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Government of India  
Department of Commerce  
Ministry of Commerce & Industry  
(Directorate General of Anti-Dumping & Allied Duties)  
Udyog Bhawan, New Delhi  
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Dated the 16<sup>th</sup> February 2010

**Preliminary Findings**

**Subject: Preliminary findings of Anti-dumping investigations on imports of Circular Weaving Machines having six or more shuttles for weaving PP/HDPE Fabrics of a width exceeding 30 cms. originating in or exported from China PR.**

**No.14/25/2008-DGAD:** - 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 Lohia Starlinger Ltd., Kanpur (herein after referred to as the Applicant) has filed an application before the Designated Authority (hereinafter referred to as Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred as Rules), alleging dumping of Circular Weaving Machines having six or more shuttles for weaving PP/HDPE Fabrics of a width exceeding 30 cms. (hereinafter 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. The embassy of subject country was notified about the receipt of fully documented application as per Rule 5(5).

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 18<sup>th</sup> May 2009 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 sub-Rule 6(1) 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.

## **A. General**

4. Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the initiation of the above investigations by the Authority:-

- a) The Designated Authority sent copies of initiation notification dated 18.5.2009 to the Embassy of the subject country in India, known exporters from the subject country, importers and the domestic industry as per the addresses available, and requested them to make their views known in writing within 40 days of the initiation notification.
- b) The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassy of subject country in accordance with Rule 6(3) supra.
- c) The Embassy of the subject country in New Delhi, were 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 and questionnaire sent to the exporters were also sent to Embassy of subject countries along with the names and addresses of the exporters.
- d) The Authority sent questionnaires, to elicit relevant information to the known exporters in subject country in accordance with Rule 6(4). The Authority also sent questionnaire concerning Market Economy Treatment to exporters of China PR.
- e) Request was made to the DGCI&S to arrange details of imports of subject goods for the past three years and the period of investigation. however, data for the said period has not been received. Data received from IMPEX Statistics have been relied upon in this findings;
- f) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- g) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the petitioner on the basis of Generally Accepted Accounting Principles (GAAP) was worked out provisionally so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
- h) The period of investigation (POI) for the purpose of present investigation is 1st April 2008 to 31<sup>st</sup> December 2008 (9 months). The injury analysis

however covers the periods April,2005-March,06, April,2006–March,2007, April,2007-March,2008 and the POI.

- i) In response to the above said notification producer M/s Starlinger Plastics Machinery (Taicang) Co. Ltd. China and exporter M/s Starlinger & Co Gesellschaft m.b.H, Austria have submitted the information, though not complete. Other exporters from subject country who have not filed their responses to questionnaire have been treated as non co-operative.
- j) \*\*\* in this finding represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.

## **B. Product under Consideration**

5. The product under consideration is Circular Weaving Machines having six or more shuttles for weaving PP/HDPE Fabrics of a width exceeding 30 cms. originating in or exported from China PR. The Circular Weaving Machines consist of a central portion having shuttles for inserting the weft and a creel for inserting the warp. PP/HDPE tapes are used as weft and warp. The circular PP/HDPE cloth woven goes from the take up to the cloth winder. The circular woven fabrics are widely used in packaging applications such as packaging of cement, fertilizers, chemicals, plastic granules etc. and for covering fabrics such as tarpaulin etc.

6. The product under consideration is classified under Chapter 84 of the Custom Tariff Act, 1975 under sub-heading no.8446 - Weaving Machines (looms) and cleared under heading Numbers 8446.21/ 8446.21.90 (other)/8446.29 (other) & 8446.29.00 (other).

7. The applicant has clarified that there is no significant difference in Circular Weaving Machines having six or more shuttles for weaving PP/HDPE Fabrics of a width exceeding 30 cms. produced by the domestic industry and those exported from China PR. Circular Weaving Machines having six or more shuttles for weaving PP/HDPE Fabrics of a width exceeding 30 cms. produced by the Indian industry and imported from China PR are comparable in terms of characteristics such as manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The subject goods produced by the petitioners are like articles to those imported from China PR in accordance with the Anti Dumping Rules.

The Customs and ITC HS classification of the product under consideration mentioned above is, however, indicative only and in no way binding on the scope of the present investigation.

### **C. Like Article**

8. The applicant has claimed that goods produced by them are like articles to the subject goods originating in or exported from China PR. There is no significant difference in the subject goods produced by the applicant and those exported from subject country and the two are technically and commercially substitutable. The Authority accepts the claim of the applicant in this regard, Therefore, for the purpose of present investigation, the subject goods produced by the domestic industry are being treated as Like Article to the same imported from the subject country in accordance with the AD Rules.

### **D. Standing of the Domestic Industry and Initiation of the Investigation**

9. The application has been filed by M/s. Lohia Starlinger Ltd., Kanpur on behalf of the domestic industry. As per evidence available on record, production of M/s. Lohia Starlinger Ltd., Kanpur accounts for a major proportion of the domestic production as their production is more than 50% of Indian production.

