

To be published in Part-I Section-I of the Gazette of India Extraordinary

F.No.15/30/2013-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping & Allied Duties
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi-110001

NOTIFICATION

New Delhi, dated 09.06.2015

Final Findings

Subject: Sunset Review of investigation of anti-dumping duty imposed on the imports of “Flax Fabric” originating in or exported from China and Hong Kong

No.15/30/2013-DGAD: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act) and the Rule 16 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof;

A. BACKGROUND OF THE CASE

1. Whereas, the original investigation concerning imports of the subject goods from China PR and Hong Kong was initiated by the Authority vide Notification No. 14/8/2008-DGAD dated 3rd October, 2008. The preliminary finding was issued by the Authority on 17/02/2009, recommending provisional antidumping duty on the imports of Flax Fabrics (hereinafter referred to as subject goods) originating or exported from China PR & Hong Kong (hereinafter referred to as subject countries). The provisional duties were imposed vide Customs Notification No. 30/2009-Customs dated 26th March, 2009. The Authority notified final findings vide Notification No. 14/08/2008-DGAD dated 1st October, 2009 recommending definitive antidumping duty on the imports of Flax Fabrics from the subject countries. The definitive antidumping duty was imposed on the subject goods vide Customs Notification No. 142/2009- Customs dated 21st December, 2009.

2. Whereas, M/s Jaya Shree Textiles (A unit of Aditya Birla Nuvo Ltd.) (hereinafter referred to as the petitioner), filed a duly substantiated application before the Authority, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from the subject countries and consequent injury and likelihood of continuation or recurrence of dumping and injury in the event of cessation of the antidumping duty. The applicant requested for review, continuation and enhancement of the anti dumping duties, imposed on the imports of the subject goods, originating in or exported from the subject countries.

3. And whereas, the Authority, on the basis of sufficient evidence submitted by the applicant, issued a public notice vide Notification No. 15/30/2013-DGAD dated 10th March, 2014 published in the Gazette of India, initiating the subject investigations in accordance with the Rules to determine the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry and the need for continuation of the anti-dumping duties imposed on the imports of the subject goods, originating in or exported from China PR and Hong Kong.

B. PROCEDURE

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

- i. The Authority issued a public notice dated 10th March, 2014, published in the Gazette of India, Extraordinary, initiating sunset review anti dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries.
- ii. The embassy of the subject countries in New Delhi were informed about the initiation of the investigations in accordance with Rule 6(2).
- iii. The Authority forwarded a letter along with copy of the public notice to all the known exporters and other interested parties/industry associations (whose details were made available by the domestic industry) and gave them opportunity to make their views known in writing within the prescribed time limits in accordance with the anti-dumping rules.
- iv. The Authority provided copies of the non-confidential version of the application to the known exporters and the embassy of the subject country in accordance with Rules 6(3) supra. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
- v. The Authority forwarded a copy of the public notice to the following known manufacturers/exporters in China and Hong Kong (whose names and addresses were made available to the Authority) and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) & 6(4):
 - a. Yangxin Yuandong Textile Co., China PR
 - b. Changshu Tonghe Group Co. Ltd
 - c. Hunan Huasheng Industrial & Trading Co. Ltd.
 - d. Mengyin Cotton Textile Co. Ltd
 - e. Suzhou Zhenlong Textile Co. Ltd
 - f. Harbin Chaolong Flax Co. Ltd.
 - g. Wujin Huanyu Textiles Co. Ltd.
 - h. Jiangsu Fanjia Flax Textile Mill Co.,
 - i. HK Zishun Int'l Industry Limited
 - j. Suzhou Nanya Group
 - k. Binfenzhuang Fabric Co. Ltd.
 - l. Qiqihar Zhongtian Textile Co. Ltd
 - m. Huafang Ramie Textile Co Ltd
 - n. Changshu Lifeng Linen & Cotton Weaving Co. Ltd.
 - o. Hunan Goldentex Co Ltd.
 - p. Wujiang Hongii Textile Co. Ltd
 - q. Zhucheng Deliyuan Textile Co. Ltd

- r. Yueqing Reliable Electric Co Ltd.
 - s. Shaoxing In Hand Textile Co. Ltd
 - t. Shaoxing Gucco Import and Export Co. Ltd
 - u. Haining Yutex Co. Ltd
 - v. Qingdao Yuzhou Knit and Textile Co. Ltd
 - w. Wujiang Maishunda Silk Textile Co Ltd.
- vi. None of the exporters filed questionnaire response to exporter's questionnaires, nor have they filed any other submissions.
- vii. The Authority forwarded a copy of the public notice to the following known importers/consumers (whose names and addresses were made available to the authority by the applicants) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(4):
 - a. K. Mohan Textiles, Bangalore, Karnataka
 - b. Prateek Apparels Pvt Ltd., Karnataka
 - c. Ambattur Clothing Co. Ltd, Tamil Nadu
 - d. Aditya Birla Nuvo Ltd, Karnataka
 - e. Shahi Exports, Pvt. Ltd, Faridabad
 - f. Richa & Co., New Delhi
 - g. Leela Scottish, Chennai, Tamil Nadu
 - h. Colourplus Fashions Pvt. Ltd., Tamil Nadu
 - i. Mulberry Silk Limited, Karnataka
 - j. Indian Terrian Clothing Pvt. Ltd, Tamil Nadu
 - k. Orient Clothing Co. P. Ltd, Haryana
 - l. Mohan Clothing Co (P) Ltd., Haryana
 - m. Anish India Export, Haryana
 - n. Gokaldas Images, Karnataka
 - o. Prasam Exports, Maharashtra
 - p. Raymond Ltd. (Textile division), Mumbai
 - q. Chopda Associates, Mumbai
- viii. No questionnaire response was received from any importer.
- ix. The Period of Investigation (POI) for the purpose of the present review investigation is 1st October, 2012 to 30th September 2013 (12 Months). The injury investigation period has however, been considered as the period from 1st April 2010 to the end of the POI, i.e., 2010-11, 2011-12, 2012-13 and POI.
- x. Exporters, producers, importers and other interested parties who have neither responded to the Authority nor supplied information relevant to this investigation have been treated as non-cooperating interested parties by the Authority.
- xi. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6(7).
- xii. The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of guidelines laid down in Annexure III of the Rules to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xiii. The Authority provided opportunity to all interested parties to present their views orally in public hearing held on 15th October, 2014. Only petitioner domestic industry

- attended the public hearing, who was requested to file written submissions/rejoinders of the views expressed orally.
- xiv. The submissions made by the interested parties during the course of this investigation have been examined and addressed in the present determination.
 - xv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods into India for the past three years, including the period of investigation, and the said information was obtained from the DGCI&S and has been adopted in this investigation.
 - xvi. On the spot verification of the information and data submitted by the domestic industry was carried out to the extent deemed necessary.
 - xvii. Information provided by the interested parties on confidential basis was examined by the Authority with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed. Wherever possible, the interested parties were directed to provide sufficient non-confidential version of the information filed on confidential basis.
 - xviii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded these essential facts on the basis of the 'facts available' and treated such parties as non-cooperative.
 - xix. *** in this Finding, represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
 - xx. The exchange rate adopted for the POI is 1 US \$ =Rs 56.90.

