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Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Anti-Dumping & Allied Duties)  
No 15/14/2010-DGAD

**Final Findings (Sunset Review)**

Dated 19<sup>th</sup> November 2011

**Sub: Sunset Review Investigation of anti-dumping duty imposed on imports of Nylon Filament Yarn from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP. Final Findings**

WHEREAS, having regard to above Rules, the Designated Authority (hereinafter referred to as Authority) initiated an sunset review of anti dumping duty imposed on Nylon filament yarn on 27th August, 2010 into alleged dumping of Nylon Filament Yarn ( herein after also referred to as NFY or subject goods) from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP.

2. Earlier, the Authority had recommended imposition of Anti Dumping Duty on imports of Nylon Filament Yarn (hereinafter referred to as subject goods) originating in or exported from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP (hereinafter referred to as subject countries). The final findings notification of the Authority was published vide notification No. 14/5/2005-DGAD dated 3rd July, 2006. On the basis of the findings, anti dumping duty was imposed on the imports of the subject goods from subject countries by the Department of Revenue vide notifications No. 85/2006 – Customs dated 29th August, 2006.

3 And whereas, the Act and the Rules require the Authority to conduct review of anti dumping duty earlier imposed. Hon'ble Delhi High Court has also held in WP No. 16893 of 2006 that sunset review is mandatory in order to determine whether cessation of the existing duty is likely to lead to the continuation or recurrence of dumping and injury. Therefore the Authority initiated a sunset review investigation vide notification dated 27th August 2010 in accordance with Section 9A (5) of the Act read with Rule 23 of Antidumping Rules to review the need for continued imposition of duties in force and to examine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.

4. And whereas antidumping duty as notified vide Notification No. 85/2006 – Customs dated 29th August, 2006 was extended up to 26th August, 2011 vide notification No. 123 /2010-

Customs dated 9th December 2010 and further extended to 28<sup>th</sup> November 2011 vide customs notification no 73/2011 dated 09/08/2011 under sub-sections (1) and (5) of section 9A of the said Customs Tariff Act and in pursuance of rules 18 and 20 of Anti dumping rules. The time period for completion of review investigation has been extended till 26<sup>th</sup> November 2011 by Central Government vide their approval dated 9th August, 2011.

## **GENERAL PROCEDURE**

5. The procedure described below has been followed with regard to the investigation:

i) In pursuance to the notification issued by the Designated Authority dated 27<sup>th</sup> August, 2010, the Designated Authority under the above Rules, received an application filed by Association of Synthetic fiber Industry ( ASFI) on behalf of M/s Century Enka Ltd, M/s JCT Ltd and M/s GSFC Ltd for the review, continuance and enhancement of anti dumping duty in force against dumping of Nylon filament yarn in the Indian market by the producers and/or exporters from China PR. Later, M/s Prafull Overseas, Surat and M/s Gujarat polyfilms Pvt Ltd ( GPPL), other producers of subject goods in India submitted their response and provided costing information to the Authority after the Authority wrote to all other producers of subject goods to provide information.

ii) The Authority forwarded a copy of the public notice to the known producers and/or exporters in the subject countries and provided them opportunity to provide relevant information and make their views known in writing within forty days from the date of the letter in accordance with the Rule 6(2).

iii) The Authority forwarded a copy of the public notice to all the known importers and/or consumers of subject goods in India and advised them to provide relevant information and make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(2).

iv) The Authority provided copies of the non-confidential version of the application to the known producers and/or exporters and the Embassy of the subject countries in accordance with Rules 6(3) supra. A copy of the non-confidential application was also made available for other interested parties, on request.

v) The Authority sent a questionnaire to elicit relevant information to the government of subject countries including known exporters/producers in accordance with the Rule 6(4). The following producers and exporters from subject countries filed response/comments filed response to the questionnaire.

- (i) PT Susilia Indah Synthetic Fiber Industries, Indonesia (producer and exporter)

- (ii) PT Indonesia Toray Synthetics, Indonesia (producers and exporter) and M/s PT Mitra PTE Ltd, Singapore ( Exporter)
- (iii) M/s Indahchi Prima, Jakarta, Indonesia (producers and exporter)
- (iv) M/s Thai Taffeta Company Ltd., Thailand (producers and exporter)
- (v) M/s Recron, Malaysia ( producers and exporter)
- (vi) M/s Suntex fibres, Chinese Taipei (Producer and exporter)
- (vii) M/s Colon Fashion Material, Korea RP
- (viii) Piyush Kumar on behalf of Woongjin Chemicals Co. Ltd., Korea RP
- (ix) World Trade Consultant on behalf of M/s Hyosung Corporation Korea RP.

vi) Questionnaire was sent to known importers and users for providing necessary information in accordance with Rule 6(4). The Authority provided opportunity to the industrial users of the product under consideration, to furnish information considered relevant to the investigation regarding dumping, injury and causal link. The following importers and users submitted their response to the initiation notification during the process as mentioned below.

- (i) M/s South Gujarat Nylon Traders Association
- (ii) M/s SGP India
- (iii) Jainvati Impex
- (iv) M/s Goenka Industries
- (v) Schiffer and Menzes India Pvt. Ltd.
- (vi) Handloom Vyapar Association, Mau
- (vii) Sky Industries Ltd., Mumbai
- (viii) M/s Kiesha, Surat
- (ix) M/s Punjab Warp Knitting Industry's Association
- (x) The Amritsar Warp Knitting Association.

However, the response to questionnaire response was received only from M/s Jainvati Impex and M/s Sky Industries Ltd in the form and manner of importers questionnaire.

vii) The Authority held a oral hearing on 17<sup>th</sup> June 2011 to provide an opportunity to the interested parties to present relevant information orally, which was attended by various interested parties. The parties attending the public hearing were advised to file written submissions of the information presented orally and also file rejoinder submissions if any. The Designated Authority has considered these written submissions as well as rejoinder submissions which have been received from interested parties to the extent considered

relevant to these investigations. Further, arguments raised and information/evidence provided by the interested parties during the course of the investigation, to the extent the same are considered relevant to the present investigation, have been appropriately considered by the Authority.

viii) Arguments raised and information/evidence provided by various interested parties during the course of the investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority in the findings.

ix) The Authority during the course of investigation satisfied itself as to the accuracy of the information supplied upon which these findings are based. For that purpose, the Authority conducted on-the-spot verification of the domestic industries and various cooperating producers and exporters to the extent considered relevant and necessary. Additional/supplementary details regarding injury were sought from various interested parties, which were also received.

x) In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have been considered in Final Findings.

The following interested parties submitted their response to the disclosure statement

1. M/s Indachi Prima, Indonesia
2. The domestic industry
3. South Gujarat Warp Knitters Association, Surat, Gujarat.
4. M/s PT Indonesia Toray Synthetics, Indonesia
5. Ministry of International Trade and Industry, Malaysia
6. M/s Sky Industries Limited, Mumbai
7. South Gujarat Nylon Trader Association
8. M/s Thai Taffeta Company Limited, Thailand
9. Jainwati Impex, Gujarat
10. Suntex Fiber Co Ltd.

The submissions made by above mentioned interested parties pursuant to the issuance of disclosure statement has been dealt in the appropriate headings of the final finding. The request by one of the interested party for extending the time limit for responding to disclosure statement was not accepted by the Authority due to the limited time available with the Authority to complete the investigation.

xi) The Authority made available non-confidential version of the evidence presented by domestic industry through a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).

xii) Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting

Principles (GAAP) and the information furnished by the applicant so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

xiii) \*\*\*\* represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.

xiv) Investigation was carried out for the period starting from 1st April 2009 to 31st March 2010 (12 months and has been referred to as the period of investigation (POI). The examination of trends in the context of injury analysis, however, covered the periods 2006-07, 2007-08, 2008-09 and POI.

xv) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded findings on the basis of the facts available.

xvi) Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, 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.

#### **PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:**

6. The product under consideration in this review investigation is synthetic filament yarn of nylon also known as polyamide yarns (also described as nylon filament yarn and also referred to as subject goods). Nylon filament yarn is a synthetic filament yarn produced by polymerization of organic monomers. The product includes all kinds of synthetic filament yarns of nylon or polyamides, other than sewing thread, such as flat yarn - twisted and/or untwisted, fully drawn yarn (FDY), spin drawn yarn (SDY), fully oriented yarn (FOY), high oriented yarn (HOY), partially oriented yarn (POY), textured yarn – twisted and/or untwisted, and dyed yarn, single, double, multiple, folded or cabled, classifiable within Chapter 54 under customs subheading no. 5402. High tenacity yarn of nylon or other polyamides are beyond the scope of the product under consideration and present investigation. The product includes all variants of Nylon Filament Yarn or Polyamide Yarns such as flat/ textured/twisted/ untwisted, bright/semi-dull/ full-dull (or variants thereof), Grey/colored/ dyed (or variants thereof), single/ double/ multiple/ folded/ cabled (or variants thereof), whether or not sized, but excludes high tenacity yarn of nylon classifiable under customs sub-heading 5402.10 and fishnet yarn, classifiable under customs classification no. 5402.10.

#### **Views of the importers, consumers, exporters and other interested parties**

7. The importers, consumers, exporters and other interested parties have submitted the following comments with regard to product under consideration and like article.

- a) The Authority should consider the same scope of the product under consideration in the present investigations, as was considered in the original investigations. Since the present investigation is a sunset review investigation, the scope of the product under consideration cannot be modified.
- b) Monofilament yarn should be excluded from the scope of duties in view of domestic industry's inability to supply these yarns.
- c) Anti dumping duty should not be recommended on yarn used for hook & loop tape fasteners. These yarns includes Nylon 140, 170 and 280 denier yarns. Further, the Authority may specify permissible tolerances of  $\pm 6\%$ , as no yarn is produced conforming to specific denier and this tolerance is permitted even in excise notification. Authority has permitted similar tolerance in viscose filament yarn as well. Even though the domestic industry supplies 140 denier yarn, the consumers must use yarns produced by the same supplier and same batch in order to ensure proper dyeability.
- d) The domestic industry has changed product control nomenclature ( PCN) system in the present investigation. PCN in original investigation was based on denier, filament, cross section, luster, grades, colors and packing. In sunset review, it is based only on denier, luster and color. Since it is only a sunset review investigation, the PCN system should be the same.
- e) Nylon 6 and Nylon 66 are produced using different raw material and production processes. Petitioner must prove that they produce Nylon 66 otherwise the same must be excluded from the purview of the investigation. Further the prices of Nylon 66 are higher and therefore to incorporate the same into dumping and injury calculations, an additional parameter ought to be included in the PCN system.
- f) Indian producers do not produce Nylon filament yarn under 70 denier. It has been stated that 70+ denier product has a higher yield as compared to 20-30 denier. It has been added that injury cannot be accurately reflected for the product mix without taking this into consideration.
- g) The claim of the domestic industry that the technology employed by the Indian Producers and foreign producers is the same or there is no developments in technology is not correct. It has been submitted that technology used by the domestic industry is obsolete and results in additional processing costs and results in higher inferior quality of yarn. It has been submitted that the domestic industry consciously purchased old machines with outdated technology.

**Views of the domestic industry**

8. The following are the views of domestic industry:

a) The domestic industry has submitted that it has in fact, proposed the PCN which highlights the process so that equitable comparison should be carried out. It has been submitted that cross section and filaments are not included as PCN as the product nomenclature as provided in customs data do not include the same. However, during the process of investigation, the domestic industry has provided relevant information to the Authority to consider these product parameters.

b) The present review being a sunset review, the scope of the product should remain the same as that of the original investigation. The domestic industry has not sought any enhancement in the scope of product under consideration. The domestic industry has refuted the claims of the other interested parties with regard to exclusion of any product type.

c) The Indian Industry is producing below 70 denier.

d) The domestic industry has refuted the claim of developments in technology or difference in technology and has submitted that there is no change in the factual positions between previous investigation and the present investigation on this account.

#### Views of the interested parties after the Disclosure statement

9. After the issuance of disclosure statement, interested parties have reiterated their submissions with regard to product under consideration and like article.

#### **EXAMINATION BY THE AUTHORITY**

10. The Authority has noted the arguments advanced by various interested parties. It is recalled that the Authority held as follows in the previous investigation.

