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F. No. 7/9/2020-DGTR
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF TRADE REMEDIES
Jeevan Tara Building, 5, Parliament Street, New Delhi-110001

Dated 23rd November, 2020

NOTIFICATION

FINAL FINDINGS

Case No. SSR-06/2020

Subject: Sunset Review Anti-Dumping investigation concerning imports of All Fully Drawn or Fully Oriented Yarn/ Spin Drawn Yarn/ Flat Yarn of Polyester originating in or exported from China PR and Thailand.

A. BACKGROUND

1. Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the "Act") and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the "Rules"), the Designated Authority (hereinafter referred to as the "Authority") had initiated the original anti-dumping investigation in respect of the imports of All Fully Drawn or Fully Oriented Yarn/ Spin Drawn Yarn/ Flat Yarn of Polyester (hereinafter referred to as the "subject goods" or "Product Under Consideration" or "PUC") originating in or exported from China PR and Thailand on 6th May, 2008. Preliminary anti-dumping duties (ADD) were recommended vide Notification No. No.14/3/2008-DGAD dated 23rd January, 2009 and imposed vide Notification No. 29/2009-Customs (ADD) dated 26th March, 2009. Thereafter, definitive ADD were recommended for imposition on China PR and Thailand vide Notification No. No. 14/3/2008-DGAD dated 29th September, 2009 and the same were imposed vide Notification No. 124/2009-Customs (ADD) dated 11th November, 2009. A Sunset Review (SSR) investigation was initiated vide Notification No. 15/03/2014-DGAD dated 24th March, 2014. The extension of ADD was recommended vide Notification No. 15/03/2014-DGAD dated 22nd September, 2015 and the same was imposed by the Central Government vide Notification No. 51/2015-Customs (ADD) dated 21st October, 2015.
2. Whereas, in terms of the Act and the Rules, the ADD imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.

3. And, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantial request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
4. And, whereas, in terms of the above provisions, the Association of Synthetic Fibre Industry (hereinafter also referred to as the “Applicant” or “Domestic Industry”) has filed an application before the Authority in accordance with the Act and the Rules, for initiation of an SSR investigation against imports of the subject goods originating in or exported from the subject countries, and requested for extension of ADD. The request is based on the grounds that dumping has continued in spite of the imposition of ADD on the import of the subject goods from the subject countries and the domestic industry continues to suffer injury on account of dumping from the subject country. The Applicant has further argued that the expiry of the measure against the subject countries is likely to result in continuation or recurrence of dumping and injury to the Domestic Industry.
5. Whereas, the Authority, on the basis of *prima facie* evidence submitted by the Applicant, issued a public notice vide Notification No. 7/9/2020-DGTR dated 15th April, 2020 published in the Gazette of India, Extraordinary, initiating the subject investigations in accordance with Rule 6(1) of the Rules to examine as to whether the expiry of ADD is likely to lead to continuation or recurrence of dumping and injury to the Domestic Industry.
6. After the initiation of the subject investigation, the Central Government issued its Notification No 32/2020-Customs (ADD) dated 19th October, 2020 extending the ADD in force on the import of the subject originating in or exported from the subject country up to 30th November, 2020.
7. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject countries.

B. PROCEDURE

8. The procedure described herein below has been followed by the Authority with regard to this subject investigation:
 - i. The Authority notified the Embassies of the subject countries in India about the receipt of the present application before proceeding to initiate the investigations in accordance with sub-rule 5(5) of the AD Rules.
 - ii. The Authority issued a Notification dated 15th April, 2020, published in the Gazette of India Extraordinary, initiating an investigation concerning imports of the subject goods from the subject countries.
 - iii. The Authority sent a copy of the initiation notification to the embassies of the subject countries in India, known producers/exporters from the subject country, known importers/users and the Domestic Industry as well as other domestic producers as per the addresses made available by the applicant and requested them to make their views known in writing within 60 days of the initiation notification in accordance with Rule 6(2) of the Rules.

- iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, known importers and to the embassies of the subject countries in India in accordance with Rule 6(3) of the Rules.
- v. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject country, whose details were made available by the applicant, to elicit relevant information in accordance with Rule 6(4) of the Rules:
 - a. M/s Zhejiang Tongkun, China PR;
 - b. M/s Zhejiang Yifeng, China PR;
 - c. M/s Jiangsu Shenghong, China PR;
 - d. M/s Zhejiang Xinfengming, China PR;
 - e. M/s Rongsheng Petrochemical Group Co., Ltd, China PR;
 - f. M/s Jiangsu Hengli, China PR;
 - g. M/s Zhejiang Rongsheng (former Cifu), China PR;
 - h. M/s Zhejiang Guxiandao, China PR;
 - i. M/s Jiangsu (Taicang) Minghui, China PR;
 - j. M/s Jiangsu Haixin Group, China PR;
 - k. M/s Zhejiang Great Southeast Group, China PR;
 - l. M/s Zhejiang Jiabao New Fiber, China PR;
 - m. M/s Zhejiang Yuandong, China PR;
 - n. M/s Zhejiang Hailide, China PR;
 - o. M/s Jiangsu Zhenhui (Xiangtang Group), China PR;
 - p. M/s Ying Xiang Shengze, China PR;
 - q. M/s Fujian Jinxing, China PR;
 - r. M/s Heng Li Petrochemical, China PR;
 - s. M/s Zhejiang Youfu New Fibers, China PR;
 - t. M/s Fujian Jingwei, China PR;
 - u. M/s Jiangsu (Taicang) Changle, China PR;
 - v. M/s Jiangsu (Wujiang) Lixin, China PR;
 - w. M/s Zhejiang Huaxin, China PR;
 - x. M/s Zhejiang Fengming Group, China PR;
 - y. M/s Fujian (Changle) Shanli, China PR;
 - z. M/s Jiangsu (Wujiang) Xinmin, China PR;
 - aa. M/s Tian Long Group, China PR;
 - bb. M/s Zhejiang Jinxin, China PR;
 - cc. M/s Jiangsu Fudong (Xinsheng), China PR;
 - dd. M/s Zhengdong Textile, China PR;
 - ee. M/s Zhejiang Jinsheng (Very Fiber) Development, China PR;
 - ff. M/s Performance Fibres Asia (Indorama), Hong Kong
 - gg. M/s Zhejiang Jiuhua New Synthetic, China PR;
 - hh. M/s Far Eastern Pudong, China PR;
 - ii. M/s Zhejiang Shengbang, China PR;
 - jj. M/s Wuxi Xinyuan Synthetic Fibre, China PR;
 - kk. M/s Zhoushan Tianli, China PR;
 - ll. M/s Hangzhou Huanchun, China PR;
 - mm. M/s Tianjin Petrochemical, China PR;
 - nn. M/s Dapu Chemical Fibres, China PR;
 - oo. M/s Hainan Xing Ye, China PR;
 - pp. M/s Zhejiang Jianjie, China PR;
 - qq. M/s Wuxi Xinfang, China PR;
 - rr. M/s Changle Jinfeng, China PR;

- ss. M/s Changle Hongji, China PR;
- tt. M/s Wuxi Jintong, China PR;
- uu. M/s Thai Polyester (TPC), Thailand;
- vv. M/s Sunflag, Thailand;
- ww. M/s Kangwal, Thailand;
- xx. M/s Indorama Polyester Industries, Thailand;
- yy. M/s Indo Poly (Thailand), Thailand;
- zz. M/s Oriental Fibre, Thailand;
- aaa. M/s Teijin Thailand (TJT), Thailand;
- bbb. M/s Thai Toray Synthetics (TTS) [TNT], Thailand;
- ccc. M/s Chiem Patana, Thailand;
- ddd. M/s Starsoleil, Thailand.

vi. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their respective subject countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.

vii. The following producer/exporter from Thailand has filed submissions, but has not submitted an exporter's questionnaire response, citing that during the Period of Investigation it had exported minuscule quantity of the subject goods to India:

- a. M/s Indorama Polyester Industries Public Company Limited, Thailand

viii. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user associations, whose names and addresses were made available to the Authority, of subject goods in India, and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):

- a. M/s Titaanium Ten Enterprise Limited;
- b. M/s Vardhman Yarns and Threads Limited;
- c. M/s Ayush Texlene Limited;
- d. M/s Export Packaging Solution;
- e. M/s R D Jactex India;
- f. M/s Shabnam Petrofils Pvt. Ltd.;
- g. M/s Chandak Expo International;
- h. M/s Arvind Limited;
- i. M/s General Petrochemicals Limited;
- j. M/s Pyung Hwa India Private Ltd.;
- k. M/s Priya Yarns;
- l. M/s Sakshi Yarns Pvt Limited;
- m. M/s Khurana Textile Mills Pvt. Ltd.;
- n. M/s Suyog Synthetics;
- o. M/s Nikunj Industries;
- p. M/s Jay Shree Threads Private Limited;
- q. M/s Shree Ram Synthetics;
- r. M/s Sunil Fibres Pvt Ltd.;
- s. M/s B. Braun Medical (India) Private Limited;
- t. M/s Aaryan Enterprises;
- u. M/s Polygenta Technologies Ltd.;

- v. M/s Strata Exim Pvt Ltd.;
- w. M/s Tulsi Udyog;
- x. M/s P.T. Varghese & Co.;
- y. M/s Chinubhai Kalidass & Bros.;
- z. M/s Crossworld Freight Systems Pvt. Ltd.;
- aa. M/s P.V. George Tharakan & Co;
- bb. M/s Goyal Cargo Services;
- cc. M/s Khimji Poonja Freight Forwarders Pv;
- dd. M/s Niranjan Shipping Agency Pvt. Ltd.;
- ee. M/s Allwin Shipping Services;
- ff. M/s Saraswati Clearing Agency;
- gg. M/s Asr Logistics (India) Pvt. Ltd.;
- hh. M/s National Clearing Forwarding Agency;
- ii. M/s Modern Clearing Agency;
- jj. M/s Om Namah Shivay Logistics International Private Limited;
- kk. M/s Divya Shipping & Clg. Services Pvt. Ltd.;
- ll. M/s Aarkay Cargo Services;
- mm. M/s St. John Freight Systems Ltd.;
- nn. M/s Greenity Logistics Pvt. Ltd.;
- oo. M/s Global Ocean Clearing Private Limited;
- pp. M/s Ratnakar Ramnarain Rai;
- qq. M/s Frontier Shipping Agencies Pvt Ltd.;
- rr. M/s Shree Vinayak Enterprises;
- ss. M/s Om Freight Forwarders Pvt. Ltd.;
- tt. M/s Killick Nixon Limited;
- uu. M/s Shivam Seatrans Private Limited;
- vv. M/s Rashmi Shipping Agency;
- ww. M/s Airsea Forwarders India Private Limited;
- xx. M/s Ultimate Marine Pvt. Ltd.;
- yy. M/s Sri Ganesh Forwarders Pvt. Ltd.;
- zz. M/s Bhagvati Impex;
- aaa. M/s Gaurav M. Jhaveri;
- bbb. M/s Three Aces Global Logistics Private;
- ccc. M/s Rank Logistics Pvt. Ltd.;
- ddd. M/s Baid International Services;
- eee. M/s Cargo Concepts (Bombay) Pvt. Ltd.

