

**Ministry of Commerce and Industry**  
**Directorate General of Anti-Dumping & Allied Duties**

**Notification**

New Delhi, the 30th June, 2004

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

**F. No. 14/20/2003-DGAD** – Having regard to the Customs Tariff Act 1975 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.

- 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,  
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.
- Weifang Great Dragon Chemical Fibre Co. Ltd.  
Wennan Road, Anqiu,  
Shandong Province,  
China PR.
- Jiangsu Qunfa Chemical Co., Ltd.  
3 Taiping Beilu,  
Yangzhou,  
Jiangsu Province, China PR.

- 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. A questionnaire for according market economy treatment was forwarded to all the known exporters and the Embassy of the Peoples' Republic of China. 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 claim of the applicant in the light of para (7) & (8) of Annexure-II 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 sub-paragraph (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. 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.
- xiv. 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.
- xv. \*\*\* In this notification 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.

- xvi. 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).

## **B. PRODUCT UNDER CONSIDERATION**

2. 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 goods 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, animal driven vehicles etc.
3. 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. 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 Custom Tariff Act. The classification is however indicative only and in no way binding on the scope of the present investigations.

## **C. LIKE ARTICLE**

4. The product under consideration has included all types within its scope as given in Para B above. The domestic industry also manufactures a small quantity of Cycle Tyre Cord as given in their application 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. The quantum of CTC fabric produced by the domestic industry was 1.22% of the total production of the subject goods by the domestic industry during the POI. 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.
5. 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, functions and uses and tariff classification have been considered by the Authority.

6. 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).

## **D. DOMESTIC INDUSTRY**

7. The Association of Synthetic Fibre Industries (ASFI) New Delhi has filed the petition on behalf of M/s SRF Limited, Chennai, M/s NRC Limited Mumbai, M/s Century Enka Limited Pune, and M/s Nirlon Ltd. Mumbai who are the producers of NTCF in India and who are the members of the association.
8. The details of quantities produced by domestic producers are given in the table below:-

|                        | <b>1999-2000</b> | <b>2000-01</b> | <b>2001-02</b> | <b>POI</b> | <b>POI (annl)</b> |
|------------------------|------------------|----------------|----------------|------------|-------------------|
| <b>Production (MT)</b> |                  |                |                |            |                   |
| Grey                   | 41015            | 38690          | 42352          | 61620      | 49296             |
| Dipped                 | 4229             | 2644           | 4478           | 9528       | 7622              |
| CTC                    | 744              | 728            | 648            | 877        | 702               |
| Total production       | 45988            | 42062          | 47478          | 72025      | 57620             |

9. 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.
10. The Authority notes therefore that the applicants constitute “domestic industry” and have the required standing to file the present petition under the Rules.

## **E. SUBMISSION OF INFORMATION**

11. Arguments raised by interested parties after the notification of the initiation of these investigations are reflected in these findings to the extent that they are considered relevant to these investigations.

## **F. VIEWS GIVEN by domestic industry**

12. The applicants have raised the following major issues in their application and in their subsequent submissions:

- i. M/s. SRF Ltd., M/s. NRC Ltd., M/s. Century Enka Ltd., & M/s. Nirlon Ltd. are the producers of subject goods (NTCF) in India, who are members of the Association and who have in particular supported the application.
- ii. The applicants have stated that there is no viable substitute for the product.
- iii. The applicants consider that the subject goods are being dumped by the exporters and producers in the People's Republic of China
- iv. The subject country has been exporting the product under consideration since quite sometime (more than four years). But the exports started increasing significantly since 2000-01 due to continuous reduction in the export price. Dumping intensified with the imposition of Anti Dumping Duty earlier on other sources.
- v. China produces and exports both dipped fabric as also grey fabric. The price difference between the dipped fabric and grey fabric is as high as 15-20%. Such being the case, combined information on average basis for dipped and grey imports of NTCF from China would in any case not be appropriate and would not be useful for establishing correct export price. In addition to grey and dipped fabric used for main segments of tyre, China has been exporting cycle tyre cord fabric also. The construction of this fabric is normally 840D/1 and the cost of production of this fabric is higher than fabric used for other category of tyres and this fabric prices are normally much higher than the fabric meant for other heavier duty tyre cord applications.
- vi. Applicant Companies broadly make two types of subject goods - Grey NTCF and Dipped NTCF. M/s SRF manufactures CTC fabric. Further, the product is produced in a number of deniers. Different forms of the subject goods are produced to meet specific customer requirements. The product, irrespective of various denierage/forms —
  - Has essentially similar product characteristics,
  - Is produced using the same production process and raw materials, and
  - Is categorized under a single Custom Tariff code.

All these various types of subject goods are within the scope of the present investigation.

- vii. There is no known difference in the subject goods (NTCF) exported from China PR and that produced by the applicant companies. Subject goods in various grades produced by the domestic industry and imported from China PR are comparable in terms of essential product characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the subject goods. Consumers can use and are using the two interchangeably. Imported and domestic subject goods are technically and

commercially substitutable. The applicant submits that the subject goods produced by the applicant companies and the subject goods imported from China PR are like articles within the meaning of the anti-dumping rules.

- viii. There is no known difference in the technology adopted by the applicant companies and by the producers in China PR. Production technology as also production process employed by the domestic industry and the exporters from China PR are comparable even though every manufacturer fine-tunes its production process according to available facilities and necessities.
- ix. In addition to the material injury already inflicted on the domestic industry, imports from the subject country are posing threat of material injury to the domestic industry.
- a. There is significant increase in the import volumes (imports more than tripled in the proposed POI as compared to previous year). This increase in imports is in spite of best efforts of the Indian producers to sell their material. Thus, the increase would have been more, had the domestic industry not made efforts to curtail the same by offering matching prices.
  - b. Price undercutting is significant.
  - c. Capacity created by the producers in the subject country are far more than their domestic demand. These producers are in fact saddled with excess capacity.
  - d. While inventories of the article with the domestic industry are not showing significant increase due to concerted efforts of Indian producers to reduce the inventories, Indian producers understand that the producers in the subject country are saddled with higher inventories.
  - e. The applicants conducted extensive analysis of exports of NTCF world over by China PR. The following are relevant in this regard:

- Exports of NTCF from China world over have witnessed very significant increase, as would be seen from the information given below:

2000-01           =       15000 MT

2001-02           =       16000 MT

2002-03           =       25000 MT

- China was earlier exporting this product primarily to Thailand. This has, however, now shifted to India, with exports to India becoming highest in volume.
- China's export price of the subject goods to India was de-facto the lowest. While the average price at which China was exporting world over was USD 2.77/kg, the average price at which the goods have been exported to India

was USD 2.31/kg. in 2002-03. Similar was the trend for previous years also, as would be seen from the table below:

| <b>China Export NTCF Price (USD/kg.)</b> | <b>2000-01</b> | <b>2001-02</b> | <b>2002-03</b> |
|--|----------------|----------------|----------------|
| World average excluding India            | 3.24           | 2.97           | 2.77           |
| Export Price to India                    | 3.15           | 2.86           | 2.31           |
| Price differential                       | 0.09           | 0.11           | 0.46           |

It would be seen that not only did the price differential always exist between the export price to India and export price to the rest of the world but the price differential consistently increased. Under the above circumstances, threat of injury is not a conjecture or remote possibility but real and imminent.

- One of the vital facts to note is that Indian demand is quite low considering world's standard (demand has in fact shown some increase only recently), the production capacities of individual producers in China PR are quite significant in the light of Indian demand. In fact, Indian producers understand that some of the Chinese producers have plant sizes as high as entire Indian demand.

## **G. VIEWS OF IMPORTERS, EXPORTERS AND OTHER INTERESTED PARTIES**

### **(A) Importers views**

#### **I. Automotive Tyre Manufacturers' Association (ATMA)/M/s Ningbo Nylon Co. Ltd.**

13. The Designated Authority is requested to kindly ask the domestic industry to provide certain information kept confidential by the domestic industry in their application. If the domestic industry is not agreeable to disclose the so called confidential information, the same may be disregarded in terms of Rule 7 (3) read with the latest judgement of the Hon'ble Supreme Court in the case of M/s. Sterlite Industries (India) Ltd. v/s. Designated Authority in Civil Appeal No. 5173-5175/2001.

- i. The domestic industry has failed to fulfill the requirements of Rule 5 (1) and (2) concerning the tests of sufficiency, adequacy and accuracy of evidence as obligated under the Rules. These are:
  - a. Import information should have been provided in the non-confidential version of the Application. No confidentiality can be claimed on data which is available

in public domain. The Designated Authority ought to have examined the import information as received as supplied by the secondary source namely IBIS.

- b. The non-confidential version of the Application contains data only for the period Apr-00 to Mar-03 and not for the entire period of investigation.
- c. The data provided by the domestic industry in Proforma IV A has not been indexed properly.
- d. The domestic industry has indexed data on which no confidentiality can be claimed in terms of the provisions of the WTO Agreement on Anti-Dumping or the Anti-Dumping Rules in India. For instance, the standards as laid down under the legal provisions do not permit confidentiality on information such as capacity, production, import data etc. Actual figures must be disclosed to enable the user industry to offer its comments on product-wise analysis.
- e. No information has been provided for the grade-wise profitability for the product under consideration.
- f. No information has been provided with regard to the grade-wise price underselling and Proforma IV B provided in the non-confidential version indicates only the average price underselling for all types of NTCF together.
- g. Para (vi) of Annexure II of the Anti-Dumping Rules clearly envisages separate injury analysis of different types of like articles when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. In the instant case, the non-confidential version itself shows that the domestic industry has all the data for different types of NTCF namely, Grey, Dipped and CTC. There is, therefore, no reason for not carrying out the injury analysis separately for each of the above types of "like article".

ii. Constructed Normal Value

The domestic industry has not given any details of the calculation of the constructed normal value and the export price in the non-confidential version.

iii. Absence of Injury

- a. Production: The production of the domestic industry has gone up by about 24% for Grey, 200% for Dipped and 348% for CTC during the period of investigation.
- b. Capacity and Capacity Utilisation: Admittedly, the capacity of the domestic industry has increased over the years and therefore, it is not even claimed to be a factor of injury. The capacity utilisation for Grey has gone up by about 10%, 200% for Dipped and about 3% for CTC in the POI as compared to the base period.

- c. Sales: The domestic sales of the domestic industry have gone up by about 23% for Grey, 236% for Dipped and 6% for CTC during the POI.
- d. Inventories: Admittedly, the stocks of the domestic industry have declined from an index of 100 in 2000-01 to 44.95 in 2002-03.
- e. Productivity: Productivity has increased from an index of 100 in 2000-01 to 123.8 in 2002-03.
- f. Growth: The Domestic Industry has indicated the growth in sales quantity as 5461 MT in 2000-01, 2747 MT in 2001-02 and 6407 in 2002-03.
- g. Employment: It has been stated by the domestic industry that they have been forced to reduce employment whereas it should have increased due to additions to the capacities. It is respectfully submitted that the domestic industry have given misleading information to the Designated Authority. Kind attention of the Hon'ble Designated Authority is invited to the relevant extracts of the balance sheet of M/s. Nirlon Ltd. one of the constituent of the domestic industry, for the year 2002-03, reproduced below:

"The Company in its ongoing drive to bring down employment costs has offered Voluntary Retirement/Pension Schemes to 938 employees between 1993-2003 costing Rs. 2150 Lacs."

- h. Selling Price: The selling price of Grey Fabric has improved to an index of 86.34 in 2002-03 from 85.78 in 2001-02. While the selling price for CTC has changed very marginally the selling price for dipped fabric has gone up. It may be appreciated that such marginal fluctuations are bound to occur in any market governed by forces of demand and supply.
- i. Profit: The domestic industry has not given the total profitability figures. Instead, the domestic industry has given the profitability per MT. The overall profitability of all the units constituting the domestic industry is required to be provided.
- j. Ability to raise capital investments: The domestic industry has not advanced any reason much less evidence to demonstrate that their ability to raise fresh investment has been adversely affected. One of the applicant companies has enhanced its capacities and it is further stated that "more additions of capacities are being planned".
- k. Market Share: A plain analysis of the information supplied in proforma IV A indicates that the market share of the domestic industry has increased from 70.01% in 2000-01 to 73.18% during 2002-03, an increase of 3.17%. At the same time, while the imports from other countries have declined by 7.85%, the Chinese imports have risen by 4.68% only during the period of investigation.
- l. Return on investments: No claim has been made by the domestic industry on this important factor of injury.

