

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF ANTI DUMPING & ALLIED DUTIES
NOTIFICATION

New Delhi, the 3rd February 2006

PRELIMINARY FINDINGS

Subject: Anti-dumping investigation concerning imports of Nylon Filament yarn originating in or exported from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP-. Preliminary Findings.

No. 14/5/2005-DGAD - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules (hereinafter also referred as rules), 1995, thereof;

A. PROCEDURE:

1. The procedure described below has been followed:-

(i) On 4th July 2005, the Designated Authority (hereinafter referred to as Authority), under the above Rules, announced a public notice (initiation notification) publicised in the Gazette of India, the initiation of an anti dumping investigation with regard to imports of Nylon filament yarn originating in or exported from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP (hereinafter also referred to as subject countries hereinafter). The Anti dumping proceeding was initiated following an application received from M/s. Modipon Limited, Modinagar, JCT Limited, Hoshiarpur, Shree Synthetics Limited, Ujjain and Gujarat State Fertilizers Company Limited, Vadodara (the applicants) on behalf of the domestic industry representing a major proportion of the domestic production of said product. The application contained evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of the proceedings.

(ii) Before initiation, the Authority notified the Embassies of subject countries in India about the receipt of fully documented application made by the applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

(iii) According to sub rule (2) of the rule 6 supra, the Authority forwarded copy of the said public notice to the known exporting producers, importers, industry associations, embassies of the countries concerned and to the applicants and gave them an opportunity to make their views known in writing.

(iv) According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the application to all the known exporters and Embassies of subject countries in India. According to sub-rule (4) of Rule 6 supra, the Authority provided a copy of the relevant questionnaire to all the known exporters and Embassies of subject countries in India and other interested parties. The Embassies of subject countries in New Delhi were also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time

(v) The Authority sent questionnaires, to elicit relevant information, to the following known exporters from subject countries.

Indonesia:

P.T Kolon Ina.
Indonesia

PT GT Petrochem Industries TBK
Jakarta Indonsia

P T Evershineetex
INDONESIA 10250

PT. Gema Nusa Perkasa
Indonesia

P.T. Toray Industries Indonesia (TIN)
61-62, Jakarta 12069,
Indonesia

Shinta Nylon Utama.,
Indonesia

THAILAND

Siam Tyre Cord Co., Ltd.
Thailand

Thai Baroda Industries Limited
THAILAND

Asia Fiber Public Company Ltd.
Bangkok
Thailand

Thai Taffeta Company Ltd
Bangkok ,10110 Thailand

CHINA, PR

Kolon Corporation
Beijing, China

Kolon Nanjing Co.,Ltd.
Jiangsu Province, China

Xiamen TongLun Industrial Co.,Ltd.
Xiamen, 361100
China

Wu Jiang Heng Yu Textile Co.,Ltd,
Jiangsu province,
China

Jinan Juda Fiber Co Ltd,
Jinan Shandong, 250100-
China

Guangdong Xinhui Meida Nylon Co. Ltd;
Guangdong 529100
CHINA

SHANDONG DACHENG CHEMICAL INDUSTRY GROUP
CO.,LTD
26 ZIBO SHANDONG
CHINA

BASF-Huayuan Nylon Co.,Ltd.
China

Qingdao Zhongtai Group Company
China

Gaoyao Huajin Group Co., Ltd
Guangdong,
China

TAIWAN

FORMOSA Company Limited
640 TAIWAN R.O.C

Acelon Chemicals & Fiber Corporation
Taiwan

CHUNG SHING TEXTILE CO.,LTD
Taiwan

ZIG SHENG INDUSTRIAL CO., LTD
TAIPEI , TAIWAN

FU-TA TEXTILE CO., LTD.
Taichung Hsien Taiwan

MALAYSIA

Hualon Corporation
Malaysia 50200

KOREA RP

Hyosung Corporation
Seoul, 100-110, South Korea

Kohap Corporation
Korea RP

Kolon Industries
Korea RP

(vi) Eight exporters/producers have responded to the exporter's questionnaire in a substantial manner and notice of initiation:

1. M/s. Jinan Juda Fiber Co Ltd,
Jinan Shandong, 250100-
China PR
2. M/s. TKI, Korea RP
3. HYOSUNG Corporation, Korea RP.
4. Hualon Corporation
Malaysia 50200
5. M/s. Suntex, Taiwan
6. M/s. Li Peng Enterprise Co., Taiwan
7. M/s. Asia Fibres
Thailand
8. M/s. Thai Taffeta Company Ltd
Bangkok ,10110 Thailand

In addition to above, M/s. Kolon Industries, Korea and M/s. Thai Synthetic Fiber Manufacturers Association, Thailand, have also submitted responses to the notice of initiation.

(vii) A copy of initiation notification along with the importers questionnaire were also sent to the various importers which were listed in the application. However, response in the form and manner of importers questionnaire has been received only from M/s Sky Industries, Mumbai and M/s Spica elastic private Ltd, Pune.

(viii) None of the other importers have also responded to the importers questionnaire as per the details asked. However, a few importers and users association namely Federation of Indian art Silk Weaving Industry, Mumbai (FIASWI) have responded to the initiation notification and they have submitted some comments, which have been taken into account subject to their being relevant to the investigation.

(ix) The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties;

(x) **** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;

(xi) The investigation of dumping and injury covered the period from 1st January 2004 to 31st December 2004 (Also called the period of investigation or POI). The examination of trends in the context of injury analysis covered the period from 1st April 2001 to the end of period of investigation. (Also called Injury period).

(xii) The Authority sought and verified all the information it deemed necessary for the purpose of preliminary determination of dumping and resulting injury. The Authority conducted on the spot investigation of the domestic industry to the extent considered necessary. The cost of the production of the domestic industry was also analysed to work out the best cost of the production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the applicants so as to ascertain if anti Dumping duty lower than dumping margin would be sufficient to remove injury to the domestic Industry.

(xiii) Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. Product under Consideration.

2. The product under consideration in the present investigation is Synthetic Filament Yarn of Nylon also known as Polyamide Yarns (also described as Nylon Filament Yarn and also referred to as subject goods). Nylon Filament Yarn is a synthetic filament yarn produced by polymerization of organic monomers.

3. The product under consideration includes all kinds of synthetic filament yarns of Nylon or Polyamides, other than sewing thread, such as flat yarn - twisted and/or untwisted, fully drawn yarn (FDY), spin drawn yarn (SDY), fully oriented yarn (FOY), high oriented yarn (HOY), partially oriented yarn (POY), textured yarn – twisted and/or untwisted, and dyed yarn, single, double, multiple, folded or cabled, classifiable within Chapter 54 under customs subheading no. 5402, but excludes high tenacity yarn of nylon or other polyamides. The product includes all variants of Nylon Filament Yarn or Polyamide Yarns such as flat/textured/twisted/untwisted, bright/semi-dull/full-dull (or variants

thereof), grey/coloured/dyed (or variants thereof), single/double/multiple/folded/cabled (or variants thereof), whether or not sized, but excludes high tenacity yarn of nylon classifiable under customs sub-heading 5402.10. The Authority considers it appropriate to exclude fishnet yarn, classifiable under customs classification no. 5402.10 beyond the scope of the subject goods, as they are high tenacity yarns. Accordingly, all types of high tenacity nylon filament yarn, classifiable under customs classification no. 5402.10 are beyond the scope of present investigations pending further investigations. The Customs classification, however, is indicative only and is in no way binding on the scope of the present investigation. With regard to the claim of the association (FIASWI) that some type of yarns are not produced in India, the Authority notes that all yarns of high tenacity as such are beyond the scope of the product under consideration. With regard to a number of other yarns, the association has not established that these are different than others in terms of their essential product properties, plant & equipment, technology, production process, functions & uses, pricing, customs classification. The Authority is therefore unable to conclude that these types are required to be excluded.

4. Nylon filament yarn has vast applications in textiles applications, which includes saree, dupatta, women's dress material / fashion wear, fancy causal knit wear, stockings and socks, intimate wear and foundation wear, lingerie and night wear, briefs, panties, slippers, kids wear, sports wear and active wear, swim wear and beach wear, outer wear, wind wear, fashion accessories, elastic tapes, show/footwear linings, laces/fancy tapes, tie/scarves, feather yarn, ribbons/satin ribbons, etc. With regards to the observations made by some of the interested parties not to take into account of Nylon filament Yarn made from Nylon 66 because of its allegedly different characteristics, the Authority has considered all relevant information made available by interested parties with regard to whether or not nylon 6 and nylon 66 are one like products and notes that nylon 66 has been rightly included within the scope of product under consideration. The Authority provisionally holds nylon 6 and 66 as one like product, pending further investigations, considering parameters such as physical and chemical properties, technology, manufacturing process, raw materials, functions and uses, tariff classifications etc. It is noted that none of the interested parties have established with verifiable evidence that nylon 66 should be excluded from the scope of product under consideration, nor any importer/ consumer of nylon 66 has filed a response and established a need for exclusion of nylon 66. Nylon 66 is therefore,

within the scope of present investigations pending further investigations.

