

**MINISTRY OF COMMERCE**  
**DIRECTORATE GENERAL OF ANTI-DUMPING &**  
**ALLIED DUTIES**  
**UDYOG BHAVAN**

**NOTIFICATION**

New-Delhi, the 9th March, 2005

**FINAL FINDINGS**

**Subject:** Anti-dumping investigations concerning import of Nylon Tyre Cord Fabric (NTCF) originating in or exported from China PR.

**F. No. 14/20/2003-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, 1995 thereof:

**A. PROCEDURE**

1. The procedure given below has been followed with regard to the investigations:
  - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written application from the Association of Synthetic Fibre Industry (ASFI) on behalf of all the members of the Association, alleging dumping of Nylon Tyre Cord Fabric (NTCF) originating in or exported from China PR.
  - ii. The preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the applicant. The application was thereafter considered as properly documented.
  - iii. The Authority on the basis of sufficient evidence submitted by the applicant decided to initiate investigations against alleged dumping of imports of NTCF originating in or exported from China PR.
  - iv. The Authority notified the Embassy of the subject country about the receipt of dumping allegation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rules.
  - v. The Authority issued a Public Notice dated 29th October, 2003, published in the Gazette of India Extraordinary initiating anti-dumping investigations concerning imports of NTCF classified under Chapter 59, Custom subheading

- no. 5902.10.00 of the Custom Tariff Act originating in or exported from China PR.
- vi. The Authority forwarded a copy of the Public Notice to the known exporters/importers of NTCF (whose details were made available by the applicant) and gave them an opportunity to make their views known in writing within forty days from the date of the letter. On request, extensions in time limits were granted to the exporters, upon due cause shown, to file their response to the questionnaire forwarded by the Authority.
  - vii. Request was made to the Central Board of Excise and Customs (CBEC) to provide details of imports of NTCF. Request was also made to DGCIS, Kolkata to provide details of transaction-wise imports made in India of the said article during the period of investigation alongwith Bills of Entry numbers and dates, country of origin, description of the imported subject goods, volume and value of import and the names and addresses of the importers.
  - viii. The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassy of China PR in accordance with Rule 6(3) supra.
  - ix. The Authority sent a questionnaire, to elicit relevant information to the following known exporters in China PR in accordance with Rule 6(4);

### **China PR**

- Ningbo Nylon Company Limited,  
Jinlun Group Office Building,  
Zonghan St.,  
Cixi City,  
Zhejiang Province,
- Weifang Great Dragon Chemical Fibre Co. Ltd./Shandong Polytex  
Wennan Road, Anqiu,  
Shandong Province,  
China PR.
- Jiangsu Qunfa Chemical Co., Ltd.  
3 Taiping Beilu,  
Yangzhou,  
Jiangsu Province, China PR.
- Baling Petrochemicals  
Yongshan Petrochemical Works  
Yueyang  
Hunan
- Jiangsu Steed  
Jiangsu Junma Group,

Zhangjiagang Huayu Chemical Company Limited  
80-River East Road  
Chenhang Town  
Zhangjiagang City  
▪ Qingdao Textile Mills  
22-Hai-An Road,  
Qingdou.

- x. The Embassy of the People's Republic of China in India, was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letters and questionnaire sent to the exporters was also sent to them, alongwith the names and addresses of the exporters.
- xi. In order to allow exporting producers from China to submit a claim for market economy treatment, the Authority sent a Market Economy Treatment questionnaire to all the known co-operating companies and to the Embassy of China PR. While, for the purpose of initiation, the normal value in China PR was considered based on the constructed cost of production of the subject goods in China PR, the authority informed the known exporters that it proposed to examine the claims of the applicants in the light of para (7) & (8) of Annexure-I of the Anti-Dumping Rules as amended. The concerned exporters / producers of the subject goods from China PR were therefore requested to furnish necessary information / sufficient evidence as mentioned in subparagraph (3) of paragraph 8 to enable the Designated Authority to consider whether market economy treatment could be granted to cooperating exporters / producers who could demonstrate that they satisfied the criteria stipulated in the said paragraph.
- xii. A questionnaire was sent to the following known importers/users of NTCF calling for necessary information in accordance with Rule 6(4);
- Automotive Tyre Manufacturers' Association (ATMA)
  - Birla Tyres, Kolkata-700019.
  - CEAT LIMITED, Mumbai-400018.
  - Dunlop India Ltd., Kolkata-700016.
  - J.K.Industries Ltd., New Delhi - 110 002
  - MRF Ltd., Chennai-600006.
  - Vikrant Tyres Ltd., Mysore - 570002
- xiii. Vide DGAD's letter dated 25th August 2004, the exporters were informed that the Designated Authority intended to carry out an on- the- spot investigation as

per Article 6.7 of the WTO Agreement which was accepted by the participating exporters.

It was informed that the main purpose of the on-the-spot investigations would be to verify the information provided by the participating exporters in their response to the exporters questionnaire and MET questionnaire by reconciling details as reported with source documents. In accordance with Annex 1 (Procedures for the on-the-spot Investigations Pursuant to Paragraph 7 of Article 6), the general nature of the information to be verified and further information which was required to be provided by them, before the visit was made was given vide DGAD letter dated 23rd September, 2004.

It was informed to all exporters that pursuant to their response to the exporters questionnaire and MET questionnaire, the pre-verification letter dated 23rd September 2004 had set out the information/data/documents required from exporting producers who had made a claim for market economy status. It was requested that all documents submitted should be provided together with a translation in English.

- xiv. An on-spot-verification was conducted by a team of officers deputed by the Designated Authority in the premises of cooperating exporters namely M/s Jiangsu Qunfa (hereinafter referred as Jiangsu), M/s Weifang Great Dragon and Shandong Polytex (hereinafter referred as Weifang) and M/s Ningbo Nylon Co Ltd.(hereinafter referred as Ningbo Nylon). Its subsidiary company M/s Ningbo Jinlun Import and Export company is hereinafter referred as NJIE. Officials from Bureau of Fair Trade (herein after referred to as BOFT) and Ministry of Commerce (herein after referred to as MOFCOM China PR) were present during the verification in all the said companies.
- xv. Copies of the exporter verification report were forwarded to the co-operating exporters to enable them to file their comments thereon which were duly considered by the Authority.
- xvi. BOFT & MOFCOM were also informed about the Exporters Verification Report and were told that a copy of the report could be made available to them after confidentiality issues were sorted out by BOFT with the exporter concerned.
- xvii. The Authority made available the non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xviii. Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) on the information furnished by the

- applicant so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xix. A detailed Disclosure Statement disclosing essential facts was made available to the participating exporters and the domestic industry. Separate confidential disclosures were given to concerned cooperating exporters. Responses received from interested parties have been addressed in the findings.
- xx. \*\*\* In the findings represents information furnished by an interested party on confidential basis and so considered by the Authority upon being satisfied as to its confidentiality, under the Rules.
- xxi. The investigation of dumping and injury covered the period from 1st April, 2002 to 30th June, 2003 (15 months) which is referred to as the 'period of investigation' or the 'POI'. The examination of trends relevant for the analysis of injury covered the years from 1999-2000 to the period of investigation (injury analysis period).

## **2. Views expressed by interested parties on Procedure:-**

- i. One interested party has raised an argument that the provisions of Article 7.1 have been violated as adequate opportunity has not been provided to the exporter to explain their case. The preliminary findings also did not record any findings to the effect that invocation of Rule 12 was mandated to prevent injury being caused during the investigation.
- ii. It has also been raised that the non-confidential version of the application did not contain the figures for the entire period of investigation (i.e. Apr., 2002 to June, 2003) but only for the period Apr., 2002 until Mar., 2003.
- iii. The issue was also raised that the domestic industry has been allowed to claim confidentiality on IBIS data.
- iv. Further, the sales and production data in the present investigation and the earlier mid-term review investigation for this product do not match.

## **Examination by the Authority**

- v. The Authority notes that this investigation was initiated in accordance with the provisions of Rule 5. Thereafter, the public notice of initiation along with exporters / importers questionnaire and a copy of the non-confidential version of the application was forwarded to all the known exporters and importers requesting their response within 40 days from the date of the letter. Further, the authority has taken into account requests of exporters to extend time limit to facilitate them to make their submissions. Interaction with interested parties are usually held after due notice is given to the Authority. Interested parties were also requested to submit documents/ arguments relevant to this investigation within due time-limits. Therefore, adequate opportunity was given to submit

information and make comments on the initiation and thereafter at every stage of the investigations. The Authority notes that the preliminary findings has adequately addressed the issue of material injury to the domestic industry from the dumped imports from the subject country. The Authority issued preliminary findings on being satisfied that there was a need for preliminary findings. Further, the comments raised by the exporter and by ATMA pursuant to the initiation were duly addressed in the preliminary findings. The data for the entire period, as made available in the non-confidential version of the application was placed in the public file. In response to the point raised at 2(iv) above, the Authority notes that during the mid term review of this product, the composition of the domestic industry consisted of M/s SRF (Manali and Gwalior plant), NRC, Nirlon and TFL (Tyre Fabric Ltd) whereas in the present investigation the domestic industry comprises of M/s. SRF (Manali, Gwalior, Goomidipundi Plants), NRC, Nirlon and Century Enka. In view of the change in composition, the sales and production data in the earlier mid-term review investigations and present investigations would obviously vary.

## **B. PRODUCT UNDER CONSIDERATION**

3. The product under consideration in the present case is Nylon Tyre Cord Fabric (NTCF) originating in or exported from Peoples Republic of China. The subject good is a fabric of nylon, meant largely for tyre cord. NTCF finds application in different kinds of automotive tyres such as bus & truck tyres, two wheeler tyres, cycle tyres, Light commercial Vehicles tyres, Animals Driven vehicles etc.

4. Nylon Tyre Cord fabric is produced using different deniers of yarn. The fabric is used for reinforcement of tyres. The product is sold as " Grey fabric " and also " Dipped fabric". The Indian Tyre Industry is buying both Grey and dipped fabric. Dipped fabric being sold to cycle tyre manufacturers is described by the petitioner as "cycle tyre fabric". However, the Authority notes that cycle tyre fabric is also nothing but dipped fabric, though having higher cost and price as compared to other dipped fabric being sold to tyre producers other than cycle tyre manufacturers. Dipped fabric meant for cycle type applications has been described as cycle tyre fabric (CTC) in this notification and all other dipped fabric has been stated as "dipped fabric". Irrespective of the categorization, tariff classification of NTCF is common to both. All types of NTCF are within the scope of the product under consideration and are classified under Chapter 59, Custom subheading no. 5902.10.00 of the Customs Tariff Act. The classification is however indicative only and in no way binding on the scope of the present investigations.

5. The Authority confirms the preliminary findings on product under consideration.

## **C. LIKE ARTICLES**

6. Rule 2(d) of the anti-dumping rules specifies that “Like Articles” means an Article which is identical or alike in all respects to the product under investigation or in the absence of such an Article, another Article, having characteristics closely resembling those of the articles under examination.

7. The product under consideration has included all types within its scope as given in the Para above. The domestic industry also manufactures Cycle Tyre Cord apart from Grey and Dipped NTCF. Interested parties have referred to the non-confidential version of the application as showing that the domestic industry has the data for different types of NTCF namely, Grey, Dipped and CTC. Although injury analysis has been made for all the above cited categories of the subject goods, the final analysis of dumping, injury and causal link has been made with respect to the product under consideration, i.e., Nylon Tyre Cord Fabric.

8. In order to establish that Nylon Tyre Cord Fabric (NTCF) produced by the domestic industry is a Like Article to that exported from China PR, characteristics such as technical specifications, manufacturing process & technology, functions and uses and tariff classification have been considered by the Authority.

9. The applicants claimed that goods produced by them are like articles to the goods originating in or exported from subject country. The applicants claimed that these were technically and commercially substitutable. The applicants have provided copies of the invoices raised on various customers as sales evidence. They have also provided the transaction wise listing of sales made by them to various customers in the POI. The applicants furnished import information as per secondary sources showing names of importers. It was found that material is being imported by companies who are also buying the subject goods from the domestic industry.

10. The exporters from China PR or consumers/importers in India have not disputed the claim of the applicants. The responding exporters have provided details of exports made by them, which shows the names of the customers also.

11. It is found from the information provided by the applicant companies, exporters from China PR and user /consumers/ importers in India that the subject goods from the same sources were interchangeably used by the consumers.

12. On the basis of the above details and the investigations carried out in this regard, the subject goods produced by the applicants are Like Articles to the product imported from the subject country within the meaning of the Rules, supra.

13. The Authority also finds that there is no argument disputing that Nylon Tyre Cord Fabric (NTCF) produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by NTCF imported from the subject country both commercially and technically. NTCF produced by the domestic industry has been treated as Like Article to the product exported from China PR within the meaning of Rule 2(d).

14. The Authority confirms the Preliminary Findings on Like Articles within the meaning of Rule 2(d).

## **D. DOMESTIC INDUSTRY**

15. The Association of Synthetic Fibre Industries (ASFI) New Delhi has filed the application on behalf of M/s SRF Limited, Chennai, M/s NRC Limited Mumbai, Century Enka Limited Pune, and M/s Nirlon Ltd Mumbai who are the producers of NTCF in India and who are members of the association.

16. The details of quantities produced by domestic producers are given in the table below:-

	1999-2000	2000-01	2001-02	POI	POI (annl)
<b>Production (MT)</b>					
Grey	43590	38690	42352	61620	49296
Dipped	4539	2644	4478	9528	7622
CTC	744	728	648	877	702
Total production	48873	42062	47478	72025	57620

17. The applicants account for 100% of the total domestic production of the subject goods in the country and therefore satisfy the standing to file the present petition.

18. The Authority confirms the preliminary findings that the applicants constitute “domestic industry” and have the required standing to file the present petition under the Rules.

## **E. De-minimis**

19. In order to ascertain whether the imports from China during the period of investigation (POI) were de-minimis, the Authority has referred to all possibly available information on imports, which includes the information provided by the applicants, information provided by the consumers/importers, the information provided by the exporters and information as per China Customs. The applicants provided information on the basis of data released by the DGCI&S as also Secondary

Sources, namely Port wise data provided by data compiling agency for Mumbai Port Data, Customs Data for Chennai and Cochin Port data and information relating to exports of the product from China to India as per information released by China Customs. During the course of investigations, the Authority also collected information with regard to the transaction wise data from the subject country from the DGCIS. Information provided by the exporters namely M/s Ningbo Nylon, Weifang and Jiangsu was also consolidated. The Authority correlated the information provided by the responding exporters with the information provided by the responding importers/consumers. Information filed by the importers/consumers was also consolidated. It was found that the volume of imports based on all this information was significantly above de-minimis limits as prescribed under the Rules.

## **F. Other Issues**

20. The authority has examined the issue raised by M/s Monotona Tyres Ltd., Mumbai a medium-scale automobile tyre and tube manufacturer in the course of this investigation. It has been stated by the company that low denier and low width fabric is used in their product and the domestic industry is reluctant to supply their kind of fabric. However, it is noted that this fabric is included within the scope of the product under consideration and has been the subject matter of these investigations. The relationship of M/s Monotona tyres with the domestic industry as regards supply of a particular width of fabric is beyond the scope of the present investigations.

21. The Authority has examined the issue raised by M/s. Indian Cycle & Rickshaw Tyre Manufacturers' Association. However, it is noted that this fabric is included within the scope of the product under consideration and has been the subject matter of these investigations.

## **G. Views expressed by interested parties in the Public Hearing held on 1st September, 2004**

22. Points raised by Domestic Industry :-

- i. The domestic industry mentioned that in respect of Chinese GAAP, USA had admitted that Chinese accounting system does not adhere to international accounting system.
- ii. Assets transfer value should be seen as to whether these assets are transferred in the context of market fairness or these are negotiated settlements.
- iii. Chinese companies allegedly collect VAT but do not deposit the total amount collected. They allegedly negotiate rebate on such total collection based on their export performance. For foreign exchange, there are different exchange

- rates based on export performance. Risk funds are provided for foreign trade. Significant miscellaneous income is coming out of hidden subsidies.
- iv. The Response to the exporters questionnaire should have been filed by NJIE also and a separate dumping margin should be determined for NJIE.
  - v. No information is available about the shareholders of Kingring. It is also not known whether Kingring Group/Ningbo is a standard VAT payer.
  - vi. The Auditors have qualified the report of Shandong; there are no long-term loans or interest component.
  - vii. The costing should be worked out based on international GAAP.

### 23. Views raised by Exporters/Importers :-

#### (I) Ningbo Nylon

- i. The preliminary findings at such late stage are not as per Rule 12, and are in violation of Article 7.1. There is no recording as to why Preliminary Findings were notified after 9 months.
- ii. Public file does not have balance sheets of domestic industry.
- iii. The exporter should have been asked about the questions of shareholding patterns.
- iv. The Petition copy is for 12 months whereas POI is for 15 months.
- v. Existence of subsidy has no bearing on anti-dumping case. Existence of subsidies does not make a country a non-market economy.
- vi. Authority has not asked questions for procurement of electricity/water and have relied upon the submissions in case of Tiles findings.
- vii. There is no increase in import and Chinese imports have taken share of other countries only.
- viii. DGCIS data ignoring abnormal transactions cannot be kept confidential.
- ix. Sales/production figures of domestic industry are different for Mid-Term Review / Preliminary Findings.
- x. Every parameter has to be examined as a stand-alone factor.
- xi. Price under-cutting is shown as 6.34% and the range is given 10-16%.

#### (II) Jiangsu Qunfa

The Demand for the subject goods has not declined. Accounting standards may be different. In case of Potassium Carbonate under the similar condition, MET was given.

#### (III) Weifang/Shangdong

There is no element of state investment in this company. The company does not produce CTC.

#### **(IV) ATMA**

The Domestic industry does not fulfil complete demand. The NTCF producers are financially better than Tyre Companies. In respect of CTC grade, the Chinese Suppliers are giving deferred payments.

#### **(V) Government of China PR**

- i. The exporters/producers have done utmost to cooperate. However, the Designated Authority did not grant Market Economy Treatment and even no individual treatment by arriving at individual dumping margins.
- ii. There is no ownership interest of Chinese Government in any of the NTCF exporters.
- iii. By not using the available export price of the Cooperating Exporters for calculating the dumping margin, Designated Authority has violated its own laws.
- iv. The Designated Authority did not seek any clarification before Preliminary Findings.

