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F. No. 14/33/2016-DGAD
Government of India
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF TRADE REMEDIES)
4th Floor Jeevan Tara Building, 5, Parliament Street, New Delhi-110001

Dated 6th August, 2018

NOTIFICATION

FINAL FINDINGS

Sub: Anti-dumping investigation concerning imports of “Nylon Filament Yarn (Multi Filament)” originating in or exported from European Union and Vietnam.

F. No-14/33/2016-DGAD: - Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the “AD rules”), thereof;

A. Background of the Case

2. M/s JCT Limited, M/s Gujarat Polyfilms Pvt. Ltd, M/s Gujarat State Fertilizers and Chemicals Ltd., M/s Prafful Overseas Pvt. Ltd. & AYM Syntex (Formerly known as Welspun Syntex) (hereinafter referred to as the “Applicants” or “Petitioners” or “Domestic Industry”) have jointly filed an application before the Designated Authority (hereinafter also referred to as the “Authority”) in accordance with the Act and the AD Rules, for initiation of anti-dumping investigation concerning imports of “**Nylon Filament Yarn (Multi-Filament)**” (hereinafter also referred to as the “PUC” or “subject goods”), originating in or exported from European Union and Vietnam (hereinafter also referred to as the “subject countries”), and requested for initiation of an investigation for levy of anti-dumping duties on the subject goods.
3. The Authority on the basis of sufficient *prima facie* evidence submitted by the applicant issued a public notice in accordance with Rule 6(1) of the Rules vide Notification No. 14/33/2016-DGAD dated 22 August, 2017 published in the Gazette of India, Extraordinary, initiating an anti-dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries, in accordance with Rule 5 of the AD 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.

B. Procedure

4. The procedure described below has been followed:
- a. The Authority received an application from the petitioners on behalf of domestic industry of subject goods, alleging dumping of subject goods originating in or exported from subject countries and resultant injury to the domestic industry for imposition of antidumping duty on imports of the subject goods from the subject countries under the AD Rules.
 - b. The Authority notified the Embassy of Vietnam and the Delegation of the European Union in India about the receipt of application before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.
 - c. The Authority also sent copy of initiation notification to the Embassy of Vietnam and the Delegation of the European Union in India, known producers/ exporters from the subject countries and known importers/ users/ associations of the subject goods as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the issue of letter intimating initiation of the investigation in accordance with Rule 6(2) of the AD Rules.
 - d. The Authority forwarded copy of the non-confidential version of the application to the Embassy of Vietnam and the Delegation of the European Union in India, known producers/exporters from the subject countries and known importers of the subject goods, in accordance with the AD Rules. A copy of the application was also provided to other interested parties, wherever requested.
 - e. The Authority sent the exporter's questionnaires to the following known exporters in the subject country to elicit relevant information in accordance with Rule 6(4) of the AD Rules:
 1. Thai Tuan Group Corporation;
 2. Thien Phuoc Trading and Services Co., Ltd.;
 3. Johnson Controls Fabrics;
 4. Tessitura Antonio Ghiringhelli & CS;
 5. Noyfil S.A.;
 6. Lanex A.S.;
 7. Polytech S.R.L.;
 8. Twd Fibres Service Gmbh;
 9. Nexis Fibers A.S.;
 10. PHP Fibers Gmbh;
 11. Dupont International Operation;
 12. DSCM-Vietnam Co., Ltd.;
 13. Plastoplas UG;
 14. De Amatex Spa;
 15. Aquafil S.P.A;
 16. Antonio Moron De Blas;
 17. Formosa Industries Corporation;
 18. Enka International Gmbh & Co.;
 19. Mep-Olbo Gmbh;
 20. Texon Italia S.P.A;

21. Schoeller Textil AG;
22. Bonar Yarns & Fabrics Ltd.;
23. Textilwerke Todtnau Bemauer;
24. W.Zimmermann Gmbh & Co.;
25. Hyosung Vietnam Co., Ltd.;
26. Eurotextilati Srl;
27. Belrey Fibres Sa
28. Gorenjska Predilnica Dd

f. Copies of the letter and the exporters' questionnaires sent to the exporters/producers in the subject countries were also sent to the Embassy of Vietnam and the Delegation of the European Union in India, along with a list of known exporters / producers with a request to advise the known exporters/producers from the subject country as also other exporters/producers from the subject countries to respond to the questionnaires within the prescribed time limit.

g. The following producers / exporters filed response to the Exporter's Questionnaire in the prescribed format:

1. Aquafil S.p.A, Italy
2. Formosa Industries Corporation, Vietnam
3. Bosca Enterprises Limited (BOSCA), Hong Kong
4. Liang Haw Technology Co., Ltd. (LIHA), Taiwan
5. Hyosung Dong Nai Co., Ltd., Vietnam
6. Hyosung International (HK) Ltd., Hong Kong
7. Ren Tong Industrial Ltd., Hong Kong

h. Questionnaires were sent to the following known importers/users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

1. Brakes India Limited;
2. AASU Textiles Private Ltd.;
3. Baliga Fishnets;
4. Bayer India Ltd.;
5. Birla Ericsson Optical Ltd.;
6. Chidambaram Fishnets Pvt. Ltd.;
7. D C Mills Pvt. Ltd.;
8. Dupont Fibers Ltd.;
9. Entremode Polycoaters Ltd.;
10. Garware Wall Ropes Ltd.;
11. Goenka Industries;
12. Habasit Lakoka Pvt. Ltd.;
13. IDL Industries Ltd.;
14. SRF Ltd.;
15. Vivilon Textiles Industries;
16. Euro Vista India Ltd.;
17. Garden Silks Mills Ltd.;
18. Kayavlon Impex Pvt. Ltd.;

19. JCT Limited
20. Gujarat Polyfilms Pvt. Ltd
21. Gujarat State Fertilizers & Chemicals Limited
22. AYM Syntex Limited
23. Prafful Overseas Pvt. Ltd
24. SK Exports
25. Sarla Performance Fibers Ltd.,
26. Shalon Silk Industries Pvt. Ltd
27. Surat Synthetics Ltd
28. Suertex Inds. Ltd.
29. Supreme India Impex Ltd.
30. Valson Polyester Ltd.
31. Federation of Indian Art Silk Weaving Industry
32. Federation of Gujarat Weavers Association
33. Surat Grey Kapada Utpadak Sangh

i. The following importers/users filed response to the Importer's Questionnaire in the prescribed format:

1. Benlon India Limited;
2. Nishant Marketing;
3. Ginza Industries Limited;
4. Ginza Lifestyles Limited;
5. Valson Polyester Private Limited;
6. Kiran Texpro Private Limited;
7. SGP India

j. Submissions were also made from time to time by the parties who filed Questionnaire Response. Other than such parties, comment was also received from the following party;

South Gujarat Warp Knitters Association;

k. Issues raised in various letters filed by interested parties from time to time, including their comments on PCN methodology, have been addressed during the course of the present investigation.

l. The Authority made available non-confidential version of the evidence presented by the domestic industry, producers / exporters and the importers in the form of a public file kept open for inspection by the interested parties. Submissions made by all interested parties have been taken into account in the present findings.

m. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

- n. Further information was sought from the applicants and other interested parties to the extent deemed necessary.
- o. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views on the basis of the facts available.
- p. Verification of the information provided by the applicant domestic industry was carried out by the Authority on 2.05.2018 and 03.05.2018 to the extent deemed necessary. Similarly, during 28.05.2018 to 31.05.2018, the Authority carried out on-site data verification in respect of responding exporter from EU. In respect of responding exporter(s) from Vietnam, the data and information was verified through table study. Only such verified information with necessary rectification, wherever applicable, has been relied upon.
- q. Investigation was carried out for the period starting from 1st October 2015 to 31st March 2017 (18 months) (hereinafter referred to as the 'period of investigation' or the 'POI'). The examination of trends, in the context of injury analysis covered the period from 2013-14, 2014-15, 2015-16 and the POI.
- r. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigation and the said information was obtained from the DGCI&S and has been adopted for the purpose of the present investigation.
- s. Arguments raised and information provided by various interested parties during the course of the investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority.
- t. Based on the suggestions put forward by the Petitioners, and comments received thereon, the Authority constructed the PCN classification and circulated the same on 27 April, 2018. Revised Questionnaire responses based on the PCN classification were received from the interested parties.
- u. Exchange rate prevailing during the POI for conversion of US\$ to INR is considered as INR 67.71 = US\$1 and has been adopted by the Authority.
- v. In this notification, *** represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- w. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 8 May, 2018. All the parties attending the oral hearing were requested to file written submissions of the views expressed orally by 15 May, 2018. The parties were advised to collect copies of the views expressed by the opposing parties and were requested to submit their rejoinders by 22 May, 2018.

- x. The arguments made in the written submissions and rejoinders submissions as well as letters received from time to time from the interested parties have been considered in the present findings.

C. Product under Consideration and Like Article

Views of the producers/exporters, importers and other interested parties

- 5. The following submissions were put forward by exporters/importers/other interested parties with regard to scope of the product under consideration and like article:
 - a. Aquafil has submitted that it sells two types of yarns in India, Bulk Continuous Filament (BCF) Yarn and Nylon Textile Fiber (NTF) yarn. Of this, BCF is sold to India at prices comparable to the domestic prices of the goods in Europe. Further, NTF does not have a ready market in Europe and is rarely sold in the domestic market.
 - b. Moreover, Aquafil has submitted that it is exporting second-grade NTF which must be excluded as they are not manufactured as such but are rather waste products generated out of manufactured products.
 - c. Moreover, second grade NTF yarn is neither commercially nor technically substitutable to the products being manufactured by the domestic industry and therefore, the same must be excluded from the scope of the investigation.
 - d. Certain products such as all monofilament nylon yarns and high tenacity yarn of nylon were excluded at the outset of the investigation. Therefore, the Authority must ensure that the import volumes do not reflect any volumes pertaining to the same.
 - e. Further, since monofilament yarn has been excluded, the Authority must also exclude mother yarn for making of monofilament yarns from the scope of the product under consideration as well.
 - f. The domestic industry is unable to supply products of sufficiently decent quality for the manufacture of downstream products. In this regard, we submit that the DI is supplying uneven material (uneven package weights) as first grade material. The issue with uneven material is that the yarn is not of equal length and cannot be run in the machines owned by the users/importers.
 - g. The Petitioners refuse to give dyeing guarantee which leads to substantially higher costs in case of colour bleeding in the dyed material.

Views of the domestic industry

- 6. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
 - a. The PUC as defined by the Authority in the initiation notice is appropriate for the present investigation and does not require any modifications.

- b. Further, the goods produced by the Petitioners are commercially and technically substitutable to the imported goods, and the two are used by customers interchangeably.
- c. With respect to the submission of certain interested parties that subject goods from European Union have different prices and cannot be compared with Vietnam or other imports, it has been submitted by the Petitioners that so long as the PCN of goods from EU is comparable to the PCN of goods supplied by the domestic industry, the two are comparable.
- d. It is submitted by the Petitioners that Aquafil has admitted that they are using the Indian market as a dumping ground and therefore, it cannot be argued that the goods supplied by European suppliers are distinct from the goods supplied by the domestic industry.
- e. The Petitioners have rejected the claim of the interested parties regarding sale of only first quality products in EU while only second quality goods are exported. In any case, since PCN has been duly constructed, the principle of fair comparison would be followed and it cannot be said that the comparison is distorted due to any difference in product types.
- f. The Petitioners have submitted that about 76% of the demand over the injury period was met by domestic producers and therefore, there is no basis for the argument that the domestic industry product is not a quality product or the domestic industry does not give any dyeing guarantees.
- g. The domestic industry vide communication dated 7th June, 2018 has clarified that they do not manufacture BCF and accordingly has requested for exclusion of BCF from the scope of PUC.