*“6. The Authority has considered the views of the various interested parties. In its examination, the Authority considers that different types of NFY are produced from the same production technology, manufacturing process, raw materials, plant & equipment and perform the same general purpose. There is a great amount of substitutability between different types of NFY. Even though the product has been grouped in discrete types according to denier, filaments, luster, color, orientation etc., these specific characteristics merely differentiate various types of NFY. However, different types contain the same basic characteristics of NFY. With regards to inclusion of Nylon 66 as a foreign like product and under the purview of the product under consideration, it is noted that both Nylon 6 and Nylon 66 have essentially the same or similar physical and chemical characteristics and both nylon 6 and 66 are “polyamides” and are manufactured as continuous filament. Further, essentially, all polyamides are melt spun and to such an extent, the manufacturing process and technology for nylon 6 and nylon 66 should be treated as the same. With regards to the*

*functions and uses, at best, it can be said that nylon 66 has some additional end applications. However, existence of some additional end applications cannot render two products as dislike. With regards to the customs classification, it could be said that both nylon 6 and 66 have been classified under the same classification as “Synthetic Filament Yarn of Nylon”. After detailed examination, the Authority concludes that the product under consideration in the present investigation is Synthetic Filament Yarn of Nylon also known as Polyamide Yarns (also described as Nylon Filament Yarn and also referred to as subject goods). Nylon Filament Yarn is a synthetic filament yarn produced by polymerization of organic monomers. The product under consideration includes all kinds of synthetic filament yarns of Nylon or Polyamides, other than sewing thread, such as flat yarn - twisted and/or untwisted, fully drawn yarn (FDY), spin drawn yarn (SDY), fully oriented yarn (FOY), high oriented yarn (HOY), partially oriented yarn (POY), textured yarn – twisted and/or untwisted, and dyed yarn, single, double, multiple, folded or cabled, classifiable within Chapter 54 under customs subheading no. 5402, but excludes high tenacity yarn of nylon or other polyamides. The product includes all variants of Nylon Filament Yarn or Polyamide Yarns such as flat/textured/twisted/ untwisted, bright/semi-dull/ full-dull (or variants thereof), Grey/ colored/ dyed (or variants thereof), single/ double/ multiple/ folded/ cabled (or variants thereof), whether or not sized, but excludes high tenacity yarn of nylon classifiable under customs sub-heading 5402.10. The Authority considers it appropriate to exclude fishnet yarn, classifiable under customs classification no. 5402.10 beyond the scope of the subject goods, as they are high tenacity yarns. Accordingly, all types of high tenacity nylon filament yarn, classifiable under customs classification no. 5402.10 are beyond the scope of present investigations. The Customs classification, however, is indicative only and is in no way binding on the scope of the present investigation. With regard to the claim of the association (FIASWI) that some type of yarns are not produced in India, the Authority notes that all yarns of high tenacity as such are beyond the scope of the product under consideration. It was argued that the some of the product types are not produced in India and must be excluded from the scope of the product under consideration. Some of the product types coted in this regard included Nylon flame retardent yarn, air texturised yarn etc. The matter was examined and it was noted that JCT website [www.jctsfed.com](http://www.jctsfed.com) reads on front page that they are manufacturing Flame Retardant Yarns. It was also noted that UV stabilized yarn can be easily produced by any of the manufacturer by simply adding UV stabilizer in production. Further, these yarns are offered by M/s century Enka. It was also noted that air textured yarn are just another way of texturising and it was informed that that even JCT is not able to fully utilize the texturising due to poor demand. Therefore, the Authority does not exclude any of these types from the purview of the product under consideration.*

*7. Nylon filament yarn has vast applications in textiles applications, which includes saree, dupatta, women’s dress material / fashion wear, fancy causal knit wear, stockings and socks, intimate wear and foundation wear, lingerie and night wear, briefs, panties, slips, kids wear, sports wear and active wear, swim wear and beach wear, outer wear, wind wear, fashion accessories, elastic tapes, show/footwear linings, laces/fancy tapes, tie/scarves, feather yarn, ribbons/satin ribbons, etc. With regards to the observations made by some of the interested parties not to take into account of Nylon filament Yarn made from Nylon 66 because of its allegedly different characteristics, the Authority has considered all relevant information made available by interested parties with regard to whether or not nylon 6 and nylon 66 are*

*one like products and notes that nylon 66 has been rightly included within the scope of product under consideration. The Authority holds nylon 6 and 66 as one like product, considering parameters such as physical and chemical properties, technology, manufacturing process, raw materials, functions and uses, tariff classifications etc. Nylon 66 is therefore, considered within the scope of present investigations.”*

11. Thus, monofilament yarn, Nylon 66 and yarn used in hook & loop tape production had been included under product under consideration in the original investigation itself. With regard to exclusion of some product types from purview of anti dumping duty, it is noted that interested parties have sought exclusion of (a) monofilament yarn, (b) yarn used in hook & loop tape production (and specifying permissible tolerances therein), (c) nylon 66 type of nylon filament yarn. The Authority has examined the claims for exclusion of these product types from the scope of anti dumping duty and notes as follows –

(a) Monofilament yarn – With regard to arguments made by various importers, exporters and users about inability of the domestic industry to supply monofilament yarn and thus its exclusion from the purview of product under consideration and anti dumping duty, it is noted that the domestic industry is indeed producing and supplying significant quantity of mono filament yarn to the users and consumers in India. In fact, Indian Producers during the course of investigations have provided their production, sales, cost of production, selling price and profit/loss details in respect of monofilament yarn. With regard to exclusion of monofilament yarn from the purview of product under consideration and anti dumping duty, the matter has been examined and it is noted that Nylon 6 mono filament yarn and other specialized yarns were included within the purview of PUC in the original as well as subsequent mid term review investigations. However, while imposing anti dumping duty, the same was put under reference price basis. In the present investigation which is a sunset review, the scope of the product under consideration is same as in the original investigation. With regard to arguments by the interested parties to keep the same duty structure in the review investigations, it is stated that the same has been examined in the appropriate headings in this final findings.

(b) Yarn used in hook & loop tape production – As regards exclusion of yarn used in hook & loop tape production, the Authority notes that the requests have been made for exclusion of Nylon 140, 170 and 280 denier yarns. The Authority has examined the claim in detail in the original investigations and the present investigation being a sunset review, the scope of the product under consideration is same as in the original investigation.

(c) Nylon 66 yarns – The Authority has considered the claim of exclusion of nylon 66 yarn and had examined it in detail in the original investigation. It is noted that Nylon 6 and nylon 66 were considered as like article in the original investigations. There is no change with regard to the product or market in terms of its essential properties and usage. The responding exporter has not justified its exclusion on the basis of some parameter not considered earlier. The grounds for exclusion advanced by the exporter are similar to what has already been considered by the Authority at the time of original investigations. In this

present investigation which is a sunset review, the scope of the product under consideration is same as in the original investigation.

12. Some responding exporters have disputed the change in the PCN in the response to initiation notification filed by ASFI on behalf of domestic industry. In response to the arguments by the interested parties, post hearing, the domestic industry has submitted breakdown of PCN on the basis of the PCN definition considered in the original investigation as well. Thus, both the breakdown are on the records of the Authority. The Authority notes that the purpose of the PCN system is to ensure fair comparison for the purpose of dumping margin, price undercutting and injury margin. Some of the interested parties themselves have not been able to provide full cost breakdown for the suggested PCN. Further, some interested parties have adopted their own PCN systems instead of following the PCN system suggested by ASFI. Considering the objective of the PCN system, the Authority has considered PCN for different parties on the basis of their individual responses on a like to like basis to the extent feasible and practical and determined dumping margin and injury margin. With regard to comments of one of the importers with regard to prescribing a tolerance limit of +/- 6% in case of nylon products types specified on denierage in the original anti dumping investigation (170/24 and 280/14 denier) used for hook and loop trade fasteners, the matter has been considered by the Authority and it is noted from the response of the importer that such a tolerance limit is prescribed by the Excise Authority with respect to subject goods. In view of the above, the exempted yarn for the above mentioned purposes would be subject to tolerance limit as specified by customs and excise authority in terms of relevant notification issued from time to time.

13. In view of the foregoing and having regard to information and evidence on record, it is noted that the scope of product under consideration for the purpose of the present sunset review investigation is the same as that defined in the original investigation and also in subsequent mid term review which is as follows:

***“The product under consideration is synthetic filament yarn of nylon also known as polyamide yarns (also described as nylon filament yarn and also referred to as subject goods). High tenacity yarn of nylon or other polyamides are beyond the scope of the product under consideration and present investigations. Nylon filament yarn is a synthetic filament yarn produced by polymerization of organic monomers. The product includes all kinds of synthetic filament yarns of nylon or polyamides, other than sewing thread, such as flat yarn - twisted and/or untwisted, fully drawn yarn (FDY), spin drawn yarn (SDY), fully oriented yarn (FOY), high oriented yarn (HOY), partially oriented yarn (POY), textured yarn – twisted and/or untwisted, and dyed yarn, single, double, multiple, folded or cabled, classifiable within Chapter 54 under customs subheading no. 5402. The product includes all variants of Nylon Filament Yarn or Polyamide Yarns such as flat/textured/twisted/untwisted, bright/semi-dull/full-dull (or variants thereof), Grey/ colored/ dyed (or variants thereof), single/ double/ multiple/ folded/ cabled (or variants thereof), whether or not sized, but excludes high tenacity yarn of nylon classifiable under customs sub-heading 5402.10 and fishnet yarn, classifiable under customs classification no. 5402.10. The scope of the product under consideration includes both nylon 6 and 66 and the same as mentioned in the original investigations.*”**

14. As regards like article, Rule 2(d) of the Anti-dumping Rule specifies that like articles mean an article which is identical and alike in all respects to the product under investigation, or in the absence of such an article, another article having characteristics closely resembling those of the article under examination. The domestic industry claimed that goods produced by it are like articles to the goods originating in or exported from subject countries. There is no significant difference in the subject goods produced by the petitioners and those exported from subject countries.

15. With regard to the issue of like product, it is noted that M/s ASFI claimed that the goods produced by domestic industry are like articles to the goods originating in or exported from the subject countries. The Authority after examination notes that Nylon Filament Yarn produced by domestic industry has characteristics which are similar to those of Nylon Filament Yarn imported from the subject countries. Barring the claims on exclusion of some product types, the interested parties have not disputed that the goods produced by the domestic industry are comparable to the goods imported from subject countries.

16. Having regard to information & evidence on record, the Authority holds that Nylon Filament Yarn produced by the domestic industry is like article to Nylon Filament Yarn being imported from the subject countries within the meaning of the rules. Further, for the purpose of the determination of dumping margin the Authority has considered product type comparison on the basis of information provided by the interested parties. For the purpose of determination of injury margin the Authority has considered comparable product type of the domestic industry.

### **DOMESTIC INDUSTRY**

17. It is noted that the present investigations were initiated suo motu in terms of provisions of Section 9A(5) read with Rules and the decisions of the Hon'ble High Court in WP No 16893 of 2006 holding that sunset review is mandatory. The notice of initiation was published in the Gazette of India. It is noted that the Association of Synthetic Fiber Industry (ASFI) responded to the notice of initiation and provided detailed information with regard to dumping, injury & causal link (including likelihood of dumping and injury). ASFI provided injury information in respect of following companies

- a. M/s. Century Enka Ltd.,
- b. M/s. GSFC Ltd.,
- c. M/s. JCT Ltd.,

18. In their petition, M/s ASFI identified M/s. GPPL Ltd., M/s. Prafful Overseas Ltd., M/s. Gupta Synthetic and M/s. Welspun Ltd. as other producers of the product under consideration in India. It is noted that M/s ASFI also claimed that Baroda Rayon Corporation Limited, Modipon Fibres Company and Shree Synthetics Ltd. have suspended production of the

product under consideration. ASFI claimed that production of Century Enka, GSFC and JCT constituted a major proportion in Indian production.

19. After initiation, M/s. GPPL Ltd. and M/s. Prafful Overseas Ltd. separately responded to the notice of initiation and provided injury and costing information. It is noted that all parties responding to the Authority consented for verification of information provided by them. Further, these responding Indian Producers (M/s GPPL and M/s Prafful overseas) provided non confidential version of their information, which was kept in the public file for information to all interested parties.

20. It is noted that since the present investigation is a suo motu initiation of investigations, the Authority is required to determine domestic industry for the purpose of the proposed findings. Such determination is required to be made in the light of legal provisions, information on record and claims made by the interested parties. Some of the responding interested parties have disputed claims with regard to scope of the domestic industry.

#### **Views of the exporters, importers, consumers and other interested parties**

21. The importers, consumers, exporters and other interested parties have made the following submissions with regard to the standing of the domestic industry.

(i) The constituents of the domestic industry have changed completely in the present investigations when compared to previous investigations.

(ii) M/s Century Enka and M/s JCT have imported the product under consideration in India and therefore they cannot constitute domestic industry within the meaning of Rule 2(b). Only GSFC could form part of Domestic Industry. Further, production of GSFC is quite low (only about 10%) and therefore GSFC alone cannot form domestic industry. Prafful and GPPL cannot form part of the domestic industry in view of the fact that they have not filed information along with other domestic producers. The interested parties have also claimed their ignorance on participation by Prafful and GPPL in the present proceedings. It has also been argued that even when Prafful is a member of ASFI, they have not provided their information through ASFI. It has also been submitted that Prafful cannot be allowed to submit their data at this stage of investigation as it would be against the basic principles of audi alterm partem. Some of the interested parties have submitted that M/s GPPL has capacity of 6,000 MT and Welspun 31,400 MT. However, petitioner has not included these companies as a party to the petition.

(iii) On the issue of the definition of Rule 2(b), the interested parties have argued as follows:

a. Rule 2(b) has been amended by the Govt. with a view to consciously withdraw the discretion that was available to the Authority with regard to eligibility of domestic producers in those situations where such domestic producers are either

importers of the product under consideration or are related to an importer or exporter of the product under consideration.

- b. The change in the law is with regard to scope of discretion. After determining the eligibility of the domestic producers, the Authority has to apply the major proportion test to use its discretion whether or not to consider the eligible domestic producers as the eligible domestic industry.
- c. After the amendment, the Authority is left with no discretion with regard to domestic producers who are either importers of the alleged dumped product or those who are related to exporters of importers of the alleged dumped product.
- d. The word “may” in rule 2(b) gives discretion limited and restricted to the “rest of the producers” and not for the excluded category.
- e. The applicability of the amended rule 2(b) would result in declaration of JCT Ltd. and Century Enka as ineligible to claim the status of Domestic Industry in terms of amended Rule 2(b).
- f. There is no indication in law or theory that the quantum of imports can be a decisive factor for the purpose of determination under Rule 2(b). No such numerical criteria have been laid down for the use of discretion under Rule 2(b) or its corresponding Article in the Anti-dumping Agreement.
- g. Reasons for imports given by Century and JCT are worthy of rejection.
- h. GSFC constitutes only 10% of the total domestic production and cannot be considered constituting “a major proportion” of the total domestic production. Further, Injury information of M/s Prafful and M/s GPPL cannot be considered.
- i. Subsequent to issuance of disclosure statement, some of the interested parties representing importers, exporters and user association have commented upon excessive confidentiality granted by authority with regard to domestic industries injury information in general and non-disclosure of production information of some of the producers comprising domestic industry in particular. They have also commented upon the facts that M/s Century Enka should have been excluded from the purview of domestic industry status as the said domestic producer had imported subject goods from subject country after the period of investigation taken in the sunset review. It has also been submitted that since the authority has analysed the post POI data for likelihood analysis and M/s Century Enka had imported the subject goods during that post POI period, the Century Enka should be excluded from the purview of domestic industry. It has also been added that M/s Prafful Overseas, Gujarat should not be taken as part of domestic industry as the said domestic producer had submitted injury information very late in the investigation process.