- m. Cash flow: It has been claimed that the Indian producers are still faced with sub-optimal cash flow even though the same is positive.
- n. Wages: No injury has been claimed on account of this factor.
- o. Factors affecting domestic prices: The domestic industry has not submitted any information nor made any claim with regard to factors affecting domestic prices.

iv. Absence of Causal Link

The alleged injury, if any, to the domestic industry cannot be attributed to the alleged dumped imports.

- a. The domestic industry has given incomplete information with regard to the process of negotiation and determination of prices between Indian producers and the user industry. The exporters understand that the prices of Chinese imports never formed a basis for determination of the domestic prices.
- b. From the data submitted by the domestic industry itself, it is clear that the cif value of Chinese imports is higher than the cif value of imports from other countries against whom no case for investigation has been filed by the domestic industry.
- c. It is admitted by the domestic industry that their profitability deteriorated even after imposition of anti-dumping duty on dumped imports against four countries in the earlier case.

14. Examination by the Authority:

The Authority has taken note of the submissions made by ATMA and Ningbo Nylon and has addressed them in the section on injury in these findings. The Authority has relied upon transaction-wise import data of the subject goods made available by the DGCIS. The non-confidential version of the application for the POI and data provided by the domestic industry in proforma IV A (indexed form) is available in the public file. Grade-wise profitability and injury analysis for each type of the product under consideration has been carried out for the injury analysis period and the period of investigation.

II. Birla Tyres

- i. Birla Tyres manufactures tyres, tubes and flaps and is an importer on own account.
- ii. The information relating to imports in India has been provided by them for the period of investigation and the two previous years.

- iii. NTCF is stated to have not been imported under advance licence during this period.

#### 15. Examination by the Authority

- i. While no imports of the subject goods were made by them from China PR during Apr-00 - Mar-01 and Apr-01 - Mar-02, a quantity of \*\*\* kg of a landed value of \*\*\*(Rs \*\*\*/kg) was imported from M/s Ningbo Jinlun, one of the respondent exporters from China PR and \*\*\* kg at landed value of \*\*\*(Rs \*\*\*/kg) was imported from M/s Shanghai Chemical.
- ii. The Company has furnished a report regarding the quantity, value and rate details of largest purchase from domestic producers viz., M/s. Century Enka. In 2000-01, a quantity of \*\*\* kg was purchased at a weighted average rate of Rs. \*\*\*/kg; and in 2001-02 a quantity of \*\*\* kg. was purchased at a weighted average rate of Rs. \*\*\*/kg. In the POI, a quantity of \*\*\* kg. was purchased at a weighted average rate of Rs. \*\*\*/kg. These purchases were all of 1680/2 denier nylon fabric. Domestic prices declined by 16.02% in the POI as compared to 2000-01.
- iii. For 1260/2 Denier Nylon Fabric, a quantity of \*\*\* kg was purchased at a weighted average rate of Rs. \*\*\*/kg; and in 2001-02 a quantity of \*\*\* kg. was purchased at a weighted average rate of Rs. \*\*\*/kg. In the POI, a quantity of \*\*\*kg. was purchased at a weighted average rate of Rs. \*\*\*/kg. Domestic prices declined by 17.66% in the POI as compared to 2000-01.

#### III. MRF Limited, Chennai

MRF Ltd. is a manufacturer of automobile tyres, tubes, flaps, tread rubber, other rubber products etc. In their response to the Importers Questionnaire they have stated that purchase of NTCF from overseas suppliers is done on a quarterly basis.

#### 16. Examination by Authority:

- i. A quantity of \*\*\* kg. of a cif value of Rs. \*\*\*/kg. was imported from China PR in 2000-01 and a quantity of \*\*\* kg. of a cif value of Rs. \*\*\*/kg was imported from China PR during 2001-02. In the POI, a quantum of \*\*\*kg. was imported at a significantly lower cif value of Rs. \*\*\*/kg from China PR. It is seen that cif prices declined by 25.75% in the POI as compared to 2000-01. While no imports were made from Chinese Taipei during the POI, imports from Indonesia and Korea RP during the POI were at higher landed values which were Rs. \*\*\*/kg. and Rs. \*\*\*/kg. respectively. As against this, the landed value from China PR was far lower at Rs. \*\*\*/kg.

- ii. The subject goods from domestic producers were at rates which gradually declined from 2000-01 till the POI. These rates were Rs. \*\*\*/kg in 2000-01, Rs. \*\*\*/kg. in 2001-02 and Rs. \*\*\*/kg. in the POI. Domestic prices declined by 19.33% in the POI as compared to 2000-01.

#### IV. JK Industries Ltd., New Delhi.

The importer has pointed out that Bias Tyres manufacturing is currently concentrating only in Asia and Nylon Tyre Cord which is required for Bias Tyres is mainly manufactured in Asia. In the developed economies, mainly USA and Europe, there is more radialisation and where polyester is used in passenger radial tyres and steel tyre cord in truck and bus radial tyres. Thus in these countries availability of nylon fabric is very limited. China has emerged as a new competitive source and JK Industries is still in the process of trials for approval of the material.

#### 17. Examination by Authority:

The company imported a quantity of \*\*\* kg as duty paid imports during the POI at a cif price of Rs. \*\*\*/kg. and a landed value of Rs. \*\*\*/kg from Ningbo Jinlun Import and Export Company Ltd., China. The cif value and landed prices were significantly lower than the landed prices from Korea RP, Indonesia and Chinese Taipei which were Rs. \*\*\*/kg, \*\*\*/kg. and Rs. \*\*\*/kg. respectively in the POI. It is further seen that the landed values from China in the POI have declined significantly in comparison with the landed value of the subject goods in 2001-02 which was Rs. \*\*\*/kg. i.e. landed value from China PR declined by 16.23% in the POI.