Examination of the Authority

- 7. The product under consideration in the present investigation is “Synthetic Multi Filament Yarn of Nylon” also known as Polyamide Yarns. Nylon Filament Yarn is a synthetic filament yarn produced by polymerization of organic monomers.
- 8. The product under consideration includes all kinds of synthetic multi filament yarns of Nylon or Polyamides, such as flat yarn - twisted and/or untwisted, crimped yarn, fully drawn yarn (FDY), spin drawn yarn (SDY), fully oriented yarn (FOY), high oriented yarn (HOY), partially oriented yarn (POY), textured yarn – twisted and/or untwisted, and dyed yarn, single, double, multiple, folded or cabled, classifiable within Chapter 54 under customs subheading no. 5402. The product includes all variants of Nylon Filament Yarn or Polyamide Yarns such as flat/ textured/ twisted/ untwisted, bright/semi-dull/full-dull (or variants thereof), grey/ colored/ dyed (or variants thereof), single/double/ multiple/folded/cabled (or variants thereof), whether or not sized, but excludes high tenacity yarn of nylon. The subject goods are classified under Chapter 54 of the Custom Tariff Act. The major end uses of NFY are in home furnishing and industrial application areas such as curtains, sewing and embroidery thread, upholstery, fishnets etc. Customs classifications are indicative only and are in no way binding on the scope of the present investigation.

9. Specifically excluded from the scope of product under consideration are all man-made filament yarns not having Nylon or Polyamides and mono filament yarn as well as high tenacity yarn of nylon.
10. The petitioner vide communication dated 7th June, 2018 has confirmed that they are not manufacturing or selling BCF (Bulk Continuous Filament) yarn. The Authority, thus holds that BCF yarn is excluded from the scope of product under consideration.
11. With respect to claims pertaining to PCN classification, it is noted that PCN is relevant for the assessment of dumping and injury margins and the PCN classification and the data received based thereon enables the Authority to ensure a fair comparison of products for the purposes of dumping margin (comparison between the producer/exporters' local market prices and Indian export prices) as well as for injury margin (comparison between the Indian domestic industry's fair price and the producers/exporters' pricing of the subject goods destined for India).

D. Domestic Industry and Standing

Views of the producers/exporters, importers and other interested parties

12. The submissions made by the exporters/importers/other interested parties during the course of the investigation with regard to scope of domestic industry and standing are as follows:
 - a. The Petitioners have misrepresented in the Petition that none of the Petitioners have imported the subject goods from the subject countries. Rather, at least two of the Petitioners are importers of the subject goods and even some of the supporters are importers of the subject goods.
 - b. The Petitioners have made voluminous imports from one of the participating exporters and the said interested party has provided evidence regarding the importation of subject goods from the subject country by the following parties:
 - i. AYM Syntex (Formerly, Welspun Syntex Ltd.) -Applicant,
 - ii. JCT Limited -Applicant,
 - iii. Shri Ram Texolene Pvt. Ltd. -Related Company of AYM Syntex (Applicant),
 - iv. Salasar Yarns Pvt. Ltd -Related company of Salasar Polytex Pvt. Ltd. (Supporting Co.),
 - v. Ray Syntex Pvt. Ltd -Supporting Co.,
 - vi. Oriilon India Pvt Ltd -Supporting Co.
 - c. The Petitioners cannot be allowed to modify the domestic industry at such a belated stage and seek inclusion of another party, who was previously a supporter, within the fold of "Petitioners" to enhance the standing of the applicants as eligible domestic producers.

Views of the domestic industry

13. The submissions made by the domestic industry with regard to scope of domestic industry and standing, considered relevant by the Authority, are as follows:

- a. The Petitioners, in their Petition, provided evidence of standing on the basis of the domestic industry production as under :

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI (Annualized) |
|--------------------------------|-------------|----------------|----------------|----------------|-----------------------------|
| GPPL | MT | *** | *** | *** | *** |
| GSFC | MT | *** | *** | *** | *** |
| Prafful | MT | *** | *** | *** | *** |
| JCT | MT | *** | *** | *** | *** |
| AYM Syntex | MT | *** | *** | *** | *** |
| Domestic Industry | MT | 29721 | 32651 | 36477 | 35447 |
| Salasar | MT | *** | *** | *** | *** |
| JPB Fiber | MT | *** | *** | *** | *** |
| Gupta Synthetics Limited | MT | *** | *** | *** | *** |
| Century Enka Ltd. | MT | *** | *** | *** | *** |
| Oriilon India | MT | *** | *** | *** | *** |
| Other Indian Producers | MT | *** | *** | *** | *** |
| Total Indian Production | MT | 44476 | 55652 | 65838 | 70708 |

*POI= October, 2015 to March, 2017

- b. Subsequently, at the time of filing the written submissions, the Petitioners have also provided the costing information of one more producer, M/s Century Enka, with a request to consider it also to be one of the Petitioners and accordingly revised all the injury parameters as well. The standing of the domestic industry on inclusion of M/s Century Enka would stand revised as under:

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI (Annualized) |
|--------------------------|-------------|----------------|----------------|----------------|-----------------------------|
| GPPL | MT | *** | *** | *** | *** |
| GSFC | MT | *** | *** | *** | *** |
| Prafful | MT | *** | *** | *** | *** |
| JCT | MT | *** | *** | *** | *** |
| AYM Syntex | MT | *** | *** | *** | *** |
| Century Enka Ltd. | MT | *** | *** | *** | *** |
| Domestic Industry | MT | 36,328 | 45,470 | 51,837 | 54,074 |
| Salasar | MT | *** | *** | *** | *** |
| JPB Fiber | MT | *** | *** | *** | *** |

| | | | | | |
|--------------------------------|-----------|---------------|---------------|---------------|---------------|
| Gupta Synthetics Limited | MT | *** | *** | *** | *** |
| Oriilon India | MT | *** | *** | *** | *** |
| Other Indian Producers | MT | *** | *** | *** | *** |
| Total Indian Production | MT | 44,476 | 55,652 | 65,838 | 70,708 |

- c. Post-oral hearing, the Petitioners have stated that one of the supporters to the Petition, Oriilon Ltd., had indeed imported subject goods during POI but the volume of its imports from the subject countries amounted to a meagre quantity of *** MT out of the total import of *** MT from the subject countries.
- d. Letters have been submitted on behalf of the Petitioners and supporters stating that no imports were made by Petitioners (except the one which has made insignificant quantity of import) and only negligible imports by the supporters from the subject countries during the POI. The petitioners have further stated that it can be verified from the data of the Indian customs as well. The volume of imports made during the POI (October'15 to March'17) by the petitioners and their supporters , on the basis of letters filed by JCT Limited, Oriilon India Pvt. Ltd., Salasar Polytex Pvt. Limited, Gujarat Polyfilms Limited, Gupta Synthetics Ltd., JPB Fibres, Praful Overseas Ltd., Gujarat State Fertilizers & Chemicals Ltd., Century Enka Ltd. and AYM Syntex Ltd. are as under :

| Particulars | UOM | Imports from EU | Imports from Vietnam | Imports from Other Countries | Total |
|--------------------|------------|------------------------|-----------------------------|-------------------------------------|--------------|
| JCT | MT | *** | *** | *** | *** |
| AYM | MT | *** | *** | *** | *** |
| Salasar | MT | *** | *** | *** | *** |

Examination of the Authority

14. Before proceeding with the analysis of the standing of the domestic industry, it is noted that the Rule 2 (b) of the AD rules 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 such case the term 'domestic industry' may be construed as referring to the rest of the producers”

15. The application has been filed by five producers, M/s. JCT Limited, M/s. Gujarat Polyfilms Pvt. Ltd, M/s. Gujarat State Fertilizers and Chemicals Ltd., M/s. Prafful Overseas Pvt. Ltd. and M/s. AYM Syntex, claiming that their production put together accounts for about 50% of Indian production. The Petitioners have also brought forward the information of certain other producers who are supporters of the Petition, namely, M/s. Salasar Polytex Pvt. Ltd., M/s. JPB Fibres (Eagle Group), M/s. Gupta Synthetics, M/s. Oriilon India Pvt. Ltd. and M/s. Century Enka Ltd. which together account for the remaining 50% of Indian production.
16. Further, claims have been made by various interested parties that M/s. JCT Limited and M/s. AYM Syntex may not be considered as part of the eligible domestic industry owing to the fact of importation of PUC by them from the subject countries. The Authority has examined whether or not they were engaged in importation of the subject goods from the subject countries and accordingly whether or not these two Petitioners can be considered as eligible domestic industry.
17. With respect to the importation of the subject goods by the Petitioners, the Authority notes that it has the discretion to determine whether or not such petitioners may be considered eligible to constitute domestic industry, depending on the extent of importation of the subject goods from the subject countries.
18. In the present case, it is noted that the Petitioners claimed to have zero imports at the time of filing of the Petition. Accordingly, the Authority had issued the initiation notice on prima facie understanding that the Petitioners constitute domestic industry and have not imported any subject goods from the subject countries. Subsequently, claims were raised by several interested parties that at least two of the Petitioners, namely M/s JCT Ltd. and M/s. AYM Syntex, were importers of the subject goods. It was also claimed that certain supporters of the Petition were also importers of the subject goods. However, subsequently at the stage of rejoinder submissions, the Petitioners admitted one of the petitioners had made almost negligible import of ***MT from the subject countries.
19. The Authority notes that one of the Petitioners, M/s. JCT Limited, did not cooperate with the Authority post-initiation and no information whatsoever was received from them after initiation of the investigation. In light of this, the Authority treats this party as non-cooperative and exclude the volume of their production from the share of the Petitioners but retain it as part of the overall Indian production. Even after this, the production volume of rest of the petitioners is sufficient to meet the standing requirement as the domestic industry for the purpose of the present investigation. Accordingly, the Authority has reassessed and reconsidered the injury parameters only on the basis of these four producers and conducted the injury assessment based thereon. It is further noted that contrary to the claim of other interested parties, M/s JCT Ltd has not made any import from the subject countries.
20. Upon examination, it is found M/s. AYM Syntex has effected import of PUC from the subject countries. Further, the Authority also examined the volume of imports made by the Petitioner M/s. AYM Syntex during the POI. It is noted that the volume of imports made by M/s AYM Syntex,

one of the Petitioners, is quite insignificant- ***MT (less than ***% of total import of PUC from subject countries). It is also noted that neither the factum of importation of PUC by the supporters of the Petition nor the exclusion of M/s AYM Syntex, if at all, affects the standing of the Domestic Industry in the investigation. On the contrary, the exclusion of M/s AYM Syntex will result in undue advantage to the Domestic Industry in injury determination since AYM Syntex is far more efficient unit as compared to other petitioners. In view of this, the Authority considers M/s AYM Syntex as a constituent of the eligible domestic industry.

21. The Authority also examined the request for inclusion of M/s Century Enka Ltd. as a Petitioner and for considering their information in the injury assessment. Since the Petitioners had not originally included M/s. Century Enka and the information relating to Century Enka was provided only after the oral hearing, it is felt that inclusion of such a party as one of the Petitioners may not be fair to all the other interested parties who have participated in the investigation and made submissions in a timely manner. In such a case, the Authority finds it appropriate not to accept the request to include M/s. Century Enka as one of the Petitioners at this belated stage.
22. The Authority thus proposes to treat M/s JCT Ltd. as ineligible to be considered as “domestic industry” in terms of Rule 2(b) of the AD Rules owing to its non-submission of data and consequent non-cooperation with the Authority.
23. The Authority further notes that the remaining petitioners, i.e., M/s. AYM Syntex, M/s Gujarat Polyfilms Pvt. Ltd, M/s Gujarat State Fertilizers and Chemicals Ltd. and M/s Prafful Overseas Pvt. Ltd. represents approximately 40% of the domestic production. Moreover, there is no opposition to the petition. The Authority therefore holds that the petitioners satisfy the standing requirement in terms of Rule 5(3) and therefore, have been considered eligible to constitute the domestic industry in terms of Rule 2(b) of the AD Rules.

The Authority , however , has taken serious view of the (i) non-submission of data by M/s JCT limited despite having been one of the petitioner and (ii) non-disclosure of full facts of the imports of PUC by M/s AYM Syntex. The Authority cautions the above mentioned entities to refrain from such practices in future.

E. Issues relating to Confidentiality

Views of the producers/exporters, importers and other interested parties

24. The submissions made by the exporters/importers/other interested parties during the course of the investigation with regard to excessive confidentiality and considered relevant by the Authority are as follows:
 - a. Certain Parameters prescribed in Proforma IV(A) have been kept confidential and not provided at all, not even in indexed form.
 - b. The Petitioners have failed to declare their imports and relationship with the importers and exporters of the subject goods.

- c. The Petitioners have not enclosed the costing formats as part of the Petition. Even the names of the raw materials and other relevant details which are helpful in understanding the details of the production process as well as other relevant information have been claimed as confidential.
- d. The Petitioners have withheld information regarding the booming health of the Petitioners, as evidenced by their Annual Reporting regarding enhanced investments.

