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## 駐印度代表處經濟組 函

受文者：經濟部國際貿易局

發文日期：中華民國111年1月18日  
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主旨：印度商工部貿易救濟局公布對自中國大陸、南韓、越南及我國進口之彈性紗(Elastomeric Filament Yarn)反傾銷落日複查案基礎事實揭露報告(Disclosure Statement)，報請鈞察。



說明：

- 一、依據印度商工部貿易救濟局(DGTR)本(2022)年1月18日F.No.7/14/2021-DGTR通知辦理。
- 二、本案係印度商M/s Indorama Industries Ltd.向印度商工部DGTR提出申請，該公司產量佔印度總產量54%。案經審查後DGTR於2021年6月30日公告展開落日複查，並發出問卷予已知出口商，包含我國之Asahi公司，調查期間為2020年1月1日至2020年12月31日；損害調查期間為2017年4月1日至2020年12月31日。
- 三、因無我國廠商參與調查，DGTR依據可得事實計算正常價格及出口價格，惟報告中並未計算我國傾銷差額(Dumping Margin)及損害差額(Injury Margin) (參閱報告第25、38頁)。但印度國內產業表示，臺灣生產商均未參與調查，

國際貿易局 111/01/19



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因目前課徵之反傾銷稅使其無法與印度國內產業競爭，因此未出口涉案產品至印度。印度國內產業依據可得之次級資料認為傾銷及損害有可能再度發生，並計算可能之傾銷差額為55-65%，損害差額為110-120%(參閱報告第43頁)。

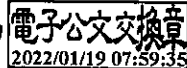
四、本案利益關係人倘欲對該基礎事實揭露報告內容表示意見，可於本(1)月25日前逕向本案調查官Rajiv Kumar Soni 提出(電話：+91-11-23408706，電郵：adg15-dgtr@gov.in、adv11-dgtr@gov.in、dir16-dgtr@gov.in、dd13-dgtr@gov.in、dirgen-dgtr@gov.in)，DGTR將參酌國內產業及利益關係人意見後提出終判報告。

五、檢附上述基礎事實揭露報告影本1份，併請鈞察。



正本：經濟部國際貿易局

副本：經濟部工業局



**File No. 7/14/2021-DGTR**  
**Government of India**  
**Department of Commerce**  
**Ministry of Commerce & Industry**  
**(Directorate General of Trade Remedies)**  
**4th Floor, Jeevan Tara Building,**  
**5, Parliament Street, New Delhi – 110001**

Dated: 18.01.2022

**Disclosure Statement**  
**Case No. SSR No.12/2021**

**Subject:** Sunset Review of anti-dumping duty imposed on the imports of 'Elastomeric Filament Yarn' originating in or exported from China PR, South Korea, Taiwan and Vietnam-reg.

1. In accordance with Rule 16 of the Customs Tariff Act 1975, as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time thereof, I am directed by the Designated Authority to disclose the essential facts under consideration before the Designated Authority in the matter relating to Sunset review anti-dumping investigation concerning imports of 'Elastomeric Filament Yarn' originating in or exported from China PR, South Korea, Taiwan and Vietnam.
2. This Disclosure Statement comprises the following four Sections:

**Section I: General Disclosure**

**Section II: Determination of Normal Value, Export Price and Dumping Margin (Confidential copy to producers and exporters).**

**Section III: Assessment of Injury, Causal Link and Likelihood of continuation or recurrence of dumping and injury.**

**Section IV: Methodology for arriving at non-injurious price (Confidential copy for Domestic Industry only)**

3. The sections cited above contain essential facts under consideration of the Designated Authority, which would form the basis for the Final Findings. The reproduction of facts does not tantamount to either acceptance or rejection of any fact/ argument/ submission. Arguments raised/ submissions made by the interested parties during the course of the present investigation are reflected in this Disclosure Statement to the extent they are considered relevant to this investigation by the Designated Authority.