C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Submissions by the Domestic Industry

5. The following submissions have been made by the domestic industry:

- i. The product under consideration is Flax Fabric having Flax content more than 50% originating in or exported from China and Hong Kong. It is normally classified under Chapter 53 of the Customs Tariff Act.
- ii. "Flax" and "Linen" are synonyms and the word flax is also known as Linen and can be used to produce yarn and fabric made from flax fibres. It is often used as in generic term to describe a class of woven bed, bathtub, table and kitchen textiles because traditionally flax was widely used for towels, sheets etc. As per the previous final finding Woven fabric (having more than 50% flax contents) produced by the domestic industry and those being imported from the subject countries are like articles and is the product under consideration within the meaning of the rules. As the domestic industry is not making substantial production of the fabric having flax content of up to 50%, the Authority concluded the product under consideration to have flax content of more than 50%.
- iii. The present investigation being a sunset review investigation of existing duties, the scope of the product under consideration remains the same as that of original investigations.
- iv. The product under consideration is highly absorbent, heat regulating, anti allergic, anti static, anti bacterial & UV-protective fabric. It is comfortable and nice to wear in any season. It is insulating in winter and breathable in summer due to its thermo

regulator properties.

- v. Product under consideration is made from cellulosic plant called flax, grown in Northern European countries mainly in France and Belgium. These fibers are then converted to linen yarn through wet spinning process, which is unique to any other spinning process. This linen yarn is used as grey or dyed as required for weaving. After weaving it is processed and finished and sold in the market.

Submissions made by the producers/exporters/other interested parties

6. None of the other interested parties has responded or raised any issues with respect to the product under consideration and like article.

Examination by the Authority

7. The product under consideration as in the original investigation is Flax Fabric. As per the original investigation carried out by the Designated Authority the product has been defined as under:

“The product under consideration is flax fabric originating in or exported from China PR and Hong Kong is normally classified under Chapter 53 of the Customs Tariff Act. “Flax” and “Linen” are synonyms and the word flax is also known as Linen and can be used as in generic term to describe a class of woven bed, bathtub, table and kitchen textiles because traditionally flax was widely used for towels, sheets etc. This product is classified under Customs Tariff Chapter 53 at subheading 53.09. The Custom classification is indicative only and not binding on the scope of investigation.

Woven fabric (having more than 50% flax contents) produced by the domestic industry and those being imported from the subject countries are like articles and is the Product under Consideration within the meaning of the rules

The Authority notes that as per the grade-wise production statement, the domestic industry has produced fabric having flax content of 30-50%. This is 0.62% of the total production. As the domestic industry is not making substantial production of fabric having flax content of up to 50%, the Authority has therefore concluded the product under consideration to have flax content of more than 50%”

8. Since the present investigation is a sunset review investigation and further since none of the interested parties has advanced any argument in respect of scope of the product under consideration or like article, the scope of the product under consideration and like article remains the same as in the original investigations.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

Submissions made by the Domestic Industry

9. The Domestic Industry has made the following submissions with respect to the scope of domestic industry and standing:
 - i. The petition has been filed by M/s Jaya Shree Textiles, a unit of Aditya Birla Nuvo Ltd. (Petitioner Company) who has provided necessary information for the preparation of present petition.

- ii. The petitioner has imported the product under consideration from China PR during the period of investigation. However these imports are of negligible quantities.
- iii. The petitioner is not related to any producer/exporter of the product under consideration in subject countries. However the petitioner is related to an importer of product under consideration who has imported negligible volumes.
- iv. As per the established position of law, the Authority may, in its discretion, include a producer who is either related to the producer/exporter of the subject goods or imported the subject goods, within the scope of domestic industry. In the instant case, M/s Jaya Shree Textiles and its group companies M/s Madura Fashion & Lifestyle and Madura Garments Exports, have imported small quantities from China. The volume of imports made by the companies when compared with imports of the product under consideration in India, production of M/s Jaya Shree Textile, Indian production and consumption of the product under consideration in India would show that the volume of imports by companies is quite low as compared to these parameters. Further, imports made by Madura Garment Exports are under duty exemption scheme. Petitioner imported the product to check the product and prices.
- v. The company placed order on SAS Saneco, France to check its product & Chinese material. Therefore it is requested to the authority to consider M/s Jaya Shree Textiles as eligible domestic industry.
- vi. The production by the petitioner company constitutes a major proportion in Indian production. A number of producers of the product under consideration are supporting the petition. Therefore the petitioner satisfies the standing requirement under Rules to file the present petition and petitioner constitutes “domestic industry”.

Submissions made by the producers/exporters/other interested parties

- 10. None of the other interested parties has responded or raised any issues with respect to the scope of the domestic industry and standing.

Examination by the Authority

- 11. The Authority notes that Rule 2(b) of the Anti-dumping Rules provides as follows:

“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are relate 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”

- 12. The Authority notes that the application has been filed by M/s Jaya Shree Textiles, a unit of Aditya Birla Nuvo Ltd. Petitioner has informed that there are a number of other producers of the product under consideration in India, namely, M.Mahendrakumar & Company, Donear Industries Limited, Muniraj Synthetics (India) Private Limited, Nirvana Silk Mills Private Limited, Balu Fabrics, Darshan Creation Private Limited, Mahindra Textile, Master Linens Inc, Govardhan Overseas Private Limited, V.P. Tex Private Limited, Vasanthi Fabrics, VSM Weaves India Limited, and VTM Limited who have supported the petition. M/s Sachdeva Fabric World Pvt. Ltd., who were earlier considered in the list of Other Indian Producers, have informed that they did not produce fabric with flax content of

50% or more during POI. Therefore, they have been excluded from the total flax production and sales (both estimated) during the period. The production of the petitioner in the POI is now about 37% of the total Indian production and constitutes a major proportion because the other producers are dispersed and fragmented. In the original investigations also M/s Jayashree Textiles was considered as domestic industry holding the share of about 39.22%. The petitioner has stated that M/s Jaya Shree Textiles with its group companies M/s Madura Fashion & Lifestyle and Madura Garments Exports Ltd has imported small quantities from China. Imports made by the M/s Jaya Shree Textiles along with its group companies M/s Madura Fashion & Lifestyle and Madura Garments Exports constitute approx 3.31% of petitioner's production, 1% of Indian production, 4.93% of total imports from subject countries and 0.85% of demand in India during the period of investigation. Further, these imports are under duty exemption scheme of the Govt. of India. Considering low volume of imports the petitioner has been considered as eligible domestic industry within the meaning of the Rules. None of the interested parties have raised any argument against eligibility of the petitioner to constitute domestic industry within the meaning of the Rules. The revised statement of Indian production is as under:

	Particulars	Production (In Lac Mtrs)			
		2010-11	2011-12	2012-13	POI
1	Petitioner (A): Jayshree Textiles	66	61	67	74
2	Supporters (B)	54	52	67	75
3	Petitioner with Supporters (A+B)	120	113	134	149
4	Other Indian Producers (C)	36	39	46	49
	Total Indian Production (A+B+C)	156	152	180	198

	Particulars	Share in Total Indian Production			
		2010-11	2011-12	2012-13	POI
1	Petitioner (A):Jayshree Textiles	42%	40%	38%	37%
2	Supporters (B)	35%	34%	37%	38%
3	Petitioner with Supporters(A+B)	77%	74%	75%	75%
4	Other Indian Producers (C)	23%	26%	25%	25%
	Total Indian Production (A+B+C)	100%	100%	100%	100%

13. The Authority after examining the information on record has determined that the petitioner company constitutes domestic industry within the meaning of Rule 2(b) and the petition satisfies the criteria of standing of Rule 5 of the Rules.