10. As per evidence available, the Authority has determined that the application satisfies the requirements of Rule 2(b) and Rule 5(3) of Anti Dumping Rules. Further, M/s. Lohia Starlinger Ltd., Kanpur is being treated as Domestic Industry within the meaning of Rule 2(b).

### **Views of the exporters**

11. Academy of Business Studies, New Delhi have filed exporters' questionnaire's response as well as market economy questionnaire response on behalf of M/s Starlinger Plastics Machinery (Taicang) Co. Ltd., China PR and M/s Starlinger & Company G m.b.H, Austria. The following points are made in their response :-

- M/s Starlinger Plastics Machinery (Taicang) Co. Ltd., China PR is manufacturing circular weaving looms and other machinery for export and home market under technology provided by M/s Starlinger & Co Gesellschaft m.b.H, Austria.
- The Applicant, M/s Lohia Starlinger Limited, India is a joint venture between Lohia Machine Works, Kanpur and M/s Starlinger & Co. Gessellschaft m.b.H. M/s Starlinger & Co. Gesellschaft m.b.H, Austria holds 34.67% stake in M/s Lohia Starlinger Limited and is the largest single minority shareholder in M/s Lohia Starlinger Limited.
- Furthermore M/s Starlinger & Co Gessellschaft m.b.H enabled Lohia Starlinger Ltd. to manufacture circular weaving looms by providing applicable technology and know-how.

- The Starlinger-Huemer family directly and indirectly controls through FEPIA Privatstiftung and direct personal shareholding in all companies forming part of the Starlinger group.
- The Applicant, M/s Lohia Starlinger Ltd. is part of the Starlinger group), as M/s Starlinger & Co Gesellschaft m.b.H is the largest single minority shareholder in the Applicant, Lohia Starlinger Limited, holding 34.67%.
- M/s Starlinger Plastics Machinery (Taicang) Co. Ltd. exports the products concerned solely to M/s Starlinger & Co Gesellschaft m.b.H, Austria, which in turn exports them to other countries including India.
- Ms. Angelika Huemer is President of the Board of Starlinger Plastics Machinery (Taicang) Co. Ltd. and at the same time managing director of Starlinger & Co. Gesellschaft m.b.H, Austria and managing director of Starlinger Export GmbH, Austria.
- Starlinger & Co. Gesellschaft m.b.H, Austria is holding 34.67% shares in Lohia Starlinger Limited, the petitioner, with legal right to be on board of Lohia Starlinger Limited. The directorship from this company was illegally ousted by Lohia Starlinger Limited and the case is presently pending before the Company Law Board, India.

### **Views of Domestic Industry**

12. Lohia Starlinger Limited (hereinafter referred as 'LSL') are not a part of the so called Starlinger Group, which is evident from the fact that the website [www.starlinger.com](http://www.starlinger.com) lists only the following four companies as members of the Starlinger Group:-

- Starlinger & Co. GmbH
  - SML Maschinengesellschaft mbH
  - Georg Sahm GmbH & Co.KG
  - Maplan GmbH
- LSL does't have any shareholding nor control in Starlinger China and Starlinger China has not any shareholding and/or control in LSL.
  - LSL has no control over Starlinger & Co GmbH, Austria (hereinafter referred as 'Starlinger Austria') nor is controlled by Starlinger Austria, legally or operationally.
  - The very fact that Starlinger Austria has filed a Petition before Hon'ble CLB seeking appointment of its nominee on the Board of LSL establishes the fact that Starlinger, Austria does not have any control over LSL nor do they have any contractual right to claim role in management or control over LSL. The Petition filed in the year 2005 has been vehemently opposed by LSL before CLB.
  - Starlinger Austria provided technology initially to LSL. The last technology transfer took place under agreement made way back in 1992, which too expired with expiry of time Starlinger Austria has been duly

compensated by LSL for technology transfer by payment of royalty in accordance with the terms of the relevant agreements.

- LSL is no way related to Starlinger, Austria and/or Starlinger, China. Their only claim is that they are holding 34.67% shares in LSL. But mere shareholding does not make Starlinger, Austria and/or Starlinger China related to LSL within the meaning of AD Rules. The Board of LSL has not appointed any director representing Starlinger Austria since 2002 and hence the question of Ms. Angelika Huemer being illegally ousted from the Directorship does not arise. In any case, the very fact that Starlinger Austria has filed a Petition before Hon'ble Company Law Board (CLB) seeking appointment of its nominee on the Board of LSL establishes the fact that Starlinger Austria do not have any control over LSL nor do they have any contractual right to claim any role in management or control over LSL. The Petition filed in the year 2005 by Starlinger Austria is still under consideration before CLB and no decision has been given by CLB so far.
- It is a blatant lie to state that CLB has confirmed that Starlinger Austria and LSL are related. The Hon'ble CLB has not passed any such orders.
- It is denied that LSL is a joint venture between Lohia Machine Works and Starlinger Austria. There is no such agreement with Lohia Machine Works. Starlinger Austria have raised a similar claim in the petition No. 62/2005 before the Company Law Board, which has been denied by LSL before the CLB and the matter is sub-judice.
- Starlinger Austria is neither legally nor operationally in control of LSL within the meaning of AD Rules.