C. Like Article.

5. The applicants have claimed that goods produced by it are like articles to the goods originating in or exported from subject countries. There is no significant difference in the subject goods produced by the petitioner and those exported from subject countries. With regards to the like article, the Authority notes that rule 2 (d) relating to the definition of like article specifies that like article means an article that is 'identical' or 'alike' in all respects to the articles under investigation or in the absence of such an article, another article having characteristics closely resembling those of the article under investigation. In order to establish that subject goods produced by the domestic industry is a Like Article to that exported from subject countries, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority. On the basis of the examination, the Authority notes that subject goods produced by domestic industry has characteristics, which are similar to those imported from subject countries and to those sold in the market of exporting countries. In view of the above the Authority holds that Nylon Filament yarn produced by the domestic industry and those being imported from and sold in the subject countries are like articles within the meaning of the rules. Different types of NFY are produced from the same production technology, manufacturing process, raw materials, plant & equipment and perform the same general purpose. There is a great amount of substitutability between different types of NFY. Even though the product has been grouped in discrete types according to denier, filaments, luster, color, orientation etc., these specific characteristics merely differentiate various types of NFY. However, different types contain the same basic characteristics of NFY. With regards to the observations made by some of the interested parties that the subject goods made from Nylon 6 and Nylon 66 route may not be like products because of its allegedly different characteristics, the Authority has considered all relevant information made available by interested parties with regard to whether or not nylon 6 and nylon 66 are one like products and notes that nylon 66 has been rightly included within the scope of product under consideration. The Authority provisionally holds nylon 6 and 66 as one like product, pending further investigations, considering parameters such as physical and chemical properties, technology, manufacturing process, raw materials, functions and uses, tariff classifications etc.

D. Domestic Industry

6. The application has been jointly filed by M/s. Modipon Limited, Modinagar, JCT Limited, Hoshiarpur, Shree Synthetics Limited, Ujjain and Gujarat State Fertilizers Company Limited, Vadodara. These producers have provided information relevant to the present investigations and have consented to participate in the proposed investigations. The production of these applicant companies constitutes more than 50 % of total Indian production. M/s Century Enka and M/s Baroda Rayon Corporation Ltd. are other producers of the like article. M/s Century Enka has supported the present application. The Authority has determined that (a) production of the four petitioner companies constitute a major proportion in Indian production; (b) domestic producers expressly supporting the application account for more than 50 per cent of total production of the like product produced by the domestic industry; and (c) the application has been made by or on behalf of the domestic industry.

7. The Authority after examining the above, determines that the applicants constitute domestic Industry within the meaning of the rule 2(b) read with 2(d) and the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

E. Dumping.

8. Under Section 9A(1) I of the Customs Tariff Act 1975, Normal value in relation to an article means:

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

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:-

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 transhipped 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.

9. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). The following exporters from subject countries have responded to the Authority.

1. M/s Jinan Juda Fiber Co. Ltd (Jinan), China PR
2. Taekwang Industrial Co Ltd (TKI), Korea RP
3. HYOSUNG Corporation (Hyosung), Korea RP
4. Hualon Corporation (Hualon), Malaysia
5. Suntex Fiber Co Ltd.(Suntex), Chinese Taipei
6. LIPENG Enterprise Co., Ltd (Lipeng), Chinese Taipei
7. Asia Fiber Public Company Ltd (Asia fiber), Thailand
8. Thai Taffeta Co., Ltd (Thai taffeta), Thailand

10. The applicants had identified denier, luster, filaments, category, Colour, cross section, packing and grade as different parameters of the subject goods. The exporters have also identified the some of above parameters in their responses. Additionally, some of the exporters have identified a few other parameters also. On the basis of the preliminary investigations conducted, the Authority considers appropriate to use denier, lustre category (Textured, Partially oriented yarn, Draw Twisted, Fully oriented yarn, Fully drawn yarn) as essential product parameters for the purpose of comparison between the normal value and export price, pending further investigations.

E (1) China PR

Normal value determination for China

11. China PR, one of the subject countries under present investigation in the present proceedings, in a Non-Market Economy

Country and therefore their normal value has to be determined in accordance with the Para 7 and 8 of Annexure I of the Anti Dumping Rules.

Legal provisions in India

Para 7 of Annexure I under the Rules, which has been inserted by notification no. 44/99– Cus (NT) dated 15th July, 1999. Para 7 of Annexure-I states as under:

“7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, 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.

Market Economy Treatment (MET)

“Para 8 of Annexure 1- Amended on 04.01.2002

(1) The term “non market economy country” means any country which the Designated Authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3)

(2) There shall be a presumption that any country that has been determined to be, or has been treated as a non-market economy country for the purpose of an anti dumping investigation by the Designated Authority or by the competent authority of any WTO member country during the three-year period preceding the investigation is a non-market economy country.

Provided, however, that a non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the Designated Authority that establishes that such country is not a non market economy country on the basis of criteria specified in sub-paragraph (3)

(3) The Designated Authority shall consider in each case the following criteria as to whether:

- (a) the decision of concerned firms in such country 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;*

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the Designated Authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in this paragraph.

The Rules were further amended vide notification dated 10th March, 2003, which states as under:

- (4) *“Notwithstanding anything contained in sub-paragraph (2), the designated authority may treat such country as market economy country which, on basis of the latest detailed evaluation of relevant criteria, which includes the criteria specified in sub paragraph (3), has been, by publication of such evaluation in a public document, treated or determined to be treated as a market economy country for the purposes of anti-dumping investigations, by a country which is a Member of the “World Trade Organization”*

12. Except one exporter/producer from China, none of the exporters/producers have responded to the Questionnaire sent by the Authority. The applicants had proposed the USA as the appropriate surrogate country for the purpose of calculating normal value in China and had furnished some evidence with regard with regard to price of the subject goods in USA during the period of Jan-Dec 2004. Following the initiation notification, China chamber of commerce for import and export of Textiles opposed the choice

of USA as analogue country and requested instead to choose china PR or other Asian countries as they had many things in common. Further, none of the party except China chambers of commerce and industry from China or elsewhere has objected to selection of USA as the appropriate surrogate country nor has suggested any other appropriate country or has furnished any other reliable evidence for the purpose of calculation of Normal Value for China. It was also noted that no interested parties submitted any other comments as well as names of the producers/exporters in those analogue country who would be willing to submit the data to the Designated Authority in spite of the letter sent to all interested parties in this respect. Thereafter, the Authority requested producers of subject goods in the USA who were made known in the application by domestic industry and asked them to submit the details regarding selling prices of the subject goods in their country and requested them to submit the required data to the Designated Authority. However, no producer in the chosen analogue country also submitted any response till date.

(a) Cooperation

13. One Chinese producer/exporter namely M/s Jinan Juda, has made themselves known during the process of investigation and they have responded to the exporters' questionnaire by giving information with regard to Questionnaire pertaining to market economy status and also various appendices mentioned in the exporters' questionnaire.

(b) Normal Value & Export Price:

14. With regards to the responses filed by M/s Jinan Juda , it is noted that the responding exporter has significant state share holding. Also, it is noted that no substantive evidences have been submitted by the exporters in their responses along with the relevant facts with which they want to rebut the presumptions as mentioned in para 8 of annexure 1 of the Anti dumping rules and Non market Questionnaire sent to them with regards to grant of market economy status to their company. In view of the above fact, the Authority has, for the purpose of provisional findings, not granted market economy treatment to the responding exporter and therefore has constructed the normal value on the basis of para 7 of the Annexure 1 of the Anti dumping rules. With regards to their export prices, it was noted that their export prices very significantly with the prices mentioned in the

official statistics even when their quantities and dates of exports match with the exporters data. As there is a significant discrepancy in the import prices of the exporter and official statistics, the Authority for the purpose of the provisional findings has not taken into account the exporters price for determination of dumping margin and price undercutting. Instead, the Authority taken into account the price reported in the official statistics for the purpose of determination of dumping margin. It is further noted that authority proposes to examine further the response of the exporter as the investigation proceeds in order to conclude its decision on a definitive basis.

15. The Authority notes that applicants had provided an evidence of price or constructed value in a market economy third country (USA in this investigation). While disputing the claim of the domestic industry to treat Chinese producers as non market economy, the Chinese producers, or importers or any other interested party made no substantiated claim nor advanced any substantiated evidence either with regard to price or constructed value in a market economy third country. There has been no response from the producers/exporters from USA either in response to the exporters questionnaire sent by the Authority. Under the circumstances, the Authority has provisionally determined that only option available for the purpose of provisional findings is to determine normal value considering price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin. Price actually paid in India has not been considered for the reason that the same has been suppressed. Thus, the Authority has constructed the normal value by taking into account cost of production in India, duly adjusted, to reflect international raw material prices and optimum conversion costs, selling, general & administrative expenses and reasonable profit. However, as the investigation proceeds further, the Authority proposes to continue examination of the appropriateness of any market economy third country for the purpose of determination of normal value as per para 7 of Annexure 1 of the Anti dumping rules should information about their appropriateness along with the information about their price or constructed value is received by the authority.

E (2) Other producers/exporters from China PR

16. None of the other producers/exporters after the initiation, has responded to the exporters' questionnaire by giving information with regard to market economy questionnaire and various appendices mentioned in the exporters' questionnaire. As no information has been received from any exporter/producer from other than M/s Jinan Juda from China PR, the Authority has constructed the normal value on the basis of facts available as mentioned in the para 7 of the Annexure 1 of

the Anti dumping rules. In this regard, it is noted that no information has been provided to the Authority with regards to the price or constructed value in the market economy third country (analogue country being the USA in this case) or the price from such a third country to other countries. As no information as mentioned above has been received, the Authority has constructed the normal value on the basis of normal value considering cost of production in India, duly adjusted including selling, general and administrative overheads and reasonable profit. The export price has been determined based on the transaction wise data of imports culled out from information provided by official statistics for subject goods.

