

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 4th July, 2006

Preliminary Findings

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

1. **NO.14/10/2005-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 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 13th 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.

A. PROCEDURE

4. 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.
- i) 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 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.
- 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) **** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.
- xiii) Investigation was carried out for the period starting from 1st 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:

5. PRODUCT UNDER CONSIDERATION

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 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 been claimed by the Applicant that the subject goods specified in the application covers 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. The Authority has considered the views expressed on the issue and is of the view 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.

6. LIKE ARTICLE

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.

7. **DOMESTIC INDUSTRY**

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:

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.

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.

The Authority notes that the collective production of the aforesaid producers constitutes a major proportion of the total domestic production of the like article and therefore they represent the domestic industry within the meaning of Rule 2(b) of the Rules supra. The Authority also determines that aforesaid producers satisfy the criteria of standing to file the application on behalf of the domestic industry in terms of Rule 5(3).

The Authority also notes that there are no arguments from the interested parties or the exporters that the applicants do not meet the criteria of standing as laid down under the Rules. One of the interested parties has claimed that the analysis of imports from M/s Welspun is to be made in comparison to their own production. While the Authority notes that no convincing reasons have been advanced by the interested parties, it is observed that the imports by Welspun from China PR are 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.

C. NORMAL VALUE

- 8. Claims of applicant
 - a. Applicant has 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.

- (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.
- iii. The Applicant had suggested Taiwan 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 Taiwan 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 Taiwan, 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 has 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 has considered the international raw material prices while the consumption norms, conversion cost and other costs prevalent in India have been considered. A reasonable return has been added to the cost of production for arriving at the price payable in India. The normal value is, thus, for the purpose of these preliminary findings is determined as **Rs. **** per MT.**

D. EXPORT PRICE

11. In the application submitted for initiation of investigation, 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 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 Applicant. The CIF export price as per the DGCI&S import data is Rs. 43053 per MT (US \$ 958 per MT). After considering price adjustments on account of marine insurance, commission, ocean freight, bank charges & port expenses, the net export price comes to Rs. *** per MT (US \$ *** per MT).

E. DUMPING MARGIN

12. 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 pertains 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 has been determined, which comes to Rs. *** per MT (US \$ **** per MT) which works out as 38% of net export price.

F. INJURY AND CAUSAL LINK

13. VIEWS OF THE DOMESTIC INDUSTRY

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.

The dumped imports from China have affected the domestic prices and the price undercutting and underselling is significant during the period of investigation. 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. 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.

14. VIEWS OF OTHER INTERESTED PARTIES

The views of importers and user associations are summarized below:

- i) The prices of POY have also come down for other countries.
- ii) 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.
- iii) The decline in market share of the domestic industry is insignificant.

- iv) Sales volume of the domestic industry increased as a result of increase in demand.
- v) There is no injury with respect to employment and wages.
- vi) As per the balance sheets of the domestic producers, they are not making losses and most of the companies are profit-making concerns.
- vii) Inventories of the petitioners during the period of investigation were in fact lower than from the previous years.
- viii) 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.
- ix) Almost all the companies are increasing their capacities which indicates that the import of POY has not affected the indigenous industry at all.

15. EXAMINATION BY THE AUTHORITY

An analysis of the injury parameters as envisaged under the Rules has been carried out in the following paragraphs:

- i) **Volume of Imports:** 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. It is observed that the share of subject country in total imports has increased from 2% in 2001-02 to 79% during the period of investigation. In absolute terms, the imports from the subject country has increased during the POI to a level of almost 25 times of the imports in the base year 2001-02 as is evident from the following the table:

	2001-02	2002-03	2003-04	POI (15 Months)	POI Annualiz ed
Imports from China (MT)	1461	1811	8693	46215	36972
Total Imports (MT)	59044	70705	33265	58382	46706
% Share	2%	3%	26%	79%	79%

- ii) **Market share of Imports:** The Authority finds that the imports from China in comparison to total demand in India have increased from a low level of 0.22% during 2001-02 to 4.65% during the period of investigation. The trend in percentage increase from year to year is as under:

	2001-02	2002-03	2003-04	POI (15 Months)	POI Annualized
Imports from China (MT)	1461	1811	8693	46215	36972
Total Demand (MT)	678812	727431	730597	994315	795452
% Share	0.22%	0.25%	1.19%	4.65%	4.65%

- iii) **Imports from subject country as % of domestic production:** The Authority notes that imports from China as percentage of domestic production of the domestic producers have increased manifold from a level of 0.37% in the year 2001-02 to 7.34% during the period of investigation.