### **Examination by Authority**

13. The Authority has examined the position in the light of the definition of related companies under Rule 2(b) of Customs Tariff (Anti Dumping) Rules 1995. The said Rule is reproduced as under :

*...(i) producers shall be deemed to be related to exporters or importers only if,-*

*(a) One of them directly or indirectly controls the other; or*

*(b) Both of them are directly or indirectly controlled by a third person; or*

*(c) Together they directly or indirectly control a third person subject to the condition that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producers to behave differently from non-related producers.*

*(ii) A producer shall be deemed to control another producer when the former is legally or operationally in a position to exercise restraint or direction over the latter.*

14. The Authority notes that the key element in regard to relatedness of the producer and the exporter is 'control', legal or operational. The Authority finds that Starlinger China is a fully owned subsidiary of Starlinger Austria whereby both are related companies. Further, it is evidenced that Starlinger Austria are holding 34.67% shares in the petitioner company i.e. LSL. But mere shareholding does not amount to exercise of control and therefore does not make Starlinger Austria and/or Starlinger China related to LSL within the meaning of AD Rules as stated above. Majority shareholding i.e. above 50% only gives legal control. Further, the Authority finds that no Director representing Starlinger, Austria has been appointed in the Board of LSL since 2002. It is brought on record by both the parties that Starlinger Austria has filed a Petition before Company Law Board seeking appointment of its nominee on the Board of LSL. All these establish that Starlinger Austria has no operational control as well over LSL. Thus, in the absence of legal or operational control by Starlinger Austria and/or Starlinger China over LSL, the Authority does not treat the applicant and the exporter as related entities within the meaning of AD Rules.

### **Confidentiality**

15. The confidentiality claims of domestic industry in respect of the data submitted by them have been examined. The data concerning costing, customers prices have been treated as confidential. The data of the exporter, M/s Starlinger Plastics Machinery (Taicang) Co. Ltd. China and Starlinger & Company G.m.b.H, Austria submitted as confidential has been treated as confidential in the preliminary findings, however, the claim of confidentiality will be examined in detail after receipt of comments from interested parties.

## **E. Methodology for calculation of dumping margin**

### **E.1 Market Economy Treatment for Exporters from China PR**

16. At the stage of initiation, the Authority proceeded with the presumption by treating China PR as a non-market economy country as per para 8(2) of Annexure1 of the Rules, for purposes of an anti dumping investigation. Upon initiation, the Authority advised the producers/Exporters in the country to respond to the notice of initiation and provide information relevant to determination of their market economy status.

17. The Authority sent copies of the MET questionnaire to all the known exporters for rebutting presumption of non market economy in accordance with criteria laid down in para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China PR to advise producers/exporters in their country to provide information.

18. The Starlinger, China responded to the MET questionnaire. However, according to the domestic industry the response given to various questions in the

NME questionnaire are very cryptic and without any evidence. The following points are made by the applicants in this regard:-

- (a) In response to Question No.3(b) of NME questionnaire on business decisions and costs, it has been stated that the land lord is a 100% foreign owned enterprise. It is well known that all land in China belong to the 'whole of the people of China' i.e. belong to the Government of China and only land use rights are awarded for specified periods – say 50 years or so by the concerned governmental agencies at very low rates. Other suppliers are either wholly owned or partly owned by State.
- (b) In response to Question No.5(g), it has been stated that SPMT's export profits are calculated at standard costs for the product concerned plus an appropriate profit. It is not clear as to what method is used by them to calculate export profits. They also say that profits are used to cover start up costs. The company was started in the year 2005. When did the start up period end? What was the amount of start up costs that were met from export profits? What portion of start up costs was met from domestic profits? The answer raises more queries than it answers.
- (c) The answer to Question No.5(h) clearly indicate that they suffered loss on account of export sales due to start up costs and the accumulated losses were financed by equity, receiving deposits from a related company Starlinger Austria and deferring payment to suppliers. When payments are deferred to suppliers, to cover the accumulated losses, it is clear indication of non-market nature of the economy. They shall not be granted market economy treatment.
- (d) The landlord is stated to be provider of hired personnel. It is further stated in response to Question No.7(a) that the workers are not employed at SPMT but outsourced. The details of the relationship between SPMT and the personnel provider have not been indicated. It may be yet another indicator of non-market nature of the operations conducted in China.
- (e) There is no information with regard to the source from which the machinery and other fixed assets were procured by SPMT.
- (f) In view of the incomplete MET response, their MET claims shall be rejected.

