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F. No. 15/32/2013-DGAD  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Anti Dumping & Allied Duties  
4<sup>TH</sup> Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi-110001

Dated the 13<sup>th</sup> April, 2015

**NOTIFICATION**

**(FINAL FINDINGS)**

Subject: Sunset Review of anti-dumping duty imposed on the imports of Nylon Tyre Cord Fabric (NTCF) originating in or exported from China PR.

No.15/32/2013-DGAD: 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 1995 thereof (hereinafter referred to as the Rules or the AD Rules):

**A. BACKGROUND OF THE CASE**

2. WHEREAS the Designated Authority (hereinafter also referred so to the Authority) had initiated an investigation concerning imports of “Nylon Tyre Cord Fabric” (hereinafter also referred so to as NTCF or the subject goods), originating in or exported from China PR (hereinafter also referred to as the subject country) vide Notification No. 14/20/2003-DGAD dated 29.10.2003. On the basis of the recommendations made by the Authority vide Final Findings Notification No. 14/20/2003-DGAD dated 9<sup>th</sup> March, 2005, definitive anti-dumping duty was imposed by the Central Government vide Notification No. 36/2005-Customs dated 27.04.2005 on the imports of the subject goods, originating in or exported from the subject country.
3. WHEREAS, a Sunset Review (SSR) investigation was initiated by the Authority in respect of the imports of the subject goods originating in or exported from the subject country vide Notification No 14/20/2008-DGAD dated 16<sup>th</sup> September, 2008. The Authority vide Final Findings Notification No. 14/20/2008-DGAD dated 31<sup>st</sup> March, 2009 concluded that the expiry of anti dumping duty would lead to continuation or recurrence of dumping and consequent injury and recommended continued imposition of the anti-dumping

duties on the imports of the subject goods originating in or exported from the subject country and the Central Government vide its Notification No. 41/2009-Customs dated 29<sup>th</sup> April, 2009 imposed anti-dumping on the imports of the subject goods, originating in or exported from the subject country.

4. WHEREAS, the Association of Synthetic Fibre Industry, New Delhi, on behalf of (hereinafter referred to as the petitioners or the applicants) two of its member companies, namely, M/s SRF Ltd. and M/s Century Enka Ltd. has approached the Authority with a duly substantiated application in accordance with the Act and the Rules, contending likelihood of continuation/recurrence of dumping of the subject goods, originating in or exported from the subject country and consequent injury to the domestic industry and requested for review, continuation and enhancement of the anti-dumping duty imposed on the imports of the subject goods originating in or exported from the subject country.
5. In view of the duly substantiated application filed on behalf of the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority again initiated sunset review investigation vide Notification No. 15/32/2013-DGAD dated 17<sup>th</sup> April, 2014 to review the need for continued imposition of the anti dumping duties in force in respect of the subject goods, originating in or exported from the subject country and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and consequent injury to the domestic industry.
6. The validity of the anti-dumping duty on imports of the subject goods from the subject country was extended by the Central Government up to 28<sup>th</sup> April, 2015 vide Notification No 21/2014-Customs dated 16<sup>th</sup> May, 2014.
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 country.

## **B. PROCEDURE**

8. The procedure described below has been followed in this investigation:
  - a. The Authority notified the embassy of the subject country in India about the receipt of application alleging dumping of the subject goods originating in or exported from the subject country before proceeding to initiate the investigation in accordance with the Rules.
  - b. The Authority issued a public notice No 15/32/2013-DGAD dated 17<sup>th</sup> April, 2014, published in the Gazette of India, Extraordinary, initiating the anti

dumping investigation concerning imports of the subject goods, originating in or exported from the subject country.

- c. The Authority forwarded a letter along with copy of the public notice to all the known exporters and other interested parties/industry associations (whose details were made available by the domestic industry) and gave them opportunity to make their views known in writing within the prescribed time limits in accordance with the Rules.
- d. The Authority provided a copy of the non-confidential version of the application to the known exporters of the subject countries in accordance with the Rules. A copy of the application was also made available to other interested parties, upon request.
- e. Copies of the letter and the exporter's questionnaire sent to the exporters/producers in the subject country were also sent to the embassy of the subject country in India along with a list of known exporters / producers with a request to advise the known exporters / producers from the subject country as also other exporters / producers from the subject country to respond to the questionnaire within the prescribed time limits.
- f. The Authority sent exporter's questionnaire to elicit relevant information to the following known exporters in the subject country in accordance with the Rules:
  - i. Ningbo Nylon Co Limited
  - ii. Junma Tyre Cord Co Limited
  - iii. Qingdao Lianchuang Stock Company Ltd
  - iv. Qingzhou Heli Chemistry Fibre Co., Ltd.
  - v. Shandong Baorun (Holding) Co., Ltd.
  - vi. Yantai Guo Guo Handicraft Company
  - vii. Zhangjiagang Ruiqi Cord Fabric Co.,Ltd.
  - viii. Shandong Anda Synthetic Fiber Products Co., Ltd.
  - ix. Weifang Great Dragon Chemical Fibre Co. Ltd./ Shandong Polytex
  - x. Jiangsu Qunfa Chemical Co. Ltd.
  - xi. Taizhou Chemical Fibres Company
  - xii. Shandong Hualian Group Co Ltd.
  - xiii. Jiangsu Haiyang Chemical Fibres Co Ltd.
  - xiv. Wujiang Dingzhen Textile Co Ltd.
  - xv. Shandong Hualian Group Co Ltd.
  - xvi. Weifang Senyu Trading Co Ltd.
  - xvii. Foshan City Shunde District Qifa Textile Co Ltd.
  - xviii. Jiangsu Steed
  - xix. Shandong Hesheng Chemical Weaving Co Ltd.
  - xx. Shandong Shouguang Ruihua Non-Woven Fabrics Co Ltd.
  - xxi. Achin Webbing & String (Shanghai) Co., Ltd.

xxii. Baling Petrochemicals

- g. Response to the exporter's questionnaire and submissions was received from M/s. Jiangsu Haiyang Chemical Fibres Co. Ltd. only. However, M/s. Jiangsu Haiyang Chemical Fibres Co. Ltd. did not file market economy treatment questionnaire. Further, submissions on initiation of sunset review investigations and present investigations have been made by M/s. Junma Tyre Cord Company Ltd., Ningbo Nylon Co. Ltd., Huaian Nylon Chemical Fibre Co. Ltd. and Ningbo Jinlun Import & Export Co. Ltd.
- h. The Authority forwarded a copy of the public notice to the following known importers/consumers and User Associations (whose names and addresses were made available to the Authority by the applicants) of the subject goods in India and advised them to make their views known in writing within the prescribed limit in accordance with the Rule 6(4):
- i. Balkrishna Industries Ltd., Mumbai
  - ii. Apollo Tyres Ltd.,Gurgon
  - iii. Falcon Tyres Ltd., Mysore
  - iv. Birla Tyres, Kolkata
  - v. Goodyear India Ltd.,Ballabgarh
  - vi. TVS Srichakra Ltd.,Madurai
  - vii. JK Tyres & Industries Ltd.,New Delhi
  - viii. CEAT Ltd.,Mumbai
  - ix. MRF Ltd., Chennai
  - x. Madura Industrial Textile Ltd, Mumbai
  - xi. Automotive Tyre Manufacturers' Association (ATMA), New Delhi
- i. Apollo Tyres filed importers questionnaire response. Submissions were made by Automotive Tyre Manufacturers' Association (ATMA), Apollo Tyres and J K Tyre & Industries.
- j. The Period of Investigation (POI) for the purpose of the present review was 1<sup>st</sup> October, 2012 to 30<sup>th</sup> September, 2013. The examination of trends in the context of injury analysis covered the periods 2010-11, 2011-12, 2012-13 and the POI.
- k. The domestic industry had submitted the transaction wise data sourced from the secondary source IBIS, Mumbai. The Authority procured the same from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) as well for comparison. The Authority found that the import volume reported in the IBIS data was significantly higher (approximately 21%) than reported in the DGCIS data and, therefore, the Authority has relied upon the IBIS data for the injury analysis in present SSR

investigation as has been done by the Authority in various previous investigations in such situations.

- l. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties by the Authority.
- m. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6(7).
- n. The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- o. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in a public hearing held on 21<sup>st</sup> January 2015. All the interested parties attending the hearing were requested to file written submissions/rejoinders of the views expressed orally.
- p. A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the all the interested parties on 06.04.2015. The post Disclosure Statement submissions have been considered, to the extent found relevant, in this Final Findings Notification.
- q. The submissions made by the interested parties during the course of the investigation have been examined and addressed in this disclosure statement.
- r. Verification of the information and data submitted by the domestic industry and other interested parties was carried out to the extent deemed necessary.
- s. Information provided by the interested parties on 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 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.
- t. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the investigation, or has significantly impeded the investigation, the Authority has carried out the investigation on the basis of the 'facts available' and treated such parties as non-cooperative.

- u. \*\*\* in this Final Findings Notification represents the information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- v. The exchange rate adopted for the POI is 1 US \$ =Rs 56.89.

## **C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **C.1 Submissions by the Domestic Industry**

9. The domestic industry has made the following submissions with regard to the product under consideration:
- (i) The product under consideration is “Nylon Tyre Cord Fabric” or NTCF. NTCF is a fabric of nylon, meant largely for tyre cord. NTCF finds application in different kinds of automotive tyres such as bus & truck tyres, two wheeler tyres, cycle tyres, light commercial vehicles tyres, animals driven vehicles etc.
  - (ii) Nylon Tyre Cord Fabric is produced using different deniers of yarn. The fabric is used for reinforcement of tyres. The product is sold as "Greige fabric" and also "dipped fabric". These are only different forms of the product under consideration. The Indian Tyre Industry is buying both Greige and dipped fabric. In addition, domestic industry is also manufacturing CTC grade of NTCF which is used by the cycle tyre manufacturers.
  - (iii) All types of NTCF are within the scope of the product under consideration and are classified under Chapter 59, and further under custom subheading no. 5902.10 of the Customs Tariff Act.
  - (iv) There is no known difference in the subject goods produced by the Indian industry and exported from the subject country. The Authority has come to the same conclusion in the final findings of the original investigation and the subsequent sunset review investigation. In view of the same, petitioners submit that the goods produced by the domestic industry and imported from the subject country are like articles in accordance with the Rules.