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

Market Economy Status:

14. The Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known exporters for rebutting presumption of non market economy in accordance with criteria laid down in para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise producers/exporters in their country to provide information. 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 provide information and sufficient evidence on the

basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish to the contrary. The exporter/ producer of the subject goods from China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

- i. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labor, 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;
- ii. 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;
- iii. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- iv. The exchange rate conversions are carried out at the market rate.

None of the producer/exporter responded to the MET questionnaire sent by the Authority.

F. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Submissions by the domestic industry

15. Following are the submissions made by the domestic industry with regard to normal value, export and dumping margin:

- i. None of the producers/ exporters from China PR and Hong Kong have responded to the exporters' questionnaire.
- ii. The Chinese producers' cost and price cannot be relied upon for determination of normal value.
- iii. The onus is on responding Chinese exporters to establish that they are operating under market economy conditions.
- iv. Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more company forming part of the group and involved either in production or in sale has not filed the response, market economy status must be rejected.
- v. In a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless the process of transformation has been completely established through documentary evidence.
- vi. The normal value for China PR could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not available to the petitioner. Export price from other countries to India cannot be adopted for the reason that import price from other countries could be affected due to imports from subject countries. In order to arrive at normal value on this basis, the Authority shall require complete and exhaustive verifiable information on all domestic sales made by a cooperating producer in such third country, along with its cost of production and all other associated information and evidences (including all information in the ordinary course of trade). Petitioner has not been able to procure such information from a producer in market economy third

- country. Domestic Industry has determined normal value on the basis of cost of production in India, duly adjusted.
- vii. Efforts were made to get evidence of price of product concerned in the domestic market of Hong Kong and to get evidence of price from published sources. However, the domestic industry could not collect any information/evidence such as price lists or quotations of producers of subject goods in the domestic market of Hong Kong due to lack of relevant information in public domain. In the view of the same, the normal value has been constructed for all exporters/producers from Hong Kong. Domestic Industry has determined normal value for Hong Kong on the basis of estimates of cost of production in Hong Kong, based on best available information.
 - viii. The export price has been determined for each of the subject countries as per meter price of imports. The export price has been adjusted for the expenses such as Ocean freight, Marine Insurance, VAT Loss (China-1%, Hong Kong- Nil), Commission, Port expenses, Bank Charges and Inland Freight Expenses.
 - ix. Dumping has continued even after imposition of duty and dumping margin is significant and above de minimis levels for each of the subject countries.

Submissions made by the producers/exporters/other interested parties

16. None of the producers/exporters of the subject goods has filed any questionnaire response or legal submission, or has otherwise provided necessary information with respect to normal value, export price or dumping margin.

Examination of Market Economy Claims and Determination of Normal Value in China **PR**

17. Under section 9A (1) (c) normal value in relation to an article means:
- (i) *the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
 - (ii) *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*
 - (a) *comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

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

18. At the stage of initiation, the Authority proceeded with the presumption by treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known producers/ exporters for rebutting presumption of nonmarket economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise the producers/exporters in their country to provide the relevant information. However, none of the Chinese producers/exporters have filed any response. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. In view of the same, the Authority treats the subject country producers/exporters as non-market economy in the present investigation.

19. The Authority notes that in the past China PR has been treated as a non-market economy country in anti-dumping investigations by other WTO Members and India. Therefore, in terms of Para 8(2) of the Annexure-I of Anti-dumping Rules, China PR is treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the above Rules.

20. 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 provide 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 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:-

- i. 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;
- ii. 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;
- iii. Such other firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and
- iv. The exchange rate conversions are carried out at market rate.

21. The Authority notes that in the present investigation none of the exporters from China PR has filed any response. As information about actual domestic sales price, information on exports to third country or cost of production in China PR and other information as per the questionnaire have not been furnished by the producer/exporter in that country; the Authority has relied upon the best available information for determination of normal value.

22. In view of the above, the Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of present investigation. The normal value for the subject products imported from China PR into India has been constructed considering

consumption of major imported raw materials as per information provided by the domestic industry, conversion cost, interest, SGA etc. at the levels allowed for the domestic industry, 5% of cost of sales excluding interest has been allowed towards reasonable profit.

Determination of Normal Value in Hong Kong

23. Since none of the producers and exporters in Hong Kong have responded to the questionnaire in the form and manner prescribed, nor have submitted any evidence with regard to the Normal Value of the subject good in the subject country, the Authority is constrained to determine the normal value in this country on the basis of the best facts available, including the information contained in the petition of the domestic industry. Accordingly the Authority has constructed the normal value in Hong Kong on the basis of the estimates of cost of production based on best information available. The normal value so determined for Hong Kong is mentioned in the dumping margin table below. The normal value for the subject products imported from Hong Kong into India has been constructed considering consumption of major imported raw materials as per information provided by the domestic industry. All other raw material and utility cost of the domestic industry have been adopted considering best consumption factors and best known estimates of conversion cost during the relevant period. Selling, general & administrative costs and reasonable profit margin have been added to the cost of production so determined so as to arrive at the constructed normal value.

Determination of Export Price

24. Since none of the exporters from the subject countries has provided any information in the form and manner prescribed that can be used for determination of the export price, the Authority has determined the export prices for all exporters from subject countries on the basis of CIF prices of imports to India as per DGCI&S data. The export price has been determined on the basis of weighted average import price into India.

25. Price adjustments have been made on the basis of claims made by applicant domestic industry in view of non cooperation from the exporters from China PR and Hong Kong. Export price has been determined at ex-factory level after adjusting for ocean freight, marine insurance, VAT Loss (China -1%, Hong Kong- Nil), Commission, bank charges, port and inland freight expenses.

DUMPING MARGIN

26. Considering the normal value and export price as determined above, the dumping margin has been determined as follows. It is seen that the dumping margin is more than de-minimis and significant.