Views of the domestic industry

25. The submissions made by the domestic industry with regard to excessive confidentiality, considered relevant by the Authority, are as follows:
- a. The Petitioners have put forward the claim that Exporters/ Producers have abused confidentiality provisions. In this regard, the Petitioners have claimed that exporters have withheld important information and handicapped the Petitioners in making meaningful comments. This includes information pertaining to details of shareholders and list of related parties involved with the PUC, details of financial and contractual links and joint ventures with other companies, list of factories involved in production of subject goods and other goods, specifications of the PUC, PCN used by the producers/ exporters, channel of distribution, list of documents provided to substantiate domestic and export sales, volume and value of domestic sales, list of key raw materials, etc. which have not been disclosed in the non-confidential version of the Questionnaire responses filed by the producers/ exporters.
 - b. The responses filed by the other interested parties are grossly deficient. All parties forming part of the channel of distribution have not filed response to the Exporters' questionnaire response. Such parties should be treated as non-cooperative and separate dumping margin be denied.
 - c. Aquafil S.p.A, Italy has mentioned various affiliates involved in contract manufacturing within EU. However, such parties have not participated in the investigation at all. Moreover, Aquafil has a related entity in India. Said party has also not participated and the claim by Aquafil that the Indian entity is non-operational merits examination.
 - d. Aquafil's EQR did not contain certain appendices and the same were filed well after the deadline for filing of the same. The opportunity to provide supplemental information cannot be extended to interpret that the exporter would be allowed to complete the questionnaire after the deadline.
 - e. With respect to responses filed by Vietnamese producer / exporter, Formosa Industries Ltd., BOSCA and Liang Haw Technology Co. Limited, it is suspected that the value chain for the producers and exporters may not be complete. Moreover, Formosa has stated that it produces "most" of the chips consumed for production of PUC. In light of the same, it is unclear where from the price of the raw material under consideration has been taken. Details of the procurement of the raw material has not been disclosed.

- f. With respect to Hyosung Dong Nai and Hyosung International, it has been submitted that only direct exports have been reported while indirect exports have not been disclosed. Since all parties forming part of the channel of distribution have not participated, a separate dumping margin be not allowed to the exporter.
- g. Hyosung Dong Nai has a related entity in India which has not been disclosed. The costs of such a related entity must be factored into the determination of the export price of the producer/exporter. Moreover, said party has procured inputs from a related entity in Singapore and it must be established whether the purchase price of such inputs reflects fair market price.
- h. Authority must seek additional information in view of Trade Notice 5/2018 dated 28 February, 2018 in order to accurately determine the dumping margin for the participating producers / exporters.

Examination of the Authority

- 26. With regard to the confidentiality of information, the Authority notes that the information provided by the domestic industry on confidential basis was examined with regard to sufficiency of the confidentiality claim in accordance with Rule 7 of the AD Rules. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not kept open in public file. The Authority has also considered the confidentiality claims of other interested parties in accordance with the aforesaid rule and its consistent practice.
- 27. As regards the argument on the deficient information provided by the petitioners, the Authority notes that the information provided by the petitioners in the application was as per the proforma prescribed and only upon satisfaction of the merit of the case, the Authority initiated the present investigation.
- 28. As regards the claim that certain appendices of the EQR were not filed in time by Aquafil, it is noted that this issue was re-examined by the Authority and it was found that EQR with all the relevant appendices were files by Aquafil within the stipulated timeframe.

F. Normal Value, Export Price and Dumping Margin

Views of the producers/exporters, importers and other interested parties

- 29. The following submissions were made by the producers/ exporters/ importers/ other interested parties with regard to normal value, export price and dumping margin.
 - a. The Petitioners have not explained how the normal value was computed. It has only been mentioned that the details of the normal value calculation can be found in Annexure 3.1 to the Petition. Annexure 3.1 of the Petition contains data that has been completely redacted stating that the same was computed on the basis of the optimized costs of the domestic industry for the POI.

- b. In the present investigation, the Petitioners have alleged that the subject goods are being dumped from European Union and Vietnam. European Union is a market economy for which normal value cannot be constructed based on the cost of the Petitioners. Further, Petitioners have not made any submissions for treatment of Vietnam as a non-market economy, and thus, as a market economy, normal value cannot be constructed based on the cost of the Petitioners.
- c. Even by the yardstick of constructing Normal value for a Non-Market Economy (in the case of Vietnam), the Petitioners' methodology is inconsistent with Annexure I (7) of AD Rules
- d. The construction of the Normal Value for the subject country is deeply flawed. The consumption norms used to calculate the normal value have not been provided. All elements considered in the Normal Value, such as raw materials cost, utility, conversion cost, selling, general and administrative costs, have been considered as per the Petitioners' costs in violation of the WTO AD Agreement and the Indian AD Rules.
- e. Construction of Normal Value on the basis of the price actually paid or payable in India may only be considered as a sound basis for construction of the normal value after the prior two options listed under para.7 of Annexure I of the AD Rules have been exhausted. Without exhausting such options, the usage of such a methodology is clearly in contravention of the requirements of paragraph 7 of Annexure I of the AD Rules.
- f. In addition, Petitioners have failed to provide details on the manner in which the normal value on the basis of price in India has been arrived at. Information pertaining to raw material, power & fuel, other processing cost and interest as well as cost of production reported in Annexure 3.2 to the Petition is treated in confidence without being accompanied by a non-confidential summary. The Petitioners have not even provided the basis for assuming Profits at 5%.
- g. There is neither any evidence of adjustments made in export price such as ocean freight, marine insurance, port expenses, inland freight expenses, bank charges, commission nor the basis thereof has been provided in the petition.
- h. The adjustments claimed by the domestic industry from the export prices are on the higher side resulting in exaggerated claims of dumping in the current investigation.
- i. The Authority must consider Normal Value, Export Price and in turn, dumping margin on the basis of data provided by the producers / exporters and duly verified by the Authority.

Views of the domestic industry

30. The following submissions were made by the domestic industry with regard to normal value, export price and dumping margin:
- a. Owing to the deficiencies contained in the EQRs filed by the participating producers / exporters, no individual dumping margins can be allowed to them.

- b. Without prejudice to the above, it is submitted that in calculating the cost for determining the normal value, it should be ensured that such cost relating to purchase and sale of the subject goods has been appropriately captured.
- c. The petition contains sufficient information on price adjustments. The petitioners have used more conservative estimates for price adjustments. It is not the argument of any interested parties that the petitioners have claimed excessive price adjustments.
- d. The DA has prescribed a PCN and so long as PCN produced and sold in domestic market is same as PCN exported to India and the same is being compared, it cannot be said that the one yarn is a community yarn and other yarn is speciality yarn. If some PCNs were sold in domestic market which have not been exported to India, the same shall not be considered for the purpose of determination of dumping margin.
- e. Specifically, in case of Hyosung Dong Nai, since it procured raw material from an affiliate, it must be ascertained that the raw materials have been purchased and booked at arms' length prices. Aquafil has claimed confidentiality with respect to raw material procurement and no comments can be made in that regard.
- f. With respect to export price of the participating producers/exporters, the same should only be assessed in cases only if all traders forming part of the channel of distribution have participated in the investigations.
- g. Further, where exports are undertaken through related entities, the Authority must examine whether the export price provided are reliable. If not, the same must be determined on the basis of price at which the subject goods are resold to independent or unaffiliated buyer.

Examination of the Authority

Determination of Normal Value for producers and exporters in Vietnam

EXAMINATION OF MARKET ECONOMY CLAIM

31. Hyosung Dong Nai has responded to the Supplementary Questionnaire in the prescribed format and provided all requisite supporting documents to rebut the presumption of non-market economy in accordance with criteria laid down in para 8(3) of Annexure 1 of the Rules. Table study of the documents submitted was also carried out. In this regard, it has been noted that Hyosung Dong Nai is wholly owned by, Hyosung Istanbul Tekstil Ltd. STI, a company based in Turkey and its ultimate shareholder is Hyosung Corporation, Korea. In respect of ownership and critical decision making concerning prices, costs input and production, no evidence has been found of State interference. All facilities used for the production and/or commercial purposes are owned by Hyosung Dong Nai. As Hyosung Dong Nai is a new company set up in 2015 by a privately held company in Turkey, distortion carried over from the former non-market economy system was not detected. The raw materials are purchased by the company from related company in Singapore at market prices, which also sells raw material to unrelated customers. No material differences in prices on purchase of raw materials have been found. Other parameters, as provided in para 8(3) of the Rules with respect to depreciation of assets, exchange rate conversions etc. were also

examined. However, no material came to notice indicating that the exporter has not been working in accordance with market economy parameters.

32. It is further noted that in previous investigations concerning imports from Vietnam the market economy issue had been examined by the Designated Authority. In this regard, reference is drawn to the final findings dated 6.03.2009 for Compact Disc-Recordable (CD-R) and final findings dated 02.07.2010 issued in the investigation concerning Recordable Digital Versatile Disc (DVD) where Vietnam based exporters were examined and found to be operating under market economy conditions.

33. The Authority notes that consequent upon the initiation notice issued by the Authority in the present investigation, the following Vietnamese producers and exporters/traders have filed exporter's questionnaire response:

- a. Formosa Industries Corporation, Vietnam
- b. Bosca Enterprises Limited (BOSCA)", Hong Kong
- c. Liang Haw Technology Co., Ltd. (LIHA)", Taiwan
- d. Hyosung Dong Nai Co., Ltd., Vietnam
- e. Hyosung International (HK) Ltd., Hong Kong
- f. Ren Tong Industrial Ltd., Hong Kong

34. The verification of records was carried out in respect of all Vietnamese producers/ exporters by way of table study.

(i) **Normal Value for producer, M/s Formosa Industries Corporation, Vietnam and its traders / exporters, M/s Liang Haw Technology Co., Ltd., Taiwan and M/s Bosca Enterprises Limited, Hong Kong**

35. From the response filed by producer, M/s Formosa Industries Corporation, Vietnam ("FIC") and its traders / exporters, M/s Liang Haw Technology Co., Ltd., Taiwan and M/s Bosca Enterprises Limited, Hong Kong, the Authority notes that FIC has exported only certain PCNs to India during POI. However, the producer could not furnish proper justification for the PCN-wise cost given in their response and accordingly the Authority had to construct the normal value for the producer,

36. In the absence of any reliable cost details of the above producer for the subject goods, the Designated Authority has constructed the normal value on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin.

37. Accordingly, the normal value for FIC has been determined as indicated in the table below.

(ii) **Normal Value for producer, M/s Hyosung Dong Nai Co., Ltd., Vietnam and its traders / exporters, M/s Hyosung International Ltd., Hong Kong and Ren Tong Industrial Ltd., Hong Kong**

38. From the response filed by producer, M/s Hyosung Dong Nai Co., Ltd., Vietnam ("Hyosung") and its traders / exporters, M/s Hyosung International Ltd., Hong Kong and M/s Ren Tong Industrial Ltd., Hong Kong, the Authority notes that Hyosung has exported only certain PCN to India during

POI. However, the producer could not furnish proper justification for the PCN-wise cost given in their response and accordingly the Authority had to construct the normal value for the producer,

39. In the absence of any reliable cost details of the above producer for the subject goods, the Designated Authority has constructed the normal value on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin.
40. Accordingly, the normal value for Hyosung Dong Nai Co.Ltd. has been determined as indicated in the table below.

(iii) **Normal Value for non-cooperating producers/exporters in Vietnam**

41. For the other producers/exporters of Vietnam, Normal value has been determined on the basis of facts available and the same is shown in the dumping margin table below.

Determination of Export Price for producers and exporters in Vietnam

(i) **Export Price for producer, M/s Formosa Industries Corporation, Vietnam and its traders / exporters, M/s Liang Haw Technology Co., Ltd., Taiwan and M/s Bosca Enterprises Limited, Hong Kong**

42. Export price for Formosa Industries Corporation (“FIC”) has been determined on the basis of questionnaire response filed by the producer and its exporters. The producer/exporter has exported ***MT of subject goods to India during POI. Adjustments have been considered on account of Packing, Inland Freight, Commission, Customs Handling Charges, Ocean freight, Insurance and Bank Charges to determine net export price at ex-factory level. Separate export price has been determined for each PCN exported to India. Accordingly, weighted average export price for FIC has been determined as indicated in the table below.