### **C.2 Submissions made by the producers/exporters/other opposing interested parties**

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

### **C.3 Examination by the Authority**

11. The product under consideration in the present review investigation is Nylon Tyre Cord Fabric (NTCF) originating in or exported from China PR. NTCF is a fabric of nylon, meant largely for tyre cord. NTCF finds application in different kinds of automotive tyres such as bus & truck tyres, two wheeler tyres, cycle tyres, light commercial vehicles tyres, animals driven vehicles etc. Nylon Tyre Cord fabric is produced using different deniers of yarn. The fabric is used for reinforcement of tyres. The product is sold as "Greige fabric" and also "dipped fabric". These are only different forms of the product under consideration. The Indian Tyre Industry is buying both Greige and dipped fabric. The product under consideration remains the same as it was in the original investigation and all previous sunset review investigation.
12. All types of NTCF are within the scope of the product under consideration and are classified under Chapter 59 and further under customs subheading no. 5902.10.00 of the Customs Tariff Act. The classification is, however, indicative only and in no way binding upon the scope of the present investigation.

#### **C.4 Like Article**

13. The applicants submitted that the product manufactured by the domestic industry and the subject goods imported into India from the subject country are like articles within the meaning of the Anti-dumping Rules; that there is no known difference between the subject goods imported from the subject country and that produced by the domestic industry; that the subject goods produced by the domestic industry and imported from the subject country are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods; that the consumers can use and are using the two interchangeably and that the two are technically and commercially substitutable. None of the interested parties made any submission disputing the claim of the petitioners in this regard. After examination, the Authority concludes that the subject goods produced by the domestic industry are like article to that imported from the subject country.

### **D. SCOPE OF DOMESTIC INDUSTRY AND STANDING**

14. The Association of Synthetic Fibre Industry, New Delhi, on behalf of two of its member companies, namely, M/s SRF Ltd. and M/s Century Enka Ltd. has approached the Authority claiming to be the domestic industry under the rules.

#### **D.1 Submissions made by the Domestic Industry**

15. The Domestic Industry has made the following submissions with respect to the scope of domestic industry and standing:
- (i) The petition was filed by the Association of Synthetic Fibre Industry (ASFI) (hereinafter referred to as ‘petitioner’) which represents domestic producers of the product under consideration in India. Two of its member companies, M/s SRF Ltd. and M/s Century Enka Ltd. also referred to as “petitioner companies” or “petitioners” have provided relevant financial information to file the petition for the review, continuation and enhancement of anti dumping duty in force on imports of NTCF from the subject country. In addition to the petitioners, Madura Industrial Textiles Limited is also producing product under consideration in India.
  - (ii) The petitioners command majority proportion in Indian production in the POI and, therefore, constitute domestic industry. Further, in case of sunset review, standing is not required to be examined.
  - (iii) One of the group companies of M/s Century Enka Limited, M/s Birla Tyres is regularly importing small quantities of duty free NTCF from China. The volume of imports made by M/s Birla Tyres are quite low considering gross imports of the product under consideration in India from China, production of M/s Century Enka Limited, Indian production and consumption of the product under consideration in India. Therefore, the Authority may kindly consider M/s Century Enka Limited as eligible domestic industry.
  - (iv) Both, Divisional Bench at Kolkata and Chennai High Courts have passed final orders clearly holding that the Designated Authority has sufficient discretion under Rule 2(b).
  - (v) In light of the facts stated above, the petitioners may be considered as eligible domestic industry.

#### **D.2 Submissions made by the producers/exporters/other interested parties**

16. Following submissions have been made by the other interested parties with regard to the scope of the domestic industry and standing: -
- (i) The petitioners in the current case cannot be treated as domestic industry for the reason that while one of the petitioners is importing the subject goods through its related company, the other petitioner has a related company in Thailand which is exporting the subject goods to India.
  - (ii) Since petitioners are related either to importers or exporters, they are not entitled to be treated as domestic industry.

#### **D.3 Examination by the Authority**

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

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

18. The Authority notes that the application has been filed by the Association of Synthetic Fibre Industry (ASFI) (referred to as ‘petitioner’) which represents domestic producers of the product under consideration in India. Two of its member companies, M/s SRF Ltd. and M/s Century Enka Ltd. also referred to as “petitioner companies” or “petitioners” have provided relevant financial information to file the petition. The Authority further notes that apart from the applicant, M/s Madura Industrial Textiles Limited also manufactures the like article in India. However, no response has been received from M/s Madura Industrial Textiles Limited, either supporting or opposing the present investigation. It is noted from the information provided by the domestic industry that the share of production of the participating companies accounts for a major share in the total Indian production.

19. It has been brought to the attention of the Authority that M/s Birla Tyres, which is one of the group companies of M/s Century Enka Limited, is regularly importing small quantities of duty free NTCF from China. The domestic industry has claimed that the volume of imports made by M/s Birla Tyres are quite low considering gross imports of the product under consideration in India from China, production of M/s Century Enka Limited and Indian production & consumption of the product under consideration in India. While contending that Century Enka should not be treated as eligible domestic industry, it is noted that none of these interested parties has provided any information with regard to volume of imports by Birla Tyres. Birla Tyres has preferred not to cooperate with the Designated Authority in the present investigation. Even though ATMA has been participating in the present investigation and Birla Tyres is its member, ATMA has also not provided any information with regard to volume of imports by Birla Tyres. The Authority concludes that in this background, it would be appropriate to consider M/s Century Enka Limited as eligible domestic industry. It is seen that the production of M/s SRF Ltd. and M/s Century Enka Ltd. in the investigation period constitutes 94.56% of Indian production and, therefore, the applicants have been treated as domestic industry within the meaning of the Rules.

20. In view of the above position and having regard to the Anti-dumping Rules, the Authority determines that M/s SRF Ltd. and M/s Century Enka Ltd. account for a major proportion of total domestic production of the subject goods during the POI and constitute domestic industry within the meaning of Rule 2(b) of the Anti-dumping Rules, and the petition satisfies the criteria of standing in terms of Rule 5 of the Rules.

## **E. MISCELLANEOUS ISSUES**

### **E.1 Submissions made by the producers/exporters/other interested parties**

21. The following miscellaneous submissions have been made by producers/ exporters/importers/other interested parties: -
- (i) Claims of domestic industry in non confidential petition are contradictory to the statement made by the Authority in the Initiation Notification. There is no claim of injury in the narrative version of the Petition, whereas the Authority has made observations that the domestic industry continues to suffer injury. Domestic industry has deliberately provided wrong and incomplete information for getting sunset review investigation initiated and later on supplemented the same with Proforma IV-A.
  - (ii) Domestic industry was in good health and was not suffering any injury at all. The investigation has been initiated on erroneous grounds and the entire process is liable to be vitiated.
  - (iii) The Applicants have raised no cogent points that the expiration of measure with regard to the subject country will result in recurrence of injury to the domestic industry. Further, any 'unbiased and objective' examination of the evidence provided in the Application would not justify the initiation of the investigation due to insufficiency of evidence.
  - (iv) The Applicants have simply filed the present application with a single-minded motive to seek the extension of the ADD without appropriately adducing evidence to substantiate their claims. However, the ADD cannot continue because India has taken an in-principle stand before the WTO agreeing not to extend the measure beyond a period of 10 years.
  - (v) If the DI genuinely feels harmed by the exports, it may file a fresh application for investigation, along with substantive evidence. In an original investigation the dumping and injury has to be established. However, in an SSR only the likelihood of injury is to be established.
  - (vi) The exporter reserves the right to file rejoinder submission if any issues are raised by the domestic industry with regard to Exporters Questionnaire responses filed by them.

- (vii) The Applicants have forwarded their information in the prescribed pro-forma which is actually meant for the original application and not for an SSR.
- (viii) The contention of the Applicants that initiation becomes mandatory, when a request for doing so is made, is wrong.
- (ix) The POI adopted in the investigation is erroneous in view of the fact that the investigation should end as close to the date of initiation as practicable.
- (x) The Applicants have not given satisfactory reasons for resorting to confidentiality in relation to substantial information in its NCV petition.
- (xi) The claims of the Applicants that initiation of SSR is compulsory under certain provisions do not hold good. The Applicants have referred to certain judgments of the Delhi HC to support the argument. However, amendments have been made to the AD Rules subsequent to the judgments cited and hence, the initiation of a review is contingent on the fulfillment of the conditions pertaining to the existence of good and sufficient grounds.
- (xii) The claims of the Applicants that there is no prescribed methodology for examining the likelihood of dumping and injury in a SSR stand rejected in light of the presence of relevant provisions underlining the said procedure.

## **E.2 Submissions by the domestic industry**

22. The following miscellaneous submissions have been made by the domestic industry: -
- (i) The exporter questionnaire itself is so grossly deficient that the domestic industry is not in a position to respond to the same.
  - (ii) Scope of original investigation and sunset review investigations are totally different. Fresh petition can be filed if dumping of a product is causing injury to the domestic industry. However, the scope of sunset review is whether cessation of anti dumping duty is likely to lead to dumping and consequent injury to the domestic industry. Further, the interested parties themselves concede that in a sunset review, the Designated Authority is required to examine likelihood of injury. Despite so, the interested parties have contended that the Designated Authority has stated material injury in the Initiation Notification.
  - (iii) The duty free imports are also causing injury to the domestic industry and, therefore, there is no justification for excluding such volumes.
  - (iv) There is no prescribed format for filing sunset review petition. In the absence of the same, the petitioners have adopted the format for fresh application.