### **Views of the domestic industry**

22. The domestic industry has briefly submitted as follows –

a. The collective output of petitioner companies constitutes majority of Indian production. Collective output of all other Indian producers constitutes minority share in Indian production. Therefore, the participating companies constitute domestic industry within the Rules.

b. Same constitution of the domestic industry in the original and sunset review investigations is not a condition for sunset review. ASFI has established that share of the companies providing information in total Indian production is significant. Some of the constituents of domestic industry who had participated in the original investigations were forced to shut down operations because of continued dumping and low quantum of anti dumping duty. This is the best evidence of continued dumping from subject countries causing injury to the domestic industry. The present domestic industry cannot be denied relief only because some other constituents have shut down their production.

c. Volume of imports made by Century Enka and JCT are quite insignificant in relation to their own production, Indian production and consumption in India. Widely acknowledged jurisprudence in a situation of imports made by some of the petitioner companies is whether such petitioner companies have reduced their own production activities and have increased imports to become traders/importers. In the instant case, not only that these two companies have continued their production, but also have been a major producer in the Indian market.

d. JCT has imported the product under consideration only to supplement its own production efforts. It is clearly not a situation where JCT has become trader/importer and is supplementing such trading/importing activities with own production.

e. Century has imported the product under consideration in order to establish the correctness of the import price. Century felt that the goods are being imported at too low a price and therefore the company imported the goods to establish the correctness of the import price. During the course of present investigations, it has been stated that M/s Century has not imported the product under consideration from subject countries during the period of investigation or the injury period. They have also submitted the relevant evidence in support of its claims.

f. Even if Century and JCT is considered as ineligible, GSFC will constitute domestic industry. Further, if GSFC alone is considered as the domestic industry; the data would show higher injury margin and consequently justification for higher quantum of anti dumping duty.

g. The capacities of GPPL and Welspun have been wrongly assessed. In fact, the figures are imaginary. The actual capacity for production of NFY with Welspun is only 1,800 MT and GPPL had a capacity of 4,800 MT in the POI. Further, capacity has no relevance in anti dumping investigation. The relevant factor is production. Based on production, the

petition satisfies standing and petitioners constitute domestic industry. It may also be noted that standing is not a condition necessary for sunset review.

h. Information has been filed by some other domestic producers. The Authority should consider such information for the present determination. Rule 2(b) is directly relevant in this regard. Merely because these parties have not filed their information through ASFI does not imply that their information can be rejected.

i. Subsequent to disclosure statement, the domestic industry has requested the authority to uphold its analysis on standing and scope of domestic industry. They have also reiterated that M/s Century Enka had not imported the subject goods from subject countries during investigation period and is therefore eligible domestic producer.

### **Examination by the Authority**

23. The Authority has considered views expressed by various interested parties. At the outset, it is recalled that the present investigation was initiated suo motu in terms of provisions of Section 9A(5) read with Rules and the decisions of the Hon'ble High Court in WP No 16893 of 2006 holding that sunset review is mandatory. Thus, the initiation notification was published in the Gazette of India and the various interested parties were advised to provide information in the form and manner prescribed. While ASFI has provided information with regard to three domestic producers, namely, Century Enka, GSFC and JCT, the other two manufacturers of subject goods in India, namely, M/s Prafful and M/s GPPL have separately filed their injury information. Further, while ASFI has provided information in the form and manner prescribed with regard to dumping, injury and causal link, including likelihood thereof; Prafful and GPPL has provided information only for injury determination. As regards disclosure of individual production and sales of GPPL and Prafful, the Authority notes that these companies are private limited companies and their production and sales volumes of these companies were not in public domain. However, consolidated data for the domestic industry as a whole have been disclosed on actual basis with regard to capacity, production, domestic sales volumes and inventories.

24. As far as the issue of imports made by M/s JCT and M/s Century Enka is considered, the Authority notes the elaborate submissions on exclusion of these two companies by various interested parties. Considering the fact that imports made by JCT are throughout the investigation period, and are regular in nature and the company has sold the imported product in the market, it is noted that the company has benefited from dumping of the product. In view of the above examination, it is considered appropriate to exclude JCT from the scope of the domestic industry.

25. However, as regards Century Enka, the Authority notes that the imports of the product under consideration from amongst subject countries by Century Enka are not in the

investigation period. In fact, the imports are prior to the investigation period and in the injury period. Further, Century Enka has imported the product under consideration from non subject countries (i.e., from Italy) in the investigation period and the volume of imports is very small (27 MT). In this context, it is recalled that Rule 2(b) states that

*“2. Definitions. - In these rules, unless the context otherwise requires, -*

*(a) "Act" means the Customs Tariff Act, 1975 (51 of 1975),*

*(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 only.*

26. With regard to comments made by some of the interested parties to exclude M/s Century Enka from the purview of domestic industry, it is stated that the matter has been examined and it is noted that the domestic industry status is governed by Rule 2 (b) of the anti dumping rules and it is clear from the above definition that only when these producers when such producers are related to the exporters or importers of **the alleged dumped article or are themselves importers thereof** then only such producers may be excluded by the Authority. With regard to post POI imports made by M/s Century Enka, it is noted that domestic industry status as mentioned in Rule 2 (b) has been determined taking into the fact whether that producer is importer of dumped article during the POI taken for anti dumping investigation. In this regard, the Authority takes note of the declaration dated 23<sup>rd</sup> September 2010 submitted by M/s Century Enka Ltd in their petition filed before the Authority on 18<sup>th</sup> October 2010 it had stated that during the POI and injury period, it had imported small quantity of Nylon Filament yarn from Non subject countries i.e Italy. Further, the imports made by M/s Century Enka during the POI have been examined by Authority and it is stated that imports in the investigation period are not from subject countries. In view of the above, the Authority considers that M/s Century Enka constitutes eligible domestic industry within the meaning of Rule 2(b).

27. As regards Prafful and GPPL, it is noted that Rule 2(b) clearly provides for considering domestic producers as a whole as the domestic industry and it is only in a situation where domestic producers as a whole are not before the Designated Authority, that the Authority is required to consider whether the collective output of domestic producers before the Authority constitutes a major proportion in Indian production. Further, there is no legal requirement that a domestic producer should respond to the Authority only through its association. Further, there is admittedly no issue of imports of subject goods from subject countries by GPPL or Prafful and thereby both the companies constitute eligible domestic industry. In fact, during the process of investigation, some interested parties argued that the production process employed by Prafful is state of the art comparable in technology to the foreign producers and therefore inclusion of Prafful as a domestic industry would provide sufficient information to the Authority on the differences & similarities in manufacturing process/technology of Indian

Producers and impact of alleged developments in technology on the domestic industry. The Authority considers it appropriate to consider GPPL and Prafful as constituents of the domestic industry. With regard to late submission of the information by these producers to the Authority, it is noted that these producers had submitted their costing and injury information to the Authority in November 2010 and a copy of the same was put in the public file for information of all interested parties.

28. Some interested parties have argued that they have not got opportunity to comment on the performance of ‘domestic industry as a whole’. The matter has been examined and as stated earlier in this disclosure statement, the submissions of both these producers were kept in the public file for information to all interested parties after they had filed the injury information in response to letters from Authority to all producers to submit the injury information.

29. With regard to submission of the some interested parties that Welspun capacity/production has not been taken into account and their data has not been taken for the domestic industry injury as a whole, it is noted that the annual report of the company shows that the company has capacity for polyester yarn and has also started producing nylon filament yarn. In fact, after suo moto initiation, the Authority wrote to all domestic producers of subject goods including Welspun to submit information in the form and manner of domestic industry questionnaire. However, no information was received from Welspun. Further, during the course of investigations, the domestic industry claimed that the production of Welspun was in the region of 1000 MT in the investigation period. It was further claimed that the production of Welspun cannot be included for establishing scope of domestic industry, as the company is importing significant volume of nylon filament yarn. The matter has been examined and it is noted that the questionnaire responses filed by Recron and Syntex shows that there were imports by Welspun Syntex. The Authority considers that Welspun cannot be considered eligible domestic industry in view of significant imports by the domestic industry. However, production of Welspun has been considered for assessing demand of the product in the Country.

30. After examination of various submissions, the Authority has considered JCT Ltd. as ineligible domestic industry. However, Century Enka, GSFC, Prafful and GPPL are considered as eligible domestic industry. It is noted that the production of participating companies, after excluding production of JCT Ltd. constitutes a major proportion in Indian Production and therefore these companies have been treated as “domestic industry” within the meaning of the Rules.

**Production of Nylon Filament yarn by domestic Industry and Other Producers**

**Production of domestic Industry and Other Producers**

Name of Company Units ( MT)	2006-07	2007-08	2008-09	2009-10	%
Century Enka Limited	****	****	****	****	****

GSFC	****	****	****	****	****
GPPL	****	****	****	****	****
Prafful	****	****	****	****	****
<b>Domestic Industry</b>	19,533	18,562	19,537	24,216	90.91
Gupta Synthetic	****	****	****	****	****
BRC	NIL	NIL	NIL	NIL	Closed
Modipon	NIL	NIL	NIL	NIL	Closed
Shree Synthetics Ltd.	NIL	NIL	NIL	NIL	Closed
<b>Total Indian Production</b>	19,533	18,718	20,760	26,639	100

**Other producers** - excluded from the scope of domestic industry being importer/related to importer

Name of Company	2006-07	2007-08	2008-09	2009-10	
WelSpun	****	****	****	****	
JCT	****	****	****	****	
<b>Total Others</b>	10,722	11,107	11,748	13,817	

### Dumping.

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

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

- The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6)";

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

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

- (i) PT Susilia Indah Synthetic Fiber Industries, Indonesia ( producer and exporter)
- (ii) PT Indonesia Toray Synthetics, Indonesia ( producers and exporter)
- (iii) M/s Indahchi Prima, Jakarta, Indonesia ( producers and exporter)
- (iv) M/s Thai Taffeta Company Ltd., Thailand ( producers and exporter)
- (v) M/s Recron, Malaysia ( producers and exporter)
- (vi) M/s PT Mitra PTE Ltd, Singapore ( Exporter)
- (vii) M/s Suntex fibres, Chinese Taipei (Producer and exporter)

33. It is noted that domestic industry had identified denier, luster, filaments, category, Colour, cross section, packing and grade as different parameters of the subject goods in the original investigation. In the instant sunset review, the domestic industry had identified denier, luster and color in their submission which was opposed by other interested parties who stated that the PCN taken at the time of the original investigation should stay. The matter has been examined by the Authority and it is noted that the purpose of the PCN system is to ensure fair comparison for the purpose of dumping margin, price undercutting and injury margin. Some of the interested parties themselves have not been able to provide full cost breakdown for the suggested PCN. Further, some interested parties have adopted their own PCN systems instead of following the PCN system suggested by ASFI. Considering the objective of the PCN system, grouping has been done on a like to like basis to the extent feasible and practical. During the investigation, verification visits were undertaken with respect to above mentioned companies and following verification, a verification report (confidential) was issued to all the producers/exporters for comments, if any. The comments received from these interested parties have been considered to the extent found relevant to the present investigations. It is also noted that after public hearing,

M/s Hyosung corporation, Korea RP wrote to the Authority its willingness to cooperate before the Authority should the Authority propose to put the anti dumping duty on Nylon 6 mono filament yarn. As the letter of cooperation from M/s Hyosung corporation, Korea RP was received much later than stipulated time period ( after the public hearing), the same has not been considered for grant of individual dumping margin. After disclosure statement, a copy of the calculations of Net Export price, Landed value and dumping margin were handed over to the cooperating producers and exporters whose data were taken into account for the purpose of dumping margin and injury margin determination and who requested for detailed calculations. Subsequent to the disclosure statement, requests have been received from various interested parties for recalculation of dumping margin for some of the subject countries. The matter was examined and based on examination of calculations, certain typographical errors in the calculations were detected. These have been subsequently corrected in the final findings.

## China PR

### Normal value determination for China

34. It was submitted during the investigations that China PR, one of the subject countries under present investigation in the present proceedings, is a Non-Market Economy Country and therefore their normal value has to be determined in accordance with the Para 7 and 8 of Annexure I of the Anti Dumping Rules.

### *Legal provisions in India*

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

"7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin.

### Market Economy Treatment (MET)

*"Para 8 of Annexure 1- Amended on 04.01.2002*

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

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

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

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

*(a) the decision of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;*

*(b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;*

*(c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and*

*(d) the exchange rate conversions are carried out at the market rate;*

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

35. The Rules were further amended vide notification dated 10<sup>th</sup> March, 2003, which states as under:

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

investigations, by a country which is a Member of the "World Trade Organization"

Normal Value & Export Price:

**All producers/exporters from China PR**

36. None of the other producers/exporters after the initiation, has responded to the exporters' questionnaire by giving information with regard to market economy questionnaire and various appendices mentioned in the exporters' questionnaire. As no information has been received from any exporter/producer from China PR, the Authority has constructed the normal value on the basis of facts available as mentioned in the para 7 of the Annexure 1 of the Anti dumping rules. In this regard, it is noted that no information has been provided to the Authority with regards to the price or constructed value in the market economy third country (analogue country being the USA in this case) or the price from such a third country to other countries. As no information as mentioned above has been received, the Authority has constructed the normal value on the basis of cost of production in India, duly adjusted including selling, general and administrative overheads and reasonable profit. The export price has been determined based on the transaction wise data of imports culled out from information provided by statistics for subject goods.