4. Notwithstanding the facts given in this Disclosure Statement (including facts given on a confidential basis), the Designated Authority would consider all replies given, on merits, in order to arrive at a final determination.
5. \*\*\* in this Disclosure Statement represents information furnished by interested parties on confidential basis and so considered by the Designated Authority under the Rules.
6. The interested parties may offer their comments, if any, along with soft copy of the same to the email of the undersigned along with a copy marked to the email addresses [adg15-dgtr@gov.in](mailto:adg15-dgtr@gov.in), [adv11-dgtr@gov.in](mailto:adv11-dgtr@gov.in), [dir16-dgtr@gov.in](mailto:dir16-dgtr@gov.in) and [dd13-dgtr@gov.in](mailto:dd13-dgtr@gov.in) latest by **1:30 PM on 25<sup>th</sup> January, 2022**. The interested parties are requested not to repeat their earlier submissions if already included and addressed in this disclosure statement.
7. Since anti-dumping investigations are time bound, the Designated Authority shall not entertain any request for extension of time.
8. This has been issued with the approval of the Designated Authority.

Sd/-

(Rajiv Kumar Soni)  
Deputy Director (FT)  
Email: [dd13-dgtr@gov.in](mailto:dd13-dgtr@gov.in)  
Tel: +91-11- 23408706

**Enclosures: As above**  
To,  
All Interested Parties

**GENERAL DISCLOSURE**

**Subject: Sunset Review of anti-dumping duty imposed on the imports of ‘Elastomeric Filament Yarn’ originating in or exported from China PR, South Korea, Taiwan and Vietnam-reg.**

1. **No. 7/14/2021-DGTR:** Having regard to the Customs Tariff Act 1975, as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time;

**A. BACKGROUND OF THE CASE**

2. M/s Indorama Industries Ltd (hereinafter also referred to as the “applicant” or the “petitioner” or the “domestic industry”) has filed an application (hereinafter also referred to as the “petition”) before the Designated Authority (hereinafter also referred to as the “Authority”), in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred as the “ Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred as the Rules) for sunset review of anti-dumping investigation concerning the imports of Elastomeric Filament Yarn (hereinafter also referred as the “subject goods” or the “product under consideration”), originating in or exported from China PR, South Korea, Taiwan and Vietnam (hereinafter also referred to as the “subject countries”).
3. The applicant has alleged likelihood of continuation or recurrence of dumping of the subject goods, originating and exported from the subject countries, and consequent injury to the domestic industry in case the existing anti-dumping duty imposed on the subject goods originating in or exported from the subject countries and has requested for review and continuation of the anti-dumping duty imposed on the imports of the subject goods, originating in or exported from the subject countries.
4. Section 9A (5) of the Act, inter alia, provides that anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of the duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of the duty is likely to lead to continuation or recurrence of dumping and injury.
5. Rule 23(1B) of the Rules provides as follows:

*“...any definitive anti-dumping duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition, unless the Designated Authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said*

*anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry."*

6. The original investigation concerning imports of the subject goods from the subject countries was initiated by the Authority vide Notification No. 14/29/2015-DGAD dated 27.01.2016. The Final Findings Notification was issued by the Authority vide Notification No. 14/29/2015-DGAD dated 24.03.2017, recommending therein the imposition of definitive anti-dumping duty. On the basis of the recommendations made by the Authority in the Final Findings, definitive anti-dumping duty was imposed by the Central Government vide Notifications No. 15/2017-Customs (ADD) dated 03.05.2017 on the imports of the of the subject goods, originating in or exported from China PR, South Korea, Taiwan and Vietnam. The existing anti-dumping duty is valid up to 02.05.2022.
7. Based on the substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority had initiated the sunset review investigation vide Initiation Notification No. 7/14/2021-DGTR (AD-SSR No. 12/2021) dated 30.6.2021 to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry and whether there is a need for continued imposition of the antidumping duty in respect of the subject goods originating in or exported from the subject countries.

#### **B. PROCEDURE**

8. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
  - i. The Authority issued a public notice dated 30.06.2021, published in the Gazette of India Extraordinary, initiating sunset review of anti-dumping investigation concerning imports of the subject goods originating in or exported from the subject countries.
  - ii. The Authority sent a copy of the initiation notification to the Embassies of the subject countries in India, known producers/exporters from the subject countries, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 30 days from the receipt of the notice in accordance with Rule 6(4) of the AD Rules. The time limit to file the information was extended from time to time.
  - iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules supra.
  - iv. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.