(ii) **Export Price for producer, M/s Hyosung Dong Nai Co., Ltd., Vietnam and its traders / exporters, M/s Hyosung International Ltd., Hong Kong and Ren Tong Industrial Ltd., Hong Kong**

43. Export price for Hyosung Dong Nai (“Hyosung”) has been determined on the basis of questionnaire response filed by the producer and its exporters. It is noted that one of Singapore based unrelated trader M/s. Greenworth International Pte Ltd has not filed its response and thus not cooperated with the Authority. However, the exports through non-cooperating trader is not significant enough to reject the response of the entire chain of producer & exporters/traders and declare them non-cooperative. Adjustments have been considered on account of Credit cost, Inland Freight, Commission, Customs Handling Charges, Insurance, Ocean Freight, and Bank Charges to determine net export price at ex-factory level. Separate export price has been determined for each PCN exported to India. Accordingly, weighted average export price for Hyosung has been determined as indicated in the table below.

(iii) **Export Price for non-cooperating producers/exporters in Vietnam**

44. For the other producers/exporters of Vietnam, export value has been considered on the basis of the facts available and the same is indicated in the dumping margin table below.

Determination of Normal Value and Export Price for producers and exporters in European Union

45. The Authority notes that only one European producer/ exporter i.e., Aquafil S.p.A, Italy filed the exporter's questionnaire response. The verification of records was carried out in respect to the said the producer/ exporter.

(i) **Normal Value and Export Price for producer, Aquafil S.p.A, Italy**

46. From the response filed by Aquafil, the Authority noted that Aquafil has exported BCF and second grade NTF products to India during the POI. These products exported by Aquafil have been excluded from the scope of the PUC on account of domestic industry subsequently clarifying that they are not manufacturing these products. Accordingly, the authority has not determined the normal value and export price for Aquafil. The Authority has excluded all exports by the said producer from the import statistics and the import volumes from European Union.

(ii) **Normal Value and Export Price for non-cooperating producers/exporters in European Union**

47. After excluding the import volumes of the participating European Union producer, the Authority examined the remaining imports from European Union. Normal value therefore has been determined on the basis of facts available while export price has been determined on the basis of the statistics derived from the import data obtained from DGCI&S. Based on this the dumping margin is indicated below. The normal value, export price and the dumping margin so determined will be applicable for all the exporters from European Union (including Aquafil for PUC other than excluded products)

Determination of Dumping Margin for producers and exporters in Vietnam and European Union

48. With respect to the subject countries, the export price to India has been compared with the normal value to determine the dumping margin based on PCN wise analysis. The dumping margin during the POI for all the exporters/producers from the subject countries have been determined as shown in the table below.

Dumping Margin Table

| Country | Producer | Exporter | Normal Value US\$/ MT | Net Export Price US\$/ MT | Dumping Margin US\$/ MT | Dumping Margin % | Dumping Margin (Range %) |
|---------|--------------------------------------|---|--------------------------|------------------------------|----------------------------|---------------------|-----------------------------|
| Vietnam | Formosa Industries Corporation (FIC) | 1. Liang Haw Technology Co., Ltd., Taiwan | *** | *** | *** | *** | 20-25 |

| Country | Producer | Exporter | Normal Value US\$/ MT | Net Export Price US\$/ MT | Dumping Margin US\$/ MT | Dumping Margin % | Dumping Margin (Range %) |
|----------------|------------------|---|--------------------------|------------------------------|----------------------------|---------------------|-----------------------------|
| | | 2. Bosca Enterprises Limited, HongKong | | | | | |
| Vietnam | Hyosung Dong Nai | 1. Hyosung International (HK) Ltd., Hong Kong 2. Ren Tong Industrial Ltd., Hong Kong | *** | *** | *** | *** | (0-5) |
| Vietnam | All Others | All Others | *** | *** | *** | *** | 50-55 |
| European Union | All | All | *** | *** | *** | *** | 10-20 |

49. It is seen that the dumping margins are significant and above *de minimis* limits in respect of all the producers-exporters of the product under consideration except in case of Hyosung Dong Nai, Vietnam.

G. Determination of Injury and Causal Link

50. 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 impact of such imports on domestic producers of such articles. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

51. 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 AD Rules.

Views of the producers/exporters, importers and other interested parties regarding the injury claims of domestic industry

52. The submissions made by the exporters/importers/other interested parties during the course of the investigation with regard to the injury claims of the domestic industry and considered relevant by the Authority are as follows:

- a. The reason for the increase of imports from subject countries from 2013 to 2017 is not dumping, but the growth of the Indian market demands following the development of downstream industry.
- b. The trend of price from subject countries and domestic industry has been fluctuating from 2013-14 to POI. Landed Price and Domestic Selling Price, both are decreasing in tandem. It depicts that there cannot be price injury to the Domestic Industry.
- c. Price Undercutting remains unchanged during the injury period and POI. It must be analyzed whether such price undercutting is resulting into material injury to the Domestic Industry. In present case, despite having positive price undercutting, Domestic Industry has improved its performance. Hence, price undercutting has no relevance in the present investigation.
- d. The petitioners are increasing the capacity every year, during the injury period and POI. Production and capacity utilization of the domestic industry has also increased during the period of investigation. Production has increased from *** MT during 2013-14 to *** MT during POI and capacity utilization has remained almost same as from 84% to 83% during the POI as compared to the base year 2013-14. This shows that the Domestic Industry is improving.
- e. The sales volume of the petitioners has increased from *** MT to *** MT from base year 2013-14 to the POI as compared.
- f. The market share of Domestic Industry has declined from 47% (2013-14) to 38% during the POI. This decline is not because of increase in imports rather increase in the share of other Indian producers. The market share of other Indian producers has increased substantially from 22% during 2013-14 to 38% during POI. On the contrary, the share of imports from subject country has remained almost same from 12% during 2013-14 to 14% during POI.
- g. Health of the domestic industry has improved and there is no case for imposing anti-dumping duty on subject goods from European Union. European Union constitutes hardly 7% of total imports and this 7% has neither shown any appreciable increase nor the share of the domestic industry declined. Hence exports from European Union and Aquafil S.p.A. is not responsible for any injury to the domestic industry.
- h. There is a significant overlapping in current case POI and last SSR POI. DA has held that there is no injury in SSR POI, hence there cannot be injury in this case. Indian Domestic Demand for mono is less than 10% and 90% data pertains to multifilament only which is the same as the SSR investigation.
- i. Performance of the domestic industry has only improved during the POI. The increase in imports has not led to any injury to adversely impact the business. Domestic industry has not suffered any losses because of the increase in imports, which is evidenced by their financial statements.

- j. Sales of domestic industry consistently increased in volume terms during the injury period while imports from EU reduced/ did not increase in the same proportion
- k. Domestic industry wants to impose anti-dumping duty on Vietnam and European Union as anti-dumping duty from China, Taiwan, Malaysia etc. was about to be struck down. The intention of the domestic industry is to use antidumping duty as a tool to gain advantage over Indian importers
- l. Losses claimed by domestic industry are due to inefficiencies in their process or other factors as they could not become profitable despite significant drop in crude prices during 2014-16.
- m. Imports from EU have different price and cannot be compared with Vietnam or other imports. Thus, it is unlikely that EU imports are causing injury to the domestic industry.
- n. Demand for PUC has doubled over the injury period and, the domestic industry was not able to meet demand. Thus increase in imports from other countries was necessary.
- o. Data of production, capacity, capacity utilization, sales, and prices, per unit costs, and stocks has not been addressed/analyzed properly in the petition.
- p. Domestic industry has claimed that 74% market share has been affected by imports from subject countries. Market share of Indian producers has steadily increased during POI showing no injury to the domestic industry.
- q. Decline in sale price is due to decline in cost and not due to imports.
- r. There is no significant change in the price of the domestic industry from 12-13 to 14-15. The export from Vietnam has increased significantly. Hence, price of PUC from Vietnam cannot cause price undercutting or suppression
- s. Domestic industry's claim that they have become unprofitable due to dumped imports is incorrect. Their profit and PBIT have turned positive from 14-15 onwards.
- t. Overall health of the domestic industry has improved.
- u. Imports from EU and Vietnam are priced higher than the imports from countries which have been previously investigated
- v. The investigation should be terminated as there is no injury with respect to NFY. Major imports from China, Taiwan, Malaysia, Indonesia, Thailand and Korea were of multifilament yarn only
- w. There is no significant increase in volume of imports from the subject countries either in absolute terms or in relation to Indian production and consumption
- x. Petitioners are experiencing reduced losses despite increase in volume of imports from the subject countries.

- y. There is increase in the capital employed with no commensurate increase in capacity, Petitioners have suddenly and substantially increased their Capital Employed (on NFA basis). Such increase in capital employed, without substantial increase in capacity, has led to a situation of decline in Return on Capital Employed. Such decline has also led to increased overall losses.
- z. No evidence has been provided for NV.
- aa. No evidence for adjustments has been provided while computing export price.
- bb. In India, polyamide yarns are commodity product whereas in EU this includes higher grade. Thus, there are two different product lines for EU i.e. domestic sales and for overseas, with difference in product and price. PCNs should be made to reflect such differences.
- cc. NFY has two categories BCF (Bulk Continuous Filament) and NTF (Nylon Textile Fibre). BCF is used for carpet manufacturing and NTF is for textile. EU customers are quality conscious and need finest quality of yarn. Remaining second quality is sold in EU or exported at market price.
- dd. AYM, JCT and Salasar have imported which can be seen from response filed by exporters. DA should examine this false certification by the domestic industry as attempt to mislead the DA. These merit exclusion from the scope of domestic industry and their data from standing
- ee. There is no co-relation between the ADD existing against Korea and setting plant by Hyosung Dong Nai in Vietnam
- ff. Imposition of ADD on PUC will adversely impact the downstream industries viz Indian chemical fiber, weaving and garment industry.
- gg. Domestic industry's facts show that they exaggerated the increased import and deliberately invented injury. If Authority continues the investigation, it will be determined that there is no increase of imports.
- hh. Inconsistencies between data filed now and SSR case do exist. Authority must verify the data and remove inconsistency.
- ii. The domestic industry is unable to supply quality product. While the imported product is 100% guaranteed for dyeing but the domestic industry does not give any dyeing guarantee
- jj. 26% return on GFA is highly inflated and is not according to the law.
- kk. Impact of past dumping and injury caused to the domestic industry over the past years should not be attributed to imports from the EU and Vietnam.
- ll. DA should adopt ROCE earned by industry during the period when there was no allegation of dumping as the reasonable profit margin and not 22% ROCE. 22% return is incorrect because Debt portion of Capital Employed attracts about 10 to 12% interest, 22% results in providing

> 22% return on Net-Worth and during global recession allowing such a high return to domestic industry is incorrect and is never heard of in any sector.

- mm. 22% return gives undue advantage and protection to the domestic industry. 41 % profit margin on equity in no terms can be termed as reasonable
- nn. Prafful indicated that it has further plans to change its production capacity, AYM indicated that they have plans to expand capacities, Salasar Group Co Todi Rayon started production in 2016, New players such as Shiven Yarn has undertaken a multi-crore investment. These expansions would have been made after appraisal and evaluation of financials and profitability by the companies themselves, as well as banks and financial institutions.

Views of the domestic industry

53. The following are the submissions with regard to injury related issues made by the domestic industry and considered relevant by the Authority:
- a. The demand for the PUC has been steadily increasing and has increased by about 65% over the period of injury.
 - b. The imports have rapidly increased over the period of injury. The imports have doubled in the period of injury in response to a mere 65% increase in demand in the same period.
 - c. The fact of more than 7% import from European Union clearly shows that they are more than de minimus in volume. Both dumping margin and injury margin are positive.
 - d. While imports from EU did not increase in proportion to increase in demand, the import price from European Union declined very significantly over the injury period. Further, while the import prices in base year itself were dumped prices, the decline in price thereafter was more than decline in cost. In other words, the dumping margin increased over the period. Thus, even when volume of import did not increase, the product continued to be imported from subject countries at dumped prices and the margin of dumping increased.
 - e. Moreover, the present case is one of continuing injury. If the historical data is seen, the increase in imports is much more alarming.
 - f. Imports have increased in relation to production in India as well as Indian demand / consumption.
 - g. The imports have had a suppressing and depressing effect on the prices of the petitioning domestic industry.
 - h. The imports are undercutting the selling price and underselling the non-injurious price of the petitioning domestic industry.