	2001-02	2002-03	2003-04	POI (15 Months)	POI Annualized
Imports from China (MT)	1461	1811	8693	46215	36972
Production (MT)	399348	421371	439429	629367	503493
% Share	0.37%	0.43%	1.98%	7.34%	7.34%

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.

- iv) **Evidence on Lost Contracts:** Even though there is no direct evidence of lost contracts, it is apparent that the loss of market share and substantial increase in the volume of dumped imports do indicate that the domestic industry is suffering on account of lost sales. The authority finds that the

dumped imports to the tune of 46215MT at prices as low as Rs.43053/ MT (CIF Value) during the POI also clearly indicate that the domestic industry has lost sales to the dumped imports from China.

- v) **Market share of domestic producers:** 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:

	2001-02	2002-03	2003-04	POI (15 Months)	POI Annualized
Domestic Sales	619769	656726	697332	935933	748746
Total Demand (MT)	678812	727431	730597	994315	795452
% Share	91.30%	90.28%	95.45%	94.13%	94.13%

The Authority finds that the share of the domestic producers has declined from 95.45% in 2003-04 to 94.13% during the period of investigation. It is also noted that over the same period the demand has grown by 36%. It shows that the domestic industry was not able to achieve any growth in the demand and it clearly shows that the domestic industry has been injured with respect to market share. It is also noted that the imports from China over the same period have increased more than five times. It clearly indicates that the market share of the domestic producers as well as the growth in the market has directly been taken over by the imports from the subject country.

- vi) **Production & Capacity Utilization:** The production and capacity utilization of the domestic industry has been as under:

	2001-02	2002-03	2003-04	POI (15 Months)	POI Annualized
Capacity (MT)	44600 0	49700 0	521000	769000	615000
Production (MT)	39934 8	42137 1	439429	629367	503493
Capacity Utilization%	90%	85%	84%	82%	82%

The Authority finds that the capacity utilization of the domestic industry has declined from 90% in the year 2001-02 to 82% during the period of investigation. Thus, the decline of 8% in the capacity utilization and on the other hand increase in imports over the injury investigation period has adversely affected the domestic industry.

- vii) **Sales Volume and Value:** The Authority notes that the increase in sales volume of the domestic industry is less as compared to the growth in demand. It clearly indicates that the domestic industry has been injured with respect to its sales.

	2001-02	2002-03	2003-04	POI 15 Months	POI Annualized
Sales (MT)	320299	328665	339900	512145	409716
Sales Value (Rs Lacs)-Index	100	114	128	210	168

- viii) **Inventories:** The Authority notes that the level of inventories of the domestic industry has come down during the period of investigation but the increase in sales have been at loss.
- ix) **Price Undercutting & Price underselling:** The Authority has used the consistent method of comparison of weighted average net sales realization of the domestic industry with the landed value of the dumped imports. The value of the sales realization considered is net of discounts, commission, and handling/ freight charges. The comparison of domestic price with the price of the imported product is thus at the same level. Similarly, the price underselling level has been calculated on the basis of a comparison of the Non-injurious Price (NIP) with the landed value of the dumped imports from China PR. The Authority finds that there has been a significant price undercutting as well as price underselling due to the dumped imports from China in the range of 20-30%.
- x) **Factors affecting Domestic Prices:** The Authority notes that the level of price undercutting from each of the subject countries 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. This clearly indicates that the effect of dumped imports on the domestic prices is much more than what is reflected from a plain analysis of the data. 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. The Authority also notes that the increase in the selling prices of the domestic industry is much lower as compared to the increase in costs clearly indicating that the selling prices of the domestic industry have been suppressed due to dumped imports from China. The suppressed prices of the domestic industry have led the domestic industry to incur losses during the period of investigation.

	2001-02	2002-03	2003-04	POI (15 Months)
Landed Value from Subject Country (Indexed)	100.00	111.17	86.27	91.92
Domestic Selling Price Rs. / MT (Indexed)	100.00	111.03	120.33	131.51
Cost Rs. / MT (Indexed)	100.00	108.94	114.70	134.31

- xi) **Magnitude of Margin of Dumping:** The Authority finds that the magnitude of the margin of dumping for subject goods from the subject country has been significant.
- xii) **Employment and Wages:** 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.
- xiii) **Productivity:** The Authority finds that the productivity per employee during the period of investigation has increased as compared to base year 2001-02. It is therefore noted that the loss of productivity is not a cause of injury to the Domestic Industry.
- xiv) **Profitability:** Authority notes that the domestic industry has not been able to achieve desired level of profits during the period of investigation due to dumping by China. The Domestic Industry achieved a level of profit of 5.74% in the year 2003-2004 which however, came down to a negative level of (0.99%) during the period of investigation as may be seen from the table given hereunder:

	2001-02	2002-03	2003-04	POI (15 Months)	POI Annualized
Profit/Loss (Rs./Unit)	****	****	****	****	****
Indexed	100	296	621	-118	-118
% Profit/Loss on Sales	1.11%	2.97%	5.74%	-0.99%	-0.99%

Authority further notes that under such circumstances the Domestic Industry had to resort to reduction in prices in line with the dumped prices of china.