E.3 Normal value in case of Market Economy Countries

Methodology for working out dumping margin for responding exporters

17. It was first determined that whether the total domestic sales of the subject goods by the producers/exporters in the subject country was representative when compared to their total sales of the subject goods concerned sold in the exporting country and whether their sales are under ordinary course of trade in terms of Rule 2 of the annexure I to the anti dumping rules. The exporters have provided transaction wise details of sales made in home market. The information has been relied upon to determine separate weighted average selling price for each type of NFY, considering denier, category and luster of the NFY sold in the home market. In case sales volume in the domestic market of a particular type of NFY is more than 5% of exports to India, the domestic price has been considered. In other cases, the cost of production determined by the Authority on a provisional basis has been used to work out normal value, after adding reasonable profit. The cost of production claimed by the exporters have been provisionally admitted, except that those exporters who claimed separate and significantly different cost of production for NFY with the sole difference of quality, it has been considered appropriate to determine average cost of production for NFY pending further investigations. This is because of the fact that it is not considered appropriate nor justified by the exporters that the cost of production of NFY with the sole difference of quality can be so significantly different as claimed by these exporters.

18. The average selling price has been compared with the average cost of production. In cases where such prices were below cost of production, average cost of production, with reasonable addition for profit has been considered for determination of normal value.

Wherever such selling prices were above average cost of production, such average selling prices have been considered for determination of normal value.

19. For the determination of the ordinary course of trade test, the cost of production of the product concerned was examined with reference to the records maintained by the producer. Further, all domestic sales transactions were examined with reference to the cost of production of the subject goods to determine whether the domestic sales were in the ordinary course of trade or not. Thus only the profitable transactions have been taken into consideration for the determination of normal value for the cooperating exporter where sales below costs exceed 20%. However, in cases where the data submitted by the exporters show very low conversion costs or where costs of the raw materials, utilities and conversion costs are very low as compared to data submitted by other exporters, the costs of production has been constructed for the purpose of provisional findings pending further verifications.

Chinese Taipei

E. 4 M/s Suntext fibers

Normal value

20. It is noted from the responses filed by the exporter that substantial sales have been claimed as that of sub-standard quality. Pending detailed investigations and verification of the information, the Authority has provisionally, ignored the difference in quality for the purpose of normal value and the export price and has cumulated entire sales NFY taking into account category, luster and denier (without taking into account quality at this stage). It is also noted that M/s Suntext has claimed substantial deduction from the cost of production on account of interest income. No evidence has however been provided justifying that the said interest income pertained to production and sale of NFY. Interest income has therefore been treated zero, provisionally, pending further investigation. Further, the Authority has compared the various elements of costs for each type of nylon filament yarn and element wise cost for different types of subject goods. After examination, it was found that raw materials costs varied from **** to **** while the utility varied from **** to ****. There are other very significant variations also with regard to direct labour, depreciation and other expenses (if the total cost for each item/heading is taken as 100). Similarly, there are significant variations in intra element costs with regard to the different type and grades of subject goods. Taking the

total cost to make and sale as 100, it is seen that the raw materials costs varied from **** to ****, while the utilities and direct labour varied from **** to **** and **** to **** respectively. Further, there are significant variations in the intra element cost with regard to the different grades, which is difficult to understand. Hence, in view of the above, while the raw material cost of the exporter has been taken, the conversion cost of the most efficient domestic industry has been added to determine the cost of production of domestic industry. The Authority has determined separate cost of production for each type of NFY. Weighted average selling price has been determined for each type of NFY, as detailed above in those cases where viable domestic sales existed in the ordinary course of trade. Price adjustments have been claimed on account of various adjustments, which have been provisionally allowed. In those cases where viable domestic sales do not exist, cost of production has been adopted with reasonable addition for selling, general & administrative cost and profit for determination of normal value for that particular type of NFY.

EXPORT PRICE

21. Separate weighted average export price to India has been determined for each type of NFY, as explained above. Price adjustments have been claimed on account of adjustments like freight, insurance, warranty, which have been provisionally allowed subject to verification.

E. 5 M/s Li Peng

Normal value

22. The Normal value has been determined as per methodology mentioned in the earlier paragraphs based on the domestic selling price of the subject goods of the exporter in the Chinese Taipei pending further verifications.

Export price

23. M/s Li Peng has exported ****Kg of subject goods at a price of ****NTD to India during the POI. These exports match the official statistics with regards to the Quantity and names of the importers along with the dates. However, prices charged by them vary a great deal and as against a price of NTD **** during the POI as per their appendix 2, the weighted average CIF price as price as per the official statistics is only NTD ****. Thus, there is a huge difference between price reported by the responding exporter and the price

actually reported to Customs. For the purpose of the provisional findings, the Authority has taken the import price in India as per the official statistics as the CIF price of the responding exporter. The Adjustments on account of inland freight, commission, overseas freight, marine insurance, and other charges claimed by the exporter have been allowed subject to verifications for the purpose of the provisional findings.

South Korea

E.6 M/s Hyosung -Korea RP,

Normal value

24. The Normal value has been determined as per methodology mentioned in the earlier paragraphs based on the domestic selling price of the subject goods of the exporter in the Korea RP pending further verifications.

Export price

25. M/s Hyosung-Korea RP has exported **** Kg of subject goods to India during the POI with an weighted average price of US \$ ****/Kg. The adjustments on account of inland freight, commission, overseas freight, marine insurance, and other charges claimed by the exporter have been allowed subject to verifications for the purpose of the provisional findings.

E.7 M/s Taekwang (TKI) -Korea,

Normal value

26. Substantial sales have been claimed as that of non prime material. Cost of production of non prime has been claimed substantially lower than that of prime product. Pending detailed investigations and verification of the information, the Authority has provisionally ignored the difference in prime and non prime for the purpose of determination of normal value and export price and has cumulated NFY with the sole difference of quality. The Authority has determined separate cost of production for each type of NFY. Weighted average selling price has been determined for each type of NFY, as detailed above in those cases where viable domestic sales existed in the ordinary course of trade. Price adjustments have been claimed on account of transportation and packaging, which have been provisionally allowed. In those cases where viable domestic sales do not exist, cost of production has been adopted

with reasonable addition for selling, general & administrative cost and profit for determination of normal value for that particular type of NFY.

Export Price

27. Separate weighted average export price to India has been determined for each type of NFY, as explained above. Price adjustments have been claimed on account of inland freight, insurance, credit costs, duty drawback etc, which have been provisionally allowed.

Malaysia

E.8 M/s Hualon Corporation

Normal value

28. The Authority notes that the exporter has neither provided separate cost of production for different deniers, nor has the exporter given any explicable reasons for not segregating cost of production on the basis of denier. In the petition filed by the domestic industry and notice of initiation sent by the Authority, denier was identified as one of the important parameters for differences in associated costs and prices. The investigations carried out by the Authority so far also establish that denier is an important parameter and conversion costs vary significantly with the change in denier. Further, details of expenses and resultant unit cost of production in various appendices do not reconcile with each other. For instance, while appendix-6 shows raw materials cost as RM ****, the same comes to RM **** as per appendix-8. Detailed scrutiny of allocation & apportionment expenses shows that the total cost of production allocated/apportioned to the product under consideration as a percentage of total expenses of the company varies significantly from **** (for the raw material) to **** (utilities), **** (direct labour) and **** (Administrative overheads). Additionally, it is noted that there appears a number of inconsistencies in the claims with regard to conversion cost made by the exporter. Some of these are the fact that the exporter has claimed utilities costs far higher in other products and lower in the subject goods while labour costs in the subject goods vis-à-vis other products appears too disproportionate and other misc. expenses and depreciation also appears disproportionate. In view of the above, the Authority considers it appropriate to adopt the raw materials costs as claimed by the exporter and conversion costs on

the basis of information provided by the domestic industry and verified by the Authority, provisionally, pending further investigation.

Export Price

29. M/s Hualon has exported **** MT of subject goods to India during the POI with an weighted average price of US \$ ***/Kg. The Adjustments on account of inland freight, commission, overseas freight, marine insurance, and other charges claimed by the exporter have been allowed subject to verifications for the purpose of the provisional findings.

Thailand

E.9 M/s Thai Taffeta:

30. Detailed examination of cost of production claimed by Thai Taffeta revealed that the company produces NFY and Fabric. The company has claimed to apportioned costs between NFY and Fabric on account of raw materials and conversion costs (except SGA) on the basis of production. It however appears that raw materials are not apportioned on the stated basis of production. Further, production costs have also not been apportioned on the basis of production. In fact, it is found that the expenses to be charged on NFY would have been much higher than claimed had the costs been apportioned on the basis of production. Given the sales values and the fact that the nature of various products produced by the company significantly vary, in any case, it does not appear that apportionment of expenses between NFY and other product would be reasonable on the basis of production. Comparison of conversion costs with the Indian Producers or other exporters also does not show that the claims on account of conversion costs are reasonable. In view of the above, the Authority has provisionally considered conversion cost on the basis of best estimates considering Indian Producers, pending detailed investigations. Weighted average selling price has been determined for each type of NFY, as detailed above in those cases where viable domestic sales existed in the ordinary course of trade. It is found that the sales in the domestic market are below the cost of production. Therefore, cost of production, as revised, has been adopted with reasonable addition for selling, general & administrative cost and profit for determination of normal value for that particular type of NFY.

Export price

31. Separate weighted average export price to India has been determined for each type of NFY, as explained above. Price adjustments claimed on account of freight, insurance, credit costs, customs clearances, packings etc, have been provisionally allowed.