Dumping Margin Table

Particulars	Unit	China	Hong Kong
Basis of Normal Value		Constructed	Constructed
Normal Value	US\$/Mtr	****	****
Export Price	US\$/Mtr	****	****
Dumping Margin	US\$/Mtr	****	****
Dumping Margin	%	****	****
Dumping Margin	Range	30-40	20-30

G. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

Submissions by the Domestic Industry

27. The Domestic Industry has made the following submissions with regard to the injury and causal link:
- i. The period of investigation (POI) for the purpose of present investigation is October, 2012- September, 2013 (12 months).The injury period has however, been considered as the period 2010-11, 2011-12, 2012-2013 and the POI.
 - ii. Cumulative assessment has been adopted, as was followed earlier by Designated Authority in the original investigations, since the volume of imports and dumping margin from each of the subject countries is more than limits prescribed and cumulative assessment is appropriate.
 - iii. While imposition of anti dumping duty has prevented decline of the domestic industry, it has not helped the domestic industry in improving its performance to the extent the domestic industry could have in the absence of continued dumping. This is in the view of form of anti dumping duty. Since the imports have occurred without the payment of anti dumping duty, the volume of imports has remained significant.
 - iv. The market share of the domestic industry has increased over the injury period. However, market share of dumped imports has remained significant despite existing anti dumping duty in view of the existing form of anti dumping duty. The dumping margins are not only more than de minimis but also very substantial.
 - v. Even though performance of the domestic industry improved in terms of various economic parameters, the improvement in volume parameters was far below the levels that the domestic industry could have achieved in the absence of dumping practices.
 - vi. Imports are undercutting the domestic price and effect of cessation of anti dumping duty shall be significant depressing effect on the prices of the domestic industry in the market.
 - vii. The domestic industry is not able to achieve optimum levels despite anti dumping duty. This is due to continued presence of dumped imports.
 - viii. The domestic industry has continued to suffer adversely on volume accounts despite existing anti dumping duty. This has been primarily because of form of anti dumping duty. The benchmark form of anti dumping duty has not been able to prevent dumping of the product in the country.

Submissions made by the producers/exporters/other interested parties

28. No submission has been made by any producer/exporter/other interested parties with regard to the injury and causal link. M/s Sachdeva Fabric World Pvt. Ltd., who were earlier considered in the list of Other Indian Producers, have informed that they do not produce fabric with flax content of 50% or more. Therefore, they have been excluded from the total flax production.

Examination by the Authority

29. In consideration of the various submissions made by the domestic industry in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.

30. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

31. As regards the impact of the dumped imports on the domestic industry Para (iv) of Annexure-II of the Anti-dumping Rules states as follows:

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

32. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.

33. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

34. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti-dumping duties are in force on imports of the product under consideration, the Authority considers whether the existing anti-dumping duties on the imports of subject goods from China PR and Hong Kong are required to be considered while examining injury to the domestic industry.

The Authority has examined whether the existing antidumping measure is sufficient or not to counteract the dumping which is causing injury.

35. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

36. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s Jaya Shree Textiles constituting domestic industry under the Rules. Accordingly, the volume and price effect of dumped imports have been examined as follows:

H. Volume Effect of dumped imports and Impact on domestic Industry

a) Demand and Market Share

37. The Authority has determined demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports of the subject goods in India from all sources as per tables given below:

Demand and Market Share in India

SN	Particulars	UOM	2010-11	2011-12	2012-13	POI	2013-14
(A)	Demand						
(i)	Subject Countries	LacMtrs	56	56	53	49	49
	China	Lac Mtrs	52	52	49	46	47
	Hong Kong	Lac Mtrs	4	4	4	3	2
(ii)	Other Countries	Lac Mtrs	3	4	2	2	2
	Total Import	Lac Mtrs	59	60	55	51	51
(iii)	DI domestic Sales	Lac Mtrs	58	63	70	71	75
(iv)	Other Indian Producers*	Lac Mtrs	88	90	106	119	127
	Total Demand	Lac Mtrs	205	213	232	241	253
	Trend						
(B)	Market Share						
(i)	Subject Countries	%	27%	26%	23%	20%	19%
(ii)	Other Countries	%	1%	2%	1%	1%	1%
(iii)	DI domestic Sales	%	28%	29%	30%	30%	30%
(iv)	Other Indian Producers	%	43%	43%	46%	49%	50%
	Total	%	100%	100%	100%	100%	100%

- The information w.r.t. other producers (excluding supporter company) estimated

based on market intelligence by DI. Post POI information as received from DI. M/s Sachdeva Fabric World Pvt. Ltd., who were earlier considered in the list of Other Indian Producers, have informed that they did not produce fabric with flax content of 50% or more during the period of POI. Therefore, they have been excluded from the total flax production and sales (both estimated) during the period.

38. The overall demand of the product under consideration is showing positive trend and has increased during the injury period from 205 lac. mtrs. during 2010-11 to 241 lac. mtrs. during the POI. The Table further shows that even though the volume of imports from the subject countries is showing reducing trend, the market share of DI is almost stagnant at about 30%. However, the market share of other Indian producers is increasing from 43% during 2010-11 to about 50% during 2013-14. The Authority, however, also notes that imports of the subject goods from the subject countries have remained significant at about 20% during POI in relation to the total demand in the country.

Price Effect of the Dumped imports and impact on the Domestic Industry

39. The impact on the prices of the domestic industry on account of imports of the subject goods from the subject country have been examined with reference to price undercutting, price underselling, price suppression and price depression. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of subject goods of the domestic industry have been compared with landed value of imports from the subject countries. A comparison for subject goods during the period of investigation was made between the landed value of dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission offered by the domestic industry have been adjusted. The price underselling is an important indicator of assessment of injury and, thus, the Authority has worked out a non-injurious price and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic industry by appropriately considering the cost of production for the product under consideration during the POI. The position is as follows:

a) Price Undercutting and Price Underselling

40. Price undercutting has been assessed by comparing the export price with the domestic selling price in India of the subject goods during the period of investigation. It would be seen that the landed price of imports is lower than the selling price of the domestic industry, as shown in the following table:

(a) Total Subject Countries

"SN"	Particulars	Unit	2010-11	2011-12	2012-13	POI
1	Net Sales Realization	Rs./Mtr	****	****	****	****
	<i>Indexed</i>	Index	100	120	128	133
2	Landed Value of imports	Rs./Mtr	156	213	205	217
	<i>Indexed</i>	Index	100	137	131	139
3	Price Undercutting	Rs./Mtr	****	****	****	****
	<i>Indexed</i>	Index	100	95	123	124
4	Price Undercutting	% NSR	****	****	****	****
		Range	35-45	25-35	30-40	30-40

(b) China

"SN"	Particulars	Unit	2010-11	2011-12	2012-13	POI
1	Net Sales Realization	Rs./Mtr	****	****	****	****
	<i>Indexed</i>	Index	100	120	128	133
2	Landed Value	Rs./Mtr	154	209	203	216
	<i>Indexed</i>	Index	100	135	132	140
3	Price Undercutting	Rs./Mtr	****	****	****	****
	<i>Indexed</i>	Index	100	97	122	122
4	Price Undercutting	% NSR	****	****	****	****
	<i>Range</i>	Range	35-45	25-35	30-40	30-40

(c) Hong Kong

"SN"	Particulars	Unit	2010-11	2011-12	2012-13	POI
1	Net Sales Realization	Rs./Mtr	****	****	****	****
	<i>Indexed</i>	Index	100	120	128	133
2	Landed Value	Rs./Mtr	180	275	224	223
	<i>Indexed</i>	Index	100	152	125	124
3	Price Undercutting	Rs./Mtr	****	****	****	****
	<i>Indexed</i>	Index	100	44	136	155
4	Price Undercutting	% NSR	****	****	****	****
	<i>Range</i>	Range	20-30	10-20	30-40	30-40

41. The Authority notes that the net sales realization of the domestic industry is above the landed price of imports from both the countries individually and collectively.