- xv) **Return on Investment (Capital Employed):** The Authority notes that return on capital employed has also declined and followed the same trend as that of profitability. The domestic industry could not earn any return on its investment during the period of investigation whereas it could earn 8% return in the previous year 2003-04.
- xvi) **Actual and potential negative effect on cash flows:** 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 to approximately two third of the cash profit in the base year 2001-02.

	2001-02	2002-03	2003-04	POI (15 Months)	POI Annualized
Cash Profit / Cash Flow / MT	****	****	****	****	****
Trend	100	137	178	68	68

- xvii) **Growth:** 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

	2001-02	2002-03	2003-04	POI 15 Months	POI Annualized
Growth in Sales of the Domestic industry (Year to Year) (%)	-	4.65	6.24	33.39	6.71
Growth in Market Share of Domestic industry (Year to Year) (%)	-	-1.17	5.46	-1.35	-1.35
Growth in Demand (Year to Year) (%)	-	5.89	0.74	35.22	8.18

- xviii) **Ability to Raise Capital Investments:** 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.

G. CONCLUSION ON INJURY:

16. In view of the foregoing the Authority confirms that:
- a. the quantum of 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;
 - b. the market share of the domestic producers has come down while that of imports has increased;
 - c. 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 declined to a meagre level in the period of investigation.
 - d. The capacity utilization of the domestic industry has come down;
 - e. There is a significant and severe price undercutting as well as price underselling;
 - f. The margin of dumping from the subject country is significant.

The Authority therefore concludes that the domestic industry has suffered material injury as envisaged under the Rules.

H. CAUSAL LINK AND OTHER FACTORS

17. Effect of dumped imports

Between 2001-02 and the POI, the dumped imports from subject country as percent of total import of subject goods have increased sizably from 2% to 79%. The percentage

share of imports from china in comparison to total demand has also been going up over the investigation period. This increased from 0.22% in 2001-02 to 4.65% 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 unremunerative 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. The domestic industry has suffered material injury due to dumped imports from china during the POI.

18. EFFECT OF OTHER FACTORS

- a) **Trade restrictive practice and competition between the foreign and domestic producers:** 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. Moreover, it is also noted that the domestic industry has unutilized capacity to cater to the local demand if the competition in the market take place at a fair price.
- b) **Contraction of demand or Changes in the pattern of consumption:** 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
- c) **Technology:** None of the interested party has submitted any evidence that the technology is a factor of injury to the domestic industry.
- d) **Export performance:** 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. The export details by the domestic industry have been given in the following table:

	2001-02	2002-03	2003-04	POI (15 Months)	POI Annualized
Exports (MT)	9879	13115	17862	24260	19408
Exports (Rs. Lacs)	****	****	****	****	****

Indexed	100	145	197	305	244
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- e) **Productivity:** 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.

I. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

19. 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.
20. 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.

J. Conclusions:

21. The Authority has, after perusing and 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 provisional anti-dumping duty on imports of subject goods falling under Chapter 54 of Customs Tariff Act originating in or exported from the subject country.

K. Recommendations:

- 22 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 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, as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury pending completion of the investigation.
- 23 Therefore, Authority considers it necessary to recommend provisional anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.
- 24 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 Column 9 of the table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of Partially Oriented Yarn (POY) falling under chapter 54 of Custom Tariff Classification Act 1975, originating in or exported from China.

Sl. No	Sub-headin g	Descri ption of goods	Spec ificat ion	Countr y of origin	Countr y of Export	Produc er	Export er	Amo unt	Unit of Mea sure ment	Curren cy
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	5402.4 2	Partial ly Orient ed Yarn – All Types	Any	China PR	Any	Any	Any	486	MT	US\$
2.	-do-	-do-	-do-	Any	China- PR	Any	Any	486	MT	US\$

L. FURTHER PROCEDURE:

- 25 The following procedure would be followed subsequent to notifying 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, Applicant and other interested parties known may make known their views, within forty days(40) from the date of these preliminary findings;
 - c) The Authority would conduct further verifications to the extent deemed necessary;
 - d) The Authority would provide opportunity to all interested parties for oral submissions, for which the date and time shall be communicated to all known interested parties separately;
 - e) The Authority would also disclose essential facts before announcing final findings in terms of Rule 16 of the Anti-dumping Rules.

(Christy L. Fernandez)
Designated Authority