Normal value in case of Market Economy Countries : General Methodology for working out dumping margin for responding exporters

37. It was first determined that whether the total domestic sales of the subject goods by the producers/exporters in the subject country was representative when compared to their total sales of the subject goods concerned sold in the exporting country. Thereafter, it was examined whether their sales (PCN wise) are under ordinary course of trade in terms of Rule 2 of the annexure I to the anti dumping rules. Wherever the exporters have provided transaction wise details of sales made in home market and same has been accepted by the Authority after verification of information, the said verified information has been relied upon to determine separate weighted average selling price for each type of NFY, considering PCN of the NFY sold in the home market. In cases, where the PCN of product under consideration exported to India has not been sold in the domestic market or is sold at a loss, then in those cases, the cost of production determined by the Authority on the basis of the exporter's data has

have been used to work out normal value, after adding profit margin. The cost of production claimed by the exporters have been admitted after suitable modification subsequent to verification. Also, wherever, the separate cost of the production has not been submitted by the responding exporter, the Authority has used the costs of production of the nearest denier/grade/type/filament or has constructed the cost of production based on facts available. Thereafter, the Authority has worked out the profit margin of the profitable sales of the various PCN's and these have been added to the cost of the production of those sales which were not made in the domestic market (corresponding to the sales made to India with regard to same PCN) to work out the constructed normal value for those corresponding PCN (to those exported to India) which were not sold in the domestic market.

38. The selling price of each PCN has been compared with the cost of production of same PCN. In cases where such prices were below cost of production PCN wise, then cost of production, with reasonable addition for profit ( as mentioned above) has been considered for determination of normal value. Wherever such selling prices were above cost of production of corresponding PCN, such selling prices have been considered for determination of normal value.

39. For the determination of the ordinary course of trade test, the cost of production of the product concerned was examined with reference to the records maintained by the producer. Further, all domestic sales transactions were examined with reference to the cost of production of the subject goods to determine whether the domestic sales were in the ordinary course of trade or not. Thus only the profitable transactions have been taken into consideration for the determination of normal value for the cooperating exporter where sales below costs exceed 20%.

40. It is noted that most of the responding producers and exporters had submitted information taking into account PCN devised by the Authority as per original investigation. However, the response to exporters questionnaire was submitted on a yearly basis. During the process of investigation based on the response from number of interested parties and after examination of the same by the Authority, it was noted that there were significant differences in the cost and prices of major raw material used in the manufacture of product under consideration during the POI which have been sold in the domestic market of exporting countries and those exported to India, It was therefore considered necessary to ask the exporting producers and exporters as well as domestic producers to submit the information on a quarterly basis as the same would suitably reflect the variation in cost and prices of product under consideration. The examination of exporter's response has been carried out taking four quarters

of the POI separately before aggregating all for the purpose of determining dumping margin for product under consideration.

### Chinese Taipei

M/s Suntex Fibers:

#### Normal value

41. It is noted that M/s Suntex's businesses include the manufacture of man-made fiber, and the import/export of raw materials of man-made fiber.

42. During verification, it was submitted that M/s Suntex manufactures a total of 1903 products and 103 of them are exported to India. The Regular Grade products can be further categorized as Standard products and Custom Made products, and the by-products and old inventories classified as D-Grade products which contain Stock Down products, i.e. mixed old inventory, along with Offgrade and Clearance of Lot Number products. It was submitted that the Regular Grade products are differentiated in accordance with different specifications such as Nylon 6 or Nylon 66, denier, filament, luster, cross-section, tenacity, color, category, application and grade, and the same applies to D Grade products.

43. It was submitted that different classes of nylon, in this case Nylon 6 or Nylon 66, are produced from different production technology, manufacturing process, raw materials, plant and equipment, in addition to their different uses. Nylon 6 is made by polymerizing caprolactam to polycaprolactam, whereas Nylon 66 is made by condensation polymerization of hexamethylene diamine and adipic acid, through an intermediate phase of "nylon salt", to poly-hexamethylene adipamide. It was submitted that comparison for the purpose of determination of dumping margin should take into account all these factors.

44. It is noted that M/s Suntex had submitted information taking into account PCN devised by the Authority as per original investigation. The examination of exporter's response has been carried out taking four quarters of the POI separately before aggregating all for the purpose of determining dumping margin for product under consideration.

45. During examination for determination of normal value, the sufficiency test was done to determine whether the domestic sales were in sufficient quantity as compared to export sales to India. Thereafter, 80-20 test was carried out to determine whether the domestic sales were in the ordinary course of trade or not. Following this, the entire domestic sales for the given PCN was accepted for the purpose of domestic sales price wherever more than 80% sales by quantity were more than the cost of production of the same PCN. Wherever the loss making sales were more than 20% of the total quantity sold, only the

profitable sales and not the total sales quantity and prices were taken into account for working out the domestic sales price for the corresponding PCN. Wherever the cost of production for the PCNs were not given or sales were at a loss, the authority has adopted the cost of production of the nearest denier/filament/grade or has constructed cost of production based on facts available. Thus, normal value for the said producer and exporter has been determined for the cooperating producer and exporter.

### EXPORT PRICE AND DUMPING MARGIN

46. Separate weighted average export price to India has been determined for each type of NFY based on their PCN as explained above. Price adjustments have been claimed on account of adjustments like freight, insurance, warranty etc which were verified by the Authority. For the export sales to India, the authority verified the export sales in terms of various documents like shipping information, bill of lading, payment realization and invoices. The average PCN wise export sales to India (net of all the adjustments claimed by the exporter and verified by the Authority), were compared to the average PCN wise normal value to determine the dumping margin. These dumping margin for individual PCN were weighted averaged for determination of a single dumping margin for the responding exporter. After the analysis of the exporter's data, the dumping margin for said producer and exporter has been determined for the cooperating producer and exporter.

### Malaysia

M/s Recron, Malaysia ( producers and exporter)

### Normal value

47. It is noted that the company is primarily engaged in manufacture of PET, DTY, HTY, FDY and POY (of polyester), Spun Yarn, PSF, Fabrics, Nylon Filament Yarn (NFY) comprising of FDY, DTY and POY of Nylon. In the NFY segment, the company is primarily engaged in manufacturing of DTY, FDY and POY. However, it is noted that the company has exported only FDY and POY during the POI. In the export sales to India, the company has exported NFY (only FDY and POY) of denier 20 to 170 and filament 10 to 72 during the POI. From their response and during verification, it was noted that the sales of the product under consideration in their domestic sales are very insignificant ( as compared to sales to India and other countries) and these domestic sales are for pre dominantly Nylon DTY Sales. As these domestic sales were not in sufficient

quantity as compared to export sales to India, therefore normal value has been constructed by taking into account their cost of production and profit. Thus, normal value for the said producer and exporter has been determined for the cooperating producer and exporter.

#### Export Price

#### EXPORT PRICE AND DUMPING MARGIN

48. Separate weighted average export price to India has been determined for each type of NFY based on their PCN as explained above. Price adjustments have been claimed on account of adjustments like freight, insurance, warranty etc which were verified by the Authority. The average PCN wise export sales to India (net of all the adjustments claimed by the exporter and verified by the Authority), were compared to the average PCN wise normal value to determine the dumping margin. As those PCN exported to India were not sold in the domestic market in sufficient quantity, the normal value corresponding to all PCN exported to India were determined by taking into account cost of production for those PCN and profit margin. The profit margin was worked out by taking into account the profit of profitable sales transaction. These dumping margin for individual PCN were weighted averaged for determination of a single dumping margin for the responding producer and exporter. After the analysis of the exporter's data, the dumping margin for the said producer and exporter has been determined for the cooperating producer and exporter.

#### Thailand

##### M/s Thai Taffeta:

49. During the verification, it was noted that there was no domestic sales of the equivalent PCN/types of the product under consideration which they had exported to India during the POI. Based on the audited accounts of the company for the years 2009 and 2010 (up to 31<sup>st</sup> May each year), it was noted that the company has incurred financial losses in both the years.

50. During verification, the company could not furnish the complete cost of production for the subject goods during the period of investigation duly reconciled. In view of the above, the normal value of the product under consideration has been constructed, as per facts available.

#### EXPORT PRICE AND DUMPING MARGIN

51. Separate weighted average export price to India has been determined for each type of NFY, as explained above. Price adjustments have been claimed on

account of freight, insurance, credit costs, customs clearances, packings etc., which have been verified. The PCN wise export sales to India (net of all the adjustments claimed by the exporter and verified by the Authority), were compared to the average PCN wise constructed normal value to determine the dumping margin. These dumping margin for individual PCN were weighted averaged for determination of a single dumping margin for the responding exporter. After the analysis of the exporter's data, the dumping margin for the said producer and exporter has been determined for the cooperating producer and exporter.

### Korea RP

#### Normal value, Export Price and Dumping Margin

52. As there was no cooperation from any of the producers/exporters from Korea RP, the normal value has been constructed using the best facts available. The weighted average export price has been determined by taking the IBIS data and adjustments as per facts available. After examination, the dumping margin has been determined for the cooperating producer and exporter.

### Indonesia

M/s Indahchi Prima, Jakarta, Indonesia (producers and exporter)

53. It was informed by the company that the main raw material used for manufacturing NFY were nylon chips and the company used imported nylon chips for manufacturing the subject goods. During verification, it was noted that the company was exporting only mono filament yarn during the POI.

54. It is noted that the producer/exporter had submitted information of export sales to India and domestic market sales on the quarterly basis taking into account of denier, filament, luster and grade. It was submitted by the producer and exporter that there was not much variation in the cost of production during the same quarter for different types of mono filament yarn. taking into account PCN devised by the Authority as per original investigation. The examination of exporters response has been carried out taking four quarters of the POI separately before aggregating for the purpose of determining one single dumping margin.

55. During examination for determination of normal value, the sufficiency test was done to determine whether the domestic sales were in sufficient quantity as compared to export sales to India. Thereafter, 80-20 test was carried out to

determine whether the domestic sales were in the ordinary course of trade or not. Following this, the entire domestic sales for the given PCN was accepted for the purpose of domestic sales price wherever more than 80% sales by quantity were more than the cost of production of the same PCN. Wherever the loss making sales were more than 20% of the total quantity sold, only the profitable sales and not the total sales quantity and prices were taken into account for working out the domestic sales price for the corresponding PCN. Wherever the equivalent grade/PCN exported to India have not been sold in the domestic market, then normal value has been constructed by taking cost of production and appropriate profit margin. Thus, normal value is determined for the said cooperating producer and exporter.

### EXPORT PRICE AND DUMPING MARGIN

56. Separate weighted average export price to India has been determined for each type of NFY, as explained above. Price adjustments have been claimed on account of freight, insurance, credit costs, customs clearances, packings etc., which have been verified. For the export sales to India, the authority verified the export sales in terms of various documents like shipping information, bill of lading, payment realization and invoices etc. The PCN wise export sales to India (net of all the adjustments claimed by the exporter and verified by the Authority), were compared to the average PCN wise normal value to determine the dumping margin. These dumping margin for individual PCN were weighted averaged for determination of a single dumping margin for the responding exporter. After the analysis of the exporter's data, the dumping margin is worked out as mentioned in the table.

57. During verification, the difference between the Indian port data and Appendix 2 submitted by the company was examined especially in the light of the fact that there were four transactions reported in Indian port data in which Mahewala Fabrics Pvt. Ltd. and OPA Fabrics Pvt. Ltd. were shown as importers whereas no exports were shown to these two companies in the Appendix 2 submitted by the company. The company replied that there were few instances where they sold the goods to Goenka Industries and thereafter Goenka Industries sold them to other customers in India on high sea sale basis. In such cases, Bill of Entry was filed by the ultimate purchaser. All such transactions were reported by the company in Appendix 2 as exports made to Goenka Industries. In support of this the company also submitted Bill of Entry No. 723979 dated 16.10.09 pertaining to Invoice No. 3111-D dated 26.08.09 filed by OPA Fabrics Pvt. Ltd. All other relevant documents like remittance advice from bank, ocean freight, insurance, bill of lading etc. for this particular transaction were also submitted by the company. A perusal of all the documents submitted by the company clearly substantiated the fact that in case of this particular transaction Indachi Prima sold the goods to Goenka Industries and thereafter Goenka Industries sold them to OPA Fabrics on high sea sale basis.

PT Susilia Indah Synthetic Fiber Industries, Indonesia (producer and exporter)

Normal value

58. It is noted that producer/exporter manufactures subject goods from Nylon Chips stage as there is no polymerization process at their factory. It was noted during the verification that the company had exported only monofilament yarns to India. It was also noted that the company's domestic sales are largely coarser denier which is upwards of 70D during the POI.

59. While examining the domestic sales of product under consideration, the company in its revised submissions admitted to have incurred losses on the sales. Further, there was no domestic sale of product under consideration corresponding to the PCN which have been exported to India during the POI. In view of the above considering the fact that domestic sales were loss making during the POI, the normal value has been determined taking into account their cost of production and suitable profit margin.

EXPORT PRICE AND DUMPING MARGIN

60. During verification, it was noted that the company had made only three shipments of mono filament yarns to India during the POI and during verification, adjustments claimed by the producer and exporter for determining their net export price has been accepted after verification.

61. The PCN wise export sales to India (net of all the adjustments claimed by the exporter and verified by the Authority) were compared to the average PCN wise constructed normal value to determine the dumping margin.

62. These dumping margin for individual PCN were weighted averaged for determination of a single dumping margin for the responding exporter. After the analysis of the exporter's data, the dumping margin has been determined for the cooperating producer and exporter.

PT Indonesia Toray Synthetics, Indonesia (producer and exporter) and M/s PT Mitra PTE Ltd, Singapore (Exporter)

Normal value

63. During verification, the producer and exporter was not able to produce all the concerned documents or back up information based on original records like bank advice, shipping documents, original records for claiming adjustments etc. It was noted during verification that the producer was not able to show how the total sales as reflected in questionnaire response had been derived from their records and they were not able to show to the investigation team the back up documents which are required in the compilation of the exporters questionnaire. In view of the absence of original records at the time of verification, the overall sales of the company, sales of subject goods in the domestic market, export sales to India and other countries, the adjustments claimed by them to determine net export price could not be ascertained and verified. In view of the above, the Authority is not able to determine normal value and export price for PT Indonesia Toray Synthetics, Indonesia (producers and exporter) and M/s PT Mitra PTE Ltd, Singapore (Exporter). Thus, separate dumping margin for the above combination could not be determined.

