 100% capacity utilization and merely because it achieved a lower utilization in Q6 does not suffice the material injury claim of the domestic industry.
- No injury has been caused to the domestic industry especially by the imports from Hailide.
- Imports are being made at a high price and there is no price suppression, depression, underselling or undercutting and there is a massive decline in imports.
- In Q6 low domestic sales is to be viewed in the light of lower domestic demand.
- No. of employees are increased with capacity being constant. This would certainly decrease the productivity per employee.
- There has been a contraction in demand in Q5 to Q6.
- it is clearly evident that from 95% of market share catered by China (during the nascent stage) declined to 71.59% which could have declined further only if DI had more production capacity (facility) to cater to ever-growing existing market demand of PVC flex film in India. Moreover, DI (right from the commencement of domestic production) has been enjoying a constant growth trend in sales (i.e. the total domestic production use to get sold out/ consumed). Hence, there has been no injury or dumping from China of subject goods.
- If any analytical study has to be done, a quarter has to be compared with the same quarter of any year and not between quarters with any quarter of choice. For instance the petitioner has compared Q2 (2009-10) with Q4 (2008-09). Therefore, this clearly indicates steep decline in imports from China PR and increase at domestic industry share in Indian Market & imports from other countries.
- Sub-optimal performance of the domestic industry may be due to start up operations.
- The Domestic Industry has faced loss in its new business of PVC Flex Films, due to its own reasons i.e. lack of technical know-how, use of obsolete manufacturing technology, mis-management, Import/purchase of raw material at a higher cost, etc.

Examination by the Authority

127. The Authority has noted the submissions made by the interested parties in respect of the injury claims of the domestic industry and examined them to the extent considered relevant. Further, the mandatory factors for the purpose of injury determination and causal link analysis have also been examined in the respective headings. The

Authority has considered the post disclosure comments/submissions of the domestic industry as well as other interested parties with regard to determination of Non Injurious Price (NIP). The Authority has considered the principles laid down in Annexure III to the AD Rules in determining the non injurious price of the PUC produced by the domestic industry to the extent applicable in the instant case as the domestic industry has started commercial production only during POI and there is no data available about their best capacity utilization prior to POI. In view of the above, Authority has considered the capacity utilization of 80% as projected in the Project report as the optimum capacity utilization. The Authority further notes that the level of salaries and wages, manufacturing overheads and administrative overheads to be incurred by the company for the production level of 80% capacity utilisation may not be same as the one it had incurred during POI. The Authority has therefore examined the degree of variability of the aforesaid expenses with reference to the audited accounts and the Project report and determined the variability of the aforesaid expenses like salaries and wages, manufacturing overheads and administrative overheads. The level of variability as determined above has also been considered for determining the NIP of the domestic industry.

K.1 Import volumes and Market Share of Subject Country

128. With regard to the volume of dumped imports, the Designated 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. Annexure II (ii) of the Anti-dumping Rules provides as under:

“While examining the volume of dumped imports, the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative to the production or consumption in India”

129. The year wise, half yearly and quarterly import data from the subject country and other countries are given in the tables below:

Year-wise Imports

S. No	Country	Units	2005-06	2006-07	2007-08	POI	POI Annualised
1.	China	MT	7,928	12,628	23,630	48,680	32,453
	Trend	Index	100	159	298	614	409
2.	Others	MT	514	640	553	3,400	2,267
	Trend	Index	100	124	108	661	441
3.	Total	MT	8,443	13,268	24,183	52,081	34,720
	Trend	Index	100	157	286	617	411

4.	Share of Subject Country	%	93.91	95.18	97.71	93.47	93.47
	Trend	Index	100	101	104	100	100

Quarter-wise Imports for the POI

S. No	Country	Units	Q1	Q2	Q3	Q4	Q5	Q6
1.	China	MT	7,030	9,436	7,334	7,860	9,886	7,135
	Trend	Index	100	134	104	112	141	101
2.	Others	MT	425	397	243	599	905	832
	Trend	Index	100	93	57	141	213	196
3.	Total	MT	7,455	9,833	7,577	8,459	10,791	7,967
	Trend	Index	100	132	102	113	145	107
4.	Share of Subject Country in imports	%	94.30	95.96	96.80	92.92	91.62	89.55
	Trend	Index	100	102	103	99	97	95