19. The Authority notes that M/s Starlinger Plastics Machinery (Taicang) Co. Ltd. from China PR submitted information on prescribed format to rebut the presumption of non market economy. The Authority also notes the points made by the petitioners as stated above. The Authority has decided that a final view about the market economy status will be taken after verification of the information submitted by Starlinger, China.

## **E.2 Determination of Dumping Margin**

### **20. Submissions of Domestic Industry**

- The questionnaire response has been filed by SPMT China PR– the producer of the product concerned. It has been stated that SPMT exports the product concerned solely to Starlinger & Co GmbH, Austria who in turn exports them to other countries including India. SPMT has unequivocally stated that Appendix 2 – Details of Exports to India is not applicable to them.
- Firstly, China is a NME country and hence the domestic sales in China shall not be accepted. Secondly, SPMT has not provided adequate information in the EQR with respect to many critical issues relating to domestic sales. In the absence of such information, their domestic sales details cannot be accepted by DGAD. Some glaring deficiencies are listed below.
- In response to Q.No.B.2., SPMT has stated that all sales activities of the product concerned for home market are being executed exclusively by Starlinger & Co GmbH with contribution by Chinese sales persons. Thus, the expenses incurred by SPMT do not include SGA expenses in full. Therefore, it is not appropriate to rely on the information furnished by SPMT for determining the SGA rate.

21. The Authority notes that the applicant has proposed that China PR be treated as non market economy, and therefore the normal value should be determined in accordance with para 7 and 8 of Annexure 1 of the AD Rules. The applicant has stated that the major Chinese producer/exporter, M/s Starlinger Plastics Machinery (Taicang) Co. Ltd. is a wholly owned subsidiary of M/s. Starlinger and Co. G.mb.H Austria and accordingly Austria is an appropriate third country considering the fact that M/s. Starlinger is the technology supplier to the Chinese producers and has claimed normal value for China PR taking into consideration the export prices of subject goods manufactured in Austria and sold to Indonesia duly adjusted on account of freight and installation.

### **Submissions by Starlinger & Co Gesellschaft m.b.H, Austria**

22. M/s Starlinger & Co Gesellschaft m.b.H, Austria filed their confidential response enclosing evidence of their export transactions to various countries including India as under for the purpose of price comparison:-

- It is stated that all activities on sale and distribution for the Indian export market of the machines manufactured by Starlinger Plastics Machinery (Taicang) Co. Ltd. as well as invoicing, pricing and payment collection are being taken exclusively by Starlinger & Co Gesellschaft m.b.H, Austria.
- Invoices confirmed by the Auditors of Starlinger, Austria evidencing their export prices to countries such as Indonesia, Bangladesh and Nepal have been furnished along with the invoices confirmed by their Auditors evidencing their export prices to India. Adjustments have been claimed on

the freight and installation. Necessary data has been submitted in this regard.

- It is claimed that levels of prices for exports to India as well as those to Indonesia and Nepal by Starlinger, Austria are same during the POI, as price comparison would reveal.
- Data has been made available claiming normal value in China based on domestic selling prices and it is claimed that there is no dumping margin when compared to the export price to India.

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

#### **i) Normal Value from China PR**

23. The Authority finds there are significant issues of market economy determination in respect of the responding exporter from the subject country that requires further examination and verification. Further the Authority does not rely on the information on the exports including third party exports submitted by Starlinger, Austria, the exporter in this case, as they have not furnished exporters' questionnaire response. Mere submission of invoices in support of exports without furnishing exporter's questionnaire response with all the relevant details is treated as incomplete response by the Authority. On the other hand, the exporters' questionnaire response filed by Starlinger, China (Producer) is incomplete in as much as it does not contain information relating to exports. From the point of view of the examination by the authority, complete cooperation and response on the prescribed formats giving out all relevant details is essential to give them individual treatment as per law. Therefore, pending further examination and verification of the claims made by the exporter and producer from China PR, in respect of their market economy claims and individual treatment claims, for the purpose of the preliminary finding, the Authority has provisionally adopted the constructed normal value for determination of normal value in terms of Para-7 to Annexure-1 to the Rules.

24. In this connection Para 7 of Annexure I of the Anti-dumping Rules provide that:

*In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or 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. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter*

*in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.*

25. The applicant claimed that Austria is an appropriate third country and had claimed normal value for China PR taking into consideration the export prices of subject goods (manufactured in Austria) from Austria to Indonesia duly adjusted on account of freight, marine insurance etc.. However, the evidence of such exports is found to be only in the form of an e-mail offer which is not accepted by the Authority. On the other hand, Starlinger, Austria (exporter) has submitted invoices evidencing exports from Austria to Indonesia during POI and the relevant data relating to adjustments on freight and installation. However, the Authority finds that Starlinger, Austria has not furnished complete response to exporters' questionnaire. In the absence of complete response to exporters' questionnaire from both Starlinger, Austria and Starlinger, China, the Authority does not rely upon the information furnished by them. Thus the Authority has adopted constructed normal value only for the purpose of preliminary findings taking recourse to Para 7 of Annexure 1 to AD Rules.

