

No.14/10/2005-DGAD  
GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)  
NOTIFICATION

New Delhi, the 8<sup>th</sup> June 2007

**Final Findings**

Subject: Antidumping investigation concerning imports of Partially Oriented Yarn (POY) from China PR: Final Findings

Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

2. Whereas M/s Association of Synthetic Fibre Industries (hereinafter referred to as the Applicant) on behalf of domestic producers namely M/s Arfees Industries Ltd., M/s Appollo Fibres Ltd., M/s Central India Polyesters Ltd., M/s Century Enka Ltd., M/s Filatex Industries Ltd. M/s Garden Silk Mills Ltd., M/s Indo Rama Synthetics (India) Ltd., M/s JBF Ltd., M/s Modern Petrofils Ltd., M/s Nakoda Textiles Industries Ltd., M/s Recron Synthetics Ltd. and M/s Welspun Syntex Ltd, filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act and the AD Rules, alleging dumping of Partially Oriented Yarn (herein after referred to as subject goods) originating in or exported from China PR (herein after referred to as subject country) and requested for initiation of Anti Dumping investigations for levy of anti- dumping duties on the subject goods.

3. And whereas the Authority on the basis of sufficient evidence submitted by the Applicant on behalf of the domestic industry, issued a public notice dated 13<sup>th</sup> December 2005 published in the Gazette of India, Extraordinary initiating Anti- Dumping investigations concerning imports of the subject goods originating in or exported from the subject country in accordance with the Rule 6 of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry.

**PROVISIONAL MEASURES**

4. The Authority imposed a provisional anti-dumping duty on imports of subject goods from subject country vide No.14/10/2005-DGAD on 4<sup>th</sup> July 2006.

## **A. PROCEDURE**

5. The procedure described below has been followed with regard to the investigation. After issuance of the public notice notifying the initiation of the above investigations by the Authority, the Authority notified the Embassy of subject country in India about the receipt of dumping application made by the Applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

ii) The Authority forwarded copy of the said public notice to the known exporters, importers/users and to the applicant and gave them an opportunity to make their views known in writing within forty days from the date of the publication of initiation notification in accordance with the Rule 6(2):

iii) A questionnaire for according market economy treatment was forwarded to all the known exporters and the Embassy of the Peoples' Republic of China. For the purpose of initiation, normal value had been based on the basis of constructed normal value in Taiwan as appropriate estimate of normal value. In an alternate to the price from a market economy third country to India, applicant had also provided estimates of normal value in China as price payable in India in terms of Para 7 of Annexure I to the Rules. Subsequent to initiation, the Authority informed the known exporters that the Authority proposed to examine the claim of the applicant of treating China as non-market economy in the light of paras (7) & (8) of Annexure-I of the Anti-Dumping Rules as amended. The concerned exporters / producers of the subject goods from China PR were therefore requested to furnish necessary information / sufficient evidence as mentioned in paragraph 8 of Annexure-I to enable the Designated Authority to consider whether market economy treatment could be granted to cooperating exporters / producers who could demonstrate that they satisfied the criteria stipulated in the said paragraph.

iv) According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the application to the following known exporters/manufacturers from China and Embassy of subject country in India;

1. Cixi Santai Chemical Fibre Co., Ltd.
2. Zhejiang Cifu Chemical Fiber Co., Ltd.
3. W.W Textile Co., Ltd.
4. Hangzhou Huaxin Textile Co.,Ltd.
5. Xinxiang Sunshining Textiles Co., Ltd.

6. Tongkun Group Zhejiang Hengsheng Chemical Fibre Co., Ltd.
7. Hangzhou Zhongli Chemical Fiber Co., Ltd.

v) In response to the initiation notification none of the exporter/producer from China responded to the questionnaire.

vi) The Embassy of the subject country, China, was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter, application and questionnaire was sent to the exporters was also sent to them;

vii) A questionnaire was sent to the following known importers/user associations of the subject goods for necessary information in accordance with Rule 6(4):

1. All India Texturisers Association, Mumbai
2. South Gujarat Texturisers Welfare Association, Surat
3. Suntex India
4. Galaxy Textiles
5. Harmony Yarns PVT. Ltd.
6. AVM Exports
7. Garg Tex-O-Fab Ltd.
8. Boghara Polyfab Private Ltd.
9. Silvassa Industries Ltd.
10. Beekaylon Synthetics Ltd.
11. Alok Industries Ltd.
12. Bajari Filaments P Ltd.
13. Sidhvan Yarns Ltd.
14. Crimplon Yarns
15. Uni Tex Texturisers
16. Unify Texturisers
17. Ghoomtex (India) Pvt Ltd.
18. Mehratex India P Ltd.
19. SRV Polytex Pvt. Ltd.
20. Synfab Sales and Industries Ltd.

viii) In response to the above notification M/s All India Texturisers' Association, Mumbai and Federation of Indian Art Silk Weaving Industry (FIASWI) have filed their submissions. Their submissions have been taken into account and examined to the extent they have relevant to the anti dumping investigations.

ix) A copy of the non-confidential application was also provided to other interested parties, wherever requested.

x) The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file

maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).

xi) 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.

xii) A public hearing was held on 23<sup>rd</sup> August 2006 under the chairmanship of Designated Authority, which was attended by representatives of the Domestic Industry and other interested parties. However, during the process of the hearing, one interested party argued that they did not get the notice of the public hearing in time and hence they requested another public hearing. Following the request of the interested party, the Authority agreed for another hearing, which was held on 20<sup>th</sup> September 2006. The parties attending the public hearing were requested to file written submissions of views expressed orally. The Authority in this disclosure has considered the written submissions and rejoinders thus received from interested parties. Arguments raised by interested parties before announcing of preliminary findings, which have been brought out in the Preliminary Findings notified earlier have not been repeated herein for sake of brevity.

xiii) \*\*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered was disclosed to known interested parties on 26<sup>th</sup> April, 2007 and comments received on the same are considered in Final Findings.

ix) Investigation was carried out for the period starting from 1 April 2004 to 30th June 2005 (15 months) i.e. the period of investigation (POI). The examination of trends in the context of injury analysis covered the period 2001-02, 2002-03, 2003-04 and the POI.