#### V. Helar Marketing & Consultants Pvt. Ltd., Chennai

- i. This company is functioning as agents for Weifang Great Dragon Chemical Fibre Co. Ltd. and Steed Chemical Fibre Limited Company who are manufacturers of the subject goods in China PR.
- ii. This company would like to be a party to the proceedings of the anti-dumping case and would like to represent the above two companies during the hearing/proceedings.

#### **(B) Exporters Views**

##### I. Ningbo Nylon Co.Ltd

The submissions of Ningbo Nylon are similar to those given by ATMA and may please be seen at Para G I above.

## II. Weifang Great Dragon Chemical Fibre Company Ltd. and Shandong Polytex Chemical Fibre Company Ltd.

- i. The exporter intends to prove that there is no injury being caused to the domestic industry in India by the export of NTCF by these companies and the exports are being made on a purely competitive basis. This is in fact proved further by the fact that has been recorded by the petitioners that the exports of NTCF from China world over have witnessed very significant increase. The fact that exports of NTCF have recorded a significant world wide increase is certainly indicative of the capacity of the Chinese producers, including these companies, to compete on a global scale and should not be confused with dumping.
- ii. The normal value should be determined under Para 1 to 6 of the Annexure to the AD Rules and not be subjected to the constructed cost approach. Polytex has made available all the relevant material for this purpose as part of its replies to the Exporters questionnaire and its separate statement on working under market condition and further as a cooperating party will make available any additional material that may be needed.
- iii. As per the P&L Statements enclosed, these companies have been making profits and as such its sales prices have been determined strictly by the prevailing market forces, competition and profitability. It is true that the market price of NTCF in the domestic market has been coming down and this has also been reflected in the FOB export price of NTCF. This has been the result of a sharp fall in raw material prices.
- iv. The assumptions by the petitioners 'that some of the Chinese producers have plant size as high as the entire Indian demand, threat of dumping is not conjecture or a remote possibility and real and imminent' are mere conjecture based on fear of competition and an attempt to secure protection from competition rather than face the values of an open market condition.
- v. The fear of the petitioner stems from the impact of facing competition and is established by the contention of the petitioners in the petition, that the Indian industry is being forced to benchmark its price to the prices 'being offered by Chinese producers. Reluctance of the Indian producers to do so is resulting in loss of business'.
- vi. The price being charged for NTCF is significantly higher than the price at which the petitioner has claimed that imports from China PR are taking place and it is also clear that the prices being charged by the exporting companies do not vary from the average price shown by the petitioner for imports from Taiwan, Indonesia, Korea or Thailand.

## III. Jiangsu Qunfa Chemical Company Ltd.

- i. While Jiangsu is not a cited party in this petition, they would like to cooperate fully with the Authority in these investigations.
- ii. general, the exporter has put forward the same arguments as given by Weifang Great Dragon Chemical Fibre Company Ltd. and Shandong Polytex Chemical Fibre Company Ltd. with regard to this anti-dumping investigation.

#### IV. Chemical Fibre Company Ltd.

- i. This respondent has stated that they did not export the subject product directly or indirectly to the Indian market during the POI and thus neither dumped nor caused any injury to the Indian domestic industry.
- ii. They are contemplating seeking a new shipper review after the final finding is made for the present investigation pursuant to Article 22 under Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995.
- iii. Nonetheless they would like to cooperate with the present investigation and furnish relevant data if so required by DGAD.

### **H. EXAMINATION OF THE ISSUES RAISED**

18. The submissions made by the applicants, exporters/producers and importers/user industry to the extent they are relevant under the Rules and have a bearing upon the case, have been examined and dealt with at appropriate places hereunder.

### **I. EXAMINATION OF RESPONSE TO MARKET ECONOMY TREATMENT QUESTIONNAIRE**

19. 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.
20. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove 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 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.

I. Response to the MET Questionnaire by M/s. Ningbo Nylon Company Ltd -

21. M/s. Ningbo Nylon Company Ltd. has furnished a reply to the MET questionnaire. The Authority notes that M/s. Ningbo Nylon Co. Ltd. is stated to be a wholly privately owned Chinese Ltd. liability company. In the articles of Association, it is stated that the amount of registered capital is \*\*\* RMB in which \*\*\* is for legal person and \*\*\* shares are of internal staff and workers. 97.67% of total common shares was issued to the promoters of the company and 2.33% was issued to the staff and workers of the company. While the names of the promoter companies have been given, in which there are corporations concerned with rural development, local industry supply and marketing and municipal land reclamation and cultivation, the response does not clearly specify if any of these promoter companies are state owned.
22. As per information made available by the applicants and as available on the web site of Kingrin Group Co viz., <http://www.kingrin.com>, it appears that 97.78% of Ningbo Nylon is owned by a Company called Kingrin Corporation, which was established in 1982. 67.87% of the said Corporation is owned by village and township cooperatives. Kingrin Group Co. is stated to be the largest manufacturer and supplier of dipped nylon tyre cord fabrics in Asia and is one of the largest enterprises in China. Ningbo Nylon Co. Ltd., is stated to be the leading enterprise of the group. The Group has been in the first place among the township enterprises in Zhejiang province for 6 successive years. From all of the above, it cannot be concluded that there is absence of significant state interference in the respondent company.
23. The company has given English translations of Company Law, Labour Law and Accounting Law and the Articles of the Association.
24. The respondent company is buying about 60% of its major raw material i.e. Caprolactum from overseas markets, while the balance 40% is procured from

within China. No response has been furnished in respect of the method of procurement from suppliers within China, nature of suppliers of raw materials and rates of raw materials procured which were specifically asked in the MET questionnaire.

25. It is stated that electricity and steam is procured from Cixi Jinlun Energy Development Co. Ltd., which is stated to be a privately owned company. However, no indication has been given in the form of data and evidence as regards prevailing market prices. Lack of indication as regards prevailing market prices is also applicable in respect of supply of water. The exchange rate is stated to have fluctuated between 1USD = 8.27-8.28 RMB during the POI. There is one single exchange rate i.e. 8.2799 for purchase of inputs and conversion of the proceeds of export sale.