26. Pending verification, the Authority for the purpose of preliminary findings proceeds to provisionally determine normal value in China PR on the aforesaid basis in terms of para 7 of Annexure-1 to the AD Rules. Accordingly, the ex-works constructed Normal Value of the product under consideration for any combination of exporter and producer from China PR has been determined as US\$ \*\*\* at ex-works level, with exchange rate of Rs.44.55/US\$, after adding a reasonable profit margin of 5%, only for the purpose of preliminary findings.

#### **E.4 Export price**

##### **i) Export price for Starlinger, China PR**

27. M/s. Starlinger, China in their response to exporter's questionnaire have stated that all activities on sale and distribution for export markets of the machines manufactured by them are undertaken by Starlinger, Austria and there are no direct exports of Starlinger, China to India. Starlinger, Austria on the other hand have submitted details of exports to India as evidenced by invoices out of which only one invoice pertains to the period of investigation. Starlinger, Austria has stated that there was only one shipment against one invoice made during the POI and there was no other shipment during this period. The said invoice indicates a combined CFR value of two products supplied against that invoice. However, the relevant proforma invoice gives the bifurcation of value for 57 units of the subject goods. Per unit invoice value of export has been indicated as US\$ \*\*\*. Adjustments on freight and installation have been claimed as US\$ \*\*\* per unit. Accordingly, export price at ex-factory level is claimed as US\$ \*\*\*per unit. However, the Authority notes that the exporter i.e. Starlinger, Austria have not

furnished response to the exporters' questionnaire and the response of Starlinger, China, the producer, is incomplete in so far as it does not furnish information relating to exports of subject goods. Therefore, the Authority does not rely upon the export price claimed by Starlinger, Austria. On the other hand, for the purpose of preliminary findings, the Authority relies on the FoB value of exports of US\$ \*\*\*per unit as per the trade data of Infodrive on record for the POI and the adjustments on the inland freight and port charges in China which is taken at a reasonable level of US\$ \*\*\* per unit of subject goods. Thus the export price per unit at ex-works level works out to US\$ \*\*\*per unit.

**E.5 Dumping Margin**

28. There is sufficient evidence that the normal value of the subject goods in the subject country at ex-factory level is significantly higher than the net export price at ex-factory level to India indicating that the subject goods are being dumped by the exporters from the subject country.

29. On the basis of normal value and export price as determined above, the dumping margins are determined as per table below: -

<b>China PR</b>	
<b>Value in US\$ per unit</b>	
	Any combination of exporter and producer from China PR
Normal Value	***
Export Price	***
Dumping Margin	22.08%

30. The dumping margins so determined provisionally are significant and above de minimis level.

**F. Methodology for Injury Determination and Examination of Causal Link**

**F.1 Injury Determination**

31. For the purpose of injury analysis the entire imports from the subject country have been treated as dumped imports.

## Submissions by the Domestic Industry

32. The domestic industry has raised the following arguments:-

- (a) Material injury suffered by domestic industry is shown in terms of (a) volume effect; and (b) price effect.
- (b) **Increase in absolute terms:** Imports from the subject country in the year 2006-07 were 157 units. In the year 2007-08, it went down to 90 units. However, during the POI (nine months of 2008-09 i.e. April-December 2008), imports have increased to 247 units. In terms of indexed numbers, imports during April-Dec 2008 were 157% of imports made during 2006-07.
- (c) **Increase in relative terms:-** Dumped imports as a percentage of domestic production increased from 8% in 2006-07 to 12% during April-Dec. 2008. During the same period dumped imports as a percentage of domestic consumption increased from 11% to 13%.
- (d) **Effect of dumped imports on the prices of the domestic industry**
  - (i) **Price undercutting:** The landed value of imported goods was 18% higher than the sales realization of the domestic industry during 2006-07. However, landed values dropped significantly in spite of the increase in the domestic sales realization and were lower than the domestic sales realization by 9% during 2008-09.
  - (ii) **Price underselling:** Price undercutting does not show the full extent of impact of the dumped imports on the prices of the domestic industry. The domestic industry was not able to increase their prices commensurate with increase in cost. Therefore, one should actually look at price underselling. Price underselling was negative 18% during 2006-07 when imports started. It was negative 2% during 2007-08. However, it was turned to a positive 17% during the POI (April-Dec 2008). With such a significant price underselling, profitability of the domestic industry has been adversely affected.
- (e) **Market share:-** Upto 2005-06, there were no imports and the domestic industry enjoyed 100% of the market share. During 2006-07, market share of domestic industry went down to 89%. It increased to 94% in 2007-08 and during the POI (April-December 2008), market share again went down to 87%.
- (f) **Capacity utilization:-** Capacity utilization of the domestic industry has gone down from 94% during 2004-05 to 83% during POI (April-Dec 2008).