- v. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject countries, whose details were made available by the applicant, to elicit relevant information in accordance with Rule 6(4) of the Rules:
- a. Hyosung TNC Corporation, Korea RP
  - b. The Lycra Company, Korea RP
  - c. Teakwang Industrial. Korea RP
  - d. T K Chemical Corporation, Korea RP
  - e. Hyosung VietNam Co. Ltd., Vietnam
  - f. Yantai, China PR
  - g. Invista, China PR
  - h. Asahi, Taiwan
- vi. The following producers/exporters from the subject countries have filed exporter's questionnaire response:
- a. Hyosung TNC Corporation, Korea RP
  - b. T K Chemical Corporation, Korea RP
  - c. Chuanglai Fibre (Foshan) Co., Ltd., China PR
  - d. The LYCRA Company Singapore Trading Pte. Ltd., Singapore
  - e. Hyosung Dongnai Co. Ltd., Vietnam
  - f. Hyosung VietNam Co. Ltd., Vietnam
- vii. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user associations, whose names and addresses were made available to the Authority, of the subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):
- a. Auro Spinning Mills
  - b. Aarvee Denims and Exports Ltd.
  - c. Alok Industries Ltd.
  - d. BST Textile Mills Pvt. Ltd.
  - e. Blaumann Industries Pvt. Ltd.
  - f. Bombay Rayon Fashions Ltd.
  - g. Deepak Impex Pvt. Limited
  - h. Confederation of Indian Textile Industry (C I T I)
  - i. Indian Spinners Association (I S A)
  - j. Indian Woollen Mills Federation
  - k. Federation of Indian Art Silk Weaving Industry
  - l. The Southern India Mills' Association
- viii. The following importers or consumers of the subject goods have filed the importer's questionnaire response in the prescribed format:
- a. Arvind Limited
  - b. Ginni International Limited
  - c. Vardhman Textiles Limited
  - d. Raymond UCO Denim Private Limited
  - e. Best Corporation Private Limited

- f. Bhaskar Industries Private Limited.
  - g. RSWM Limited
  - h. Sangam (India) Limited
  - i. Sri Kannapiran Mills Limited
  - j. Suryalakshmi Cotton Mills Limited
  - k. Oswal Woollen Mills Limited
- ix. Hyosung India Pvt. Ltd, the only other producer in India, has filed its submissions during the course of the investigation Vishal Fabrics Ltd., Indian Denim Manufacturing Association; Indian Taxpreneur Federation have also filed their post-hearing/ other legal submissions.
- x. The exporters, foreigner producers and other interested parties who have not responded to the Authority, or not supplied complete information relevant to this investigation, are proposed to be treated as non-cooperating interested parties.
- xi. The information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority proposes to accept the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the 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.
- xii. The interested parties were asked to share the non-confidential version of the responses, submissions and evidence presented by them with the other interested parties.
- xiii. The period of investigation (POI) for the present investigation is 1<sup>st</sup> January, 2020 to 31<sup>st</sup> December, 2020 (12 months). The injury period under investigation will, however, cover the periods 1<sup>st</sup> April, 2017 to 31<sup>st</sup> March,2018, 1<sup>st</sup> April, 2018 to 31<sup>st</sup> March, 2019, 1<sup>st</sup> April, 2019 to 31<sup>st</sup> March, 2020 and the period of investigation (POI).
- xiv. Additional/supplementary information was sought from the applicant and other interested parties to the extent deemed necessary. The verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation.
- xv. The Non-Injurious Price (NIP) has been determined based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xvi. The information obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) on transaction-wise import data for the past three years, and the period of investigation has been adopted for determination of volume and value of the imports of the product concerned in India.



- xvii. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all the interested parties to present their views orally in a hearing held on 10.11.2021. The oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID- 19 pandemic. All the parties who presented their views in the oral hearing were requested to file written submissions of these views, in order to enable opposing interested parties to file rejoinders thereafter.
- xviii. The desk verification of the information provided by the applicant, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of the disclosure statement.
- xix. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this disclosure statement.
- xx. 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 this disclosure statement on the basis of the facts available.
- xxi. \*\*\* in this disclosure statement represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxii. The exchange rate adopted by the Authority during the POI for the subject investigations is 1 US\$= Rs. 75.02

## **C. PRODUCT UNDER CONSIDERATION (PUC) AND LIKE ARTICLE**

### **C.1. Submissions made by the other interested parties**

- 9. The other interested parties have made the following submissions with regard to the product under consideration and the like article:
  - i. That Lycra should be excluded from the scope of the product under consideration as the same is not being produced by the domestic industry.
  - ii. That the domestic industry itself excluded Lycra in another investigation of the same product.