Price Underselling

42. Price underselling has been assessed by comparing the landed price of imports with the non injurious price of the domestic industry for the period of investigation. It is seen that the landed price of imports is significantly below the non injurious price of the domestic industry, as shown in the following table:

Particulars	UOM	China	Hong Kong
Non-Injurious Price of Domestic industry	Rs./Mtr	****	****
Landed value	Rs./Mtr	216	223
Price Underselling	Rs./Mtr	****	****
Price Underselling	%	****	****
Price Underselling	Range	10-20	10-20

43. The Authority notes that the landed value is not only lower than the net sales realization but also the NIP.

b) Price Suppression and Depression

44. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the trend of net sales realization of the domestic industry has been compared with the cost of sales. The given data shows low levels of landed price of imports when compared with the cost of sales.

SN	Particulars	Unit	2010-11	2011-12	2012-13	POI
1	Landed Value	Rs./Mtr	156	213	205	217
	Indexed		100	137	131	139
2	Cost of sales	Rs./Mtr	****	****	****	****
	Indexed		100	117	124	133
3	Net Selling Price	Rs./Mtr	****	****	****	****
	Indexed		100	120	128	133

45. It is seen that the landed price of imports is materially below the cost of sales and selling price of the domestic industry during the injury period and POI.

Impact on Economic Parameters of the Domestic Industry

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

47. Various injury parameters relating to the domestic industry are discussed herein below.

a) Capacity, Production, Capacity Utilization and Sales

48. Information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under.

Particulars	Unit	2010-11	2011-12	2012-13	POI	2013-14
Installed Capacity (Processing)	Lac Meter	101	101	101	101	101
<i>Trend</i>		100	100	100	100	100
Production	Lac Meter	66	61	67	73	86
<i>Trend</i>		100	93	102	111	130
Capacity Utilization	%	65.49	60.62	66.78	72.74	84.78
<i>Trend</i>		100	93	102	111	130
Domestic Sales Volume	Lac Meter	58	63	70	71	75
<i>Trend</i>		100	109	122	124	129

49. The domestic industry has submitted that it has production processing capacities of 101 lac meters. However, it could utilize capacities to the extent of 73 lac meters only. The Authority notes that the processing capacity for the production of the product concerned has no significant change and has remained constant over the injury period. However, the production and sales have increased over the injury period. Therefore, capacity utilization has improved over the injury period.

Segment Analysis

50. The DI has analysed its invoice wise total sales listing during the POI period to assess the effect of dumping from the subject countries on various customer segments. DI has segregated and grouped its customers into various segments such as Retail, Whole Sale, RMG (Readymade Garment), Domestic, RMG Export; Export, FR/Industrial and Others. The DI considered that each of these market segment represents a market with its own dynamics. Therefore, DI has requested the Authority to also keep in consideration the impact of dumping on competing segments. It is also stated that the Authority had considered similar groupings during original investigations also. The information with regard to customer segment wise sales volumes, is given below -

	Sales during period (in '000 meters)	2010-11	2011-12	2012-13	POI	Remarks
(a)	Own retail chain	****	****	****	****	No Competition
	Trend	100	145	147	165	
(b)	Wholesale/trader	****	****	****	****	Low Competition
	Trend	100	138	171	196	
(c)	End Consumers domestic	****	****	****	****	Direct Competition
	Trend	100	108	127	119	
(d)	End Consumers exports	***	***	***	***	Direct Competition
	Trend	100	66	79	49	
(e)	Fire retardant	***	***	***	***	Direct Competition
	Trend	100	81	52	34	
(f)	Industrial	****	****	****	****	Direct Competition
	Trend	100	118	91	158	
(g)	Misc	****	****	****	****	No Competition
	Trend	100	66	70	80	
(h)	Total domestic market	****	****	****	****	
	Trend	100	109	122	123	
(i)	Exports	****	****	****	****	No Competition
	Trend	100	69	63	58	
(j)	Total for the company	6,086	6,505	7,230	7,304	
	Trend	100	107	119	120	
(k)	Total competing segment [(c),(d),(e)(f)]*	****	****	****	****	
	Trend	100	95	103	91	
(l)	Share of sales in competing segment	62%	53%	51%	44%	

* Does not include wholesaler/trader (low competition)

51. DI has further added that whereas overall sales of the domestic industry have increased over the injury period, sales in the competing segments have declined in 2011-12 and POI. Sales in competing segments in POI were lower than not only preceding year but also base year. However, this situation improves significantly, if wholesale/traders volume is also considered. Moreover, Wholesalers/Traders are generally well informed about the prevalent competitive rates as they deal in large quantities. Further, the Authority notes that the segment analysis is based on the data by one company only, which constitutes about 30% of the total market.

52. The following analysis further reveals that the net sales realizations in the competing segments are far lower than the net sales realizations in non-competing segments. Therefore, DI has contended that despite increase by Rs. ***/- per mtr. cost of production during POI, there is no comparable increase in selling price in the competing segment, which increased by only Rs. *** per mtr. during this period as per details below:

Period		2010-11	2011-12	2012-13	POI
Total domestic market	Rs./meter	****	****	****	****
Trend	Index	100	120	128	133
Selling Price competing segment	Rs./meter	****	****	****	****
Trend	Index	100	114	118	119
Non Injurious Price	Rs./meter				***
Landed price of imports	Rs./meter	156	213	205	217
Cost of production	Rs./meter	****	****	****	****
Trend	Index	100	117	124	133
Profit/Loss - competing segment		****	****	****	(****)
Trend		100	72	39	-56
Increase in:					
Landed price of imports	Rs./meter		****	(****)	****
Trend	Index		100	-14	21
Selling Price of competing segment	Rs./meter		****	****	****
Trend	Index		100	29	12
Cost of production	Rs./meter		****	****	****
Trend	Index		100	42	55

53. The Authority notes that the price of any product depends on many factors including its quality, finishing and quantity of order (volume). However, it is also noted that the prices are generally lower with low profit margins, wherever, competition is there.

b) Profitability of Domestic Industry

54. The profitability of the domestic industry has been examined as under:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Cost of Sales	Rs./Meter	****	****	****	****
Trend		100	116	124	133
Selling Price	Rs./Meter	****	****	****	****
Trend		100	120	128	134
Profit/ Loss	Rs./Meter	****	****	****	****
Trend		100	148	163	140