- ix. None of the importers or consumers of the product have filed the importer's questionnaire response in the prescribed format.
- x. Additionally, submissions/ comments were filed by following parties during the course of the investigation.
 - a. Sunheri Texcraft Pvt Ltd.
- xi. 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 as per Rule 6(7). Submissions made by all interested parties have been taken into account in the present final findings.
- xii. The Period of Investigation (POI) for the purpose of the present investigation has been considered from 1st January, 2019 to 31st December, 2019 (12 Months). The injury investigation period has been considered as 1st April, 2016 – 31st March, 2017;

1st April, 2017 – 31st March, 2018; 1st April, 2018 – 31st March, 2019, and the POI. The Authority has also considered 1st January, 2020 – 30th June, 2020 as the Post-POI for the purposes of examination of likelihood of continuation or recurrence of dumping and injury analysis.

- xiii. Additional/supplementary information was sought from the Applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry and exporters/producers was conducted to the extent considered necessary for the purpose of the investigation.
- xiv. The Non-Injurious Price (NIP) is based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. It has been worked out so as to ascertain whether ADD lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xv. Information provided by the Directorate General of Commercial Intelligence and Statistics (DGCI&S) on transaction-wise basis for the past three years, and the POI has been adopted for determination of volume and value of imports of product concerned in India.
- xvi. In accordance with Rule 6(6) of the Rules, the Authority also provided an opportunity to all interested parties to present their views orally in a hearing held on 22nd October, 2020. All the parties who had attended the oral hearing were provided an opportunity to file written submissions, followed by rejoinders, if any.
- xvii. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these final findings.
- xviii. Information provided by the interested parties on a confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on a confidential basis.
- xix. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded these final findings on the basis of the facts available.
- xx. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 7th November, 2020 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant have been examined in these final findings.
- xxi. *** in these final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxii. The exchange rate adopted by the Authority during the POI for the subject investigations is US\$ 1 = Rs. 71.34/-.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

9. The PUC, as in the original investigation and the first SSR, is fully drawn/ fully oriented yarn/ spin drawn yarn/ flat yarn of polyester [non-textured and non-Partially Oriented Yarn (POY)] and other yarns conforming to the tariff description of Customs Heading 5402.47. The product in market parlance is generally known as 'Fully Drawn Yarn' or FDY. Technical specifications of the subject goods are defined in terms of their deniers, tenacities, lustres, colours (like semi dull, bright, super bright, full dull, Dope dyed), cross section and shrinkage.

C.1. Submissions made by the Domestic industry

10. With regard to the PUC and like article, the domestic industry has made the following submissions:

- i. The present investigation being an SSR investigation, the PUC remains the same as defined in the original as well as the previously conducted SSR investigation. Further, no significant development has taken place over the period. Therefore, the Domestic Industry refers to and relies upon the previous investigation with regard to the PUC and like article.
- ii. There is no significant difference in the subject goods produced by the petitioning domestic producers and those exported from the subject countries. The two are technically and commercially substitutable and the two are like articles.
- iii. The petitioning companies are engaged in the production of all variants of the subject goods and are capable of producing subject goods in a wide range of deniers, lustres, colours and cross-sections.
- iv. There is no difference in the technology adopted by the Domestic Industry and the manufacturers in the subject countries. The technology adopted by the Domestic Industry is comparable with the technology adopted by the manufacturers of the subject goods in the subject countries. However, every manufacturer fine-tunes its production process based on necessities and available facilities.
- v. The Applicant has acknowledged that the domestic producers in India are not producing low melt yarn, and the Applicant has no objection to its exclusion, provided it is clearly defined, to ensure that it does not lead to evasion of ADD on other products which are within the scope of the PUC. Low melt yarn may be defined as yarn having melting point between 110°C to 170°C.
- vi. LYCRA intermingled, partially oriented yarn, industrial yarn, bi component yarn, polyester spun yarn, PFY, polyester textured yarn, low melt, chenille, nylon, spandex, PBT and Cord have not been considered as part of the PUC. They are either variants of FDY or come under the same HS Code.

C.2. Submissions made by other interested parties

11. The following submission has been made by other interested parties in this regard:

- i. There is a special FDY which has a special property of low melting point (100 degree or even lower) as compared to FDY which is the PUC in the current investigation (230 to 295 degree). The special FDY is used in making shoe upper fabrics, luggage/bag and curtain fabrics. The special FDY is not produced by any Indian manufacturer. Due to the ADD on FDY, every importer has to pay ADD on the low melting special FDY too, which adds up in the cost of shoe, luggage and curtain manufacturing.

C.3. Examination by the Authority

12. The PUC in the original investigations was defined in the Final Findings as follows:

“3. All Fully Drawn or Fully Oriented Yarn / Spin Draw Yarn / Flat Yarn of Polyester (non-textured and non-POY) and other yarns conforming to the tariff description of Customs Heading 5402.47”.

4. The product in commercial market parlance is generally known as ‘Fully Drawn Yarn’. The subject goods are used for manufacture of apparel / household textiles, and other industrial textiles.

5. Technical specifications of the subject goods are defined in terms of their deniers, tenacities, lustres, colours (like semi dull, bright, super bright, full dull, Dope dyed), cross section and shrinkage.

6. The subject goods are used for manufacture of apparel / household textiles, and for other industrial applications.

7. It has been submitted that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods. Hence, the goods produced by the domestic industry are ‘Like Article’ to dumped goods from subject countries. There is no difference in the dumped goods and the product under consideration manufactured by the applicants. The two are technically and commercially substitutable and hence should be treated as ‘like articles’ under the Anti-Dumping Rules.”

13. The Authority holds that the present investigation being a sunset review investigation, the scope of the product under consideration in the present investigation remains the same as that of the original investigation. The customs classification is indicative and not binding on the scope of the present investigation. LYCRA intermingled, partially oriented yarn (POY), industrial yarn (IDY), bi component yarn (BCF), polyester spun yarn, PFY, polyester textured yarn (PTY), low melt, chenille, nylon, spandex, PBT and Cord have not been considered as part of the PUC.

14. The Authority notes that there is no known difference in the subject goods produced by the petitioner companies and those exported from the subject countries and that the two are like article.

15. The Authority notes that there is no significant difference in the subject goods produced by the petitioning domestic producers and those exported from the subject countries and that the two are technically and commercially substitutable.

16. Since Low melt yarn i.e. FDY with low melting point, i.e. between 110°C to 170°C, is not produced by the Domestic Industry, it is excluded from the scope of the PUC for the current investigation.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

17. Rule 2(b) of the Rules defines Domestic Industry as under:

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

D.1. Submissions made by the Domestic industry

18. Submissions made by the Domestic Industry in this regard are as follows:

- i. The present petition has been filed by the Association of Synthetic Fibre Industry on behalf of its members. Further, Reliance Industries Limited and Wellknown Polyesters Limited have provided their complete costing and injury data for the purpose of the present petition. Further, the petition is supported by the following producers:
 - a. Alok Industries Limited
 - b. Bhilosa Industries Private Limited
 - c. Filatex India Limited
 - d. Garden Silk Mills Limited
 - e. Gokulanand Petrofibres Gujarat
 - f. Sanathan Textiles Private Limited
 - g. Shree Durga Syntex Private Limited
- ii. In total, there are 26 producers of subject goods in India. Other than these, there are certain other minor producers, accounting for about 1% of the total Indian capacity in total.
- iii. Even amongst the 26 producers identified, most producers hold very small capacities, and account for only about 5% or less of the total Indian production. Apart from the petitioner companies, the only producers having significant production are Bhilosa Industries Private Limited and Filatex India Limited, of which Bhilosa in fact consumes 50-60% of its production captively.
- iv. The petitioning domestic producers, Reliance Industries Limited and Wellknown Polyesters Limited, account for ***% of the total domestic production, and together with the supporters constitute 81.13% of the total domestic production. Further, if the captive consumption by various producers is excluded, the share of Reliance Industries Limited and Wellknown Polyesters Limited would increase further.
- v. The above is without prejudice to the legal position that standing is not required to be determined in an SSR case. Standing is not applicable for sunset review under Rule 23. However, even then, the petitioning domestic producers and producers expressly supporting the petitioner account for more than 80% of the total domestic production.
- vi. The petitioning companies have not imported the subject goods into India during the POI.
- vii. The petitioning companies are not related to any exporter or importer of the subject goods.
- viii. The lack of participation by M/s Alok Industries and M/s Garden Silk is not relevant as the petitioning domestic companies constitute a major proportion, and no injury can be claimed. The Applicant cannot give reasons for other producers not providing

data.

- ix. Reliance Industries Limited has taken over M/s Alok Industries Limited in September 2020 and no relationship between them existed during the POI.
- x. There is no exclusion of producers performing well as M/s Alok Industries Limited and M/s Garden Silk Mills Limited have suffered losses, while the petitioning companies show improvement in performance.
- xi. When the exporter has itself not filed exporter's questionnaire response, it should not allege that supporters have not filed information in the prescribed format.