### **C.2. Submissions made by the domestic industry**

- 10. The submissions made by the domestic industry with regard to the product under consideration and the like article and considered relevant by the Authority are as follows:

- i. That, the domestic industry is producing complete range of the product under consideration. Since the present investigation is a sunset review investigation, the scope of product under consideration remains the same as in the original investigation.
- ii. In relation to exclusion of brand “Lycra” Domestic Industry has submitted that as a matter of consistent practice, the Designated Authority does not alter the scope of the Product under Consideration during the sunset review investigations. It is further submitted that the exclusion in the original investigation was provided to certain products on the basis of their physical/technical specifications, usage, substitutability etc. Any further exclusion has to pass the same yardstick and not merely on the ground that same has been excluded in some other investigation. It was further pointed that in the investigation against Singapore also, domestic industry has not requested exclusion on the ground that like article is not being produced or sold by the domestic industry.
- iii. It is further submitted by the domestic industry that it is impermissible in law as also against the consistent approach of the Authority to alter the scope of the product under consideration in a sunset review investigation. In past, the Hon’ble Designated Authority has consistently stated that the scope of the product under consideration cannot be altered in a sunset review investigation.
- iv. The domestic industry has relied on the recently initiated sunset review investigation for Float Glass from China for continuation of the period of duties already imposed and also initiated limited mid-term review investigation for exclusion of “Extra Clear Float Glass” from the scope of the product under consideration of Float Glass from China PR. It is further submitted that since DGTR has initiated separate mid-term review and sunset review investigation, now it is not open from the DGTR to accept request for product exclusion in current sunset review investigation.
- v. The domestic industry has also submitted that the exporters have failed to provide full details of the “Lycra” like its physical/technical specifications, usage, substitutability etc. which according to them the domestic industry cannot produce. for our comments before taking any decision in the matter.
- vi. That, the Designated Authority in the case of Sunset Review anti-dumping investigation concerning imports of ‘Ductile Iron Pipes’ originating in or exported from China PR, despite noting that the domestic industry does not manufacture a particular type of the Product under Consideration, declined to amend the product scope on the ground that the same was made in a sunset review investigation. Similarly, in the investigation concerning Polypropylene originating in or exported from Singapore, the Authority declined to amend the product scope despite the specific submission of the domestic industry that they do not manufacture certain grade of the Product under Consideration. The decision of the Authority was based on the analysis of various factors after getting the inputs from all the interested parties. Since the Authority is consistently not modifying the scope of the product under consideration, the domestic industry request that since they are producing like article, request for exclusion of “Lycra” cannot be accepted.
- vii. None of the interested parties have provided any evidence that the technical characteristics of the product requested for exclusion cannot be produced by the domestic industry.
- viii. The domestic industry is producing a like article to the product under consideration.

### **C.3. Examination by the Authority**

11. The submissions made by the domestic industry and the other interested parties with regard to the product under consideration, to the extent considered relevant, were examined by the Authority and addressed accordingly.
12. The product under consideration in the Initiation Notification No. 7/14/2021 dated 30<sup>th</sup> June, 2021, and in the present sunset review investigation was defined as under:
  4. *"Elastomeric Filament Yarn of all deniers up to and including 150 Deniers, excluding coloured yarns and Beam type Elastomeric yarns." These filament yarns are also commonly referred to as Spandex or Elastane. These yarns are also colloquially referred to as "Lycra" in the market even though it is a specific brand name. These are described in technical terms as segmented polyurethane composed of "soft", or flexible, segments bonded together with "hard", or rigid segments. This gives the fibre its built-in, lasting elasticity. It is an elastomeric fibre used widely as the minor component in stretch garments to provide stretch with recovery. It is to be noted that the product under consideration as defined above is the same as was in the original investigation. The applicant has used the product control numbers (PCN) issued by the Authority in the original investigation for price analysis.*
  5. *The subject products are classified under Chapter Heading 54 "Man-made filaments; strips and the like of man-made textile materials". The classification at the 8-digit level is 54041100 even though the product is being classified and imported under various sub-headings like 5402, 5403 and 5404 of the Customs Tariff Act, 1975. It is also to be noted that the custom classification is indicative only and in no way binding upon the product scope of the present investigation.*
  6. *The present petition being for a sunset review investigation, as per the settled jurisprudence and the past practices of the Authority, the Product under Consideration remains the same as defined in the original notification.*
13. The Authority noted that the other interested parties have submitted that "Lycra" product should be excluded from the scope of the PUC since the domestic industry had requested in another investigation for its exclusion and that the same is also technically and commercially a different product. The domestic industry, on the other hand, had submitted that they are producing the like product. It is further submitted by the domestic industry that the product scope in both the investigations is different and therefore, the same has no bearing in this investigation.
14. The Authority notes that the present investigation is a sunset review investigation and it had examined the scope of the product under consideration in the original investigation on the basis of submissions made by the responding producers and the domestic industry and other information and records available to the Authority at that time. With respect to exclusion requests of brands like Lycra, the Authority notes that in the original investigation in respect of the subject countries, the Authority had recorded at para 20 of the final findings dated 24.03.2017 that in relation to the exclusion requests of brands like Lycra from the scope of the product under consideration, the interested parties had not produce sufficient evidence to prove their claim of exclusion and that no product can be excluded based on their brand