E.10 M/s Asia Fibre

Normal value

32. With regard to the determination of normal value, it is seen that the exporter has given the costing of only one product, which is exported to India and also sold in the domestic market. The responding exporter has also not submitted the statement of allocation of SGA expenses. In absence of total costing for all the products the cost data cannot be relied upon and has hence not been accepted for the purpose of provisional finding. In view of the circumstances, the normal value has been constructed using the best information available.

Export Price

33. M/s. Asia Fibre has exported **** Kg quantity of India with a gross sales price per kg at the CIF level of US \$ ***/kg. For the purpose of provisional finding and pending verification in this matter, the adjustment claim by the responding exporter on account of packing, inland freight, overseas freight, overseas insurance and shipping charges have been allowed as claimed.

(c) Comparison

34. For the purpose of a fair comparison between the normal value or (constructed normal value) as mentioned in the relevant paragraphs and export price at an ex factory level, due allowance in the form of adjustments was made for differences which affect prices and price comparability subject to their being verified after the provisional determination. For other producers and exporters from subject countries who have not responded to the initiation notification and those who have not submitted their exporters questionnaire, Normal value has been determined as per the facts available while the export price has been determined as per the price available in the official statistics.

(d) Dumping Margin:

35. The Authority has worked out a dumping margin for each of the different grades/types depending upon their specifications like lustre, denier and brightness of the subject goods by making a comparison between the normal values and export price of the different types at ex factory level. This comparison was based on the weighted average selling price of each type of the subject goods manufactured by the producers/exporters and exported to India during the POI for which a comparable type of the subject goods could be found. Thus, weighted average overall dumping margin was determined by computing the dumping found on each type without zeroing negative dumping found on individual types. The comparison showed the existence of dumping of the subject goods by the exporters during the POI. The weighted average dumping margin, expressed, as a percentage to the export price has been determined.

Country	Producers/Exporters	DM US \$	DM%
China PR	M/s Jinan Juda Fiber Co. Ltd	****	140.52
	Others	****	140.52
Korea RP	Taekwang Industrial Co Ltd	****	52.4
	HYOSUNG Corporation	****	62.55
	Others	****	62.55
Malaysia	Hualon Corporation	****	50.05
	Others	****	136.13
Chinese Taipei	Suntex Fiber Co Ltd.	****	73.29
	Lipeng Enterprise Co., Ltd	****	39.98
	Others	****	145.29
Thailand	Asia Fiber Public Company Ltd	****	111.42
	Thai Taffeta Co., Ltd	****	53.09
	Others	****	185.81
Indonesia	All producers/exporters	****	139.01

F. INJURY AND CAUSAL LINK

36. Annexure II to the Anti dumping Rules requires that a determination of injury shall involve an object examination of the consequent impact of these imports on domestic producers of such products. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits,

output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments.

The Designated Authority in accordance to the Rules, have examined various economic parameters and indices as discussed hereunder:

Annexure II (iv) to the Rules states as under:-

(iv) the effect of the dumped imports shall be assessed in relation to the domestic production of the like article when available data permit the separate identification of that production on the basis of such criteria as the production process, producers sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

37. Injury information has been provided by the domestic industry in respect of like article to the extent feasible and separately available. However, in case a particular information is not separately available in respect of the like article, because separate identification of that information is not feasible, information has been relied upon in respect of narrowest group/range of products, which includes the like article and for which the necessary information was available.

38. It is recalled that the Designated Authority had asked domestic industry to provide detailed injury information for objective examination of various factors of injury to the domestic industry. For this purpose information for 2001-02, 2002-03, 2003-04 and period of investigation was sought by the Authority. During the examination and verification of the records and after onsite verification, it was noted that the domestic industry had been making losses in the first year of injury period. It was claimed that the losses in the first year was due to massive earthquake which had hit Gujarat, significantly disrupting the Surat market, which consumed about 65-70% of the product. In this regard, it was submitted that the directors report of the Shree Synthetics for the year 2000-01 mention that

“The natural calamity i.e. devastating earthquake has disrupted the business in Gujarat, the major consuming state of the product of your company as strike resorted by weavers due to imposition of duty by Government has further bearing on the margins.

39. Further, Directors Report for 2000-01 in case of M/s Modipon states that

- “(I) Surat, the largest market for Synthetic Filament Yarn, was adversely affected by strike / partial closure by Weavers and Fabric Traders on account of hike in power tariff as well as change in the Excise Duty structure on Fabric by bringing ad-volorem rates as against the compounded levy on chambers.*
- (ii) in view of major earthquake in Gujarat, the business activities in and around Surat were badly affected.....*
- (iii) In the Union Budget 2000-01, an anomaly was created in the import duty structure. The imports duty on NFY and PFY was lowered at 20%, whereas import duty on Caprolactum, DMT, PTA and MEG (Raw Materials) was fixed at 27.5%. Due to this anomaly in the import duty structure, substantial imports NFY and PFY were made during this period from Indonesia, Taiwan, China etc.*

40. It was thus claimed along with evidence that there were several factors responsible for the adverse performance of the domestic industry during the base year and the request was made that first year should be excluded from for examination of injury to the domestic industry. However, as a matter of consistent practice, the Designated Authority has not excluded the first year for examination of injury, however, merely because, domestic industry was facing injury in 2001-02 presumably due to other causes. However, it is again reiterated that it is not the performance of the domestic industry during the POI vis a vis its performance in the base year that is material, rather, it is trend of the various indicators during the injury period and also during the POI that is important for concluding the injury to the domestic industry.

Import statistics

41. The information provided by secondary sources (IBIS) shows that the product has been reported under following customs classifications:

5402.39, 5402.59, 54020000, 54020200, 54020400, 54020900, 540210, 54021000, 54021001, 54021002, 54021003, 54021009, 54021010, 54021090, 54021100, 54021500, 54022000, 54022001, 54022010, 54022090, 54022400, 54022430, 54022900, 54023000, 54023001, 54023100, 54023200, 54023300, 54023900, 54023901, 54023909, 54023910, 54023920, 54023990, 54024000, 54024100, 54024101, 54024109, 54024200, 54024201, 54024210, 54024300, 54024900, 54024901, 54025100, 54025200, 54025400, 54025900, 54025901, 54025909, 54025910, 54025990, 54026000, 54026100, 54026200, 54026300, 54026900, 54026901, 54026901, 54026910, 54026920, 54026940, 54026950, 54026990, 54029000, 54029900

42. Since the product description only is dispositive, all imports of subject goods irrespective of their classifications have been included for the purpose of determination of volume, value and average import price. Upon initiation of investigations, DGCI&S was requested to provide information with regard to imports of nylon filament yarn. The information provided includes only custom classifications 5402.3100, 5402.3200, 5402.4100, 5402.5100, and 5402.6100, analysis of the same shows as under:-

Summary of DGCI&S data

	Volume	Value	Average price
	MT	Rs. Lacs	Rs./kg.
Imports reported as Polyester	1731	1738.37	100.43
Imports with blank description	1863	1863.46	100.02
Imports with description as nylon	10622	10243.85	96.44
Total	14216	13845.68	97.40
As per Secondary Sources only subject countries	.		

43. The information was compared with secondary source data, which shows as under:-

country	as per DGCI&S		as per Secondary source	
	Volume	Value	Volume	Value
	MT	Rs. Lacs	MT	Rs. Lacs
China	2028	1825.25	2254	1866.36
Indonesia	256	247.94	4563	3546.12

Korea	856	801.09	3455	3498.38
Malaysia	625	702.24	1370	788.26
Taiwan	1772	1636.08	3060	2345.78
Thailand	373	380.79	1648	1074.36
Total	5910	5593.38	16350	13119.26

It is therefore considered more appropriate to base the preliminary findings on information compiled by secondary sources, pending further investigations. The volume and price of imports of subject goods from subject countries as culled out from the secondary source data have been kept in the public file for the information of all interested parties.

Cumulative assessment

44. Annexure II (iii) to the Anti Dumping Rules provide that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the designated authority will cumulatively assess the effect of such imports, in case it determines that:

- (a) the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;
- (b) Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

The Authority finds that

- i) the margins of dumping from each of the subject country are more than 2% (de-minimus) as may be seen from the earlier paragraphs;
- ii) the volume of imports from each of the subject countries is more than 3%;
- iii) The Domestic industry produces various deniers of product under consideration and the same deniers are also being produced by producers in subject countries also. The

product manufactured by the producers from the subject countries inter-se and in comparison to the product manufactured by domestic industry has comparable properties. Thus, subject goods supplied by the domestic industry are like articles to the subject goods exported by various subject countries.

- iv) It is noted that imported products and domestic like products are being interchangeably used. Evidence of imports by various parties and correlation of the same with customer wise sales of the domestic industry makes it evident that there are number of parties who have resorted to purchase from the domestic industry and imports from subject countries. It is further noted that subject goods exported by various countries compete in the same market;
- v) The subject goods supplied by various producers from different subject countries are being marketed in India during the same periods through comparable sales channels
- vi) Price undercutting is positive and significant in respect of subject countries.
- vii) The domestic producer and exporters in the subject countries are selling the product to the same category of consumers.

45. In view of the above, the it is held that cumulative assessment of impact of imports on the domestic industry would be appropriate in the present case.