## **E.3 Examination by the Authority**

23. The following is the examination of the Authority:

- (i) The Authority has made the present determination on the basis of Anti Dumping Acts, Rules and the Practices being followed by the Designated Authority.
- (ii) It has been contended that the initiation notification is contrary to the petition filed by the domestic industry with regard to claim on injury. It is, however, to be noted that the Authority had initiated the investigations on the grounds of likelihood of injury to the domestic industry as is evident from the notice of initiation. The Authority notes that the notice of initiation is required to be read in its entirety and not in isolation.
- (iii) It has been contended that the domestic industry has not suffered injury and performance of the domestic industry has improved on account of a number of factors. The Authority, however, notes that the present investigation being a sunset review investigation, the Authority is required to consider both continuation and recurrence of dumping and injury to determine whether expiry of duty is likely to lead to dumping and consequent injury to the domestic industry.
- (iv) As regards the argument that petitioner has not provided sufficient justification that expiry of duty shall lead to injury to the domestic industry, the Authority holds that the petition contained relevant material in this regard and the present determination is based on relevant evidence with regard to likelihood of injury to the domestic industry in the event of cessation of anti dumping duty.
- (v) As regards the opinion expressed by Govt. of India before WTO for not continuing measures after a period of 10 years, the Authority notes that there is no decision by WTO nor any amendment to the Indian law providing that the anti dumping measures should not go beyond a period of 10 years if dumping is likely to continue or recur. The Indian Rules provide that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may from time to time extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension. Thus, if the investigation shows that the dumping and consequent injury to the domestic industry is likely in the event of cessation of anti dumping duty, the anti dumping duty is required to be extended for a further period of five years.
- (vi) As regards the contention that domestic industry can file a fresh petition and the present duty should be allowed to expire, the Authority notes that the scope of fresh petition is entirely different from the scope of sunset review investigation. In a review investigation, the Authority is required to determine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, whereas, in a fresh investigation the Authority is required to determine whether the product

under consideration is being dumped in India, whether import of the said article causes or threatens material injury to an industry established in India or materially retards the establishment of any industry in India and whether a causal link exists between the dumped imports and injury. Thus, scope of sunset review is entirely different from the scope of fresh investigation. In any case, the fact that domestic industry has a right to file a fresh petition does not bar the domestic industry from filing a petition seeking sunset review investigation.

- (vii) As regards the arguments that the petition was filed in a form and manner prescribed for original investigation, the Authority notes that the petition contained all relevant information with regard to likelihood of dumping and injury, in addition to all relevant information prescribed for a fresh case.
- (viii) As regards the contention that the claim of domestic industry with regard to mandatory nature of sunset review is wrong, the Authority notes that the present determination is based on positive evidence with regard to likelihood of continuation or recurrence of dumping and injury to the domestic industry.
- (ix) As regards the contention that the POI adopted in the investigation is erroneous in view of the fact that the investigation should end as close to the date of initiation as practicable, the Authority notes that the investigation period considered is appropriate and reasonable considering the facts of the case. In any case, there is no evidence on record to show that consideration of subsequent period would have led to significantly different conclusion. The Authority also notes that there is no legal prescription that the investigation should end as close to the date of initiation as practicable.
- (x) As regards the confidentiality claims in the petition, the Authority notes that confidentiality has been allowed to the extent found relevant.

## **F. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

### **F.1 Submissions by the domestic industry**

24. Following are the submissions made by the domestic industry with regard to the normal value, export price and dumping margin:
- a) China is a non-market economy country. No WTO member country has granted market economy country status to China after following detailed evaluation procedure and examination under the WTO Rules. None of the Chinese producers/exporters has claimed market economy status. In fact, only one exporter from China has filed questionnaire response and none of the other Chinese producers has even filed questionnaire response. The sole exporter from China who has filed questionnaire response, M/s. Jiangsu Haiyang Chemical Fibres Co. Ltd., has also not claimed market economy status. Thus, in any case, question of considering grant of market economy

status does not arise. The rules provide that the Authority shall examine market economy status claim only if a duly substantiated claim is made by the Chinese producers.

- b) In the previous investigations also, the Designated Authority has not granted market economy status to M/s Ningbo Nylon Company Limited (Producer) and M/s Ningbo Jinlun Import & Export Co. Ltd. (related Exporter). Normal value is required to be considered in accordance with Rule 7. Further, the rules have laid down a particular hierarchy in this regard and the same must be followed for determination of normal value. The rules provide for consideration of cost or price of the product under consideration in market economy third country.
- c) Petitioners have identified Thailand as an appropriate market economy third country. Thailand is an appropriate surrogate country for China for the following reasons:
  - (i) There is more than one domestic producer in Thailand and, therefore, the market is competitive.
  - (ii) There are significant imports of the product in Thailand. It further establishes existence of significant competition in Thailand.
  - (iii) Complete availability of all relevant information is one of the major reasons for adopting Thailand as an appropriate surrogate country.
  - (iv) The product types involved are comparable.
  - (v) China has exported Greige and dipped fabric to India. Dipped fabric is produced from Greige fabric. Thai producers have produced Greige and dipped fabric in Thailand and, therefore, the product types are quite comparable. The petitioner has not resorted to weighted average comparison. The petitioner has resorted to comparison on a comparable basis by comparing Greige fabric price with Greige fabric cost and dipped fabric price with dipped fabric cost.
- d) Accordingly, the petitioners have determined ex-factory selling price of Greige and dipped fabric in Thailand which has been adopted by the petitioners for the purpose of determining normal value.
- e) The responding exporter, Jiangsu Haiyang Chemical Fibres Co. Ltd., has claimed export price after reporting the expenses on account of ocean freight and marine insurance only from FOB price to India. The exporter may explain how they have exported the product without incurring the other expenses, which are routinely found in case of exports from China.
- f) The petitioners have determined separate dumping margin for Greige and dipped product owing to significant cost and price difference between the two. It would be seen that the dumping margin is significant and above de minimis levels.
- g) The producers/exporters from the subject country would resort to further dumping, should the present anti-dumping duties be revoked.

## **F.2 Submissions made by the producers/exporters/other interested parties**

25. Following are the submissions made by the exporters and other interested parties with regard to normal value, export price and dumping margin:
- (i) Jiangsu Haiyang Chemical Fibres Co. Ltd. has not applied for Market Economy Treatment. They would accept the normal value the Authority decides.
  - (ii) The imports from the subject country are subject to “duty free” measures and as such should have been excluded from the total volume of the subject goods for the purposes of undertaking any volume injury analysis. As the imports from China are under the duty exemption schemes and as such, cannot cause injury to the DI, taking such exports into consideration for the determination of dumping margin is not correct.
  - (iii) The determination of Normal Value by Applicants is erroneous.
  - (iv) Normal Value determined had been contrived upwards to claim the unfair benefits of imposition of ADD on imports. Further, Normal Value has not been disclosed and a range of USD 0-10 has been provided which is too wide for the purpose of any reasonable understanding.
  - (v) Normal Value has been determined considering Thai data. The Applicant has not provided reasons for the selection of Thailand as the appropriate market economy. There is simply no comparison between China and Thailand either on the basis of cost of production or on the basis of the prevailing domestic selling prices of NTCF that is meant for home consumption in the two countries. There is significant variation in the grades of the PUC as admitted by the Applicants also. Thus, any analysis that has been undertaken on a weighted average basis will be erroneous and inapplicable.
  - (vi) It has been further claimed that wage rate in Thailand is about 30-50% higher than in China and the scale of operation in China in relation to the subject goods is nearly 30 times that of Thailand. Thus, conversion cost in China is much lower.
  - (vii) Thai Baroda Industries Ltd. was a sick unit before it was acquired by SRF and would result in higher operation costs.
  - (viii) Certain costs from Taiwan producers have been used to determine the normal value for Greige fabric, and such a normal value cannot be considered as the prevailing price in Thailand.
  - (ix) It appears that producers in Thailand do not sell Greige fabric and it thus implies that Thailand is not at the same level of development in relation to the product in question as compared to China.

- (x) In each investigation, the Authority is required to determine the market economy status of each exporter afresh and it has nothing to do with the determination made in the previous investigation.
- (xi) M/s. Junma Tyre Cord Company Ltd., Ningbo Nylon Co. Ltd., Huaian Nylon Chemical Fibre Co. Ltd. and Ningbo Jinlun Import & Export Co. Ltd. have claimed market economy status in the Questionnaire response filed by them. These parties have further claimed that dumping margin should be calculated based on their claim of normal value and export price.
- (xii) Bulk of imports was made under the duty exemption schemes and would not attract anti dumping duty. All duty free transactions should be removed from the import data to arrive at 'export price'.

### **F.3 Examination by the Authority**

26. As regards the submission that the domestic sales price of the respondent exporter should be considered for determining the normal value, the Authority holds that China being non market economy, the domestic price cannot be relied upon as being reflective of market price. Moreover, as per the evidence on record with the Authority, only Jiangsu Haiyang Chemical Fibres Co. Ltd. has filed exporter's questionnaire response but without Market Economy Treatment Questionnaire. The respondent exporter from China has not claimed market economy treatment.
27. The Authority notes that in the past three years China PR has been treated as a non-market economy country in the anti-dumping investigations by India and other WTO Members. Therefore, in terms of para 8(2) of the Annexure 1 of Anti-dumping Rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the Rules.
28. As per Paragraph 8, Annexure I to the Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish to the contrary. The cooperating exporters/producers of the subject goods from China are required to furnish necessary information/sufficient evidence, as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire, to enable the Designated Authority to consider the following criteria as to whether:-
  - a. the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State

- interference in this regard, and whether costs of major inputs substantially reflect market values;
- b. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
  - c. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and ,
  - d. the exchange rate conversions are carried out at the market rate.
29. The Authority notes that M/s Jiangsu Haiyang Chemical Fibres Co., Ltd., China PR, is the only company from China PR which has filed exporter's questionnaire response in the present investigation. The company has not claimed market economy treatment by filing the required market economy questionnaire response. The Authority further notes that none of the other producers and exporters of the subject goods from the subject country has submitted the exporter's questionnaire response and market economy questionnaire response, consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. In view of the above position and in the absence of rebuttal of non-market economy presumption by the respondent Chinese company, the Authority considers it appropriate to proceed with para-7 of Annexure-I to the Rules for determination of normal value in case of China PR.
30. As far as the claim of the domestic industry to consider Thailand as the appropriate country to determine the Normal Value for China is considered, the Authority is of the view that the applicant domestic industry has not provided sufficient reasons/information for the selection of Thailand as the appropriate market economy country for China, the subject country. The Authority is of the view that considering the much higher level of overall economic development in China and production cost, capacity and export orientation in China with respect to the product concerned, it would not be appropriate to consider China and Thailand as comparable. The Authority, therefore, has adopted India as the appropriate country for construction of normal value for China.