## **B. PRODUCT UNDER CONSIDERATION, LIKE ARTICLE AND DOMESTIC INDUSTRY:**

### **PRODUCT UNDER CONSIDERATION:**

6. The product under consideration in the present application is Partially Oriented Yarn generally known as POY. It falls under the Custom Tariff Heading 5402.42 under the Indian Custom Tariff Classification. It is a yarn of polyester and is an intermediate, which is subject to further processing, for example, texturing or draw twisting, to make it suitable for weaving or knitting into fabrics. It has been contended by the importers and users that the applicant has not specified the denier for which the anti-dumping duty is sought as the same are produced in a wide range. It

has also been argued that the subject goods are manufactured from various processes and raw material and the subject goods should be classified as per the source raw material. On the other hand, it has been claimed by the applicants that the subject goods specified in the application cover all types of denier and there is no need that the denier of the subject goods is to be specified in the application. They have therefore contended that the submission of the importers and the users is baseless and devoid of any merit.

7. The issue raised by various interested parties have been examined and after examination, it is noted that the application by the domestic industry has been made covering all deniers. Further, the Designated Authority has also carried out the analysis considering the entire product under consideration. Therefore, the Authority does not find any merit in the argument of the importers for examining any particular denier of the product under consideration. With regards to the submissions of the interested parties that Teflon treated polyester yarns and polyester nano technology yarns are not produced by the petitioners and hence should be taken outside the scope of the product under consideration, it is noted by Authority that these yarns are not covered under the scope of POY as these products have been further processed. Further, it is also noted that there have been no submissions by the exporters from subject country with regards to the various grades and types/deniers of the product under consideration exported by them to India and that sold in the exporting country. Further, none of the importers have submitted any information along with the evidence to the Authority or requested the Authority for denier wise examination of the product under consideration. The Authority has considered the views expressed on the issue and holds that the product under consideration does not suffer from any infirmity as claimed by the importers/users. Therefore, the Authority does not find any merit in the argument of the importers/users. Thus, the product under consideration as defined in the provisional findings and as mentioned in the preceding paragraph is confirmed in the Final findings.

#### **LIKE ARTICLE**

8. Rule 2(d) of AD Rules defines Like Article as

*“an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.”*

The applicants have claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the

domestically produced subject good. The Authority notes that neither the exporters nor the interested parties have disputed the fact that there is any difference in the dumped goods and the product under consideration manufactured by the domestic industry. The Authority observes that the imported goods are used by the user industry interchangeably with the goods produced by the domestic industry. The subject goods produced by the domestic industry and produced by the subject countries being technically and commercially substitutable, are 'like articles' under the Anti Dumping Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the applicants in India are being treated as 'Like Articles' to the subject goods being imported from the subject country.

## **DOMESTIC INDUSTRY**

9. Rule 2(b) defines domestic industry as under:-

*(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers shall be deemed not to form part of domestic industry:*

It is noted that the application has been filed by M/s Association of Synthetic Fibre Industry, New Delhi on behalf of domestic industry comprising of the following producers of subject goods in India:

- I. Arfees Industries Ltd.
- II. Apollo Fibres Ltd.
- III. Central India Polyesters Ltd.
- IV. Century Enka Ltd.
- V. Filatex Industries Ltd.
- VI. Garden Silk Mills Ltd.
- VII. Indo Rama Synthetics (India) Ltd
- VIII. JBF Ltd.
- IX. Modern Petrofils Ltd.
- X. Nakoda Textiles Industries Ltd.
- XI. Recron Synthetics Limited
- XII. Welspun Syntex Ltd.

10. The Authority notes that the application has also been supported by the following producers:

- a. Reliance industries Ltd.
- b. Sanghi Polyesters Ltd.
- c. Nova Petrochemicals Ltd.
- d. Gokulanand Petrofibres
- e. Rajvi Petrochem (P) Ltd.

11. During the provisional findings the Authority had noted that the collective production of the aforesaid producers constitutes a major proportion of the total domestic production of the like article and therefore they represented the domestic industry within the meaning of Rule 2(b) of the Rules supra. The Authority had also determined that aforesaid producers satisfy the criteria of standing to file the application on behalf of the domestic industry in terms of Rule 5(3). One of the interested parties has claimed that while determining the 'domestic industry', the imports from M/s Welspun have to be compared to their own production. The Authority notes that the importers have not advanced any convincing reasons in support of their argument. In any case, it is observed that the imports by M/s Welspun from China PR constitute approximately 0.1% of its own production, which is a miniscule quantity and can be ignored for the purpose of treating M/s. Welspun as part of the domestic industry.

Subsequent to the provisional findings, the interested parties have not placed any material fact before the Authority in respect of the issues raised by them regarding the standing of the applicants. Therefore, the Authority holds that the applicants meet the criteria of standing as laid down under the Rules and constitute the domestic industry for the purpose of this investigation in terms of Rule 2(b) of the Antidumping Rules.

### **C. PERIOD OF INVESTIGATION**

12. Various interested parties have also stated that the POI should be taken as 12 months i.e. 2004-05 and not 15 months as taken by the Authority in this investigation. The issue has been examined and it is considered that it is the established practice of this Directorate to consider the period of investigation as latest as possible ( to the date of initiation) and that the gap between the last day of the period of investigation and the date of initiation should not be more than 6 months. It is noted by the Authority that had the period of investigation been taken as 2004-05, the gap between the period of investigation and the date of initiation would have been more than 6 months and not in conformity with the policy. Thus, the Authority's decision to take POI of 15 months in this case is borne out of the practice of the Authority to keep the POI as close to the initiation as possible and in any case not later than 6 months from the date of POI and also taking into account easier availability of the information of the domestic industry in the form of the one full financial year. It was also noted that there are a large number of the domestic industries in this investigation and taking 9 months data out of the 12 months financial year data would have created difficulties for the Authority as well as to the domestic industry.