Assessment of demand

46. For the calculation of the Domestic consumption/demand of the subject goods, the authority added the sales volume of the domestic industry and other Indian producers to the total imports into India. The domestic industry has claimed that information provided by secondary source includes information of imports reported on very selected ports but includes all the tariff heads for which the subject goods are being imported while the import statistics of the DGCIS mention the subject goods for a given tariff head only and are clearly understated. On the other hand, the import statistics sent by IBIS (Secondary source) closely corresponds to the imports quantity conformed by the some responding exporters from subject countries. The Authority has therefore relied upon the data of the IBIS for the purpose of import statistics with regards to the quantity and price of the subject goods

for the purpose of provisional findings further examination. A copy of the import data taken into account by the Authority is also kept in the public file for the benefit of all interested parties.

:

Unit: MT	2001-02	2002-03	2003-04	POI
Sales of Domestic industry	20,819	24,298	24,781	27,168
Sales of Other Indian Producers	7,177	7,550	8,364	10,254
Imports - Subject Countries	4,078	6,204	12,131	16,350
Imports - Other Countries	588	1,280	2,560	3,262
Demand	32,662	39,332	47,836	57,035

From the above table, it may be provisionally concluded that the demand of the subject goods in the country shows positive growth and increased by 75% in the injury period.

Import volumes and market share

47. With regard to the volume of the dumped imports, it has been examined whether there has been a significant increase in 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 a significant increase in the dumped imports, either in absolute term or relative to production or consumption in India”

48. After examination of the import data, it is noted that volume of dumped imports has increased in absolute terms from subject countries during the injury period. It is also noted that the volume of imports shows sharply increasing trend. Further, the imports in relation to production and demand increased as is evident from the table below.

	2001-02	2002-03	2003-04	POI
--	---------	---------	---------	-----

Imports (MT)				
China	944	1,020	1,890	2,254
Indonesia	1,016	1,495	4,515	4,563
Malaysia	815	1,358	1,896	3,455
Thailand	323	908	805	1,370
Korea	712	924	2,080	3,060
Taiwan	267	498	945	1,648
Subject Countries	4,078	6,204	12,131	16,350
Other Countries	588	1,280	2,560	3,262
Total Imports	4,666	7,484	14,692	19,612
Market Share in Imports (%)				
China	20.24	13.64	12.86	11.49
Indonesia	21.78	19.98	30.73	23.27
Malaysia	17.47	18.15	12.91	17.62
Thailand	6.92	12.13	5.48	6.99
Korea	15.25	12.35	14.16	15.60
Taiwan	5.73	6.65	6.43	8.40
Subject Countries	87.39	82.89	82.57	83.37
Other Countries	12.61	17.11	17.43	16.63
Demand	32,662	39,332	47,836	57,035
Market Share in Demand (%)				
China	2.89	2.59	3.95	3.95
Indonesia	3.11	3.80	9.44	8.00
Malaysia	2.50	3.45	3.96	6.06
Thailand	0.99	2.31	1.68	2.40
Korea	2.18	2.35	4.35	5.37
Taiwan	0.82	1.27	1.98	2.89
Subject Countries	12.49	15.77	25.36	28.67
Other Countries	1.80	3.25	5.35	5.72
Domestic industry	63.74	61.78	51.80	47.63
Indian Industry	85.71	80.97	69.29	65.61
Production of Domestic industry	20,957	24,410	25,019	27,988
Imports in relation to production				
China	4.51	4.18	7.55	8.05
Indonesia	4.85	6.13	18.04	16.30
Malaysia	3.89	5.56	7.58	12.34

Thailand	1.54	3.72	3.22	4.90
Korea	3.40	3.79	8.31	10.93
Taiwan	1.28	2.04	3.78	5.89
Subject Countries	19.46	25.41	48.49	58.42
Other Countries	2.81	5.24	10.23	11.66

49. It is thus noted that the Imports have increased in absolute term from just 4078 MT to 16350 MT and imports have increased in relation to demand of the product in the Country from 12.49% to 28.67% and imports have increased in relation to production of the product by the domestic industry from 19.46% of production to 58.42% in period of investigation. More ever, while market share of the subject countries in demand have increased from just 12.49% to 28.67% that of the domestic industry has declined from 63.47% to 47.63%. In view of the above, it is provisionally concluded that that the dumped imports from subject countries show adverse volume effect.

Price effect of imports

50. With regard to the effect of the dumped imports on prices, it has been examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In order to assess the effect of imports on the domestic market an analysis of import prices over the injury period was made. It was noted that the exporters from subject countries have not increased their prices, due to increase in raw material price internationally. It is further noted that Nylon Filament Yarn is a petrochemical product and is produced from Nylon Chips, which is produced from Caprolactum and Caprolactam is produced from Benzene, which is another petrochemical product. Prices of Caprolactum have increased very significantly in the last two years. Increase in prices of Caprolactum is due to increase in Benzene prices, which is due to increase in crude oil prices. Increase in crude oil price is well known international phenomenon. It therefore, does not appear likely that producers of subject countries have not got affected due to the increase in Caprolactum prices. **Caprolactam** prices over the years is given in the table below:-

	2001-02	2002-03	2003-04	POI
Caprolactam Price	56.65	63.62	70.10	89.19
Indexed	100.00	112.30	123.74	157.44

Export Price				
China	72.55	86.85	82.43	82.79
Indonesia	61.02	70.97	82.78	77.71
Malaysia	132.57	107.91	105.78	101.26
Thailand	78.90	80.83	65.70	57.53
Korea	67.05	75.36	74.58	76.66
Taiwan	65.23	72.81	70.28	65.21
Subject Countries	80.74	83.91	82.81	80.24
Imports price as a % of Caprolactam Price				
China	128.06	136.51	117.59	92.83
Indonesia	107.71	111.56	118.09	87.13
Malaysia	234.02	169.62	150.91	113.54
Thailand	139.27	127.04	93.72	64.50
Korea	118.36	118.46	106.40	85.95
Taiwan	115.14	114.45	100.25	73.11
Subject Countries	142.52	131.90	118.13	89.96
Landed Price of Imports				
China	87.93	105.26	99.90	100.34
Indonesia	73.95	86.02	100.33	94.18
Malaysia	160.68	130.79	128.21	122.73
Thailand	95.62	97.96	79.62	69.72
Korea	81.27	91.34	90.40	92.91
Taiwan	79.05	88.25	85.18	79.03
Subject Countries	97.85	101.70	100.36	97.25

It is evident from the above that Caprolactam prices have increased by 58 % over the years, however, export price from subject countries have not increased with the increase in prices of Caprolactam in respect of their exports to India. Import prices as a % of Caprolactam price is also examined by the Designated Authority from which it was found that earlier, the export price was 43% higher than Caprolactam prices, declined significantly and became just 89% of caprolactam price in the period of investigation. Thus, there is a big fall in the effective realization of the exporters in respect of their exports to India. Further, decline in the CIF export price appears to have a direct adverse impact on the domestic industry and reduction in the landed price of import appears to have been responded by domestic industry by effecting price declines resulting in loss of market share. Net sales realization of Domestic Industry is considered as selling price, excluding of taxes & duties,

rebates, discounts & commissions and freight & transportation. Entire sales volumes of the domestic industry have been included in the calculations. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges¹ and applicable basic customs duty.

51. A comparison for product concerned was made between the landed value of exported product and the average selling price of the domestic industry for domestic market net of all rebates and taxes for sales made to unrelated customers, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. The CIF prices of the subject country concerned were adjusted for post importation applicable duties. This comparison showed that during the period of investigation, the subject goods originating in each of the subject countries were sold in the Indian market at prices which undercut the domestic industry's prices when expressed as a percentage of the domestic selling prices of the domestic industry as is evident from the table below.

	2001-02	2002-03	2003-04	POI
Export Price				
China	72.55	86.85	82.43	82.79
Indonesia	61.02	70.97	82.78	77.71
Malaysia	132.57	107.91	105.78	101.26
Thailand	78.90	80.83	65.70	57.53
Korea	67.05	75.36	74.58	76.66
Taiwan	65.23	72.81	70.28	65.21
Subject Countries	80.74	83.91	82.81	80.24
Landed Price				
China	87.93	105.26	99.90	100.34
Indonesia	73.95	86.02	100.33	94.18
Malaysia	160.68	130.79	128.21	122.73
Thailand	95.62	97.96	79.62	69.72
Korea	81.27	91.34	90.40	92.91
Taiwan	79.05	88.25	85.18	79.03
Subject Countries	97.85	101.70	100.36	97.25

Net Sales Realization of Domestic industry	135.88	143.06	154.64	166.91
Price undercutting				
China				35-50%
Indonesia				40-50%
Malaysia				25-35%
Thailand				45-60%
Korea				40-50%
Taiwan				45-60%
Subject Countries				40-50%

Price Undercutting of responding exporters

Country	Exporters	NSP	PUC	PUC%
China PR	M/s Jinan Juda Fiber Co. Ltd	****	****	35-45
Korea RP	Taekwang Industrial Co Ltd	****	****	10-15
	HYOSUNG Corporation	****	****	12-18
Malaysia	Hualon Corporation	****	****	15-25
Chinese T	Suntex Fiber Co Ltd.	****	****	10-20
	LIPENG Enterprise Co., Ltd(DGCIS)	****	****	20-30
Thailand	Asia Fiber Public Company Ltd	****	****	35-45
	Thia Taffeta Co., Ltd	****	****	10-20

52. It is seen that import prices (after including basic customs duties) has been significantly below the net sales realization of the domestic industry, thus resulting in significant price undercutting. It is evident from the above that the price effect of dumped imports on the domestic industry has been very significant and has adversely affected the domestic industry.