### II. Response to the MET Questionnaire by M/s. Weifang Great Dragon Chemical Fibre Company Ltd. and Shandong Polytex Chemical Fibre Company Ltd. and M/s Jiangsu Qunfa Chemical Company Ltd.

26. The exporters named above have provided a statement on operating under market economy conditions and have not provided replies to the specific questions in the MET questionnaire. In the case of Weifang Great Dragon, water, electricity and steam are supplied by companies which are all state owned. Jiansu Qunfa is a jointly owned company by the state and its own employees. In the case of Jiansu, the main raw materials and utilities are supplied by state owned companies.

### III. Response to the Exporters Questionnaire :

27. The Authority has analysed the information furnished by the following co-operating manufacturers/producers in China PR.
- i. M/s Ningbo Nylon Company Ltd.
  - ii. M/s Weifang Great Dragon Chemical Fibre Company Ltd. and Shandong Polytex Chemical Fibre Company Ltd..
  - iii. M/s Jiangsu Qunfa Chemical Company Ltd.
28. The Authority notes that the information on cost of production and domestic sales by respondent exporters has revealed discrepancies in the claims made and data furnished. The test of domestic sales being in the ordinary course of trade is not possible in the absence of complete cost data and segregated domestic sales of the various types of the subject goods by the cooperating exporters thus, 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.

29. The Authority notes that respondent exporters/producers have furnished inadequate information/evidence in respect of the criteria for rebutting the presumption of a non-market economy as per sub-para (3) of para 8. The respondent exporter has merely made certain assertions and claims which are not supported by evidence. The Authority is therefore, unable to determine whether the cooperating firms are operating on market principles of cost and pricing structures.
30. The detailed deficiencies are being communicated to individual exporters on confidential basis. Any response to this will be examined during the progress of investigation and after due verification, wherever required.
31. In view of the above, Authority is unable to arrive at any determination with regard to normal value and cost of production of the subject goods in China PR as per data submitted by them.
32. As per the provisions of Annexure I, Paragraph 7 & 8 of the Anti Dumping Rules as amended from time to time, normal value should be determined as under: -
  - a. on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or
  - b. Where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin.
33. Since the data on cost of production and domestic sales has discrepancies and is not available for the types/grades of the subject goods, 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. No clear understanding has emerged from the response to the MET questionnaire in respect of cost and pricing structures being in response to market signals. The Authority is therefore unable to apply the principles set out in paragraphs 1 to 6 and is constrained to proceed as per provisions of Annexure I, Paragraph 7 & 8 of the Anti Dumping Rules as amended from time to time, for the purpose of these preliminary findings. The issue of granting market economy status or otherwise will be further examined during the course of the investigation and subject to compliance of deficiencies and verification of the further information provided.

## **J. DUMPING**

## 1. Normal Value

34. Under the circumstances, information available on the estimated cost of production plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for constructing the Normal value of the subject goods in China PR for Grey, Dipped and CTC type. The weighted average Normal value has been constructed after taking specific quantities of Grey, dipped and CTC. The authority notes that based on information available, weight of CTC in total imports is marginal. The weighted average thereof has been considered as USD \*\*\* per kg after considering the average exchange rate during POI of 1USD=Rs. 48.40.

## 2. Export Price

35. The ex-factory export price has been determined as per data available with the Authority. The authority has weighted average CIF price as well as wtd. Avg. FOB price for NTCF. After considering reasonable adjustment on account of inland freight only, the weighted average ex-factory export price for NTCF comes to USD\*\*\* per kg. The average exchange rate of Rs 48.40=1USD during the period of investigation has been adopted.

## **Dumping Margin**

36. This gives a weighted average dumping margin of 41% and USD\*\*\* per kg for NTCF.

## **K. INJURY**

37. 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.

38. 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.

**(A) Quantum of Imports (as per DGCIS) :-**

Qty: MT      Unit Price: Rs. / kg

|                                   | 1999-2000       |               | 2000-01         |               | 2001-02         |               | POI             |               | POI (annl.)     |               |
|-----------------------------------|-----------------|---------------|-----------------|---------------|-----------------|---------------|-----------------|---------------|-----------------|---------------|
|                                   | Qty             | Unit Price    |
| <b>Individual Country Imports</b> |                 |               |                 |               |                 |               |                 |               |                 |               |
| China PR                          | 1017.08         | 124.3         | 1984.56         | 120.74        | 1677.04         | 138.34        | 6095.79         | 116.08        | 4876.63         | 116.08        |
| Other Countries                   | 15632.35        | 126.32        | 16267.99        | 149.13        | 12521.88        | 135.87        | 19793.77        | 124.99        | 15835.01        | 124.99        |
| <b>Total imports</b>              | <b>16649.43</b> | <b>126.20</b> | <b>18252.55</b> | <b>146.04</b> | <b>14198.92</b> | <b>136.16</b> | <b>25889.56</b> | <b>122.89</b> | <b>20711.65</b> | <b>122.89</b> |
| <b>Market Share</b>               |                 |               |                 |               |                 |               |                 |               |                 |               |
| China                             | 6.11%           |               | 10.87%          |               | 11.81%          |               | 23.55%          |               | 23.55%          |               |
| Others                            | 93.89%          |               | 89.13%          |               | 88.19%          |               | 76.45%          |               | 76.45%          |               |

39. The Authority has relied upon DGCIS data. 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 (indexed) from the subject country was as follows:

| China PR     | Qty (MT)   | Value (Rs.) | Rate (cif Rs./kg.) |
|--------------|------------|-------------|--------------------|
| Grey Fabric  | 57         | 55          | 96                 |
| Dipped       | 36         | 38          | 104                |
| CTC          | 7          | 7           | 112                |
| <b>Total</b> | <b>100</b> | <b>100</b>  | <b>100</b>         |

40. The Authority notes that the share of China in total imports has increased from 6.11% in 1999-00 to 23.55% in the POI. The share of other countries has declined from 93.89% in the base year to 76.45% in the POI.