### **D. DUMPING MARGIN - NORMAL VALUE**

13. The applicants have claimed that the subject country namely China is a non-market economy country under the Indian Anti-dumping Rules. Therefore, the normal value in case of China is required to be determined as per the procedure described in the para 7 of the Annexure I to the Anti-dumping Rules. The applicants have claimed that as per paragraph 7, the normal value is required to be determined on any of the basis i.e domestic selling prices in a market economy third country or the constructed value in a market economy third country or the export prices from such a third country to any other country including India. However, if the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

14. For the purpose of determination of normal value in case of a non market economy country, an appropriate third market economy country is required to be selected as the first alternative. It was proposed at the time of initiation that Chinese Taipei be taken as an appropriate market economy third country. The interested parties, namely M/s All India Texturiser's Association and M/s FIASWI in their submissions have submitted that the selection of Taiwan as surrogate country for the determination of normal value for China is not correct and normal value for China so determined on the basis of constructed normal value in Taiwan is far from reality.. However, the interested parties in their submissions have not advanced any evidence before the Authority as to how and why Chinese Taipei cannot be taken as surrogate country and as to how the normal value for China as determined by the Applicant is not acceptable. It is noted that the domestic industry had requested that the unsubstantiated claims of the interested parties are required to be ignored.

#### **Examination by the Authority**

15. In anti-dumping investigations concerning imports from non-market economy countries, normal value is to be determined in accordance with paragraphs 7 & 8 of the Annexure 1 of the Anti-dumping Rules. The Authority notes that none of the Chinese producers has responded to the exporter's questionnaire. None of the Chinese producers have claimed that they should be granted market economy status. The Authority therefore proceeds to determine the normal value in accordance with paragraph 7 of Annexure 1 to the Rules.

16. It is noted that the normal value in China can be determined in the following manner:

- (a) on the basis of the price in a market economy third country, or
- (b) the constructed value in a market economy third country, or

- (c) the price from such a third country to other countries, including India.
- (d) If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

17. The Applicant had suggested Chinese Taipei to be taken as the third country market economy in terms of the provisions of paragraph 7 of Annexure I of the Anti-dumping Rules. The Authority had also proposed Chinese Taipei as the appropriate third country market economy and had invited comments and information from all the interested parties at the time of initiation of investigation. However, in the absence of the response or information regarding the prevailing prices and costs in Chinese Taipei, it is not possible for the Authority to determine the normal value for China under the above-mentioned (a) to (c) methods as laid down in paragraph 7 of Annexure I to the Indian Anti-dumping Rules at present. Under the circumstances, for the purpose of these preliminary findings, the Authority had no alternative but to resort to determination of normal value for China on the basis of price paid or payable in India duly adjusted, as prescribed under the rules. While arriving at the normal value based on the price payable in India, the Authority had considered the international raw material prices while the consumption norms, conversion cost and other costs prevalent in India had been considered. A reasonable return had been added to the cost of production for arriving at the price payable in India. Subsequent to the preliminary findings, no comments have been made by any interested parties questioning the methodologies adopted by the Authority. In the absence of any substantive arguments, the Authority confirms the normal value arrived at by the Authority during the preliminary determination (with minor change). The normal value is, thus, determined as US \$ \*\*\*\* per MT.

## **EXPORT PRICE**

18. In the application submitted for initiation of investigation, the applicant had worked out export price based on the DGCI&S import data. The Authority has also obtained the import data from DGCI&S and it was found during the preliminary findings that the volume and value of the imports under Custom Tariff Heading 5402.42 (which is a dedicated code for the product under consideration) is the same as was submitted by the applicants. During the public hearing and submissions made by the various interested parties, it was pointed out that while determining the volume and value of import, the Authority had taken into account many transactions relating to the imports of yarns other than POY. After the preliminary findings, the Authority reexamined the transaction wise

information pertaining to import of product under consideration from subject countries and it was found that though the ITC HS classification is a dedicated code for the product under consideration, it did have some transactions of spin drawn yarn and fully drawn yarn and others. After the examination, the Authority has reworked the volume and value of imports for subject goods from subject countries and following the reexamination, the CIF export price as per the DGCI&S import data was determined as Rs. \*\*\*\* per MT (US \$ \*\*\*\* per MT). After considering price adjustments on account of marine insurance, commission, ocean freight, bank charges & port expenses, the net export price is determined as US \$ \*\*\*\* per MT.

### **DUMPING MARGIN**

19. For the purpose of a fair comparison between normal value and the export price, the Authority has determined both the normal value and export price at ex-factory level. Both the normal value and export price pertain to the same period. Both the prices are free of taxes. Thus, the Authority considers that the comparison made constitutes a fair comparison. Considering the normal value and the net export price determined as detailed above, dumping margin is determined as US \$ \*\*\*\* per MT which works out as 63% of net export price.

### **E. INJURY AND CAUSAL LINK**

20. The domestic industry has submitted that share of imports from China has increased manifold not only in relation to total imports but also in comparison to total demand and total production during the period of investigation as compared to the base year April 01-March 02. It was submitted that the dumped imports from China have affected the domestic prices and the price undercutting and underselling is significant during the period of investigation. The domestic industry has alleged that the market share, capacity utilization, profitability, return on investment, cash flow, growth etc. have declined over the injury investigation period. The sales of the domestic industry have increased, however the increase in sales is less than the increase in demand. Further, the domestic industry had alleged that the margin of dumping from China is also significant during the period of investigation, which shows the difficulties being faced by the domestic industry in disposing of the subject goods.