#### **F.4 Determination of Normal value**

31. The Authority indicated in the initiation notification that the petitioner has claimed the constructed normal value in case of China PR on the basis of cost of production in India, duly adjusted, including adjustment on selling,

general & administrative expenses and profit, in terms of Para 7 of Annexure I to the Rules. However, none of the interested parties, including the applicants and Chinese producers has placed any material fact before the Authority to select an appropriate market economy third country for the purpose. The domestic industry has submitted that India should be treated as an appropriate surrogate country for China in this matter and the normal value should be determined accordingly. None of the opposing parties has disputed the claim of the domestic industry.

32. The Authority has determined the normal value in China PR on facts available basis, in terms of para 7 of Annexure 1 to the Anti-dumping 17 Rules. Accordingly, the ex-works Normal Value of the product under consideration for all exporters from China PR has been constructed by taking into account the international price of the major input viz. Caprolactam (CPL) Nylon-6 Chips, Yarn, Scarp and Auxiliary at the price at which domestic industry has sourced the other raw materials. Further, the consumption norms, conversion cost and SGA expenses of the domestic industry have been adopted. After adding a reasonable profit margin of 5%, the Authority has constructed the normal value for all producers/exporters of China PR, which is indicated in the Dumping Margin Table below.

#### **F.5 Determination of Export Price**

##### **M/s Jiangsu Haiyang Chemical Fibres Co. Ltd., China PR**

33. The Authority notes that only M/s Jiangsu Haiyang Chemical Fibres Co. Ltd., China PR has responded in the form and manners prescribed and has furnished the requisite information to determine the net export price. The Authority made adjustments on account of handling charges, overseas transportation, international insurance, bank charges and VAT adjustment as claimed by the exporter in its response to the questionnaire in order to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for M/s Jiangsu Haiyang Chemical Fibres Co. Ltd., China PR has been determined, which is indicated in the Dumping Margin Table below.

##### **Non-cooperative exporters**

34. As far as the non-cooperating exporters are concerned, it was noted that the volume of exports by cooperative exporter being approximately \*\*\*% of total imports from the subject country and thus not being representative of the total imports, the lowest import price based on the best available information has been taken into account for determining their dumping margin. Adjustments like ocean freight, bank charges, VAT etc. have been allowed for arriving at export price at ex-factory level. By adopting this

method the export price at ex-factory level in respect of non-cooperating exporters for the subject goods has been determined, which is indicated in the Dumping Margin Table below.

## F.6 Dumping Margin

35. Comparing the normal value and export prices as determined in the preceding paragraphs, the dumping margin has been determined by the Authority as follows:

Particulars	M/s Jiangsu Haiyang Chemical Fibres Co. Ltd.	Non-Cooperative exporters
Wt Avg. Normal Value- US\$/Kg	***	***
Export Price- US\$/Kg	***	***
Dumping Margin- US\$/Kg	***	***
Dumping Margin- %	***	***
Dumping Margin Range- %	10-20	35-45

## G. ASSESSMENT OF INJURY AND CAUSAL LINK

### G.1 Submissions by the Domestic Industry

36. The Domestic Industry has made the following submissions with regard to the injury and causal link:

- a. Demand has shown an increasing trend over the injury period, except a slight decline in the POI.
- b. Imports of the subject goods from China PR has gradually increased in absolute terms from the base year till 2012-13 and then declined in the POI. However, imports in the POI were significantly higher than imports in the base year. Further, imports from the subject country have remained significant in relation to total imports, production and consumption in the POI.
- c. There would be significant price undercutting in the absence of anti dumping duty.
- d. Landed price of imports, in the absence of anti dumping duty, is substantially below the cost of production of the Domestic Industry. Both the landed price of imports and selling price of the domestic industry have increased and decreased in tandem. Further, imports with anti-dumping duty are neither suppressing nor depressing the prices of the domestic industry. With anti-dumping duty in place,

the import prices are entering the Indian market at reasonably better prices. The anti dumping duty in force has prevented injury to the domestic industry.

- e. The production and sales of the domestic industry increased over the injury period. Capacity utilization of the domestic industry has, however, declined over the injury period.
- f. Market share of the domestic industry has remained in similar region whereas that of imports from the subject country increased over the injury period.
- g. The profitability declined in 2011-12, increased in 2012-13 and then declined in the POI. However, the profitability of the domestic industry has been stable over the period.
- h. Profit before interest, cash profits and return on investment of the domestic industry showed the same trend as profits. The stable performance of the Domestic Industry in respect of price parameters is reflective of the effects of anti dumping duty in force.
- i. Inventories with the domestic industry have increased till 2011-12 and then declined. However, the inventory has remained significant in the POI.
- j. The productivity of the domestic industry has moved in tandem with the production. In general, productivity has remained more or less constant over the injury period.
- k. Dumping margin calculated in respect of imports from China PR is significant.
- l. Imports without anti-dumping duty would undercut the domestic price and cessation of anti dumping duty shall have significant depressing effect on the prices of the domestic industry in the market.
- m. Performance of the Domestic Industry in terms of capacity utilization, domestic sales, market share, profits, return on investments, cash flow, etc. has improved. The domestic industry has not suffered continued injury as a result of the present anti dumping duties which acted as a deterrent to the unfair trade practice of the subject country.
- n. India is the biggest export market for subject goods for Chinese exporters. Should the anti-dumping duty be revoked, the producers and exporters in the subject country would intensify dumping in India.
- o. The exports from China to third countries are at much higher prices as compared to Chinese exports to India. It clearly shows that the Chinese producers are able to sell in the Indian market at much lower prices. Due to anti-dumping duty in existence, these prices are not injuring the domestic industry. However, if the anti-dumping duty ceases, these prices would cause material injury to the domestic industry.

- p. Withdrawal of anti dumping duties shall only lead to intensified dumping since dumping has continued in huge volumes since the year 1999-00 despite anti dumping duties being imposed.
- q. The import prices without anti-dumping duty are materially below the selling price of the domestic industry. The consumers would, therefore, switch to imported product in the event of cessation of anti dumping duty which will lead to significant increase in imports of the product.
- r. Should the demand for the domestic industry's product decline in the market, the domestic industry's sales will decline.
- s. Should sales for domestic industry decline, it would directly impact production and consequently capacity utilization. Thus, cessation of anti dumping duty is likely to adversely impact market share, domestic sales, production and capacity utilization of the domestic industry.
- t. Should the domestic industry respond to the Chinese competition after cessation of anti dumping duty by reducing the prices, it shall imply significant adverse price effect on the domestic industry. Should the domestic industry sell at prices comparable to Chinese prices, the domestic industry will not be able to recover its cost of production and thus would suffer significant financial losses, negative cash flow and negative return on investment.
- u. Buyers decide their procurement on the basis of relative prices offered by the foreign producers and domestic industry. If the prices offered by the foreign producers are lower, the buyers would increase their off-take from foreign producers. In the present case, if anti dumping duties are removed, the exporters from subject country shall further capture the market for subject goods in India given high production capacities and low export prices.
- v. There is likelihood of intensified imports in case existing anti dumping duty ceases.
- w. The domestic industry is likely to suffer injury in the event of cessation of anti dumping duty.
- x. The anti dumping duties are required to be imposed in accordance with the dumping margin and injury margin.
- y. The domestic industry is also manufacturing CTC grade of NTCF which is used by the cycle tyre manufacturers. However, there is no import of this grade in the POI.
- z. The form of measure is required to be kept as fixed quantum.

## **G.2 Submissions made by the producers/exporters/other interested parties**

37. Following submissions have been made by other interested parties with regard to the injury and causal link: -

- a. None of the economic parameters shows that domestic industry has suffered material injury.
- b. The domestic industry has not provided any factual basis with reasoned and conclusive justification that there is likelihood of such continuation or recurrence of injury to the domestic industry if the existing duty ceases.
- c. The domestic industry has been earning good profits during the period of investigation and past three years. Earnings per share are abnormally high as is evident from the segment results of TTB segment of SRF and also annual reports of Century Enka.
- d. The domestic industry has not provided information for post period of investigation simply because its profitability has further improved beyond the period of investigation.
- e. The exporter has requested for the basis and data on which the Authority has relied upon to come to the conclusions about existing injury to the domestic industry.
- f. If the DI genuinely feels harmed by the exports, it may file a fresh application for investigation along with substantive evidence. In an original investigation, the dumping and injury has to be established. However, in an SSR only the likelihood of injury is to be established.
- g. There is a contradiction in the claims of the applicants. On one side, they claim that the DI's health has been fairly good and on the other hand they claim that the DI has not been able to realize a fair selling price.
- h. The application is full of contradictory claims. The decline in demand has been attributed to recession in the automobile industry at one place, whereas at another place, it has been said that the demand has not registered any negative growth at all.
- i. The decline in demand only signifies that the capacity expansion done by the DI miscalculated the anticipated rise in demand. The injury due to this cannot be attributed to imports.
- j. The price depression or suppression of the PUC if the duty is ceased is merely a conjecture by the applicants.
- k. The applicants have mentioned that China makes the maximum exports of the subject goods to India, India being a "lucrative market" for it to dispose off its goods. However, the claim of the applicants is not supplemented with any evidence or source. Further, the data provided by the applicants themselves clearly shows that the Chinese exporters have not been India-centric and hence claims made by the applicants in this regard are blatantly false.
- l. The presence of freely disposable present and potential capacities with the foreign producers does not provide details of their commitment to supply the subject goods so produced to India.