D.2. Submissions made by other interested parties

19. The submissions made by the interested parties in this regard are as follows:

- i. For the present investigation, the petitioning Domestic Industry consists of Reliance Industries Limited and Wellknown Polyesters Limited. In the Final Findings dated 22nd September, 2015 of the previous SSR of the same PUC, the total share of the petitioners which also included M/s. Alok Industries Limited and M/s. Garden Silk Mills Limited along with the present petitioning companies was determined to be 52%. However, the combined share of Reliance Industries Limited and Wellknown Polyesters Limited was determined to be only 30%. It is also to be noted that according to the Statement of Indian Production, the share percentage of the domestic industry has declined from 100 index points in April 2016-March 2017 to 92 index points during the POI. From the above, it can be concluded that the share of the domestic industry has dropped even below 30%. Therefore, it is submitted that less than 30% share in total production cannot be considered as a major proportion.
- ii. In the present investigation M/s. Alok Industries Limited and M/s. Garden Silk Mills Limited should be considered as the domestic industry as they constituted Domestic Industry in the previous SSR also for the same PUC. It is only possible to have a fair comparison of the performance of domestic producers both for the purpose of their performance as well as the standing once these two domestic producers are also considered as domestic industry.
- iii. The Authority should not allow it to become a norm otherwise, in every SSR only the domestic producers which are having comparatively less performance would be made Domestic Industry and other domestic producers which constituted the Domestic Industry in the original or previous SSR would be excluded as their performance would have improved.
- iv. Even in Annex-I submitted along with the Letters of Support, neither M/s. Alok Industries Limited nor M/s. Garden Silk Mills Limited has provided any reason when specifically asked for the 'reason for supporting this petition and not becoming co-petitioner in the instant case'.
- v. In February 2020, Reliance Industries Limited acquired a 37.7% stake in M/s. Alok Industries Ltd. This raises doubt as to why M/s. Alok Industries Limited has not submitted complete data and has not been made a co-petitioner when Reliance Industries Limited and M/s. Alok Industries Ltd. are related entities and the former holds a substantial stake in the latter.
- vi. If a low share of even less than 30% is considered a 'major proportion' share, it will distort the likelihood analysis of the Domestic Industry.
- vii. Incomplete information has been submitted by the supporters. Non-submission of the prescribed information of the supporters by the Applicant in the petition is an egregious and blatant violation of the Trade Notices.
- viii. The Applicant has submitted that there are 26 producers of the subject goods in

India. However, the source of this data has not been disclosed. Therefore, in the absence of a verifiable source and accuracy of this data, the same should not be considered by the Authority.

D.3. Examination by the Authority

20. The Application in the present case has been filed by Association of Synthetic Fibre Industry (ASFI) on behalf of the Domestic Industry. The following members (hereinafter referred to as the or “petitioning domestic producers”) of ASFI have provided their complete costing information:
 - i. M/s. Reliance Industries Limited
 - ii. M/s. Wellknown Polyesters Limited
21. In addition to the two companies which have provided their costing data, the Applicant provided a list of three companies which supported the Application and another 22 companies which neither supported nor rejected the application. Vide letter dated 4th March, 2020, the Authority requested these 22 companies to intimate their views. In response, four out of these 22 companies expressed their support to the application.
22. As per the evidence available on record, the production of the petitioning domestic producers accounts for a major proportion in the total domestic production of the like article. The Authority, therefore, determines that the applicant constitutes as eligible domestic industry within the meaning of Rule 2(b) of the Rules and the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions made by the Domestic industry

23. Submissions made by the Domestic Industry in this regard are as follows:
 - i. Information related to M/s Alok Industries Limited and M/s Garden Silk Mills Limited is business proprietary information which the Applicant cannot disclose.
 - ii. NIP of the Domestic Industry, the number of employees, productivity and financial statements of Wellknown Polyester Ltd. are proprietary information.
 - iii. Reports of Wood Mackenzie and CCF group are proprietary documents of the market research agencies and the Applicant does not have a right to share them.
 - iv. The trends of parameters are required to be provided for the Domestic Industry, and not individual producers.
 - v. The domestic industry has justified each confidentiality claim made by it.

E.2. Submissions made by other interested parties

24. Submissions made by other interested parties in this regard are as follows:
 - i. The total production of the Domestic Industry has not been disclosed and even the percentage of share of the Domestic Industry has only been provided as a trend.
 - ii. The Applicant has not provided any evidence for adjustments made to compute the export price.
 - iii. The ocean freight from Thailand has been arbitrarily delineated as Rs. 4,280/MT

- without providing any evidence in support of the same.
- iv. The Domestic Industry has not complied with Annexure I of the Trade Notice No. 10/2018 dated 7th September, 2018.
- v. The Applicant has mentioned that the source of data is Wood Mackenzie Report of December, 2019. However, no methodology has been provided by the Applicant as to on what basis such data was compiled or used. Even if it is assumed that the Applicant is claiming confidentiality with reference to this report, then also the Applicant should have provided the data in indexed numbers. The Applicant has also relied on the CCF Group report. The Applicant has not provided any methodology on the basis of which such data was compiled by CCF Group.

E.3. Examination by the Authority

25. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:

"Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information."

- 26. The Authority made the non-confidential version of the information provided by various interested parties available to all interested parties for inspection through the public file containing non-confidential version of evidences submitted by various interested parties.
- 27. The Authority notes that the information provided by the interested parties on confidential basis was duly examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.

F. MISCELLANEOUS ISSUES

F.1. Submissions made by the Domestic industry

28. The following submissions have been made by the Domestic Industry in this regard:

- i. The imports have been segregated based on the description mentioned in the transaction-wise import data. Imports pertaining to lycra, nylon yarn, industrial yarn, partially oriented yarn, spandex, cord, polyester textures yarn, spun yarn, BCF, etc. have been excluded from the scope of the PUC. The methodology for compiling import data has been provided in para 17 of the Application.
- ii. The injury period is consistent with Trade Notice 2/2004 and the Guidelines laid down by WTO Committee on Anti-Dumping Practices. The Manual of SOP is an internal guideline and cannot supersede the Trade Notice.
- iii. The period for which the duty has been in force is not a relevant criterion for determining whether there is need for continuation of ADD.

F.2. Submissions made by other interested parties

29. Submissions made by other interested parties in this regard are as follows:

- i. Paragraph 5.8 of the Manual of Operating Practices for Trade Remedy Investigations by the Directorate General of Trade Remedies provides the Injury Investigation Period and the POI should be at least four (4) complete years. The POI and the Injury Investigation Period are not complete four years, and therefore, the period being considered by the Authority is completely in derogation of the Manual of Operating Practices.
- ii. The Authority is requested to direct the Applicant to disclose the methodology used to compile import data of the PUC in the petition.

F.3. Examination by the Authority

30. The Authority notes that the POI in the present case is 12 months. As per Rule 2(da) of the Rules,
“period of investigation” means the period during which the existence of dumping is examined;

31. Further, the explanation to Rule 22 (3) of the Rules states the following:
“For the purposes of these rules, the period of investigation shall,-
(i) not be more than six months old as on the date of initiation of investigation.
(ii) be for a period of twelve months and for the reasons to be recorded in writing the designated authority may consider a minimum of six months or maximum of eighteen months.”

32. The Authority notes that the POI in the present investigation adheres to both Rule 2(da) and Rule 22(3) of the Rules. Further, the Authority notes that as mentioned in the Manual of Operating Practices, the Manual is a step-by-step internal instructions to guide officers of DGTR in their day-to-day work to improve efficiency, transparency, and accountability and is not intended to replace the Trade Notices/Circulars/Instructions issued from time to time. Further, as mentioned in the Manual itself, Trade Notices and Circulars will prevail over the Manual, in case of any differences or contradictions. Also, as clearly stated in the Manual, information given therein cannot

be cited in any dispute or litigation, nor is it a substitute for a legal interpretation/evidence.

33. The Authority notes that the Applicant has provided the methodology adopted to compile import data for the PUC.

G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

G.1 Submissions made by the Domestic industry

34. Submissions made by the Domestic Industry in this regard are as follows:

- i. The Applicant has claimed that China PR should be treated as a non-market economy and the normal value should be determined in terms of Annexure I, Rule 7 of the Rules. The Applicant has cited and relied upon Article 15(a)(i) of China's Accession Protocol and stated that the Chinese producers should be directed to demonstrate that marked conditions prevail in terms of provisions of Article 15(a)(i), of Accession Protocol.
- ii. The Applicant has submitted that China PR has the largest production and consumption of the subject goods, followed by India. Since the share of other countries in the global production and consumption is much lower, it would not be appropriate to consider any other country as a surrogate country. Accordingly, the Applicant has claimed that the price payable in India should be considered appropriate for determination of normal value for China PR. The Applicant has claimed normal value on the basis of average cost of production of the Domestic Industry, along with reasonable addition of profits.
- iii. The Applicant has claimed that the data relating to cost of production in Thailand is not available and has claimed the cost of production in Thailand on the basis of average cost of production in India.
- iv. The Applicant has used import data collected from DGCI&S to make adjustments for ocean freight, marine insurance, commission, bank charges, port expenses, inland freight expenses and VAT (for China PR) to derive Net Export Price.
- v. The exporter cannot claim that the adjustments made by the Applicant with respect to the export price are not proper as it has not provided adjustments by filing a response.
- vi. The exporter has not discharged its obligation to provide details of domestic selling price, cost and price of exports, and therefore, cannot now allege inconsistencies in information provided by the Applicant.
- vii. The exporter has not argued that relevant information is publicly available, and the domestic industry withheld it.
- viii. As held in *Automotive Tyre Manufacturers' Association V. Designated Authority*, the Domestic Industry cannot be expected to have information regarding the cost of production of the exporter and cannot be faulted for furnishing normal value on the basis of constructed cost of production.
- ix. The Applicant has provided the methodology for determination of normal value in the application and a profit margin of 5% has been added as per consistent practice of the Authority.
- x. The exporter has not asked for a PCN-wise comparison based on the quality of product and thus, off grade products do not have an impact on the dumping margin. It is a consistent practice of the Authority that the quality of product does not have any impact on the PCN methodology as held in the investigation concerning imports

of Nylon (multi-filament) yarn from China PR, Korea RP, Taiwan and Thailand.