41. 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        |
|        | <b>7970519</b> | <b>890883000</b> | <b>111.77</b> |

42. The quantity reported for NTCF is much higher than that reported by the DGCIS and per unit weighted average prices are lower.

43. The Authority also notes that as per information given by the participating exporters, the volume of NTCF exported during the POI by them was 8427.308 MT. There could have been other companies also who might have exported the material and who have not responded to the Authority.

**(B) Demand :-**

|  | Qty:MT          |                 |                 |                 |                 |
|--|-----------------|-----------------|-----------------|-----------------|-----------------|
| Sales  | 1999-2000       | 2000-01         | 2001-02         | POI             | POI (annl.)     |
| Grey   | 42036.29        | 38487.47        | 42641.1         | 59654.03        | 47723.23        |
| Dipped   | 4207.76         | 2069.65         | 4029.46         | 8852.42         | 7082.14         |
| CTC  | 744             | 728             | 648.45          | 876.84          | 701.47          |
| <b>Total Sales (Domestic Industry)</b>               | <b>46988.05</b> | <b>41285.12</b> | <b>47319.01</b> | <b>69383.29</b> | <b>55506.84</b> |
| <b>Total Imports (as per DGCIS)</b>                  | <b>16649.43</b> | <b>18252.55</b> | <b>14198.92</b> | <b>25889.56</b> | <b>20711.65</b> |
| Imports (China PR)                                   | 1017.08         | 1984.55         | 1677.05         | 6095.79         | 4876.63         |
| Imports (Other sources)                              | 15632.35        | 16267.99        | 12521.87        | 19793.78        | 15835.02        |
| <b>Demand</b>  | <b>63637.48</b> | <b>59537.66</b> | <b>61517.93</b> | <b>95272.86</b> | <b>76218.5</b>  |
| Share of domestic industry (petitioners) in Demand % | 73.84%          | 69.34%          | 76.92%          | 72.83%          | 72.83%          |
| Share of imports %                                   | 26.16%          | 30.66%          | 23.08%          | 27.17%          | 27.17%          |
| Share of dumped imports from China PR %              | 1.60%           | 3.33%           | 2.73%           | 6.40%           | 6.40%           |
| Share of Others %                                    | 24.56%          | 27.32%          | 20.35%          | 20.78%          | 20.78%          |
| <b>Domestic Production</b>                           | <b>45988</b>    | <b>42062</b>    | <b>47479</b>    | <b>72025</b>    | <b>57620</b>    |
| Share of China Imports relative to Production        | 2.21%           | 4.72%           | 3.53%           | 8.46%           | 8.46%           |
| Share of Imports from China relative to Consumption  | 1.60%           | 3.33%           | 2.73%           | 6.40%           | 6.40%           |

44. The authority notes that in the injury analysis period, the demand increased by 19.77%, the production increased by 25.29% whereas the sales of domestic industry could increase by 18.13% only. The domestic industry's share in demand declined and share of imports have gone up marginally. The increase in the production of the domestic industry has not been matched with a corresponding 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.
45. If imports from China are considered as per China Customs data reflected in World Trade Atlas, the share of China would be 9.57% in the period of investigation. Share of domestic industry and others in demand would further decline to 66.66% and 23.77% 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 |
| Total Sales (Domestic Industry)               | 55506.84 |
| Demand  | 83271.14 |
| Share of Domestic industry                    | 66.66%   |
| Share of China                                | 9.57%    |
| Share of Others                               | 23.77%   |

46. The Authority also notes that as per Word Trade Atlas, exports of NTCF from China have increased from 2087 MT (April, 01 to June, 02) to 7971 MT during POI and to 12574 MT for the period April, 03 – April, 2004. It is noted that there are variations in the import data. The Authority proposes to examine these variations during the course of the investigation. However, for the purpose of the preliminary findings, the Authority has relied upon transaction-wise DGCIS data.

**(C) Actual and Potential Decline in Market Share :-**

47. The Authority notes that based on DGCIS data, market share of domestic industry declined marginally. 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.

**(D) Actual and Potential Decline in Sales :-**

|  | 1999-2000 | 2000-2001 | 2001-2002 | POI (Ann) |
|--|-----------|-----------|-----------|-----------|
|--|-----------|-----------|-----------|-----------|

|                                    |              |              |              |              |
|------------------------------------|--------------|--------------|--------------|--------------|
| <b>Sales (MT)</b>                  | <b>46988</b> | <b>41285</b> | <b>47319</b> | <b>55507</b> |
| % Change                           |              | -12.14%      | 14.61%       | 17.30%       |
| Sales Realisation                  |              |              |              |              |
| Weighted Average (Rs./kg.)         | ***          | ***          | ***          | ***          |
| Weighted Average (Rs./kg.) Indexed | 100          | 100.64       | 85.79        | 87.86        |
| % Change                           |              | 0.64%        | -14.75%      | 2.42%        |

48. Corresponding with increase in demand (19.77%) the Sales have increased by 18.13% during POI over base year. There was a significant decline in realisation in 2001-02 which improved marginally by 2.42% in the POI as compared to the previous year. 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 12.13% during POI over the base year.

#### (E) 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                           | 41015     | 38690   | 42352   | 61620  | 49296      |
| Dipped                         | 4229      | 2644    | 4478    | 9528   | 7622       |
| CTC                            | 744       | 728     | 648     | 877    | 701        |
| Total production               | 45988     | 42062   | 47478   | 72025  | 57619      |
| Capacity Utilisation %         | 78.77%    | 70.95%  | 74.29%  | 85.77% | 85.77%     |
| Grey                           | 82.69%    | 76.61%  | 76.83%  | 84.41% | 84.41%     |
| Dipped                         | 55.07%    | 34.43%  | 58.31%  | 99.25% | 99.24%     |
| CTC                            | 67.64%    | 66.18%  | 58.95%  | 63.77% | 63.77%     |

49. 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 boom and had been gearing up to cater to this demand. However, in spite of increase in demand by 19.77%, the domestic industry's share has not increased correspondingly.

50. The average capacity utilisation for the subject goods by the domestic industry has improved by 8.9% from 1999-2000 till the POI.