Half Yearly Imports for the POI

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S. No	Country	Units	2008-09		2009-10
			H1	H2	H1
1	China	MT	16,465	15,194	17,021
	Trend	Index	100	92	103
2	Others	MT	822	842	1,737
	Trend	Index	100	102	211
3	Total	MT	17,287	16,035	18,758
	Trend	Index	100	93	109
4	Share of Subject Country	%	95.25	94.75	90.74
	Trend	Index	100	99	95

- Year wise the imports of the subject goods from subject country have increased consistently and significantly through the injury period. Particularly during the POI the imports have doubled as compared to the immediate preceding year and increased by six fold vis-a-vis the base year. Though the volume of imports from other countries increased during the POI as compared to the immediate preceding year, it is insignificant as compared to the volume of imports from subject country.
- The volume of imports of subject goods from subject countries though marginally declined in 2nd half of 2008-09, it had increased in 1st half of 2009-10 as compared to base period (1st half of 2008-09).
- The above data indicates that imports of the subject goods from the subject country have increased substantially in Q2 and Q5 of the Injury period and in other quarters had remained at more or less the same level. However, when considered over a period of 4 years, including POI and preceding three years, the imports have increased 6 times.
- If the imports are considered for the four years period, it would be seen that the imports have increased significantly over the period. If the imports should not be seen for the four years period and must be seen only from the time the domestic industry commenced commercial production (22nd April, 2008), the natural trend of imports should have been decline in imports. Instead, the volume of imports has remained at the significant level during POI.

K.2 Market Share and Demand

130. The year wise, half yearly and quarterly market share and demand are given in the tables below:

Market share in Demand

S. No	Share in Demand	Units	2005-06	2006-07	2007-08	POI
1.	Subject Country	%	93.91	95.18	97.71	79.22
		Index	100	101	104	84
2.	Other Countries	%	6.09	4.82	2.29	5.53
		Index	100	79	38	91
3.	Domestic industry	%	-	-	-	15.25
4.		Index	-	-	-	-

Market share in Demand

S. No	Share in Demand	Units	Q1	Q2	Q3	Q4	Q5	Q6
1.	Subject Country	%	92.87	87.50	76.94	68.66	77.02	76.88
		Index	100	94	83	74	83	83
2.	Other Countries	%	5.61	3.68	2.55	5.23	7.05	8.97
		Index	100	66	45	93	126	160
3.	Domestic industry	%	1.52	8.82	20.52	26.11	15.93	14.16
		Index	100	579	1,346	1,713	1,045	929

Market share in Demand (Half Yearly)

S. No	Share in Demand	Units	2008-09		2009-10
			H1	H2	H1
1	China	%	89.71	72.42	76.96
	Trend		100	81	86
2	Others	%	4.48	4.01	7.85
	Trend		100	90	175
3	Domestic Industry	%	5.81	23.57	15.18
	Trend		100	406	261

- In terms of yearly analysis, the market share of imports from the subject country has increased from the base year till the POI and declined in the POI, after the Domestic Industry has commenced production.
- In terms of Quarterly analysis, the market share of the imports from subject country, which was declining up to Q4, increased during Q5 and then marginally declined in Q6. On the contrary market share of the domestic industry, which was steadily increasing till Q4 once again declined significantly.
- In terms of half yearly analysis, the market share of the imports from subject country has declined in H2 of 2008-09 and then increased in H1 of 2009-10.

On the contrary market share of the domestic industry, which has increased substantially during H2 of 2008-09, has declined significantly during H1 of 2009-10.