- i. The Petitioners have increased capacity, production and sales over the period of injury. However, the same has been achieved by reducing their prices in order to maintain customers in the market.
- j. The market share of the petitioning domestic industry has reduced even though the Indian industry as a whole has been able to maintain its place in the market. However, such share has been maintained at the cost of profitability.
- k. The inventories of the petitioning domestic industry have built up over the period.
- l. The profitability of the petitioning domestic industry has deteriorated significantly, and continuing losses have eroded the profitability of the petitioners.
- m. The cash profits of the petitioning domestic industry have declined, and its return is negative.
- n. The growth of the petitioning domestic industry in all profitability parameters is negative.
- o. The extent for dumping from the subject countries is not just positive, but significant.
- p. Moreover, the Petitioners are also facing threat of material injury as evidenced by the significant rate of increase of dumped imports over the years, price undercutting which has led to increase in imports and freely disposable capacities of the subject foreign producers.
- q. The causal link has been established as there are no other known factors which can be construed as causing injury to the domestic industry. In this regard, it is submitted that the volume of imports from non-subject countries are insignificant. With respect to countries like Malaysia, Taiwan and Korea, the Authority has examined the imports from these countries and found them to be non-injurious. The demand for the subject goods has not faced any contraction but rather increased. There are no trade restrictive practices or conditions of competition that could be said to be contributing to the injury of the Petitioners. No injury has been caused due to the use of any obsolete technology. The petitioners have segregated the data for domestic and export operations, and have provided the data relating to profits, cash profits, return on investment and other relevant parameters in so far as they relate to domestic operations only. Therefore, export performance of the petitioners cannot be said to be the cause of any injury. Performance of other products of the petitioners cannot be said to be cause of injury either as performance data pertains to the subject goods only. Finally, there has been no change in consumption patterns which could be claimed to cause injury to the petitioners.
- r. The interested parties are wrongly comparing the data of NFY SSR case with the present case. The scope of PUC itself is materially different in SSR case and the present case. In fact, the domestic industry has heavily contended that imports of Nylon Monofilament Yarn have not suffered because of anti-dumping duty in place and no imports of Nylon mono Filament Yarn from present subject countries. In fact, dumping of PUC from subject countries and financial losses in PUC on one hand and no dumping of Nylon Mono Filament Yarn in the present POI and the fact that domestic industry is not suffering injury in the Nylon Monofilament yarn in

the present petition clearly shows that the injury to the domestic industry is due to dumping of the product in the country and not due to any other factor.

- s. The intention of domestic industry is not important. The DA has already recommended withdrawal of ADD on imports from other countries.
- t. The Indian industry is suffering low capacity utilization. While the figures given by Ministry of Textiles are cumulative for entire Indian industry, figures given by the petitioners are in respect of domestic industry.
- u. The argument of interested parties establishes that performance of non-petitioning domestic producers is in fact far more adverse as compared to petitioning domestic producers. This also gets established by the statements made at the time of hearing wherein some parties accepted that they were earlier importing the product and thereafter set up manufacturing facilities in India and despite having set up manufacturing facilities these parties are partly importing the product.
- v. The crude prices have nothing to do with efficiencies or inefficiencies in production process. Crude price has relevance to the price of chips required for production of PUC. As is evident, the cost of production of the domestic industry declined significantly. This decline in costs is largely due to crude price decline. Thus, the domestic industry has benefited with reduction in cost of production as a result of decline in crude prices. However, the landed price of imports declined more than what is attributable to the decline in costs.
- w. The authority has proposed PCN for the present purposes and so long as the PCN imported from Europe is comparable to PCN imported from Vietnam, the products are comparable. Further, so long PCN supplied by European producers is same as PCN supplied by domestic industry, the product supplied by European producer and domestic industry are comparable. It is also noted that Aquafil in fact has claimed that they have used Indian market as a dumping ground for second quality. There is no basis for the argument now that the products supplied by European producers are of different types or standards and cannot be compared with Vietnam or other imports.
- x. It would be seen that in fact Indian industry holds capacities sufficient to meet the entire Indian demand. Imports of PUC are not necessary for the purpose. In addition, Aglon, Todi, PNP and Praful (additional capacity) have also added combined capacity of *** MT per annum recently.
- y. There is no requirement on the part of domestic industry to undertake the analysis of various injury parameters nor has the Authority prescribed any such requirements. Indeed, the WTO has clearly held in the matter of Thailand – H-Beams wherein the Panel rejected Poland’s argument that paragraph (iv) of Article 5.2 implies that some sort of analysis of data is required in the application, and stated that analysis of various injury parameters is the task of investigating authorities and the petition need not contain elaborate analysis on this account.

- z. Market share of domestic producers as a whole has declined, whereas that of imports from Vietnam has increased. As submitted by one of the producers at the time of oral hearing, some of the parties who were earlier importers of PUC have stopped import and have setup manufacturing facilities. While these parties have partly imported from Vietnam, these parties have produced the product and sold in the market. It is thus natural that market share of domestic producers will show an increase to the extent of production undertaken by these producers. However, these producers also admitted that they have been forced to import the product in view of dumping of product in the country.
- aa. The decline in import price is more than the decline in cost. Since the domestic industry was suffering financial losses, the domestic industry would not have reduced its prices with the decline in the costs in order to come out of financial losses. However, dumping of the product under consideration has forced the domestic industry to continued losses. It is reiterated that the entirety of the injury period is a period of dumping and the domestic industry had filed petitions, which could not be taken up for initiation for one reason or the other.
- bb. The data on record clearly shows that the price undercutting is significantly positive in the present POI. It is also relevant to note that (a) there is a PCN in the present case owing to significant price variation in different types, (b) price undercutting is required to be determined on PCN basis, (c) price undercutting is determined only for POI and not for the entirety of the injury period. The fact that the exports from Vietnam increased significantly establishes that the price undercutting led to increase in imports.
- cc. The factual information on record is referred to and relied upon which clearly shows that the domestic industry has been suffering from financial losses, negative profit before interest, negative cash profits, negative ROI throughout the injury period.
- dd. There is no demand supply gap in the present case. Imports have increased only because producers in Vietnam have setup “Make for India” plant in order to circumvent anti-dumping duty earlier imposed on imports from other countries. Decline in imports from countries attracting duty on one hand and increase in imports from subject countries on the other and an existence of related producers in Vietnam clearly establishes the same.
- ee. The domestic industry has been suffering from financial losses for such a long period. It therefore cannot certainly be said that the domestic industry is not injured.
- ff. It is not established why the present investigation must be terminated. As far as imports from China, Malaysia, Taiwan etc. are concerned, the DA has already held that these imports have neither caused nor are likely to cause injury to the domestic industry. It is the interested parties who argued before the Designated Authority in that investigation that imports from these countries did not cause nor were likely to cause injury to the domestic industry.
- gg. Petitioners are experiencing reduced financial losses not because dumping has reduced but because the cost of production declined as a result of decline in chip prices and the domestic

industry withheld part of decline in costs in view of significant financial losses suffered by domestic industry.

- hh. There is a direct co-relationship between imposition of ADD by India and setting up of plants in Vietnam. As far as Hyosung is concerned, there is naturally a time lag between ADD imposed and setting up of the plant. This company got motivated by the success story of Formosa and on finding how Formosa has been able to successfully produce and sell so significant volumes in the Indian markets, Hyosung Korea also has set up a manufacturing facility in Vietnam.
- ii. The domestic industry is responsible as well as responsive to the market requirements and to the consumers' requirements. Further, the consumers can themselves protect their interests in India.
- jj. The facts of the case very clearly show that there is significant increase in imports and the domestic industry has suffered injury for considerably long period. The domestic industry has based its claim on facts and has neither exaggerated any imports information nor has invented injury.
- kk. Contrary to the submissions made, the European producers has specifically admitted that they have used Indian market as dumping ground for exporting the product which was not accepted in their domestic market. In the instant case, dumping is happening not only in its technical sense but also in its literal sense. Further, about 76% of the demand over the injury period was met by domestic producers. Such being the case, in any case, there is no basis for the argument that the domestic industry product is not quality product or that the domestic industry does not give any dyeing guarantees.
- ll. While domestic industry has claimed 26% return on capital employed for the purpose of determination of NIP and injury margin, even if NIP is calculated considering 22% return on capital employed, it would be seen that the injury margin is quite significant.
- mm. As far as the present petition is concerned, the entirety of injury period is the period when the PUC was being dumped in the Indian market.
- nn. The DA has been consistently considering 22% return on capital employed for determination of NIP and injury margin. There is no reason for reduction of the same in the present case. Further, in view of continued injury being faced by the domestic industry for such a long period, while the past ROI are irrelevant, the domestic industry should be given higher degree of protection to address the past financial losses.
- oo. With regard to various issues raised by opposing parties relating to comments made by the petitioners in their annual report, it is submitted that issues raised by the opposing parties are primarily from the annual reports of petitioner companies of 2013-14 and 2014-15, which is base year and second year in the present investigation. Opposing parties claimed that domestic industry has not suffered injury on various accounts as mentioned in the annual report. In the period of investigation, domestic industry has suffered financial losses.

- pp. The capacity addition made by the domestic producers at the least establishes that domestic producers on their part are making all efforts to become competitive and meet the demand for the product in the country. However, continued dumping of the product in the country is very adversely impacting the domestic producers. One of the Petitioners, GSFC has added capacity for engineering plastic which has nothing to do with the product under consideration. Another one of the Petitioners, Prafful has made additional investment in plant and machinery and capacity has been added resulting in higher production and sales. In spite of increase in production and sales, profitability has declined.

Examination by the Authority

54. The Authority has taken note of the submissions made by various interested parties. The Authority has examined the injury to the domestic industry in accordance with the Anti-dumping Rules and considering the submissions made by the interested parties.
55. The AD Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on domestic industry. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.
56. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure II of Antidumping rules states as under:
- (iv)The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments*
57. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration; while some may show improvement. The Designated Authority considers all injury parameters and thereafter concludes whether the domestic industry has suffered injury due to dumping or not.
58. The Authority has examined the injury parameters objectively taking into account the facts and arguments submitted by the interested parties in their submissions.

G.1 Volume Effect of Dumped Imports and Impact on Domestic Industry

Assessment of Demand

59. The demand of subject goods has been determined by adding the domestic sales of Indian producers of like product with the imports of the subject goods from all countries. For the purpose of the present injury analysis, the Authority has relied on the import data procured from DGCI&S. The Authority notes that demand of subject goods increased over the injury period as can be seen in the table below:

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI Annualised |
|-----------------------------------|-----------|---------------|---------------|---------------|----------------|
| Imports from Subject Countries | MT | 7,201 | 10,506 | 11,945 | 13,799 |
| European Union | MT | 1,373 | 1,500 | 2,387 | 1,572 |
| Vietnam | MT | 5,828 | 9,006 | 9,558 | 12,227 |
| Imports from other countries | MT | 12,413 | 12,904 | 12,238 | 10,133 |
| Domestic Sales of Petitioners | MT | *** | *** | *** | *** |
| Domestic Sales of other producers | MT | *** | *** | *** | *** |
| Total demand | MT | 63,063 | 78,125 | 88,044 | 94,652 |

Import Volumes and Share of Subject country

60. 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. The volume of imports of the subject good from the subject country has been analyzed as under:

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI (Annualized) |
|--------------------------------|------|---------|---------|---------|------------------|
| Imports from European Union | MT | 1,373 | 1,500 | 2,387 | 1,572 |
| Imports from Vietnam | MT | 5,828 | 9,006 | 9,558 | 12,227 |
| Imports from Subject Countries | MT | 7,201 | 10,506 | 11,945 | 13,799 |
| Total Demand | MT | 63,063 | 78,125 | 88,044 | 94,652 |
| PUC Production of DI | MT | *** | *** | *** | *** |

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI (Annualized) |
|--|------|---------|---------|---------|---------------------|
| Subject Imports relative to Indian consumption | % | *** | *** | *** | *** |
| Subject Imports relative to DI production | % | *** | *** | *** | *** |

61. Based on the foregoing data, the Authority notes as follows:

- a. Imports of the subject goods from subject country have increased in absolute terms from 7,201 MT during 2013-14 to 13,799 MT during POI.
- b. Imports from the subject countries in relation to domestic consumption / demand have increased, and are at a level of 15% during POI.
- c. Imports from subject country in relation to domestic production in India have increased and have reached a level of ***% (approx.) during POI.