55. It can be seen from the table below that the overall Cash Profits on PUC have increased from Rs. *** Lacs in base year 2010-11 to Rs. *** Lacs in POI. Therefore, Return on Capital Employed has also followed the similar trend by increasing from ***% during 2010-11 to***% in POI as per details below:

Particulars	Unit	2010-11	2011-12	2012-13	POI	2013-14
Profit Before Interest and Tax (PBIT)	Rs.Lacs	****	****	****	****	****
Trend	Indexed	100	164	179	164	236
Interest	Rs Lacs	****	****	****	****	****
Trend	Indexed	100	179	80	115	147
Profit/Loss	Rs Lacs	****	****	****	****	****
Trend	Indexed	100	161	198	174	253
Depreciation	Rs Lacs	****	****	****	****	****
Trend	Indexed	100	116	122	125	145
Cash Profit	Rs Lacs	****	****	****	****	****
Trend	Indexed	100	150	180	162	228
Capital Employed on NFA Basis	Rs Lacs	****	****	****	****	****
Trend	Indexed	100	87	79	94	127
Return on Capital (ROCE)	%	****	****	****	****	****
Trend	Indexed	100	188	227	177	186

Employment and Wages

56. The status of employment levels and wages of the domestic industry has been as under:

SN	Particulars	Unit	2010-11	2011-12	2012-13	POI
1	Employees	No.	****	****	****	****
	Trend	Index	100	112	117	132
2	Wages	Rs. Lacs.	****	****	****	****
	Trend	Index	100	172	218	244

57. It is noted that the employment level and wages have increased over the injury period.

c) Productivity

58. The productivity of the domestic industry is given in the following table.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Productivity per Day	Meters	18,897	17,494	19,271	20,991
Trend	Index	100	93	102	111

59. The Authority notes that the productivity has increased over the injury period.

d) Inventories

60. The Authority has examined the inventory level of the domestic industry which is given in the table below.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Average Stock	Lacs meters	15	16	12	13
	Index	100	106	80	82

61. It is noted that the inventory with the domestic industry has declined.

e) Magnitude of Dumping

62. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margin determined by the Authority against the subject countries in the POI are above *de-minimis* and significant.

f) Ability to raise capital investments

63. The Authority notes in this regard that the domestic industry has sufficient ability to raise capital investments.

64. The Authority notes that although the domestic industry has shown improvement in a number of parameters, it feels that it could not achieve optimum levels of improvement due to the continued presence of dumped imports.

g) Factors Affecting Domestic Prices

65. The examination of the import prices from the subject countries and other countries,

change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that without antidumping duty, the landed value of the subject goods imported from the subject countries are below the selling price and the non-injurious price of the domestic industry, causing significant price undercutting as well as price underselling in the Indian market.

Other Known Factors and Causal Link

66. The Authority has also examined whether other known factors could have caused injury to the domestic industry as follows.

(a) Contraction in demand and / or change in the pattern of consumption

The pattern of consumption with regard to the product under consideration has not undergone material change against the product under consideration. This is clearly established by significant increase in demand for the product in the country. Changes in the pattern of consumption could not have, therefore, contributed to the **injury to the domestic industry**.

(b) Trade restrictive practices of and competition between foreign and domestic producers

There is no known trade restrictive practice, which could have contributed to the injury to the domestic industry.

(c) Developments in Technology

The Authority notes that there is no evidence of developments in technology with respect to the product or its manufacture that could have resulted in the injury caused to the domestic industry.

(d) Export performance

Petitioner has exported the product under consideration to third countries. However, the claimed injury to the domestic industry is on account of domestic operations. Petitioner has provided costing and injury information for domestic sales separately. Hence, the claimed injury to domestic industry cannot be attributed to exports.

(e) Performance of other products

Claimed injury to the domestic industry is on account of product under consideration. The petitioner has provided information which pertains only to the product under consideration. Thus, the financial information provided with regard to product under consideration clearly shows the position of the domestic industry with regard to like article produced and sold by the domestic industry.

67. The Authority concludes that while the known other factors listed above do not appear to have caused the injury determined, the following parameters show that injury to the domestic industry is likely by the dumped imports in the event of cessation of anti dumping duty.

- i. The volume of imports of the subject goods from the subject countries is quite significant.
- ii. Imports of the subject goods from the subject countries are undercutting domestic industry's prices.
- iii. The consumers switching over to the imported product would imply decline in demand for the domestic industry product and increase in demand for the dumped product.
- iv. Despite the existence of anti-dumping duties in force on the imports of the subject goods from the subject countries, significant volume of dumped imports continues from this source. This indicates that should the measures be allowed to expire, dumping will intensify and cause further injury to the domestic industry.
- v. In case of cessation of anti dumping duties the subject country exporters shall be able to further capture the market in view of their high production capacities and low export prices.

Conclusion on Injury and Causation

68. The Authority notes that the volume of dumped imports from the subject countries continue to be significant even after antidumping duty in force. The performance of the domestic industry has improved on account of various parameters. DI, however, pleads that it has not improved to the levels it could have been achieved by the domestic industry had there been no dumping of the product in the Country. The Authority concludes that there is injury to the domestic industry on account of dumping of the subject goods from the subject countries.

I. Likelihood of continuation/recurrence of dumping and injury

Submissions by Domestic Industry

69. The domestic industry has made the following submissions with regard to likelihood of continuation/recurrence of dumping and injury:-
- i. There is continued dumping of the product under consideration from the subject countries. Dumping of the product under consideration is likely to intensify from the subject countries should the current anti-dumping duty be revoked;
 - ii. Although the domestic industry performance shows some improvement, it is only because of the imposition of anti dumping duty on the product under consideration. The withdrawal of the anti dumping duty shall lead to injury to the domestic industry.
 - iii. The Dumping Margins determined in previous investigations and present investigations are significant and clearly show likelihood of dumping and consequent injury in the event of cessation of anti dumping duty.
 - iv. The subject foreign producers are holding huge surplus capacities. Cessation of present duty will resume dumping from subject countries ultimately causing injury to the Domestic industry.
 - v. The majority of the producers in the subject countries export the product under consideration rather than selling it in their respective domestic markets. This clearly establishes the export orientation of the manufacturers in the subject countries.
 - vi. There is likelihood of dumping in the view of Indian market being highly price sensitive.

- vii. Imports from subject countries are causing severe price undercutting which shows that in case of cessation of duties the price undercutting would deepen further.
- viii. In case of likelihood even if one or two parameters are satisfied the duty may be continued.

Examination by the Authority

70. The present investigation is a sunset review of anti-dumping duties earlier imposed on the imports of Flax Fabric from China PR and Hong Kong. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In this case, as there are continued dumped imports, the Authority is required to examine whether cessation of anti dumping duty is likely to lead to continued dumping of the product. Exporters and producers from the subject countries are exporting the subject goods at dumped prices. In the previous investigations also the dumping margin was significant. In such a situation, the Authority has no reason to believe that dumping will not intensify if the existing duty is revoked.