- m. The export price from China to India is below the export price to other countries because this is dependent on demand and supply situation in the concerned market.
- n. The injury, if any, to the DI is not due to dumping but other causes which are changes in patterns of consumption and the export inclination of the DI. The applicants have deliberately chosen not to provide information/data that was inconvenient to them.
- o. Another domestic producer, Madura Industrial Textile Ltd. has commenced production of NTCF in India recently and has installed capacity of about 20,000 MT. The injury herein is likely due to the internecine competition amongst the domestic producers.
- p. There is no continued injury being faced by the DI. The CIF price of the imports from the subject country has increased and the volume of the imports has decreased in the POI.
- q. An industry suffering injury, as claimed by the applicants, would not add to its capacity every year, as has been done by the applicants. In fact, the performance of the DI has improved consistently.
- r. The applicants have failed to provide any credible evidence to establish that the expiry of the duty would lead to recurrence of injurious dumping. The contention of the applicants that India is the biggest export market for Chinese exporters of the subject goods is not supplemented with a source to which the information can be traced back and affirmed.
- s. The application lacks positive evidence related to likelihood of dumping and alleged injury. There is no causal link between the two and the application is liable to be terminated due to these inconsistencies.
- t. There has been a significant fall in the prices of Crude & Petroleum products from US\$ 130 to US\$ 40. The POI adopted should not be considered as barometer for levying anti dumping duty, or the anti dumping duty must be levied on ad valorem basis to account for the fluctuations in the prices of the subject goods from time to time.
- u. The volume of imports from China has declined by 8% in the POI as compared to the previous year. This signifies that Chinese exporters have moved their focus to supplying to other markets. The source of China's export information has not been provided by the applicants.
- v. The plants of the applicants are more than 20 years old leading to higher cost and making their prices uncompetitive. The Authority must reject their claim of higher non-injurious price.
- w. The applicants' strong performance has resulted not from the existence of anti dumping duty but from the structural changes, de-bottlenecking operations and new investments made by them.

- x. Landed price from China increased by 20% in the POI as compared to the base year. Cessation of anti dumping duty would only further increase their selling price to India so as to increase their margins.
- y. No injury is likely to recur in view of the above.

### **G.3 Examination by the Authority**

38. The Authority has taken note of various submissions of the interested parties on consequent injury to the domestic industry and analyzed the same considering the facts available on record and applicable laws. While issues concerning facts and figures and performance of domestic industry in respect of various economic parameters have been addressed ipso facto in the injury analysis, other submissions made by the interested parties have been examined and addressed below:
- a. It has been contended that the domestic industry has not suffered injury and the performance of the domestic industry has shown improvement in respect of a number of economic parameters. The domestic industry has contended that the present investigation is a sunset review and the Authority is required to determine likelihood of injury. The Authority notes that the Authority is required to first ascertain whether the domestic industry has suffered continued injury; and if not so, the Authority should examine likelihood of injury to the domestic industry in the event of cessation of anti dumping duty. The present determination is based on the examination of injury to the domestic industry over the current period and likelihood of injury to the domestic industry in the event of cessation of present anti dumping duty.
  - b. It has been contended that the domestic industry has not provided information with regard to post POI, the Authority considers that information with regard to post POI is relevant only in a situation where the domestic industry has not suffered injury in the current POI and the information for the POI does not show likelihood of injury to the domestic industry in the event of cessation of anti dumping duty. In case the information for the POI shows dumping and injury to the domestic industry and/or its likelihood, the Authority is not required to consider the post POI data. In the present investigation, the Authority notes that the POI shows significant dumping and the injury margin is also significant as the landed value of imports from China is significantly lower than the NIP of the domestic industry and, therefore, the Authority is not required to consider the post POI data.
  - c. With regard to the arguments of interested parties concerning decline in demand for the product, the Authority has examined factual position at the relevant place in the present determination. Further, it is noted that the capacities with

the domestic industry are lower than demand for the product in the country and, therefore, the facts of the case do not show that the domestic industry is likely to suffer injury due to decline in demand of the product in the country.

- d. As regards the argument on the absence of evidence with regard to freely disposable present and potential capacities, the Authority notes that the determination is based on documentary evidence in this regard. Further, the Authority has seen the questionnaire response filed by the Chinese exporters in this regard. In any case, it is seen that the volume of imports from China during the POI was 29,461 MT and constituted 21.01% demand of the product in India. Thus, the current volume of imports itself is significant and sufficient enough to establish likelihood of injury in case of cessation of duty.
- e. As regards the contention that China's export price to other countries are higher than those to India, the Authority notes that the prices at which goods are being exported to India itself are sufficient enough to establish likelihood of injury in the present case.
- f. As regards the argument that injury to the domestic industry may be from other domestic producer, Madura Industrial Textile, the Authority notes that ATMA has participated in the present investigation as a user industry association and the petitioners have made sales to those companies as well who are member of ATMA. ATMA has not provided any evidence to show that selling price of Madura Industrial Textile is lower than import price from China. It is, thus, not established that injury to the domestic industry is likely from Madura Industrial Textile. Further, the Authority has not found that the domestic industry is suffering injury and, therefore, it is not a case where the claimed injury to the domestic industry may be from Madura Industrial Textile.
- g. As regards the contention that the petitioner has not provided evidence to establish likelihood of injury, the Authority notes that petitioner claimed likelihood of injury on the basis of following parameters :
  - i. Chinese producers are looking towards export markets to make up for decline in domestic sales.
  - ii. India is the biggest export market for subject goods for Chinese exporters.
  - iii. Dumping margin in the previous investigations and present investigation is significant.
  - iv. Volume of imports since base period of original investigation.
  - v. Freely disposable present and potential capacities with the foreign producers.

- vi. Vulnerability of Domestic Industry in terms of price sensitivity of the product and the Indian market.
  - vii. Price attractiveness of Indian market.
  - viii. Price undercutting in the absence of the measures.
  - ix. Even if one of the condition is satisfied, duty cannot be revoked.
- h. As regards the argument that likelihood of both dumping and injury should be established for extending the duties, it is clarified that the Authority has examined likelihood of both dumping and injury in the present case.
  - i. As regards the argument concerning decline in crude and petroleum product prices after the investigation period, it is reiterated that Authority first considers parameters prevailing during the POI to examine dumping and injury and/or likelihood of continuation or recurrence of dumping and injury. Only in a situation where performance during the POI does not show dumping and injury and/or continuation or recurrence of dumping and injury, the Authority considers the parameters for post POI.
  - j. As regards the argument that imports from China have declined in the POI, the Authority notes that the present investigation is a sunset review investigation and the volume of import during present POI is sufficient enough to establish dumping and injury and/or likelihood of dumping and injury to the domestic industry.
  - k. As regards the argument that the domestic industry's plants are more than two decades old, leading to higher cost, the Authority notes that the domestic industry on the other hand contended that their cost of production are unreasonably low and unrepresentative because of the fact that plants are fully depreciated and the domestic industry is having negligible interest cost. The domestic industry in fact has contended consideration of net present value of assets for determination of NIP.
  - l. As regards increase in import price in the present POI as compared to the base year, the Authority clarifies that the determination of continuation or likelihood of dumping and injury is based on the price prevailing during the POI.

**G4. Economic Parameters of the Domestic Industry**

- 39. In consideration of the various submissions made by the domestic industry in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.
- 40. Rule 11 of Antidumping 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 with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

41. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules supra.
42. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti-dumping duties are in force on the imports of the product under consideration, the Authority has considered whether improvement in performance of the domestic industry in respect of one or more parameters is due to the existing anti-dumping duties on the imports of subject goods from China PR. The Authority has examined whether the existing antidumping measure is sufficient or not to counteract the dumping which is causing injury.
43. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
44. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s SRF Ltd. and M/s Century Enka Ltd., constituting domestic industry under the Rules. Accordingly, the volume and price effect of dumped imports have been examined as follows.

## **A. Volume Effect of dumped imports and impact on domestic Industry**

### **a) Demand and Market Share**

45. The Authority has determined demand or apparent consumption of the product in the country as the sum of domestic sales of the Indian producers and imports of the subject goods in India from all sources. The demand so assessed can be seen in the table below. It is seen that demand of the product under consideration in the country has increased up to 2012-13 and then declined slightly in the POI. However, the demand has increased during the POI as compared to the base year. Sales of the domestic industry as well as imports of the subject goods from the subject country have increased in the POI as compared to the base year. It noted that market share of the domestic industry has not shown any significant improvement. However, the market share of imports from China has increased.

### **Demand and Market Share in India**

Particulars	Unit	2010-11	2011-12	2012-13	POI*
<b>Demand in India</b>					
Sales of Domestic industry	MT	62,995	64,879	66,745	66,505
Sales of Other Producers	MT	4,200	4,200	4,200	4,200
Imports from Subject Country	MT	23,120	28,631	31,909	29,461
Imports – Other countries	MT	44,529	38,344	40,821	40,038
Assessed Demand	MT	1,34,844	1,36,054	1,43,676	1,40,203
<b>Market Share in Demand</b>					
Domestic Industry	%	46.72	47.69	46.46	47.43
Other Indian Producers	%	3.11	3.09	2.92	3.00
Subject Country	%	17.15	21.04	22.21	21.01
Other Countries	%	33.02	28.18	28.41	28.56

\*POI- Oct'2012 – Sep'2013

### **b) Import volumes and market shares**

46. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India.

Volume of imports and imports in relation to production and consumption in India are given in the table below:

Particulars	Unit	2010-11	2011-12	2012-13	POI*
China PR	MT	23,120	28,631	31,909	29,461
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>124</i>	<i>138</i>	<i>127</i>
Other countries	MT	44,529	38,344	40,821	40,038
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>86</i>	<i>92</i>	<i>90</i>
Total Imports	MT	67,649	66,975	72,730	69,498
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>99</i>	<i>108</i>	<i>103</i>
Subject Country Imports in relation to:					
• Total Imports	%	34.18%	42.75%	43.87%	42.39%
• Production	%	36.16%	44.01%	47.99%	44.11%
• Consumption	%	17.15%	21.04%	22.21%	21.01%

47. The Authority notes that imports of the subject goods from China PR have gradually increased in absolute terms from the base year up to 2012-13 and then declined in the POI as compared to the previous year. It is, however, noted that the imports from China PR in the POI were significantly higher than in the base year. Further, imports from the subject country have remained significant in relation to total imports, production and consumption in the POI. The share of imports from China in total imports increased over the injury period. The above situation prevails despite the existing anti dumping duty. The petitioner contended that the volume of imports from the subject country has remained high despite the existing anti dumping duty being in force and is, therefore, bound to increase in the absence of anti dumping duty.