names from the scope of the product under consideration. Therefore, the Authority had noted in the original final findings that the criteria for exclusion have not been satisfied, and thus the request of the interested parties to exclude brands like Lycra from the scope of the product under consideration had been rejected.

15. The Authority had examined the counter arguments on the product under consideration on the basis of submissions made by the responding producers and the domestic industry to the Authority before issuance of the disclosure statement in the original investigation and other information and records available to the Authority at that time and in accordance with that the Authority had noted that the subject goods, which were being imported into India, were identical to the goods produced by the domestic industry. There were no differences either in the technical specifications, functions or end-uses of the dumped imports and the domestically produced goods. The two were technically and commercially substitutable with each other. As a result, the Authority had reiterated its findings in para 20 of the original Final Findings and held that the subject goods produced by the domestic industry were like article to those imported from the subject countries.
16. The product under consideration in the original investigation as well as in the present sunset review is Elastomeric Filament Yarn of all deniers upto and including 150 Deniers, excluding coloured yarns and Beam type Elastomeric yarns. In the previous investigation, the product under consideration was defined as under. The Authority proposes to consider the same scope of the product under consideration for the present purposes:

*“Elastomeric Filament Yarn of all deniers upto and including 150 Deniers, excluding coloured yarns and Beam type Elastomeric yarns.”*

17. The Authority also notes that in the original Findings though submissions regarding exclusion of various types were made, only a few exclusions were accepted as stated in para 17 to 21 of the Findings, keeping in view the cost, price and interchangeability of the subject goods produced by the domestic industry and the PUC exported from the subject countries. Thus, the Authority proposes not to alter the PUC and its scope in the present sunset review investigation.
18. The Authority also notes that there is no known difference in product under consideration, as defined above, produced by the Indian industry and exported from the subject countries. The product under consideration produced by the Indian industry and imported from subject countries are comparable in terms of characteristics such as physical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The subject goods produced by the domestic industry are like article to the product under consideration imported from subject countries within the scope and meaning of the Rules.

#### **D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING**

19. Rule 2 (b) of the Rules defines the 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".*

**D.1. Submissions made by the other interested parties**

20. The other interested parties made the following submissions in relation to the scope of the domestic industry & its standing.
- a. The other interested parties have submitted that the Authority should include other Indian producers also into the scope of the domestic industry. It is further submitted that the Authority in the recent past has considered companies who are related to exporters or have themselves imported the subject goods. Therefore, there is no reason for considering other Indian producers as ineligible domestic producer.

**D.2. Submissions made by the domestic industry**

21. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & its standing are as follows:
- a. Hyosung India Private Limited (HIPL) cannot be considered as eligible domestic industry and its production cannot be considered to calculate applicant's share in Indian production as it is related to exporters from the subject countries.
  - b. The application has been filed by M/s Indorama Industries Ltd. The production by the applicant constitutes a major proportion of total Indian production. It is further submitted that the applicant accounts for 100% of the total eligible production.
  - c. The applicant has not imported the subject goods from the subject countries during the entire injury investigation period.
  - d. The applicant is not related to the exporters in the subject countries or the importers in India.