K.3 Actual and potential effect on production and capacity utilization

131. The half yearly and quarterly data regarding the actual and potential effect on production and capacity utilization are given in the tables below:

Production, Capacity & Capacity utilization (Quarterly)

S. No	Particulars	Unit	Q1*	Q2	Q3	Q4	Q5	Q6	POI
1	Installed Capacity	MT	6112	7973	7973	7973	7973	7973	45975
	Indexed		100	100	100	100	100	100	
2	Production	MT	148	1,143	1,868	3,049	2,440	1,305	9952
	Indexed		100	773	1,264	2,063	1,651	883	
3	Capacity Utilization	%	2.42	14.33	23.42	38.25	30.60	16.37	21.65
	Indexed		100	592	968	1581	1264	676	
4	Domestic Sales	MT	115	951	1,956	2,989	2,044	1,314	9369
	Indexed		100	824	1,695	2,591	1,772	1,139	
5	Other producers	MT	-	-	-	-	-	-	-
6	Imports	MT	7,455	9,833	7,577	8,459	10,791	7,967	52081
	Indexed		100	132	102	113	145	107	
7	Total demand	MT	7,570	10,783	9,532	11,447	12,835	9,281	61449
	Indexed		100	142	126	151	170	123	

* Commercial production started on 22.4.2008

Production, Capacity & capacity utilization(Half Yearly)

S. No	Particulars	Unit	2008-09		2009-10
			H1*	H2	H1
1	Installed Capacity	MT	14085	15945	15945
	Indexed		100	100	100
2	Production	MT	1,291	4,917	3,745
	Indexed		100	381	290
3	Capacity Utilization	%	9.16	30.83	23.49
	Indexed		100	337	256
4	Domestic Sales	MT	1,066	4,945	3,358
	Indexed		100	464	315
5	Other producers	MT	-	-	-
6	Imports	MT	17288	16036	18758
	Indexed		100	93	109
7	Total demand	MT	18,353	20,980	22,116
	Indexed		100	114	121

***Commercial production started on 22.4.2008**

- The volume of domestic production and effects of dumped imports on the domestic operation of the domestic industry have been examined in terms of total production, capacity utilization and domestic sales of the domestic industry. In terms of Quarterly analysis, it is noted that the production, sales and capacity utilization of the domestic industry, which was increasing till Q4, declined thereafter.
- In terms of Half Yearly analysis, it is noted that the production, sales and capacity utilization of the domestic industry, which was increasing till H2 of 2008-09, declined during H1 of 2009-10.

K.4 Actual and potential effect on market share:

132. Effects of the dumped imports on the domestic sales and market shares have been examined as follows:

Market Share

S. No	Share in Demand	Units	2005-06	2006-07	2007-08	POI	Q1	Q2	Q3	Q4	Q5	Q6
1.	Subject Country	%	93.91	95.18	97.71	79.22	92.87	87.50	76.94	68.66	77.02	76.88
		Index	100	101	104	84	99	93	82	73	82	82

2.	Other Countries	%	6.09	4.82	2.29	5.53	5.61	3.68	2.55	5.23	7.05	8.97
		Index	100	79	38	91	92	60	42	86	116	147
3.	Domestic industry	%	-	-	-	15.25	1.52	8.82	20.52	26.11	15.93	14.16
		Index	-	-	-		100	579	1,346	1,713	1,045	929

Market Share(Half Yearly)

S.N	Share in Demand	Units	2005-06	2006-07	2007-08	2008-09		2009-10
						H1	H2	H1
1	Subject Country	%	93.91	95.18	97.71	89.71	72.42	76.96
		Index	100	101	104	96	77	82
2	Other Countries	%	6.09	4.82	2.29	4.48	4.01	7.85
		Index	100	79	38	74	66	129
3	Domestic industry	%	-	-	-	5.81	23.57	15.18
		Index	-	-	-	100	406	261

- The share of the subject country in domestic demand has remained significant and increased consistently from 2005-06 to 2007-08. But, with the commencement of production by the Domestic Industry, share of the subject country in domestic demand has declined. It is obvious that when a new production facility has come up in the country, some amount of market share will be captured by them.
- In terms of Quarterly analysis, share of the subject country in domestic demand has declined up to Q4 and then increased thereafter. On the contrary, the share of the Domestic Industry has increased up to Q4 and then declined.

L. Price effect of imports

133. 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.