Dumping margin for other producers and exporters (Residual) and for those producers and exporters whose information has not been accepted

64. For other producers and exporters from subject countries who have not responded to the initiation notification and those who have not submitted their exporters questionnaire or whose information has not been accepted by the Authority as per reasoning given in the preceding paragraphs, Normal value has been determined as per the facts available while the export price has been determined as per the price available in the official statistics. The comparison showed the existence of dumping of the subject goods by the exporters during the POI. The weighted average dumping margin, expressed, as a percentage to the export price has been determined. After the issuance of disclosure statement, comments have been received from some of the interested parties about the low dumping margins proposed to be granted by the Authority and it was submitted that calculations for determination of dumping margin may be rechecked. The matter has been examined and it was noted that the export price from these countries had been incorrectly taken on average basis and the same has now been corrected by taking weighted average price of product under consideration from the subject countries into India. In addition, some of the typographical and calculation errors have been noted and these have been subsequently rectified in the final findings. The dumping margins are as under.

Countries	Producers/Exporters	DM US \$	DM% range
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China PR	All producers/exporters	****	50-55%
Malaysia	M/s Recron	****	5-10%
	Others	****	25-30%
Chinese Taipei	Suntex Fiber Co Ltd.	****	10-15%
	Others	****	25-30%
Korea	All producers/exporters	****	45-50%
Thailand	Thai Taffeta Co., Ltd	****	40-45%
	Others	****	45-50%
Indonesia	M/s PT Susilia Indah Synthetic Fiber Industries	****	15-20%
	M/s Indahchi Prima	****	25-30%
	Others	****	35-40%

**Injury & causal link**

**VIEWS OF THE DOMESTIC INDUSTRY**

65. The domestic industry has submitted the following arguments with regard to injury and causal link:

(i) The Designated Authority should consider post investigation period information as the present case is sunset review, wherein the Authority is required to determine the likelihood of dumping and injury, it would be appropriate to consider the performance of the domestic industry for the quarter immediately following the POI in order to establish the likely effects of the imports on domestic industry;

(ii) The Domestic industry requests consideration of different period on the grounds that present period of investigation is abnormal for the reason that the prices of key raw material plummeted to US\$ 1200 and thereafter increased rapidly to US\$ 1600 in a very short period. Thus, performance of the domestic industry with regard to various price parameters is more reflective of changes in the key raw material than the impact of the import on the domestic industry.

(iii) Quarterly performance clearly shows abnormality in period of investigation. The domestic industry had a reasonable profit in the Q1, which steeply declined to significant losses in Q4. The position further deteriorated in the subsequent quarter. The Designated Authority has considered post-

investigation period for determination of likelihood of injury to the Domestic Industry.

(iv) The Authority has done such quarterly analysis in the past. Even European Commission has done quarterly injury analysis. Above all, the Authority has prescribed information on month by month basis. Therefore, there is a requirement to undertake a Quarter wise analysis of injury for the POI and for the post POI period.

(v) The information on record shows that the increase in cost of sales is largely on account of increase in price of Caprolactum and not conversion cost within the POI. The submissions of exporters in this regard are incorrect. In the case of PUC, the major component of cost of production is the caprolactum cost.

(vi) Increase in production and sales is a result of imposition of anti dumping duty. However, production and sales of the domestic industry have not increased in tandem with increase in demand of the product under consideration in India.

(vii) Inventories with the domestic industry have declined during the injury period. However, the volumes still remain significant. In the present case, the investigation is a sunset review investigation and the Designated Authority is required to consider likelihood situation of recurrence of injury.

(viii) Share of the domestic industry as well as other Indian producers has declined. At the same time, the share of imports from the subject countries has increased.

(ix) Some other domestic producers have suspended/closed down their production, while some other domestic producers have commenced commercial production at fresh production facilities. The low market share in 2008-09 is because of this reason.

(x) Further, the share of domestic producers as a whole has declined consistently from 2007-08 onwards. At the same time, the share of imports from Taiwan has increased by 4.75% during the injury period. The conditions for cumulative assessment are fully met in the present case and therefore individual market share are wholly irrelevant. The authority should consider cumulative market share of dumped imports.

(xi) The imports from subject countries in the original investigation POI were 16,350 MT. The imports from subject countries in the current POI are 15,676 MT. Considering the fact that anti dumping duty is in force, the volume of dumped imports should have declined significantly. However, the volume of dumped imports has remained in the same region as original POI.

(xii) It is evident from quarterly analysis of profitability of domestic industry, how the situation deteriorated after marginal improvement. In period of investigation, the profitability of the domestic industry steeply deteriorated from profits to financial losses as the domestic industry was unable to pass on the cost increases in view of presence of dumped imports and because foreign producers have not increased their prices in proportion to cost increase.

(xiii) The said cost increases were universal and equally applied to the foreign producers as well. Despite this, foreign producers have not increased their prices in proportion. Increase in cost of production on account of caprolactum has not been passed on by the exporters from the subject countries to the consumers, thus, resulting in intensified dumping and consequent injury to the domestic industry.

(xiv) The Indian Industry is in fact faced with unutilized capacities. Further, so significant was dumping that two producers had closed down production and the new producers who setup capacities are faced with significant unutilized capacities.

(xv) Petitioner agrees and submits that losses in 2008-09 due to sudden drop in caprolactum prices and increase in profits due to significant increase in caprolactum prices in a very short period both should not be considered for injury assessment.

(xvi) Regarding exports by individual exporter, significance of volume is not from the perspective of individual exporter, share of the entire exporting subject countries in the demand in India and the total imports in India is the determining factor for dumping; not that of the individual exporter.

(xvii) It has been argued that the prices of caprolactum increased quarter by quarter in the period of investigation and resultantly had impact on the cost and price of the domestic industry. It is because of the fluctuations in the prices of caprolactum that stress for assessment of injury on quarterly basis has been laid by the domestic industry.

**VIEWS OF THE EXPORTERS, IMPORTERS, CONSUMERS AND OTHER INTERESTED PARTIES**

66. The views of the other interested parties are given below:

(i) No reason has been provided for change in Period of Investigation.

(ii) Quarter wise analysis within Period of Investigation is to confuse and mislead the Authority. There is no legal sanctity to examine a particular quarter within the POI with reference to the preceding quarter which is not permitted in law as the minimum period for such examination is six months.

(iii) Domestic Industry is suffering due to the cost of sales soaring high.

(iv) Production and sales volume have been increasing and also the inventories started decreasing as from 2008-09.

(v) The production and sales of domestic industry and market share of other Indian producers has increased.

(vi) Market share of other Indian producers has increased, whereas the share of Taiwan has remained consistently lower.

(vii) The share of subject countries in India has reduced as compared to POI of original investigation. The petitioner's claim that there is a significant increase in the volume of imports is not justified.

(viii) Domestic Industry has shown a positive growth during the period of injury despite fluctuation in the prices of Caprolactum and global recession.

(ix) Loss of market share is because Domestic Industry is unable to match with the increasing demand.

(x) The domestic industry would not be able to meet the entire demand even with 100% capacity utilization.

(xi) Losses to Domestic Industry in 2008-09 were mainly due to sudden drop in Caprolactum price.

(xii) Base figures considered for the injury period in the petition filed by the petitioner is contradictory with the data verified for the same period in the mid-term review investigations final findings – capacity, production, sales volumes, demand and total imports.

(xiii) As per the data provided, Price underselling is either lower or equal to the price undercutting in respect of all or equal to the net domestic selling price. This implies that NIP is less than or equal to NSR.

(xiv) Issue of movement of raw material prices is an intention to move away from assessing the material injury during Period of Investigation.

(xv) There is no price injury to the domestic industry. Selling price is increasing despite decline in prices of Caprolactum thus claim of price depression/ suppression is not justified.

(xvi) Domestic industry has claimed injury on account of fluctuations in Capro prices. Some contradictory statements in their application are:

(xvii) Losses to them in 2008-09 were mainly due to sudden drop in caprolactum prices.

(xviii) Their profit remained at a lower level in view of the increase in the caprolactum prices.

(xix) The price of caprolactum has shown a sharp increase in the injury period, thus resulting in increase in cost of production.

(xx) One of the exporters, PT Sulindafin, has claimed that they have exported insignificant volumes to India (less than 3% of their total sales) and have not caused injury.

(xxi) The petitioner's claim that increase in selling price is on account of increase in Caprolactum prices is baseless.

(xxii) Despite capacity utilization of 87.83% in the POI, domestic industry has been importing the subject goods.

(xxiii) Domestic Industry has claimed no difference in technology but Domestic Industry is fully aware that the technology used by them is obsolete which leads to additional costs in the production process.

(xxiv) Applicant has as a matter of a conscious policy decision, purchased old machines with outdated technology to manufacture the Product under Consideration.

(xxv) Annual Report of GSFC 2009-10 shows that the company did not suffer from any material injury.

(xxvi) Tolerance of 6 % denier variation in collecting anti dumping duty.

(xxvii) Some of the interested parties have submitted that anti dumping duty should be imposed on import of knitted fabric and no duty should be imposed on Nylon 6 monofilament yarn as the same is much superior in quality as compared to Indian yarn. It has also been submitted that the capacity of Indian manufacturers of Nylon 6 monofilament yarn is not even half of the total demand and the significant aspect of gap is required to be considered by the Authority. It has also been pointed out that any imposition of anti dumping duty

on Nylon filament yarn would be detrimental to large numbers of processors and other industries which use Nylon filament yarn as the input. In particular, they have submitted that anti dumping duty should not be imposed on Nylon 6 mono filament yarn as the domestic industry is not in a position to supply these yarns to them.

#### Views of the interested parties after the Disclosure statement

##### Views of importers, exporters and users

67. (i) After disclosure statement, it has been pointed out by various interested parties that the authority has no jurisdiction to issue disclosure statement after 12 months have passed since initiation of sunset review. It has been submitted that though Rule 23 (3) invokes rules 17 dealing with final findings, the invocation is not absolute. It has also been submitted by various interested parties that there is no recurrence of material injury to domestic industry. With regards to duty structure in the final finding, it has been submitted by various interested parties representing exporters, importers and users that reference price duty structure should continue on the mono filament yarn. They have also cited the rulings in the CESTAT whereby it has been held that in the absence of any material requiring change in form of duty, DA should not change the form of anti dumping duty. It has also been submitted that the scope of sunset review is only to come to a conclusion that the expiry of anti dumping duty is likely to lead to continuation or recurrence of dumping an injury. It has also been submitted that in case of positive finding, the central government can only extend the period of such imposition and can not modify or vary the rate or form of duty. Some of the interested parties have questioned the Authority for extending the injury period beyond prescribed in the initiation notification. They have also pointed out that if the injury period has been extended then the domestic industry status needs to be examined taking into account extended period considering the fact that one of the domestic industry had imported subject goods during the Post POI period.

##### Views of domestic industry after disclosure statement

67 (ii) The domestic industry has reiterated its submission on continuation or likelihood of injury on account of dumped imports from subject countries. Further, they have submitted that determination of non-injurious price is grossly inappropriate and is leading to unduly low protection to domestic industry. It has also been submitted that anti dumping duty should be imposed only as fixed quantum of anti dumping duty in US \$ per KG. In their reasoning they have submitted the cost of major raw material i.e. Caprolactum price has significantly increase after the investigation period and any bench mark duty in this case will be futile. It has also been added by the domestic industry that order of DA has been modified by the CESTAT on the grounds of incorrect form of measures. With regards to imposition of anti dumping duty on mono filament yarn it has been submitted that there are a number of companies in India who are producing and selling mono filament yarn. It

has also been submitted that the constituents of domestic industry are selling significant volumes of mono filament yarn in the present period. It has been added that though the volume of mono filament yarn sold by Indian producers was quite low at the time of original investigations and therefore the designated authority might have considered it appropriate not to recommend anti dumping duty on mono filament yarn as well, the production and sale of mono filament yarn by Indian producers is quite significant in the present period. They have stated that the Designated authority has even change the form of duty at the time of sunset review investigations (from Bench mark to fixed quantum) in a number of cases, on being satisfied that the variable form of duty was not addressing the dumping and consequent injury to the domestic industry. It has also been added that M/s Century has added capacities of 70 Mt. tone per month for production of mono filament yarn and in view of the above, the imports of mono filament yarn must be subjected to anti dumping duties in the same manner in which anti dumping duties have been imposed on multi filament yarn.