G.2 Submissions made by other interested parties

35. Submissions made by other interested parties in this regard are as follows:

- i. The Applicant has alleged that the normal value for Thailand is constructed on the basis of best available information, considering the cost incurred by the Domestic Industry. The computation of normal value is erroneous. According to Explanation (c)(ii) to Section 9A(1) of the Act, one can only resort to constructed normal value in the following circumstances:
 - a. Where there are no sales of the like article in the domestic market of the exporting country;
 - b. When because of the particular market situation or low volume of sales in the domestic market of the exporting country such sales do not permit a proper comparison.
- ii. Even if the above conditions exist, the normal value can only be constructed as:-
 - a. comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country
 - b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and profits.
- iii. In the application, the Applicant has not proved that either of the above two conditions, mentioned in Explanation (c)(ii) to Section 9A(1) of the Act existed. The two conditions specified in the relevant provisions do not include 'not readily availability' of data relating to domestic selling prices in the exporting country as a ground for constructing normal value.
- iv. No evidence has been supplied by the Applicant that the costs have been calculated considering the cost incurred by the Domestic Industry.

G.3 Examination by the Authority

36. The Authority notes that only one producer/exporter namely M/s Indorama Polyester Industries Public Company Limited from one of the subject countries, i.e. Thailand, has filed injury submissions. None of the producers/exporters from either of the subject countries have filed exporter's questionnaire response :

Normal Value

37. Under Section 9A(1)(c) of the Act, the normal value in relation to an article means:

- i. *The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
- ii. *When there are no sales of the like articles in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*

- a. Comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or
- b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6): Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

Determination of Normal Value for China PR

38. The prices or constructed value of the PUC in the appropriate market economy third country or the prices from such third country to other countries, including India, has neither been made available by the Applicant nor is this information available with the Authority from any public source. Therefore, the normal value for China PR has been determined on the basis of price paid or payable in India, duly adjusted, after addition for selling, general & administrative expenses and reasonable profits. The normal value so determined is indicated in the dumping margin table below.

Determination of Normal Value for Thailand

39. The Authority notes that none of the producers/exporters from Thailand have filed exporter's questionnaire response. In view of non-cooperation from all the producers/exporters in Thailand, the Authority has determined normal value on the basis of best available information in terms of Rule 6(8) and the same is indicated in the dumping margin table given below.

Export Price

40. The Authority notes that none of producers/exporters from the subject countries have filed exporter's questionnaire response. In view of non-cooperation from the producers/exporters of the subject countries, the export price for subject goods from the subject countries has been computed based on the DGCI&S transaction-wise import data. Adjustments have been made for ocean freight, marine insurance, commission, inland freight expenses, port expenses, bank charges and VAT (for China PR). The export price so determined is indicated in the dumping margin table below.

G.4 Calculation of Dumping Margin

41. The dumping margin has been determined, in accordance with Section 9 A(l)(a) of the Act and is indicated in the following table:

Dumping Margin Table

Subject Countries	Producer	Exporter	Normal Value	Export Price	Dumping Margin		
			US\$/MT	US\$/MT	US\$/MT	%	Range
China PR	All	All	***	***	***	***	0-20

Subject	Producer	Exporter	Normal Value	Export Price	Dumping Margin		
Thailand	All	All	***	***	***	***	20-40

42. It is noted that the dumping margin for both China PR and Thailand is more than the *de-minimis* limit prescribed under the Rules.

H. INJURY AND CAUSAL LINK ANALYSIS

H.1 Submissions made by the Domestic Industry

43. Submissions made by the Domestic Industry in this regard are as follows:

- i. In the case of a sunset review, Article 11.3 only requires investigating authorities to determine whether the expiry of the ADD would be likely to lead to continuation or recurrence of dumping and injury. Once it has been established that the cessation of ADD is likely to cause continuation or recurrence of dumping and injury to the Domestic Industry, there is no requirement to establish the existence of a causal link between the likely dumping and likely injury.
- ii. As held by the Appellate Body in US – OCTG from Mexico, causal link is not required to be demonstrated in SSRs.
- iii. In an SSR investigation, there may be a case where the Domestic Industry has not suffered injury due to dumped imports. That is, when the Domestic Industry has recovered from the injurious effects of dumping, owing to the duties in force. In such a situation, it must be examined whether there is likelihood of recurrence of dumping and injury, in the event of expiry of the ADD. The cessation of the present ADD is likely to lead to a continuation or recurrence of dumping and the consequent injury to the Domestic Industry.
- iv. Merely because the Domestic Industry has not suffered injury during the investigation period, does not imply that the ADD cannot be continued.
- v. The volume of imports from the subject countries declined as a result of imposition of ADD. Similarly, the volume of imports in relation to domestic production and consumption is low only due to the existence of ADD.
- vi. The specialty products include low melt yarn, bi-component yarn, mother yarn, bi-shrinkage yarn, etc. If imports from subject countries are seen, almost all imports of specialty yarns are of low melt yarns. If the imports of certain speciality yarns and samples are excluded, there is significant undercutting of prices of the petitioning Domestic Industry. The price of specialty and regular yarns is significantly different from each other, i.e. around 105% for imports from China PR and 118% for imports from Thailand.
- vii. The low priced imports and positive price undercutting show that in the event of the expiry of ADD, imports are likely to have a suppressing or depressing effect on the prices of the petitioning Domestic Industry.
- viii. The Domestic Industry has enhanced its capacity over the injury period in view of an increase in demand in the Indian market. As a result of the ADD, the Domestic Industry has been able to increase its production and sales over the injury period.
- ix. As the ADD has kept imports in check, the Indian industry has been able to hold its market. In the absence of ADD, imports will become more price attractive thereby, the demand for imported goods will increase.
- x. The inventories of the Domestic Industry have increased over the injury period.
- xi. The number of employees has reduced in the Domestic Industry but the wages have

increased marginally over the injury period. Further, there has been an increase in the productivity and productivity per employee of the Domestic Industry.

xii. The volume and price parameters have grown as a result of the ADD in force.

xiii. Owing to the ADD in force, the profitability of the Domestic Industry has improved.

xiv. That Wellknown Polyesters Ltd. expected its revenue to increase during the tenure of the ADD i.e. in 2019-20, does not indicate that it expects its revenue to keep increasing in the absence of ADD.

xv. Paragraph (vii) of Annexure – II does not provide an exhaustive list of parameters to be shown in a likelihood case.

xvi. The Applicant has already demonstrated sufficient freely disposable capacities, imminent substantial increase in capacities and imports entering at prices likely to cause suppressing or depressing effect on the prices of the domestic industry in absence of duties.

xvii. Contrary to the claims of the exporter, the dumping margin and injury margin for Thailand is positive and significant.

xviii. The Domestic Industry was not forced to reduce its price when the landed price declined, only because of the ADD in force. If ADD is removed the landed price will be lower than the selling price and will create a strain on domestic industry prices.

xix. As the exporter has not filed Part II of the questionnaire, it cannot now claim that there is inadequate information on record regarding likelihood from Thailand. The Applicant has given complete information demonstrating likelihood of continuation of dumping and consequent injury including price attractiveness of India.

xx. The volume of imports from other countries is not relevant as such imports have not caused injury to the Domestic Industry and are not likely to do so in the future.

xxi. It is evident from the following that the Domestic Industry has not and is not likely to suffer injury due to any other factors:

- While there are significant imports from Indonesia, Korea RP and Malaysia, the same have not caused injury to the Domestic Industry, as is evident from its improved performance.
- The demand for the subject goods has increased over the injury period. Therefore, the injury to the Domestic Industry is not likely due to any contraction in demand.
- The technology and the production process have not undergone any major development, and thus, no injury is likely on that account.
- There are no trade restrictive practices or conditions of competition that are likely to affect the performance of the Domestic Industry.
- Further, there has been no material change in the pattern of consumption of the subject goods, which may result in injury to the Domestic Industry.
- The data provided relates exclusively to the subject goods, and therefore, the performance of other products is not relevant.

H.2 Submissions made by other interested parties

44. Submissions made by other interested parties in this regard are as follows:

- It is an admitted fact by the Applicant that the Domestic Industry has not suffered any injury due to imports from the subject countries. The Applicant has exhibited positive and exceptional movement in almost all the factors of injury which may also be considered by the Authority.
- Imports from Thailand as a percentage of total demand constituted a mere 0.01% in

the POI. The volume of imports is negligible especially from Thailand and there exists no likelihood of recurrence of injury to the Domestic Industry by the volume of subject imports. It is a settled practice of the Authority to terminate an anti-dumping investigation against a subject country when the volumes of imports from that country are either low or negligible. The Authority must undertake a separate examination of imports originating in Thailand.

- iii. There is no present or future injury in terms of price of the subject imports and further, imports are not capable of influencing the domestic selling price.
- iv. If the domestic sales were linked with the landed price of imports, then during the POI when there was a reduction in the landed price of imports, the domestic sales would have also undergone a corresponding decline.
- v. It is an established practice of the Authority to see causal link in SSR investigations.
- vi. The imports from third country should also be considered by the Authority.
- vii. The Domestic Industry has received adequate protection since the imposition of a provisional duty in the original investigation. The Domestic Industry has flourished after such imposition and the volume of imports are now negligible.
- viii. The Applicant has submitted that there is significant price difference between the specialty yarn and regular yarn. However, such comparison should not be made with respect to the imports from Thailand as the imports from Thailand of the specialty yarn are only 0.05 MT as is mentioned by the Applicant in the written submissions. The quantity of import of specialty yarn are too less to be made a fair comparison with the regular yarn. Further, the table provided by the Applicant does not mention any source for such data and raises doubts about its reliability.
- ix. ‘Employment’ is an economic factor which has to be examined for the determination of injury. It should only be interpreted to mean that if the Applicants have significant employment then it is one of the factors to demonstrate that the Domestic Industry is performing well and there is no need for the continuation of ADD.