**D.3. Examination by the Authority**

22. The application has been filed by M/s Indorama Industries Ltd., who is a major producer of the product under consideration in India. There is only one more producer of product under consideration in India, namely, Hyosung India Private Limited (HIPL).
23. As per the evidence available on record, the Authority notes that the applicant commands a major proportion in the total production of the subject goods in India. The applicant is neither related to an importer in India nor any exporter from subject countries. The Authority further notes that the applicant has not imported the subject goods during the period of investigation.
24. It is seen from the information provided by the HIPL that the related exporters from the subject countries have exported substantial quantities (entirety of the exports from Vietnam are by their related companies). Therefore, the Authority has considered HIPL as a domestic producer, but not the domestic industry within the meaning of the Rule 2(b).

25. The production of the applicant accounts of 53% in the gross Indian production (including HIPL) and 100% after excluding production of HIPL.

Indian producers	UoM	2017-18	2018-19	2019-20	POI	Share
Indorama Industries Limited (Applicant)	MT	***	***	***	***	54%
Hyosung Corporation (only other producer) *	MT	-	-	***	***	46%
Total Production	MT	***	***	***	***	100%

\*Started production from October 2019

26. Considering the information on record, the applicant accounts for a major proportion of the Indian production. Accordingly, the Authority holds that the applicant constitutes domestic industry within the meaning of Rule 2(b) of the Rules. Further, the Authority considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rule. Further, the application satisfies the requirement of standing, both including the share of other producer and excluding the other producer, even though the same is not a mandated requirement in sunset review investigations.

#### **E. Confidentiality**

##### **E.1. Submissions made by the other interested parties**

27. The other interested parties have made the following submissions.

- i. The applicant has claimed excessive confidentiality with respect to the production and sales, sales realization in Format H, information in Format L and the likelihood of injury.
- ii. A mere statement by the applicant that summarization is not possible cannot fulfil the legal requirement under Rule 7(2). It is required to show as to why such summarization is not possible. The justification table indicating reasons of confidentiality is not as per the requirements of the trade notice. In response to Section VI, the domestic industry has not furnished any information at all.
- iii. The domestic industry has not made available the DGCI&S data. As per Exotic Décor Pvt. Ltd. and Ors. v. Designated Authority, DGTR has to make available the import data in the same form and manner in which it was taken on record.
- iv. The Hon'ble Supreme Court in Sterlite Industries Ltd. vs Designated Authority held that Authority is required to evaluate the claims of confidentiality. Similar decision was taken by Hon'ble CESTAT in the HR Johnson case.

##### **E. 2. Submissions made by the domestic industry**

28. The following submissions have been made by the domestic industry:

- i. The response filed by the participating producers fail to comply with the requirements laid down by the Authority with regard to confidentiality. The response to most of the questions in the questionnaire have been claimed completely confidential with no meaningful summary provided.
- ii. The respondents have failed to comply with the requirements of the Trade Notice 10/2018 dated 7<sup>th</sup> September, 2018.
- iii. All the economic parameters considered by the Authority for the purpose of arriving at the determination of the injury have been provided in compliance with trade notice 10/2018 dated 7.09.2018. The interested parties should establish prejudice caused on non-disclosure of other parameters.
- iv. The importers have not provided details of the information which are inadequate for the purpose of investigation and have made blatant statements.

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

29. The submissions made by the domestic industry and the other interested parties with regard to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. The Authority notes that the information provided by all the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. The other interested parties have claimed that the applicant has claimed excessive confidentiality with respect to the production and sales, sales realization in Format H, information in Format L and the likelihood of injury. The Authority notes that domestic industry has provided non-confidential version of all the information that is relevant for the purpose of the present investigation.
30. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to the other interested parties. All the interested parties have claimed their business-related sensitive information as confidential.

## **F. Miscellaneous submission**

### **F.1. Submissions made by the other interested parties**

31. The following miscellaneous submissions have been made by the other interested parties:
  - i. There is significant demand and supply gap in India and the importers are forced to pay duties despite there being no other option to source.
  - ii. The application fails to meet standards of accurate and adequate disclosure. The Initiation is erroneous and investigation should be terminated. The evidence provided in the application is inadequate for fair and accurate analysis of dumping, injury and the causal link.
  - iii. Continued imposition of anti-dumping duty on the imports of the subject goods will lead to increase in the imports of the finished goods and will also adversely impact the end users who are not afforded adequate protection from the imports.