- (g) **Profits:-** Domestic industry had earned a profit of Rs. \*\*\*lacs during 2005-06 when there were no dumped imports. Upon arrival of dumped imports during 2006-07, profits went down to Rs. \*\*\*lacs. Profits went further down to Rs. \*\*\*lacs during 2007-08 and the domestic industry has incurred a loss of Rs.\*\*\*lacs during POI (April-Dec 2008). From a profit of Rs. \*\*\*lacs per machine during 2005-06, domestic industry's profits went down to Rs. \*\*\*lacs per machine during 2007-08. During POI (April-Dec 2008), they incurred a loss of Rs.\*\*\*lacs on every machine sold.
- (h) **Return on investments:** During 2005-06, ROCE was 57%. It went down to 39% during 2006-07 and further to 14% during 2007-08. With increased dumping, ROCE went down to a mere 3% during April-Dec 2008. At this rate of ROCE, a capital goods manufacturer can never survive.
- (i) **Ability to raise capital or investments:-** Where the ROCE is just 3%, ability to raise capital or investments would be highly jeopardized.

## **F.2 Examination by Authority**

33. Authority has noted the views expressed by the domestic industry and examined the mandatory factors for the purpose of provisional injury determination and causal link analysis in these findings.

34. Rule 11 of Antidumping Rules read with Annexure –II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....” In considering the effect the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

35. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.

36. All economic parameters affecting the Domestic Industry as indicated above such as production, capacity utilization, sales volume etc. have been examined as under.

### F.3 Volume Effects of Dumped Imports: Import volumes and market shares

#### a) Import Volumes

37. Product under consideration is specifically importable under Customs Tariff Head 8446.21.90 and 8446.29.00. The imports data shows that the imports have also been made under different custom tariff heads.

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

39. For the purpose of injury analysis the Authority has relied on import data procured from Infodrive and volume of imports of the subject goods from the subject country have been analysed as under:-

#### b) Import Volumes and share of subject country

Particulars	Unit	2005-06	2006-07	2007-08	Apr.- Dec. 2008
Imports from China PR	Nos.	Nil	157	90	247
Domestic Production & Sales	Nos.	1616	1941	2483	2070
Total Demand	Nos.	1616	2098	2573	2317
Share of Imports from China PR	%	0	7.48	3.50	10.66

40. The data shows that imports from subject country increased from 90 machines during 2007-08 to 247 machines during POI (9 months only). Similarly, the share of imports in the domestic demand has increased from 3.5% during 2007-08 to 10.66% during POI. It has been observed that imports have increased in absolute terms and also in relation to domestic demand.

#### c) Production and capacity utilization of the Domestic Industry

Particulars	Unit	2005-06	2006-07	2007-08	Apr.- Dec. 2008(POI)
Capacity	Nos.	1887	2166	3138	2484
Production	Nos.	1616	1941	2483	2070
Capacity Utilization	%	86	90	79	83

41. The above data shows that capacity of the domestic industry has been increasing every year. However, the capacity utilization has come down from 86% during the year 2005-06 to 79% during 2007-08 and 83% during POI.

**d) Sales of Domestic Industry**

	Unit	2005-06	2006-07	2007-08	Apr.- Dec. 2008(POI)
Domestic Sales	Nos.	982	1308	1827	1599

42. The data on sales indicates that the domestic industry sold 1827 number of machines during 2007-08 which has reached a level of 1599 during POI (9 months), thereby showing an increasing trend.

**F.4 Price Effect of the Dumped imports from subject country on the Domestic Industry**

**Evaluation of landed price of imports over the injury analysis period**

	Unit	2005-06	2006-07	2007-08	Apr.- Dec. 2008(POI)
Landed cost	Rs.	No imports from subject country	***	***	***

43. The import data shows that landed prices from subject country has declined substantially from the year 2006-07 to POI. It has been observed from the data that the prices declined significantly during the POI.

**(a) Price undercutting and underselling effects**

**Price Undercutting**

Particulars	Unit	2005-06	2006-07	2007-08	Apr.- Dec. 2008(POI)
Volume of Imports	Nos.	Nil	157	90	247
CIF value per unit	Rs.	-	***	***	***
Landing Charge 1%	Rs.	-	***	***	***
Assessable value	Rs.	-	***	***	***
Effective rate of Customs Duty	%	-	10.56	8.26	8.19
Landed price of imports	Rs.	-	***	***	***
Net Selling Price	Rs.	-	***	***	***
Trend	Indexed	-	100	102	101

Price Undercutting	Rs.	-	***	***	***
Price Undercutting (%)	%	-	(-)	(-)	(-)

### Price underselling

Particulars	Unit	Apr.- Dec. 2008(POI)
Landed price of imports	Rs.	***
Non-Injurious Price of domestic industry	Rs.	***
Price Underselling	Rs.	***
Price Underselling (%)	%	10-15

44. The impact on the prices of the domestic industry on account of the dumped imports from the subject country has been examined with reference to the price undercutting and price underselling. For the purpose of this analysis the weighted average Net Sales Realization (NSR) and the weighted average Non-injurious Price (NIP) of the Domestic industry have been compared with the weighted average landed value of imports from the subject country.