### **Examination of the issues raised by interested parties**

68. The submissions made by the interested parties during the course of investigation, have been examined by the Designated Authority with reference to the relevant rules. The Authority notes that present investigation being a Sunset Review investigation, the injury parameters to the domestic industry and the likelihood of continuation of the dumping, in the event of the removal of the anti dumping duty and the impact it may have on the domestic industry, have been examined. The Authority notes that Caprolactum is the major raw material in the production of Nylon Filament Yarn. Based on the data submitted by the interested parties, significant changes in the prices of Caprolactum have been noted during the period of investigation. Therefore, as requested by the domestic industry and other interested parties, the Designated Authority has considered it appropriate to undertake a quarter wise analysis of the performance of the domestic industry during the period of investigation. The other interested parties i.e., exporters from the subject countries were also requested to make available the relevant data on a quarterly basis for the period of investigation so that a comparison could be made on a like to like basis to the extent possible. It has been claimed by the domestic industry that it has incurred losses due to fluctuations in the prices of Caprolactum. In this regard, the Authority has undertaken an analysis of the stocks of raw material, purchases of raw material and its consumption during the period of investigation. The Authority notes that the purchase of raw material by the domestic industry has generally been in line with the patterns of consumption. Therefore, no unusual trends in either consumption or purchases of raw materials has been noted by the Designated Authority during the period of investigation. As regards the observations by the interested parties that the domestic industry has suffered losses due to drop in prices of caprolactum, the Authority notes that the domestic industry has continued to incur financial losses during the injury period and the period of investigation except for a brief period in the first quarter of the period of investigation. Further, in the matter of anti dumping investigation, the performance of the

domestic industry in terms of cost and prices has been seen in the context of landed value of the subject goods from the subject countries during the injury period and the period of investigation. As regards the improvement in performance of the domestic industry in respect of certain parameters, a detailed analysis has been carried out by the Designated Authority in respect of all the parameters as detailed under the anti dumping rules. These parameters are discussed herein under. With regard to the submissions of some of the interested parties that the base figures considered for the injury period in the petition, filed by the domestic industry being contradictory with the data verified for the same period in the Mid Term Review investigations, the Authority observes that the composition and structure of the domestic industry in the two investigations was different. It needs mention that some of the units, which were part of the domestic industry in the Mid Term investigation has since closed down their operations. On the other hand, some new units have been added as a part of the domestic industry, as they have created the capacities for the subject goods and have supported the present investigation. With regard to the observation that the domestic industry being not able to meet the entire demand for the subject goods, particularly in respect of Nylon 6 monofilament yarn, the Authority notes that as per anti dumping rules, the purpose of anti dumping investigations is not to restrict the imports of the subject goods from the subject countries. In the present sunset review investigation, the Designated Authority has determined whether the cessation of anti dumping duty is likely to lead to continuation or recurrence of dumping and injury. It has also been claimed by the interested parties that either the volume of imports from the subject countries are low or the prices the prices have not caused any injury to the domestic industry. In this regard, the Authority observes that in the anti dumping investigation, as far as assessment of injury to the domestic industry is concerned, as required under the rules, a cumulative assessment of dumping and injury to the domestic industry from the subject countries has been made. With regard to mis-match between demand and supply and the applicants not having required capacity to meet the demand of subject goods in India, it is noted that the purpose of anti dumping duty is to mitigate the un-fair trade practices adopted by exporters from subject countries. With regard to imposition of anti dumping duty on knitted fabrics, it is noted that same is not relevant for this investigation as anti dumping duties are initiated in terms of rule 5 of the Anti dumping rules. With regard to difference in quality of imported products and domestic like product, it is stated that no quantifiable evidence has been submitted by any interested party stating that Nylon 6 mono filament yarn produced by domestic industry is not a like article to Nylon 6 mono filament yarn imported from subject countries.

69. With regard to comments of the interested parties pursuant to issuance of disclosure statement, it is stated that the antidumping rules allow for extension of time limit beyond 12 months (within 18 months) in terms of Rule 23 (3) of anti dumping rule which state that the provisions of Rule 17 shall be mutandis applicable in the case of review. With regard to likelihood of continuation of recurrence of injury to domestic industry, it is stated that the same is analysed in the appropriate headings of this findings. With regard to duty structure in this final findings it is stated that the same has been addressed in the in

this final finding. With regard to non-imposition of anti dumping duty on nylon filament yarn or mis match in demand supply of mono filament yarn, it is stated that the purpose of anti dumping duty is to mitigate against the unfair trade practices. With regard to Indian industry interest, it is stated that the same has been appropriately dealt in the Indian industry interest heading in this final finding. With regard to comments made by interested parties about extending the injury period, it is noted that there is no extension of the injury period by the Authority. In fact, the Authority has examined the post POI data only to determine the likely hood of injury to domestic industry. It is also noted that dumping margin and injury margin has been determined after taking into account the information for the period of investigation only.

### **Cumulative assessment**

70. It is noted that exporters from China PR, Indonesia, Malaysia, Taiwan, Korea and Thailand are dumping Nylon Filament Yarn in the Indian market. Annexure II to the Anti Dumping Rules provides that in case of imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the designated authority will cumulatively assess the effect of such imports, in case it determines that:-

(a) the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries is less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;

(b) Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

a. In this regard, the Authority notes that the Margin of dumping from each of the subject countries are more than the limits prescribed. Quantum of imports from each of the subject countries is more than the de-minimus limits. The product manufactured by the producers from the subject countries inter-se and in comparison to the product manufactured by domestic industry has comparable properties.

b. Price undercutting is positive and significant in respect of subject countries.

c. The domestic producer and exporters in the subject countries are selling the product to the same category of consumers.

d. Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market.

71. The Authority therefore, consider it appropriate ay analyze volume of imports, market share of dumped imports versus domestic industry, price undercutting, price suppressing or depressing effects of imports cumulatively.

Assessment of demand

72. For the calculation of the Domestic consumption/demand of the product under consideration, the authority added the sales volume of the domestic industry and other Indian producers to the total imports into India. It is noted that domestic industry has determined import volume and value based on the data collected from secondary source i.e. International Business Information Services. The domestic industry had earlier submitted transaction wise import information from secondary sources in their submission. During the process of investigation, Designated Authority requested DGCI&S to provide the said information on transaction to transaction basis, which was received by the Designated Authority. The information relating to import of subject goods was also submitted by the domestic industry. The Designated Authority has examined the information and found that volume of imports of subject goods are very similar to what has been submitted through transaction wise information from IBIS. In fact, IBIS data shows marginal higher volume of imports. The Designated Authority has relied upon the data of the IBIS for the purpose of import statistics with regard to the quantity and price of the subject goods for the purpose of present sunset review.

Particulars	UOM	2006-07	2007-08	2008-09	2009-10
Sales of Domestic Industry	MT	18,734	18,603	20,816	23,313
Sales of other Indian Producers	MT	17,225	13,269	12,344	13,892
Imports from subject countries	MT	4,654	3,763	8,394	15,676
Import-Other Countries	MT	2,946	2,133	2,046	3,371
Total Demand	MT	43,559	37,769	43,617	56,369
Total Demand (Indexed)		100	86.7	100.1	129.4
Sale of Domestic Industry (Indexed)		100	99	111	125

73. It would be seen that demand of the product in the country has shown an increasing trend over the injury period. The total demand which has shown an

increase of 29 per cent from the base year while the Domestic Industry could increase its sales only by 25 per cent from the base year.

### **Volume Effect of Dumped Imports**

74. With regard to volume of the dumped imports, it has been examined that whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. Annexure II (ii) of the anti dumping rules provides as under:

*“While examining the volume of dumped imports, the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”*

### **Assessment of market share**

	2006-07	2007-08	2008-09	2009-10
Imports ( MT)				
China	1,802	88	683	1,751
Indonesia	666	492	1,411	1,789
Malaysia	1,185	2,309	3,205	4,282
Thailand	154	103	402	2,239
Korea	-	-	458	1,842
Taiwan	847	772	2,235	3,773
Subject Countries	4,654	3,763	8,394	15,676
Other Countries	2,946	2,133	2,046	3,371
Total Imports	7,600	5,897	10,439	19,047
Market Share in Imports (%)				
China	23.70	1.49	6.55	9.19
Indonesia	8.77	8.34	13.52	9.39
Malaysia	15.60	39.16	30.70	22.48
Thailand	2.03	1.75	3.85	11.76
Korea	-	-	4.39	9.67
Taiwan	11.15	13.08	21.41	19.81
Subject Countries	61.24	63.82	80.41	82.30
Other Countries	38.76	36.18	19.59	17.70
Demand	43,569	37,769	43,617	56,369
Market Share in Demand (%)				
China	4.13	0.23	1.57	3.11
Indonesia	1.53	1.30	3.23	3.17
Malaysia	2.72	6.11	7.35	7.60
Thailand	0.35	0.27	0.92	3.97
Korea	-	-	1.05	3.27

Taiwan	1.94	2.04	5.12	6.69
Subject Countries	10.68	9.96	19.24	27.80
Other Countries	6.76	5.65	4.69	5.98
Domestic industry	43.00	49.24	47.75	41.56
Indian Industry	82.55	84.38	76.05	66.20
Production of Domestic industry (MT)	19,533	18,562	19,537	24,217
Imports in relation to production of domestic industry (%)				
China	9.22	0.47	3.50	7.23
Indonesia	3.41	2.65	7.22	7.39
Malaysia	6.07	12.44	16.41	17.68
Thailand	0.79	0.56	2.06	9.25
Korea	-	-	2.34	7.61
Taiwan	4.34	4.16	11.44	15.58
Subject Countries	23.83	20.27	42.96	64.73
Other Countries	15.08	11.49	10.47	13.92

75. It would be seen that demand of the product in the country has shown an increasing trend over the injury period.

- (a) The imports of subject goods from the subject countries have increased steeply by 237% from the base year to Period of Investigation.
- (b) The surge of imports from the subject countries is more than increase in demand in spite of anti dumping duty being in force.
- (c) Market share of the subject countries has significantly increased from 10.69% to 27.81 %. It is noted that there has been an increase in the market share of exports from subject countries even where anti dumping duty is in force.
- (d) Whereas the market share of the subject countries have shown an increase of 17.12% in period of investigation from the base year, the market share of domestic industry has declined by 1.44% from the base year and 7.69% over 2007-08 to period of investigation. At the same time the market share of Indian producers as a whole has declined by 16.34% during the POI over the base year.

Market share in demand:

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
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Demand	MT	43,559	37,769	43,617	56,369
Market share in demand					
Subject Countries	%	10.68	9.96	19.24	27.80
Domestic industry	%	43.00	49.25	47.76	41.57
Other Indian Producers	%	39.54	35.13	28.30	24.64

76. It is noted that the demand for the product has shown declined in 2007-08. Authority further notes that except 2007-08 market share of imports from the subject countries in the total demand has shown an increasing trend over the injury period. Further, subject countries imports have captured significant market share whereas market share of domestic industry declined after increasing in 2007-08.

### **Price Effect**

77. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules states as under:

*"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as 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 increase which otherwise would have occurred to a significant degree."*

78. During investigation, it was examined whether there has been a significant price undercutting effect by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of recurrence of price effect after revocation of duty. Since, the present investigation is a sunset review investigation, the Authority is required to consider what would be the extent of price undercutting, if the current duties are allowed to cease. In this context, the authority has undertaken an analysis of the net sales realization, non-injurious selling price of the domestic industry and the landed price of imports from the subject countries during the period of Investigation, as detailed below:-

S. No.	Particulars	UOM	China	Chinese Taipei	Malaysia	Indonesia	Thailand	Korea RP
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1	Net Sales Realization	Rs./ Kg	****	****	****	****	****	****
2	Non-injurious price	Rs./ Kg	****	****	****	****	****	****
3	Landed Price of Imports	Rs./ Kg	178.75	160.22	136.70	189.87	177.49	168.91
4	Price undercutting	Rs./ Kg	****	****	****	****	****	****
5	Price undercutting	%	8-12%	18-22%	28-32%	4-8%	10-15%	14-18%
6	Price Underselling	Rs./ Kg	****	****	****	****	****	****
7	Price Underselling	%	10-15%	20-25%	30-35%	5-10%	10-15%	15-20%

In the comments to disclosure statement, some of the interested parties have submitted that the price underselling margins determined by the Authority in respect of subject countries are significantly less than the injury margins determined by the Authority in the injury table. The matter has been examined and it is noted that the price underselling margins in the above table have been determined after taking average CIF import price from subject countries and average non injurious price of subject goods determined for domestic industry. However, the injury margin has been determined for the responding as well as non responding producers and exporters after taking into account product mix, the landed prices of respective PCN's and the corresponding NIP for the domestic industry for the corresponding denier.

79. The analysis as above, reveals that the net sales realization of domestic industry during the period of investigation has been found to be lower than the non-injurious selling price of the domestic industry. Furthermore, the landed price of imports from the subject countries were also significantly lower than both the net sales realization and the NIP for the domestic industry. The Authority further notes that the price undercutting in the absence of anti-dumping duties is likely to be positive and significant. Thus, should the present duties be allowed to lapse, the consumers would attempt to shift their procurement to these countries at a price which are significantly lower than the selling prices of the domestic industry.

Price suppression/depression –

80. It is noted that the trends in the cost of sales and the selling price of domestic industry during the injury period and the period of investigation was as under:-

SN	Particulars	UOM	2006-07	2007-08	2008-09	2009-10	Apr-Jun'10
1	Selling Prices	Rs./Kg	****	****	****	****	****
2	Caprolactum Price	Rs./Kg	****	****	****	****	****
3	Cost of sales	Rs./Kg	****	****	****	****	****
4.	Indexed cost and sales						
5.	Selling Price	Indexed	100	101	113	118	122
6.	Cost of Sales	Indexed	100	99	112	108	120

81. The authority notes from the above that during the injury period and the period of investigation, the cost of production and selling prices of the domestic industry have generally moved in tandem except during the year 2009-10. Further, the authority also notes that the selling price of the domestic industry continued to be lower than the cost of production, consequently, the domestic industry continued to incur financial losses in the injury period. The authority further noted that the year 2009-10 which is period of investigation for this review investigation was an exceptional period when the domestic industry actually earned profits. The arguments have been raised by the interested parties that the improvement in the profitability of the domestic industry during the POI substantiates no injury and improvement in the health of the domestic industry. In this regard, the Designated Authority has undertaken a quarter wise analysis of the performance of the Domestic Industry during the period of investigation and a quarter subsequent to the period of investigation. The details of actual performance on the parameters of selling prices and cost of production are summarized below:-

SN	Particulars	UOM	Q1	Q2	Q3	Q4	Q5
1	Selling Prices	Rs./Kg	****	****	****	****	****
2	Caprolactum Price	Rs./Kg	****	****	****	****	****
3	Cost of sales	Rs./Kg	****	****	****	****	****

S.No	Particular	UOM	2006-	2007-08	2008-09	2009-10	Apr-
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	s		07				Jun'10
1	Cost of sales	Rs./Kg	****	****	****	****	****
2	Selling Prices	Rs./Kg	****	****	****	****	****
3	Profit /loss	Rs./Kg	****	****	****	****	****
4	Profit /loss	Rs. Lacs	****	****	****	****	****
5	Cash Profit	Rs. Lacs	****	****	****	****	****
6	Return on Investment						
7.	NFA Basis	%	****	****	****	****	****

S.No.	Particulars	UOM	2006-07	2007-08	2008-09	2009-10	Apr-Jun'10
1	Cost of sales	Rs./Kg	100	99	112	108	120
2	Selling Prices	Rs./Kg	100	101	113	118	122
3	Profit /loss	Rs./Kg	(100)	(69)	(102)	95	(77)
4	Profit /loss	Rs. Lacs	(100)	(68)	(113)	119	(23)
5	Cash Profit	Rs. Lacs	(100)	58	(273)	1113	42
6	Return on Investment						
7.	NFA Basis	%	(100)	(27)	(92)	221	(29)

82. The performance of the domestic industry during the injury period has been analysed in the table above. The Authority notes that in the 2008-09, the domestic industry have incurred financial losses, which subsequently changed to a profitable situation in the period of investigation. In this context, the Authority notes that there has been a significant variance in the prices of caprolactum in the period of investigation. In the financial year 2008-09, the average cost of caprolactum of the Domestic Industry, which was in the range of Rs. 100.70 per Kg. declined significantly to Rs. 81.96 per Kg in the first quarter of the POI. The significant decline in the cost of caprolactum had a substantial impact on the profitability of the

domestic industry and the sales realization of the domestic industry for the quarter was significantly higher than the actual cost of production. However, in the subsequent quarters of the period of investigation, the prices of caprolactum once again recovered. While this has an impact on the cost of production of the domestic industry, but there was no corresponding increase/ change in the sales realization of the domestic industry. The Authority therefore, notes that the change in the fortunes of the domestic industry in the first quarter of the period of investigation was only an aberration and does not reflect a continued and sustained improvement in the profitability and performance of the domestic industry. Incidentally, the same trend continued in the profitability and performance of the domestic industry in the first quarter of the post period of investigation as well when the selling price of the domestic industry was lower than the actual cost of production. Therefore, the domestic industry was not able to recover its actual cost on the sales of the subject goods.