71. It is a matter of fact that despite the anti-dumping measures in force, the subject countries could still dump the subject goods in the Indian market. The following analysis shows likelihood of continuation/intensification of dumping and recurrence of injury to the domestic industry in the event of revocation of anti dumping duty.

a. Level of current and past dumping margin

72. The level of dumping margin both in the original as well as the present investigation is significant. These are represented in the table below. The significant dumping margins clearly show likelihood of dumping and consequent injury in the event of cessation of anti dumping duty.

Present Investigation			
Particulars	Unit	China	Hong Kong
Dumping Margin	US\$/Mtr	****	****
Dumping Margin	INR	****	****
Dumping Margin	%	****	****
Dumping Margin	Range	30-40	20-30
Original Investigation			
Particulars	Unit	China	Hong Kong
Dumping Margin	US\$/Mtr	****	****
Dumping Margin	Rs.	****	****
Dumping Margin	%	****	****
Dumping Margin	Range	200-250	100-150

b. Price undercutting, suppression, depression in the absence of measures

73. DI has submitted that the price at which the subject goods are being exported by China PR and Hong Kong to India is an indicator of the likelihood of the price at which the goods are likely to be exported from subject countries in the event of cessation of anti dumping duty. It has further pleaded that even though the NSR is above the landed value of dumped imports, the price undercutting has reduced the value of sales especially in the

competing segment. Thus, with the cessation of anti-dumping duties, there is strong likelihood of increased imports by the Indian consumers. The exporters would also be encouraged to channelize their output in the Indian market as they have surplus capacities and are selling their products at comparatively lower prices.

c. **Surplus capacities and Export orientation with the foreign producers**

74. As per information on records as submitted by DI, the capacity with the producers in China is quite significant and their export orientation is quite high. Information provided by the domestic industry shows capacities with various exporters as follows:

Export orientation of known exporters in subject countries

SN	NAME	Capacity MTRs/Year	Export Percentage- %
1.	Changshu Lifeng Linen & Cotton Weaving Co Ltd.	20,00,000	51 - 60
2.	Hunan Goldentex Co., Ltd.	60,00,000	91- 100
3.	Wujiang Hongji Textile Co., Ltd.	12,00,000	31 - 40
4.	Zhucheng Deliyuan Textile Co., Ltd.	21,94,560	21 - 30
5.	Yueqing Reliable Electric Co., Ltd.	52,00,000	91- 100
6.	Shaoxing Gucco Import And Export Co., Ltd.	1,20,00,000	71- 80
7.	Wujiang Tangchao Textile Co., Ltd.	9,50,976	91 - 100
8.	Haining Yutex Co., Ltd.	12,00,000	91- 100
9.	Qingdao Yuzhou Knit And Textile Co., Ltd.	60,000	91 - 100
10.	Wujiang Maishunda Silk Textile Co., Ltd.	6,00,000	61 - 70
11.	Shaoxing In Hand Textile Co., Ltd.	1,50,000	81- 90
	Total known capacity	3,15,55,536	

Source: domestic industry submissions based on website claims of the companies identified above

While Chinese producers have preferred non cooperation, the Authority notes that the available information shows significant capacities with the Chinese producers.

75. Further, with the growing market in India , it is likely that cessation of anti dumping duty would lead to intensified imports at dumped and injurious price causing recurrence of injury to the domestic industry.

Segment wise comparison between DI & Subject countries

e. **Price attractiveness of Indian market**

76. DI is of the view that the prices at which subject goods are being imported are substantially lower than the price at which the goods are being sold in the domestic market. Therefore, in case of expiry of duty, exporters from subject country would further channelize their output in the Indian market in view of the significant capacity with them.

f. **Current performance of the domestic industry**

77. The Performance Analysis by the domestic industry shows that about 62% of the sales of the domestic industry in 2010-11 was in those markets where the domestic industry is facing direct competition from Chinese products. The analysis further shows that the share of domestic industry's sales in competing segments has declined from 62% during the year

2011-12 to 44% during the POI. Therefore, there is likelihood of more dumping by the Chinese producers/exporters, if anti dumping duty is removed.

Conclusion on Likelihood of dumping and injury

78. Considering the current level of imports from the subject countries despite the imposition of anti dumping duties, the Authority to concludes that there exists likelihood of intensified dumping and consequent injury to the domestic industry in the event of cessation of anti dumping duty. It is further noted that the import prices had undercut the domestic prices and also have a significant suppressing effect on the domestic prices.

Magnitude of injury and injury margin

79. The Authority has determined the non-injurious price for the domestic industry, taking into consideration the cost of production of the domestic industry. This non-injurious price of the domestic industry has been compared with the landed value of the subject goods' imports from the subject countries to determine the injury margin. The injury margin has been worked out as follows:

Particulars	Unit	China	Hong Kong
Non Injurious Price	USD/Meter	****	****
Landed Price	USD/Meter	3.80	3.92
Injury Margin	USD/Meter	****	****
Injury Margin	%	****	****
Injury Margin	Range	10-20	10-20

Exchange Rate=56.90 Rs/USD

80. It is seen that the level of injury margin, as determined, is significant.

J. Indian Industry's Interest and other issues

81. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the anti dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers. The purpose of imposing 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.

K. Post Disclosure Comments

82. The authority notes that the disclosure statement was sent to the domestic industry and the Embassy of China and Hong Kong. No other interested party had participated in the present investigations. The following comments have been filed by the Domestic Industry and the Department of Trade and Industry, Hong Kong, as considered relevant

by the authority.

I. Comments of Domestic Industry

- a. The foreign producers have not cooperated or even participated in the present sunset review investigation and therefore Designated Authority is fully justified in proceeding with the best available information.
- b. In spite of the anti-dumping duty in force, the subject exporters command a significant share in the Indian market. The volume of imports of the subject goods from the subject countries is quite significant.
- c. Imports of the subject goods from the subject countries are undercutting domestic industry's prices.
- d. The consumers switching over to the imported product would imply decline in demand for the domestic industry product and increase in demand for the dumped product.
- e. Despite the existence of anti-dumping duties in force on the imports of the subject goods from the subject countries, significant volume of dumped imports continues from this source. This indicates that should the measures be allowed to expire, dumping will intensify and cause further injury to the domestic industry.
- f. In case of cessation of anti dumping duties the subject country exporters shall be able to further capture the market in view of their high production capacities and low export prices.
- g. The imports of the subject goods from the subject countries continued in significant volumes and at dumped prices in spite of existing anti dumping duties.
- h. Continued imports at dumped prices are because of form of anti dumping duty. Even when the cost of production has increased, the benchmark has remained the same, leading to continued imports of the product under consideration.
- i. The landed price of imports was above benchmark of anti dumping duty.
- j. The volume of dumped imports from the subject countries continue to be significant even after antidumping duty in force. The performance of the domestic industry has improved on account of various parameters. However, domestic industry has not improved to the levels that could have been achieved by the domestic industry had there been no dumping of the product in the Country. There is injury to the domestic industry on account of dumping of the subject goods from the subject countries.
- k. Level of injury margin is significant.
- l. It is likely that cessation of anti dumping will lead to intensified imports at dumped and injurious price causing recurrence of injury to the domestic industry.
- m. Chinese producers have preferred non cooperation. The disclosure statement shows significant capacities with the Chinese producers.
- n. The price at which the subject goods are being exported by China PR and Hong Kong to India is an indicator of the likelihood of the price at which the goods are likely to be exported from subject countries in the event of cessation of anti dumping duty. Even though the NSR is above the landed value of dumped imports, the price undercutting has reduced the value of sales especially in the competing segment. Thus, with the cessation of anti-dumping duties, there is strong likelihood of increased imports by the Indian consumers. The exporters would also be encouraged to channelize their output in the Indian market as they have surplus capacities and are selling their products at comparatively lower prices.
- o. The level of dumping margin both in the original as well as the present investigation is significant. The significant dumping margins clearly show likelihood of dumping and consequent injury in the event of cessation of anti dumping duty.