45. In determining the weighted average net sales realization of the domestic industry, freight outwards and commissions offered by the domestic industry and the central excise duty paid have been adjusted.

46. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject country over the entire period of investigation with the weighted average net sales realization of the domestic industry for the same period. The landed value of imports has been calculated by adding 1% handling charges, prevailing customs duty and cess to the value reported in the import data for imports from the subject country. The price undercutting from subject country remains negative during POI as well as injury period.

47. For the purpose of price underselling determination the weighted average landed price of imports from the subject country has been compared with the weighted average non-injurious price of the domestic industry determined for the POI. The price underselling in respect of the subject goods has been determined as 10.56% for the POI.

### (b) Price suppression and depression effects of the dumped imports:

48. Price depression exists when the industry's prices are lower than the level of the previous period. Price suppression occurs when dumping prevents price increases that could otherwise take place due to increase in costs. During the POI, the average net selling price of the domestic industry was Rs.\*\*\* as compared to Rs. \*\*\*during the year 2007-08. This indicates that price depression

has occurred during the POI. Similarly, the domestic industry has not been able to increase its selling price to match the cost of production due to dumped imports which evidences price suppression.

## F.5 Examination of other Injury Parameters

49. After having examined the volume and price effects of the dumped imports on the domestic industry and injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares in the earlier section, other economic parameters of injury caused by dumped imports have been analyzed hereunder:-

### (a) Profit/Loss and Return on Investment

	Unit	2005-06	2006-07	2007-08	Apr.- Dec. 2008(POI)
Sales (NSR)	Rs. Lacs	***	***	***	***
Trend	Indexed	100	133	188	172
Cost to make and sell	Rs. Lacs	***	***	***	***
Trend	Indexed	100	141	217	210
Profit/Loss before tax	Rs. Lacs	***	***	***	***
Trend	Indexed	100	92	53	(7)
Profit/Loss before interest and tax	Rs. Lacs	***	***	***	***
Trend	Indexed	100	94	61	13
Capital Employed for domestic sales	Rs. Lacs	***	***	***	***
Trend	Indexed	100	39	247	294
Return on Capital Employed	%	***	***	***	***
Trend	Indexed	100	68	25	4

50. The above data shows that domestic sales realization of the domestic industry has not increased commensurate with the increase in cost to make and sell. The profitability of the domestic industry has declined over the injury investigation period and resulted in net loss on the domestic sales in the POI. The Return on Capital Employed for domestic sales of the domestic industry has significantly declined during the POI as compared to the base year.

**(b) Cash Profit**

51. Cash profits of the domestic industry over the injury period have been as under:-

	Unit	2005-06	2006-07	2007-08	Apr.- Dec. 2008(POI)
Profit/Loss before Tax and interest	Rs. Lacs	***	***	***	***
Trend	Indexed	100	94	61	13
Depreciation on domestic sales	Rs. Lacs	***	***	***	***
Trend	Indexed	100	161	375	343
Cash profit/loss for domestic sales	Rs. Lacs	***	***	***	***
Trend	Indexed	100	101	94	47

52. It is seen from the above that the cash profits of the domestic industry has significantly deteriorated during the POI as compared to the base year.

**(d) Employment and wages**

Particulars	Unit	2005-06	2006-07	2007-08	Apr.- Dec. 2008(POI)
Employees	No.	***	***	***	***
Trend	Indexed	100	105	107	108
Wages	Rs. Lakhs	***	***	***	***
Trend	Indexed	100	109	135	87
Average monthly wages per employee	Rs.	***	***	***	***
Trend	Indexed	100	103	126	107

53. From the above, it is evident that the number of employees has increased. However, average monthly wage per employee has declined during the POI as compared to previous year.

**(d) Magnitude of Dumping**

54. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined against the subject country for the POI, are significant.

### **(e) Factors affecting prices**

55. Preliminary examination of the trend in the volume of dumped imports and prices from the subject country and the domestic prices indicate that the dumped imports through volume and price effects have affected the prices of the domestic industry.

### **F.6 Conclusion on injury parameters**

56. The above preliminary analysis of the factors indicate that in spite of improvement in the production and sales in absolute terms, the domestic industry suffered injury on account of decline in market share, net sales realization, profitability, return on investments and cash profits. Volume of dumped import from the subject country has increased significantly during POI and the landed prices of dumped imports were resulting in significant price underselling. This has resulted in significant financial losses to the domestic industry. Thus the injury suffered by the domestic industry is material and significant.

### **F.7 Other Known Injury factors and Causal Link**

57. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti Dumping have been examined to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined:-

#### **i) Volume and prices of imports from other sources**

58. During POI, imports from countries other than the subject country were of significant volume. However, the export price from other countries was found to be much higher than the same from the subject country. Therefore, the imports from other countries cannot be considered as dumped imports causing injury to the domestic industry.