#### **24. Submissions by Junma Tyre Cord Co. Ltd.:-**

Junma has stated that it has not exported the subject goods to India (either directly or indirectly) during the POI. The first export of the subject goods by Junma was on 15th August, 2003 i.e. after the POI. They are contemplating to file a new-shippers review after the final findings.

### **H. Period of Investigation**

25. The investigation of dumping and injury covered the period from 1st April, 2002 to 30th June, 2003 (15 months) which is referred to as the 'period of investigation' or the 'POI'. The examination of trends relevant for the analysis of injury covered the years from 1999-2000 to the period of investigation (injury analysis period). The Authority holds that the POI kept for the investigations need not be the period for which the data is contained in the application. The Authority considered it appropriate to extend the POI by one quarter from the period for which the petitioner had provided data in the application to make the POI both recent and representative. Opportunity to comment on such data by making it available in the public file has been provided to various interested parties during the course of investigation.

# **I. Responses of Interested Parties to Disclosure Statement & EXAMINATION:**

26. Response:

## **(i) Domestic Industry**

1. The domestic industry has reiterated in its response various submissions made by it during the course of the investigations, including incomplete response by the responding exporters, confidentiality of information, alleged suppression of information by the responding exporters.
2. The domestic industry has, while supporting the determination of the Designated Authority with regard to examination of MET, argued that the responding exporters could not have been given market economy status on account of a number of other reasons listed by them during the course of the investigations.
3. The dumping margin determined is significantly lower than the dumping margin in the preliminary findings, even though the Chinese companies have not been granted market economy status.
4. Export price determined has not been reduced on account of expenses of the import-export company. The export price should also be reduced for the amount of profit of the trading company. Further, no price adjustment appear to have been made on account of packing, and Marine Insurance, Port Handling and Expenses.
5. Information provided by the domestic industry clearly establishes injury to the domestic industry.

## **(ii) Exporters**

a) M/s Ningbo Nylon/ Ningbo Jinlun Import and Export Co. have filed their comments reiterating their earlier submissions. The exporter however, did not avail the opportunity of a personal hearing that was granted to them pursuant to the disclosure statement. The comments are broadly as follows:

1. The disclosure statement is at a great variance with the verification report.
2. The Designated Authority found all information complete till verification report but has now pointed out that lot of information was not provided by the company, which is legally, factually and procedurally incorrect.
3. If the Designated Authority found that information given by the company was not complete, the Designated Authority should not have verified the information.

4. The exporter has been put to unnecessary, excessive, undue and uncalled for burden. Unnecessary information was demanded from the exporter.
5. The Designated Authority has not responded to various issues raised by the exporter and has not provided reasoning in support of its action.
6. The exporter has not been provided adequate opportunity to comment on the petition and information provided by the domestic industry.
7. The team showed satisfaction at the time of spot verification on a number of issues, did not point out at deficiencies now pointed out in the disclosure statement and has now given a completely different position in the disclosure statement.
8. The disclosure statement has for the first time introduced a number of new facts, for which the interested parties were not put on notice before.
9. When information under similar circumstances was accepted in another cases, it could not have been rejected in this case.
10. Price undercutting has not been determined category wise.

b) M/s Shandong Polytex Chemical Fiber Co. Ltd has responded with their an intention to make an offer in principle of a price undertaking amounting to a price revision.

c) M/s Jiangsu Qunfa has responded by providing certain additional documents which are translated copy of certificates issued by certified public accountant with regards to the audited balance sheets and profit and loss account for the period 2000,2001 and 2002. Further, they have furnished copies of the certificates of incorporation of Yangzhou Chemical Assets Management Company Ltd and China Huarong Assests Management Company Ltd. They have informed that they would file the translated version as soon as the same is received along with the share holding pattern.

**iii) M/S Ningbo and M/s Shandong Polytex have stated their intention to offer price undertaking on mutually acceptable terms and conditions.**

27. Examination by the Authority

**(i) Domestic Industry**

The authority has noted the comments of the domestic industry on the disclosure statement and has dealt with the observations appropriately in these findings.

**(ii) Exporters**

- a. As regards the points raised by Ningbo Nylon/ Ningbo Jinlun Import and Export Co., the Authority observes as follows:

1. A visit to the premises of an exporter for the purpose of verification of information can not be construed to be that all information filed by the exporter is otherwise complete to the satisfaction of the Authority. Verification is conducted by the Authority in order to satisfy on the accuracy of information filed. Verification visit neither substitutes the obligation of the parties to provide complete information nor certifies satisfaction on the part of the Authority that the information filed by the exporter is otherwise complete and acceptable.
2. Verification reports are issued to the Foreign Producers in order to eliminate any misunderstanding on various information filed by the parties and information verified by the Authority. Verification report is not a certificate to the parties that the information is otherwise complete or that the Authority would necessarily adopt the information filed by a party.
3. The scheme of Rules does not provide that the Authority should verify the information only if the Authority eventually intends to adopt the entire information. In any event, verification of information is an integral part of the investigation process. Verification may be necessary before acceptance of information. However, verification of information does not guarantee acceptance of information.
4. Large number of issues have been raised in the present investigations by various interested parties. While request for initial information is normally comparable in all the cases, supplementary/additional information is desirable considering the various facts & circumstances of the case. The Authority does not consider that any unnecessary information was called from the exporter and the company was put to any undue and unnecessary burden.
5. It is not feasible that submissions of the interested parties are verbatim reproduced in the findings, nor is that mandated under the Rules. The Authority is required to record main reasons leading to the determination, which has been done in this case.
6. The Authority considers that opportunity to comment on the application as also various submissions made by various interested parties were provided to all interested parties during the course of the investigation process.
7. It is not correct that the team showed satisfaction on any aspect of the case. In fact, team could not have expressed any opinion at the time of such verification visits, as the purpose of visits is not to confirm acceptance or otherwise of various information. The Authority is required, during the course of the investigation, to satisfy itself as to the accuracy of the information supplied by various interested parties upon which the Authority proposes to base findings.
8. It is not incorrect that the disclosure statement introduced a number of new facts. The Authority has merely brought out various issues raised by interested

parties or that were otherwise relevant to the conduct of the investigations in this case.

9. As would be seen from the para on price undercutting, the Authority has determined price undercutting category wise, separately for grey, dipped and CTC.
10. Ningbo has argued that the Authority has referred to assets valuation reports under the para on cost of technology and labor. It is clarified that the Authority has dealt with the issue of cost of technology, for which the Authority has stated in the disclosure statement that the issue of cost of technology involves issue of acquisition pricing in respect of assets, technology and facilities, for which complete information has not been made available.
  - b. As regards the offer of a price undertaking by M/s Shandong Polytex, the authority notes that such offers are normally made after the preliminary determination.
  - c. As regards Jiangsu Qunfa, the authority notes that the exporter has not commented on any of the essential facts.

iii) In line with relevant rules, the authority considered the offer of price undertaking by two of the exporters. The authority provided detailed price undertaking proforma alongwith annexures to help the exporters submit their proposals.

## **J. DUMPING**

28. The Authority sent questionnaires to the known exporters from the subject country in terms of section 9 A (1). The co-operating exporters in China PR have submitted response to the exporter's questionnaire.

29. The Authority sent the notice of initiation to the known exporters from China PR. Extension in time limits to file response was sought by M/s Jiangsu Qunfa Chemical Co. Ltd., M/s. Shandong Polytex Chemical Fibre Co. Ltd., and M/s. Ningbo Jinlun Import & Export Co. Ltd., which was, upon due cause shown, granted by the Authority. Response to the questionnaire was filed by the following producers:-

- Ningbo Nylon Co Limited (referred to as Ningbo Nylon)
- Weifang Great Dragon Chemical Fibre Company Limited and Shandong Polytex (referred to as Weifang)
- Jiangsu Qunfa Company Limited (referred to as Jiangsu)

30. The responses filed by these producers were found deficient, details of which were brought out in the preliminary findings. Detailed deficiency letters were addressed to the exporters as brought out in the preliminary findings. It is important to note here

that the deficiencies in the exporters data were major and so significant that the preliminary findings could not have been based on their submissions. Additional information was received from these exporters, which was examined in detail by the Authority and still found deficient. Further additional information was sought by the Authority, which was also provided by the exporters. The exporters agreed to on- the-spot investigations which were also carried out by the Authority in their respective premises in China PR. The Authority therefore considers these exporters as cooperating exporters for the purpose of the present investigations. It is pointed out that some of the deficiencies intimated by the Authority in the preliminary findings have not been rectified by these parties till date, despite several opportunities. These were also pointed out orally at the time of spot verification. These companies were advised sufficiently in advance of the nature of the information to be verified and of further information which was required to be provided in terms of Annex 1 of the WTO ADA. Several clarifications were sought prior to the on-the-spot verification to which replies were not furnished. The Authority does not consider that these omissions/deficiencies are accidental. Although these interested parties have not acted to best of their abilities, the Authority considered to accept the responses to the extent considered appropriate. The Authority also notes that it is not to the Authority to establish any State interference, but to the companies requesting MET to demonstrate the absence of any significant State interference in their business decisions.

### 31. Claim for Market Economy Treatment

- i. As communicated to the known exporters and to the Embassy of the People's Republic of China, the Authority proposes to examine the claim of the applicant of China PR being a non-market economy in the light of Para (7) and (8) of Annexure I of the Anti-Dumping Rules as amended.
- ii. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-
  - a. the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

- b. the production costs and financial situation of such firms are not 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.
- iii. In order to allow exporting producers from China to submit a claim for market economy treatment, the Authority sent a Market Economy Treatment questionnaire to all the known co-operating companies to enable them to furnish necessary information/sufficient evidence as mentioned in subparagraph (3) of paragraph 8. Detailed questions regarding ownership, management, control, determination of commercial and business policies and on financial situation etc. were addressed to these companies. Issues of ownership were addressed to these companies to ascertain if the companies were owned or controlled by the State. The responses received from these respondents were analysed to determine whether these companies enjoyed a degree of independence from the Chinese State comparable to that which would prevail in a market economy country.
- iv. Three Chinese producers/exporters requested MET pursuant to sub-rule 3 of Rule 8 of the Anti-Dumping Rules and replied to the questionnaire for according MET. The Authority sought information deemed necessary in the MET questionnaire and raised additional queries and sought evidence in the pre-verification letter issued to each of the cooperating companies. The Authority requested general and in certain instances specific information with regard to the following parameters from the responding exporters:-
- Ownership details
  - Shareholding patterns
  - Information on promoter/holding company/companies wherever it was found that one of the promoters/shareholders included TVEs
  - Law on Township & Village Enterprises
  - Constituents of Board of Directors, their legal status and person/party being represented by them.
  - Raw Material Inputs and Costs:- The following information was sought
- information on caprolactam, power, steam, water. This included information on sources of supply of these items, identity and structure of the suppliers and price at which these were supplied and information on the market value of these inputs.
  - Whether the inputs were sourced against short term or long term contracts.

- Whether there was any State interference, control or intervention in respect of raw materials, inputs, utilities and costs. A clarification was called for (1) the market prices prevailing during the POI, and (2) on what basis it was established that these prices were determined by market supply and demand.
  - details of purchase of each cost component indicating (1) quantity purchased (2) value thereof (3) source of purchase (4) details of supplier.(5) length of relationship with supplier
    - The existence or otherwise of any minimum wage stipulation by the State and if the enterprises are free to decide wages as per market demand.
    - Production Facilities and Costs
    - Loans and subsidies
    - Barter Trade/ Counter Trade
    - Profit Distribution
    - Bankruptcy and property laws
    - Exchange rates conversions
- v. The information as filed by the responding exporters and verified by the Authority is discussed below. In order to be granted MET, co-operating companies must demonstrate that they meet the criteria set out in Para (7) and (8) of Annexure I of the Anti-Dumping Rules as amended. Based on the above referred provision of the Anti-Dumping Rules, it is not to the Authority to establish any State interference, but to the companies requesting MET to demonstrate the absence of any significant State interference in their business decisions. The criteria set out in para (7) and (8) of Annexure I, as summarized above was analysed.

### 32. Response to the MET Questionnaire by M/s. Ningbo Nylon Company Ltd –

(a) business decisions are made in response to market conditions and without State interference:

- i. In order to examine whether there was any degree of government influence or interference over the allocation of resources and decisions of the co-operating producer/exporter, whether directly or indirectly, the ownership pattern of the respondent was examined. The claims /counter claims made by the interested parties were taken into account and details in this respect were verified, wherever provided.
- ii. The Authority examined Company Law of China in detail. The Authority considers that merely because a company is established under Company Law of China and is abiding by the same is insufficient to hold that the company should be given MET. In fact, it is seen that even if a company is incorporated

under Company Law it may be completely or substantially State owned/controlled. The Authority notes that the composition of Board of Directors of these companies, identity of each persons in the Board, their functions, other position held by these persons, the reasons which led to their appointment in the board, etc. are all no less important in deciding whether there is any State interference. The Authority refers to and relies upon the relevant provisions relating to constitution of Board of Directors, Board of Supervision, General Manager, their functions & powers, appointment & dismissal, autonomy of the company in matters of appointment etc and the role which State or State owned/controlled persons/bodies plays, if any, in such companies whether directly or indirectly.

- iii. In their response to the MET questionnaire and in the oral hearing held on 1st September 2004, the exporter had claimed that it is a wholly privately owned limited liability co. The shareholding pattern and list of shareholders given in response to exporters questionnaire and MET questionnaire indicated the name of Jinlun Group Corporation Ltd. as being the principal shareholder with 97.67% of the total shareholding. It was revealed during the investigations that a significant proportion of Ningbo Nylon Co. is owned by the “Kingring Group”. The website information of the company clearly stated that Ningbo Nylon Co. Ltd., is the “leading enterprise of Kingring Group.” Kingring Group was however, nowhere mentioned in the response of the exporter.
- iv. The exporter was asked to submit relevant evidence that Ningbo Nylon is not a fully owned subsidiary of Kingring Group to rebut the allegation of the domestic industry. The reasons for not mentioning the name of Kingring Group in the exporters response and the MET response was raised by the Authority in the course of these investigations and by the verification team during the on-the-spot verification. The exporter had also failed to reveal that Kingring Group was owned by four TVE’s or Township and Village Enterprises. In response, the exporter has clarified that the official name of the principal shareholder company is “Jinlun Group Corporation Ltd”. This Group is at the same time referred to as the “Kingring Group” in China. It was only after the preliminary findings that the exporter admitted that Ningbo Nylon is a part of the Kingring Group and that Jinlun Group was also known as the Kingring Group. Prior to the preliminary findings, no disclosure had been made by the exporter regarding the above to the Authority. The authority noted that, the exporter strongly contested the preliminary findings notified by the Authority containing disclosures on these accounts and challenged authenticity of the information even when the information has been subsequently admitted as factually correct.
- v. The domestic industry in its non-confidential submissions (placed by the Authority in the Public File) stated that Kingring Group Shareholdings Co. Ltd., started operation as a rural (village) factory in 1982, a "collectively-

owned" entity belonging to and under the administration of Cixi Township Businesses Administration Bureau. In October 1993, Kingring Group Corporation was formed. In 1994, Ningbo Nylon (Jinlun) Shareholdings Co. Ltd. was founded with Kingring Group holding about 97.78% of Ningbo Nylon. At the end of 1999, Kingring Group was transformed from a "collectively -owned" enterprise to a "shareholdings" entity. In 2001 employees and managers shares were reallocated to different shareholding village companies and it appears that 67.38% is owned by village and township enterprises.

- vi. The exporter did not refute the above submissions of the domestic industry which were available in the public file.
- vii. During the verification, the Authority procured further information from the responding company to look into the ownership and the operations of the primary shareholder viz., Jinlun/Kingring Group. The domestic industry had further raised an issue that the major shareholder of Jinlun/Kingring Group Corporation are Township and Village Enterprises (or TVE's) which in their opinion established that there is State interference/control in the operations of Ningbo Nylon. The Authority therefore considered it appropriate to examine the nature of ownership and the issue of state interference or otherwise in respect of the TVE's owning Ningbo Nylon Co.

(b) Status of Jinlun / Kingring Group Corporation (the major shareholder/parent company of M/s. Ningbo Nylon):-

The authority examined the shareholding pattern of the exporter.