- iv. The information provided by the domestic industry is insufficient to justify initiation of the investigation. Not all evidence can justify the initiation of an investigation and the evidence presented must be of an adequate quality to constitute “sufficient evidence”.
- v. There is no requirement for compulsory initiation of the sunset review and the present application fails to show any positive evidence to support the initiation and it does not meet the requirements laid down under the law.
- vi. The Authority in the recent sunset reviews has held that it is the endeavour of the Authority not to continue duty beyond a period of 10 years except in cases where it feels that the anti-dumping duty is absolutely necessary.

## **F.2. Submissions made by the domestic industry**

32. The following miscellaneous submissions have been made by the domestic industry:

- i. The response of the participating associations cannot be accepted as they have not filed the information and they have failed to fulfil their obligation to be considered as interested parties in terms of Rule 2(c). It was further stated that none of the participating associations has even bothered to submit complete lists of all their members so as to enable the Authority to ascertain their status as an interested party. Since they have not followed prescribed guidelines, the domestic industry requests for rejection of their submissions.
- ii. That the interested parties have wrongly interpreted the exceptional clause as exceptional circumstance. On the contrary, the requirement under the law is that the duties are allowed to be extended beyond 5 years period if the condition of likelihood of continuation or recurrence of dumping and injury is met with.
- iii. It is submitted that the Authority may observe that none of the interested parties had filed their comments to initiation within the prescribed time provided by the Authority. Since no reasons have been given by the interested parties for not providing the comments on the petition and initiation within time, the Authority should reject all these submissions outright on this ground alone.
- iv. It is further submitted that none of the interested parties has either sought condonation of delay or the Authority has permitted any additional time. This also shows that their submissions about initiation and petition are merely a plough to delay the investigation process.
- v. The domestic industry has provided detailed justification for every information claimed confidential and it is the respondents who have not provided proper justification.
- vi. There is no information on record to show that the antidumping duty imposed earlier has had any adverse effect on the consumers. None of the users’ questionnaire response will show adverse effects. The user industry has not established how it has been affected due to imposition of the anti-dumping duties. On the contrary, the domestic industry has shown that duties have negligible impact (not more than 0.05%) on the users of the subject goods.



- vii. The anti-dumping duty is not a protection to the industry, but rather a means of addressing unfair pricing to establish a level playing field. The users are free to import the subject goods at fair price from any source.

### **F.3. Examination by the Authority**

- 33. On the submission that there is a demand and supply gap in India which is the reason for increase in imports, the Authority notes that the ground for seeking extension of antidumping duty is not the import per se, but the price at which the import has been made and its effect on the domestic industry in respect of its parameters such as selling price, profits, cash profits and return on investment. The imposition of the anti-dumping duty provides a level playing field and does not prevent fair competition in the market.
- 34. The Authority notes that the current investigation was initiated on the basis of sufficient prima facie evidence submitted by the applicant. Therefore, the claim that the application does not satisfy the requirement of the law is not correct.
- 35. The interested parties have claimed that the extension of duties will have an adverse impact on the downstream industry. However, the interested parties have not provided any calculations or evidence to support the submission and show adverse impact, whereas the domestic industry has provided the detailed calculation showing the impact of the anti-dumping duties on different segments of the industry.

**G. NORMAL VALUE, EXPORT PRICE & DETERMINATION OF DUMPING MARGIN**

36. As per section 9A(1)(c) of the Act, the normal value in relation to an article means:

*(i) the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*

*(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either -*

*(a) comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

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

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

**Provisions relating to Non-Market Economy Countries**

37. Annexure-I to AD rules states as under:

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

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

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

*(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member 16 country during the three-year period preceding the investigation is a nonmarket economy country*

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

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

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

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

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

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

*Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”*

#### **G.1. Submissions made by the other interested parties**

38. The following submissions were made by the other interested parties with regard to the normal value, export price and the dumping margin.

- i. The domestic industry has not provided proper evidence related to the normal value, and the export price and, therefore, initiation is bad. It is further submitted that the normal value provided by the producers / exporters should be used by DGTR for computing dumping margin.
- ii. That producers have filed their complete information with the DGTR in relation to the normal value and the dumping margin. Therefore, they have requested to use their verifiable information.