21. On the other hand, the importers and the user associations submitted that the prices of POY have also come down for other countries and the demand for POY is high right from the year 2001-02 as compared to indigenous production and the indigenous industry has tremendously benefited by creating shortage. It has also been submitted that the decline in market share of the domestic industry is insignificant and sales volume of the domestic industry has increased as a result of increase in demand. Further, it was also submitted that there is no injury with respect

to employment and wages and as per the balance sheets of the domestic producers, they are not making losses and most of the companies are profit-making concerns.

22. The importers and user associations have also submitted that the inventories of the petitioners during the period of investigation were in fact lower than from the previous years. Further, the prices of raw material are low and POY prices are high in India as compared to China where raw material prices are high and POY prices are low. It was also held that almost all the companies are increasing their capacities which indicates that the import of POY has not affected the indigenous industry at all.

#### EXAMINATION BY THE AUTHORITY

23. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products, The authority is required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

24. The Authority has taken note of the arguments of the interested parties on injury examination aspect and addressed the issues raised at appropriate places in this disclosure statement to the extent these arguments are considered relevant to the investigations. The Authority has examined the injury parameters objectively taking into account the facts before it and the arguments of the interested parties.

25. The Authority also notes that the Hon'ble Supreme Court, in the Reliance Industries Vs Designated Authority held that the Authority is required to carry out the determination of the injury and NIP for the 'domestic industry as whole' and not in respect of any particular company or enterprise. Therefore, in compliance with the above orders, the Authority called for cost and injury information from all the other known domestic producers. However, these producers have declined to provide any information on the above subject on the basis of their interpretation of the said judgment.

It has been argued by the other known producer ( M/s RIL Ltd) that the said judgment of the Hon'ble Court does not require inclusion of all domestic producers in the NIP and injury determination. Further, the other domestic producer has argued that the Designated Authority is interpreting the words "domestic industry as a whole" used by the

Hon'ble Supreme Court in its judgment to mean the "domestic producers as a whole". In this connection, it has been submitted by M/s RIL that the Hon'ble Court in that judgment has held that the injury as well as NIP has to be determined for the "domestic industry as a whole" and not in respect of any particular company or enterprise. In the same paragraph, the Hon'ble Supreme Court refers to the definition of domestic industry under Rule 2(b). It has been added that throughout the discussions, the Supreme Court has used the words "domestic industry as a whole" and not "domestic producers as a whole". Further, at no stage has the Supreme Court held that the term "domestic industry" has to be interpreted in any manner different from the definition provided in Rule 2(b). On the other hand, the Court has clearly referred to the definition of "domestic industry" in the same paragraph.

26. The Authority notes that the above interpretation of the Judgment of the Hon'ble Court may not be in conformity with the said judgment as the review application filed by the Authority has been dismissed by the Hon'ble Court. Therefore, the Authority has proceeded with the determination of the injury and NIP for the domestic industry as a whole to include all domestic producers of the subject goods to the extent the same was reasonably available. It is noted that there are a number of other very small domestic producers apart from M/s Reliance Industries Ltd. who is one of the major producer of the subject goods in India having a share of approximately 33% in the total domestic production. The Authority has examined the cost and injury information of the major producer M/s Reliance Industries Ltd. from its Cost Audit Reports as available with the Cost Audit Branch of the Ministry of Company Affairs. For the other very small domestic producers, the cost and injury information is not available in the form of Cost Audit Reports or in any other form. It is also noted that these other very small producers collectively accounts for a share of 14% in the total domestic production. Therefore, the impact of these very small producers would not be significant. Accordingly, the injury examination has been carried out taking into account the information in respect of 11 known producers of the subject goods accounting for about 86% of the total domestic production in India. It is also noted that with respect to each of injury parameters 'domestic industry as a whole' includes the information of M/s Reliance industries Ltd. (with a total share of 86%) but not of all the producers in India. The term 'domestic industry' includes only the applicant producers (having a share of 52%). The injury analysis for all the injury parameters for the domestic industry as a whole could not be made as the requisite information for some of the injury parameters was not available with the Authority, which has been clearly indicated while making the injury analysis for each factor in the following paragraphs. However, M/s RIL Ltd has submitted costing information, which has been used for the calculation of non-injurious price of the domestic industry as a whole.

27. An analysis of the injury parameters as envisaged under the Rules has

been carried out in the following paragraphs:

Volume of Imports

i) The Authority has examined the volume of imports from the subject country on the basis of the imports of subject goods as reflected by the official statistics published by the DGCI&S. As already mentioned earlier, the Authority has reexamined the transaction wise analysis of the imports of subject goods from subject countries and on the basis of reexamination, the figures of the volume and value of imports of subject goods have been revised. It is observed that that the share of subject country in total imports has increased from 3.7%% in 2001-02 to 86% during the period of investigation. In absolute terms, the imports from the subject country has increased during the POI to a level of almost 22 times of the imports in the base year 2001-02 as is evident from the following the table:

	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Imports from Subject Countries (MT)	1461	1455	8693	32132
Imports from Other Countries-Attracting ADD	33256	41046	15891	3856
Imports from Other Remaining Countries	4797	2886	2253	1413
<b>Total Imports (MT)</b>	<b>39514</b>	<b>45387</b>	<b>26837</b>	<b>37401</b>

<b>%</b>	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Imports from Subject Country (MT)	3.70	3.21	32.39	85.91
Imports from Other Countries-Attracting ADD	84.16	90.44	59.21	10.31
Imports from Other Remaining Countries	12.14	6.36	8.40	3.78
<b>Total Imports (MT)</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>

Market share of Imports from subject country in the total imports and demand

ii) The Authority finds that the imports from China in comparison to total demand in India have increased from a low level of 0.23% during 2001-02 to 4.19% during the period of investigation. The trend in percentage increase from year to year is as under:

<b>Total Demand</b>				
	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Total Demand (MT)	646810	683470	708597	766477
Trend	100	106	110	119

<b>Share of Imports</b>				
	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Imports from Subject Country (MT)	1461	1455	8693	32132
Imports from Other Countries-Attracting ADD	33256	41046	15891	3856
Imports from Other Remaining Countries	4797	2886	2253	1413
Total Imports (MT)	39514	45387	26837	37401
Total Domestic Sales (MT)	642012	680584	706344	765063
Total Demand (MT)	646810	683470	708597	766477
<b>% Share of Imports from China in:</b>				
Total Imports	4%	3%	32%	86%
Total Demand (MT)	0.23%	0.21%	1.23%	4.19%
<b>% Share of Imports from Other Countries attracting ADD in:</b>				
Total Imports	84.16%	90.44%	59.21%	10.31%
Total Demand (MT)	5.14%	6.01%	2.24%	0.50%
<b>% Share of Imports from Other Remaining Countries in:</b>				
Total Imports	12.14%	6.36%	8.40%	3.78%
Total Demand (MT)	0.74%	0.42%	0.32%	0.18%

Imports from subject country as % of domestic production:

iii) The Authority notes that imports from China as percentage of domestic production of the domestic producers have increased manifold from a level of 0.19% in the year 2001-02 to 3.43% during the period of investigation. Thus, the imports from the China have increased not only in absolute. terms but also as a share to total imports into India, market demand and also domestic production.

<b><u>Share of Imports</u></b>				
	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised )</b>
Imports from Subject Countries (MT)	1461	1455	8693	32132
Imports from Other Countries-Attracting ADD	33256	41046	15891	3856
Imports from Other Remaining Countries	4797	2886	2253	1413
Total Imports (MT)	39514	45387	26837	37401
Total Domestic Sales (MT)	642012	680584	706344	765063
Total Demand (MT)	646810	683470	708597	766477
Total Domestic Production	784460	840065	900245	936775
<b>% Share of Imports from China in:</b>				
Total Imports	4%	3%	32%	86%
Total Demand (MT)	0.23%	0.21%	1.23%	4.19%
Total Domestic Production	0.19%	0.17%	0.97%	3.43%

Effect of Dumped Imports on prices in the domestic market for like products:

Price Undercutting

iv) With regard to the effect of the dumped imports on domestic prices, it has been examined 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. A comparison for product concerned was made between the landed value of exported product and the average selling price of the domestic industry for domestic market net of all rebates and taxes for sales made to unrelated customers, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. The CIF prices of the subject country concerned were adjusted for post importation applicable duties. This comparison showed that during the period of investigation, the subject goods originating in subject country was sold in the Indian market at prices which undercut the domestic industry's prices when expressed as a percentage of the domestic selling prices of the domestic industry as is evident from the table below.

In order to assess the effect of imports on the domestic market an analysis of import prices over the injury period was made. It was noted that the exporters from subject country have decreased their prices and the landed value has declined by 9% over the injury period. Though the domestic selling prices have also increased during this period by \*\*\*\*%, price undercutting has significantly increased during the injury period and remains significant during the POI

<b>Price Undercutting</b>				
	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Selling Price Rs. / MT-Domestic Industry as a Whole	****	****	****	****
Indexed	100	112	120	130
Landed Value from Subject Countries Rs. / MT	****	****	****	****
Indexed	100	110	86	91
Price Undercutting Rs. / MT	****	****	****	****
Price Undercutting (%)	****	****	****	****
Price Undercutting (%) -Range	-12% to 1%	-8 to 5%	16% to 30%	20% to 48%

Price depression and Suppression

v) There has been no decline in the selling price of the domestic industry during the injury period. Therefore no price depression has been caused to the domestic industry. However, it is seen that the landed price from subject countries have consistently declined from subject country and also the cost of the production has also shown corresponding increase with the domestic selling price (marginally more than the increase in the domestic selling price) implying that the domestic industry has suffered price suppression on account of dumped imports from subject country.

	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Cost of Production Rs. / MT-Domestic Industry as a Whole	****	****	****	****
Indexed	100	108	104	132
Increase Year to Year		****	****	****
Indexed		100	-58	591
Selling Price Rs. / MT-Domestic Industry as a Whole	****	****	****	****
Indexed	100	112	120	130
Increase Year to Year		****	****	****
Indexed		100	76	112
Landed Value from Subject Countries Rs. / MT	56137	61537	48429	50997
Indexed	100	110	86	91

Price underselling

vi) The Authority has also examined the claim of the petitioner that the domestic industry is suffering on account of the price underselling from the sale of subject goods. The Authority notes that price underselling is an important indicator to make an assessment of the injury. The Authority has worked out the Non-injurious price for the product under consideration and compared the same with the landed value to arrive at the extent of price underselling. The analysis shows a significant level of incidence of price underselling causing injury to the domestic industry from the dumped imports from subject country.

<b>Price Underselling</b>	<b>POI (Annualised)</b>
Non Injurious Price Rs. / MT	****
Landed Value from China Rs. / MT	50996
Price Underselling Rs. / MT	****
Price Underselling (%)	****
Price Underselling (%) -Range	25% to 40%

#### Situation of the Domestic Industry

vii) For the examination of the impact of the imports on the domestic industry in India, the Authority considered such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II (iv) of the Rules supra. In line with the Supreme Court Judgment, the Authority has proceeded with the determination of the injury and NIP for the domestic industry as a whole to include all domestic producers of the subject goods to the extent the same was relevant and reasonably available. It is noted that there are a number of other very small domestic producers apart from M/s Reliance Industries Ltd. who is one of the major producer of the subject goods in India having a share of approximately 33% in the total domestic production. The Authority has examined the cost and injury information of the major producer M/s Reliance Industries Ltd. from its Cost Audit Reports as available with the Cost Audit Branch of

the Ministry of Company Affairs. For the other very small domestic producers, the cost and injury information is not available in the form of Cost Audit Reports or in any other form. It is also noted that these other very small producers collectively accounts for a share of 14% in the total domestic production. Therefore, the impact of these very small producers would not be significant. Accordingly, the injury examination has been carried out taking into account the information in respect of 11 known producers of the subject goods accounting for about 86% of the total domestic production in India. It is also noted that with respect to each of injury parameters 'domestic industry as a whole' includes the information of M/s Reliance industries Ltd. but not of all the producers in India. The term 'domestic industry' includes only the applicant producers. The injury analysis for all the injury parameters for the domestic industry as a whole could not be made as the requisite information for some of the injury parameters was not available with the Authority, which has been clearly indicated while making the injury analysis for each factor in the following paragraphs.