### **Economic Parameters Relating To the Domestic Industry**

83. Annexure II to the Rules requires that the determination of injury shall involve an object examination of the consequent impact of these imports on domestic producers of the subject goods. Further Annexure II (iv) of the Rules lays down as follows:

*"The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural 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."*

### **Production, Capacity, Capacity Utilization and Sales**

84. Capacity, production, capacity utilization and sales volumes of the domestic industry have been as under:-

SN	Particulars	UOM	2006-07	2007-08	2008-09	2009-10	Apr-Jun'10
1	Capacity	MT	23,200	23,200	24,400	27,200	7,300
2	Production	MT	19,533	18,562	19,537	24,217	6,202
3	Capacity Utilization	%	84.20	80.01	80.07	89.03	84.96
4	Sales Volume	MT	18,734	18,603	20,816	23,313	5,589

85. It is noted that production, sales and capacity utilization has shown improvement during the injury period. It is recalled that anti dumping duty was in operation during the injury period and improvement of operating performance of the domestic industry could be as a result of anti dumping duties in force from subject countries.

### **Profits, return on investment and cash profit**

86. Profits, return on investment and cash profit of the domestic industry are given as under:

S.No.	Particulars	UOM	2006-07	2007-08	2008-09	2009-10	Apr-Jun'10
1	Cost of sales	Rs./Kg	****	****	****	****	****
2	Selling Prices	Rs./Kg	****	****	****	****	****
3	Profit /loss	Rs./Kg	****	****	****	****	****
4	Profit /loss	Rs.	****	****	****	****	****

		Lacs					
5	Cash Profit	Rs. Lacs	****	****	****	****	****
6	Return on Investment						
	NFA Basis	%	****	****	****	****	****

### Indexed performance of domestic industry

S.No.	Particulars	UOM	2006-07	2007-08	2008-09	2009-10	Apr-Jun'10
1	Cost of sales	Rs./Kg	100	99	112	108	120
2	Selling Prices	Rs./Kg	100	101	113	118	122
3	Profit /loss	Rs./Kg	(100)	(69)	(102)	95	(77)
4	Profit /loss	Rs. Lacs	(100)	(68)	(113)	119	(23)
5	Cash Profit	Rs. Lacs	(100)	58	(273)	1113	42
6	Return on Investment						
7.	NFA Basis	%	(100)	(27)	(92)	221	(29)

87. Authority notes that Domestic industry was suffering losses till 2008-09. During POI, Domestic Industry has posted some profit. However, it would be seen that the profits declined in each successive quarter of the period of investigation, resulting in losses being registered in the last two quarters of the period of investigation and subsequent quarter ending June, 2010.

S.No.	Particulars	UOM	Q1	Q2	Q3	Q4	Q5
1	Cost of sales	Rs.Kg	****	****	****	****	****
	Index		100.00	112.68	117.55	129.63	128.03
2	Selling Prices	Rs.Kg	****	****	****	****	****
	Index		100.00	100.67	100.12	101.76	110.02
3	Profit /loss	Rs.Kg	****	****	****	****	****
	Index		100.00	7.59	-35.05	-114.29	-29.62
4	Profit /loss	Rs. Lacs	****	****	****	****	****
	Index		100.00	7.48	-34.13	-114.00	-28.08
5	Cash Profit	Rs. Lacs	****	****	****	****	****

	<b>Index</b>		100.00	30.93	-1.56	-57.52	8.00
<b>6</b>	<b>Return on Investment</b>						
	<b>NFA Basis</b>	%	****	****	****	****	****
	<b>Index</b>		100.00	18.71	-13.65	-76.82	-8.29

88. The Authority notes that the domestic industry has continued to remain in financial losses because of continued dumping of the product. The domestic industry could post substantial profits in the first quarter of 2009-10. This situation of profitability once again normalized in the second quarter of 2009-10, when there was a recovery in the prices of Caprolactum. In this quarter, the domestic industry could just break even in terms of cost and sales. In the subsequent quarters of 2009-10, when there was further increase in the prices of raw material, the profitability of domestic industry once again turned into losses. The same trend continued in the first quarter of 2010-11. The Authority notes that domestic industry was not able to increase the selling prices of subject goods in spite of the increase in the cost of production.

89. The Authority further notes that return on investment and cash profits have followed the same trend as that of profitability. The domestic industry had negative return on investment and negative cash profits throughout the injury period except 2009-10. In 2009-10, industry had positive return on investment and cash profits for the reasons explained above. However, return on investments and cash profits deteriorated steeply and rapidly within 2009-10 and the domestic industry was once again faced with cash losses and negative return on investment in the second half of 2009-10. The situation continued to remain the same in April-June 2011 period.

### **Employment, wages and Productivity**

90. The Authority notes that major constituents of domestic industry are multi product multi location companies. Therefore, there is no direct effect on employment levels. Further, there is an increase in the wage paid over the injury period. The productivity has improved in lines with the increase in production volume.

S. No.	Particulars	UOM	2006-07	2007-08	2008-09	2009-10	Apr-Jun'10
1	Employment	Nos	****	****	****	****	****

	Index		100	83.12	82.40	90.54	92.12
2	Salary & Wages	Rs. Lacs	****	****	****	****	****
	Index		100	104.32	134.27	161.13	34.99
3	Productivity per day	MT	****	****	****	****	****
	Index		100	95.02	100.02	123.97	127.00
4	Productivity per Employee	MT	****	****	****	****	****
	Index		100	114.31	121.42	136.97	137.90

### **Inventories**

91. The Authority notes that inventories declined during the injury period. However, the volumes still remain significant. Further, inventories increased once again in Apr.-June, 10 quarter. The inventory level of the domestic industry is given in the following table:-

<b>Particulars</b>	<b>UOM</b>	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>	<b>2009-10</b>	<b>Apr-Jun'10</b>
<b>Inventories</b>	MT	2847	2821	1591	2558	2788
<b>Sales</b>	MT	18734	8603	20816	23313	5589
<b>No. of Months</b>	NO	1.88	1.99	1.39	1.05	1.39

### **Factors affecting domestic prices**

92. With regard to the effect of the dumped imports on prices, the Authority has considered whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

93. The Authority determined net sales realization of the domestic industry considering selling price, excluding taxes & duties, rebates, discounts and freight & transportation. Landed price of imports is determined considering weighted average CIF import price, including landing charges and applicable basic customs duty and cess. The comparison is done between net sales realization and landed price of imports. The landed value of imports from the subject countries was lower than the net sales realization of the domestic industry for the subject goods during the POI

thereby, undercutting the selling price of the domestic industry. The undercutting margin ranges is significant from all the subject countries.

### **Growth**

94. Authority notes that Growth of the domestic industry in terms of volume and price parameters has generally remained stagnant despite imposition of anti dumping duties. It has been claimed by the domestic industry that some of the units in the domestic industry have closed down their operations, as they could not sustain financial losses. Further, some new units in the domestic industry have started operation in the recent past. However, the trends of profitability of the domestic industry continued to be negative, which has affected the growth of domestic industry.

### **Magnitude of Dumping Margin**

95. Authority notes that dumping margin from the subject countries are more than the *de-minimus* limits. In the previous investigation as well, the dumping margin was admitted to be positive. In the present investigation, some of the exporters from China PR and Korea RP have decided not to cooperate with the Designated Authority inspite of being allowed an opportunity to rebut the claims of the domestic industry of alleged dumping. Further, to the extent the exporters from other countries have responded to the Questionnaire sent by the Designated Authority, they have admitted to the fact of selling the subject goods at a price lower than the normal value in the respective countries.

### **Ability to raise capital**

96. The petitioning companies are multi product companies. Dumping has, therefore, not affected the ability of the domestic industry to raise capital.

### **Determination of Injury margin**

97. The following is the determination of injury margin in respect of cooperating as well as non cooperating producers and exporters from subject countries.

Countries	Producers/Exporters	IM US \$	IM% (range)
China PR	All producers/exporters	****	30-35%
Malaysia	M/s Recron	****	20-25%
	Others	****	30-35%
Chinese Taipei	Suntex Fiber Co Ltd.	****	15-20%
	Others	****	20-25%
Korea	All producers/exporters	****	30-35%
Thailand	Thai Taffeta Co., Ltd	****	30-35%
	Others	****	35-40%
Indonesia	M/s PT Susilia Indah Synthetic Fiber Industries	****	10-15%
	M/s Indahchi Prima	****	20-25%
	Others	****	25-30%

### **Likelihood of Dumping and Injury**

98. The present investigation being a Sunset Review, the question of likelihood of dumping and injury to the domestic industry has been examined by the Designated Authority in terms of Section 9 (A) (5) of the Customs Tariff Act, which states as under:-

*(5)The Anti dumping duty imposed under this section shall, unless revoked either, case 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;*

*Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the Anti dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.*

### **Third Country Dumping**

99. The domestic industry in its submissions before the Designated Authority claimed that the subject goods are being exported by the exporters from the subject countries at a price which is alleged to be dumped prices. In this regard, the domestic industry has claimed that the dumping margins from subject countries to the other countries is significant.

The Authority notes that none of the interested parties have rebutted the submissions of the domestic industry of the alleged dumping in the other countries from the subject countries. Further, no contrary evidence has been furnished by any of the interested parties to rebut the claims made by the domestic industry.

100. The submissions by the domestic industry have been examined by the Designated Authority. The Authority notes that during the period of investigation there have been significant fluctuations in the prices of raw materials and the selling price of the subject goods. Further, the product consists of a number of variants requiring a comparative analysis on a PCN to PCN basis. Since, the export price from subject countries to the global markets are on an average basis for all the PCNs and for the POI as a whole without further details on PCN wise selling price of the subject goods, the Authority cannot draw any conclusions with regards to price attractiveness of the domestic market. However, the fact remains that the exporters from the subject countries have also cooperated with the authority, they have admitted of having sold the subject goods to India at dumped prices. WE

**Ample production capacity of exporters and export orientation of foreign producers**

101. The domestic industry in its submissions have claimed that the producers from the subject countries are having significant surplus capacities as compared to the demand of subject goods in the subject countries. The claims made by the domestic industry in its submissions to the Designated Authority are tabulated below:-

Unit: (Thousand MT)

Country	Excess Capacity	Available Surplus
China	133	200
Indonesia	6	10
Korea	69	125
Malaysia	-	31
Taiwan	345	465
Thailand	11	33
<i>Indian demand for the product is 56,000 MT.</i>		

102. The Authority notes that none of the interested parties have rebutted the submissions of the domestic industry of there being large excess surplus capacities available with the producers from the subject countries with any verifiable evidence.

103. The Authority therefore, holds that producers in subject countries have built capacities far in excess of their domestic demand and capacities have been created considering export markets. Indian market being one of the huge markets in terms of its size, expiry of duty would result in significant surge in imports and in the event of withdrawal of present duty, there is every likelihood of increase in the imports from subject countries to India at dumped prices.

**Price undercutting, suppression and depression in the absence of measures**

104. In order to evaluate the price undercutting, suppression and depression of imports from subject countries, in the event of withdrawal of the duty and to make an assessment of a likelihood of dumping of subject goods from the subject countries, the Authority has undertaken an analysis of the landed value of subject goods from the subject countries during the period of investigation and the injury period. The analysis of the data, in this regard is summarized in the table below:-

<b>Particulars</b>	<b>Unit</b>	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>	<b>2009-10</b>	<b>(Apr-June 2010)</b>
<b>S.P. of DI</b>	Rs. Kg.	****	****	****	****	****
<b>Index</b>		100	101	113	118	122
<b>Landed prices of imports from Subject countries</b>						
<b>China</b>	Rs. Kg.	178.69	150.03	165.78	178.75	197.48
<b>Taiwan</b>	Rs. Kg.	181.85	160.19	153.42	160.22	190.97
<b>Malaysia</b>	Rs. Kg.	157.85	137.95	124.07	136.70	177.12
<b>Indonesia</b>	Rs. Kg.	163.73	175.42	200.51	189.87	211.19
<b>Thailand</b>	Rs. Kg.	166.03	141.72	153.53	177.49	186.21
<b>Korea RP</b>	Rs. Kg.	...	...	166.51	168.91	186.21
<b>Total Subject countries</b>	<b>Rs/Kg</b>	<b>170.93</b>	<b>147.38</b>	<b>151.44</b>	<b>162.29</b>	<b>186.78</b>

105. The trends in imports from subject countries during the injury period and the period of investigation are indexed as under:-

Particulars	Unit	2006-07	2007-08	2008-09	2009-10	(Apr-June 2010)
S.P. of DI	Rs. Kg.	100	101	113	118	122
<b>Landed price of subject goods from Subject countries</b>						
China	Rs. Kg.	100	84	92	100	110
Taiwan	Rs. Kg.	100	88	84	88	105
Malaysia	Rs. Kg.	100	87	78	87	112
Indonesia	Rs. Kg.	100	107	122	115	128
Thailand	Rs. Kg.	100	85	92	106	112
Korea RP	Rs. Kg.	100	---	---	---	---
<b>Total Subject countries</b>		<b>100</b>	<b>86</b>	<b>88</b>	<b>95</b>	<b>109</b>

106. From the analysis, it is noted that the landed value of imports from the subject countries on a cumulative basis for the injury period and for the period of investigation have generally been found to be lower than the net sales realization of the domestic industry. However, the base year landed prices are slightly higher than net sales realization of domestic industry. Given the trends of prices for imports from the subject countries, there is likelihood of intensified undercutting of subject goods from the subject countries in the event of a withdrawal of the anti dumping duty.