H.3 Examination by the Authority

Cumulative assessment of injury

- 45. Article 3.3 of WTO agreement and para (iii) of Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
 - a. The margin of dumping established in relation to the imports from each country is more than 2% expressed as a percentage of export price and the volume of the imports from each country is 3% (or more) of the import of like article or where the export of individual countries is less than 3%, the imports collectively account for more than 7% of the import of like article, and
 - b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported and the like domestic articles.
- 46. Rule 11 of the Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate 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 articles....*”. 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 to 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 increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the Domestic Industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

47. The submissions made by the Domestic Industry and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as under:

H.3.1 Assessment of Demand and Market Share

48. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers, and imports from all sources. The demand so assessed is given in the table below.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Sales of Domestic Industry	MT	***	***	***	***
	Index	100	108	106	112
Captive Consumption of Domestic Industry	MT	***	***	***	***
	Index	100	116	52	56
Sales of Supporters & Other Producers	MT	***	***	***	***
	Index	100	106	128	135
Imports from Subject Countries	MT	313	45	73	166
	Index	100	14	23	53
Import from China PR	MT	288	23	36	113
	Index	100	8	13	39
Imports from Thailand	MT	25	22	37	53
	Index	100	89	148	214
Imports from Other Countries	MT	20,998	22,436	25,404	27,495
	Index	100	107	121	131
Total Demand (without captive consumption)	MT	7,17,623	7,67,663	8,60,632	9,06,788
	Index	100	107	120	126
Total Demand (with captive consumption)	MT	7,18,136	7,68,258	8,60,899	9,07,073
	Index	100	107	120	126
Market Share					
Domestic Industry	%	***	***	***	***
	Index	100	101	89	89
Captive Consumption of Domestic Industry	%	***	***	***	***
	Index	100	108	43	44
Supporters & Other Producers	%	***	***	***	***
	Index	100	100	107	107
Subject Countries	%	0.04	0.006	0.008	0.018
	Index	100	13	19	42
Other Countries	%	2.92	2.92	2.95	3.03
	Index	100	100	101	104
Total	%	100.00	100.00	100.00	100.00

49. The Authority notes that the demand for the PUC recorded an increasing trend throughout the injury period, including in the POI. While in absolute terms the sales of the Domestic Industry increased from the base year to the POI, in relative terms, the share of the Domestic Industry decreased from the base year to the POI.

50. In both absolute and relative terms, imports declined from the base year to 2017-18, and increased thereafter to the POI. However, the volume of imports from subject countries has remained low throughout the period.

H.3.2 Volume and Price Effect of the dumped imports on the Domestic industry

i. Volume Effect: Import Volume and share of subject countries

51. The effects of the volume of dumped imports from the subject countries as well as imports from other countries have been examined by the Authority.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Import Volume					
Subject Countries	MT	313	45	73	166
	Index	100	14	23	53
China PR	MT	288	23	36	113
	Index	100	8	13	39
Thailand	MT	25	22	37	53
	Index	100	89	148	214
Other countries	MT	20,998	22,436	25,404	27,495
	Index	100	107	121	131
Total Imports	MT	21,310	22,481	25,477	27,661
	Index	100	105	120	130
Share in Total Imports					
China PR	%	1.35	0.10	0.14	0.41
	Index	100	8	11	30
Thailand	%	0.12	0.10	0.14	0.19
	Index	100	85	124	165
Other countries	%	98.53	99.80	99.71	99.40
	Index	100	101	101	101
Subject Imports in relation to:					
Demand	%	0.04	0.006	0.008	0.018
	Index	100	13	19	42
Indian Production	%	0.04	0.01	0.01	0.02
	Index	100	14	20	43

52. The Authority notes that the volume of imports of the PUC from the subject countries in the POI was almost at half of the level of the base year. Imports from the subject countries declined in 2017-18 and thereafter recorded an increasing trend. Imports of the PUC from China PR declined from the base year to the POI and that from Thailand more than doubled. In relation to consumption and production in the country, subject imports recorded a similar trend from the base year to the POI. In absolute terms and in relation to both consumption and production in the country, imports from subject countries declined from the base year to 2017-18 and thereafter increased up to the POI. Imports from other countries have continued to rise throughout the injury

period, including in the POI. However, the volume of imports from subject countries has remained low throughout the period.

H.3.3 Price Effect of dumped imports and impact on the Domestic Industry

53. With regard to the effect of dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in normal course.
54. Accordingly, the impact on the prices of the Domestic Industry on account of dumped imports of the subject goods from the subject countries has been examined with reference to price undercutting, price suppression/depression and price underselling, if any. For the purpose of this analysis, the cost of sales, Net Sales Realization (NSR) and the NIP of the Domestic industry have been compared with the landed price of imports from subject countries.

Price Undercutting

55. Price undercutting has been determined by comparing the landed price of imports from the subject countries with the NSR of the Domestic Industry in India.

Particulars	Unit	2016-17	2017-18	2018-19	POI
NSR	Rs/MT	***	***	***	***
	Index	100	100	115	108
China PR					
Landed Price	Rs/MT	1,04,308.98	90,362.37	1,47,523.25	96,227.51
Price undercutting	Rs/MT	***	***	***	***
	%	***	***	***	***
	Range	(20)-0	0-20	(40)-(20)	0-20
Thailand					
Landed Price	Rs/MT	84,281.13	1,13,574.87	99,898.68	84,476.97
Price undercutting	Rs/MT	***	***	***	***
	%	***	***	***	***
	Range	0-20	(20)-0	0-20	0-20
Subject Countries					
Landed Price	Rs/MT	1,02,724.43	1,01,749.81	1,23,594.71	92,486.90
Price undercutting	Rs/MT	***	***	***	***
	%	***	***	***	***
	Range	(20)-0	(20)-0	(20)-0	0-20

56. It is seen from the table above that in the POI the landed price of imports from the subject countries and also from both China PR and Thailand individually was below the domestic selling prices.

Price Suppression / Depression

57. In order to determine whether the dumped imports are suppressing or depressing the

domestic prices and whether the effect of such imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority notes the changes in the costs and prices over the injury period. The position is shown as per the table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Cost of Sales	Rs/MT	***	***	***	***
	Index	100	106	125	111
Selling Price	Rs/MT	***	***	***	***
	Index	100	100	115	108
Landed Price from Subject Countries	Rs/MT	1,02,724	1,01,750	1,23,595	92,487
	Index	100	99	120	90
Landed Price from China PR	Rs/MT	1,04,309	90,362	1,47,523	96,228
	Index	100	87	141	92
Landed Price from Thailand	Rs/MT	84,281	1,13,575	99,899	84,477
	Index	100	135	119	100

58. Both the cost of sales and the selling price increased till 2018-19 and then dipped in the POI. Throughout the injury period, the cost of sales remained below the selling price. The landed price from the subject countries was higher than both the cost of sales and the selling price from 2016-17 to 2018-19. In the POI, the landed price from the subject countries was less than both the cost of sales and the selling price. Throughout the injury period, the cost of sales remained below the landed price from China PR. While in 2017-18, the cost of sales remained below the landed price from Thailand, in 2016-17, 2018-19 and the POI, the cost of sales was higher than the landed price of imports from Thailand. While in 2016-17 and 2018-19, the selling price remained lower than the landed prices from China PR, it was higher than the landed prices from China PR in 2017-18 and the POI. The selling price was lower than the landed price from Thailand in 2017-18, and higher in 2016-17, 2018-19 and the POI. However, the imports have not impacted the selling price of the domestic industry during the present period.

Price underselling

59. The Authority has also examined price underselling suffered by the Domestic Industry on account of dumped imports from the subject countries. It is noted that there has been price underselling on account of dumped imports from China PR and Thailand as shown in the table below:

Particulars	Unit	China PR	Thailand	Subject Countries
NIP	Rs./MT	***	***	***
Landed price of imports in POI	Rs./MT	96,228	84,477	92,487
Price Underselling	Rs./MT	***	***	***
	%	***	***	***
	Range%	0-20	0-20	0-20

H.3.4 Examination of economic parameters relating to the domestic industry

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

61. Accordingly, various economic parameters of the Domestic Industry are analyzed herein below:

a) Capacity, Production Capacity Utilization and Sales

62. The Authority has considered capacity, production, capacity utilization and sales volume of the domestic industry over the injury period and notes as follows:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Capacity	MT	***	***	***	***
	Index	100	106	106	106
Production	MT	***	***	***	***
	Index	100	108	107	114
Capacity Utilisation	%	***	***	***	***
	Index	100	102	100	107
Domestic Sales	MT	***	**	***	***
	Index	100	108	106	112

63. It is noted from the above table that:

- The Domestic Industry has increased its capacity in 2017-18.
- The production and sales of the Domestic Industry increased from the base year to 2017-18. Thereafter there was a decline in 2018-19 and an increase in the POI.
- The capacity utilization remained more or less the same till 2018-19 and increased in the POI.

b) Market Share of Domestic Industry in Demand

64. The effects of the dumped imports on the market share of the Domestic Industry have been examined as below. It is noted that the market share of the Domestic Industry remained more or less at the same level in 2016-17 and 2017-18 and then declined in 2018-19 and the POI. The market share of imports was low throughout the period.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Domestic Industry	%	***	***	***	***
	Index	100	101	89	89

Captive Consumption of Domestic Industry	%	***	***	***	***
	Index	100	108	43	44
Supporters & Other Producers	%	***	***	***	***
	Index	100	100	107	107
Subject Countries	%	0.06	0.01	0.01	0.02
	Index	100	13	19	42
Other Countries	%	2.91	2.92	2.95	3.03
	Index	100	100	101	104
Total	%	100.00	100.00	100.00	100.00

c) Inventory

65. The Authority notes that the average inventory level of the Domestic Industry increased in 2017-18, and then remained more or less at the same level.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Average Inventory	MT	***	***	***	***
	Index	100	170	169	237

d) Profits, Cash Profits and Return on Capital Employed

66. The performance of the Domestic Industry has been examined in respect of profits, cash profits and return on capital employed.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Cost of Domestic Sales	Rs/MT	***	***	***	***
	Index	100	106	125	111
Selling Price	Rs/MT	***	***	***	***
	Index	100	100	115	108
Profit per unit	Rs/MT	***	***	***	***
	Index	100	44	14	74
Cash Profit	Rs. Lacs	***	***	***	***
	Index	100	62	34	79
Profit before Interest & Tax (PBIT)	Rs. Lacs	***	***	***	***
	Index	100	72	36	92
Return on Capital Employed (RoCE)	%	***	***	***	***
	Index	100	74	43	121

67. It is noted from the above table that profit per unit, cash profit, PBIT and return on capital employed followed a declining trend from 2016-17 to 2018-19 and further in 2018-19 and recovered in the POI.