62. It is, thus, noted that the imports of the PUC from the subject country have increased in absolute terms and in relation to production and consumption in India.

G.2 Price Effect of the Imports on the Domestic Industry

63. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

64. It has been examined whether there has been a significant price undercutting by the dumped imports of 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. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

Price Undercutting

65. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. In this regard, a comparison has been made between the landed value of the product and the average selling price of the domestic industry net of all rebates and taxes, at the

same level of trade. The prices of the domestic industry were determined at the ex-factory level. The domestic prices and margin of undercutting is shown as per the table below:

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI (Ann.) |
|----------------------------------|----------------|----------------|----------------|----------------|-----------------------|
| Landed Value from European Union | Rs./MT | 2,48,804 | 2,41,413 | 2,02,685 | 1,83,424 |
| Landed Value from Vietnam | Rs./MT | 2,42,871 | 2,31,356 | 1,96,225 | 1,79,288 |
| Domestic Selling Price | Rs./MT | *** | *** | *** | *** |
| | <i>Indexed</i> | <i>100</i> | <i>96</i> | <i>83</i> | <i>80</i> |
| Price Undercutting from EU | Rs./MT | *** | *** | *** | *** |
| | % | *** | *** | *** | *** |
| | Range | 0 -5 | (5)- 0 | 0-5 | 0 -10 |
| Price Undercutting from Vietnam | Rs./MT | *** | *** | *** | *** |
| | % | *** | *** | *** | *** |
| | Range | 0 -10 | 0- 10 | 0 -10 | 5 -15 |

66. The Authority notes from the above table that price undercutting exists.

Price Suppression/Depression

67. In order to determine whether the dumped imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI (Ann.) |
|------------------------|----------------|----------------|----------------|----------------|-----------------------|
| Cost of Sales | Rs./MT | *** | *** | *** | *** |
| | <i>Indexed</i> | <i>100</i> | <i>100</i> | <i>86</i> | <i>81</i> |
| Domestic Selling Price | Rs./MT | *** | *** | *** | *** |
| | <i>Indexed</i> | <i>100</i> | <i>96</i> | <i>83</i> | <i>80</i> |
| Landed Value | Rs./MT | 2,44,002 | 2,32,791 | 1,97,516 | 1,79,727 |
| | <i>Indexed</i> | <i>100</i> | <i>95</i> | <i>85</i> | <i>91</i> |

68. It is noted that the Petitioners' cost of sales has declined consistently over the period of injury and POI. Petitioners' selling price also has declined more or less in the same proportion. The selling price has remained below the cost of sales level throughout during the injury period. The Authority also notes that the Petitioners' selling price follows closely the trend of the Landed Value of the subject imports, though landed value remains lower than the cost of sales of the Petitioners. The price depression is thus evident. Even the phenomenon of marginal price suppression exists.

Price Underselling

69. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject countries. For this purpose, the NIP determined for the domestic industry has been compared with the weighted average landed price of imports. Comparison of weighted average NIP of the domestic industry with weighted average landed price of imports shows as follows:

| Particulars | Unit | POI (Ann.) |
|---------------------------|-------------|-------------------|
| Landed Value | Rs./MT | 1,79,727 |
| Non-Injurious Price (NIP) | Rs./MT | *** |
| Injury Margin | Rs./MT | *** |
| | USD/MT | *** |
| | % | *** |
| | Range | 0-10 |

70. It is seen that the landed price of the subject goods from subject country were significantly lower than the NIP determined for the domestic industry.

G.3 Economic Parameters of the Domestic Industry

71. Annexure II to the Anti-dumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. The various injury parameters relating to the domestic industry are discussed below.

G.4 Production, Capacity, Capacity Utilization and Sales

72. The performance of the domestic industry with regard to production, domestic sales, capacity & capacity utilization was as follows:

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI (Ann.) |
|-------------------------------|----------------|------------|------------|------------|------------|
| Capacity (Plant) | MT | *** | *** | *** | *** |
| | <i>Indexed</i> | <i>100</i> | <i>105</i> | <i>116</i> | <i>117</i> |
| Production (Plant) | MT | *** | *** | *** | *** |
| | <i>Indexed</i> | <i>100</i> | <i>106</i> | <i>117</i> | <i>116</i> |
| Capacity Utilization | % | *** | *** | *** | *** |
| | <i>Indexed</i> | <i>100</i> | <i>100</i> | <i>100</i> | <i>99</i> |
| Production (PUC) | MT | *** | *** | *** | *** |
| | <i>Indexed</i> | <i>100</i> | <i>109</i> | <i>124</i> | <i>129</i> |
| Domestic Sales of Petitioners | MT | *** | *** | *** | *** |
| | <i>Indexed</i> | <i>100</i> | <i>109</i> | <i>122</i> | <i>129</i> |

73. The Authority notes that the Petitioners' capacity and production have increased in tandem with each other. The capacity utilization has declined marginally but the same has not impacted the PUC production and sales, which have seen improvement over the period of injury and POI.

G.5 Profitability

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI (Ann.) |
|-----------------|----------------|--------------|--------------|---------------|--------------|
| Profit / (Loss) | Rs./Lakhs | (***) | (***) | (***) | (***) |
| | <i>Indexed</i> | <i>(100)</i> | <i>(978)</i> | <i>(1062)</i> | <i>(424)</i> |
| Profit / (loss) | Rs./MT | (***) | (***) | (***) | (***) |
| | <i>Indexed</i> | <i>(100)</i> | <i>(897)</i> | <i>(869)</i> | <i>(328)</i> |

74. The Authority notes the following from the above table:

- a. The domestic industry's profitability has been adversely affected. The domestic industry has been suffering losses during the entire injury investigation period.
- b. The domestic industry's losses have declined substantially in the POI as compared to previous years but remained higher than the losses in the base year.

- c. The domestic industry does not seem to have recovered its cost of sales or earn reasonable profits.

G.6 Return on capital employed

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI |
|-------------|-------|---------|---------|---------|-----|
| ROCE | % | *** | *** | *** | *** |
| | Range | 5-10 | 0-5 | 0-5 | 0-5 |

75. The authority notes that the domestic industry has not been able to earn an adequate return on capital employed throughout the injury investigation period. The Return on Capital Employed during POI is lower than the base year.

G.7 Market Share

76. The effects of the dumped imports on the market share of the domestic industry have been examined as below:

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI |
|---------------------------------------|------|---------|---------|---------|--------|
| Total Demand | MT | 63,063 | 78,125 | 88,044 | 94,652 |
| Market Share of | | | | | |
| Petitioners | % | *** | *** | *** | *** |
| Other Producers | % | *** | *** | *** | *** |
| Share of Indian Producers | % | *** | *** | *** | *** |
| Share of imports from European Union | % | 2.18% | 1.92% | 2.71% | 1.64% |
| Share of imports from Vietnam | % | 9.24% | 11.53% | 10.86% | 13.83% |
| Share of imports from Other countries | % | 19.68% | 16.52% | 13.90% | 10.59% |

77. From above table, the Authority observes that the market share of the Domestic Industry has decreased even though demand for the subject goods has been rising in India. At the same time, the increasing share of other Indian producers cannot be ignored and it is noted that, on an aggregate, the share of Indian producers (Domestic Industry and Other Indian Producers) has not witnessed much change during the injury period.

G.8 Inventories

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI |
|-------------------|----------------|---------|---------|---------|-----|
| Opening Stock | MT | *** | *** | *** | *** |
| | <i>Indexed</i> | 100 | 95 | 117 | 134 |
| Closing Stock | MT | *** | *** | *** | *** |
| | <i>Indexed</i> | 100 | 124 | 194 | 253 |
| Average Inventory | MT | *** | *** | *** | *** |
| | <i>Indexed</i> | 100 | 109 | 155 | 192 |

78. The Authority notes that the level of inventories have witnessed increase during the injury period.

G.9 Productivity of the domestic industry

79. The Authority notes that employment level of the domestic industry has gone up whereas the productivity per employee has declined consistently.

| Particulars | Unit | 2013-14 | 2014-15 | 2015-16 | POI (Ann.) |
|---------------------------|--------------|---------|---------|---------|---------------|
| No. of Employees | Nos. | *** | *** | *** | *** |
| | <i>Index</i> | 100 | 100 | 114 | 120 |
| Productivity per Employee | MT/ Employee | *** | *** | *** | *** |
| | <i>Index</i> | 100 | 106 | 103 | 97 |

G.10 Ability to raise capital investments

80. The Authority notes that given the rising demand of the product in the country, the domestic industry has made fresh investments in plant and machinery.

G.11 Level of dumping & dumping margin

81. It is noted that imports from the subject countries are entering into the country at dumped prices and there exist margins of dumping with respect to the participating producers / exporters.

G.12 Factors Affecting Domestic Prices

82. It is noted that imports from the subject countries account for 15% of the Indian demand and imports from other countries account for about 11% of the Indian demand. In conjunction therewith, it is noted that about 70% of the Indian market is controlled by the Indian producers, including the Petitioners and other Indian producers. Therefore, it appears that the prices of the Petitioners would

be affected by intra-domestic competition as well as, to a certain extent, by the imports from other countries, including the subject countries.

83. It is also noted that the landed value of subject goods from subject countries are below non-injurious price and selling price of the domestic industry.
84. The Authority is also cognizant of the fall in prices of the raw material which have led to the decline in cost of sales for the Petitioners and considers it a factor affecting the domestic prices as well.
85. Thus, the Authority considers that various factors affect the domestic prices of the subject goods in India. The impact of these parameters would be considered as part of the assessment of causation.

G.13 Overall Analysis on Injury

86. Having regard to the information on record, including information pertaining to the performance of the Domestic Industry, the Authority notes that the dumped imports of the subject goods from subject countries hold more than *de minimis* volumes and their prices have declined during the injury period. The demand for the product has increased significantly during the injury period. However, the domestic industry does not appear to have been able to capitalize on the same. The Domestic Industry's profitability has been adversely impacted and the return on the capital employed has been sub-optimal. The profitability has been negative throughout the injury investigation period.

G.14 Causal Link and Other Factors

87. The Authority has examined whether other factors listed under the Anti-dumping Rules could have contributed to injury to the domestic industry. The examination of causal link between dumping and material injury to the domestic industry has been done as follows:

(i) Imports from Third Country

88. The imports from countries other than subject countries are not very significant in volume terms. Only imports from Korea RP, Malaysia and Taiwan are more than *de minimis* (apart from the subject countries). With respect to the goods from these countries, the Authority has recently determined that despite dumping in the investigation period April, 2015 to September, 2016 period the dumped imports from these countries have been non-injurious.

(ii) Contraction in demand

89. The demand for the subject goods has shown an increasing trend. Accordingly, fall in demand cannot be the reason for injury to the domestic industry.

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

90. The Authority notes that there is no trade restrictive practice which could have contributed to the injury to the domestic industry.

(iv) **Developments in technology**

91. The technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor of causing injury to the domestic injury.

(v) **Changes in pattern of consumption**

92. The domestic industry is producing the type of goods that have been imported into India. Possible changes in pattern of consumption are not a factor that could have caused injury to the domestic industry.

(vi) **Export performance**

93. Claimed injury to the domestic industry is not on account of possible deterioration in export performance of the domestic industry. In fact, though exports by the domestic industry have declined, the data assessment has been done on the basis of information pertaining domestic sales alone. Thus, injury to the domestic sales has been isolated and examined, to the extent possible.

(vii) **Performance of the domestic industry with respect to other products**

94. The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the domestic industry's performance.

(viii) **Productivity of the domestic industry**

95. The Authority notes that there is very marginal deterioration in the productivity per employee in the POI and therefore productivity of the domestic industry could not be the reason for the injury to the domestic industry.