51. Higher output by the domestic industry has been accompanied by increased sales volumes corresponding to the growth in the market demand. However, there was a significant decline in weighted average sales realisation for all grades of the subject goods by approximately 12.14% in the POI.

**(F) Net Sales Realisation and landed value :-**

| Rs/Kg                               |         |         |         |            |
|-------------------------------------|---------|---------|---------|------------|
|                                     | 1999-00 | 2000-01 | 2001-02 | POI (Ann.) |
| Wt. avg. net sales realisation      |         |         |         |            |
| Grey                                | ***     | ***     | ***     | ***        |
| Dipped                              | ***     | ***     | ***     | ***        |
| CTC                                 | ***     | ***     | ***     | ***        |
| Weighted Average                    | ***     | ***     | ***     | ***        |
| Weighted Average (indexed)          | 100     | 100.64  | 85.79   | 87.86      |
| Landed value indexed (as per DGCIS) |         |         |         | China      |
| Grey                                |         |         |         | 95.85      |
| Dipped                              |         |         |         | 104.42     |
| CTC                                 |         |         |         | 111.65     |
| Wt. avg.                            |         |         |         | 100        |

52. 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.

**(G) Sales realisation and landed price of imports :-**

Rs/kg

| Year         | Wt. Avg. Net Sales Realisation of domestic industry (Indexed )<br>(Rs/kg) | Landed Price of Imports<br>(indexed) |        |
|--------------|---|--------------------------------------|--------|
|              |   | China PR                             | Others |
| 1999-00      | 100   | 100                                  | 100    |
| 2000-01      | 100.64  | 93.67                                | 113.84 |
| 2001-02      | 85.79   | 99.37                                | 96.04  |
| POI<br>(Ann) | 87.86   | 83.38                                | 88.35  |

53. The decline in weighted average landed prices of the subject goods from China PR have been by about 16.61% 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 than the import prices from China.

**(H) Price undercutting from China vis-à-vis other countries:-**

54. The analysis is as follows:

| Year       | Price undercutting (%) |          |
|------------|------------------------|----------|
|            | China PR               | Others   |
| 1999-00    | 1.31%                  | - 0.30%  |
| 2000-01    | 8.14%                  | - 13.45% |
| 2001-02    | -14.31%                | -12.28%  |
| (POI annl) | 6.34%                  | -0.85%   |

**(I) Price Undercutting/ Underselling :-**

55. The Authority notes that during the POI, the weighted average under selling was 18.51% and weighted. average under cutting was 6.34%. The price undercutting for various types was in the range of 10-16% (indexed) and price underselling was in the range of 10% - 13.26 % (indexed).

**(J) Profitability:-**

56. 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 selling 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 declining in COP, due to lower sales realisation, the weighted average loss per Kg increased by 29.75% in POI.

|                          | 1999-00 | 2000-01 | 2001-02 | POI (annl.) |
|--------------------------|---------|---------|---------|-------------|
| Cost of Production       | 100     | 100.30  | 87.42   | 90.22       |
| Selling price            | 100     | 100.64  | 85.79   | 87.86       |
| Profit & loss (wt. avg.) | 100     | 94.62   | 114.83  | 129.75      |

**(K) Closing Stocks of Domestic Industry:-**

Qty: MT

|  | 1999-2000 | 2000-01 | 2001-02 | POI      |
|--|-----------|---------|---------|----------|
| <b>Grey</b>                                | 320.61    | 1365.77 | 1159.17 | 1116.44  |
| <b>Dipped</b>                              | 184.60    | 216.75  | 175.41  | 123.25   |
| <b>CTC</b>                                 | 0         | 182.77  | 143.54  | 191.241  |
| <b>Closing Stocks of domestic industry</b> | 505.21    | 1765.29 | 1478.12 | 1430.931 |

57. 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.) |
|------------------------------------|-----------|---------|----------|-------------|
| <b>Sales</b>                       | 46988     | 41285   | 47318.55 | 55507       |
| Closing Stocks                     | 506       | 1766    | 1478     | 1431        |
| Inventory as a percentage of sales | 1.08      | 4.28    | 3.12     | 2.58        |

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

### (L) Return on Investments

#### Rs. Lacs

| Indexed                           | 1999-00 | 2000-01 | 2001-02 | POI     |
|-----------------------------------|---------|---------|---------|---------|
| <b>Capital Employed</b>           | 100.00  | 107.60  | 103.13  | 90.16   |
| <b>Profit/Loss</b>                | -100.00 | -104.10 | -111.86 | -221.32 |
| <b>Return on Capital Employed</b> | -8.98%  | -8.69%  | -9.74%  | -22.05% |

59. Return on investment follows the same trend as that of profits and cash flow. IT was noticed that knowing the demand supply gap, domestic industry added further capacity. Domestic industry expected higher profits with higher investments. However, profits decline rather than increasing as a result of dumping from China. This resulted in deterioration in the return on capital employed.

### (M) Cash Flow/Profit

#### Rs. lacs

| Indexed            | 1999-2000 | 2000-01 | 2001-02 | POI     | POI (Ann) |
|--------------------|-----------|---------|---------|---------|-----------|
| <b>Profit/loss</b> | -100.00   | -104.10 | -111.86 | -221.32 | -177.07   |
| Depreciation       | 100       | 96.44   | 95.24   | 129.04  | 103.25    |
| Cash profit/loss   | -100.00   | -116.62 | -171.98 | -372.86 | -298.29   |

60. 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.
61. Since all the companies are multi product companies, it would not be 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 the profitability and hence cash profits of the domestic industry deteriorated. The profitability and therefore cash profit of the domestic industry has further deteriorated thereafter.

### (N) Employment and Wages

| Indexed             | 1999-2000 | 2000-01 | 2001-02 | POI    | POI (annl.) |
|---------------------|-----------|---------|---------|--------|-------------|
| Employment (in no.) | 100       | 98.19   | 98.50   | 98.74  | 98.74       |
| Wages (Rs. Lacs)    | 100       | 102.09  | 119.46  | 116.89 | 129.50      |

62. 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%. 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. Wage per kg of production increased only by Rs \*\*\* and constituted approximately 0.3% of the total cost of production of grey fabric. However selling prices declined by about 14.39% in the POI as compared to 1999-00.