Price suppression

53. In addition to significant price undercutting, dumped imports have caused severe price suppression in the Indian market as is evident from the following table: -

	2001-02	2002-03	2003-04	POI

Net Sales Realization of the domestic industry	****	****	****	****
Year by year change	-	5.28	8.10	7.93
Export Price	80.74	83.91	82.81	80.24
Year by year change	-	3.94	(1.32)	(3.10)
Landed Value of imported material	97.85	101.70	100.36	97.25
Year by year change	-	3.94	(1.32)	(3.10)
Caprolactam price	56.65	63.62	70.10	89.19
Year by year change	-	12.30	10.19	27.23

54. It is noted that noted that Caprolactam is the critical factor for determination of cost of production of the product under consideration. Any movement in the price of Caprolacuam whether positive or negative make immediate impact to every producer worldwide. Accordingly, with the change in Caprolactam prices, prices of product should also change with same ratio. However, this did not appear to have happened with the domestic industry as is evident from the above table. It may be seen that in 2002-03, Caprolactam price increase by 12.3% over previous year, whereas prices of domestic industry increased by 5.28% in the same period. Similarly, in 2003-04, Caprolactam price again increase by 10.19% over previous year, whereas prices of domestic industry increased by 8.10% in the same period and during the POI, Caprolactam price again increased by 27.23% over previous year, whereas prices of domestic industry increased only by 7.93% in the same period. On the basis of the foregoing, it may be provisionally concluded that the domestic industry has not been able to increase its price in line with the increase in raw material cost, which is due to the fact that dumped imports from subject countries have increased significantly. On the basis of the above, it may be provisionally concluded that the dumped imports have caused price suppression in the Indian market.

Share of subject countries in Production:

	2001-02	2002-03	2003-04	POI
Imports in relation to production (%)				
China	4.51	4.18	7.55	8.05
Indonesia	4.85	6.13	18.04	16.30

Malaysia	3.89	5.56	7.58	12.34
Thailand	1.54	3.72	3.22	4.90
Korea	3.40	3.79	8.31	10.93
Taiwan	1.28	2.04	3.78	5.89
Subject Countries	19.46	25.41	48.49	58.42
Other Countries	2.81	5.24	10.23	11.66

It is evident from the above, dumped imports from subject countries have increased in relation to production of the domestic industry.

Market share in Demand:

55. Over the period under consideration, the share of the dumped imports from the subject countries in relation to demand or consumption in India is given in the following table.

	2001-02	2002-03	2003-04	POI
Demand / consumption in India (MT)	32,662	39,332	47,836	57,035
Share of Various Sources (%)				
China	2.89	2.59	3.95	3.95
Indonesia	3.11	3.80	9.44	8.00
Malaysia	2.50	3.45	3.96	6.06
Thailand	0.99	2.31	1.68	2.40
Korea	2.18	2.35	4.35	5.37
Taiwan	0.82	1.27	1.98	2.89
Subject Countries	12.49	15.77	25.36	28.67
Other Countries	1.80	3.25	5.35	5.72

56. It is evident from the above, dumped imports from subject countries have captured significant market share in demand of product under consideration in India.

Evolution of Price over the period under consideration

57. In the injury period, average CIF prices of the imports originated in subject countries have been as under:

	2001-02	2002-03	2003-04	POI
Average Export Price				
China	72.55	86.85	82.43	82.79
Indexed	100.00	119.71	113.62	114.12
Indonesia	61.02	70.97	82.78	77.71
Indexed	100.00	116.32	135.67	127.35
Malaysia	132.57	107.91	105.78	101.26
Indexed	100.00	81.40	79.79	76.38
Thailand	78.90	80.83	65.70	57.53
Indexed	100.00	102.44	83.27	72.92
Korea	67.05	75.36	74.58	76.66
Indexed	100.00	112.39	111.23	114.33
Taiwan	65.23	72.81	70.28	65.21
Indexed	100.00	111.63	107.74	99.97
Subject Countries	80.74	83.91	82.81	80.24
Indexed	100.00	103.94	102.56	99.38
Caprolactam Prices	56.65	63.62	70.10	89.19
Indexed	100.00	112.30	123.74	157.44
Export price as % of raw material price				
China	128.06	136.51	117.59	92.83
Indonesia	107.71	111.56	118.09	87.13
Malaysia	234.02	169.62	150.91	113.54
Thailand	139.27	127.04	93.72	64.50
Korea	118.36	118.46	106.40	85.95
Taiwan	115.14	114.45	100.25	73.11
Subject Countries	142.52	131.90	118.13	89.96

58. It is noted that the CIF export price from China, Indonesia, Malaysia, Thailand, Korea and Taiwan have declined in relation to the raw material prices. Export price from subject countries were 142 % of raw material prices in the base year declined to just 90% in period of investigation.

SITUATION OF THE DOMESTIC INDUSTRY

Situation of the Domestic Industry

Preliminary remarks

59. For the examination of the impact of the imports on the domestic industry in India, the Authority considered such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II (iv) of the Rules supra. It is noted that application for imposition of anti dumping duty has been jointly filed by Modipon Fibers, JCT Limited, Gujarat State Fertilizers Company Limited and Shree Synthetics Limited. These producers account for major proportion of total Indian production. The application, therefore, satisfy the standing and petitioner constitutes domestic industry within the meaning of the Rules. The Designated Authority therefore, has examined injury to the domestic industry as prescribed under the Rule 11 of Rules.

Sales Volume

60. Sales volume of the domestic industry has been as under:

	2001-02	2002-03	2003-04	POI
Sales of Domestic industry (MT)	20,819	24,298	24,781	27,168
Indexed	100.00	116.71	119.03	130.50
Imports from Subject Countries (MT)	4,078	6,204	12,131	16,350
Indexed	100.00	152.12	297.48	400.94
Demand	32,662	39,332	47,836	57,035
Indexed	100.00	120.42	146.46	174.62
PBT	(****)	(****)	(****)	(****)
Index	-100	-48	-20	-65
Imports from subject countries	4,078	6,204	12,131	16,350
Market share of subject countries in demand	12.49	15.77	25.36	28.67
Market share of domestic industry in demand	63.74	61.78	51.80	47.63
Market share of Indian industry in demand	85.71	80.97	69.29	65.61

61. It is seen that the sales volume of the domestic industry has increased. At the same time, there is a continuous increase in demand of subject goods in India. The increase in sales could also be reflective of a new production line being shifted from PFY to NFY within the Country, and accordingly, the industry has shifted its PFY capacity to NFY. However, the domestic industry has not been able to get benefit of this increased demand as significant market share has been taken by the dumped imports from subject countries. It is also examined that whether lost market share is taken over by the dumped imports and it has been found that other Indian producers have also lost significant market share as is evident from following table:-

	2001-02	2002-03	2003-04	POI
Market Share in Demand				
Domestic industry	63.74	61.78	51.80	47.63
Other Indian Producers	21.97	19.20	17.48	17.98
Indian Industry	85.71	80.97	69.29	65.61
Subject Countries	12.49	15.77	25.36	28.67
Other Countries	1.80	3.25	5.35	5.72

Profits

62. Profitability position of the domestic industry has been as under:

	2001-02	2002-03	2003-04	POI
Profit/Loss Rs. Per Kg.	(****)	(****)	(****)	(****)
Indexed	-100	-41	-17	-39
Profit/Loss on Domestic sales	(****)	(****)	(****)	(****)
Indexed	100	123	114	112
Interest	905.07	1,113.67	1,038.90	1,020.45
Profit/Loss on Domestic sales before interest	(****)	(****)	****	(****)
Indexed	-100	-23	9.64	-30

It is evident from the above that performance of the domestic industry which has been improving till 2003-04 deteriorated again in period of investigation, which could be due to significant increase in dumped imports into India. The domestic industry has made losses in base year, which could be due to variety of factors which includes inter alia storm and earthquake in Gujarat, which is one of the major consumption area for product under consideration. However, subsequently, domestic industry appeared to be improving itself. However, imports from subject countries started significantly at dumped prices and which appears to be resulted into significant losses to the domestic industry in period of investigation.

Productivity

63. The productivity of the domestic industry is given in the table below.

	2001-02	2002-03	2003-04	POI
Turnover of the domestic industry (Lakhs)	****	****	****	****
Indexed	100	122	134	158
Employees in No	2,651	2,527	2,787	2,698
Turnover per Employee	****	****	****	****
Indexed	100	128	127	155
Production (MT)	20,957	24,410	25,019	27,988
Production per Employee	7.91	9.66	8.98	10.38
Per day production (350 days)	59.88	69.74	71.48	79.97

It is evident from the above, productivity of the domestic industry, has been increasing. Thus, this parameter is not a cause for injury to the domestic industry.

Return on Investment

64. Return on investments (profit before interest) shows the same trend as that of profits as is evident from the table below.

	2001-02	2002-03	2003-04	POI
Profit/Loss Rs. Per Kg.	(****)	(****)	(****)	(****)
Indexed	-100	-41	-17	-39
Profit/Loss on Domestic sales	(****)	(****)	(****)	(****)
Indexed	-100	-47	-20	-50
Interest	****	****	****	****
Indexed	100	123	114	112
Profit/Loss on Domestic sales before interest	(****)	(****)	****	(****)
Indexed	-100	-123	9.64	-30
NFA of Domestic industry	****	****	****	****
Indexed	100	93	89	94
Working Capital of Domestic industry	****	****	****	****
Indexed	100	99	103	119
Capital Employed – NFA	****	****	****	****
Indexed	100	94	92	99
Return on Capital Employed – NFA	(****)	(****)	****	(****)
Indexed	-100	-25	10	-30

It is noted from the above that Return on capital employed, which has been improving earlier deteriorated in period of investigation.