**B. Price Effect of the dumped imports and impact on the Domestic Industry**

48. The impact on the prices of the domestic industry on account of imports of the subject goods from the subject country has been examined with reference to price undercutting, price underselling, price suppression and

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

#### a) Price Undercutting and Price Underselling

49. The price undercutting/underselling effects are examined below:

##### Price Undercutting

Particulars	Unit	2010-11	2011-12	2012-13	POI
Greige (Greige) Fabric					
Net Sales Realization	Rs/KG	***	***	***	***
Landed value of imports (without ADD)	Rs/KG	***	***	***	***
Price undercutting	Rs/KG	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	***	***	***	***
Dipped Fabric		***	***	***	***
Net Sales Realization	Rs/KG	***	***	***	***
Landed value of imports (without ADD)	Rs/KG	***	***	***	***

Particulars	Unit	2010-11	2011-12	2012-13	POI
Price undercutting	Rs/KG	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range %	15-25%	10-20%	10-20%	10-20%
Total					
Net Sales Realization	Rs/KG	***	***	***	***
Landed value of imports (without ADD)	Rs/KG	***	***	***	***
Price undercutting	Rs/KG	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range %	15-25%	5-15%	10-20%	10-20%

50. The Authority notes that it is required to consider whether there has been significant price undercutting by the dumped imports when compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The Authority notes that the imports from subject country would undercut the prices of the Domestic Industry in the Indian market in the absence of anti-dumping duty.

### Price Underselling

Particulars	UOM	Greige	Dipped	Weighted Average
Import Volume	MT	15,855	13,606	29,461
Non-Injurious Price	Rs/KG	***	***	***
Landed Value	Rs/KG	***	***	***
Price Underselling	Rs/KG	***	***	***
Price Underselling	%	***	***	***

Price Underselling	Range %	5-15%	5-15%	5-15%
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51. The Authority notes that in the absence of anti dumping duty, the landed price of imports would be substantially below the non-injurious price of the domestic industry, thereby, resulting in significant price underselling effect.

**b) Price Suppression and Depression**

52. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the trend of net sales realization of the domestic industry and cost of sales has been compared with the landed price of imports. The data shows that the landed price of imports has remained below cost of sales and selling price of the domestic industry throughout the injury period, thus signifying significant depressing/suppressing effect on the prices of the domestic industry in the event of cessation of anti dumping duty.

Description	Unit	2009-10	2010-11	2011-12	POI
Cost of Sales	Rs/KG	***	***	***	***
Trend	Indexed	100	118	115	115
Selling Price	Rs/KG	***	***	***	***
Trend	Indexed	100	114	113	113
Landed value of imports	Rs/KG	***	***	***	***
Trend	Indexed	100	126	119	120

**C. Impact on Economic Parameters of the Domestic Industry**

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

share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed herein below.

**a) Capacity, Production, Capacity Utilization and Sales**

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

Particulars	Unit	2010-11	2011-12	2012-13	POI
Capacity (Greige and Dipped)	MT	96,929	1,08,797	1,16,938	1,17,500
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>112</i>	<i>121</i>	<i>121</i>
Gross Production (Greige and Dipped)	MT	79,182	83,500	98,421	99,949
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>105</i>	<i>124</i>	<i>126</i>
Capacity Utilization(Greige and Dipped)	%	81.69%	76.75%	84.17%	85.06%
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>94</i>	<i>103</i>	<i>104</i>
Gross Production of PUC(Greige and Dipped)	MT	77,839	80,024	95,087	98,130
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>103</i>	<i>122</i>	<i>126</i>
Net Production	MT	63,945	65,060	66,493	66,790
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>102</i>	<i>104</i>	<i>104</i>
Domestic Sales	MT	62,995	64,879	66,745	66,505
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>103</i>	<i>106</i>	<i>106</i>
Demand	MT	1,34,844	1,36,054	1,43,676	1,40,203

55. The Authority notes that the domestic industry has enhanced its capacity for the production of the product concerned over the injury period. It is seen that

the production and sales of the domestic industry increased over the injury period. However, there was decline in capacity utilization in 2011-12.

**b) Profits, Return on Capital Employed and Cash Profit**

56. The profits, return on investment and cash profit of the domestic industry have been examined as under:

<b>Particulars</b>	<b>Unit</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>POI</b>
Cost of Sales	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>118</i>	<i>115</i>	<i>115</i>
Selling Price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>114</i>	<i>113</i>	<i>113</i>
Profit/loss	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>81</i>	<i>97</i>	<i>102</i>
Profit/loss	Rs. Lakh	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>83</i>	<i>103</i>	<i>107</i>
Profit before interest	Rs. Lakh	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>95</i>	<i>111</i>	<i>108</i>
Cash profit	Rs. Lakh	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>86</i>	<i>105</i>	<i>107</i>
Return on Capital Employed	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>82</i>	<i>96</i>	<i>91</i>

57. The Authority notes from the above as under:

- (i) The profitability of the domestic industry declined in 2011-12, increased in 2012-13 and again improved in the POI.
- (ii) The profits, profit before interest, cash profits and return on investment of the domestic industry showed the same trend as profitability. Return on

investment of the domestic industry declined in the POI as compared to previous year 2012-13.

(iii) It is noted that the profitability of the domestic industry has been stable over the period. The cash profits, profits before interest and return on capital employed have remained stable over the period. The petitioners have claimed that the stable performance of the Domestic Industry in respect of price parameters is reflective of the effects of anti dumping duty in force.

### c) Market Share

58. The Authority notes that while the market share of the domestic industry has remained in similar region; the market share of imports from the subject country increased over the injury period. The petitioners have claimed that anti-dumping duty in force has prevented the producers in subject country to further capture the domestic market and hence the domestic industry is able to maintain its market share in demand. They have further claimed that should the anti-dumping duty cease, the subject country would once again capture the market share of the domestic industry, thereby, causing injury to the domestic industry.

### d) Employment and Wages

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

Particulars	Unit	2010-11	2011-12	2012-13	POI
Employment	Nos.	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>102</i>	<i>101</i>	<i>101</i>
Wages	Rs. Lakh	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>111</i>	<i>120</i>

60. It is noted from the above that the employment level has increased up to 2012-13 and then marginally declined in the POI. Salary and wages increased over the injury period. The petitioners have contended that the increase in salary and wages show normal increase in wages.

### e) Productivity

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

Particulars	Unit	2010-11	2011-12	2012-13	POI
Productivity Per Employee	MT	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>108</i>	<i>206</i>	<i>226</i>
Productivity Per Day	MT	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>103</i>	<i>122</i>	<i>126</i>

62. The Authority notes that the productivity per employee and productivity per day have remained at the same level over the period as production.

#### **f) Inventories**

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

Particulars	Unit	2010-11	2011-12	2012-13	POI
Stock (Volume) Average	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>125</i>	<i>121</i>	<i>89</i>
Inventory as number of Days Sales	Days	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>122</i>	<i>114</i>	<i>84</i>

64. It is noted from the above table that the inventory of the domestic industry increased up to 2011-12 and then declined. However, the inventory has remained significant in the POI.

#### **g) Magnitude of Dumping**

65. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margin determined by the Authority against the subject country is above *de minimis* and significant.

#### **h) Ability to raise capital**

66. The Authority notes that the ability to raise capital investment in the event of dumping is not relevant since the constituents of the domestic industry are multi-product companies.

#### **i) Growth**

67. With regard to the growth of the domestic industry, the position is as under:

Growth percent (year by year)	Unit	2010-11	2011-12	2012-13	POI
Production	%	-	5.45	17.87	1.55
Sales Volume	%	-	2.99	2.88	(0.36)
Cost of Sales	%	-	18.06	(2.76)	0.13
Selling Price	%	-	13.97	(0.95)	0.54
Profit per unit	%	-	(19.32)	20.50	4.48
Return on Investment	%	-	-3.86%	3.00%	-1.05%

68. The Authority notes that the performance of the domestic industry has shown positive growth in terms of both volume and price parameters. Domestic sales volumes, production, capacity utilization and market share; as well as profitability has shown improvement as can be seen from parameters such as profits, cash profits and return on investments. It is concluded that the growth of the domestic industry has not suffered materially as a result of the Chinese imports.

#### **j) Factors Affecting Domestic Prices**

69. The examination of the import prices from the subject country and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that the landed value of imported material from the subject country is significantly below the selling price of the domestic industry, causing significant price undercutting in the Indian market. The benchmark for the Indian producers' prices is the import prices from the subject country and other countries dumping the product. There is no viable substitute to this product. Demand for the product was showing significant increase and could not have been a factor responsible for price suppression faced by the domestic industry. Thus, the principal factor affecting the domestic prices is the import price of the product from the subject country.

#### **k) Conclusion on injury**

70. On the basis of various information on record and considering the legal provisions, the Authority concludes that the imports of the product under consideration from China have shown increase in absolute terms and its volumes have remained significant in relation to production and consumption in India. Share of Chinese imports have increased in relation to imports from various sources. The imports are likely to undercut the prices of the domestic industry in the market and the same is likely to lead to significant depressing or suppressing effect on the prices of the domestic industry in the market in the event of cessation of anti dumping duty. Performance of the domestic industry has been stable or improved in respect of various economic parameters. Production and sales of the domestic industry has improved. Changes in the capacity utilization, profits, return on investments and cash flows are marginal and show stable condition of the domestic industry. Even though the ROI earned by the domestic industry is below the 22% levels considered by the Authority, the domestic industry is earning positive return on investment. It is thus concluded that the domestic industry has not suffered continued injury as a result of continued dumping.

#### **D. Other Known Factors and Causal Link**

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

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

72. The Authority notes that the domestic industry is facing injury from dumped imports entering into the country from China PR. Imports of product under consideration from other countries are either *de minimis* or the export prices are high.

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

73. The Authority notes that demand for the product has grown over the injury period, except a slight decline in the POI. However, demand for the product under consideration has increased in the POI as compared to the base year. Hence, possible decline in demand cannot be a factor causing injury to the domestic industry. Further, the Authority has found no evidence of a change in the pattern of consumption of the product.