L.1 Price undercutting and underselling effects

134. The price undercutting and underselling effects are analysed as below:

Price Undercutting

S. No.	Particulars	Unit	POI
1	Imports-Quantity	MT	48,680
2	Imports-Value	Rs. Lacs	29,497
3	CIF Import price	Rs./MT	60,593
4	Landing Charges	Rs./MT	606
5	Assessable Value	Rs./MT	61,199
6	Basic Customs Duty rate	%	10
7	Customs Duty	Rs./MT	6,120
8	Custom Cess @ 3%	Rs./MT	184
9	Landed Price	Rs./MT	67,503
10	Net Selling price	Rs./MT	***
11	Price undercutting	Rs./MT	***
	Price undercutting	%	***
12	Price undercutting	% Range	12-17

Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject country over the entire period of investigation with the weighted average net sales realization of the domestic industry. For this purpose landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty and cess to the value reported in the IBIS data of import prices from the subject country. It is observed from the table that imports are substantially undercutting the prices of the domestic industry.

Price Underselling

S. No.	Particulars	Unit	POI
1	Imports-Quantity	MT	48,680
2	Imports-Value	Rs. Lacs	29,497
3	CIF Import price	Rs./MT	60,593
4	Landing Charges	Rs./MT	606

5	Assessable Value	Rs./MT	61,199
6	Basic Customs Duty rate	%	10
7	Customs Duty	Rs./MT	6,120
8	Custom Cess	Rs./MT	184
9	Landed Price	Rs./MT	67,503
10	Non-injurious price	Rs./MT	***
11	Price under selling	Rs./MT	***
12	Price underselling	%	***
13	Price underselling Range	%	20 - 30

Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic producer by appropriately considering the cost of production for the product under consideration during the POI. The analysis shows that the landed value of subject imports was significantly below the non-injurious price.

L.2 Price Suppression and Depression

135. Price depression exists when the industry's prices are lower than the level of the previous period. Price suppression occurs when dumping prevents price increases that would otherwise take place due to increase in costs.

Price suppression and depression (Quarterly):

S.NO	Particulars	Units	Q1*	Q2	Q3	Q4	Q5	Q6	POI
1.	Domestic cost of sales	Rs./Kg	***	***	***	***	***	***	***
		Index		100	99	92	87	95	
2.	Domestic sales value	Rs./Kg	***	***	***	***	***	***	***
		Index		100	102	96	92	85	

3.	Profit/loss before Tax	Rs./Kg	***	***	***	***	***	***	***
		Index		(100)	(81)	(65)	(46)	(177)	
4.	Interest	Rs. Lacs	***	***	***	***	***	***	***
		Index		100	104	82	101	122	
5.	Capital employed for Domestic Sales	Rs. Lacs	***	***	***	***	***	***	***
		Index		100	100	102	106	113	
6	Return on Capital Employed	%		***	***	***	***	***	***
		Range		(0 – 5)	(5 – 8)	(6 – 11)	(0 - 3)	(6 - 11)	(3 – 8)

Note: * Since this quarter is the first quarter of commercial production, the cost of sales was very high and therefore not considered for analysis.

Price suppression and depression (Half Yearly):

S.NO	Particulars	Units	2008-09		2009-10
			H1	H2	H1
1	Domestic cost of sales	Rs./Kg	***	***	***
		Index	100	85	81
2	Domestic sales value	Rs./Kg	***	***	***
		Index	100	98	89
3	Profit/loss before Tax	Rs./Kg	***	***	***
		Index	(100)	(36)	(50)
4	Interest	Rs. Lacs	***	***	***
		Index	100	120	144

		Index		(100)	(81)	(65)	(46)	(177)	
4.	Interest	Rs. Lacs	***	***	***	***	***	***	***
		Index		100	104	82	101	122	
5.	Capital employed for Domestic Sales	Rs. Lacs	***	***	***	***	***	***	***
		Index		100	100	102	106	113	
6	Return on Capital Employed	%	***	***	***	***	***	***	***
		Range		(0 - 5)	(5 - 8)	(6 - 11)	(0 - 3)	(6 - 11)	(3 - 8)

Note: * Since this quarter is the first quarter of commercial production, the cost of sales was very high and therefore not considered for analysis.