Sales and Market share of domestic producers:

viii) It is noted that sales of the domestic industry have increased and domestic industry as a whole have increased and the increased is in line with the increase in demand. Further, the Authority finds that the market share of the domestic industry and the imports from the subject countries in the demand of subject goods in India has been as under:

<b>Sales (MT)</b>	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Domestic Industry	307826	310022	324328	392195
Other Domestic Producers	202429	175147	234039	231456
Domestic Industry as a Whole	510255	485169	558367	623651

**Market Share of Domestic Industry**

	<b>April 01 to</b>	<b>April 02</b>	<b>April 03</b>	<b>POI</b>
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	<b>March 02</b>	<b>to March 03</b>	<b>to March 04</b>	<b>(Annualised)</b>
<b>Sales (MT):</b>				
Domestic Industry	307826	310022	324328	392195
Other Domestic Producers	202429	175147	234039	231456
Domestic Industry as a Whole	510255	485169	558367	623651
Total Demand (MT)	646810	683470	708597	766477
<b>Market Share of:</b>				
Domestic Industry (%)	48	45	46	51
Other Domestic Producers (%)	31	26	33	30
Domestic Industry as a Whole (%)	79	71	79	81

The Authority finds that the share of the domestic producers have increased marginally from 48% during 01-02 to 51% during the POI while the share of the domestic industry as a whole has increased by 2 percentage points over the same period. It is also noted that over the same period the demand has grown by 18%. It shows that the domestic industry was able to achieve growth though marginally during the injury period.

Production & Capacity Utilization:

ix) The production and capacity utilization of the domestic industry has been as under:

<b>Production (MT)</b>				
	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Domestic Industry	385167	402651	423669	484734
Other Domestic Producers	269188	247679	255620	252412
Domestic Industry as a Whole	654355	650330	679289	737146

Capacity (MT)

	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Domestic Industry	389425	428175	478196	513208
Other Domestic Producers	267174	275274	268450	261979
Domestic Industry as a Whole	656599	703449	746646	775188

<b><u>Capacity Utilisation%</u></b>	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Domestic Industry	98.91%	94.04%	88.60%	94.45%
Other Domestic Producers	100.75%	89.98%	95.22%	96.35%
Domestic Industry as a Whole	99.66%	92.45%	90.98%	95.09%

The Authority finds that the capacity utilization of the domestic industry has declined from 98.91% in the year 2001-02 to 94.45% during the period of investigation. Thus, the decline of in the capacity utilization and on the other hand increase in dumped imports from subject country over the injury investigation period appears to have adversely affected the domestic industry.

**Inventories:**

x) The Authority notes that the level of inventories of the domestic industry has come down during the period of investigation while the inventories as a percentage of sales declined significantly during the injury period.

<b><u>Inventories</u></b>	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Sales (MT)- Domestic Industry	307826	310022	324328	392195
Inventories- Domestic Industry	29632	29605	21878	6887

Inventories as percentage of Sales	9.63%	9.55%	6.75%	1.76%
Indexed	100	99	70	18

Factors affecting Domestic Prices:

xi) The Authority notes that the level of price undercutting from subject country is significant as a result of dumped imports. Further, price underselling is also evident as the landed value of imports from China is significantly lower than the non-injurious price of the domestic industry. The landed value/MT of imports from China has declined drastically during the period of investigation as compared to the year 2002-03 whereas at the same time the cost of raw material has increased as a result of the soaring crude oil prices. The Authority notes that apart from the applicants there are few other domestic producers of the subject goods in the domestic market in India catering to about 48% of the total production. The data of these producers (covering 33% of the total production) do not show significant cost and price difference between the domestic producers. However, the injury investigation has been carried out for the domestic industry as a whole, including the other known producers. The Authority also notes that the dumped imports from the subject countries have been found to have significant price undercutting and underselling effect on the domestic industries prices. With regard to selling prices of the domestic industry, it is noted that the same have increased during the period of investigation as compared to the base year. Thus, the principal factor affecting the domestic prices appear to be the dumped prices of the subject goods from the subject country.

Magnitude of Margin of Dumping:

xii) The Authority finds that the magnitude of the margin of dumping for subject goods from the subject country is significant.

Employment, Wages and Productivity :

xiii) The Authority notes that the domestic industry has added additional capacity and employed a number of persons. Accordingly, number of employees and wages paid to them has gone up during the injury investigation period. The Authority finds that the productivity per employee during the period of investigation has increased as compared to base year 2001-02.