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

74. The Authority notes that the subject goods are freely importable and there are no trade restrictive practices in the domestic market. Further there is no perceptible competition among the domestic producers, except that is obvious of a market economy. It is noted that there is a single market for the subject goods where dumped imports from the subject country compete directly with the subject goods supplied by the domestic industry. It is also noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses. There is no evidence of trade restrictive practices of and competition between the foreign producers and domestic producers causing injury to the domestic industry.

(d) Developments in Technology

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

(e) Export performance

76. The Authority notes that the domestic industry has exported the product in small quantity over the injury period. The negligible exports, therefore, show that the injury claimed by the domestic industry is in respect of domestic sales only.

(f) Productivity of the domestic industry

77. The Authority notes that productivity of the domestic industry has moved in accordance with the production. Hence, a decline in productivity cannot be a cause for the injury determined.

(g) Performance of other products

78. The Authority notes that the performance of other products being produced and sold by the domestic industry is not a possible cause of the injury found since all parameters were examined with respect to the like article in this investigation.

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

- a. Imports from the subject country have continued to enter India at dumped prices.

- b. The margin of dumping, price undercutting and injury margin are quite significant.
- c. Imports would undercut the prices of the domestic industry in the absence of anti dumping duty. Further, the landed price of imports without anti dumping duty is below not only selling price of the domestic industry but also cost of production and non injurious price of the domestic industry.
- d. Despite the existence of anti-dumping duties in force on imports from China, significant volume of dumped imports continues from this source. This indicates that should the measures be allowed to expire, dumping will intensify and cause further injury to the domestic industry.

(E). **Conclusion on Injury and Causation**

80. The Authority notes that the volume of dumped imports from the subject country in absolute terms and relative to apparent consumption and production in India has been significant despite the fact that anti dumping duty is in force. Production and sales of the domestic industry have increased. Profit-related parameters have also shown improvement. The Authority notes that the domestic industry has not suffered continued injury in the POI. However, the Authority also notes that even if the domestic industry is not suffering injury in the POI in terms of profits, the volume of Chinese imports in the POI is significant enough to cause injury to the domestic industry should the domestic industry be forced to match the prices with the landed price of imports of the subject goods from China as the same is significantly lower than the non-injurious price of the domestic industry. However, imports are significantly undercutting the prices of the domestic industry. Dumping margin, price undercutting and injury margin are significantly positive. However, despite significant dumping margin, this review being a sunset review, the Authority has examined the likelihood of recurrence of injury to the domestic industry in the POI in the event of revocation of anti dumping duties.

**H. LIKELIHOOD OF CONTINUATION/RECURRENCE OF DUMPING AND INJURY**

**H.1 Submissions by the exporters/opposing interested parties**

81. The exporters/opposing interested parties have made the following submissions with regard to likelihood of continuation/recurrence of dumping and injury:-

- i. The first proviso to Section 9A (5) lays down that the extension of duties is dependent on the likelihood of continuation or recurrence of both dumping and injury. The likelihood of injury or dumping in isolation cannot make the case for further extension of duties.
- ii. The information on production capacities of the Chinese producers does not provide details on their commitment to supply the subject goods to India.

## **H..2 Submissions by Domestic Industry**

82. The domestic industry has made the following submissions with regard to likelihood of continuation/recurrence of dumping and injury:-
  - i. There is continued dumping of the product under consideration from China. Dumping of the product under consideration is likely to intensify from China should the current anti-dumping duty be revoked.
  - ii. The landed price of imports from China is lower than the selling price and cost of sales of the Domestic Industry. These producers would, therefore, aggressively target Indian market in the event of cessation of anti dumping duty.
  - iii. Exporters in the subject country have capacities far in excess of Indian demand.
  - iv. It is apparent from the Annual Report of Junma Tyre Cord Company Limited, which is the largest producer of Nylon 6 tyre cord in the PRC, that the company was able to increase their sales despite so many adverse factors because they were selling to export markets at prices below normal value to drive sales and make up for the domestic losses. This strategy is being adopted by other exporters of the subject goods also in the subject country. Chinese producers are looking towards export markets to make up for decline in the domestic sales.
  - v. Considering the known capacity available with some of the producers in China to the level of 3.69 lac TPA and the Indian demand of approximately 1.4 lac TPA, there is strong likelihood that dumping is likely to intensify in the event of revocation of anti-dumping duties.
  - vi. An analysis of the data on China's exports to the world makes it apparent that India is one of their biggest export markets for the subject goods.
  - vii. India is a lucrative market for the subject goods as the export prices from China to India have been consistently below export prices to other countries.
  - viii. In the current period of investigation, the volume of dumped imports has remained significant, and the dumping margin is also quite significant. This clearly establishes that the dumping is likely to continue and indeed intensify in the event of revocation of present anti-dumping duty. Significant current dumping margin in the presence of anti-dumping duty is a strong indication of likelihood of dumping.

- ix. Dumped imports from the subject country have remained significant and continue to hold significant market share. Further, the landed price from China would significantly undercut the Indian prices in the absence of anti dumping measures. Thus, cessation of anti-dumping duty shall cause significant price suppressing and depressing effect.
- x. The Indian market is highly price sensitive. The consumers decide their procurement with the price being the foremost consideration. Such being the case, availability of low priced imports from the subject country in the market would cause an adverse impact on the Domestic Industry.
- xi. In the event of cessation of current anti-dumping duty and if domestic industry chooses to sell at import prices, the domestic industry would suffer significant financial losses.

### **H.3 Examination by the Authority**

83. The present investigation is second sunset review of the anti-dumping duties earlier imposed on the imports of Nylon Tyre Cord Fabric from China PR. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In this case, as there are continued dumped imports, the Authority is required to examine whether cessation of anti dumping duty is likely to lead to continued dumping of the product. Exporters and producers from the subject country are exporting the subject goods at dumped prices. In the previous investigations also dumping margin was significant. In such a situation, the Authority has no reason to believe that dumping will not intensify if the anti dumping duty ceases. Further, considering the fact that the dumping margin in the previous as well as the present investigation is significant and that there are favorable market conditions in the Indian market as far as demand and price for the subject goods are concerned, the Authority has reasons to believe that dumping may intensify if the duty ceases. It is a matter of fact that despite the anti-dumping measures in force, the subject country is continuing dumping of the subject goods in the Indian market. The following analysis shows about the likelihood of intensified dumping and further injury to the domestic industry in the event of cessation of anti-dumping duties.

#### **Level of current and past dumping margin**

84. Considering the dumping margin determined by the Authority in the previous investigation and the dumping margin now assessed, it is quite evident that the exports continue to be made at dumped prices and are likely to continue with the cessation of anti dumping duties. The volume of

imports from the subject country has remained significant throughout the injury period. Further, the volume of imports is likely to increase further in the event of cessation of anti-dumping duties.

### **Price attractiveness of Indian market**

85. The prices at which the subject goods are being imported are materially lower than the price at which the goods are being sold in the domestic market. Therefore, in case of expiry of duty, exporters would further channelize their output in the Indian market as they are already holding huge capacities. Further, as claimed by the domestic industry, such circumstances would result in likelihood of injury to the domestic industry.

### **Significant capacities with the subject country**

86. The evidence provided on the existing capacity in China by DI indicates that it is far greater than the Indian demand for the subject goods. In the event of revocation of anti-dumping duty, the producers in China are likely to intensify dumping of the subject goods.

### **Export orientation of foreign producers**

87. From the available information it is noted that the Chinese producers/exporters are very much export oriented. Considering the high demand and favourable market conditions for the subject goods in India and the high production capacity and export orientation of the Chinese producers, the Authority holds that if the existing anti dumping duty is withdrawn, there is likelihood of substantial demand for the subject goods in India to be catered by the Chinese producers/exporters.

### **Conclusion on Likelihood of dumping and injury**

88. Considering the current level of imports from the subject country in spite of existing anti dumping duty, there exists likelihood of intensified dumping and consequent injury to the domestic industry in the event of cessation of anti dumping duty. It is further noted that the import prices would undercut the domestic prices and also have a significant suppressing effect on the domestic prices.

### **Magnitude of injury and injury margin**

89. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD

Rules has been compared with the landed value of the exports from the subject country for determination of injury margin during the POI and the injury margin based on monthly analysis so worked out is as under:

**Injury Margin**

Particulars	M/s Jiangsu Haiyang Chemical Fibres Co. Ltd.	Non-Cooperative exporters
Wt. Avg. NIP of DI	***	***
Landed Value	***	***
Injury Margin	***	***
Injury Margin %	***	***
Injury Margin Range%	10-20	25-35

90. It is noted that the level of injury margin, as determined, is considered significant.

**I. POST DISCLOSURE STATEMENT COMMENTS**

**(A) Post Disclosure comments of the opposing interested parties**

- Jumna Tyre Cord Company Ltd, China
- Ningbo Nylon Company Ltd, China
- Huaian Nylon Chemical Fibre Company Ltd, China
- Ningbo Jinlun Import and Export Company Ltd, China
- Automotive Tyre Manufacturers' Association

91. The Authority notes that post Disclosure Statement submissions made by the opposing interested parties are repetitive in nature and have already been dealt with in the Disclosure Statement. The opposite interested parties have, in brief, filed the following post Disclosure Statement submissions:

- (i) Merely three days time provided to comment on the Disclosure Statement cannot be construed as sufficient.
- (ii) Detailed questionnaires' response filed by the above mentioned exporters has not been taken on record despite their filing request to the Authority seeking time extension to file the response, which was not rejected.

- (iii) The domestic industry always tends to match its selling prices with the landed value of the subject goods; and since the landed value would include the ADD in force; axiomatically, the selling price would be somewhat at a similar level. Thus, without the anti-dumping duty in force, there would always be a case of price undercutting.
- (iv) The Authority has squarely failed to consider the fact that bulk of these imports has been effected under the duty free schemes of the Foreign Trade Policy wherein the anti-dumping duty remains inconsequential.
- (v) In an SSR matter, the Authority is obliged to ascertain the likelihood of any continuation or recurrence of dumping and injury in the event of expiration of the antidumping duty. Therefore, the data that should have been analyzed as close as possible to the date of expiry of the duty in force.
- (vi) The determination of dumping margin is based on a flawed assumption of normal value, as the above mentioned exporters had claimed MET status and an examination thereof would have found that the normal value in their case is significantly lower.
- (vii) Excessive and unwarranted confidentiality has been claimed by the applicants.
- (viii) The domestic industry did not have sufficient dipping facility of NTCF and hence, the user industry had little choice but to import the said goods from the overseas sources.
- (ix) There is no likelihood of dumping and injury as there has been a decrease in the imports of the subject goods from China during the POI and Chinese exporters have not been India-Centric. This signifies that Chinese exporters have moved their focus to supplying to other markets. It is apparent that the Chinese capacity additions are committed towards third country markets rather than Indian markets.
- (x) The Authority has accepted that the domestic industry has not suffered continued injury. Therefore, it is an established fact that the domestic industry is not currently suffering any injury.
- (xi) The Authority's conclusion that the lack of current injury and the significant improvement in the domestic industry's performance is due to the existence of anti-dumping duty lacks basis.