Capacity, Production and Capacity Utilization

65. The Capacity, Production and Capacity Utilization of the domestic industry has been as under:

	2001-02	2002-03	2003-04	POI
Capacity	26,140	30,000	35,000	37,500
Indexed	100.00	114.77	133.89	143.46

Production	20,957	24,410	25,019	27,988
Indexed	100.00	116.48	119.38	133.55
Capacity Utilization	80.17	81.37	71.48	74.64
Indexed	100.00	101.49	89.16	93.09
Sales	20,819	24,298	24,781	27,168
Indexed	100.00	116.71	119.03	130.50
Demand	32,662	39,332	47,836	57,035
Indexed	100.00	120.42	146.46	174.62

It is evident from the above, domestic industry has added capacity by converting from PFY to NFY in anticipation of demand of product in India. As per anticipation, demand of the product shows positive trend. However the domestic industry appears to have been forced to curtail the production, which has resulted in decline in capacity utilization apparently due to sharp increase in imports.

Factors affecting domestic prices

66. The imports from subject countries are resulting in price undercutting and price underselling in the Indian market. The landed price of imports from subject countries as a whole is significantly below the non injurious price of the domestic industry. . It is noted that the exporters from subject countries have not increased their prices, due to increase in raw material price internationally. It is further noted that Nylon Filament Yarn is a petrochemical product and is produced from Nylon Chips, which is produced from Caprolactum and Caprolactam is produced from Benzene, which is another petrochemical product. Prices of Caprolactum have increased very significantly in the last two years. Increase in prices of Caprolactum is due to increase in Benzene prices, which is due to increase in crude oil prices. Increase in crude oil price is well known international phenomena. It therefore, does not appear likely that producers of subject countries have not got affected due to the increase in Caprolactum prices. Import prices as a % of Caprolactum price is also examined by the Designated Authority from which it was found that earlier, the export price was 43% higher than Caprolactam prices, declined significantly and became just 89% of caprolactam price in the period of investigation. Thus, there is a big fall in the effective realization of the exporters in respect of their exports to India. Further, decline in the CIF export price appears to have a direct adverse impact on the domestic industry and reduction in the landed price of import appears to have been responded by domestic industry by effecting price declines resulting in loss of

market share. It is noted that none of the other factors except dumped imports appears to have influenced the pricing of the domestic industry.

Magnitude of Dumping Margin

67. The dumping Margin from each of the subject countries has been determined and is considered significant.

Inventories

68. Inventories position with the domestic industry has been as under:

	2001-02	2002-03	2003-04	POI
Inventories	2,477	2,280	2,201	1,768
Indexed	100.00	92.05	88.87	71.37
Sales volume	20,819	24,298	24,781	27,168
Inventories as % of sales	11.90	9.38	8.88	6.51

It is noted that the sales volume of the domestic industry has increased. The domestic industry appears to have made continued efforts to maintain its sales in line with the increase in demand resulting into less of inventory. So this parameter does not appear to be a cause of injury to the domestic industry.

Cash Flow and Cash Profit

69. All the constituents of the domestic industry are multi product companies; therefore, examination of cash flow of the entire company may not be appropriate for the injury purposes. The Authority therefore, has examined cash profit situation of the domestic industry, which is given in the following table.

	2001-02	2002-03	2003-04	POI
PBT	****	****	****	****
Index	-100	-48	-20	-50
Depreciation	****	****	****	****
Index	-100	-90	-94	-106

Cash Profit	-****	-****	****	-****
Index	-100	-14.16	38.34	-6.25

It is evident from the above that cash profit situation of domestic industry, which has been improving earlier deteriorated during the period of investigation.

Employment

70. Employment level of the domestic industry has been as under:

	2001-02	2002-03	2003-04	POI
No. of Employees	2,651	2,527	2,787	2,698
Indexed	100.00	95.33	105.15	101.76
Sales	20,819	24,298	24,781	27,168
Employees per unit of Sales	0.127	0.104	0.112	0.099
Production	20,957	24,410	25,019	27,988
Employees per unit of Production	0.126	0.104	0.111	0.096

It is evident from the above employment level of the domestic industry remained more or less constant. It is noted that the domestic industry are multi-product companies and therefore, employment levels of the company per se may not be a conclusive indicator of injury to the domestic industry.

Wages and Ability to raise capital

71. Wages of the domestic industry has been as under:

	2001-02	2002-03	2003-04	POI
Wages (Lakhs)	****	****	****	****
Index	100	103	107	114
Production (MT)	20,957	24,410	25,019	27,988

Wages - per unit of production	15.57	13.8	13.9	13.32
--------------------------------------	-------	------	------	-------

It is noted from the above that wages of the domestic industry in absolute term have increased. At the same time, production of the domestic industry have increased which resulted into reduction of wages per unit of production. Therefore, this parameter is not a cause of injury to the domestic industry. Further, no evidence has been placed before the Designated Authority to substantiate the fact that the domestic industry has been facing problems with regards to the ability to raise capital.

Growth

72. Status of various parameters of growth are given in the Following table.

	2001-02	2002-03	2003-04	POI
Sales vis-à-vis demand				
Sales	100.00	115.94	117.96	129.13
Demand	100.00	120.42	146.46	174.62
Production vis-à-vis demand				
Production	100.00	116.48	119.38	133.55
Demand	100.00	120.42	146.46	174.62
Imports vis-à-vis demand				
Imports	100.00	152.12	297.48	400.94
Demand	100.00	120.42	146.46	174.62
Raw material price vis-à-vis export price				
Caprolactam price	100.00	103.94	102.56	99.38
Export Price	100.00	112.30	123.74	157.44
Selling price of domestic industry vis-à-vis landed price of imports				
Selling Price	100.00	105.28	113.81	122.84
Landed Price	100.00	103.94	102.56	99.38
Turnover via-a-vis profits				
PBT	(100.00)	(47.64)	(20.31)	(50.44)
Sales Value	100.00	122.07	134.24	158.62
Market Share of domestic industry vis-à-vis Market share of subject countries				

Market Share of domestic industry in demand	63.74	61.78	51.80	47.63
Market share of subject countries in demand	12.49	15.77	25.36	28.67
Market Share of Indian industry vis-à-vis Market share of subject countries				
Market Share of Indian industry in demand	85.71	80.97	69.29	65.61
Market share of subject countries in demand	12.49	15.77	25.36	28.67
Productivity vis-à-vis profits				
Productivity	100.00	122.18	113.54	131.24
Profits	(100.00)	(47.64)	(20.31)	(64.78)

The table above shows that majority of the injury parameters have been adversely affected during the injury period and are showing negative growth.

Arguments of the other interested parties and their examination by the Authority

73. (i) With regards to the arguments made by M/s FIASWI and others, it is noted that under Rule 6, an association of consumers is permitted to provide information which is relevant to the investigation regarding dumping, injury and causality. It is however noted that barring arguments opposing imposition of anti dumping duties, the association has presented no information that is relevant to the investigation regarding dumping, injury and causality. Nor members of the association have filed relevant information. Most of the submissions with regard to non-imposition of anti dumping duties are also mere statements unsubstantiated with relevant evidence. Resultantly, the Authority is unable to verify veracity of the claims/submissions made by the association.

(ii) With regards confidentiality claimed by the Applicants, it is noted that the petitioners have provided detailed reasons for claiming information confidential. The Authority has examined the claim of confidentiality made by the petitioners and is satisfied with regard to it.

(iii) The Authority notes that IBIS information is not selectively accessible to the petitioners. While IBIS has provided information to

the petitioners on confidential basis, it was open for the association to procure the information independently from the IBIS and advance its arguments. While disputing the claim of the petitioners with regard to volume of imports, the Authority notes that the association has preferred to rely upon information published by ASFI, while it was open to the association to consolidate the information by directing its members to provide relevant information to the Authority. In any case, the transaction wise import statements which have been taken into account in the provisional findings have been placed in the public file for the benefit of all interested parties.

G. Conclusions on injury

74. There has been significant increase in the volume of dumped imports from subject countries at the absolute level and also in relation to total demand of subject goods into India. These imports have increased significantly from the 2001-02 to the POI and these had significant price effect on account of dumped imports resulting into price suppression and price undercutting. In fact, the prices of the domestic industry have been suppressed on account of dumped imports from subject countries. The undercutting margin has been determined from the subject countries for the POI and are considered as significant. Though the sales volume has increased during the injury period in absolute terms, the domestic industry has suffered significant decline in market share. Sub-optimal increase in respect of a parameters in period of investigation, such as production (41% lower increase than demand), sales volumes (45% lower increase than demand), capacity utilization (23% lower than optimum), continuous financial losses (losses increase again in POI), further deterioration in financial losses, decline in market share in demand (16.11%), positive price undercutting, negative return on capital employed, significant dumping margin, negative growth in respect of a number of parameters show significant deterioration in the performance of the domestic industry over the injury period. Parameters such as employment and wages do not reflect injury. However, this is to be seen in the context of the nature of the petitioner company where frequent hiring & firing of manpower may not be a feature of the applicants. Thus, on the basis of the above analysis, it is provisionally concluded that the domestic industry has suffered material injury.