H. Magnitude of Injury Margin

96. The Authority has determined the non-injurious price for the domestic industry and compared with the landed values of the subject imports from the subject country to determine the injury margin on the basis of PCN wise analysis. The injury margins have been determined as follows:

Injury Margin

| Country | Producer | Exporter | Non Injurious price US\$/ MT | Landed Value US\$/ MT | Injury Margin US\$/ MT | Injury Margin % | Injury Margin (Range %) |
|---------|--------------------------------|-----------------------------------|---------------------------------|--------------------------|---------------------------|--------------------|----------------------------|
| Vietnam | Formosa Industries Corporation | 1. Liang Haw Technology Co., Ltd. | *** | *** | *** | *** | 10-20 |

| Country | Producer | Exporter | Non Injurious price US\$/ MT | Landed Value US\$/ MT | Injury Margin US\$/ MT | Injury Margin % | Injury Margin (Range %) |
|----------------|------------------|---|---------------------------------|--------------------------|---------------------------|--------------------|----------------------------|
| | | 2. Bosca Enterprises Limited | | | | | |
| Vietnam | Hyosung Dong Nai | 1. Hyosung International (HK) Ltd., Hong Kong 2. Ren Tong Industrial Ltd., Hong Kong | *** | *** | (***) | (***) | (0-5) |
| Vietnam | All Others | All Others | *** | *** | *** | *** | 30-35 |
| European Union | All | All | *** | *** | *** | *** | 0-10 |

I. Factors establishing Causal Link

97. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record , the Authority notes that:

- a) The product under consideration has been exported to India from the subject countries below normal values.
- b) The domestic industry has suffered material injury on account of such dumped imports from subject countries.

98. The essential facts of the investigation gathered by the Designated Authority during the course of the investigations and analyzed by the Authority were disclosed to the interested parties in order to enable them to offer their comments on these facts.

J. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

99. The post disclosure submissions have been received from the interested parties. Majority of the issues raised therein have already been raised earlier during the investigation and also addressed appropriately. Additional submissions have been analyzed as under:

Submissions made by the Domestic Industry

- i. The domestic industry agreed to the exclusion of BCF yarn as it is a higher tenacity yarn and not used for textile applications.
- ii. As regards exclusion of second grade NTF, it was submitted as under:
 - a. From the response and submissions of the exporter, there is no way to understand what Aquafil means when it is referring to NTF. From the submissions, it only seems that the exporter is referring to some quality of the product.
 - b. Since fabric, fibre and high tenacity yarn are not within scope of product under consideration, the domestic industry has no reservations with regard to exclusion with regard thereto. However, if some yarn, which is not high tenacity yarn is proposed to be excluded, the same is not justifiable as the domestic industry is producing and selling this type of yarn.
 - c. There is no material on record to show that the domestic industry is not producing and selling NTF product.
 - d. Second grade yarn is inevitably produced in all manufacturing set ups and the domestic industry has sold products of all grades and qualities.
 - e. No clarification or comments have ever been sought with regard to the exclusion of second grade NTF. Even if assuming but not admitting that the domestic industry is not producing second grade NTF, the same cannot be excluded as the product produced by domestic industry is nevertheless like article to that exported by Aquafil.
 - f. In a number of findings, the Designated Authority has held that difference in quality is immaterial to define the scope of product under consideration and like article. Reliance is placed on the findings in the case of Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel from China PR, USB Flash Drives from China PR, Taiwan and Republic of Korea, Acrylic Fibre from China PR, Belarus, Ukraine, EU and Peru, EPDM from Japan amongst others.
 - g. If second grade NTF is excluded, the duty would become ineffective as the exporters would circumvent the duty by declaring all exports to be of second grade. As noted by Tribunal in Huawei Technologies Limited Vs. Designated Authority, the coverage of product under consideration should be such that purpose and intent of duty levied is achieved.
- iii. The petitioners constitute domestic industry and the imports by AYM are extremely low.
- iv. There is inadequate disclosure relating to normal value. If the same has been calculated on the basis of the data of domestic industry, the same should be disclosed.
- v. In the absence of relevant information with regard to determination of normal value, the response filed should be rejected and an individual dumping margin should not be allowed.
- vi. The exporter has sold only a few PCNs. The data given by the exporter is anyways not relevant to determination of dumping margin and injury margin.
- vii. It is apprehended that the producer has deliberately given selective information to the Designated Authority.

- viii. While examining injury to the domestic industry, it needs to be considered that the entire injury period represents period wherein the domestic industry was suffering material injury on account of dumped imports.
- ix. The volume of imports has increased by nearly 12 times between 2011-12 and the period of investigation. Further, the imports increased sharply in relation to production and consumption.
- x. There is positive price undercutting and the imports have suppressed and depressed the prices of the domestic industry.
- xi. While the domestic industry was able to improve its production and sales, it was at the cost of continuing losses.
- xii. The sales of the domestic industry increased by only 29%, which was not in line with the increase in demand, which increased by 105%. Further, the domestic industry was increasing sales, but suffering financial losses.
- xiii. The domestic industry suffered financial losses throughout the period on account of dumping of the subject goods. The domestic industry incurred cash losses and was not able to earn adequate return on its capital employed.
- xiv. While the Indian industry as a whole has been able to increase its market share, it has incurred losses in the process.
- xv. Some of the other producers were earlier importers of the subject goods, who later set up manufacturing facilities. Resultantly, the market share of other producers showed an increase.
- xvi. While fall in prices and inter-se competition may affect prices of domestic industry, the only factor that has forced the domestic industry to sell below cost is the landed price of imports. Considering the capacity of the Indian producers, it is evident that there is no over-supply in the domestic market which would lead to cut-throat competition between the domestic producers.
- xvii. There is a clear causal link between the dumped imports and the injury suffered by the domestic industry.
- xviii. Despite legal requirements and mandate under the law, there is insufficient disclosure of non-injurious price. The complete calculations of non-injurious price have not been provided.
- xix. It is not appropriate to consider lowest utilization of resources for calculation of non-injurious price. In accordance with para (3) of Annexure-III, only cost of production of the period of investigation is required to be considered. The provisions of para (4) to Annexure-III with regard to lowest utilization may be considered only if there is any inefficiency in utilization of resources. There was no inefficiency in utilization of resources, nor has the investigation revealed any inefficiencies.
- xx. Even if the non-injurious price is calculated by the methodology understood to have been applied, the non-injurious price disclosed is much lower. Certain adjustments or reductions appear to have been made beyond what is provided for in Annexure – III.
- xxi. In the absence of adequate disclosure, the domestic industry is constrained in offering its comments as there is no way to ascertain what adjustments have been made in the determination of non-injurious price.
- xxii. As per the decision in the case of Gujarat Fluorochemicals Limited Vs. Designated Authority, the Tribunal held that a return of 22% should be allowed on capital employed for captive produced input.
- xxiii. It is not appropriate to change the basis of allocation or apportionment of expenses and assets / liabilities without (a) disclosing the basis of such modification to the domestic industry, (b) giving

it an opportunity to the domestic industry to comment on the propriety of the modification, (c) not allowing the domestic industry to establish appropriateness of its workings.

- xxiv. There is a clear violation of natural justice as the domestic industry has not even been made aware regarding the reasons why the cost and return have been reduced or how the figures forming basis of non-injurious price have been determined.

Submissions made by Other Interested Parties

100. The following comments on Disclosure statement are submitted by other interested parties:

- i. It has been rightly concluded by the Authority in the Disclosure Statement that both the dumping and the injury margin for Hyosung Dong Nai is *de minimus*.
- ii. There are only two products BCF and second grade NTF manufactured by Aquafil are outside the scope of product under consideration.
- iii. The exclusion of JCT Ltd. due to non-cooperation at the stage of issuance of Disclosure Statement is incorrect and not in accordance with Rule 4 (3) of Anti-Dumping Rules and Article 5.4 of the Anti-Dumping Agreement. In fact, the Authority is entitled to insist upon absolute standards of participation for the applicants.
- iv. A detailed comparative analysis of the facts stated in the Final Findings 15/17/2016-DGAD dated 5th January 2018, of the recently concluded sunset review of anti-dumping duty imposed on the imports of Nylon Filament Yarn originating in or exported from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP and the Disclosure Statement 14/33/2016-DGAD dated 23rd July 2018, in respect of the present investigation, suggests that all the parameters are almost similar in both the investigations. Accordingly, the present investigation should also be terminated on the grounds mentioned in the concluded investigation.
- v. The reason for the increase of imports from subject countries from 2013 to 2017 is not dumping, but the growth of the Indian market demands following the development of downstream industry.
- vi. Despite imports from subject countries, sale of domestic industry has increased substantially from *** MT (2013-14) to *** MT during the POI. Share of imports from Vietnam in total demand has slightly increased from 12% (2013-14) to 14% only during POI.
- vii. The trend of price from subject countries and domestic industry has been fluctuating from 2013-14 to POI. Landed price and domestic selling price, both are decreasing in tandem. It depicts that there cannot be price injury to the domestic industry. The petitioner agreed that there is no price suppression, there is no price depression also.

- viii. The petitioners have increased their capacity every year, during the injury period and POI. Production and capacity utilization of the domestic industry has also increased during the period of investigation. This shows that the domestic industry is improving.
- ix. Petitioner is also exporting the subject goods; however, export performance of the petitioner has been deteriorated during the POI. The decline in exports might have caused injury to the domestic industry.
- x. Overall performance of the domestic industry has improved. As per disclosure statement, domestic sales have increased substantially during the POI as compared to the base year. This shows that imports from subject countries have not caused any injury to the domestic industry.
- xi. The market share of domestic industry has declined during the POI. This decline is not because of increase in imports but on account of increase in the share of other Indian producers. The market share of other Indian producers has increased substantially during POI. On the contrary, the share of imports from subject country has remained almost same from 12% during 2013-14 to 14% during POI. Thus, injury to the petitioners and decline in its market share cannot be attributable to imports from the subject countries but to the fact that the other Indian producers are taking over the market share of the Petitioners.
- xii. Profitability of the Domestic Industry has improved. Per unit losses have come down from 100 to 80 during the POI as compared to the base year 2013-14. Cash Profit has improved from (100) during the year 2013-14 to (77) during the POI. Whereas, profit before interest and tax has shown abnormal trend.
- xiii. The capital employed of the Domestic Industry has improved from 100 during 2013-14 to 144 during POI. Return on Capital employed remained almost same during the period of investigation as compared to 2013-14.
- xiv. The import data claimed in the disclosure statement does not match with the import data given in the final finding of the sunset review investigation of anti-dumping duty imposed on the imports of Nylon Filament Yarn originating in or exported from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP for the same product under consideration.
- xv. The non-injurious price determined by the Director General is highly inflated and is not based on real situation. They have further stated that basis of 22% ROCE was designed in the year 1987, when all parameters like interest rate and corporate tax were different, those cannot be termed as reasonable after 30 years in the year 2018. In 1987, the rate of interest was around 18% and corporate tax was 40%. Now both, interest rate (around 10%) and corporate tax (30%) have come down. Therefore, by applying 22% ROCE, DGTR is giving undue protection to the Domestic Industry.

- xvi. The Authority should define the product exclusion of BCF and second-grade NTF and elaborate the feature and description of the products being excluded from the PUC to ensure that the customs enforcement of the exclusion may be appropriately carried out.
- xvii. The Authority must include the production volume of M/s. JCT Ltd. as part of the total Indian production, because regardless of their cooperation or non-cooperation, the party's production continues to be part of the Indian Domestic production. It is unclear how the Authority has treated the production volume of M/s. JCT Ltd. in arriving at total Indian production. The Authority must also include the production volume of M/s. AYM Syntex as part of the total Indian production, because it is already noted that the import volume of M/s. AYM Syntex is insignificant.
- xviii. In so far as the Authority has reasoned that post-exclusion of M/s. AYM Syntex the Petitioners would gain an undue advantage with respect to the injury assessment since M/s. AYM Syntex is the most efficient producer, the Authority must reassess the standing of the Petitioners after exclusion of M/s. JCT Ltd. and M/s. AYM Syntex Ltd.
- xix. Authority must provide the data pertaining to percentage of the eligible domestic industry accounts when taken together. The Authority must disclose the cumulated data of the Petitioners. The Petitioners' shareholding in Indian production cannot be treated as confidential by the Authority when such confidentiality has not been sought or maintained by the Petitioners themselves in their Petition.
- xx. Where the domestic industry holds less than 50% of the share of Indian production, the Authority must necessarily discontinue the investigation, since such low representation of the domestic producers is not sufficient and cannot be considered "major proportion" for the purpose of determining an eligible "domestic industry".
- xxi. The interested parties have agreed with the Authority's reasoning and conclusion pertaining to rejection of request for inclusion of M/s. Century Enka as part of the domestic industry.
- xxii. The Authority has exercised excessive confidentiality by redacting information pertaining to share of imports as a percentage of domestic consumption and production, production and sales of Indian producers on a cumulated basis, the standing of the domestic industry and the production and sales of the domestic industry as determined. The Petitioners themselves had made such information available throughout the investigation. The Authority cannot claim confidentiality with respect to data which the Petitioners themselves did not claim as confidential.
- xxiii. The Authority should carry out injury assessment and assessment of the Volume and Price Effect by revising data pertaining to volume of imports, after exclusion of imports of BCF, second grade NTF and the un-dumped imports from Vietnam.
- xxiv. The Authority must also reassess the price effect in view of the findings with respect to the same in the concluded NFY investigation. The price undercutting of the subject imports in the concluded NFY investigation was much higher than the price undercutting of the subject imports in the present investigation and yet the Authority found that the domestic

industry was not suffering from any injury in that case, and in fact its economic parameters were healthy.