- i. It was stated that \*\*\*% shareholding of Ningbo Nylon is held by the Jinlun or Kingring Group. The registered capital of Jinlun Group Co. Ltd. or Kingring Group is RMB \*\*\*. A structure chart showing the subsidiary companies of Kingring Group Co. Ltd. was provided by the exporters vide their letter dated 15.10.04, the analysis of which is as follows:

**NINGBO JINLUN GROUP CO. LTD. OR KING RING GROUP REGD. CAPITAL RMB \*\*\***

Share	Subsidiary companies	Regd, Capital RMB Yuan	Held by King Ring
***	A	***	***
***	B	***	***
***	C	***	***
***	D	***	***
***	E	***	***
***	F	***	***

***	G	***	***
***	H	***	***
***	I	***	***
***	J	***	***

- ii. It was submitted that about \*\*\*% and \*\*\*% of the shares are owned by individual natural persons, viz., \*\*\* and \*\*\* respectively. About \*\*\*% of the shareholding is by certain Township and Village Enterprises or TVE's which are as follows:
  - a. The Temple Hill Village Economic Cooperative, Zonghan Neighbourhood
  - b. Zonghan Neighbourhood Capital Management Cooperative
  - c. Yangshan Village Economic Cooperative, Zhonghan Neighbourhood
  - d. Majialu Road Village Economic Cooperative, Zhonghan Neighbourhood
- iii. During the verification it was understood that township enterprises are various enterprises invested in mainly by rural collective economic organizations or peasants and established in townships or towns (including villages under their jurisdiction) which bear the duty of supporting agriculture. These enterprises are established by the individual people living in the same villages or neighbourhoods. Investment made by rural collective economic organizations or peasants should exceed 50% of the total investment. The property belongs to the whole body of peasants who have set up the enterprises. The individual owners of the properties/enterprises can make their own decisions to consume, keep, sell or invest their assets.
- iv. For township enterprises established with joint investment made by rural collective economic organizations and other enterprises, organizations or individuals, the property shall belong to every investor in a proportion of the investment made by each of them. For township enterprises established with investment made by peasants-in partnership or by individuals, the property shall belong to the investors.
- v. All decisions by a TVE to send a nominee to the board of directors is decided by the whole body of peasants through vote. Each holding is valued in terms of money and a mutual fund (TVE) is created by each peasant contributing land (e.g. 500 acres) and getting shares equivalent to acreage held by him. This common fund is transferred to the assets of the company in lieu of shares. The value of the entire fund of each cooperative is reported in shares. While par value share is the same, the number of shares per holding would vary depending on the size of the holding. Profit distribution is dependent on the number of shares held. Any peasant having a land holding may withdraw from the cooperative fund created. Assets held by TVE's are valued by an independent Assets Evaluation Company or the shareholders themselves on the

basis of accounting system and the assets transferred to the company by the cooperative and the process of transfer itself is stated to be valued by independent accounting / valuation companies and not by the State.

vi. The shareholding pattern of M/s Ningbo Nylon was verified to be is as follows:

Shareholder	Shares	Share %
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
Total	***	***

- vii. The list of Board of Directors of Ningbo Nylon and Jinlun/Kingring Group was furnished with the interests they represent.
- viii. Ningbo Nylon is a limited liability company which is not listed on the stock exchange. Most of its shares are held by Jinlin (Kingring) Group Corporation. The issue of TVE's being shareholders in, Jinlun/Kingring Corporation was examined in relation to the legal provisions governing the operation of TVE's in China PR and the ownership of such TVE's. TVE's operate under the Law of the Peoples Republic of China on Township Enterprises promulgated on 26th Oct, 1996 and originally sprang up in rural areas, mostly in the 1970s, after economic reforms were introduced. Township enterprises produce agricultural inputs, farm machinery, agro-products and other low value-added goods. The Ministry of Agriculture (MOA), through its Township Enterprise Bureau (TEB), is also responsible for the township and village enterprises (TVEs). The authority notes that in the present case, the township enterprises have engaged themselves in an industrial product.
- ix. It was explained that the assets held by TVEs are valued by the independent Assets Value company or by the shareholders themselves on the basis of accounting system and the assets transferred to the Company by the Cooperative and the process of transfer itself is stated to be valued by independent accounting/valuation company and not by the State. Though the position was explained, the exporter did not submit any relevant documents like Assets Valuation Report, Transfer Valuation Report, etc. It is found from the Law of the People's Republic of China on Township Enterprises that the State also provides financial support or contribution to these TVEs. It could not, therefore be ascertained whether the funds for the acquisition of the shares in Kingring came from peasants or from the State.
- x. The role of the State has been provided under Articles 5, 6,7 & 20 of the Law of the People's Republic of China on Township Enterprises. It was alleged by

the Domestic Industry that the TVEs have representation from the State Council. The list of Board of Directors of M/s. Jinlun Group comprises 7 Directors from such Village Economic Cooperatives and 2 Directors from Capital Management Cooperative. The exporter has not demonstrated that these Directors do not have any linkage/association with the State Council or with the concerned Department of Township Administration. It was also not clarified whether the relevant State Council, Department of Township Administration appoints/ does not appoint such Directors in line with Article 7. Article 20 also refers to the providing of preferred loans on favourable terms by the State Financial Institutions. It has not been clarified whether Jinlun Group having a significant number of Directors from TVEs is entitled for such preferred loans on favourable terms, and that the investments in related companies were done with such loans to acquire assets at rates different from market rates.

- xi. The role of the State appears not to lie in direct ownership of TVE's but in planning, coordination and supervision and granting of credits and preferred loans on favourable terms as evident from Articles 5,6,7 and 20 of the Law of the People's Republic of China on Township Enterprises, promulgated on 26th Oct, 1996. The issue of State interference through local body (village or district) officials therefore cannot be ruled out. Further, the co-operating exporter did not establish or demonstrate the absence of state interference in the operation and management of the TVE's which have a majority shareholding in the Jinlun/Kingring Group owning Ningbo Nylon Co.
- xii. The exporter did not comment as to how against registered capital of RMB \*\*\* of Ningbo Jinlun Company or Kingring Group, they have been able to contribute by way of different share holding percentage in ten of its Group Companies to the tune of RMB \*\*\*.

### 33. Prices, Costs and Inputs

- i. The main raw material for the product under consideration is Caprolactum. It has been mentioned in reply to the verification report that M/s. Ningbo Nylon purchased \*\*\*MT of Caprolactum. Whereas as indicated on Pg. 90 of their letter dated 15.04.2004, the quantity is shown as \*\*\* MT. M/s Ningbo Nylon purchased \*\*\*MT of Caprolactum during the POI out of which \*\*\*MT was from state enterprises, \*\*\*MT was from NJIE (its own affiliated company) and \*\*\*MT was from private enterprises. This shows that the company purchased 80% of Caprolactum from State-owned/own affiliated enterprises.
- ii. M/s NJIE during this period purchased \*\*\* MT out of which \*\*\* MT was purchased from the domestic market, \*\*\* MT was purchased from foreign

buyers for the purpose of processing and \*\*\* MT was purchased from foreign buyers for the purpose of general trade.

- iii. The prices paid by the company, the monthly average domestic prices prevalent in China (source ICIS-LOR) and the monthly average contract prices prevalent in Asia (ICIS-LOR) have been compared.
- iv. The position in respect of NJIE is as follows:

### Prices per MT

Comparative Prices of Caprolactum In China During POI						
	Asia \$	China Domestic RMB	China Domestic \$	NJIE		
				Local Purchase	Imported For processing	Imported For General Trade
				\$/MT	\$/MT	\$/MT
Apr-02	1000	11100	1341		***	***
May	1000	10250	1238		***	***
June	975	10350	1250		***	***
July	1110	12750	1540	***	***	***
Aug	1110	0	0		0	***
Sep	1110	12450	1504	***	***	***
Oct	1200	12550	1516		***	***
Nov	1200	0	0		***	***
Dec	1175	0	0		***	***
Jan-03	1175	12800	1546		***	***
Feb	1175	13150	1588		***	***
Mar	1175	13350	1612		***	***
Apr	1225	12250	1479		***	***
May	1125	11350	1371		***	***
June	1125	11900	1437		***	0

- v. It may be seen that NJIE was able to purchase at comparatively lower rates than prevalent in the international market.
- vi. The position in respect of Ningbo Nylon is as follows:

### Prices per MT

Comparative Prices of Caprolactum In China During POI						
Ningbo Nylon						
	Asia \$	China Domestic RMB	State owned	Joint stock companies	Private companies	NJIE
			RMB	RMB	RMB	RMB
Apr-02	1000	11100	***	***	***	***
May	1000	10250	***	0	0	***
June	975	10350	***	0	0	***

July	1110	12750	0	0	0	***
Aug	1110	0	0	0	***	***
Sep	1110	12450	***	0	***	0
Oct	1200	12550	***	0	***	***
Nov	1200	0	***	***	***	0
Dec	1175	0	***	0	0	0
Jan-03	1175	12800	0	0	0	***
Feb	1175	13150	0	0	***	***
Mar	1175	13350	***	0	***	0
Apr	1225	12250	***	0	***	***
May	1125	11350	0	0	0	***
June	1125	11900	***	0	0	0

- vii. Though Ningbo purchased most of its requirements from China, the rates paid by them were comparatively lower than rates prevalent in China.
- viii. Further analysis shows that the caprolactum purchased by NJIE for processing supplied to Ningbo is accounted by the two companies at different prices.

## Price per MT

### Comparative Prices of Caprolactum In China During POI

			As per Ningbo Submissions		As per NJIE\ Submissions
			From NJIE	From NJIE	Supplied to Ningbo
	Asia \$	China Domestic RMB	RMB	\$	\$
Apr-02	1000	11100	***	***	***
May	1000	10250	***	***	***
June	975	10350	***	***	***
July	1110	12750	***	***	***
Aug	1110	0	***	***	0
Sep	1110	12450	0	0	***
Oct	1200	12550	***	***	***
Nov	1200	0	0	0	***
Dec	1175	0	0	0	***
Jan-03	1175	12800	***	***	***
Feb	1175	13150	***	***	***
Mar	1175	13350	0	0	***
Apr	1225	12250	***	***	***
May	1125	11350	***	***	***
June	1125	11900	0	0	***

- ix. During the verification the exporters did not present any long term contract or special discount enabling this company to avail these rates. The exporter also did not show the transfer price mechanism between NJIE and Ningbo.
- x. The Authority notes that the issue of raw materials prices paid by the company is vital to an examination of both MET as also correct assessment of its cost of production. In a situation where the raw materials prices are significantly lower than the prevailing market rates within China as also in the international market, not only that a vital condition for MET is not satisfied, but also costs are underestimated.

#### 34. Utilities

- i. The producer M/s. Ningbo Nylon has purchased electricity, steam from its own affiliated company M/s. \*\*\*. The Kingring Group has \*\*\*% stake in this company. Though the exporter has provided purchase prices of water, electricity and steam, it has also been stated that the company, M/s. \*\*\* used to be a Department known as \*\*\*. The invoice number generation is also common to all the Group companies, this being the internal numbering. Though the company mentions that the purchase prices are the prevailing market prices, the company was requested to provide information regarding the supplies made by M/s. \*\*\* to other independent customers. In response, the company has provided five invoices for the services made to \*\*\*. Invoice no. \*\*\* for Feb-2003 which shows per unit cost of \*\*\*RMB, for May-2003 \*\*\*, for Jun-2003 \*\*\*, for April-2003 \*\*\*and for March-2003 \*\*\*RMB/KWH against which \*\*\* has supplied to Ningbo at the rate of fixed price of \*\*\*RMB/KWH during these months. The invoices have been provided for only one (presumably) independent customers show a price differential of \*\*\*- \*\*\*RMB/KWH. In absence of full facts, it can be concluded that the purchase of utilities from affiliated companies are at lower/subsidized prices. Whereas, the prices charged by \*\*\* were uniform through out the POI at the rate of \*\*\*RMB/KWH, the prices charged by \*\*\*of Cixi during the POI varied in the range of \*\*\* to \*\*\* RMB/KWH. The submissions do not indicate major purchases from \*\*\*of Cixi. The exporter provided the invoices pertaining to supply of these utilities to affiliated companies only and not to general customers at large. The exporter was provided an opportunity to prove that \*\*\*, though being its own erstwhile department, is now supplying at similar rates to all customers. The payment arrangements among the two affiliates was not shown to understand issues relating to intra-company financial arrangements.
- ii. In view of the shareholding pattern of Kingring Group, the fact that the exporter has one common single invoice numbering system for all Group Companies, the production of electricity by another group company which is

completely or substantially held by Kingring (which in turn is held primarily by TVEs), difference in the prices paid by other consumer and Ningbo Jinlun, non-availability of a copy of contract in respect of steam and electricity with the Authority (even though copy of water bill has been provided), non-submission of prices to unaffiliated suppliers, lead to the conclusion that the exporter could not establish that the prices of electricity and steam, major inputs for production of the product under consideration are without significant state interference, nor could the exporter established that the rates were otherwise also reasonable, reliable and appropriate.

### 35. Cost of Technology and Labour

- i. The cost of technology involves, amongst other issues, the issue of acquisition pricing in respect of assets, technology and facilities. It has been claimed by the company that the assets owned jointly by different TVEs were valued by independent assets valuation accounting firms and which in turn were allocated to its different business ventures in line with its shareholding interests. M/s. Kingring has \*\*\*% share in Ningbo Nylon shareholding ltd. which in turn runs the production of NTCF. The company has not provided its assets valuation report and such reports in respect of Kingring Group or in respect of four TVEs. However, the shareholding pattern of Ningbo Nylon Co. Ltd. shows \*\*\*% share held by \*\*\* of Cixi and \*\*\*% by \*\*\*. As Jinlun Group (Kingring) holds \*\*\*% share, the issue examined was whether the assets held by Jinlun Group were transferred to Ningbo Jinlun at non-market prices or were valued as per market driven rates. However, in the absence of both information and evidence, no conclusions could be drawn.
- ii. It has been admitted that a very substantial portion of the company has been taken over by TVEs. However, the manner in which these shares were sold to TVEs and to other private parties and how TVEs have the necessary financial resources to invest in such an industrial product, in a situation where the primary function and role of such TVEs is to engage themselves in general welfare of peasants, remain unexplained by the exporter. It is noted that no information whatsoever has been provided by the exporter in this regard, other than disputing the rationale behind seeking such information and suggesting undue burden being cast on the exporters. The Authority notes that while the exporter is free to advance its arguments in support of its claims, its primary obligation is to provide information considered necessary by the Authority. It is also important for the Authority to understand whether such sale-purchase of assets of the company by the State were offered to public at large or whether the Govt. decided the price at which such assets would be transferred and also decided the purchaser thereof.

- iii. The Authority also notes that whereas a well laid down system of subsidies is beyond the scope of present investigations, an ad-hoc administration of benefits, that too neither presented nor explained adequately to the Authority, may tantamount to State interference.
- iv. In respect of labour, the company provided details of pay scales to different categories of employees. BOFT, MOFCOM has clarified that companies in China are required to observe a minimum wage. Otherwise wages are decided between workers' unions and management of the respective companies. The aspect of social security mentioned in their web site was raised in the course of the investigations. The website information of Kingring Group stated that \*\*\* staff members of the Jinlun Group had been covered by the social security system on which a clarification was sought from the exporter. However, no clear clarification has been provided. However, it is understood from the response of other exporters that in order for the State to carry out its economic reforms smoothly, China started a social security programme alongside the economic reform to enable State-owned companies lay out surplus employees to help the company concerned to operate within a market economic environment. There were \*\*\* million people who were laid out from State-owned companies who joined the social security programme in 2003. The issue of subsidy in labour (if any) could not be further verified.
- v. The Authority is of the view that while laying off of surplus employees or Govt. undertaking social security program may not be inappropriate, what is relevant for the present purpose is how these employees were laid off, whether any costs were incurred thereon, if so, who paid for such costs. If such costs were incurred by the State, the issue of selling price of the assets held by the State becomes relevant. If such lay off costs have been incurred by the company concerned, whether these costs are accounted for in the books.

### 36. Outputs, Sales and Investments

- i. The company has been selling primarily in the domestic market. The possibility of a guided price or a cartel by other domestic producers could not be examined though it was noticed that the respondent companies in this investigation are maintaining same selling prices for different grades/denier. This can be part of their selling strategies. Further, during the verification, it was noticed that this company has made sales to its affiliated companies also. The company was requested to identify affiliated companies for the purpose of comparison of domestic sales made in the ordinary course of trade. This was not clarified.
- ii. The Authority notes that the domestic sales were made by Ningbo Nylon as well as NJIE. However, entire export sales were by NJIE. NJIE has not provided complete questionnaire response – main and MET questionnaire, nor

has Authority examined or verified NJIE to ascertain whether or not this company could be granted market economy treatment. NJIE undertakes sales in the domestic market also. The business license of NJ states that the company cannot export the material and can only sell in the domestic market.

- iii. As regards investments, the company has not provided any information. Complete details of investments made in the company have not been provided. The manner in which TVEs purchased the share holding in the company was not completely disclosed. Investments made by NJ in subsidiaries were also not adequately explained. While complete financial report in respect of 2001, 2002 and 2003 (POI) was not provided, the available financial report for the year 1999 and 2000 contains serious auditor's qualifications in respect of investments in much as the investments themselves have not been reflected in the books.

### 37. Accounting records independently audited and applied for all purposes

- i. Under the provisions of Rule 8, the Authority is also required to verify the existence and implementation of a transparent and non-discriminatory company law which ensures adequate corporate governance (application of international accounting standards, protection of shareholders, public availability of accurate company information) etc. BOFT had clarified that Companies in China PR are required to maintain one clear set of basic accounting records, which are independently audited in line with the Chinese GAAP but not international accounting standards.
- ii. As informed in the tour verification report, the company has not provided complete set of its financial statements and audit reports. The company has not provided the detailed financial report (along with Directors Reports, Auditors Reports, Note to Account, Annexures etc. usually found in annual reports) for the period 2001, 2002 and 2003 both for Ningbo Nylon and for NJIE. In fact, in respect of NJIE, all that the company has provided is a sheet of paper containing balance sheet and income statement. This can not be said to be complete financial statement. Neither has NJIE provided a complete questionnaire response separately, nor does combined response have full details with regard to expenses and revenues of NJIE.
- iii. A one page statement with the title Income Statement as Annexure –20 (Pg. 185) vide letter dated 15.10.2004 was provided in respect of Ningbo Nylon Company. Though the elements were to be verified, the exporter was requested to provide Auditors' Report to check any qualifications about the company.
- iv. The Auditors' Report in respect of the Jinlun Group Company Ltd., International Trade Department, (presumably NJIE), contained the qualifications as follows:

- a. for the year 1999 (pg 99 of letter dated 15.10.2004) “\*\*\*”
  - b. for the year 2000 (pg107 of letter dated 15.10.2004) “\*\*\*”
- v. The Audit Report of M/s. Ningbo Nylon Company Ltd. Contained following qualifications:
- a. for the year 1999 (Pg. 116) of letter dated 15.10.2004 “\*\*\*”
- vi. The Audit Report of M/s. Ningbo Nylon company for the year 2000 (Pg. 129 of letter dated 15.10.2004) did not contain any qualification, however, showed \*\*\* million RMB to be received from M/s. \*\*\* alongwith some other companies. It was in this back-drop that an English version of Director’s Report, Auditor’s Report for 2001, 2002 and upto June, 2003 for Ningbo Nylon and for NJIE were requested.
- vii. Since the company did not provide the relevant annexures, it could not be ascertained whether the Auditor’s report had any qualifications nor could the accounting practices of the company be checked. It also could not be ascertained whether the auditors have found that the company follows Generally Accepted Accounting Principles in China and whether the company maintains records which reasonably and accurately reflect the expenses, incomes, revenues and costs.
- viii. As stated earlier, caprolactum purchased by the company supplied from its own related company, NJIE has been reported by NJ and NJIE at different rates. This has direct impact on the annual results. No explanation has been given by the company for this difference.
- ix. As stated earlier, the group maintains a single invoicing system, which implies single invoicing systems being followed by NJ, NJIE, \*\*\* and all other related companies. There are substantial intra-group transactions. No group companies responded to main and MET questionnaire. Under the circumstances, the Authority could not verify correctness of revenues, expenses and profits.