e) Employment and Wages

68. It is seen from the table below that the number of employees increased in 2017-18 and thereafter there has been a decline in 2018-19 and further in the POI. Salaries and wages paid by the Domestic Industry remained more or less at the same level from the base year to 2018-19 and thereafter increased in the POI.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Employment	Nos	1,503	1,530	1,417	1,387
	Index	100	102	94	92
Salary and Wages	Rs. Lacs	***	***	***	***
	Index	100	100	100	106

f) Growth

69. The examination of growth parameters of the Domestic Industry during the injury period is shown below.

Growth	Unit	2017-18	2018-19	POI
Production	%	8.08	-1.43	6.85
Domestic Sales	%	7.91	-1.36	5.28
Capacity Utilization	%	1.43	(1.14)	5.37
Profit per unit	%	(55.72)	(69.13)	441.68
RoCE	%	(25.66)	(41.89)	181.0

70. It can be seen that the production, domestic sales and capacity utilization had a positive growth in the POI after dipping in 2018-19. Parameters such as Profit per Unit and RoCE had a negative growth in 2017-18 and 2018-19 and a positive one in the POI. The market share of the Domestic Industry had a negative growth in 2018-19 and in the POI.

g) Level of Dumping and Dumping Margin

71. The dumping margin in respect of both China PR and Thailand is not only more than *de-minimis* but also significant.

h) Factors affecting domestic prices

72. The domestic producers hold ***% of the market, while the market share of the imports is negligible. The negligible volume of imports has not impacted the prices of the domestic industry during the present period. However, the landed price of imports is below the selling price and cost of sales of the domestic industry.

i) Ability to raise fresh Investment

73. The Authority notes that the Domestic Industry has the ability to raise fresh investments.

H.3.5 Observations on injury:

74. Considering various parameters relating to material injury, the Authority notes that:

- The volume of imports of the subject goods recorded a declining trend between 2016-17 and 2018-19, and then increased in the POI.
- Parameters like production and capacity utilization of the domestic industry have improved during the POI as compared to the previous year.
- Profitability parameters have improved in the POI as compared to the previous year.
- Dumping margin from both China PR and Thailand is positive and significant.

H.3.6 Causal Link

75. As per the Rules, the Authority, *inter alia*, is required to examine any known factors other than the dumped imports which at the same time are injuring the Domestic Industry, so that the injury caused by these other factors may not be attributed to the dumped imports. It was examined whether the following other factors listed under the Rules could have contributed to the injury suffered by the domestic industry.

a) Volume and price of imports from third country

76. The Authority notes that the volume of imports of the PUC from third countries at 99.40% in the POI is quite significant. The Authority also notes that the CIF price of imports from other countries is higher than that of the subject countries throughout the injury period. Further, the price of such imports is higher than the cost of sales and selling price of the Domestic Industry.

b) Export Performance of the domestic industry

77. The Authority notes that the Domestic Industry has exported the PUC in the injury period. The injury information examined hereinabove relates only to the performance in the domestic market. Thus, the injury suffered cannot be attributed to the export performance of the Domestic Industry.

c) Captive Sales

78. The Authority notes that there is some captive sales as well of the Domestic Industry, which declined in the POI to almost half the level of the base year. The captive sales figures are minuscule and injury cannot be ascribed to them.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Domestic Sales Volume	MT	***	***	***	***
	Index	100	108	106	112
Captive Sales Volume	MT	***	***	***	***
	Index	100	116	52	56

d) Developments in Technology

79. None of the interested parties has raised any issue with regard to development in technology as being the cause of injury to the Domestic Industry. The constituents of the Domestic Industry have submitted that they employ technology of contemporary standards in their plants.

e) Performance of other products of the company

80. The Authority notes that no submission has been made by any of the interested parties regarding the performance of other products being produced and sold by the domestic industry as a possible cause of injury to the Domestic Industry.

f) Trade Restrictive Practices and Competition between the Foreign and Domestic producers

81. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. The domestic producers compete with the landed prices of the subject goods. The price of the Domestic Industry is influenced substantially by the landed prices of subject goods. Moreover, no evidence has been submitted by any interested party to suggest that the conditions of competition between foreign and domestic producers have undergone any change.

g) Contraction in Demand and changes in pattern of consumption:

82. The Authority notes the domestic sales of the Domestic Industry have been increasing, although there was a dip in 2018-19. The total demand in the country has steadily increased throughout the injury period. Therefore, contraction in demand cannot be a cause of injury. Further, the installed capacities in the country are reasonably higher than demand for the product in the country.

Particulars	Unit	2016-17	2017-18	2018-19	POI
Sales of Domestic Industry	MT	***	***	***	***
	Index	100	108	106	112
Total Demand (Including Captive)	MT	***	***	***	***
	Index	100	107	120	126

h) Productivity of the domestic industry

83. The Authority notes that no submissions have been made by either the Domestic Industry or any of the interested parties regarding the injury to the Domestic Industry on account of productivity of the Domestic Industry. The information on record shows significant increase in productivity of the domestic industry over the injury period.

I. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

I.1 Submissions made by the Domestic Industry

84. Submissions made by the domestic industry in this regard are as follows:

- The most critical factor establishing likelihood of recurrence of dumping and injury is that the imports have almost ceased after the imposition of ADD.
- From the summary of the capacities of the foreign producers and their capacity utilization, it is evident that exporters in the subject countries have significant excess capacities. It may be noted that FDY constitutes about 40% of the production and consumption of PFY. If 40% of the excess capacities would be considered, it would be seen that China PR has surplus capacities to the extent of 28.54 lakh MT. Similarly, in case of Thailand, wherein FDY constitutes 35% of PFY, the exporters have surplus capacities of about 1.53 lakh MT. Clearly, the surplus capacities of the exporters are significant, to the tune of 30.07 lac MT, as against the demand in India of merely about 8.64 lacs MT.

- iii. Further, producers in the subject countries are continuously adding capacities for the production of subject goods, as available in the Wood Mackenzie data.
- iv. India is a major market for the exporters. This shows that if the ADD is not continued, exports to India from the subject countries are likely to increase.
- v. Exporters from the subject countries are dumping in other countries. There is no reason why exporters would desist from dumping in India if the ADD is removed.
- vi. As can be seen from the prices of FDY and Partially Oriented Yarn (POY) published by CCF Group, from April, 2016 to March, 2018, there was a significant difference between the price of POY and FDY. This was primarily due to the fact that the cost of FDY is much higher than that of POY. However, in April, 2018 to March, 2019, FDY is being sold at about the same prices as POY. This shows that the producers in the subject countries are selling FDY even at extremely low prices.
- vii. Where dumping has continued, despite the imposition of ADD, there can be no doubt that the dumping of the subject goods is likely to continue in the event of expiry of ADD as well.
- viii. The landed price of imports is lower than the selling price of the Domestic Industry without ADD. Thus, consumers would immediately switch to imports.
- ix. Since the price of imports is below the cost of sales of the Domestic Industry, in the absence of ADD such imports are likely to cause significant injury to the Domestic Industry.
- x. The declining prices of FDY clearly indicate that the foreign product would be found more attractive in the Indian market.
- xi. In the event of cessation of ADD, the surplus capacities of the subject goods are likely to be exported to the Indian market.
- xii. Further, 97.95% of the exports from the subject countries to third countries are priced below the export price to India. Thus, in the event of expiry of ADD, such exports are likely to be diverted to the Indian market.
- xiii. If the third country exports from subject countries are diverted to India, in the absence of ADD, the same are likely to have a significant adverse impact on the Domestic Industry. In such a situation, the Domestic Industry would either have the option to reduce its prices to retain its customers, or to maintain its prices
- xiv. If the Domestic Industry opts to maintain its prices, the following consequences are likely to follow:
 - a. Imports are likely to increase by 4,35,330 MT, as lower priced exports to third countries are diverted to the Indian market.
 - b. The Domestic Industry is likely to lose its market share, while the subject imports gain a market share of 48%.
 - c. This is likely to result in a decline in sales of the Domestic Industry by 51%, and accordingly, its production and capacity utilization.
 - d. From a level of 84%, the capacity utilization of the Domestic Industry is likely to decline to merely 46%.
 - e. However, the reduced volume of production and capacity utilization is likely to push up the cost of sales of the Domestic Industry, while its price is likely to remain the same.
 - f. In such a situation, the Domestic Industry is likely to suffer losses, reduced cash profits and negligible return on investment.
- xv. However, if the Domestic Industry reduces its prices to retain its customers, it is likely to face a decline of 62% in its profits, 39% in its cash profits and 51% in return on investment.

- xvi. As per Domestic Industry estimates, the gross investment in this product is in the region of Rs. 15,000 crores. However, if the ADD is withdrawn at this stage, the investments made by the domestic producers are likely to suffer significantly.
- xvii. The exporters of the PUC have also dumped the subject goods in third countries.
- xviii. The price of the subject goods is extremely low, resulting in positive price undercutting, dumping margin and injury margin.
- xix. The export price has declined significantly.
- xx. The imports are priced below the cost of sales and selling price of the Domestic Industry. Thus, in the event of cessation of ADD, the imports are likely to have a suppressing or depressing effect on the prices of the Domestic Industry.

I.2 Submissions made by other Interested Parties

- 85. Submissions made by other interested parties in this regard are as follows:
 - i. ADD imposed on imports of the subject goods must be discontinued as there is no likelihood of recurrence of injury to the domestic producers of the subject goods.
 - ii. The mere existence of surplus capacities is not sufficient to establish the likelihood of recurrence of injury.
 - iii. The export price of the subject goods from Thailand to other third countries was higher than the export price to India.
 - iv. The exporter from Thailand has no plans to expand its production capacity in the near future.
 - v. India is not a major export market for the foreign producers.
 - vi. The Applicant has not disclosed either the source or the time period of the data on exports from subject countries to third countries.
 - vii. The Applicant has not provided any support for the claim that imports are priced below the cost of production and there is likely price suppression or depression due to the cessation of ADD.
 - viii. The exporter from Thailand has not exported the PUC to India in the post-POI period.
 - ix. The exporter from Thailand is not indulging in dumping of the subject goods to third countries.
 - x. The ADD has been in force for more than eleven years now. During this time the exporter from Thailand has already found its alternative markets for exporting the PUC and had made arrangements contractual or otherwise with the importers or users in those third countries. In the previous SSR for the same subject goods, an ADD of US\$ 57.78/MT was imposed on M/s Indorama Polyester Industries while for some of the other producers it was as high as USD 547/MT, even then the quantity of imports into India from M/s Indorama Polyester Industries has remained negligible. Thus, M/s Indorama Polyester Industries has no reason whatsoever or commercial incentive to shift its exports from third countries to India in the event of cessation of ADD on the subject goods. Further, M/s Indorama Polyester Industries are no longer manufacturing any grade of the subject goods at their primary production site in Nakhonpathom, Thailand and the company does not have any expansion plans in the future.
 - xi. The Applicants are trying to create confusion by comparing FDY with POY and PFY on various instances in its written submissions.