- xxv. The examination of price underselling cannot be part of the price effect assessment. Rather, it is a computation of injury margin. Jurisprudence in *Nirma Ltd. v. Union of India* [Special Civil Applications No.16426/2016 & 16427/2016] cited.
- xxvi. Based on a comparison of the *price undercutting* and *price underselling* in the present case, it is evident that the Petitioners are already selling at a price higher than its non-injurious price, implying that no injury was suffered by the Petitioners. Jurisprudence in *Ammonium Nitrate from Russia and Iran (2004)* and *X-ray Baggage Inspection Multi Energy System (XBIS) from European Union (2003)* was cited.
- xxvii. The Authority must reassess the impact on the Economic Parameters pertaining to Production, Capacity, Capacity Utilization, and Sales since the Petitioners' capacity has increased continuously in the injury period from 2013-14 to 2015-16. Moreover, in spite of a substantial increase over a short period of time, the Petitioners have been able to utilize this increased capacity in production. The Petitioners' export performance declined over the period of injury and in the POI and therefore, impacted its capacity utilization.
- xxviii. The Authority must reassess the impact on the Economic Parameters pertaining to Profitability since the Petitioners have been suffering losses / injury throughout the injury investigation period. The domestic industry's losses have substantially declined in the POI (A). There is no correlation between the losses made by the domestic industry and the increase in production and sales over the injury period.
- xxix. The Petitioners have been in losses even in the year 2013-14 and 2014-15 when the volume of imports from the subject countries was much lower, and the domestic industry was also protected from the imports from other countries, such as China, Malaysia, Indonesia, Taiwan and Thailand by way of anti-dumping duties. Therefore, the Petitioners' losses in a protected period with low imports from the subject sources raises serious questions about the source of the losses faced by the Petitioners and implies that the low profitability of the Petitioners is attributable to certain inherent deficiencies of the Petitioners.
- xxx. The domestic industry's decline in RoCE is inconsistent with the substantial increase in production and increase in sales of the PUC in the injury period. The domestic industry had made fresh investments in plant and machinery implying an increase in capital employed. Since the domestic industry's capital employed has increased in the injury period, its RoCE is bound to have decreased in the injury period.
- xxxi. The Authority must reassess the impact on the Economic Parameters pertaining to Ability to raise capital investments since the domestic industry has made fresh investments in plant and machinery given the rising demand for the subject goods in India. The domestic industry has been able to make fresh capital investments on the back of increased demand which shows that the domestic industry expects to financially and operationally benefit from the same.
- xxxii. The Authority's assessment pertaining to the Factors affecting domestic prices is appropriate in so far as it considers that subject imports hold merely 15% of the Indian

demand while the Indian producers control about 70% of the same and therefore, it is possible that the prices of the Petitioners are impacted by the inter-se competition as well as by imports from other countries. The Authority has also noted that there has been a fall in prices of the raw material which also led to the decline in cost of sales for the Petitioners and thereby affected the selling prices of the Petitioners. However, the Authority must also assess the impact of various other parameters such as the impact of the costs of increased capacity undertaken by the Petitioners and the resultant high fixed costs; the various factors, cited by the Petitioners in their Annual Reports, such as Volatile Raw Material Prices; inter-se competition with other Domestic Producers; overcapacity in the domestic market; cheap imports from ASEAN Countries as an outcome of Free Trade Agreement (not dumping); loss of export market and poor export performance (specifically with respect to Turkey); demonetization, low-priced imports from Malaysia, Taiwan and Thailand and the low demand for the Petitioners' goods owing to poor quality and sales of uneven material (uneven package weights) as first grade material.

EXAMINATION BY THE AUTHORITY

- i. With regard to the claim that in the determination of Non-Injurious Price (NIP) certain adjustments are reduction appear to have been made beyond what is prescribed in Annexure – III to Indian Anti-Dumping Rules, it is noted that the NIP has been determined in accordance with guidelines prescribed in the Annexure – III to Indian Anti-Dumping Rules.
- ii. In regard to the contention of the interested parties that price undercutting is higher than price underselling and hence selling price above the non-injurious price, it is noted that the comparison is not fair on account of difference in the PCNs of PUC produced and sold during the period of investigation. It is further noted that the selling price of PUC is Rs *** per MT during POI, which when converted into USD would be USD *** per MT whereas weighted average NIP of PUC imported from Vietnam, wherefrom price undercutting is higher, in dollar terms is USD *** per MT.
- iii. In regard to various issues raised in respect of the standing of domestic industry, it is noted that the issue has been dealt with adequately earlier in this notification. It is further noted that even after exclusion of all allegedly ineligible petitioner(s) the share of remaining petitioners is more than the statutory requirement for being eligible Domestic Industry. The share of DI excluding M/s JCT Ltd. in the Indian production is approximately 40% as against the requirement of 25%. There is no opposition to the petition. Therefore, petitioners qualify as DI in terms of Rule 2(b) and Rule 5(3) of the Indian Anti-Dumping Rules. There is no requirement whatsoever in the Indian Anti-Dumping Laws that the share of petitioners in Indian production should be more than 50%.
- iv. The Authority further notes that the production volume of all domestic producers, regardless of their cooperation or non-cooperation, has been taken as part of the total Indian production

- v. Regarding claim of the interested parties that the current ADD investigation should also be terminated on the lines of earlier sunset review (15/17/2016-DGAD) conducted for Nylon Filament Yarn since all the parameters in both the investigations are almost similar, it is noted that the SSR investigation was in respect of both Mono and Multi Filament Yarn, whereas the current investigation is in respect of Multi- Filament Yarn only, wherein losses were noted even in the SSR investigation. Even the subject countries of both the investigations are different.
- vi. With regard to the claim that the decline in market share of DI is on account of increase in market share by other producers, it is noted that the statistics quoted by the interested party in this regard is not entirely correct. It is further noted that the imports of PUC from Vietnam has increased from 9.24% to 13.83% of total demand.
- vii. With regard to the contention of the interested parties that the profitability of the domestic industry and its return on capital employed have improved over the injury period, it is noted that the profitability has been in the negative zone throughout the injury period and the losses during the POI, though reduced compared to the preceding year, stood at approximately four times the losses during the base year. The return on the capital employed also is at sub-optimal level of *** % as against 22% allowed by the Directorate consistently over the years.
- viii. With regard to the contention that the import data in the disclosure statement does not match with the import data given in the final finding of the sunset review investigation of anti-dumping duty imposed on the imports of Nylon Filament Yarn originating in or exported from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP for the same product under consideration, the Authority notes that the subject countries and the scope of PUC under both the investigations are different and therefore the import data cannot match.
- ix. Regarding the claim that higher return on capital employed @22% has been allowed to determine the non-injurious price, it is noted that the Authority has consistently been giving return on capital employed @22% in all the investigations and there is no departure in this case from that consistent practice.
- x. The domestic industry has represented that there is nothing on record to show that the domestic industry is not producing and selling NTF yarn and that second grade yarn is inevitably produced in all manufacturing set ups and that the domestic industry has sold products of all grades and qualities. The DI has expressed apprehension that if second grade NTF is excluded, then the duty would become ineffective as the exporters would circumvent the duty by declaring all exports to be of second grade. The concern raised by interested parties on possibility of circumvention of duty in the event of exclusion of second grade NTF (Nylon Textile Fibre) yarn has been noted. The Authority notes that the exporter from EU has not been able to furnish any distinct feature or technical characteristics of second grade of NTF that could distinguish it from the PUC. It is further noted that the exporter from EU had made submission that NTF second grade did arise out of the defects in the production process which were identified during quality control process and that it was not produced as part of the production plan. The exporter from EU has treated second grade NTF as the by-product but costing of NTF first grade even was not shared by them. Accordingly, the Authority holds that second grade NTF (Nylon Textile Fibre) yarn cannot be excluded from

the scope of PUC. It is further held that on account of the reason cited above, the individual margin is not being extended to M/s Aquafil in respect of their export of NTF yarn to India

- xi. The Authority further holds that BCF (Bulk continuous filament) yarn is excluded from the scope of PUC, as agreed upon by the domestic industry also. BCF yarn is crimped nylon filament yarn which has high tenacity of approximately 4 centi newton decitex and high denierage (approx. 650 to 1650 decitex) and is normally used in carpet making.
- xii. It is further noted that the Authority has reassessed the injury by excluding volume of (i) un-dumped imports and (ii) import of excluded product i.e. BCF yarn.

K. Indian industry's interest & other issues:

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

L. Recommendation

- 102. The Authority notes that the investigation was initiated and it was notified to all the interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and the causal link thereof in terms of the Anti-Dumping Rules and having established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of anti-dumping duty is necessary to offset dumping and injury.
- 103. Having regard to the lesser duty rule, 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. Accordingly, the anti-dumping duty equal to the amount indicated in Column 8 of the table below is recommended to be imposed for a period of five (5) years by the Central Government on the imports of the subject goods originating in or exported from subject countries.

DUTY TABLE

| Sl. No. (1) | Sub-heading (2) | Description of Goods (3) | Country of Origin (4) | Country of Export (5) | Producer (6) | Exporter (7) | Amount (8) | Unit (9) | Currency (10) |
|-------------|-----------------|----------------------------|--|-----------------------|--------------------------------------|---|------------|----------|---------------|
| 1 | 5402 | Nylon multi filament Yarn* | Vietnam | Vietnam | Formosa Industries Corporation (FIC) | 1.Liang Haw Technology Co., Ltd. (LIHA) , Taiwan 2. Bosca Enterprises Limited(BOSCA), HongKong | 384.02 | MT | US\$ |
| 2. | 5402 | Nylon multi filament Yarn* | Vietnam | Vietnam | Hyosung Dong Nai | 1.Hyosung International (HK) Ltd., Hong Kong 2. Ren Tong Industrial Ltd., Hong Kong | NIL | MT | US\$ |
| 3 | 5402 | Nylon multi filament Yarn* | Vietnam | Any country | Any | Any | 719.44 | MT | US\$ |
| 4 | 5402 | Nylon multi filament Yarn* | Any country other than subject countries | Vietnam | Any | Any | 719.44 | MT | US\$ |
| 5 | 5402 | Nylon multi filament Yarn* | European Union | Any country | Any | Any | 128.06 | MT | US\$ |
| 6 | 5402 | Nylon multi filament Yarn* | Any country other than subject countries | European Union | Any | Any | 128.06 | MT | US\$ |

* Synthetic multi filament yarns of Nylon or Polyamides, such as flat yarn - twisted and/or untwisted, crimped yarn, fully drawn yarn (FDY), spin drawn yarn (SDY), fully oriented yarn (FOY), high oriented yarn (HOY), partially oriented yarn (POY), textured yarn – twisted and/or untwisted, and dyed yarn, single, double, multiple, folded or cabled, classifiable within Chapter 54 under customs subheading no. 5402. The product includes all variants of Nylon Filament Yarn or Polyamide Yarns such as flat/ textured/ twisted/ untwisted, bright/semi-dull/full-dull (or variants thereof), grey/ colored/ dyed (or variants thereof), single/double/ multiple/folded/cabled (or variants thereof), whether or not sized, but excludes

high tenacity yarn of nylon. Specifically excluded from the scope of product under consideration are all man-made filament yarns not having Nylon or Polyamides and mono filament yarn, high tenacity yarn of nylon, BCF (Bulk Continuous Filament) yarn.

BCF yarn is crimped nylon filament yarn which has high tenacity of approximately 4 centi newton decitex and high denierage (approx. 650 to 1650 decitex) and is normally used in carpet making.

M. FURTHER PROCEDURE

104. An appeal against the order of the Central Government that may arise out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)
Additional Secretary & Director General