**Quarter by quarter deterioration in performance of the domestic industry establishes likelihood of injury**

107. The Authority notes that significant deterioration in quarter by quarter performance of the domestic industry from April 09 establishes the likelihood of injury in the event of cessation of anti-dumping duties. It is noted that profitability, return on investment and cash profits of the domestic industry deteriorated significantly within the investigation period and the same position continued even beyond the investigation period.

S.No.	Particulars	UOM	Q1	Q2	Q3	Q4	Q5
1	Cost of sales	Rs.Kg	****	****	****	****	****
	Index		100.00	112.68	117.55	129.63	128.03
2	Selling Prices	Rs.Kg	****	****	****	****	****

	<b>Index</b>		100.00	100.67	100.12	101.76	110.02
<b>3</b>	<b>Profit /loss</b>	Rs.Kg	****	****	****	****	****
	<b>Index</b>		100.00	7.59	-35.05	-114.29	-29.62
<b>4</b>	<b>Profit /loss</b>	Rs. Lacs	****	****	****	****	****
	<b>Index</b>		100.00	7.48	-34.13	-114.00	-28.08
<b>5</b>	<b>Cash Profit</b>	Rs. Lacs	****	****	****	****	****
	<b>Index</b>		100.00	30.93	-1.56	-57.52	8.00
<b>6</b>	<b>Return on Investment</b>						
	<b>NFA Basis</b>	%	****	****	****	****	****
7.	<b>Index</b>		100.00	18.71	-13.65	-76.82	-8.29

108. It is noted that there has been significant increase in imports of Monofilament Yarn from subject countries after imposition of anti-dumping duties (where no anti dumping duty is being charged as same is above the reference price) points towards the likelihood of exports from subject countries to Indian market in the event of cessation of anti-dumping duties.

109. It is noted that Section 9(A) 5 of Customs Tariff Act provides that the purpose of sunset review is to determine whether or not expiry of the measures is likely to lead to continuation or recurrence of dumping and injury. The Authority further notes that the imports of the product under consideration from subject countries are still continuing at dumped prices, which clearly establish continued dumping and also suggests that the revocation of the measures is likely to lead to intensified dumping.

110. It is also noted that the circumstances which were prevalent at the time of original investigations are in existence in the period of investigation. There has been no change in the circumstances, parameters prevailing at the time of original investigation and at present. It is considered that existence of dumping margins in spite of anti dumping duty in force is indicative of the likelihood of continuation or recurrence of dumping.

#### Causal link

111. It is noted that above facts establish that injury to the domestic industry has been caused by dumped imports.

112. Annexure 2 to the Rules provides as follows with regard to Causal Link:

*“It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before*

*the Designated Authority. The Designated Authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter-alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.”*

113. The Authority notes that the causal link has been established in the original investigation. In the present review investigations, Authority has examined whether cessation of anti dumping duties would lead to continuation or recurrence of injury.

**a) Volume and value of imports not sold at dumping prices: -**

114. It is noted that the domestic industry is facing injury from dumped imports from the subject countries. Statement of imports from various countries shows that the imports of product under consideration from other countries are not significant in volume. It cannot, therefore, be said that the imports from other countries have also caused injury to the domestic industry.

**b) Contraction in demand:**

115. Demand of the product under consideration has not registered any negative growth, instead it has increased and has shown a positive growth. Thus, contraction in demand is not a possible reason, which could have contributed to injury to the domestic industry. Further, there is no reason to believe that demand is likely to decline.

**c) Changes in the patterns of consumption:**

116. The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is unlikely to contribute to the injury to the domestic industry.

**d) Trade restrictive practices of and competition between the foreign and domestic producers:**

117. There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.

**e) Developments in technology:**

118. Technology for production of the product has not undergone any change nor are there any likely changes in coming future. Developments in technology are, therefore, not a factor of injury.

**f) Export performance:**

119. The petitioning companies do not have any significant export activity. Further, information relating to domestic sales has been taken into consideration for assessment of injury to the extent possible.

**g) Performance of other products produced and sold by the domestic industry:**

120. Major petitioner companies are multi product companies. The information provided for the product under consideration does not contain any information of other products. Performance of other products did not cause any impact over injury to the domestic industry.

Conclusions on likely hood of Continuation of dumping and injury

121. The following is the conclusions on likely hood of Continuation of dumping and injury

- a. The volume of dumped imports of subject goods from subject countries have increased in absolute terms, in relation to production and consumption in India;
- b. The dumped imports are significantly undercutting the prices of domestic industry;
- c. The landed price of imports of subject goods is significantly below the cost of production and non injurious price of the domestic industry;
- d. It is noted that while production and sales of the domestic industry increased, the domestic industry still had unutilized capacities;
- e. It is noted that while losses suffered by the domestic industry declined over the injury period and domestic industry earned profits in POI, the profitability suffered very significantly within investigation period. The decline in profitability on quarter on quarter basis is considered significant. It is also noted that the domestic industry suffered financial losses in the last two quarters of the investigation period and losses continued further in the first quarter of 2010-11;
- f. It is also noted that the domestic industry suffered significant financial losses throughout injury period barring the POI.

- g. Considering the fact that the domestic industry suffered financial losses in the major part of injury period, it can be concluded that profitability position of the domestic industry has remained significantly adverse due to low quantum of anti dumping duties;
- h. It is also noted that cash profits and return on investment has followed the same trend as that of profits;
- i. It is also noted that performance with regard to employment, wages and productivity is not indicative of effects of current or potential dumping;
- j. The imports of subject goods from subject countries are still continuing and are being reported at dumped prices.
- k. It is noted that the circumstances, which were prevalent at the time of original investigations, are very much in existence even till date. There has been no significant change in the circumstances, which could suggest that the dumping would not intensify at the aggravated level in the event of cessation of anti dumping duties.
- l. Considering the huge production capacities of the subject goods in subject countries and their export orientation and the increasing demand for the subject goods in India, in all likelihood any reduction or revocation of the anti-dumping duty may lead to spurt in the dumped imports injuring the domestic industry.
- m. Positive price undercutting and underselling without considering the anti-dumping duties in force indicate the likely adverse price effect of dumped imports on domestic industry in the event of expiry of the anti dumping duty in force.
- n. It is thus noted that in the event of revocation of anti dumping duties, the domestic industry would face much bigger threat of imports from the subject countries.

#### Indian Industry interest.

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

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

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

#### Final provisions

## CONCLUSIONS:

125. Having regard to contentions raised, information provided and submissions made by interested parties and facts available before the Authority as recorded in the above findings and on the basis of above analysis of the state of continuation of dumping and consequent injury to domestic industry and likely hood of continuation of dumping and injury, the Authority concludes that

- (i) The subject goods from subject countries are entering the Indian market at dumped prices and dumping margin is significant. It is also seen that the subject goods continue to be exported to Indian at dumped prices despite the existing anti dumping duties and there is a likely hood of its continuation should the existing antidumping duties are allowed to expire.
- (ii) It is noted that without the anti dumping duties, the price undercutting and price underselling are significant from subject countries. The Domestic Industry continues to suffer material injury on account of continued dumping of subject goods from subject countries during the period of investigation and there is likely hood of deterioration in the operating performance of domestic industry in the event of cessation of anti dumping duties.
- (iii) Thus, the anti dumping duties are required to be extended and modified.

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

127. With regard to duty structure, keeping into account factual matrix of the case and having regard to contentions raised, information provided and submissions made by interested parties, it is deemed appropriate to recommend combination form of anti dumping duties with another reference price for Nylon mono filament yarn. Accordingly, the Authority considers it appropriate to recommend to the Central government for imposition of definitive anti dumping duties on all types of nylon filament yarns excluding nylon flame retardant yarn, air texturised yarn, Nylon 66 and Nylon 11 yarn, 170/24 and 280/14 denier used for hook and loop tape fasteners, U.V treaded yarn if the excluded

subject goods landed price is above US\$ 4.24/Kg, and Nylon 6 monofilament if their landed price is above US\$ 5.17, falling under Custom Heading 54 originating in or exported from subject countries. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975. The Anti-Dumping duty shall be the amount mentioned in column 9 for the subject goods originating in or exported from the countries mentioned below: -

TABLE										
S. No	Sub heading or Tariff Item	Description of goods	Specification	Country of origin	Country of export	Producer	Exporter	Amount	Unit of Measurement	Currency
1	2	3	4	5	6	7	8	9	10	11
1	54	Nylon Filament yarn	*as mentioned below	China PR	China PR	Any	Any	1.27	Kg	US \$
2.	54	Nylon Filament yarn	*as mentioned below	China PR	Any country other than subject countries	Any	Any	1.27	Kg	US \$
3.	54	Nylon Filament yarn	*as mentioned below	Any country other than subject countries	China PR	Any	Any	1.27	Kg	US \$
4	54	Nylon Filament yarn	*as mentioned below	Korea RP	Korea RP	Any	Any	1.14	Kg	US \$
5.	54	Nylon Filament yarn	*as mentioned below	Any country other than subject countries	Korea RP	Any	Any	1.14	Kg	US \$
6.	54	Nylon Filament	*as menti	Korea RP	Any country	Any	Any	1.14	Kg	US \$

		yarn	oned below		other than subject countries					
7.	54	Nylon Filament yarn	*as menti oned below	Chinese Taipei	Chinese Taipei	M/s Suntex Fiber Co Ltd.	M/s Suntex Fiber Co Ltd.	0.31	Kg	US \$
8.	54	Nylon Filament yarn	*as menti oned below	Chinese Taipei	Chinese Taipei	Any other combination of producer and exporter at 7 above		0.54	Kg	US \$
9.	54	Nylon Filament yarn	*as menti oned below	Any country other than subject countries	Chinese Taipei	Any	Any	0.54	Kg	US \$
10 .	54	Nylon Filament yarn	*as menti oned below	Chinese Taipei	Any country other than subject countries	Any	Any	0.54	Kg	US \$
11 .	54	Nylon Filament yarn	*as menti oned below	Malaysia	Malaysia	M/s Recron (Malaysia) Sdn. Bhd	M/s Recron (Malaysia) Sdn. Bhd	0.20	Kg	US \$
12 .	54	Nylon Filament yarn	*as menti oned below	Malaysia	Malaysia	Any other combination of producer and exporter at 11 above		0.79	Kg	US \$
13 .	54	Nylon Filament yarn	*as menti oned below	Malaysia	Any country other than subject countries	Any	Any	0.79	Kg	US \$
14 .	54	Nylon Filament yarn	*as menti oned below	Any country other than subject countries	Malaysia	Any	Any	0.79	Kg	US \$
15 .	54	Nylon Filament yarn	*as menti oned below	Thailand	Thailand	Thai Taffeta Co., Ltd	Thai Taffeta Co., Ltd	1.06	Kg	US \$

16	54	Nylon Filament yarn	*as mentioned below	Thailand	Thailand	Any other combination of producer and exporter at 15 above		1.51	Kg	US \$
17		Nylon Filament yarn	*as mentioned below	Any country other than subject countries	Thailand	Any	Any	1.51	Kg	US \$
18		Nylon Filament yarn	*as mentioned below	Thailand	Any country other than subject countries	Any	Any	1.51	Kg	US \$
19	54	Nylon Filament yarn	*as mentioned below	Indonesia	Indonesia	M/s Indachi prima	M/s Indachi prima	0.91	Kg	US \$
20	54	Nylon Filament yarn	*as mentioned below	Indonesia	Indonesia	M/s PT Susilia Indah Synthetic Fiber Industries	M/s PT Susilia Indah Synthetic Fiber Industries	0.46	Kg	US \$
21	54	Nylon Filament yarn	*as mentioned below	Indonesia	Indonesia	Any other combination of producer and exporter at 19 and 20 above		1.11	Kg	US \$
22	54	Nylon Filament yarn	*as mentioned below	Any country other than subject countries	Indonesia	Any	Any	1.11	Kg	US \$
23	54	Nylon Filament yarn	*as mentioned below	Indonesia	Any country other than subject countries	Any	Any	1.11	Kg	US \$

\* Synthetic filament yarn of nylon or other polyamides, excluding all high tenacity yarn of nylon and fishnet yarn of nylon. However, no anti dumping duty shall be payable on imports of Nylon flame retardant yarn, Nylon air texturised yarn, Nylon 66 and Nylon 11 yarn, 170/24 and Nylon 280/14 denier yarn used for hook and loop tape fasteners, U.V treated yarn if their landed price is above US\$ 4.24, and Nylon monofilament yarn if their landed price is above US\$ 5.17. The tolerance limit in case of above specified denierage would be as per applicable customs and excise notification.

128. An appeal against the order of the Central government shall lie before the Customs Excise and Service Tax Appellate tribunal, in accordance with the Act.

129. The Authority may review the need for continuation, modification or termination of the definitive measures, as recommended herein, from time to time, as per the relevant provisions of the Act, and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party within the time limit stipulated for this purpose.

(Vijaylaxmi Joshi)  
Designated Authority