I.3 Examination by Authority

86. The present investigation is a sunset review of ADD imposed on the imports of subject goods from China PR and Thailand. Under the Rules, the Authority is required to determine whether continued imposition of the ADD is warranted. This also requires an examination of whether the duty imposed is serving the intended purpose.

87. There are no specific methodologies available to conduct such a likelihood analysis. However, Clause (vii) of Annexure II of the Rules provides, *inter alia* for factors which may be taken into consideration viz.:

- A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
- Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
- Inventories of the article being investigated.

88. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the Domestic Industry. The examination of the parameters of likelihood is as follows:

i. **Imports in presence of Anti-Dumping Duty**

89. The import details in the subject investigation are as follows:

Particulars	Unit	2016-17	2017-18	2018-19	POI	Post-POI (A)
Imports from China PR	MT	287.95	22.91	36.18	113.42	0
	Index	100	8	13	39	-
Imports from Thailand	MT	24.74	22.07	36.53	52.97	0
	Index	100	89	148	214	-
Imports from Subject Countries	MT	312.69	44.98	72.71	166.38	0
	Index	100	14	23	53	-

90. The Applicant has emphasized that the imports have almost stopped after imposition of duties because the exporters are not able to market their products at fair prices. The Authority notes that based on the DGCI&S data the volume of imports from China PR is low during the injury period and the volume of imports from Thailand even lower. It is also noted that almost entire imports from Thailand are of off grade.

ii. **Price undercutting, price attractiveness and suppressing/depressing effect on the domestic industry**

91. The Authority notes that the landed price of imports from both China PR and Thailand is undercutting the domestic selling prices in the POI.

92. Further, the cost of sales has increased by 11% in the POI as compared to base year whereas the Applicant has been able to increase the selling price by 8% during the same period.

93. The Authority examined gross volume of exports from China and Thailand to various countries globally and the volume of exports below price for exports to India. It is noted that whereas 98.35 % of exports from China to rest of the world, amounting to 45% of Indian consumption, were at a price below export prices to India, only 91.29% of exports from Thailand to rest of the world, amounting to 3% of Indian consumption, were at a price below export prices to India. Therefore, in the event of expiry of duty, while the volume of imports that is likely to increase is quite significant in case of China, the volume is minuscule in case of Thailand. Further, the Chinese volume of imports that is likely to be shifted is likely to have a suppressing or depressing effect on the prices of the domestic industry.

Particulars	Unit	China PR	Thailand	Total
Indian demand	MT	9,06,788	9,06,788	9,06,788
Volume of exports to rest of world				
Gross volume	MT	4,18,903	25,551	4,44,454
Volume at prices below prices to India	MT	4,12,005	23,324	4,35,330
Share in total exports	%	98.35%	91.29%	97.95%
Share in Indian consumption	%	45%	3%	48%

iii. Excess Inventories

94. None of the producers/exporters from either of the subject countries have filed exporter's questionnaire response, from where information about excess inventories in the subject countries can be gathered.

iv. Freely disposable Capacities with the foreign producers

95. The Authority notes that the Domestic Industry has relied upon Wood Mackenzie Report and the CCF group report to estimate that there are significant freely disposable production capacities with Chinese producers. The evidence produced by the domestic industry shows that the producers in China PR has surplus capacities as below.

Particulars	Unit	FDY
Capacity	Lacs MT	130.30
Demand	Lacs MT	92.01
Exportable surplus	Lacs MT	38.29
Production	Lacs MT	85.59
Capacity utilization	%	66%
Unutilized capacities	Lacs MT	44.71
Indian demand	Lacs MT	9.07
Unutilised capacities as % of Indian demand	%	492%

96. However, it is noted that there are not so significant surplus capacities in Thailand.

Particulars	UOM	Thailand
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Total capacities for PFY	Lacs MT	4.62
Capacity utilization	%	82%
Production of the exporters	Lacs MT	3.79
Excess capacities for PFY	Lacs MT	0.82
Share of FDY in total PFY	%	35%
Excess capacities of FDY	Lacs MT	0.29
Indian demand	Lacs MT	9.07
Unutilized capacities as % of Indian demand	%	9.15%

v. **Level of current and past dumping margin**

97. The level of dumping margin in the original and previous SSR was significant. The dumping margin in the present investigation is also found to be positive and significant. However, whereas the dumping margin in case of Thailand has been found positive, it is seen that these are exports of off grade products. The domestic industry has not established significant dumping of regular grade FDY from Thailand. Thus, the volume of dumped imports is likely to increase only from China in the event of revocation of duty.

vi. **Post-POI Analysis**

98. The Authority has also conducted a Post-POI analysis for the purposes of determining likelihood of continuation or recurrence of dumping and injury. The following is noted with regard to the same:

Particulars	Unit	2016-17	2017-2018	2018-19	POI	Post-POI (Annualised)
Import Volume- China PR	MT	288	23	36	113	-
	Index	100	8	13	39	-
Import Volume- Thailand	MT	25	22	37	53	-
	Index	100	89	148	214	-
Domestic Sales, excluding captive consumption	MT	***	***	***	***	***
	Index	100	108	106	112	54
Production of PUC by DI	MT	***	***	***	***	***
	Index	100	108	107	114	56
Capacity	MT	***	***	***	***	***
	Index	100	106	106	106	106
Capacity Utilization	%	***	***	***	***	***
	Index	100	102	100	107	53
Export Sales	MT	***	***	***	***	***
	Index	100	261	225	197	107
Captive Sales	MT	***	***	***	***	***
	Index	100	116	52	56	72
Average Inventory	MT	***	***	***	***	***
	Index	100	170	169	170	252

Cost of Sales	Rs./MT	***	***	***	***	***	***
	Index	100	106	125	111	111	
Selling Price	Rs./MT	***	***	***	***	***	***
	Index	100	100	115	108	104	

99. In this regard, the Authority notes the following:

- i. In the post-POI period, there have been no imports of the PUC from either China PR or Thailand.
- ii. Both production and domestic sales reduced to less than half in the post-POI as compared to POI.
- iii. The capacity remained the same in the POI and the post-POI period.
- iv. The capacity utilisation too declined in the post-POI period, as compared to the POI period.
- v. The average inventory in the post-POI was double that in the POI.
- vi. While the cost of sales remained almost same in the POI period and the post-POI period, the selling price dropped in the post-POI, as compared to the POI period.
- vii. The post-POI period witnessed a world-wide pandemic and associated lockdowns which adversely affected production, demand and trade.

J. MAGNITUDE OF INJURY AND INJURY MARGIN

100. The NIP of the subject goods produced by the Domestic Industry when compared with the landed value of imports from China PR and Thailand shows positive injury margin during the POI. It is however seen that the injury margin in case of Thailand is in respect of off grade goods, and not for regular grade of FDY.

Subject Countries	Producer	Exporter	NIP	Landed Value	Injury Margin		
			Rs./MT	Rs./MT	Rs./MT	%	Range
China PR	All	All	***	96,228	***	***	0-20
Thailand	All	All	***	84,477	***	***	0-20

K. POST DISCLOSURE COMMENTS

101. Post-disclosure submissions have been received from the interested parties. The Authority has examined the post-disclosure submissions made by the interested parties including reiterations which have already been examined suitably and addressed adequately in the relevant paragraphs of these final findings. The issues raised for the first time in the post disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below.

K.1 Submissions made by the Domestic Industry

102. The following submissions have been made by the Domestic Industry on the Disclosure Statement:

- i. The Authority has observed that cumulative analysis is appropriate in the present situation, and accordingly, the same must be carried out for assessing the price

effect.

- ii. While there are significant imports from other countries, they have not caused injury to the Domestic Industry. Therefore, no injury can be attributed to other imports.
- iii. Captive consumption is not a listed parameter under the Rules. In any case, the quantity consumed captively is negligible, constituting only 0.9% of the total sales. Therefore, such meagre quantities cannot be considered as causing injury to the Domestic Industry.
- iv. There are no imports in the post-POI period. However, merely quantum of imports is not a factor for likelihood analysis. Rather, negligible imports after the imposition of ADD itself shows likelihood of imports.
- v. An adverse inference with regard to excess capacities should be drawn from the non-cooperation of producers / exporters.
- vi. The Authority has not recorded its own observations with regard to estimated surplus capacities. However, since the Authority has noted the Wood Mackenzie Report and CCF Group Report to estimate surplus capacities in its own examination, the Applicant believes that the Authority has also noted that the reports given show surplus capacities.
- vii. While there are no imports in the post POI period, the production, sales, capacity utilization and inventories of the Domestic Industry have suffered. Further, the selling price of the Domestic Industry has declined. However, the Applicant submits that the period considered by the Authority was impacted by COVID-19 and the ensuing lockdown imposed by the Government of India. Therefore, the parameters of the Domestic Industry were adversely impacted by other factors, not relevant to the present investigation.
- viii. It appears that the normal value has been determined based on the optimized cost of production of the Domestic Industry. It would be more realistic and reasonable to determine the normal value on the basis of weighted average cost of the Domestic Industry as a whole.
- ix. In case of Thailand, the consideration of optimized cost rewards producers for non-cooperation by allowing them lower normal value and dumping margin. On the contrary, the highest positive normal value should be considered in such a situation to induce cooperation with the Authority.
- x. The Applicant has reiterated its earlier submissions that China PR has surplus capacities to the extent of 30.07 lakhs, which is 332% of Indian demand, while Thailand has surplus capacities of 0.29 lakhs, estimated on the basis of reports of CCF Group and Wood Mackenzie Report.
- xi. Third country dumping, further capacity expansion by the producers in China PR and decline in price of FDY and the gap between FDY and POY, also show likelihood of continuation of dumping and consequent injury to the domestic industry, in the event of expiry of ADD.
- xii. None of the users have opposed continuation of the ADD in the present investigation.
- xiii. Other than the 26 producers of subject goods in India, there are certain other minor producers, accounting for about 1% of the total Indian capacity in total. The capacity in the country exceeds the present demand, thereby resulting in a price competition between the domestic producers. As a result, even with ADD in force, the domestic producers have not unduly increased their prices.
- xiv. An amount of Rs. 15,000 crores has been invested in the industry over the period, and the average age of the investment is 8 years. The industry has a turnover of Rs. 9,000 crores and provides employment to about 10,000 individuals directly and