- (xii) The domestic industry is not facing continued injury. There is increase in price and decrease in volume of Chinese imports, increase in market share of the domestic industry, increase in domestic industry's production, capacity and capacity utilization, improvement in productivity of domestic industry, increase in profits, return on investment and cash flow etc.
- (xiii) There is lack of evidence to show likelihood of recurrence of injurious dumping.
- (xiv) Focus of the domestic industry on exports could be responsible for stagnant market share in domestic sales.
- (xv) Comparisons have been made with preceding period or base year to suit the domestic industry's interest.
- (xvi) There has been a significant fall in the prices of Crude & Petroleum products from US\$ 130 to US\$ 40. The POI adopted should not be considered as barometer for levying anti dumping duty, or the anti dumping duty must be levied on ad valorem basis to account for the fluctuations in the prices of the subject goods from time to time.

**(B) Post Disclosure Comments of the Domestic Industry**

92. The Authority notes that most of the post Disclosure Statement submissions made by the domestic industry are repetitive in nature and have already been dealt with in the Disclosure Statement. Following are, in brief, the post Disclosure Statement submissions made by the domestic industry:

- (i) The Authority has rightly proposed to treat all exporters in China as operating under non-market economy conditions.
- (ii) Normal value has been determined considering constructed cost of production, whereas the domestic industry provided sufficient information with regard to cost or price in market economy third country (Thailand). Petitioners reiterate that the normal value cannot be determined on the basis of "any other information" when information on cost and price in market economy third country is available.
- (iii) The investigation has established existence of significant dumping.
- (iv) There have been significant imports of the product from the subject country in absolute terms, thus establishing likelihood of dumping in case of cessation of anti dumping duty.
- (v) Performance of the Domestic Industry in terms of production, capacity utilization, profits, return on investments, cash flow, inventories etc.

has improved in the current injury period. However, cessation of anti dumping duty shall have significant depressing effect on the prices of the domestic industry in the market, given significant price undercutting in the event of cessation of anti dumping duty.

- (vi) Both dumping margin and injury margin in the current POI are positive and significant.
- (vii) The import prices are materially below selling price of the domestic industry. The domestic industry would, therefore, be forced to either reduce the prices or loose sales opportunities. In either situation, the domestic industry is likely to suffer injury.
- (viii) The domestic industry is likely to suffer injury in the event of cessation of anti dumping duty.
- (ix) The non injurious price should be determined considering the present value of the assets.
- (x) The anti dumping duty is required to be continued. Duty may be recommended on fixed amount basis in US\$ term.

**(C) Examination by the Authority**

93. The Authority notes that most of the post disclosure statement submissions made by the domestic industry and the opposing interested parties are repetitive in nature and have already been dealt with in the Disclosure Statement and again have been addressed in this Final Findings Notification under the appropriate headings. Nonetheless, the Authority has addressed these issues to the extent considered relevant as under:

- (i) As regards the contention that the time available for offering comments to Disclosure Statement was insufficient, the Authority notes that the opposite interested parties have not only filed elaborate comments but also these are repetitive. Further, there is no prescribed minimum time under the Rules for offering comments to the Disclosure Statement.
- (ii) The above mentioned exporters by their own admittance filed questionnaires' response after the prescribed time limit. Therefore, the same were not on the record of the Authority. Thus, the question of not issuing any rejection letter by the Authority does not arise.
- (iii) As regards the contention that without the anti-dumping duty in force, there would always be a case of price undercutting, it is noted that the prices at which the subject goods are being imported are significantly lower than the price at which the goods are being sold in the domestic market.

- (iv) As regards the contention that the imports of the product are under duty free scheme category and, therefore, the volume of imports is irrelevant to determine likelihood, the Authority notes that the price at which duty free imports have been made during the POI and the volume of imports during the POI clearly show the price at which the goods are likely to be imported in the event of cessation of anti dumping duty. It is also noted that the Authority has been consistently considering the fact that the imports made under duty free category does not imply that the same do not cause injury to the domestic industry.
- (v) As regards the submissions concerning the period that should be considered for determination, the Authority notes that the POI considered in the present case is appropriate. There is no statutory requirement that the POI in SSR proceedings must end with the period that is as close as possible to the date of expiry of the anti-dumping duty. Further, post POI period of 6 months has been adopted by the Authority in the past also in numerous sunset review investigations.
- (vi) As regards the submissions that the determination of dumping margin is based on a flawed assumption of Normal value, as the above mentioned exporters had claimed MET status, the Authority notes that their Exporters Questionnaires have been rejected because of late filing.
- (vii) As regards the argument on confidentiality of information in the petition, it is noted that the Authority has granted confidentiality wherever warranted and such information has been considered confidential and not disclosed to other interested parties.
- (viii) As regards the contention that the domestic industry did not have sufficient dipping facility of NTCF, the Authority notes that as per the evidence on record the domestic industry has sufficient dipping facility but is not in a position to match the prices of the dipped NTCF with the dumped prices of dipped NTCF from the subject country.
- (ix) As regards the contention that there is no likelihood of dumping and injury, it is noted that there is already evidence of significant dumping and injury in the period of investigation itself which dilutes the need for examining the likelihood analysis of dumping and injury. The prices at which the subject goods are being imported are materially lower than the price at which the goods are being sold in the domestic market. Therefore, in case of expiry of duty, exporters would further channelize their output in the Indian market as they are already holding huge capacities. The evidence provided on the

existing capacity in China by DI indicates that it is far greater than the Indian demand for the subject goods. In the event of revocation of anti-dumping duty, the producers in China are likely to intensify dumping of the subject goods. From the available information it is noted that the Chinese producers/exporters are very much export oriented. Considering the high demand and favourable market conditions for the subject goods in India and the high production capacity and export orientation of the Chinese producers, the Authority holds that if the existing anti dumping duty is withdrawn, there is likelihood of substantial demand for the subject goods in India to be catered by the Chinese producers/exporters. It is further noted that the import prices would undercut the domestic prices and also have a significant suppressing effect on the domestic prices.

- (x) As regards the contention that it is an established fact that the domestic industry is not currently suffering any injury, the Authority notes that the volume of dumped imports from the subject country in absolute terms and relative to apparent consumption and production in India has been significant despite the fact that anti dumping duty is in force. Even if the domestic industry has not suffered continued injury in the POI, the imports are significantly undercutting the prices of the domestic industry and further, dumping margin and injury margin are significantly positive.
- (xi) As far as the claim of the domestic industry to consider Thailand as the appropriate country to determine the Normal Value for China, the Authority is of the view that the applicant domestic industry has not provided sufficient reasons/information for the selection of Thailand as the appropriate market economy country for China, the subject country. The Authority is of the view that considering the much higher level of overall economic development in China and production cost, capacity and export orientation in China with respect to the product concerned, it would not be appropriate to consider China and Thailand as comparable.
- (xii) As far as the issue of non-injurious price is concerned, the Authority has determined the non-injurious price as per the guidelines laid down in Annexure III to the AD Rules.
- (xiii) As far as the issue of recommending the duty in fixed amount in US\$ terms is concerned, the Authority noted that the form of duty is decided by the Authority keeping in view the nature, circumstances and merits of the individual case and accordingly, the form of duty and the currency of the duty has been determined in this case.

- (xiv) It is noted that the domestic industry is largely operating in the domestic market and export sales as a percentage of total sales of the domestic industry is negligible.
- (xv) The Authority has followed the past practice of analysis and examination consistently. All parameters of injury have been examined with reference to the complete investigation period.

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

- 94. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the end user. The end user could still maintain two or even more sources of supply.
- 95. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not affect the availability of the product to the consumers.

## **K. CONCLUSION**

- 96. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this final finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/ recurrence of dumping and injury, the Authority concludes that:
  - a. There is continued dumping of the subject goods from the subject country and the dumping margin is above de-minimis and significant. Dumped imports are causing injury to the domestic industry in the period of investigation.
  - b. Should the present anti-dumping duties cease, dumping of the subject goods from the subject country is likely to get intensified causing consequent injury to the domestic industry.

## L. RECOMMENDATIONS

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

**Duty Table**

S. No.	Heading/ Subheading	Description of goods	Grade	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
1.	5902.10	Nylon Tyre Cord Fabric	All Grades	China PR	China PR	Jiangsu Haiyang Chemical Fibres Co. Ltd.	Jiangsu Haiyang Chemical Fibres Co. Ltd.	0.52	Kg	US\$
2.	5902.10	Nylon Tyre Cord Fabric	All Grades	China PR	China PR	Jiangsu Haiyang Chemical Fibres Co. Ltd.	Any other	1.10	Kg	US\$
3.	5902.10	Nylon Tyre Cord Fabric	All Grades	China PR	China PR	Any other	Jiangsu Haiyang Chemical Fibres Co. Ltd.	1.10	Kg	US\$
4.	5902.10	Nylon Tyre Cord Fabric	All Grades	China PR	China PR	Any other than the S. No 1,2 and 3 above		1.10	Kg	US\$
5.	5902.10	Nylon Tyre Cord Fabric	All Grades	China PR	Any country other than China PR	Any	Any	1.10	Kg	US\$
6.	5902.10	Nylon Tyre Cord Fabric	All Grades	Any country other than China PR	China PR	Any	Any	1.10	Kg	US\$

**M. FURTHER PROCEDURE**

99. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
100. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

**J. K. Dadoo**

**Designated Authority**