38. No significant distortions in ‘carry over’ from former non-market economy system

- i. Vide letter dated 23rd September, 2004, the exporter was asked to furnish the details of the number and value of reallocation of shares and the names of recipient companies as regards the Kingring Group. The exporter was also asked to clarify whether these shares were reallocated at market rates or whether they were negotiated settlements. Further, in the same letter, the exporter was asked to clarify how the assets were obtained (example, bought on the open market, transferred to the company by a shareholder, given for free or at a discount by the State or a third company etc.).

- ii. In response the exporter has stated that the Authority has raised questions which are not borne out of the legal provisions casting undue and unprecedented burden on them. In any case, the reallocation of shares has nothing to do with the structure of the company. Further, since all the transactions are between non-State entities, the question raised by the Authority becomes irrelevant.
- iii. The Authority notes that issues on prices and costs and related issues stated under Rule 8 can be examined only in the context of ownership of the firms and their management acquisition of assets and mode of acquisition. Issues raised in this context regarding reallocation of shares, the rates at which the shares were purchased, whether these were at market rates or otherwise, whether these were offered to pre-determined parties or to public at large, the valuation of assets, transfer prices of assets etc. were not made available by the exporter and are hence not known. With reference to sub-clause (b) of sub-para 3 of Rule 8 it is not possible to conclude that State-owned shares had been sold freely and at a market price during the transfer of the company into private ownership. This is relevant not only on the issue of direct or indirect State-interference but also has direct impact on the associated costs, revenue, prices and profits.

#### 39. Legal environment and stability provided by bankruptcy and property laws

All companies, including the respondents, are subject to bankruptcy and property laws guaranteeing legal certainty and stability.

#### 40. Currency exchanges carried out at the market rate

- i. China has begun to implement the single, market-based, managed floating foreign exchange system since 1994. Under the managed floating foreign exchange system the State may be involved in the adjustments to the exchange rates through internationally permitted legal and economic measures but not administrative measures.
- ii. Subsidies received, if any, by the exporter
  - a. That domestic industry in their various submissions contested granting of MET to the exporter on a number of grounds. One of the major grounds was the allegations of ad-hoc administration of subsidies, collection of VAT by the company from the consumers in full but less than full payments to the local bodies collecting such VAT; ad-hoc subsidies received by the company from the State or Provincial Government. It was also pointed out that such subsidies need not be accounted for in the books of the company receiving such subsidies and the same can be accounted for in the books of parent company. It was also alleged that there was no system for granting of these subsidies and these were

matters of ad-hoc administration and were given on a case by case basis without any laid down criteria.

- b. The domestic industry had provided a translated version of the extracts from 2003 Annual report purportedly pertaining to M/s. Ningbo Nylon (Jinlun Shareholding Co.) Company indicating subsidies as follows:

RMB

Difference Subsidies                      \*\*\*

Total    \*\*\*

- c. Discussions were held during the verification and the exporter has questioned the authenticity of this document. The title of the document was got translated by the authority and it indicates that it is a document from Ningbo City Industrial Commercial, Administration Management Bureau, comprehensive Archives (General Dossier) pertaining to Ningbo Nylon.
- d. Ningbo Jinlun & NJIE have not provided its complete annual reports. None of the other group companies, including the parent company, Kingring Group, has provided their annual reports. A clarification was requested on the payment arrangement among these group companies to understand the financial mechanism followed among these companies. In the absence of submissions/clarifications, the Authority is not in a position to confirm the financial mechanism followed among the group companies or arrive at a conclusion that no subsidies have been received by the exporter or that the allegations made by the domestic industry are false.

#### 41. Methodology for constructing Normal Value.

- i. In view of the aforesaid and the fact that the respondent company has provided no explanation or evidence to substantiate their claim for MET, a determination on normal value as per provisions contained in Section 9A (1) (c) (I) and (ii) read with sub-rule 2 (i) and (ii) of Annexure 1 of the Anti-Dumping Rules cannot be made. The Authority is therefore unable to apply the principles set out in paragraphs 1 to 6 and is constrained to proceed as per as per Rule 7 and 8 of the Anti-Dumping Rules as amended.
- ii. The normal value has therefore been determined on a reasonable basis considering also the price actually paid or payable in India for the like product duly adjusted to include a reasonable profit margin.
- iii. The product is manufactured from Caprolactum. It is noted that the (weighted average for POI) price in international market was \$\*\*\* per kg. The domestic industry has given an average procurement price of \$\*\*\*. Deducting the duty

element in India, the basic price comes to \*\*\* which matches the international prices prevalent in Asia during the POI. The exporters have vide their reply to verification report have mentioned that the consumption factor for caprolactum ( upto NTCF based on input output norms) is \*\*\*. The authority has examined this factor. It is seen that the domestic industry or the industry in China has shown a consumption factor of \*\*\*, thus the factor \*\*\* appears to be a typographical error and has not been adopted for constructing the Normal value. The normal value comes to \$\*\*\* per kg for grey fabric. The normal value for Dipped after adding the dipping cost comes to \$ \*\*\* per kg.

42. Response to the Exporters' Questionnaire by M/s. Ningbo Nylon Company Ltd.

M/s Ningbo Nylon Company has responded to the questionnaire sent by the Authority. The Authority deputed a team in the premises of this exporter to verify the data submitted by them in response to the exporters questionnaire and to obtain such further information as was considered necessary for these investigations.

43. Normal Value:-

(A) M/s Ningbo Nylon

44. Normal Value has been claimed based on sales in the home market and information on sales in the home market have been furnished in Appendix 1 of the response. The exporter had furnished information pertaining to sales of the subject goods viz. exports to India, domestic market sales and exports to other countries as per Appendix 3. The information has been furnished for the following Grades, viz. \*\*\* etc. The factory costs and profit furnished in Appendix 8, 9 and 10 has also been furnished for these grades. In Appendix 3A (sales price structure for exports to India), adjustments before and after fob have been claimed apart from commission. In Appendix 3B (sales price structure for domestic sales) adjustments have been claimed on account of inland freight and dipping costs wherever applicable. The exporter has also furnished all invoices of export sales to India and sample invoices of domestic sales in China PR.

45. Cost of Production:- Back up details for the cost of production shown in Appendix 7 was sought at the time of verification. It was informed that the cost shown in Appendix 7 represents the average cost for the period of investigation. The share applicable to the product under consideration was total for 15 months and was shown from the computer. The cost of production (monthly) was, in turn, derived from the cost accounting system. The allocated costs were total irrespective of the number of grades manufactured by the company and represented the average cost. The

correctness of the total cost appearing in the costing system was demonstrated by linking them with one page financial statement for the POI.

46. The exporter has not provided the grade-wise costing in respect of all the grades sold in the domestic market. The exporter provided the grade-wise costing in respect of grades exported to India which were duly compared along with the total cost allocation (excluding depreciation and financial charges) for POI in respect of Ningbo Nylon. The total cost allocation gives weighted average cost per MT of NTCF irrespective of any grade adjustments. The company had also not provided Audit Reports, Director Reports and complete financial statements for the year 2002, 2003 and the POI. Hence, the authenticity of the expenses claimed, any qualifications in the financial accounting / systems, if any, made by the respective auditors could not be established. Thus the Authority was not able to determine the cost of production of various grades and segregate the loss-making transactions in sold in the domestic market in the said grades. In view of the above and in the absence of information regarding sales made to affiliates, the Authority could not conduct the ordinary course of trade test.

47. As per Appendix 4-1 (Pg. 240-241) vide its Response of 29th December, 2003, it was provided that sales processed by import & export company (presumably NJIE) was \*\*\* MT in dipped category and \*\*\* in Grey Category totaling \*\*\* MT. Out of this \*\*\* MT was sold as grey and remaining \*\*\* MT may be dipped. It is mentioned that \*\*\* MT in dipped category has been sold to other countries that means balance \*\*\*MT might have been sold in the domestic market. Vide its letter dated 15.10.2004 (Pg. 189-191), the information relating to Domestic Sales of NJIE totaled to \*\*\*MT leaving a gap of \*\*\* MT which has not been explained.

48. The exporter has provided grade wise quantity sold by NJIE in domestic market. The difference in Grade \*\*\* figures has been noted.

49. Ningbo has sold \*\*\*MT in the domestic market. Its sales to affiliates are not known as these have not been provided. During the verification it was mentioned that M/s. \*\*\* are affiliated companies. Apart from these companies, the exporter was requested to identify sales made in the domestic market to affiliate companies. The exporter has not responded to the request of the Authority to identify and segregate sales made to its affiliates in the domestic market.

50. The exporter has provided VAT invoice number against ERP number for transactions made in the domestic market after verification at Annexure – 17 of its response. It has been claimed that the VAT numbers have a continued serial number. The purpose of this analysis is primarily to understand the system of sales in domestic market, how the company controls its sales, how the money is realized, at

what prices the product is sold in the domestic market. From Annexure –17, it is seen that against the same ERP number different VAT numbers have been issued presumably for the same Customer but depending on his delivery schedule. Different quantities have been sold against different VAT invoice numbers. It was explained during the verification that the company has a common ERP number. Some of the gaps in these ERP numbers had been listed and forwarded. The exporter was requested to confirm whether these gaps are primarily on account of human error or because of same ERP numbers being used by other affiliate companies. The exporter has not explained this position, however, preferred to provide VAT number alongside the ERP number. The VAT numbering is in different series starting from \*\*\* etc. It is thus not clear as to whether the company has a consistent numbering for its sales invoices to verify the sales made in the domestic market. In respect of ERP number 90006060 relates to processing of job work of NTCF by M/s. Ningbo Nylon Company. The list has been provided at Annexure –19 at Pg. 183-184 vide its letter dated 15.10.2004. During verification it was noticed that the company is raising sales invoices for job work. The list is not complete as it does not provide the job work done by M/s. Ningbo Nylon for NJIE, the invoices raised and the money received on this account.

51. The aspect of inland freight paid on domestic sales was discussed during the verification. It was mentioned that there are approx. \*\*\* purchasers in the domestic market and normally the sales are made on freight to pay basis. That means the freight is paid by the purchaser. It was mentioned that approximately \*\*\* companies pay their own freight. The exporter was requested to identify such companies and allocate the amount incurred on inland freight on relevant invoices only. However, a list indicating total freight paid during the POI was provided. This does not clearly indicate element of freight paid against such consignments where the company has paid the freight. The incidence of inland freight in the average cost of NTCF has not been identified.

52. It has been mentioned that M/s. Ningbo Nylon purchased \*\*\* MT of Caprolactum. Whereas as indicated on Pg. 90 of the letter dated 15.04.2004, the quantity is shown as \*\*\* MT. The exporter has now mentioned that the actual consumption rate of Caprolactum on job work basis for NJIE is \*\*\*. Whereas vide Appendix-6, Pg. 244, submissions dated 29.12.2003, the average consumption has been given as \*\*\*. It was also brought out that the company has claimed separate cost of Caprolactum for consumption in the domestic and export market and has rather claimed higher cost of production on account of Caprolactum in the home market. The above consumption factor, however, reflects a reverse picture.

53. Under the circumstances, Normal Value under the rules is determined on the basis of the provisions contained in Rules 7 and 8 of the Anti-Dumping Rules.

54. Export Price:-

**(A) M/s. Ningbo Nylon**

55. The exporter had furnished information pertaining to sales of the subject goods viz. exports to India, domestic market sales and exports to other countries. The information has been furnished for various grades exported to India. The factory costs and profit furnished in Appendix 8,9 and 10 has also been furnished for these grades.

56. Examination by Authority

1. The Authority notes that the demarcation of 'grades' has been made by the exporter without elaborating on the costs linked with specific physical or technical attributes differentiating these 'grades'. The Authority notes that for each of the grades exported to India, the cost of production has been separately provided. It is seen that the cost of raw material and other inputs vary significantly between the grades.
2. The adjustments claimed in Appendix 3 (sales price structure for exports to India) are as follows:

Ningbo Nylon Exports To India											
Product_co	Qty	Gross_inv	Dis	Net_inv	Comm	Rebate	Inland_fre	Oversees_fr	Sale	Net Value	Net Price/MT

\*\*\*

Based on the quantities exported to India as given above and the individual ex-factory export prices of the different grades after considering adjustments claimed including the adjustment @ \*\*\*% on account of commission/selling expenses etc. from Ningbo to NJIE, the Authority has determined a weighted average ex-factory export price of USD \*\*\*/kg for Grey and USD \*\*\*/kg for the Dipped category.

**57. Response to the MET Questionnaire by M/s. Shandong Polytex**

(a) Business decisions and costs are made in response to market conditions:

58. In order to examine whether there was any degree of government influence over the allocation of resources and decisions of the co-operating producer/exporter, whether directly or indirectly, the ownership pattern of the respondent was examined.

59. In their response to the exporters and MET questionnaires it was clarified that Great Dragon is defunct and all assets, staff, records and business has been absorbed by Polytex and it is Polytex which is the necessary co-operating party that is

competent to participate in these investigations. Weifang Great Dragon Chemical Fibre Co. Ltd., was a joint venture enterprise incorporated in 1995, by Shandong Weifang Mega Dragon Chemical Fibre (Group) Company and Singapore Megaway Group Corporation Limited.

60. The shareholders of Great Dragon, originally a Sino-foreign joint venture company was as follows:

Shareholder	Investment (Unit: USD 1 million)	Proportion of Investment
Megaway Development Ltd., Singapore	***	***
Shangdong Weifang Mega Dragon Chemical Fibre group Co.	***	***

61. After putting in the registered capital into Great Dragon, Mega Dragon lent RMB \*\*\* million Yuan (inclusive of \*\*\* Yuan of capital and interest accrued thereon) to Great Dragon to spur its production. Since Great Dragon did not refund this loan to Mega Dragon in time, Mega Dragon filed a law suit against Great Dragon in Shangdong Weifang Intermediate People's Court as a result of which the two parties reached an agreement that Great Dragon would transfer all its assets worth \*\*\* million Yuan to Mega Dragon on 25th August, 2003 to make reimbursement of the loan payable to Mega Dragon and the residue of \*\*\* Yuan would be refunded before 30th October, 2003.

62. Mega Dragon which owed money to Shangdong Weifang Sea Dragon Co. Ltd. signed a refund agreement with the latter on 13th August, 2003 in which Mega Dragon agreed to refund Sea Dragon with assets of \*\*\* million Yuan. Thereafter Mega Dragon transferred the \*\*\* million Yuan worth of assets it received from Great Dragon to Sea Dragon. On 18th, 19th and 21st August, 2003 Sea Dragon, Mega Dragon and Great Dragon signed three Assets Transfer Agreements in which it was agreed that Great Dragon would transfer \*\*\* million Yuan worth of assets to Sea Dragon.

63. After receipt of the above-mentioned assets, Shangdong Weifang Sea Dragon Co. Ltd. signed a shareholders Agreement with Shangdong Sea Dragon Import & Export Co. in July, 2003 to establish Shangdong Polytex Chemical Fibre Co. Ltd. which was officially registered with the Commerce & Industry administration on 28th Oct., 2003. Sea Dragon rented all of the above-mentioned assets it received from Great Dragon to Polytex. Being devoid of assets, Great Dragon is now defunct and not in operation at all.

64. Thus, Shangdong Weifang Sea Dragon Co. Ltd. and Shangdong Weifang Sea Dragon Import & Export Co. Ltd. invested \*\*\* and \*\*\* respectively in Shangdong Polytex Chemical Fibre Co. Ltd.

65. Post POI, in February 2004, the shareholding pattern in Shangdong Polytex Chemical Fibre Co. Ltd. underwent further change as follows:

1. Shangdong Weifang Sea Dragon Co. Ltd. invested \*\*\* %;
2. Shangdong Weifang Sea Dragon Import & Export Co. Ltd. invested \*\*\* %; and
3. Shangdong Longhao Chemical Fibre Co. Ltd. invested \*\*\* %

66. As per Article 1 of the Articles of Association of Shangdong Polytex Chemical Fibre Co. Ltd., Shangdong Polytex Chemical Fibre Co. Ltd is a joint stock company of limited liability incorporated by Shangdong Weifang Sea-Dragon Co. Ltd. and Shangdong Weifang Sea-Dragon Import & Export Co. Ltd. in accordance with the Company Law of the People's Republic of China.

67. The details of shareholding pattern are as follows:

27.02.04

Shareholder	RMB (million Yuan)	Proportion of Investment
-------------	--------------------	--------------------------

\*\*\*

68. The total registered capital of the company is therefore \*\*\* Yuan.

69. Shangdong Polytex is a company of limited liability jointly owned by the above companies. It is not a listed company but a subsidiary of Shangdong Weifang Sea Dragon Co. Ltd. which is listed on the Shanghai Stock Exchange. Polytex, Shangdong Weifang Sea Dragon Co. Ltd., Shangdong Weifang Sea Dragon Import & Export Co. Ltd. and Shangdong Weifang Mega Dragon Chemical Fibre Co. Ltd. are all limited companies.

70. The legal form of Shangdong Polytex has thus changed from a joint venture company to a limited company. However, it was stated during the verification that Shangdong Weifang Mega Dragon Chemical Fibre Co. Ltd. has been a State-owned company for the last five years. It is a public limited company. Shangdong Weifang Mega Dragon has about \*\*\*% shareholding in Shangdong Weifang Sea Dragon which is its subsidiary company. A copy of the shareholding certificate of Shangdong Weifang Mega Dragon was requested. Attempts were made to procure a copy; however, due to lack of time and logistical problem of transporting the document, it

could not be made available during the verification. It was further clarified that Shangdong Weifang Mega Dragon has a Board of Directors whose main functions are inter-alia to ensure that the assets of the company are not put into misuse and to take decisions on level of output, costs, procurement of raw materials etc.