### **Employees, Wages and Productivity**

	April 01 to March 02	April 02 to March 03	April 03 to March 04	POI (Annualised)
Employees (Nos.)- Domestic Industry	3254	3398	3434	3758
Wages (Rs. Lacs)- Domestic Industry	3413	3521	3825	4495
Production of Domestic Industry	385167	402651	423669	484734
Productivity per employee / MT	118	118	123	129

### **Profitability:**

xiv) The Authority notes that the domestic industry has not been able to achieve profits during the period of investigation. The Domestic Industry achieved a level of profit of 1.30% in the year 2001-2 which however, came down to a negative level of (0.80%) during the period of investigation as may be seen from the table given hereunder:

<b>Profit /Loss (Rs. Lacs):</b>				
Domestic Industry	****	****	****	****
Other Domestic Producers	****	****	****	****
Domestic Industry as a Whole	****	****	****	****
<b>Indexed:</b>				
Domestic Industry	100	261	603	-103
Other Domestic Producers	-100	-66	198	-62
Domestic Industry as a Whole	-100	-27	359	-96
<b>Profit /Loss (%):</b>				
Domestic Industry	****	****	****	****
Other Domestic Producers	****	****	****	****
Domestic Industry as a Whole	****	****	****	****

### **Return on Investment (Capital Employed):**

xv). The Authority notes that return on capital employed has also declined and followed the same trend as that of profitability. The domestic industry could earn \*\*\*\*% return on its investment during the period of investigation whereas it earned \*\*\*\*% return in the previous year 2003-04 and \*\*\*\*% during the base period.

<b><u>Return on Capital Employed</u></b>				
	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI</b>
Capital Employed (Rs. Lacs)-Domestic Industry	****	****	****	****
Indexed	100	121	102	102
Profit / Loss before Interest (Rs. Lacs)-Domestic Industry	****	****	****	****
Indexed	100	98	134	25
ROCE (%) -Domestic Industry	****	****	****	****
Indexed	100	80.94	131.04	18.66

Actual and potential negative effect on cash flows:

xvi) The Authority finds that the cash profit / cash flow has also followed the same trend as that of the profitability and during the period and it has come down significantly during the POI as compared to the base year 2001-02.

<b><u>Cash Profit</u></b>				
	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Cash Profit (Rs. Lacs)-Domestic Industry	****	****	****	****
Indexed	100	138	190	87
Cash Profit of Other Known Producer	****	****	****	****
Indexed	-100	-7	1337	9
Domestic Producer as a whole	****	****	****	****
Indexed	100	165	509	107

Growth:

xvii) The Authority notes that though the sales volume of the domestic industry has gone up during POI, yet growth in sales volume during POI is less than the previous year and growth in the total demand over the same period. Besides market share of the domestic industry has declined during the POI as compared to the preceding year

<b><u>Growth</u></b>				
	<b>April 01 to March 02</b>	<b>April 02 to March 03</b>	<b>April 03 to March 04</b>	<b>POI (Annualised)</b>
Demand		6	10	19
Production-Domestic Industry as a Whole		-1	4	9
Market Share-Domestic Industry as a Whole		-10	-0.11	3
Sales Volume-Domestic Industry as a Whole		-5	15	12
Profit- Domestic Industry as a whole		-28	336	-89
Cash Flow / MT-Domestic Industry as a whole		65	208	-79
ROCE-Domestic Industry		-19	62	-86

**Ability to Raise Capital Investments:**

xviii). The Authority finds that in view of the losses being suffered by the domestic industry on the product under consideration during the POI, the ability of the domestic industry to raise capital investment may be adversely affected in view of the negative profits of the domestic industry and declining returns during the period of investigation.

**F. CAUSAL LINK AND OTHER FACTORS**

**Effect of dumped imports**

28. Between 2001-02 and the POI, the dumped imports from subject country as percent of total import of subject goods have

increased sizably from 4% to 86%. The percentage share of imports from china in comparison to total demand has also been going up over the investigation period. This increased from 0.23% in 2001-02 to 4.19% in the POI. While examining the price effect i.e. whether the dumped imports have significantly undercut the price of the subject good in India, the Authority found that the landed value of the subject goods from china was lower than the selling price of the domestic industry thereby undercutting the selling price of the domestic industry significantly. It is found that the price undercutting and the pricing behaviour of landed value of imports has forced the domestic industry to keep the domestic prices at an remunerative level even below the cost of production thereby adversely effecting the financial condition of the domestic industry. The domestic industry could not increase the selling price to recover the full increase in cost of production due to dumped imports and had to suffer financial losses during the POI. The undercutting along with price suppression in effect eroded the profitability of the domestic industry. Further, the decline in profitability to a negative level of profitability in the POI as compared to positive profitability in the base year 2001-02 is a clear indicator of injury to the domestic industry. The Authority notes that the profits in the year 2003-04 has been higher as compared to other years of the injury investigation period, the increase in the profitability in that year is mainly because of the fact of low level of imports from China which may have allowed the domestic industry to realise better prices and improved margins in the domestic market. The profitability of the domestic industry in the immediate next year i.e. POI has sharply declined in view of the spurt in imports at highly dumped prices from China by about four times over the same period as mentioned above. On the basis of the foregoing, it is held that the domestic industry has suffered material injury due to dumped imports from China PR during the POI.

## **G. EFFECT OF OTHER FACTORS**

### **Trade restrictive practice and competition between the foreign and domestic producers:**

29. The Authority did not find any trade restrictive practices followed by the Indian producers and other competing industries. As regards the Domestic Industry's inability to fill the gap between the domestic demand and their own production, it is observed that the imposition of anti-dumping duties does not amount to any kind of restriction on suppliers and producers for supplying the subject goods in the domestic market, which could have contributed to the injury to the domestic industry.

#### Contraction of demand or Changes in the pattern of consumption:

30. It is noted that there is no contraction in the demand during the period under consideration. On the contrary, the overall demand has increased during the POI. Therefore, the possible decline in demand is not a factor, which could have caused injury to the domestic industry

#### Technology:

31. None of the interested party has submitted any evidence that the technology is a factor of injury to the domestic industry.

#### Export performance:

32. The Domestic Industry has exported the subject goods during the period of investigation as well as during previous years. The Authority notes that the export performance of the domestic industry has shown improvement. The profitability of the domestic and exports sales have been segregated for the purpose of the injury examination. Therefore, injury caused due to exports (if any) has not been attributed to the performance of the domestic industry in the domestic market.