- xv. indirectly. The production of FDY is capital intensive in nature.
- xvi. Considerable investment has also been made in the upstream PTA and MEG sector, totaling to about Rs. 36,000 crores. These products generate further employment for about 5,000 individuals, with a total output of about 73.7 lakh MT.
- xvii. The machines used in India are comparable to the best in the world, and can produce best quality yarn at most optimum utility consumption norms.
- xviii. While the industry has invested significantly to increase capacity, the operating rates have increased from 67% to 71%.
- xix. The product and process innovation undertaken by the FDY industry has helped in the creation of better-quality products giving better value for money to both the downstream producers as well as end consumers. It has also helped in creating a better branding for Indian textile products in the global market.
- xx. The Indian FDY industry is a major contributor to the Aatmanirbhar Bharat initiative.
- xxi. If ADD is withdrawn, it would provide a dumping ground to Chinese manufacturers, especially with the COVID-19 pandemic already impacting the global demand and thus destroy the FDY industry in the country.
- xxii. ADD is not a protection to the Domestic Industry, but only a means of price correction, to establish a level playing field and allowing the Indian industry an opportunity for fair competition.
- xxiii. The producers in China PR enjoy an unfair advantage, as they are operating under non-market economy conditions and have access to raw materials, labour, capital and utilities, at lower costs. This allows them to export the product at lower prices, which the Indian industry is not able to compete with.
- xxiv. Continuation of ADD is very important for sustenance and new investments in domestic FDY industry. The withdrawal of ADD would benefit the downstream consumers by only 0.141% to 0.513%, but would reduce the Domestic Industry to a situation of no profit.
- xxv. The normal value and the export price may be disclosed to the Domestic Industry, as the normal value is based on its own data and the export price is based on DGCI&S data.
- xxvi. If the Domestic Industry is forced to compete with the landed price for China PR, then it would not be able to make adequate profits or earn reasonable return.
- xxvii. Negligible imports after the imposition of ADD, despite the existence of surplus capacities and price attractiveness of the Indian market, shows that the producers are not able to find a market for their goods due to the addition of ADD in force.

K.2 Submissions made by other Interested Parties

103. The submissions of other interested parties on the Disclosure Statement are reproduced herein below:
 - i. The Authority has not taken on record the submission of Indorama Polyester Industries Public Company Limited, Thailand dated 29th October, 2020 that they are no longer manufacturing any grade of the subject goods at their primary production site in Nakhonpathom, Thailand and further, that Indorama Polyester Industries Public Company Limited, Thailand does not have any expansion plans in the future. Therefore, the present review may be terminated against them.
 - ii. The percentage of total production of the petitioning domestic producers has not been disclosed, although it is a consistent practice of the Authority to disclose the standing of not only the applicants but also of the supporters and other producers.

- iii. There is no legal provision that in the SSR investigation, the standing of the Domestic Industry is not necessary to be ascertained. It is a mandatory legal requirement in terms of Rule 2(b) of the Rules as well as a consistent practice of the Authority to not only ascertain the standing of the petitioners but also to disclose the proportion considered by the Authority as major proportion for the purposes of the standing.
- iv. The Authority has also not disclosed as to why various reports relied upon by the Authority such as Wood Mackenzie Report, CCF Group report and Trademap report have not been disclosed to the M/s Indorama Polyester Industries.
- v. The Authority has not stated in the Disclosure Statement as to what is the best information available with the Authority on the basis of which it has determined the normal value.
- vi. Economic parameters of the Domestic Industry have shown improvement. If any economic factor has not shown increasing trend then that is because the Domestic Industry had increased its capacity in 2017-2018, which has led to finance costs and high depreciation costs. Domestic Industry is able to command the price and is not at all being affected by the minuscule imports from the subject countries. Inventory is a function of production and demand and the Domestic Industry's increased inventory only shows a healthy trend of stocking the subject goods for the purpose of sales.
- vii. The Authority cannot rely on existence of injury margin to determine that there is material injury.
- viii. The volume of imports is not only negligible in the POI, it is nil from Thailand in the post-POI period and thus there exists no likelihood of recurrence of dumping and injury to the Domestic Industry due to imports of the subject goods from Thailand.
- ix. Imports from Thailand are merely around 53 MT which is approximately 0.005% of the total demand in India. Thus, the Authority must terminate the present review investigation against Thailand.
- x. Imports from Thailand are not entering India at prices that have a significant depressing or suppressing effect and neither is there any likelihood that such imports would, in the future, enter India at suppressed or depressed prices. The Authority must note that the injury suffered by the Domestic Industry, if any, is entirely attributable to significant volumes of imports from other countries which have 99.40% share in total imports and further, the prices at which such imports are entering the Indian market is also significantly low.
- xi. During the post-POI period, the Government of India had imposed nation-wide lockdown due to COVID-19 pandemic. It is obvious that capacity utilisation, production and sales of the petitioning companies would be adversely affected in such a period.

K.3 Examination by Authority

104. The post-disclosure comments/submissions made by the interested parties for the first time and considered relevant by the Authority have been examined as under:

- i. Price underselling and injury margin have been found for both subject countries. It is however seen that the injury margin in case of Thailand is in respect of off grade of subject goods, not for its regular grade.
- ii. The post-POI period considered includes the period of COVID-19 pandemic and associated lock-downs and therefore analysis for the post-POI period is influenced by other factors.

- iii. The evidence on record shows that there is low volume of dumped imports of the subject goods in absolute terms and in relation to production and consumption in India. While the imports were undercutting the prices of the Domestic Industry during the POI, the Domestic Industry did not suffer any suppressing / depressing effect on the domestic selling prices. The overall performance of the Domestic Industry has improved and the Domestic Industry has not suffered injury during the POI. However, it is seen that there is a likelihood of dumping and consequent injury to the Domestic Industry, if the duties against China PR expire. The dumping of the subject goods from China PR has continued. There are significant surplus capacities for the subject goods in China PR. India is also a price attractive market for the exports from China PR, and significant quantities may be diverted to the Indian market in the event of expiry of ADD. The volume of imports during the POI is low only due to the anti-dumping duties in force. It is also seen that the landed price of imports from China PR is below the selling price of the Domestic Industry. If the anti-dumping duties are removed, such imports are likely to have a suppressing or depressing effect on the prices of the Domestic Industry.
- iv. The Authority notes that the imports of the subject goods from Thailand increased around 1.5 times in the POI, as compared to the previous year, 2018-19, but have remained low. While there is dumping of the subject goods from Thailand, the exports are of only off grade products. Further, the evidence produced by the Applicant does not show significant surplus capacities in Thailand, and the total volume of exports from Thailand is also low. Therefore, the Authority does not find likelihood of injury to the domestic industry even if the duties against Thailand are allowed to expire.
- v. None of the users have opposed continuation of the ADD in the present investigation. The domestic industry has provided calculations showing impact of withdrawal of ADD on the consumers, assuming that the domestic industry is forced to reduce the prices to the level of cost of production (i.e., the domestic industry sells at no profit-no loss basis). It has been shown that the benefit of withdrawal of ADD to the consumers will be merely in the region of 0.141% - 0.513% even in such a situation.
- vi. With regard to the situation of the industry in India, the domestic industry has submitted that there are more than 26 producers of the subject goods in the country, which together generate a turnover of Rs. 9,000 crores and provide employment to about 10,000 individuals directly and indirectly. The Domestic Industry, while arguing that continuation of ADD is vital for viability of the present investments and for encouraging fresh investments in the FDY industry, has highlighted that Chinese producers have created massive capacities, enjoy unfair advantages, are operating under non-market economy conditions and have access to inputs at lower costs, which allows them to export the product at lower prices.

L. INDIAN INDUSTRY'S INTEREST

- 105. The Authority notes that the purpose of ADD, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.

106. It is recognized that the imposition of ADD might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the ADD is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the Domestic Industry and help maintain availability of wider choice to the consumers of the subject goods.

M. CONCLUSION

107. Having regard to the contentions raised, information provided and submissions made and facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the Domestic Industry, the Authority concludes that:

- a. There is continued dumping of the subject goods from the subject countries.
- b. The performance of the Domestic Industry has improved and it has not suffered injury during the present period.
- c. The information on record shows likelihood of continuation/ recurrence of dumping and consequent injury to the domestic industry, in case the ADD in force is allowed to cease against imports from China PR. The information on record does not show likelihood of injury, in case the ADD in force is allowed to cease against imports from Thailand.

N. RECOMMENDATIONS

108. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and the causal link.
109. Having concluded that there is likelihood of continuation/ recurrence of dumping and injury if the existing ADD against imports from China PR are allowed to cease, the Authority is of the view that continuation of ADD is required on the imports of the product under consideration from China PR. However, continuation of ADD is not recommended on the imports of the product from Thailand.
110. Under these circumstances, the Authority considers it appropriate to recommend continuation of existing quantum of ADD on the imports of subject goods from China PR. The Authority, thus, considers it necessary to recommend continuation of definitive ADD equal to the amount indicated in Col. 7 of the duty table below for a period of five (5) years on all imports of the goods mentioned at Col. 3 of the table below from China PR.

DUTY TABLE

S. No.	Headin g	Description	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

1	5402	All Fully Drawn or Fully Oriented Yarn/Spin Draw Yarn/Flat Yarn of Polyester (nontextured and non POY)*	China PR	Any country including China PR	Any	547	MT	US\$
2	- do -	All Fully Drawn or Fully Oriented Yarn/Spin Draw Yarn/Flat Yarn of Polyester (nontextured and non POY)*	Any country other than China PR	China PR	Any	547	MT	US\$

Note - Customs classification is only indicative, and the determination of ADD shall be made as per the description of the PUC. The PUC mentioned above should be subject to ADD even when it is imported under any other HS code.

*excluding FDY with a low melting point, i.e. between 110°C to 170°C.

O. FURTHER PROCEDURE

111. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.



(B.B. Swain)

Special Secretary & Designated Authority