Profitability & ROCE (Half Yearly)

S. No	Particulars	Units	2008-09		2009-10
			H1	H2	H1
1	Domestic cost of sales	Rs./Kg	***	***	***
		Index	100	85	81
2	Domestic sales value	Rs./Kg	***	***	***
		Index	100	98	89
3	Profit/loss before Tax	Rs./Kg	***	***	***
		Index	(100)	(36)	(50)
4	Interest	Rs. Lacs	***	***	***
		Index	100	120	144
5	Capital employed	Rs. Lacs	***	***	***
		Index	100	102	113

6	Return on Capital Employed	%	***	***	***
		Range	(3- 5)	(4 - 9)	(2 - 7)

The Authority notes that both in Quarterly as well as Half Yearly analysis the domestic sales realization of the domestic industry has not increased in line with the increase in the cost of production. The profitability of the domestic industry has declined and resulted in net loss on the domestic sales in the POI. The return on the Capital Employed for the domestic sales of the domestic industry has been negative during the POI.

M.2 Cash profits

139. Cash profits of the domestic industry over the injury period are provided in the table below:

Cash profits (Quarterly)

S.No	Particulars	Units	Q1	Q2	Q3	Q4	Q5	Q6	POI
1.	Profit before Tax	Rs. Lacs	***	***	***	***	***	***	***
		Index	(100)	(84)	(139)	(170)	(83)	(204)	
2.	Depreciation on domestic Sales	Rs. Lacs	***	***	***	***	***	***	***
		Index	100	84	84	87	101	102	
3.	Cash Profit for domestic sales	Rs. Lacs	***	***	***	***	***	***	***
		Index	(100)	(83)	(175)	(211)	(72)	(264)	

Cash profits (Half Yearly)

S.NO	Particulars	Units	2008-09		2009-10
			H1	H2	H1
1	Profit before Tax	Rs. Lacs	***	***	***
		Index	(100)	(168)	(156)
2	Depreciation on domestic Sales	Rs. Lacs	***	***	***
		Index	100	93	111

3	Cash Profit for domestic sales	Rs. Lacs	***	***	***
		Index	(100)	(213)	(183)

It is seen from the above tables that the cash profits of the domestic industry has significantly deteriorated over the injury period and actually resulting in higher cash losses in the POI.

M.3 Employment and Wages

140. From the tables given below the Authority notes that there has been an increase in the level of employment up to Q5 in quarterly analysis and up to H2 in half yearly analysis. The wages have also increased in comparison with the base period.

Employment and Wages

S.NO	Particulars	Units	Q1	Q2	Q3	Q4	Q5	Q6	POI
1.	Employment	No	***	***	***	***	***	***	***
		Index	100	255	349	365	377	360	
2.	Wages & Salaries	Rs. Lacs	***	***	***	***	***	***	***
		Index	100	338	518	692	927	965	

Employment and Wages(Half Yearly)

S.NO	Particulars	Units	2008-09		2009-10
			H1	H2	H1
1	Employment	No	***	***	***
		Index	100	143	141
2	Wages & Salaries	Rs. Lacs	***	***	***
		Index	100	276	431

M.4 Inventories

141. Authority notes that the level of inventory with the domestic industry has gone up over the injury period as shown in the following tables:

Inventories

S.NO	Particulars	Units	Q1	Q2	Q3	Q4	Q5	Q6	POI
1.	Opening Stock	MT	-	32	224	109	166	562	-
2.	Closing Stock	MT	32	224	109	166	562	502	502
3.	Average Stock	MT	16	128	167	138	364	532	251
	Trend	Index	100	792	1,029	848	2,243	3,281	

Inventories (Half Yearly)

S.NO	Particulars	Units	2008-09		2009-10
			H1	H2	H1
1	Opening Stock	MT	-	224	166
2	Closing Stock	MT	224	166	502
3	Average Stock	MT	112	195	334
	Trend	Index	100	174	298

M.5 Productivity

142. The productivity of the domestic industry has been examined with reference to production per day and per employee as follows:

Productivity

S.NO	Particulars	Units	Q1	Q2	Q3	Q4	Q5	Q6
1.	Total Production	MT	148	1,143	1,868	3,049	2,440	1,305
		Index	100	773	1,264	2,063	1,651	883
2.	Production per Day (Considering year of 360days)	MT/Day	2	13	21	34	27	15
3.	No. of Employees	No	***	***	***	***	***	***
		Index	100	255	349	365	377	360