**(b) Prices, Costs and Inputs**

71. The main raw material is Nylon Yarn. The weighted average purchase price for the POI was \*\*\* RMB. It was seen that most of the raw material was purchased from Junma Chemical Fibre Co. (a private company) with which the company has had relationship for six years.

72. The processing stage in the case of M/s. Shangdong Polytex is from yarn to fabric. The suppliers of inputs are joint-stock companies, one private company, a joint-venture company and a State-owned company.

73. The suppliers of inputs include \*\*\*. The company is independent of all these companies and shares no board members or senior executives with any of these entities. The legal form and length of business relationship is as follows:

Supplier	Length of business relation	Nature of Supplier
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***

74. Nylon Yarn has never been imported by the company from overseas suppliers. The purchase is not against short or long term contracts or from the Government auction market. Main raw materials are purchased from suppliers on the market demand and supply basis and all transactions are subject to market fluctuations.

75. The volumes of raw materials were procured from domestic suppliers as given below:

	A	B	C	D	E	F	G	H
April, 02	***	***	***	0	***	0	***	0
May	***	0	***	0	0	0	***	0
June	***	0	***	0	***	0	0	0
July	***	0	***	***	***	0	0	0
August	***	0	***	***	0	0	0	0
September	***	0	***	0	***	0	0	0
October	***	0	***	***	0	0	0	0



March, 03	***	***	***	***	***	***	***	***	***
	***	***	***	***	***	***	***	***	***

79. It was further clarified that the utility companies (for power, water, oil and gas) have also been under the economic reform programme for sometime. Sinopec and China Oil have all become public companies listed in New York and London Stock exchanges and electricity and water companies are all under restructuring for purposes of IPO. The utility companies would charge the same rate of price to the same category of industry irrespective of whether the utility company is a state-owned or private enterprise. The difference would lie in the categorization of the industry. For example, a water company would charge a high water consumption or high polluting company a higher price.

**(e) Cost of Technology and Labour**

80. The cost of technology involves the issue of acquisition of assets. It is clear that \*\*\*% of Sea Dragon is held by Mega Dragon which is a State-owned company. It is also clear that Mega Dragon provided capital to Great Dragon which was not refunded to Mega Dragon in time. As a result of a lawsuit, Great Dragon transferred its assets to Mega Dragon for reimbursing the loan. Mega Dragon also owed money to Sea Dragon and signed a refund agreement with Sea Dragon. Mega Dragon transferred the \*\*\* million Yuan worth of assets it received from Great Dragon to Sea Dragon. It is, therefore, clear that the refund of loan with assets by Mega Dragon to Sea Dragon was actually the transfer of assets received by Mega Dragon from Great Dragon (originally assumed to be a State-owned company from information available on records). The exporter also clarified orally during the verification visit that Mega Dragon has been a State-owned company during the last five years.

81. In respect of labour, the company has stated that there are different grades of employees with different pay scales. The employees enjoy medical and life insurance.

82. Wages are negotiated between employer and employees on supply and demand basis. The Law requires a certain minimum wage beyond which the negotiation is done to arrive at the final wages. Relevant enterprises are free to determine wages according to market demand.

83. BOFT, MOFCOM has clarified that companies in China are required to observe a minimum wage. Otherwise wages are decided between workers' unions and management of the respective companies. The aspect of social security mentioned in their web site was raised in the course of the investigations on which a clarification has not yet been received. The issue of subsidy in labour (if any) could not be further verified.

**(f) Accounting records are independently audited and applied for all purposes**

84. The company's attention was drawn to the auditor reports (as provided in response to the questionnaire) of 2000 (page 215-216), 2001 (page 226-227), 2002 (page 236-237) which contained serious qualifications. The company was requested to provide auditor report for the year 2003. The company mentioned that the board is taking adequate steps to settle these observations. It was also clarified that though the accounting statement named for Foreign Investment Industrial Enterprise (2002-12-31) (page 242-245), pertain to the company Weifang Great Dragon.

85. Since the company has not provided the relevant reports for the POI, it could not be ascertained whether the Auditor's report has any qualifications nor the accounting practices of the company could be checked. It also could not be ascertained whether the auditors have found that the company follows Generally Accepted Accounting Principles in China and whether the company maintains records which reasonably and accurately reflect the expenses, incomes, revenues and costs.

**(g) there are no significant distortions carried over from former non-market economy system**

86. Vide pre-verification letter dated 23rd September, 2004 the Authority requested for the legal forms of Shangdong Weifang Sea Dragon Co. Ltd., Shangdong Weifang Sea Dragon Import & Export Co. Ltd. and Shangdong Weifang Mega Dragon Chemical Fibre Group Company. This was not provided by the exporter. The company was also requested to explain how their assets were obtained (e.g. bought on the open market, transferred to the company by a shareholder, given for free or at a discount by the State or a third company etc.). While the shareholding certificate of Shangdong Polytex clearly shows that it is held by Sea Dragon, Sea Dragon Import & Export, and Longhao, the shareholding pattern of these holding companies is not known.

87. Shangdong Polytex had earlier vide their submission dated 10th September, 2004 claimed that after M/s. Singapore Megaway Development Ltd. left in July 2003, the shareholders of Weifang Great Dragon (later Shangdong Polytex) changed. The major shareholder of M/s. Polytex, namely Shangdong Weifang Sea Dragon is not a State-owned company but a public listed company, listed on the Shanghai Stock Exchange. It was further stated that Shangdong Weifang Sea Dragon's shareholders are from different fields including institutional investors and private investors. No documentary evidence to this effect was attached and neither was it provided later. It was stated by the company during the verification visit that Shangdong Weifang Mega Dragon Chemical Fibre Co. Ltd. has been a State-owned company for the last five years. It is a public limited company. Shangdong Weifang Mega Dragon has about \*\*\*%

shareholding in Shangdong Weifang Sea Dragon, which is its subsidiary company. A copy of the shareholding certificate of Shangdong Weifang Mega Dragon was requested during the verification but could not be made available by the company. Further, copies of shareholding certificates of Sea Dragon and Sea Dragon Import & Export as requested in the pre-verification letter were also not made available.

88. It is, therefore, clear that \*\*\*% of Sea Dragon is held by Mega Dragon which is a State-owned company as clarified orally by the exporter during the verification visit. Mega Dragon provided capital to Great Dragon which was not refunded to Mega Dragon on time. As a result of a lawsuit, Great Dragon transferred its assets to Mega Dragon for reimbursing the loan. Mega Dragon also owed money to Sea Dragon and signed a refund agreement with Sea Dragon. Mega Dragon transferred the \*\*\* million Yuan worth of assets it received from Great Dragon to Sea Dragon. Therefore, the refund of loan with assets by Mega Dragon to Sea Dragon was actually the transfer of assets received by Mega Dragon from Great Dragon (originally assumed to be a State-owned company from information available on records).

89. In the pre-verification letter dated 23rd September, 2004, a query was raised on the original status of Weifang Great Dragon Chemical Company. It was specifically asked whether it was a State-owned company or a private enterprise. While no response was received in response to the letter, a copy of the Auditors report dated 20th April, 2003 on Weifang Great Dragon Chemical Co. Ltd. by certified public Accountants was made available during the verification which clearly states that after auditing it was found by the CPA that :

“\*\*\*”

90. It is thus clear from the above that a company called \*\*\* (which appears to be a State-owned entity) was merged into Weifang Great Dragon. As stated above, after putting in the registered capital into Great Dragon, Mega Dragon lent RMB \*\*\* million Yuan (inclusive of \*\*\* Yuan of capital and interest accrued thereon) to Great Dragon to spur its production. As admitted by the exporter, Mega Dragon has been a state-owned company for the last five years.

91. Queries raised by the Authority on the reallocation of shares, the rates at which the shares were purchased, whether these were at market rates or otherwise, the valuation of assets etc. in order to assess the issue of significant State interference or otherwise in costs, production and pricing decisions were not made available by the exporter and are hence not known. It was claimed by the company during the verification that all fixed and tangible assets are purchased in the open market. No machinery, land or buildings have been rented by the company. In their questionnaire response, copies of the agreements concerning assets turnover between Weifang Sea Dragon, Mega

Dragon and Weifang Great Dragon have been enclosed. Sea Dragon, Mega Dragon and Great Dragon signed three assets transfer agreements extracted copies of which have been enclosed in their questionnaire response. Vide agreement dated 19th August 2003, Weifang Great Dragon has given (turned over) a new dipping line to Weifang Sea Dragon which was worth \*\*\* Yuan before 20th August, 2003. Vide agreement dated 18th August 2003, Weifang Great Dragon has given (turned over) rapier looms worth \*\*\* Yuan to Shangdong Weifang Sea Dragon before 15th August, 2003. Vide Agreement dated 21st August 2003 Weifang Great Dragon has given (turned over) a dipping line machine worth \*\*\* Yuan to Sea-Dragon.

92. The information furnished by the company during the verification and as given in their questionnaire response clearly shows that loans payable by Great Dragon to Mega Dragon and that payable by Mega Dragon to Sea Dragon have been reimbursed in the form of transfer of assets from State-owned companies. Vide agreement dated 13th August 2003, Weifang Mega Dragon has given assets worth \*\*\* million Yuan as reimbursement to Weifang Sea Dragon Co. Ltd. Shangdong Weifang Sea Dragon Co. has leased the assets for the production of tyre cord fabrics and canvasses including housing and machinery to Shangdong Polytex. The lease term is from 1st October, 2003 to 31st December 2008. A copy of this lease agreement has been enclosed in their response. It is not known whether the assets including housing and machinery were originally transferred by Mega Dragon (a State-owned company) which is the holding company of Shangdong Polytex. The shareholding of Sea Dragon is also not known. In respect of sub-clause (b) of sub-para 3 of Rule 8, it is not possible to conclude in view of the above that loans / assets transferred by Shangdong Weifang Mega Dragon which is a State-owned company to Shangdong Weifang Sea Dragon (in which Mega Dragon has a \*\*\*% shareholding) had been sold freely and at a market price. The Assets turnover Agreements state that assets were “given” by Weifang Great Dragon to Sea-Dragon which is the holding company of the respondent, M/s Shandong Polytex.

**(h) Legal environment and stability provided by bankruptcy and property laws**

93. All companies, including the respondents, are subject to bankruptcy and property laws guaranteeing legal certainty and stability.

**(i) Currency exchanges carried out at the market rate**

94. China has begun to implement the single, market-based, managed floating foreign exchange system since 1994. Under the managed floating foreign exchange system the State may be involved in the adjustments to the exchange rates through internationally permitted legal and economic measures but not administrative measures.

95. Response to Exporters Questionnaire by M/s. Shangdong Polytex

(a) **Normal Value:-**

96. As provided under page 70 of its response, the company had informed that it had sold \*\*\* MT of NTCF in the domestic market. It was explained during the verification that \*\*\* MT was sold to many small customers and it was not possible to provide complete details for the same. The company however provided details in respect of \*\*\* MT. It was seen that the total value for \*\*\* MT was \*\*\*RMB resulting in average selling price of \*\*\* RMB/MT and in case of \*\*\* MT the total value was \*\*\* RMB resulting into average selling price of \*\*\* RMB/MT. These values are net of VAT. During the verification the total realization on account of sales in the domestic market was \*\*\* RMB for \*\*\* MT resulting into average selling price of \*\*\* RMB/MT.

97. The company has sold only dipped fabric to India. The company has exported \*\*\* MT during to India during the POI. As stated in Appendix 3(page 70), the value of this export was corrected as \*\*\* RMB as against \*\*\* RMB mentioned. As provided in the corrected version of Appendix 4, it was noted that the company had exported \*\*\* MT to India at total sales realization of \*\*\*RMB.

98. As per Appendix 4, per MT sales value in respect of Domestic market comes to \*\*\* rmb, in respect of exports to India it comes to \*\*\*RMB and in case of exports to other country it comes to \*\*\* RMB. The Authority notes that as per the submissions vide Appendix – 8 (A) (Pg. 82), the company has provided factory cost and profit of exports to India for two segments namely Agent and User. It was clarified that in respect of user the material is supplied directly and in case of Agent it is supplied through agents. The factory cost has been shown as RMB \*\*\*/MT in both the cases. This company has purchased Nylon Yarn @ average \*\*\* RMB for the POI. The company has shown profit in case of exports through agents and has shown loss in case of direct sale. Based on this, the company was asked to reconcile the profitability to which no response has been received after the submission of the verification report. The company has exported \*\*\* MT to India of dipped category. After allowing the adjustments as claimed (\*\*\* RMB), the net export price comes to \*\*\* RMB. The company has got back refund on account of VAT from the government on account of exports approx. \*\*\*RMB/MT. The company is selling in the domestic market different grades at uniform price of \*\*\* RMB/MT. After adding VAT, the price comes to \*\*\* RMB/MT. The company had mentioned that the refund is received at intermittent intervals after adjusting the VAT amount to be paid and becoming due on account of exports. Thus, effectively the impact on account of VAT is \*\*\* which gets reflected in the cost.

99. It was discussed that whereas sales on account of NTCF contributes to approx \*\*\* the expenditure has been allocated at \*\*\* resulting into loss on account of NTCF. It was further discussed that expenses on account of Administration, selling/distribution costs, depreciation and financial expenses were allocated @ \*\*\*%. As provided under Appendix 8A, the company sold \*\*\* MT in exports to India at a profit of \*\*\* RMB resulting in total profit of \*\*\* RMB. As per Appendix 8B the company sold \*\*\*MT in the domestic market resulting in loss of (per MT \*\*\*) \*\*\* RMB resulting in final loss of \*\*\* RMB whereas as per the allocation the loss allocated to NTCF comes to \*\*\* RMB. The company's attention was drawn to the auditor reports of 2000(page 215-216), 2001 (page 226-227), 2002(page 236-237) and was requested to provide auditor report for the year 2003. The company mentioned that the board is taking adequate steps to settle these observations. It was also clarified that though the accounting statement are named for Foreign Investment Industrial Enterprise ( 2002-12-31) (page 242-245), these pertain to the company Weifang Great Dragon. The company was shown that as per these statements the current liabilities are \*\*\*RMB and the current assets are \*\*\* RMB resulting into negative working capital of \*\*\* RMB.

100. The deficiencies in financial statements, qualifications in the Audit Reports of the company have already been pointed out in the verification report to the company. Detailed examination of the company's submissions have already been conveyed vide verification report. The company has not commented on the issues raised concerning financial statements in the verification report.

**(b) Methodology for constructing normal value**

101. The respondent company has provided no explanation or evidence to substantiate their claim for MET. The financial statements containing the cost related information has the deficiencies as explained above and was communicated vide verification report which the exporter has not rebutted. Thus determination on normal value as per provisions contained in Section 9A (1) © (I) and (ii) read with sub-rule 2 (i) and (ii) of Annexure 1 of the Anti-Dumping Rules cannot be made. The Authority is therefore unable to apply the principles set out in paragraphs 1 to 6 and is constrained to proceed as per Rule 7 and 8 of the antidumping rules as amended.

102. The normal value has been determined on a reasonable basis considering also the price actually paid or payable in India for the like product duly adjusted to include a reasonable profit margin.

103. The product is manufactured from Caprolactum. It is noted that the (weighted average for POI) price in international market was \$\*\*\* per kg. The domestic industry has given an average procurement of \$\*\*\*. Deducting the duty element in India, the basic price comes to \*\*\* which matches the international prices prevalent in Asia

during the POI. The normal value for Dipped after adding the dipping cost comes to \$ \*\*\* per kg.

**(c) Export Price:-**

104. It is seen that the export price for grades exported to India comes to RMB \*\*\*. The exporter has claimed adjustments on account of Inland freight, commission, overseas freight and overseas insurance. Different amount has been claimed during different quarters for these adjustments. The adjustments on weighted average basis and as verified comes to RMB \*\*\* for inland freight, for commission RMB \*\*\*, for overseas freight RMB \*\*\* and for overseas insurance RMB \*\*\*. This totals upto RMB \*\*\*. Allowing these adjustments from the weighted average export price, the ex factory export price comes to RMB \*\*\*.

105. Response to the MET Questionnaire by M/s. Jiangsu Qunfa

**(a) Business decisions and costs are made in response to market conditions:**

106. In order to examine whether there was any degree of government influence over the allocation of resources and decisions of the co-operating producer/exporter, whether directly or indirectly the ownership pattern of the respondent was examined.

107. Jiangsu Qunfa Chemical Co. Ltd. was formally the Yangzhou Organic Chemical Plant. It was a reasonably large-scale State enterprise at that period of time but is no longer considered to be large scale by today’s standards in this industry and was an enterprise set up in 1964 by the former Ministry of Chemical Industry. The Ministry itself does not exist today. The company was restructured as Jiangsu Qunfa in 1999. Qunfa is a jointly owned company by the State and its own employees. The part of the State owns it in the form of shareholding. It has been clarified in the response to the MET Questionnaire that a State owned company under Chinese law is a company owned by all the people i.e. the State, as provided under the law of the People’s Republic of China on Industrial Enterprises owned by the Whole People of 13th April, 1998 (the Industrial Enterprises Law) and the Regulation for Transformation of Operational Mechanism of State-Owned Industrial Enterprises (the Regulations for Transformation). It was clarified that having gone through with economic reform including structural and ownership reform in China for 20 years, Qunfa is no longer the traditional State-owned company. The ownership of the company and its shareholders is as follows:

S. No.	Shareholder	Investment injected (Unit: RMB million)	Proportion of investment	Nature of shareholding company
1.	Yangzhou Chemical Assets Management Co. Ltd.	***	***	***

2.	China Huarong Assets Management Co. Ltd.	***	***	***
3.	Staff of the Company	***	***	***

108. Yangzhou Chemical Assets Management Co. Ltd. on behalf of the State owns \*\*\* % shares of the company and China Huarong Assets Management Co. Ltd. (institutional investor) owns \*\*\* % shares of the company. The rest are held by the staff of the company.

109. Yangzhou Chemical Assets Management Co. Ltd. and China Huarong Assets Management Co. Ltd. are both limited liability companies (which requires a minimum of two shareholders). They are not listed on the stock exchange. Both of the holding institutions are subject to bankruptcy and property law and were established in accordance with the corporate law of the People's Republic of China.