- p. The subject foreign producers are holding huge surplus capacities. Cessation of present duty will resume dumping from subject countries ultimately causing injury to the Domestic industry.
- q. The majority of the producers in the subject countries export the product under consideration rather than selling it in their respective domestic markets. This clearly establishes the export orientation of the manufacturers in the subject countries.
- r. The non injurious price determined is too low. The Designated Authority has reduced the non Injurious price on account of number of factors. The domestic industry submits that the authority should consider actual raw material and utilities consumption. Consumption of raw materials over the years depends on a number of complex factors and is not a result of inefficiency of the domestic industry. In fact, there was no deterioration in its efficiencies with regard to raw materials and utilities. It would be inappropriate to ignore actual production and adopt any other production basis for determination of non injurious price. The petitioner has charged even fixed expenses to the product under consideration considering production levels. The expenses may be fixed for the company. The expenses are not fixed for the product under consideration. It would therefore be inappropriate to normate the expenses. Capital employed should be determined considering present value of fixed assets. Adoption of net fixed assets is highly inappropriate; and, in fact, unfair, considering that some of the investments are significantly old and therefore net fixed assets does not represent true value of investments. In fact, the most appropriate value for the purpose is present value of the investments. Or, in the alternative, the Designated Authority may kindly allow 30% return on investment. Non-injurious price may be re-determined considering the above.
- s. Domestic Industry has not been able to increase its production and sales to the extent of its capacities and the imports have caused injury to the domestic industry to that extent.
- t. While overall profitability of the domestic industry may be reasonable, the same is because of the sales of the domestic industry through its own chain. Profitability of the domestic industry in respect of customers who are also importing the product under consideration is quite adverse.
- u. The sales of the domestic industry have declined in those segments where the buyers are importing the product.
- v. The anti dumping duty is required to be modified to fixed form and the duty expressed in US\$ terms.

II. Comments of Department of Trade and Industry, Hong Kong

- a. Department of Trade and Industry, Hong Kong has stated that, "Given Hong Kong's open market and highly competitive environment, Hong Kong companies have neither the incentive nor support to engage in any dumping activities. For the reasons set out in our previous representations filed in December 2008 and March 2009, we maintain the view that the imposition of anti-dumping duties against imports of flax fabrics from Hong Kong were not justified. We urge the Indian authority to terminate the imposition of anit-dumping duties against imports of flax fabrics from Hong Kong."

Examination by authority

- 83. The authority notes the post disclosure comments of the interested parties and holds as under.

- a. The authority notes that most of the submissions of the domestic industry are in conformity to the present determination and repetitive in nature. These have already been addressed in the disclosure statement and also in the present findings. A number of submissions by the Domestic Industry are merely submissions on confirmation of relevant examination reported in the disclosure statement.
- b. As regards submissions that the foreign producers have not cooperated, the authority has recorded the present findings on the basis of best available information, considering that none of the foreign producers have cooperated with the authority.
- c. As regards submissions concerning continued imports at dumped prices, imports likely to cause price undercutting and significant positive dumping margin and injury margin, the authority notes that the investigation has shown that the dumping margin, price undercutting and injury margin established by the authority are significant.
- d. As regards submissions concerning continued imports at dumped prices due to form of duty, the authority has considered the same appropriately in the present determination and anti dumping duty is being recommended in modified form.
- e. As regards decline in sales in the competing segment and lower profits of the domestic industry in respect of those customer segments who are importing the product, the authority has noted the same.
- f. As regards the argument that whereas the cost of production has increased, the benchmark has remained the same, leading to continued imports, the authority has considered the same while recommending the form of duty. The authority has now proposed to recommend anti dumping duty in the form of fixed quantum of duty.
- g. As regards the submissions of the domestic industry with regard to determination of non injurious price, the authority reiterates that the non injurious price has been determined considering various provisions relating to Annexure-III, of the ADD rules.
- h. As regards the submissions by the Department of Trade and Industry, Hong Kong, the authority holds that the review regarding continuance of ADD duties has been undertaken by adhering to the ADD rules by evaluating various relevant parameters of dumping, and consequential injury based on the best available facts as none of the producers/exporters from Hong Kong have participated and filed responses.

L. FINAL FINDINGS

84. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuance/recurrence of dumping and injury, the Authority concludes that:
 - i. Subject goods exported from the subject countries are at prices below their normal value, thus resulting in dumping.
 - ii. Imports are likely to undercut the prices of the domestic industry in the market in the event of cessation of anti dumping duty, which is likely to result in significant price suppression/depression. The exporters in subject countries are holding significant capacities and the imports are likely to increase in the event of cessation of anti dumping duty. Performance of the domestic industry is likely to deteriorate in the event of cessation of anti dumping duty.
 - iii. Dumping margin and injury margin are positive in respect of imports of the product under consideration from the subject countries.
 - iv. Subject goods exported from the subject countries are at prices below cost of production, Non Injurious Price and selling price of the domestic industry, and are

likely to cause injury to the domestic industry in the event of cessation of anti dumping duty.

M. Recommendations

85. Having concluded as above, the Authority is of the view that the antidumping measure is required to be extended as specified in the duty table below.
86. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the anti dumping duty equal to the amount indicated in the table below is recommended to be imposed by the Central Government on the imports of the subject goods, originating in or exported from the subject country.

Duty Table

S.N	Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	5309	Flax or Linen fabric (note below)	China PR	Any	Any	Any	0.75	Per meter	US\$
2	5309	Flax or Linen fabric (note below)	Any other than Hong Kong Hong and country attracting duty	China PR	Any	Any	0.75	Per meter	US\$
3	5309	Flax or Linen fabric (note below)	Hong Kong	Any	Any	Any	0.63	Per meter	US\$
4	5309	Flax or Linen fabric (note below)	Any other than China and country attracting duty	Hong Kong	Any	Any	0.63	Per meter	US\$

Note : product under consideration is "Flax or Linen Fabric having flax content of more than 50% "

Further Procedure

87. An appeal against the order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.
88. The Authority may review the need for continuation, modification or termination of the measure as recommended herein from time to time as per the relevant provisions of the Act, Rules and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party as per the time limit stipulated for this purpose.

J.K Dadoo
Designated Authority