4.	Productivity per Employee	MT/No	***	***	***	***	***	***
		Index	100	304	362	565	438	246

Productivity (Half Yearly)

S.NO	Particulars	Units	2008-09		2009-10
			H1	H2	H1
1	Total Production	MT	1,291	4,917	3,745
		Index	100	381	290
2	Production per Day	MT/Day	7	27	21
3	No. of Employees	No	***	***	***
		Index	100	143	141
4	Productivity per Employee	MT/No	***	***	***
		Index	100	266	206

The above data indicates that the productivity of the domestic industry was improving till Q4 in the quarterly analysis and H2 of 2008-09 in the half yearly analysis and it has deteriorated significantly in subsequent periods.

M.6 Growth

143. The growth in production and capacity utilization was positive till fourth quarter and H2 of 2008-09. The same trend was seen in domestic sales as well. However, this deteriorated significantly in the fifth, sixth quarters and H1 of 2009-10 during the period of investigation. The domestic industry has shown a negative growth in production and domestic sales in spite of positive growth in demand in the POI for the product under consideration. The profitability of domestic industry has significantly declined during the POI. The performance of the domestic industry has also deteriorated during the period of investigation in terms of return on investment and cash profit. Besides, the imports of subject goods are significantly undercutting the prices of the domestic industry. The price underselling was also significant.

M.7 Ability to raise fresh Investment

144. The Authority notes that there is a healthy growth in domestic demand for the subject goods but still the domestic industry is not able to make fresh capital investments for expansion due to significant losses on account of significant dumped imports from subject country.

N. Magnitude of Dumping

145. Magnitude of dumping as an indicator of the extent to which the imports can cause injury to the domestic industry shows that the dumping margins determined against the subject country, for the POI, are significant.

O. Factors affecting prices

146. It has already been seen in the foregoing paragraphs that imports are undercutting the domestic prices. Comparison of cost of production and selling price of the domestic industry shows that the imports are also depressing prices of the domestic industry. It was found that the landed value per MT in POI was lower than both the net selling price and non-injurious price of the subject goods causing price undercutting and price underselling in the Indian market. As a result of price difference between the imported products' price and domestic industry' price, the imports have taken a major share in the growth in Indian demand for the subject goods.

P. Conclusion on injury

147. The examination of above injury parameters indicates that despite overall growth in demand, both the production and sale of domestic industry declined during POI as compared to the projections made before the commencement of the plant. The Authority notes that the domestic industry could not take advantage of the increase in demand in the market due to presence of imports from subject country.
148. The examination of the imports of the subject product and performance of domestic industry clearly shows that the imports of the product under consideration have increased in absolute terms and also in relation to production and consumption in India. The imports are significantly undercutting the prices of the domestic industry in the market and the effect of the dumped imports was to depress the prices of the domestic industry in the market. The domestic selling prices have declined more than the decline in cost of sales. Further, there has been a significant price under cutting by the dumped imports as compared with the price of like product in India and the effect of such imports is to prevent price increase which otherwise would have occurred to a significant degree. With regard to consequent impact of the dumped imports on the domestic industry, performance of the domestic industry deteriorated from the 4th quarter in terms of sales, production, capacity utilization, market share, profits, cash profits & return on investments.
149. It is also noted that the production, sales, profits and return on capital employed as compared to the projections made in the project report should have ~~been~~ improved as a result of increase in demand. However, the same have instead declined significantly without giving an opportunity to the nascent domestic industry to find a place for itself in its own domestic market causing material retardation to the domestic industry.
150. On the basis of above analysis, the Authority concludes that the performance of the domestic industry deteriorated in terms of production, sales volumes, capacity utilization, market share, prices, profits, return on investment, cash profits, thus

collectively and cumulatively showing that the domestic industry has suffered material injury leading to material retardation of the newly established industry.

Q. Causal Link and other factors

151. Having examined the existence of material injury and volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price undercutting, price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti Dumping have been examined to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. 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 was examined whether the other parameters listed under the AD Rules as given below could have contributed to injury to the domestic industry:

P.1 Volume and Prices of imports not sold at the dumped prices

152. It is noted from import data that about 93% imports are from subject country during POI and the balance from other countries. The imports from other countries, in comparison to the imports from the subject country are just 7%. Therefore, the imports from other countries do not affect the prices in the domestic market. In fact the imports from other countries, primarily Korea RP are at a much higher price, which do not adversely impact the prices of the DI.