110. Jiangsu Qunfa, the respondent is also a limited liability company not listed on the stock exchange. There has been no change in the last five years in the legal form of Jiangsu Qunfa.

111. The role of the State as a shareholder is that it runs the company through the agencies. There is a Board of Directors comprising eleven persons. The State is represented by three persons, the Chemical Assets Company is represented by four persons and the employees and staff have four representatives. The functions of the Directors are to ensure that assets are not misused and the decisions regarding production and sales are taken by the General Manager. It was stated that there are no horizontal affiliations with any other company and affiliation is restricted to shareholding companies.

112. The Board of Directors of Jiangsu Qunfa Chemical Co. Ltd. are as follows:

Name	Occupation	Represent for
------	------------	---------------

\*\*\*

113. The Board of Directors is the decision-making body of the company and is responsible for the formulation and amendment of regulations of the enterprise. It is stated to be independent and has full autonomy in management and takes responsibility for profits and losses earned or incurred by the company. It was stated that no state or local/regional authorities are involved in the functioning and decision-making processes of the company.

114. Pursuant to the verification and in response to the pre-verification letter issued on 23rd September, 2004, M/s. Jiangsu Qunfa has given further clarifications as regards

ownership. The company is stated to be not directly jointly owned by the State. The State originally invested in the company in 1960s. In 1999, following the economic reform in China, the State authorized Yangzhou Chemical Asset Management Co. Ltd. to look after its assets. Yangzhou Chemical Asset Management Co. is also interested to sell the assets, if conditions are not met. Before 1999, it was owned by the State and there was no other shareholder except the State.

115. The meaning of ‘jointly owned’ company is clarified to be that the company is owned by the shareholders of Yangzhou Chemical Asset Management Co. Ltd., the employees of the company and China Huarong Asset Management Co. Ltd. (institutional investor). There has been no change in the last five years in respect of the legal form of Yangzhou Chemical Asset Management Co. Ltd. and Huarong Asset Management Co. Ltd.

116. The registering authority of the company is Mr.\*\*\*, Auditor \*\*\* Audit Firm, which is an independent firm. The detailed list of registered capital is as follows:

Shareholders	Capital Paid (RMB million)
Yangzhou Chemical Asset Management Co. Ltd.	***
Employees and Staff	***
Huarong Asset Management Co. Ltd.	***

## Prices, Costs and Inputs

117. Jiangsu Qunfa has a number of suppliers. The company purchased the raw material at a weighted average price of \*\*\* RMB during the POI. The prices prevalent in the domestic market (source ICIS-LOR data) are as follows:

	Asia \$	China Domestic RMB
Apr-02	1000	11100
May	1000	10250
June	975	10350
July	1110	12750
Aug	1110	0
Sep	1110	12450
Oct	1200	12550
Nov	1200	0
Dec	1175	0
Jan-03	1175	12800
Feb	1175	13150
Mar	1175	13350
Apr	1225	12250
May	1125	11350

118. The company has confirmed that they do not have any exclusive relationship with any of the suppliers, contractor, distributor or resellers. All Jiangsu Qunfa's buying and selling pattern are based on short-term contract. They have stated that historically, Jiangsu Qunfa has never built any kind of special relationship with its suppliers or distributors. The company has purchased the basic raw material at comparatively lower prices as prevalent in the domestic market.

119. The names of the suppliers of raw materials, electricity are:

\*\*\*

### **Utilities**

120. Qunfa purchases electricity, gas and coal from State-owned companies. Water has been purchased from Yangzhou Water Using Supervising Agency and electricity from Jinagsu Electricity Supplier Co., Yangzhou Branch. Steam has been procured from Yangzhou North-East Electricity Co. The relevant invoices were obtained at the time of the verification and are enclosed with this report. All companies must pay the same prices while purchasing power and steam from State owned suppliers i.e. they have to pay the price for industrial usage. The only difference is between industrial and household use. The latter is cheaper than the former.

121. It was further clarified that the utility companies (for power, water, oil and gas) have also been under the economic reform programme for sometime. Sinipec and China Oil have all become public companies listed in New York and London Stock Exchanges and electricity and water companies are all under restructuring for purposes of IPO. The utility companies would charge the same rate of price to the same category of industry irrespective of whether the utility company is a state-owned or private enterprise. The difference would lie in the categorization of the industry. For example, a water company would charge a high water consumption or high polluting company a higher price.

### **Cost of Labour**

122. The working staff of Qunfa (Para 80 from Page 37) is divided into two groups, the skilled and non-skilled. They are recruited by way of announcement of vacancies through the media and through interviews of candidates recommended by Employment Agencies and graduates from various colleges. New employees go through a trial period of one to three months. There are \*\*\* managers, \*\*\* skilled workers and \*\*\* non-skilled workers in the company. The salaries, monthly, range

from \*\*\* RMB, \*\*\* RMB and \*\*\* RMB for managers, skilled and non-skilled workers respectively. Every employee is entitled to medical and company pension. Some employees with special financial needs or those making an outstanding contribution to the company may also be entitled to housing benefits.

123. BOFT, MOFCOM has clarified that companies in China are required to observe a minimum wage. Otherwise wages are decided between workers' unions and management of the respective companies.

**(b) Accounting records are independently audited and applied for all purposes**

124. The company had provided financial statements ie Profit and loss account and Balance sheet for the calendar year 2002 and 2003. The Auditor Reports for the years 2000, 2001 and 2002, were provided. Only the Audit Report for 2001 contained qualifications. Report etc commenting on the auditors report was not provided.

125. Since the company has not provided the relevant annexures for the POI, it could not be ascertained whether the Auditor's report has any qualifications nor the accounting practices of the company could be checked. It also could not be ascertained whether the auditors have found that the company follows Generally Accepted Accounting Principles in China and whether the company maintains records which reasonably and accurately reflect the expenses, incomes, revenues and costs.

**(c) there are no significant distortions carried over from former non-market economy system**

126. Vide pre-verification letter dated 23rd September, 2004 the Authority requested for the legal forms of (i) Yangzhou Chemical Assets Management Co. Ltd. and (ii) China Huarong Assets Management Co., Ltd., prevailing in the last five years. This was not provided by the exporter. A clarification was also called for regarding the original status of Jiangsu Qunfa Chemical Co. Ltd. and its shareholders. These were not provided. The company was also requested to explain how their assets were obtained (e.g. bought on the open market, transferred to the company by a shareholder, given for free or at a discount by the State or a third company etc.). In view of the investment in the form of shareholding by Yangzhou Chemical Assets Management Co. Ltd., which on behalf of State owns \*\*\* % shares of the company, it is not possible to conclude that the assets held by the company had been sold freely and at a market price.

**(d) legal environment and stability provided by bankruptcy and property laws**

127. All companies, including the respondents, are subject to bankruptcy and property laws guaranteeing legal certainty and stability.

**(e) currency exchanges carried out at the market rate**

128. China has begun to implement the single, market-based, managed floating foreign exchange system since 1994. Under the managed floating foreign exchange system the State may be involved in the adjustments to the exchange rates through internationally permitted legal and economic measures but not administrative measures.

Response to Exporters Questionnaire by Jiangsu Qunfa

**Normal Value:-**

129. The company has exported \*\*\* MT during the POI to India. The company is producing only dipped fabric. The company had not provided the domestic sales data being small and very large number of transactions but showed the domestic sales data on the computers. A copy of the same was collected from the company. The company has sold \*\*\*MT in the domestic market during the POI out of which \*\*\* MT was sold to five customers and \*\*\* MT was sold to very large number of customers in various transactions. The company exported \*\*\*MT at value of \$\*\*\* resulting into \*\*\* approx RMB per MT.

130. The figures provided under Appendix 4 were verified. The company had provided financial statements i.e. Profit and loss account and Balance sheet for the calendar year 2002 and 2003. It was explained that in absence of information available for the POI that is domestic sales, allocations of total expenditure for the POI, the figures provided under these appendices could not be verified. The company explained the system of export rebate available on exports to outside China.

131. As the cost of production data is unacceptable for the aforesaid reasons, and the respondent company has provided no explanation or evidence to substantiate their claim for MET, a determination on normal value as per provisions contained in Section 9A (1) (c) (I) and (ii) read with sub-rule 2 (i) and (ii) of Annexure 1 of the Anti-Dumping Rules cannot be made. The Authority is therefore unable to apply the principles set out in paragraphs 1 to 6 and is constrained to proceed as per Rule 7 and 8 of the antidumping rules as amended.

**Methodology for constructing normal value**

132. As the cost of production data is unacceptable for the aforesaid reasons, and the respondent company has provided no explanation or evidence to substantiate their claim for MET, a determination on normal value as per provisions contained in Section 9A (1) © (I) and (ii) read with sub-rule 2 (i) and (ii) of Annexure 1 of the Anti-Dumping Rules cannot be made. The Authority is therefore unable to apply the principles set out in paragraphs 1 to 6 and is constrained to proceed as per Rule 7 and 8 of the antidumping rules as amended.

133. The normal value has been determined on a reasonable basis considering also the price actually paid or payable in India for the like product duly adjusted to include a reasonable profit margin.

134. The product is manufactured from Caprolactum. It is noted that the (weighted average for POI) price in international market was \$\*\*\* per kg. The domestic industry has given an average purchase price of \$\*\*\*. Deducting the duty element in India, the basic price comes to \*\*\* which matches the international prices prevalent in Asia during the POI. The normal value for Dipped after adding the dipping cost comes to \$\*\*\* per kg.

#### **Export Price:-**

135. It is seen that the export price for grades exported to India comes to RMB \*\*\*. The exporter has claimed adjustments on account of Inland freight, commission, overseas freight and overseas insurance. Different amount has been claimed during different quarters for these adjustments. The adjustments on weighted average basis and as verified comes to RMB \*\*\* for inland freight, for commission RMB \*\*, for overseas freight RMB \*\* and for overseas insurance RMB \*\*. This totals upto RMB \*\*. Allowing these adjustments from the weighted average export price, the ex factory export price comes to RMB \*\*.

#### **Conclusion on MET**

136. To conclude, three Chinese producers/exporters requested MET pursuant to sub-rule 3 of Rule 8 of the Anti-Dumping Rules replied to the questionnaire for according MET. The Authority sought all information deemed necessary in the MET questionnaire and raised additional queries and sought evidence in the pre-verification letter issued to each of the cooperating companies.

137. A MET claim must contain sufficient evidence that the exporting producer operates under market economy conditions. In particular, the exporting producer must provide evidence that its decisions regarding prices, costs and inputs, 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.

138. Based on the above referred provision of the Anti-Dumping Rules, it is not to the Authority to establish any State interference, but to the companies requesting MET to demonstrate the absence of any significant State interference in their business decisions.

139. One of these companies (Jiangsu Qunfa) has argued that the fact that a company is State-owned does not mean in itself that the State interferes and that with economic reform including structural and ownership reform in China PR in 20 years, it is no longer the traditional State-owned company. Jiangsu has disagreed with the preliminary findings of the Authority in this regard. However, Yangzhou Chemical Assets Management Co. Ltd., a State agency has \*\*\*% shareholding in the company and State interference in the presence of State ownership through shareholding, cannot be ruled out in the appointment of Directors and business decisions affecting the company. This position was also true in the case of Shangdong Polytex, whose major shareholder (Weifang Sea Dragon) is largely owned by a State-owned company (Mega Dragon).

140. The Authority notes that on the issue of State interference the respondent companies have provided no explanation or evidence to substantiate their claim for MET, except for mere statements that there was no state interference. None of the respondent companies have explained how their assets were obtained, the method of their acquisition, the rates at which the shares were purchased, whether these were at market rates or otherwise and the valuation of these assets. Shareholding certificates showing the names and details of shareholders and the shareholding pattern in the respondent companies were not given with. In the case of one company (M/s. Ningbo Nylon), it is not possible to conclude that State-owned shares in the holding company viz., Jinlun/Kingring, which was previously a collective-entity, had been sold freely and at a market price during the transfer of the company into private ownership. In the case of another company (M/s. Shangdong Polytex), it cannot be concluded that the loans and assets transferred by the holding company, which is largely State-owned has been sold freely and at a market price. The assets turnover agreements clearly state that assets were 'given' to the respondent company. In the case of Jiangsu Qunfa, the investment is predominantly by a State-owned company in the form of shareholding. Subsequent to the spot verification, a detailed verification report was sent to the exporters wherein certain differences or discrepancies in the accounting statements and related information filed by the exporters were pointed out to the exporters. These observations were largely not rebutted and the required information having bearing on some of the crucial issues was not submitted.

141. It was seen that in the case of these particular companies the detailed financial report along with Director's Reports, Auditor's Reports, Note to Account, Annexures etc. usually found in Annual Reports for the periods 2001, 2002 and (up to June) 2003 were not provided. The financial statement( one page) for the POI in the case of M/s. NJIE was provided. In the absence of relevant annexures and detailed financial reports, it could not be ascertained whether the Auditor's Reports had any qualifications nor could the accounting practices of these companies be checked. In case of Weifang that the Auditor's report remained qualified for a considerable period not only involving POI but also previous years. The nature of qualification was significant and had a direct bearing on the associated revenue and expenses. The purpose of keeping accounts audited in line with GAAP and international accounting standards is to assess the reliability of the accounts and more particularly of revenues, costs and profit booked by the company. It is required to be established by the exporters, in a situation, in case where the books are not audited in accordance with international accounting standards that the records reasonably reflect the costs associated with the production and sale of the product involved. In absence of financial reports etc. thus, it could not be ascertained whether the Auditors had found that these companies follow GAAP in China PR and whether these companies maintain records which reasonably and accurately reflect the expenses, incomes, revenues and costs. The information provided by these companies were insufficient to conclude that this criterion of sub-rule 3 of Rule 8 was met.

142. Issues relating to raw material prices and utilities have been discussed in the relevant portions of this report.

143. None of the three Chinese exporters/producers fulfilled all of the conditions for granting MET, and therefore in the absence of any evidence, all claims for MET have to be rejected.

144. It has been claimed that the authority can not treat India as a surrogate country. The Authority notes that petitioner had not provided an evidence of price or constructed value in a market economy third country. Price from a market economy third country to other countries were also not made available by the petitioner. It may be noted that Prices from market economy third country to India could also not be adopted for the reasons that (a) the product under consideration involved a number of different types which vary in associated costs & prices; (b) price adjustments to determine ex-factory prices are not available, (c) these prices could not be considered representative given the claims that prices from third countries to India were inappropriate due to dumping from China. 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 claim nor advanced any evidence either with regard to price or constructed value in a market economy third country.

Under the circumstances, the Authority is of the opinion that the only option available 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 could not have been considered for the reason that the same were below cost of production. Thus, the only option with the Authority is to consider cost of production in India, duly adjusted, to reflect international raw material prices and optimum conversion costs, selling, general & administrative expenses and reasonable profit.

145. Dumping Margins :- Examination by the Authority:-

146. The Authority has followed the consistent policy of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I of the anti-dumping rules. A determination on normal value as per provisions contained in Section 9A (1) (c) (I) and (ii) read with sub-rule 2 (i) and (ii) of Annexure 1 of the Anti-Dumping Rules could not be made in view of the reasons cited above. The Authority is therefore unable to apply the principles set out in paragraphs 1 to 6 and is constrained to proceed as per Rule 7 and 8 of the antidumping rules as amended for the determination of normal value. Based on the normal value and export prices as indicated above, the Authority assessed the dumping margins in case of all co-operating exporters in the table below:-

USD per Kg			
	Ningbo	Weifang	Jiangsu
Normal Value Grey	***		
Export Price Grey	***		
Dumping margin	***		
Normal Value Dipped	***	***	***
Export Price Dipped	***	***	***
Dumping margin	***	***	***
Weighted average	***		
Dumping Margin %	24.47%	20.76%	24.45%

## K. INJURY

147. Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, “taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such article...” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the

price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

148. The Authority notes that the margin of dumping and quantum of imports from the subject countries are more than the limits prescribed in Rule 11 Supra.

149. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry as production, capacity utilisation, quantum of sales, stock, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the rules supra the details of which are given below:-

150. Quantum of Imports :-

Qty: MT Unit Price: Rs. / kg

	1999-2000		2000-01		2001-02		POI		POI (annl.)	
	Qty	Unit Price	Qty	Unit Price	Qty	Unit Price	Qty	Unit Price	Qty	Unit Price
Individual Country Imports										
China PR							6095.79			
As per DGCI&S	1017.08	124.3	1984.56	120.74	1677.04	138.34		116.08	4876.63	116.08
As per China Customs							7970	111.77	6376	111.77
As per cooperating exporters response							8404	116.48	6723.2	116.48
Other Countries	15632.3	126.32	16267.9	149.13	12521.8	135.87	19793.7	124.99	15835.0	124.99
Total imports considering responding exporters in POI	16649.4	126.2	18252.6	146.04	14198.9	136.16	28197.8	241.47	22558.2	241.47
Market Share										
China	6.11%		10.87%		11.81%		29.80%		29.80%	
Others	93.89%		89.13%		88.19%		70.20%		70.20%	

- i. The Authority considered import data received from DGCIS, data provided by the domestic industry from secondary sources, responses filed by the cooperating exporters and data released by China Customs. The Authority has considered it appropriate to adopt export data as per information provided by the cooperating exporters.
- ii. Authority considered import volumes as per information from various sources. Authority has correlated the various information to the extent feasible and found that the import volumes reported by the DGCI&S does not appear comprehensive, as the responding exporters themselves have admitted having exported subject goods much more than what is reported by DGC&IS. Even

data released by China customs does not appear comprehensive, as the responding exporters themselves have admitted having exported subject goods much more than what is disclosed by the Authority. Data made available by the Secondary Sources is not comprehensive, as it does not include all customs ports in the Country. Imports as per responding exporters is also not comprehensive, as at least one of the producers in China has not responded to the Authority. Authority examined responses filed by the importers also. However, exports made by other Chinese producers other than responding exporters could not be ascertained from this information also.