H. Causal link

(a) Introduction

75. In order to reach its conclusions on the cause of the injury suffered by the domestic industry and in accordance with Article 3.5 of Agreement of Anti Dumping and as per para (v) of Annexure II under Rule 11 under Customs Tariff Act as amended, the Authority examined the impact of all known factors and their consequences on the situation in that industry. Known factors other than the dumped imports, which could at the same time have injured the domestic industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

(a) Effect of dumped imports

1. Significant increase in the volume of dumped imports has resulted significant decline in market share of the domestic industry. Decline in market share of the domestic industry as a consequence of increase in the market share of the subject imports prevented the domestic industry from increasing their sales commensurate with the increase in the demand in the market. As a result, the sales of the domestic industry did not increase to such an extent that the domestic industry could have optimally utilized its capacity. Consequently, growth in production, sales and capacity utilization of the domestic industry suffered as a result of decline in the market share of the domestic industry.
2. Significant price undercutting caused by the domestic industry prevented the domestic industry from increasing its prices to the extent of increase in inputs costs. Resultantly, profits, cash flow and return on investment of the domestic industry deteriorated after showing consistent improvement. Whereas the domestic industry was able to increase its prices significantly and recover from past injuries between the period 2000-01 and 2003-04, the performance of the domestic industry once again deteriorated in the investigation period as compared to 2003-04 due to inability of the domestic industry to effect price increases. It is therefore found that the imports prevented the domestic industry from effecting legitimate price increases
3. Significant price undercutting and substantial increase in volume of dumped imports prevented the domestic industry from recovering from past injuries suffered on account of different factors. In fact, performance of the domestic industry in terms of profits, cash flow, return on investment deteriorated once again after improving significantly.

Effect of Other factors

(a) Performance of Other Domestic producers:

76. There was other domestic producers of the subject goods during the period under consideration apart from the applicant. Though they have not submitted the information in the form and manner of exporter's questionnaire, it could be provisionally concluded from the examination of limited information made available before the Authority that they have been adversely impacted during the POI and their operating performance has gone down.

(d) Contraction of demand or Changes in the pattern of consumption

77. The Authority notes that there is no contraction in the overall demand during the period under consideration. On the contrary, the overall demand has increased significantly during the injury period. The Authority also provisionally concludes that there is no apparent change in the pattern of consumption.

(e) Volume and Prices of imports not sold at the dumped prices

78. According to the available information, the total import volume of the product concerned originating in countries other than subject countries are de-minimus and therefore, they are provisionally considered not to have had any impact on the domestic industry.

(f) Trade Restrictive practices of and competition between foreign and domestic producers

79. The Authority notes that there is a single market for the subject goods where dumped imports from the subject countries compete directly with the subject goods produced by the domestic industry. The authority further notes that the imported product is sold to meet the similar commercial grades and specification as domestically produced subject goods. It is further noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses.

(g) Developments in Technology, Export performance and productivity of the Domestic Industry

80. On the basis of the examination of the records of the petitioner, the authority provisionally holds that developments in technology, has not been a relevant factor for the injury to the domestic industry.

81. With regard to the export performance of the domestic industry, the authority notes that though there has been improvement in the exports of the domestic industry during the period under consideration, it still forms a very not so significant part of the total sales of the domestic industry. It is further noted that the various performance with respect to various economic indicators have been determined with respect to domestic sales only. Hence, the authority provisionally holds that material injury suffered by the domestic industry may not as a result of the export performance of the domestic industry.

82. As regards improvement in productivity, the authority notes that during the period under consideration, the productivity measures as output per person employed per year has rather improved during the injury period. On the basis of the examination, the authority provisionally holds that the productivity per se is not the cause for the injury to the domestic industry.

(h) Conclusion on causation

83. Significant increase in the volume of dumped imports has resulted significant decline in market share of the domestic industry. It is further seen that decline in market share of the domestic industry as a consequence of increase in the market share of the subject imports prevented the domestic industry from increasing their sales commensurate with the increase in the demand in the market. As a result, the sales of the domestic industry did not increase to such an extent that the domestic industry could have optimally utilized its capacity. Consequently, growth in production, sales and capacity utilization of the domestic industry suffered as a result of decline in the market share of the domestic industry. Significant price undercutting caused by the domestic industry prevented the domestic industry from increasing its prices to the extent of increase in inputs costs. Resultantly, profits, cash flow and return on investment of the domestic industry deteriorated after showing consistent improvement. Significant price undercutting and substantial increase in volume of dumped imports prevented the domestic industry from recovering from past

injuries suffered on account of different factors. In fact, performance of the domestic industry in terms of profits, cash flow, return on investment deteriorated once again after improving significantly.

84. It is, therefore, provisionally concluded that the dumped imports originating in the subject countries have caused material injury to the domestic industry within the meaning of Rule 11 of Anti Dumping rules and article 3.5 of the Agreement of Anti Dumping.

I. Indian Industry interest.

85. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

86. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods.

87. The Authority notes that the imposition of anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

J. CONCLUSIONS:

88. The Authority has, after considering the foregoing, come to the conclusion that:

- A. The subject goods have been exported to India from the subject countries below its normal value.
- B. The Domestic Industry has suffered material injury;
- C. The injury has been caused cumulatively by the dumped imports from Subject Countries.

89. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of subject goods from subject countries in order to remove the injury to the domestic industry. The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority proposes to recommend the amount of anti dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports is proposed to be compared with the non-injurious price of the petitioner company determined for the period of investigation.

90. Accordingly, the Authority recommends that the provisional anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on imports of Nylon Filament Yarn falling under Custom Heading 54 originating in or exported from subject countries pending final determination. Landed value of imports for the purpose shall be the assessable value as determined by the Customs 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. The Anti-Dumping duty shall be the difference between the amount mentioned in column 9 of the following table and the landed value of imports per Kg to be imposed from the date of Notification to be issued in this regard by the Central Government on imports of subject goods falling under Chapter of the Customs Tariff, originating in or exported from the countries mentioned below: -

TABLE										
S. No	Sub heading or Tarriff Item	Description of goods	Specification	Country of origin	Country of export	Producer	Exporter	Amount	Unit of Measurement	Currency
1	2	3	4	5	6	7	8	9	10	11
1	54	Nylon Filament yarn	*as mentioned below	Any	China PR	M/s Jinan Juda	M/s Jinan Juda	3.82	Kg	US Dollar
2	54	Nylon Filament yarn	*as mentioned below	Any	China PR	Any except M/s Jinan Juda	Any except M/s Jinan Juda	3.82	Kg	US Dollar
3	54	Nylon Filament yarn	*as mentioned below	Any	Chinese Taipei	Suntex Fiber Co Ltd.	Suntex Fiber Co Ltd.	3.82	Kg	US Dollar
4	54	Nylon Filament yarn	*as mentioned below	Any	Chinese Taipei	LIPENG Enterprise Co., Ltd	LIPENG Enterprise Co., Ltd	3.65	Kg	US Dollar
5	54	Nylon	*as	Any	Chinese	Any except	Any	3.82	Kg	US Dollar

		Filament yarn	mentioned below		e Taipei	M/s Suntext Fiber Co Ltd.and M/s LIPENG Enterprise Co., Ltd	except M/s Suntext Fiber Co Ltd.and M/s LIPENG Enterprise Co., Ltd			
6	54	Nylon Filament yarn	*as mentioned below	Any	Indonesia	Any	Any	3.82	Kg	US Dollar
7	54	Nylon Filament yarn	*as mentioned below	Any	Malaysia	Hualon Corporation	Hualon Corporation	3.82	Kg	US Dollar
8	54	Nylon Filament yarn	*as mentioned below	Any	Malaysia	Any except above	Any except above	3.82	Kg	US Dollar
9	54	Nylon Filament yarn	*as mentioned below	Any	Thailand	Asia Fiber Public Company Ltd	Asia Fiber Public Company Ltd	3.82	Kg	US Dollar
10	54	Nylon Filament yarn	*as mentioned below	Any	Thailand	M/s Thai Taffeta	M/s Thai Taffeta	3.82	Kg	US Dollar
11	54	Nylon Filament yarn	*as mentioned below	Any	Thailand	Any except M/s Thai taffeta and M/s Asia Fiber	Any except M/s Thai taffeta and M/s Asia Fiber	3.82	Kg	US Dollar
12	54	Nylon Filament yarn	*as mentioned below	Any	Korea	Taekwang Industrial Co Ltd	Taekwang Industrial Co Ltd	3.82	Kg	US Dollar
13	54	Nylon Filament yarn	*as mentioned below	Any	Korea	HYOSUNG Corporation	HYOSUNG Corporation	3.82	Kg	US Dollar
14	54	Nylon Filament yarn	*as mentioned below	Any	Korea	Any except M/s Taekwang Industrial Co Ltd and M/s HYOSUNG Corporation	Any except M/s Taekwang Industrial Co Ltd and M/s HYOSUNG Corporation	3.82	Kg	US Dollar

15	54	Nylon Filament yarn	*as mentioned below	China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP	Any except China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP	Any	Any	3.82	Kg	US Dollar
----	----	---------------------	---------------------	--	---	-----	-----	------	----	-----------

* Synthetic filament yarn including synthetic monofilament of less than 67 decitex, of nylon or other polyamides, excluding all high tenacity yarn of nylon including fishnet yarn of nylon

K. FURTHER PROCEDURE:

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

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

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

(c) The Authority would conduct further verification to the extent deemed necessary.

(d) The Authority would disclose essential facts before announcing final findings.

(Christy Fernandez)

ADDITIONAL SECRETARY & DESIGNATED AUTHORITY