#### **ii) Contraction in demand, change in pattern of consumption and Development of technology**

59. Demand for the subject goods shows a healthy growth during the entire injury investigation period and therefore, the injury to the domestic industry cannot be attributed to the lack of demand in the country. The data on consumption and demand does not show any significant change in the pattern of consumption of the product. There is no mention of significant changes in technology by any interested party, which could have caused injury to the domestic industry.

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

60. The subject goods are freely importable. The applicant is the major producer of the subject goods and account for significant domestic production and sales. No other evidence of conditions of competition or trade restrictive practices has been brought to the attention of the Authority by any interested party.

**iv) Export performance of the domestic industry**

Particulars	Unit	2007-08	Apr.- Dec. 2008(POI)
Export Sales	Nos.	***	***
Cost of export sales	Rs/Lacs	***	***
Selling Price	Rs/Lacs	***	***
Profit/Loss	Rs/Lacs	***	***

61. The Authority notes that the export volume of the domestic industry has not been adversely impacted during the POI. Further the petitioner has been making significant level of profits from their exports during the POI as well in the previous year. Therefore, injury cannot be attributed to the export activity of the domestic industry.

**v) Productivity of the Domestic Industry**

62. Productivity of the domestic industry in terms of production per employee has improved. Therefore this cannot be a factor causing injury to the domestic industry.

63. The above non-attribution analysis shows that no other known factors, other than the dumped imports, appears to have caused injury to the domestic industry.

**G. Factors establishing Causal Link**

64. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from the subject country. The causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

a. The volume of dumped import from the subject country has sharply increased at significantly lower prices during the injury investigation period, resulting in significant price undercutting and underselling. As a direct consequence, the

domestic industry could not increase its prices commensurate with increase in the cost of production resulting in financial losses.

b. Increase in import volumes and suppression of domestic prices adversely affected the profits, cash flow and return on investments of the company.

c. Significant positive price underselling resulted in increase in market share of imports from the subject country. As a direct consequence, market share of the domestic industry has declined. The domestic industry appears to have responded to decline in import prices by suppressing its selling prices and suffered financial losses.

65. Therefore, the Authority provisionally concludes that the domestic industry suffers material injury and the injury to the domestic industry has been caused by the volume and price effects of dumped imports from the subject country.

#### **H. Magnitude of Injury and injury margin**

66. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject country for determination of injury margin during POI. Thus compared, the injury margin is worked out as under:-

<b>Producer</b>	<b>Exporter</b>	<b>Injury Margin</b>
Any producer from China PR	Any exporter from China PR	***

#### **I. Conclusions**

67. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority, as recorded in this findings, the Authority provisionally concludes that:

- i) The subject goods have entered the Indian market from the subject country at prices less than their normal values in the domestic market of the exporting country;
- ii) The dumping margins of the subject goods imported from the subject country are substantial and above de minimis;
- iii) The domestic industry has suffered material injury and the injury has been caused to the domestic industry, both by volume and price effect of dumped imports of the subject goods originating in or exported from the subject country.

## J. Indian industry's interest & other issues

68. The Authority notes 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 re-establish a situation of open and fair competition in the Indian market, which is in the general economic interest of the country. Imposition of provisional anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers and user industry.

## K. Recommendations

69. 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 various aspects of dumping, injury and causal link. Having initiated and conducted a preliminary investigation into dumping, injury and causal link between dumping and injury to the domestic industry, in terms of the Rules laid down, and having provisionally established positive dumping margin against the subject country, and having concluded that the domestic industry suffered material injury due to such dumped imports, the Authority is of the opinion that imposition of provisional anti dumping measure is required to prevent injury being caused to the domestic industry during the investigation period.

70. Therefore, Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of subject goods, from the subject country, in the form and manner described hereunder.

71. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional 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. Accordingly, provisional antidumping duty equal to the amount indicated in Col 7 of the duty table given below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on imports of the subject goods as described earlier under Para 5 originating in or exported from China PR.

### Duty Table

S.N.	Tariff Head	Description Of Goods	Country of Origin / Country of Export	Producer	Exporter	Amount of Duty
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	8446.21 8446.21.90 8446.29 8446.29.00	Circular Weaving Machines having six or more shuttles for weaving PP/HDPE Fabrics of a width exceeding 30 cms	China PR	Any combination of exporter and producer		US\$ 1193 per machine

## **L. Further Procedure**

72. The following procedure would be followed subsequent to notification of the preliminary findings: -

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- (b) Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within 40 days from the date of dispatch of the letter. Any other interested party may also make known its views within forty (40) days from the date of publication of these findings;
- (c) The Authority would conduct further verification to the extent deemed necessary;
- (d) The Authority would hold hearing to hear the views of various interested parties orally;
- (e) The Authority would disclose essential facts before announcing final findings.

**(P.K. Chaudhery)**  
**Designated Authority**