- iii. The DGCIS has also made available transaction-wise data for the POI. The Authority notes that as per transaction-wise data, ignoring abnormal transactions, the volume of imports and value of grey, dipped and CTC fabric from the subject country was as follows:

#### Indexed

China PR	Qty (MT)	Value (Rs.)	Rate (cif Rs./kg.)
Grey Fabric	65.94	60.75	30.06
Dipped	28.89	31.14	34.14
CTC	7.18	8.11	35.78
Total	100	100	100

- iv. The Authority notes that the share of China in total imports has increased from 6.11% in 1999-00 to 29.80% in the POI. The share of other countries has declined from 93.89% in the base year to 70.20% in the POI.
- v. Although the Authority has relied upon DGCIS import data for the purpose of these provisional findings, the Authority notes that the actual imports of the subject goods from China PR are far higher. In this connection, the Authority has also examined the quantum of exports made available by China Customs as reflected in the World Trade Atlas, the details of which for the POI is reflected in the table below:

Source: World Trade Atlas			
China Customs	Qty (kg)	Value (Rs.)	Rs./kg
Apr-02	131513	16279000	123.78
May-02	267360	29174000	109.12
Jun-02	293269	33574000	114.48
Jul-02	203311	23478000	115.48
Aug-02	389666	41533000	106.59
Sep-02	385597	42151000	109.31
Oct-02	561010	62927000	112.17
Nov-02	635692	69378000	109.14
Dec-02	672172	74463000	110.78

Jan-03	753053	85175000	113.11
Feb-03	717198	80963000	112.89
Mar-03	574485	64355000	112.02
Apr-03	761759	85905000	112.77
May-03	650924	72366000	111.17
Jun-03	973510	109162000	112.13
	7970519	890883000	111.77

- vi. The quantity reported for NTCF is much higher than that reported by the DGCIS and per unit weighted average prices are lower. The difference in the prices could be possibly due to difference in the basis adopted by DGCIS and China Customs. DGCIS normally reports CIF import price, while China Customs data might be FOB export price. However, normally the volumes reported should not be much different.
- vii. The Authority notes that as per information given by the participating exporters, the volume of NTCF exported during the POI by them was as follows:

Ningo Nylon = \*\*\* MT

Weifang = \*\*\* MT

Jiangsu = \*\*\* MT

Total = 8404 MT

- viii. In addition to above, there could have been other companies who might have exported the material and who have not responded to the Authority. The domestic industry alleged that Baling was also one of the major exporter of the subject goods, who has not cooperated with the Designated Authority and whose exports are not included in 8404 MT exports reported by the responding exporters. In any event, there can be no dispute on the fact that 8404 MT was imported in the period of investigation. The Authority has therefore considered it appropriate to consider this as the volume of the imports in the period of investigation from China.

## 151. Demand

Qty:MT

Sales	1999-2000	2000-01	2001-02	POI	POI (annl.)
Grey	41292	37537	41489	58906	47125
Dipped	4208	2070	4029	8852	7082

CTC	744	728	649	877	701
Total Sales (Domestic Industry)	46244	40335	46167	68635	54908
Total Imports (as per DGCIS)	16649	18252.55	14198.92	25889.56	20711.65
Total Imports (China as per cooperating exporters response)				28197.78	22558.22
Imports (China PR)	1017.08	1984.56	1677.05	6095.79	4876.63
Imports (taking into account cooperating exporters response)				8404	6723.2
Imports (Other sources)	15632.4	16267.99	12521.87	19793.78	15835.02
Demand	62893	58587.55	60365.92	96832.78	77466.22
Share of domestic industry (petitioners) in Demand %	73.53%	68.85%	76.48%	70.88%	70.88%
Share of imports %	26.47%	31.15%	23.52%	29.12%	29.12%
Share of dumped imports from China PR %	1.62%	3.39%	2.78%	8.68%	8.68%
Share of Others %	24.86%	27.77%	20.74%	20.44%	20.44%
Domestic Production	48873	42062	47478	72025	57620
Share of China Imports relative to Production	2.08%	4.72%	3.53%	11.67%	11.67%

- i. The authority notes that in the injury analysis period, the demand increased by 23.17%, the production increased by 17.89% and sales of domestic industry increased by 18.73% only. The domestic industry's share in demand declined and share of imports has increased. The increase in the production of the domestic industry has not been matched with a increase in the domestic industry's share in demand. On the contrary, the domestic industry's share in demand has declined while that of China has registered a significant increase. Authority notes that there is a marginal decline in capacity utilisation of the domestic industry in respect of grey fabric, which implies that the domestic industry could have produced and sold more, had it got an opportunity to do so. In other words, even though the sales of the domestic industry increased, the sale could have been higher, given the higher level of demand, had the dumped imports not prevented it from increasing its sales.
- ii. If imports from China are considered as per China Customs data reflected in World Trade Atlas, the share of China would be 8.37% in the period of investigation. Share of domestic industry and others in demand would further decline to 70.85% and 20.78% respectively in the POI.

Particulars	POI
Imports from China (as per World Trade Atlas)	7970.52
Imports Other sources (as per DGCIS)	19793.78
Total Imports	27764.30
Demand	96399.30
Share of Domestic industry	71.20%
Share of China	8.27%
Share of Others	20.53%

## 152. Actual and Potential Decline in Market Share :-

The Authority notes that based on cooperating exporters data, market share of domestic industry declined. The Authority also notes that there is a supply gap of approximately 18-20000 MT which has to be met by imports. However, the analysis of imports shows that share of dumped imports has increased substantially whereas imports from other sources have declined. The increase in market share of China and reduction in market share of Indian Producers and other countries is clearly on account of the prices offered by the Chinese suppliers, which not only helped Chinese suppliers gain higher market share, but also forced the Indian Producers to benchmark their prices and resulted in decline in their market share. Given the surplus capacities available with the Chinese producers, the nature of product and adverse impact which the prices of one supplier can have on others, it is apparent that the loss of market share for the domestic industry would have been more had it not offered the present prices. Potential decline in market share is also apparent, should the dumping be allowed. The Authority notes in this regard that the imports from China in the period July, 2003 – Oct., 04 have been in the region of 17152 MT (i.e., 1072 MT per month, as against 531 MT per month during the POI), which clearly implies potential adverse impact which the imports could have had on the domestic industry.

### 153. Actual and Potential Decline in Sales :-

	1999-2000	2000-2001	2001-2002	POI (Ann)
Sales (MT)	46244	40335	46167	54908
% Change		-12.78%	14.46%	18.93%
Sales Realisation				
Weighted Average (Rs./kg.)	***	***	***	***
% Change (year by year)		0.19%	-14.01%	1.38%
% Change over injury period				12.65%

Corresponding with increase in demand (23.17%) the Sales have increased by 18.73% during POI over base year. There was a significant decline in realisation in 2001-02 which improved marginally in the POI as compared to the previous year. On overall basis, the prices declined by 12.65% over the injury period. If the domestic industry had not sold the quantities actually sold in the POI, it would have resulted in increased inventory or curtailment of production levels achieved. Higher sales volume helped to mitigate the adverse impact of dumped imports. Thus though the volume of sales showed increase, the Weighted Average Sales Realisation showed decline of 12.65% during POI over the base year. Even when the sales volumes increased, the increase in sales volumes was less than increase in demand. Further, the domestic industry faced marginal decline in capacity utilization in respect of grey fabric, which clearly implies that the domestic industry could have produced and sold more, had the Chinese prices not undercut the domestic prices to the extent it did in the period of investigation.

#### 154. Production and Capacity Utilisation :-

	1999-2000	2000-01	2001-02	POI	POI (annl)
<b>Installed Capacity (MT)</b>					
Grey	49600	50500	55126	73000	58400
Dipped	7680	7680	7680	9600	7680
CTC	1100	1100	1100	1375	1100
Total	58380	59280	63906	83975	67180
<b>Production (MT)</b>					
Grey	43590	38690	42352	61620	49296
Dipped	4539	2644	4478	9528	7622
CTC	744	728	648	877	702
Total production	48873	42062	47478	72025	57620
Capacity Utilisation % - Total	83.72%	70.95%	74.29%	85.77%	85.77%
Grey	87.88%	76.61%	76.83%	84.41%	84.41%
Dipped	59.10%	34.43%	58.31%	99.25%	99.24%
CTC	67.64%	66.18%	58.95%	63.77%	63.77%

- i. The capacities with the applicants have increased over the years due to enhancement by one of the applicant companies and de-bottlenecking efforts by the domestic industry. Demand for the subject goods in India was expected to increase given the production levels estimated by automobile companies. Domestic industry was aware of this expected increase in demand and had been gearing up to cater to this demand. However, in spite of increase in demand by 23.17%, the domestic industry's share has declined. It is found that the capacity utilisation has increased on overall basis because of increase in capacity utilization in respect of dipped fabric. The capacity utilisation in respect of grey fabric has rather declined. It is also found that cycle tyre cord fabric (where capacities are from basic stage) also shows decline in capacity utilisation.
- ii. The average capacity utilisation combined for grey, dipped and CTC for the subject goods by the domestic industry has improved by 2.45% from 1999-2000 till the POI. While the production and capacity utilisation of the domestic industry improved, it is noted that this is despite dumping from different sources earlier and the domestic industry still holding unutilised capacities.
- iii. Higher output by the domestic industry has been accompanied by increased sales volumes corresponding to the growth in the market demand. Despite this the industry faced a significant decline in weighted average sales realisation (for all grades) of the subject goods by approximately 12.65% over the period.

#### 155. Net Sales Realisation and landed value :-

	1999-00	2000-01	2001-02	POI (AnnI.)
<b>Wt. Avg. net sales realisation</b>				

Grey	***	***	***	***
Dipped	***	***	***	***
CTC	***	***	***	***
Weighted Average	100	100.19	86.15	87.34
Landed value(as per DGCIS)				China
Grey				95.0
Dipped				107.8
CTC				113.0
Wt. avg.				100

- i. The Authority observes that the landed price of imports from China were significantly lower than the selling prices of the domestic industry. The imports from China were thus significantly undercutting the prices of the domestic industry. It is also observed that the undercutting is present in all the three forms of the product. Thus, undercutting is found on average basis as also for different types of NTCF, grey, dipped and CTC.
- ii. It is found that the decline in the selling price of the domestic industry in respect of grey fabric was more than decline in the prices for dipped and CTC. While prices of grey fabric declined by about 13.6%, that of dipped declined by about 9.9% and that of CTC declined by 7.6%. The weighted average price decline (12.6%) reflected more the trends of grey fabric, given that the grey fabric constituted 86% of total sales of the domestic industry. This trend of higher decline in prices of grey fabric directly reflect higher volume of imports of grey as compared to dipped fabric. Out of total exports of 8404 MT reported by the cooperating exporters, grey fabric constituted 60% of total exports.

156. Sales realisation and landed price of imports :-

Rs/kg

Indexed			
Year	Wt. Avg. Net Sales Realisation of domestic industry (Rs/kg)	Landed Price of Imports	
		China PR	Others
1999-00	100	100	100
2000-01	100.19	93.67	113.84
2001-02	86.15	99.37	96.04
POI (Ann)	87.34	84.13	88.35

- i. The decline in weighted average landed prices of the subject goods from China PR have been by about 16 % as compared to the base year 1999-2000. The Authority also observes that the imports from China were undercutting the prices of the domestic industry throughout the injury period. It is also observed

that the landed prices of imports from Other Countries were higher (except in 2001-02) than the import prices from China.

- ii. It is noted that while the price difference between the Chinese prices and domestic industry prices was about 1.72% in 1999-2000, the same increased to about 6.18% in the period of investigation. Thus, it is evident that the price difference between the Chinese prices on one hand and domestic industry and other country prices on the other hand increased over the period.

157. Price undercutting from China vis-à-vis other countries.:-

The analysis is as follows:

Year	Price undercutting (%)	
	China PR	Others
1999-00	***	***
2000-01	***	***
2001-02	***	***
POI (annl)	***	***

158. Price Undercutting/ Underselling :-

The Authority compared selling price of the domestic industry with the landed price of imports. The comparison was done separately for grey, dipped and CTC. The information shows as under:-

	China	NSR of domestic industry	Price Undercutting %	NIP	Price Underselling %
Wt. avg. net sales realisation					
Grey	***	***	***	***	***
Dipped	***	***	***	***	***
CTC	***	***	***	***	***
Weighted Average	***	***	9.50	***	15.67

The Authority notes that during the POI, the weighted average underselling was 15.67% and weighted average under cutting was 9.50%. The price undercutting for various types was in the range of 3% – 9%(grey), 10% – 16% (dipped), 8% – 14% (CTC) and price underselling was in the range of 5% – 11% (grey), 6% - 12% (dipped) and 11% - 17% (CTC).

159. Profitability:-

The table below shows that the indexed cost of production (wt. avg. for all grades) declined in the POI as compared to the base year by about 9.78%. The Authority has

analysed that this was largely due to decline in the weighted average domestic prices of Caprolactum for the same injury analysis period. The selling prices declined by about 12.14% in the POI as compared to 1999-00. Despite decline in COP, due to lower sales realisation, the weighted average profitability declined by 29.75% in POI.

	1999-00	2000-01	2001-02	POI (annl.)
Cost of Production	100	100	87.15	89.93
Selling price	100	100.19	86.15	87.35
Profit/loss indexed	-100	-96.45	-104.02	-134.20

#### 160. Closing Stocks of Domestic Industry:-

Qty: MT

	1999-2000	2000-01	2001-02	POI
Grey	321	1347	1097	1047
Dipped	184	216	175	123
CTC	0	86	62	98
Closing Stocks of domestic industry	505	1649	1334	1268
No. of days sales in stock	3.99	14.92	10.55	8.43

Closing stocks have been compared with the sales quantum of the domestic industry and indicated as a percentage thereof in the table below:

	1999-2000	2000-01	2001-02	POI (annl.)
Sales	46244	40335	46167	54908
Closing Stocks	505	1649	1334	1268
Inventory as a percentage of sales	1.09%	4.09%	2.89%	2.31%

It may be seen that though Closing Stocks increased in absolute term, however as a % of Sales, the increase is marginal. The increase in inventories is in spite of increase in demand.

#### 161. Return on Investments

	1999-00	2000-01	Indexed 2001-02	Rs. Lacs POI (ann.)
Capital Employed	100	103.16	103.41	103.25
Profit/Loss	-100	-104.10	-111.86	-177.07
Return on Capital Employed	-10.02%	-10.12%	-10.85%	-17.20%

Return on investment follows the same trend as that of profitability and cash flow. It was noticed that knowing the demand supply gap, domestic industry added further capacity. Domestic industry expected better profitability with higher investments and

higher sales volumes. However, profitability declined rather than increasing as a result of dumping from China. This resulted in deterioration in the return on capital employed.

#### 162. Cash Flow/Profit

				Indexed	Rs. lacs
	1999-2000	2000-01	2001-02	POI	POI (Ann)
Profit/loss	-100	-104.10	-111.86	-221.32	-177.07
Depreciation	100	96.44	75.24	129.04	103.25
Cash profit/loss	-100	-116.62	-171.98	-372.86	-298.29

- i. Profitability of the domestic industry deteriorated. In the previously concluded mid-term review, it was found that the profitability of the domestic industry deteriorated. The profitability has further deteriorated thereafter.
- ii. Since all the companies are multi product companies, it has not been feasible to determine cash flow for the product under consideration only. However, cash profit has been determined, which is for the product under consideration only. Cash profit follows the same trend as that of profits. It should also be noted that the Authority had found in the previously concluded mid term review that sustained losses for the past three years severely affecting the cash flow position of the domestic industry. Deterioration in profitability was also responsible for adverse cash flow. The situation further worsened in the period under investigation.

#### 163. Employment and Wages

					Indexed
	1999-2000	2000-01	2001-02	POI	POI (annl.)
Employment (in no.)	100	98.20	98.50	98.74	98.74
Wages (Rs. Lacs)	100	102.09	119.46	161.89	129.50
Wages per unit of production	100	118.62	122.97	109.84	109.84

Increase in capacity by 15.07% should suggest higher employment. The domestic industry has however reduced employment after increase in capacity. Wages show an increase of about 29.47% in three years (from 1999-2000 to the POI) which means an average increase of less than 10% per year. The authority considers such wage increase as normal wage increase not attributing losses to domestic industry. Even when wages have increased, productivity has also increased. Further, even when wages increased by 29%, wage per kg. of production increased only by 10%.

#### 164. Productivity

	1999-2000	2000-01	2001-02	POI	POI (Ann.)
Total production	48873	42062	47478	72025	57620
Production per Employee (MT)	100	87.65	98.64	149.23	119.39

- i. This has been projected in the following graph:
- ii. The above graph indicates that productivity per employee has increased over the years which is indicated in increased production and sales volumes due to the efforts made by domestic industry to optimize production and reduce employment. However, in spite of increased productivity, the financial performance of the domestic industry in terms of profits has deteriorated and the applicants have incurred losses.

### 165. Growth

Even though the capacity, production, sales volume, sales value of the domestic industry increased and showed positive trend, the growth in sales value was less than the growth in sales volume. Further, even when sales showed positive growth, market share, profits, return on investment, cash flow, etc. showed negative growth.

### 166. Ability to Raise Investment

All the producers are multi product companies. The domestic industry added more capacity during the period. No evidence of injury in terms of ability to raise funds for investment found.

It has been pointed out that the sales figures mentioned in the final findings earlier notified in the review investigations are different from the figures mentioned in the preliminary findings. This has been examined in detail and it is found that the two figures are not comparable for a number of reasons. The composition of domestic industry and Indian Industry both is different in the two cases. While Century Enka did not cooperate in the previous case and the Designated Authority had resorted to best available data, the company is now participating in the present investigations. The product under consideration and like articles are different in the two investigations. While CTC was not included in the previous investigations, the same is included in the present investigations. Further, while TFL was a separate company in the previous case, the company has since been taken over by SRF and their data is now included in the data provided by SRF. Data of some of the petitioner companies was also incorrect in the preliminary findings, which has now been corrected.

## **L. Calculation of NIP by the Authority**

167. The Authority has called for costing information from the Domestic Industry represented by M/s SRF Limited, (Chennai, Manali, Goomidipoondi) M/s NRC Limited Mumbai, M/s Century Enka Limited Pune, and M/s Nirlon Ltd Mumbai etc. in the prescribed proforma for the period under investigation and for the previous years. The actual cost of production of the subject goods for the domestic industry is proposed to be used to determine the cost of production on the basis of Generally Accepted Principle (GAAP).