### (O) Productivity

|  | 1999-2000 | 2000-01 | 2001-02 | POI (Ann.) |
|--|-----------|---------|---------|------------|
| Total production                       | 45988     | 42062   | 47478   | 57620      |
| Production per Employee (MT) (Indexed) | 100       | 93.16   | 104.85  | 126.91     |

63. This has been projected in the following graph:
64. 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.

## L. CONCLUSION ON INJURY

65. 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 were less than 100 MT in 1999-2000, the same increased to almost 500 MT in the period April, 03 – June, 03.
66. 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.
67. 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.
68. Sales of the domestic industry increased over the injury period. However, while the increase in demand was 19.77%, increase in the sales of the domestic industry was 18.13%. 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 15%, the dipped sales increased by 78%. Thus, increase in the sales of the domestic industry was more in dipped category, which appears to be due to imposition of Anti Dumping Duty on other countries. Sales of cycle tyre cord (CTC) declined even though the domestic industry had significant unutilized capacity. This is directly due to dumped imports from China PR.
69. 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.

70. Imports of the product 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.
71. 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 price undercutting in the range of 10-16 % (indexed) was present. In fact, it was found that price undercutting was higher in case of CTC, which directly correlates with the decline in the CTC sales volumes and consequently CTC production and capacity utilization.
72. 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.
73. Profitability of the domestic industry has deteriorated. 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 domestic industry had suffered material injury (even though no anti dumping duty was recommended, holding that causal link was not established, given lower price of imports from China PR). 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.
74. Production of the domestic industry increased over the injury analysis period. It is found that the increase in production was more than increase in sales volumes. Resultantly, the domestic industry was not able to sell entire increased production, leading though to marginal increase in inventories. Domestic industry effected increase in production, given rising demand of the subject goods in the country, by enhancing its capacity, which 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.
75. 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 8.9%. Further, the demand increased by 19.77%. Thus, the increase in capacity utilization was sub-optimal and domestic industry had unutilized capacity.

76. Wages per unit of production have increased by 4.2%, while total wages paid increased by 29.49%. The Authority notes that 29.49% 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./Kg., thus resulting in higher profits by about Rs. 4.57 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.
77. The Authority notes that the employment level with the domestic industry declined. This is in spite of addition of capacity and higher production. It is found that had the domestic industry not reduced its employment level, it would have paid higher wages by about Rs. 24.59 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.
78. Reduction in employment 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 2065 persons. This would have resulted in higher wages by Rs. 4.96 crores. Thus, improvement in productivity should have increased the profits of the domestic industry by Rs. 4.96 crores. However, the profitability rather declined due to price effect the imports have had on the domestic industry.
79. 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.

80. 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.

81. 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.

## **M. CAUSAL LINK**

82. 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**

83. 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 6.40% as well as the price undercutting found (around 6.34% on 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 12.14%) in a situation where the production costs declined by about 9.78%.

84. 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 provisionally 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**

85. 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 76.45 % in the POI. The share of imports from third countries in demand decreased from 24.56% in 1999-2000 to 20.78% 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.
86. It appeared 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.
87. 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 the sales realisation of the domestic industry. Therefore, it was concluded in those proceedings by the designated authority that there was no causal link between the dumped imports and injury to the domestic industry.
88. 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. It is found that imports from Thailand were mainly of dipped category. Comparing the average import price in the relevant period from Thailand was Rs. 132 per Kg, while the same was Rs. 126 per Kg. from China.

89. The information provided by the applicants was also examined in detail. It would appear from the summary statement provided by the applicants that the import price from Thailand was lower than the import price from China. However, it is found that the import price from China mentioned by the petitioner included imports of CTC which is a different category. Once imports of CTC are segregated from this information, it is found that the average import price from China is lower than the import price from Thailand.
90. Comparison of transaction wise import data provided in the DGCI&S with the transaction wise import data provided by the petitioner (compiled by secondary sources) shows almost the same import price from Thailand. It is thus evident that the import price from China was lower than the import price from Thailand.
91. 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.
92. 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.
93. 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.

## **N. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

94. The purpose of anti-dumping duties, in general, is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market.
95. It is recognised that the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of NTCF. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and therefore would not affect the availability of the product to the consumers.
96. To ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry, the Authority relied upon reasonable selling price of NTCF in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilisation for the domestic industry.

## **O. LANDED VALUE**

97. 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.

## **P. CONCLUSIONS**

98. It is seen after considering the foregoing that:
- a. NTCF of all types described under para C 6 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.
99. 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 material injury to the domestic industry. Accordingly, it is proposed that provisional anti-dumping duties be imposed, from the date of notification to be issued in this regard by the Central Government, on NTCF of all types 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 pending final determination. The anti-dumping duty shall be the amount mentioned in Col. 9.

| Sl. No | Sub-Heading Or Tariff Item | Description of Goods | Country of Origin               | Country of Export               | Producer | Exporter | Amount | Unit of Measurement | Currency |
|--------|----------------------------|----------------------|---------------------------------|---------------------------------|----------|----------|--------|---------------------|----------|
| (1)    | (2)                        | (3)                  | (5)                             | (6)                             | (7)      | (8)      | (9)    | (10)                | (11)     |
| 1.     | 5902.10                    | NTCF                 | China PR                        | China PR                        | Any      | Any      | 0.69   | Kg                  | USD      |
| 2.     | 5902.10                    | NTCF                 | China PR                        | Any country other than China PR | Any      | Any      | 0.69   | Kg                  | USD      |
| 3.     | 5902.10                    | NTCF                 | Any country other than China PR | China PR                        | Any      | Any      | 0.69   | Kg                  | USD      |

## **Q. FURTHER PROCEDURE**

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

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- b. Exporters, importers, applicant and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days of the despatch of this notification. Any other interested party may also make known its views within forty days from the date of publication of these findings.
- c. The Authority would provide opportunity to all interested parties for oral submissions.
- d. The Authority would disclose essential facts before announcing the final findings.

**A. SENGUPTA**  
DESIGNATED AUTHORITY