#### Productivity:

33. The productivity of the domestic industry has improved during the period of investigation as compared to the base year 2001-02. The productivity *per se* could not be the cause of injury to the domestic industry.

#### Other arguments

34. It has been submitted by some interested parties that demand for POY is high right from the year 2001-02 as compared to indigenous production and the indigenous industry has tremendously benefited by creating shortage. The Authority has examined this statement and notes that the associations have merely made statements without and evidence or cogent reasoning in support of their argument. With regards to their other arguments that as per the balance sheets of the domestic producers, they are not making losses and most of the companies are profit-making concerns, it is noted that anti-dumping investigations are product specific and any conclusions based on the balance sheet of the company which contains the information for other products also, is not appropriate. This position is clear from the plain language of the anti-dumping laws and the

pronouncement of the Appellate Tribunal also. With regards to the submissions of the interested parties that almost all the companies are increasing their capacities, which indicate that the import of POY has not affected the indigenous industry at all, it is noted that some of the applicants are indeed increasing their capacities, the fact which the interested parties have also admitted. It is also noted that the domestic industry has submitted that the decision to increase capacities was taken prior to the initiation of investigation and there is a specific lead time during which the domestic industry faced the injurious effect of dumping from China. The issue has been examined and it is noted that capacities are added to take advantage of the growing market and economies of scale. Therefore, the mere fact that some components of the domestic industry have increased their capacities may not lead to the conclusion that they may not be suffering on account of the dumped imports from subject country. With regards to the submission of various interested parties that the excise duty on POY has been reduced over the years and the same has not been passed on to customers, it is noted that the analysis of the selling prices is always made at the ex-factory level. The ex-factory price does not include any element of excise duty or the expenses after clearance from the factory. Therefore, the statement of the federation has not been found relevant in this investigation.

## **H. CONCLUSION ON INJURY AND CAUSAL LINK:**

35. In view of the foregoing the Authority considers that the quantum of dumped imports of subject goods from the subject country have increased in absolute terms as well as in relation to total demand and domestic production in India. However, parameters such as market share of the domestic industry in the total demand, sales, production, inventory have not shown any decline indicating that the absence of any significant volume injury to the domestic industry and also to domestic industry as a whole. However, the domestic industry has suffered significantly on account of the price effects as the price undercutting which was negative during the base year became positive and significant during the POI. The landed prices of the dumped subject goods from the subject country have shown a consistent decline in spite of the increase in the cost of production of the domestic industry indicates price suppression. It is also noted that the profitability of the domestic industry for product under consideration has become negative during the period of investigation and the return on investment and cash flows have been adversely affected and declined to a meager level in the period of investigation. The dumping margin from the subject country is considered significant. On the basis of the foregoing, it is held that the domestic industry has suffered material injury as envisaged under the Rules. No

other factor, other than the dumped imports from subject country, have been brought to the notice of the Authority, that could have caused injury to the domestic industry

36. In view of the above the Authority concludes that the domestic industry has suffered material injury and the injury has been caused by the dumped imports from the subject country.

## I. MAGNITUDE OF INJURY MARGIN

### Determination of Non-injurious price

37. The Authority determined the non-injurious price for the domestic industry as a whole in accordance with the judgment of the Hon'ble Supreme Court of India as quoted earlier and a detailed disclosure of the methodology of determination of the NIP was made to the domestic industry.

38. The Authority notes that the Non-injurious price of the domestic industry as a whole has been determined in accordance with the judgment of the Hon'ble Supreme Court of India taking into account the guidelines and methodology set by the Hon'ble Supreme Court of India and the weighted average NIP for the domestic industry as a whole as been determines as Rs \*\*\*\*/ MT.

39. The non-injurious price determined by the Authority is the weighted average of all types of the subject goods produced by the domestic industry and the same has been compared with the weighted average landed value of the exports from the subject countries for determination of injury margin. The weighted average landed price of the exports from the subject countries and the injury margins have been worked out as follows:

<b>Injury Margin Calculations</b>		
<b>Name of company</b>	<b>Injury Margin US\$/MT</b>	<b>Injury Margin %</b>
All Producers and exporters from China PR	****	30-40%

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

40. The Authority holds that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to facilitate re-establish a situation of open and fair competition.

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

#### **K. Conclusions:**

42. The Authority has, after considering the foregoing, come to the conclusion that:

- a. Subject goods originating in or exported from subject country have been exported to India below their normal values.
- b. The domestic industry has suffered material injury.
- c. The injury has been caused to the domestic industry by dumped imports of subject goods originating in or exported from the subject country.
- d. The Authority thus considers necessary to recommend definitive anti-dumping duty on imports of subject goods falling under Chapter 54 of Customs Tariff Act originating in or exported from the subject country.

#### **L. Recommendations:**

43. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted a final investigation into dumping, injury and causal link between dumping and injury to the domestic industry in terms of the Rules laid down and having definitively established positive dumping margin against the subject country, as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that

imposition of definitive duty is required to offset dumping and injury.

44. Therefore, Authority considers it necessary to recommend definitive anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.

45. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. 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. Accordingly, definitive antidumping duty equal to the amount indicated in Column 9 of the table below is recommended on all imports of Partially Oriented Yarn (POY) falling under chapter 54 of Custom Tariff Classification Act 1975, originating in or exported from China PR.

Sl. No	Sub-heading	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.	5402.42	Partially Oriented Yarn – All Types	Any	China PR	Any	Any	Any	545.22	MT	US\$
2.	-do-	-do-	-do-	Any	China-PR	Any	Any	545.22	MT	US\$

## **M FURTHER PROCEDURE**

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

47. The Authority may review the need for continuation, modification or termination of the definitive measure 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 as per the time limit stipulated for this purpose.

(R.Gopalan)

Designated Authority