In the determination of NIP for the Domestic Industry the Authority has made a detailed analysis of all the relevant factors including usage of raw materials, usage of utility, the actual expenses during the POI, investment, the best capacity utilization etc. to arrive at a Non Injurious Price for the Domestic Industry. NIP for the domestic industry has been determined after considering a reasonable profit margin on the capital employed.

## **M. CONCLUSION ON INJURY**

168. The Authority notes that the imports of the subject goods from China PR have increased in absolute terms and relative to production and consumption in India. While imports was less than 100 MT in 1999-2000, the same increased to almost 500 MT in the period April, 03 – June, 03.

169. Whereas the market share of imports from China PR in demand in India increased, the market share of domestic industry declined. Even though the decline in the market share of the domestic industry was marginal, it is vital to note that the domestic industry was in the process of recovering from past effects of dumping. Foreseeing increase in demand the domestic industry had enhanced its capacity but could not utilize it fully. Thus, while the domestic industry attempted to gain the market share lost to other countries (who were earlier resorting to dumping), the said share was taken away by dumped imports from China. Moreover, the domestic industry's decline in share of demand has to be viewed in the context of overall increase in demand levels.

170. Share of imports from China PR in total imports to India steeply increased whereas that of other countries declined. At the same time, the prices from China were significantly lower than prices from other countries. The period earlier investigated for this product was 2000-2001. Between 2000-2001 and present investigation period, the share of China has further increased while that of other countries has proportionately declined.

171. Sales of the domestic industry increased over the injury period. However, while the increase in demand was 23.17%, increase in the sales of the domestic industry was 18.73%. Thus, sales of the domestic industry increased less than increase in demand. It is also found that while grey NTCF sales of the domestic industry increased only by 14%, the dipped sales increased by 68%. The analysis of exports from China reveals that approx. 60% of exports were in grey category. Thus the imports hit the grey segment. Lower exports of dipped category helped domestic industry increase its sales in this segment. Sales of cycle tyre cord (CTC) declined even though the domestic industry had significant unutilized capacity. Thus, the impact on different categories of NTCF is directly due to dumped imports from China PR.

172. Even when the sales of the domestic industry on overall basis have increased, it is found that the sales in the last quarter of POI were less than prorata sales in 2002-2003. At the same time, as per Chinese Customs imports from China in this period rose sharply from 5585 MT in 2002-2003 to 2387 MT in April, 2003-June, 2003. This clearly shows that sales of the domestic industry are likely to decline if the imports from China continue to undercut the prices of the domestic industry in the market. The Authority has also seen that in the last quarter of POI and after POI, average imports from China per month is approximately 1000 MT.

173. Imports of the product at lower prices have significantly undercut the prices of the domestic industry in the market. It is argued by the domestic industry that the prices paid by the consumers are always benchmarked on the basis of imports. While imports from other countries were earlier benchmarking the prices of the domestic industry, imports from China at even lower prices started undercutting the prices of the domestic industry.

174. The price undercutting was determined cumulatively for the entire period. However, undercutting has been determined separately for the three types of the product involved (grey, dipped and CTC) and it was found that the weighted average price undercutting to the extent of 9.50% was present. In fact, it was found that price undercutting was significant in case of CTC, which directly correlates with the decline in the CTC sales volumes and consequently CTC production and capacity utilization.

175. Price underselling has been determined by comparing non injurious price established with the landed price of imports. The comparison was done first for the three types of the product and thereafter on weighted average basis. It is found that the landed price of imports is significantly below the non injurious price established. Thus, the imports are forcing the domestic industry to undersell the product significantly in the domestic market.

176. It is also to be noted that in the previous investigations relating to this product (wherein the investigation period was 2000-01), it was found by the Authority that the material injury to the domestic industry was not due to imports from subject countries however, it was found that profitability of the domestic industry has also deteriorated. The profitability of the domestic industry has declined further after that investigation period. It is also noted that the domestic industry, in the meantime, has increased its production and sales. This should have helped the domestic industry in curtailing per unit overhead costs and in improving its profitability.

177. Production of the domestic industry increased over the injury analysis period in line with rising demand of the subject goods in the country. Further, enhancing its capacity has helped the domestic industry in significantly reducing the incidence of overhead costs. However, such efforts of the domestic industry to reduce incidence of its overhead costs did not help the industry in improving its profitability. Profitability, on the contrary, declined.

178. Capacity utilization of the domestic industry improved over the injury analysis period. This has to be seen in the context of previous dumping from different countries and consequent imposition of Anti Dumping Duty. However, whereas capacity increased by 15.07%, capacity utilization increased only by 2.45%. Further, the demand increased by 23.17%. Thus, the increase in capacity utilization was sub-optimal and domestic industry had unutilized capacity.

179. Wages per unit of production have increased by \*\*\* %, while total wages paid increased by \*\*\* %. The Authority notes that \*\*\* % wage increase in a period of about three years appeared normal wage increase. In normal circumstances, the cost of production of the domestic industry on account of wages should have proportionately increased. Thus, had the domestic industry not increased its production, its unit cost of production would have increased by about Rs. \*\*\* per kg. on account of increase in wages alone. However, the wages increased only by about Rs. \*\*\* per kg., as the domestic industry was able to absorb the wage increase on higher production. Resultantly, the profitability of the domestic industry should have increased by about Rs.\*\*\* per Kg., thus resulting in higher profits by about Rs. \*\*\* crores. However, in spite of such efforts by the domestic industry, the profitability rather declined. This is clearly due to price effect the imports have had on the domestic industry prices in the market.

180. The Authority notes that the employment level with the domestic industry declined marginally. This is in spite of addition of capacity and higher production. It is found that had the domestic industry increased employment level proportionately, it would have paid higher wages by about Rs. \*\*\* lacs (Rs. \*\*\* lacs as against Rs. \*\*\* lacs actually paid). Thus, the domestic industry should have improved its profitability

by this amount, whereas its profitability deteriorated due to price effect the imports have had on the domestic industry.

181. Lower wages on one hand and increase in production on the other hand significantly helped the domestic industry in improving its productivity. However, in spite of such increase in productivity, the profitability of the domestic industry deteriorated. Had the domestic industry maintained the same level of productivity per employee as it had in 1999-2000, it is found that the domestic industry would have employed about \*\*\* persons. This would have resulted in higher wages by Rs. \*\*\* crores. Thus, improvement in productivity should have increased the profits of the domestic industry by Rs. \*\*\* crores. However, the profitability rather declined due to price effect the imports have had on the domestic industry.

182. Cash profits has followed the same trend as that of profitability. It is noted that the NTCF industry is fairly old in the country. The depreciation cost of the domestic industry is much lower. Therefore, any deterioration in profitability is likely to result to cash losses situation to the domestic industry. In fact, it is found that the domestic industry has been forced to a situation of deteriorating cash losses.

183. Return on investment from production and sale of NTCF for the domestic industry have been negative. It is found that whereas the production has increased, capital employed has declined. This should have enabled the industry to earn better returns on the capital employed. However, return on capital employed deteriorated instead of improving.

184. In view of the foregoing it is observed that:-

- a. the quantum of imports from the subject country has increased in absolute terms and in relation to production and consumption in India;
- b. the market share of the applicants has gone down while that of dumped imports has increased;
- c. the applicants have been forced to sell at prices below their non-injurious price.
- d. the domestic industry has suffered significant price undercutting as a result of dumped imports from subject country.
- e. The profitability of the domestic industry significantly declined.
- f. The return on investments for the domestic industry declined significantly.

## **N. CAUSAL LINK**

185. In accordance with the Principles for Determination of Injury set out in Annexure II (v) of the Anti-Dumping Rules, the Authority examined whether material injury has been caused to the domestic industry by dumped imports. Known factors other than

the dumped imports, which could at the same time be injuring the domestic industry were also examined to ensure that the possible injury caused by these other factors were not attributed to the dumped imports.

### **Effects of the dumped imports**

186. The significant increase in the volume of the dumped imports between 1999-00 and the period of investigation and of its corresponding share of domestic demand from 1.62% to 8.68% as well as the price undercutting found (9.50% on weighted average basis during the POI) coincided with the deterioration of the economic situation of the domestic industry. In examining the price effect, it is seen that the CIF and landed values have further declined significantly in the POI. The domestic industry experienced a deterioration of profitability that has to be seen in the background of growing demand in the injury analysis period and the POI. Dumped imports exerted a downward pressure on domestic industry's selling prices which resulted in a drop in prices (by 12.65%) in a situation where the production costs declined by about 10.00%.

187. The Authority notes that import prices from the subject country have undercut the prices of the domestic product forcing the domestic industry to sell below its non-injurious price which resultantly, the domestic industry was unable to recover from. The impact of dumped imports on the various economic indices of the domestic industry has been examined in the section on Injury in these findings. It is, therefore, considered that the material injury to the domestic industry was caused by the negative impact of dumped imports from the subject country.

### **Effects of Other Factors**

188. In the examination of any known factors other than the dumped imports which at the same time, may be injuring the domestic industry, the Authority has examined import volumes and prices of the subject goods from other third countries. According to the available information, the total import volume of the like product originating in third countries other than China PR increased from around 15632 MT in 1999-2000 to around 15835 MT in the POI and their share in total imports decreased from 93.89 % in 1999-2000 to 70.20 % in the POI. The share of imports from third countries in demand decreased from 24.85% in 1999-2000 to 20.44% in the POI. The weighted average landed prices of these imports remained substantially higher than prices from the subject country in the period of investigation and caused negative price undercutting.

189. It was further found that as per DGC&IS, imports originating in Chinese Taipei, Thailand, Czech republic and Korea RP had a share of more than 3% in total import

volumes. However the landed values of the subject goods from Czech Rep and Chinese Taipei were above the prices of the domestic industry and were significantly higher than the landed prices from China PR. The CIF prices in respect of Korea RP and Thailand were found to be lower. The authority has examined this issue.

190. At the time of mid term review investigations for the same product, it was found that the imports from China were at prices lower than Other countries under investigation at that time (Korea, Indonesia, Taiwan and Thailand). It was also found that the landed price of imports from those countries were higher than the landed price of imports from China and domestic industry. Therefore, it was concluded by the designated Authority that there was no causal link between the dumped imports and injury to the domestic industry.

191. In the present investigation period, it would appear from the published DGCI&S data as also application filed by the domestic industry that the import price from Thailand are lower than the imported price from China. The Authority procured and examined in detail transaction wise import data provided by the DGCI&S. The analysis was also done based on IBIS data.

The Authority notes that the import prices from Thailand were significantly higher than import prices from China, as may be seen from the table below. It may be noted that imports from Thailand were only of dipped NTCF category.

	US \$ per kg.	Rs. Per kg.
China – Ningbo Jinlun	***	***
China – Weifang	***	***
China – Jiangsu	***	***
Thailand – as per DGCI&S	2.678	128.70
Thailand – as per Secondary Sources	2.752	132.24

192. While it is evident from the above that the import prices from Thailand were higher than the import prices from China, it is clarified that the petition showed import prices from Thailand as lower than import prices from China. It was noted that these import prices from China included imports of CTC also (which are priced much higher than dipped fabric prices). Once CTC prices are excluded, it would be seen that the import prices from China were in fact lower than import prices from Thailand.

193. In respect of Korea RP, the authority notes that the volume of imports from Korea has continually declined throughout the injury period. As per DGC&IS and IBIS data, there have been no imports from Korea during the quarter April-June 2003. The exports from Korea were almost nil after September 2002, however the imports again started in the month of Feb 2003 onwards. During this period, however the

prices were higher than that of China. Due to imports in the beginning of the investigation period, the average price for POI as whole is lower. The transaction wise analysis shows that imports in the period of April-Sep 2002 were made by M/s Apollo and reflect apparent exports under one contract and one price. It appears these exports were effected due to some past contractual obligations. Imports made by other users were at comparatively higher prices. No response has been filed by Apollo Tyre and therefore, further facts could not be ascertained in this regard.

194. Imports from Korea appeared again in the period Feb. to April, 2003. These imports were made by different consumer (primarily by J K Industries and very small volume by MRF). These imports were, however, made at prices much higher than China.

195. Therefore the Authority notes that the volume of imports of NTCF from other countries are either de-minimis or the prices are significantly higher. The technology adopted by the domestic industry which involves the processes of polymerisation, spinning, twisting, weaving and dipping, is comparable to the technology used elsewhere in the world for the production of the subject goods. The domestic industry has no export sales of the subject goods. No other factors are reported to have caused material injury to the domestic industry.

196. There is no contraction in demand of NTCF in India which could have contributed to any injury to the domestic industry. In fact demand has increased. The imports from China PR have increased in absolute terms and relative to production and consumption in India. While the domestic industry's share in demand has declined, the share of dumped imports has increased.

## **O. Other issues**

197. Confidentiality of information:- The Authority notes that confidentiality provisions have been adhered to while conducting the present investigations. Information in the nature of confidential information or information provided on confidential basis has been treated confidential in accordance with the Rules.

198. Access to information:- The Authority notes that evidence made available by one party has been made available to other interested parties participating in the investigations, subject to the requirements of confidentiality. Information such as IBIS, ICIS-LOR information has been allowed as confidential information, given the conditions imposed by the supplier of information. In any case, the Authority considers that this information is otherwise available to these interested parties and could have been obtained by any interested party. The Authority also notes that an

information claimed confidential can be disregarded only if it cannot be demonstrated from appropriate sources that the information is otherwise correct. It is also relevant to point out that even though relevant information is available with these interested parties, it is not even an argument of these interested party that any of the information relied upon by the Authority is otherwise incorrect.

199. Duty less than dumping margin:- The Authority has carefully evaluated the injury caused to the domestic industry on account of dumping of NTCF and has determined the amount of injury margin. For this purpose, the Authority has compared the selling price of the domestic industry with the landed value of imports from the subject country.

200. Price undertaking: - The Authority notes that price undertaking offers were made by M/s Shandong Polytex Chemical Fibre Co. Ltd. previously known as Weifang Great Dragon Chemical Fibre Co. Ltd and M/S Ningbo Nylon Co. Ltd and Ningbo Jinlun Import and Export Co. Ltd (NJIE). The authority gave personal hearing to the interested exporters in this regard. M/s Shandong while offering their prices also disclosed their present export prices and has agreed to revise its prices periodically, in line with changes in caprolactam prices. Price undertaking offered by Shandong has been accepted by the Authority. However, price undertaking offered by Ningbo Jinlun could not be accepted, as the exporter has not offered separate prices for grey and dipped NTCF and has not agreed to link the prices to changes in the major raw materials. The Authority notes that given the nature of the product, it would not be appropriate to accept a price undertaking in the form and manner given by Ningbo Nylon.

## **P. LANDED VALUE**

201. The landed value of imports is determined on the basis of export price of NTCF determined as detailed above in the para relating to dumping, after adding the prevailing level of customs duties and one per cent landing charges.

## **Q. FINAL FINDINGS**

202. It is seen after considering the foregoing that:

- a. NTCF of all types described under para B 4 originating in or exported from China PR has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered material injury;
- c. material injury has been caused by dumped imports from the subject country.

203. An offer for price undertaking was made by M/s. Shandong Polytex Chemical Fibre Co. Ltd. (previously known as M/s. Weifang Great Dragon Chemical Fibre Co. Ltd.) with its registered office at Wennan Road, Anqiu City, Shandong, China, as per details given in the confidential and non confidential price undertaking offered by the exporter. The exporter has submitted that they have been exporting Dipped NTCF only. Details of the price undertaking are as follows:-

Type of fabric	Minimum agreed	Price basis
	Price	
	US \$ per kg.	
Dipped NTCF	2.850	CIF

The exporter has agreed to proportionately revise its prices with each US \$ 0.010 per kg. change in caprolactam prices by a factor of US \$ \*\*\* per kg., considering a base price of US \$ \*\*\* for caprolactam in the POI and changes in the prices as reported by ICIS-LOR for Asia Region in the preceding quarter. The exporter has also agreed to provide relevant information to the Designated Authority periodically with regard to actual shipments made and adherence to the said price undertaking. In accordance with Rule 15, on acceptance of price undertaking of M/s Shandong Polytex Chemical Fibre Co. Ltd. (previously known as M/s. Weifang Great Dragon Chemical Fibre Co. Ltd.), the investigation in respect of this exporter is suspended.

204. It is decided 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. Accordingly, it is proposed that definitive anti-dumping duties be imposed on Nylon Tyre Cord Fabric originating in or exported from China PR, falling under customs sub-heading no. 5902.10 of Chapter 59 of the Customs Tariff Act 1975 and 5902.10.00 of the ITC (HS) Code. The anti-dumping duty shall be the amount mentioned in Col.9 below.

Sl. No	Sub Heading or Tariff Item	Description of Goods	Specifications	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.	5902.10	NTCF	All Grades	China PR	China PR	Ningbo Nylon	Ningbo Jinlun Import and export co.	0.54	Kg.	USD

2.	5902.10	NTCF	All Grades	China PR	China PR	Any	Ningbo Jinlun Import and export co.	0.54	Kg.	USD
3	5902.10	NTCF	All Grades	China PR	China PR	Ningbo Nylon	Any	0.54	Kg.	USD
4	5902.10	NTCF	All Grades	China PR	China PR	Jiangsu Qunfa	Any	0.56	Kg.	USD
5	5902.10	NTCF	All Grades	China PR	China PR	Any	Jiangsu Qunfa	0.56	Kg.	USD
6	5902.10	NTCF	All Grades	China PR	China PR	Any	Any	0.81	Kg.	USD

205. Subject to the above, the Authority confirms the preliminary findings dated 30th June 2004.

206. Landed value of imports for the purpose shall be assessable value as determined under the customs Act,1962 and all duties of customs except duties levied under Section 3, 3A, 8B,9 and 9A of the customs tariff act.

207. An appeal against this order shall lie before the Customs, Excise and service tax) Appellate Tribunal in accordance with the Customs Tariff Act.

**(Christy L. Fernandez)**  
DESIGNATED AUTHORITY