P.2 Contraction in demand and / or change in pattern of consumption

153. Demand for the subject goods shows a healthy growth during the entire injury investigation period and therefore, the injury to the domestic industry has nothing to do with the lack of demand in the country. The data on consumption and demand does not show any change in the pattern of consumption of the product and has not been a factor causing injury to the domestic industry.

P.3 Trade restrictive practice and competition between the foreign and domestic producers

154. No evidence of conditions of competition or trade restrictive practices has come to the knowledge of the Authority. The Authority notes that there is a single market for the subject goods where dumped imports from subject country compete directly with the subject goods produced by domestic industry. The Authority also notes that the imported subject goods and domestically produced goods are like articles and the imported product is sold to meet the similar applications/ end uses as domestically produced subject goods.

P.4 Development of technology

155. On the basis of examination of the records of the petitioner, the Authority holds that development in technology has not been a relevant factor for the injury to the domestic industry.

P.5 Export performance

156. The Authority notes that there are negligible exports of the domestic industry during the POI. The performance with respect to various Economic indicators has therefore been determined with respect to domestic sales only. Hence, the Authority holds that material injury suffered by the domestic industry is not due to the export performance of the domestic industry.

P.6 Productivity of the Domestic Industry

157. Productivity of the domestic industry in terms of production per employee has shown decline both in quarterly and half yearly analysis as compared to preceding periods because of the decline in total production during the same period.
158. No other factor, which could have possibly caused injury to the domestic industry, has been brought to the knowledge of the Authority.

Q. Magnitude of Injury Margin

159. The Authority has determined non-injurious prices of the subject goods for the domestic industry taking into account cost of production of the domestic industry. The non-injurious price of the domestic industry has been compared with the landed values of the subject imports to determine injury margin. The Authority has determined the injury margins as follows:

	Unit	Heytex Technical Textiles (Zhangjia gang) Co. Ltd.	Zhejiang Yuli Plastic Co Ltd	Other Exporters
Non-injurious price	US\$/Kg	***	***	***
Landed price of imports	US\$/Kg	***	***	***
Injury margin	US\$/Kg	***	***	***
Injury margin as a percentage of	%	***	***	***

Landed Price				
Range of Injury Margin	%	0 - 10	25-35	35-45

R. Examination of Issues relating to Material Retardation

160. With regard to material retardation the Authority observed in the initiation notification as follows:

“12. The applicant has set up a new facility for production of the product under consideration and commenced commercial production within the investigation period. The applicant has claimed that dumping of the product under consideration in India is materially retarding the establishment of the domestic industry. The applicant has furnished information on various parameters relating to injury for the period for which it has commercial production. Further, the applicant has provided detailed information with regard to its potential performance on the basis of projections drawn by it before setting up the plant and has compared its potential performance with the actual performance achieved till the investigation period to establish its claim that its performance is substantially below the potential levels envisaged before setting up the plant. The applicant has also claimed that its performance improved initially after commencement of commercial production. However, the same deteriorated after some time in terms of production, capacity utilization, sales, market share, profits, return on investments, cash profits, etc. in spite of reduction in the selling prices. The imports are undercutting the prices of the domestic industry. The domestic industry is forced to sell the product at prices materially below the fair prices envisaged by the domestic industry before commencement of production. The applicant has thus claimed that even when its commercial production has begun, the domestic industry is yet to find its place in the market. Parameters such as significant increase in imports in absolute terms as also relative to the production and consumption in India, significant price undercutting, capacity utilization market share, continued financial losses, return on investments, cash flow, inventories, collectively and cumulatively show that the applicant has suffered material injury. There is sufficient evidence that the dumped imports of subject goods from China PR are, prima facie, causing material injury to the domestic industry. “

161. The views of interested parties on the issue of material retardation and material injury to the domestic industry have been considered. It is noted that para 12 of the initiation notification explicitly describes the claim of domestic industry with regard to material retardation. Further, in the conclusion of the preliminary findings, it has been clearly mentioned that:

- a. *The subject goods have been exported to India from the subject country below its normal value;*
- b. *The domestic industry has suffered material injury;*
- c. *The injury has been caused by the dumped imports from subject country.*
- d. *Domestic industry is materially retarded due to the increased imports from the subject country in the domestic market.*

162. Further, in the injury examination, all the injury parameters as mandated by the Rules have been considered in detail. The Authority has also examined the project report relating to its establishment of the domestic industry and has worked out capacity, capacity utilization and non injurious price for the POI. After examination, it is noted that domestic industry has not been able to achieve the projected capacity in spite of significant demand in the Country, which establishes that establishment of domestic industry has been materially retarded. Further, the negative profitability suffered by the domestic industry establishes that the same is on account of the dumped imports. In the present case, the Authority notes that there is material injury and there is also material retardation to the establishment in as much as the domestic industry has been prevented from fully establishing itself in terms of achieving the production levels, sales levels, market share, profits, return on investments, etc. to the extent it should have or it would have in the absence of dumping.

S. Conclusions

163. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority, the Authority concludes that:
- i. The subject goods have been exported to India from the subject country at prices less than their normal values in the domestic market of the exporting country;
 - ii. The dumping margins of the subject goods imported from the subject country are substantial and above de minimis;
 - iii. The domestic industry has suffered material injury and the injury has been caused to the domestic industry, both by volume and price effect of dumped imports of the subject goods originating in or exported from the subject country;
 - iv. The domestic industry has also been materially retarded due to the dumped imports of subject goods from the subject country.

T. Indian industry's interest & other issues

164. 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 country in any way, and, therefore, would not affect the availability of the products to the consumers. The

Authority recognizes that imposition of anti-dumping duties might affect the price level of product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures.

U. Recommendations

165. The Authority notes that the investigation was initiated and notified to all the known interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and completed the investigation into dumping, injury and causal link in terms of the Anti-dumping Rules laid down and having established positive dumping margin as well as material injury to and material retardation of the domestic industry, caused by such dumped imports from the subject country, the Authority is of the view that imposition of anti-dumping measures is required to offset dumping and injury. Therefore, the Authority considers it necessary and recommends imposition of definitive anti-dumping duties on imports of the subject goods from the subject country in the form and manner described hereunder from the date of issue of notification of provisional duty by the Central Government vide No.79/2010-Customs dated 30th July, 2010.

166. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the amount indicated in Col 8 of the table below is recommended to be imposed concerning all imports of the subject goods originating in or exported from the subject country.

Duty Table

Sl. No.	Sub Heading of Tariff item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Duty Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10
1.	39201019 39201012 39204900 39219026 39219029 39269099 39269080 39199090 39181090 39189090	PVC Flex Films	China PR	China PR	Heytex Technical Textiles (Zhangjia gang) Co. Ltd.	Heytex Technical Textiles (Zhangjia gang) Co. Ltd.	0.034	Kg	USD
2	- Do -	- Do -	China PR	China PR	Zhejiang Yuli Plastic Co Ltd	Zhejiang Yuli Plastic Co Ltd	0.441	Kg	USD

3	- Do -	- Do -	China PR	China PR	Any Combination of producer and exporter other than Sl. No. 1 and 2		0.538	Kg	USD
4.	- Do -	- Do -	China PR	Any country other than China PR	Any	Any	0.538	Kg	USD
5.	- Do -	- Do -	Any country other than China PR	China PR	Any	Any	0.538	Kg	USD

167. The following products are excluded from the scope of the anti-dumping measures as recommended in the duty table given above:

- PVC Rigid Films
- Cotton/Canvas Tarpaulins
- PVC Film
- Self-Adhesive Vinyl
- One Way Vision Film/Perforated Window Film
- Coloured Vinyl
- Mesh Banner/Fabric

168. Subject to the above, the Authority confirms the preliminary findings dated 22nd June, 2010.

169. Landed value of imports for the purpose shall be the assessable value as determined by the Customs Authority under the Customs Act, 1962 and all duties of Customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

170. An appeal against the findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

(Vijaylaxmi Joshi)
The Designated Authority