## **G.2. Submissions made by the domestic industry**

39. The following submissions have been made by the domestic industry:

- a. The domestic industry has provided ample evidence to support their claim of the normal value and the export price in their application for the purpose of the initiation.
- b. The response of exporter from China PR, namely, Chuanglai Fibre (Foshan) Co., Ltd., cannot be accepted, as it has not filed the information related to all their entities engaged in the production and sales of the subject goods. Secondly, it has also not claimed market economy status and, therefore, its normal value should be constructed in terms of Rule 6(8) read with paragraph 7 of Annexure I of AD Rules.
- c. The domestic industry has requested rejection of TK Chemical Corporation response, as their related entity in India has not filed any information. Since DGTR is rejecting responses on non-filing of responses by unrelated parties, non-filing of response by related importer should be rejected, as this has direct implication on the dumping margin and the injury margin.
- d. It is also submitted that in case DGTR allows response filed by TK Chemical Corporation, their margins need to be recalculated as their export channels to India have changed since the original investigation.
- e. The domestic industry requests to check the export sales channel of Hyosung group and in case their response is not in order, the same is liable to be rejected as per the consistent practice of the Authority.
- f. The domestic industry has claimed the export price based on the transaction-wise DGCI&S import data. Further, the domestic industry has deducted the ocean freight, marine insurance, inland transportation, port handling and clearance charges, bank charges, commission, credit cost. Moreover, the dumping margin calculated is significant.
- g. None of the participating exporters have claimed negative dumping margin.
- h. The normal value in China can thus be determined on the basis of (a) the import price from third country into India, (b) selling price in India, and (b) cost of production in India, duly adjusted, including selling, general and administrative expenses and profit. It is also submitted that since these options for determination of the normal value are available, the Authority may not kindly consider "any other basis" because this is required to be applied only when other basis listed under the law cannot be applied.

### **G.3. Examination by the Authority**

40. The Authority has analyzed the normal value and the export price related issues in the following paragraphs:
41. The Authority had sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters from the subject countries have filed exporter's questionnaire response:
- i. Chuanglai Fibre (Foshan) Co., Ltd, China PR
  - ii. The LYCRA Company Singapore Trading Pte. Ltd, Singapore
  - iii. Hyosung TNC Corporation, Korea RP
  - iv. TK Chemical Corporation, Korea RP
  - v. Hyosung Dongnai Co. Ltd, Vietnam
  - vi. Hyosung VietNam Co., Ltd, Vietnam
42. The Authority notes that in the original investigation, after receiving the requests from the interested parties to allow them to file the information on the basis of the product control numbers (PCNs) in order to have fair comparison between the normal value and the export price, the Authority had issued the product control numbers (PCNs) for price analysis. Therefore, in the initiation notification of the present sunset review investigation also, it is categorically mentioned that the product under consideration is the same as was in the original investigation and that the applicant has used the product control numbers (PCN) issued by the Authority in the original investigation for price analysis. Therefore, the domestic industry and the other interested parties were to submit the PCN wise information for price analysis. The domestic industry had also attached in its petition for initiating the present investigation the PCN notice issued by the Authority in the original investigation as annexure-2. The Authority notes that the domestic industry as well as all the participating exporters in the present sunset review investigation, except Chuanglai Fibre (Foshan) Co., Ltd., the producer of the subject goods in China and its related exporter/trader The LYCRA Company Singapore Trading Pte. Ltd, Singapore, have filed the information as per PCNs adopted by the Authority in the original investigation. Since Chuanglai Fibre (Foshan) Co., Ltd. and its related exporter/trader The LYCRA Company Singapore Trading Pte. Ltd, Singapore have failed to submit the PCN wise information, the Authority cannot carry out the individual PCN wise dumping and injury analysis. The Authority, therefore, proposes not to accept their incomplete responses.

### **G.4. Normal Value and Export Price for China**

#### **43. Market Economy Status for Chinese producers**

Article 15 of China's Accession Protocol in WTO provides as follows:

"Article VI of the GATT 1994, the Agreement on implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:"

- (a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs

for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

- (i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall Chinese prices or costs for the industry under investigation in determining price comparability;
  - (ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.
- (b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmark. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.
- (c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.
- (d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector."
44. It is noted that while the provision contained in Article 15 (a)(ii) has expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15(a)(i) of the Accession Protocol requires criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that the responding producer and exporter from China PR have not submitted the supplementary questionnaire on market economy conditions. Therefore, the Authority cannot grant market economy status to the participating Chinese producer/exporter.

#### **Normal Value for all producers in China PR**

45. Since the Authority proposes not to accept the incomplete responses of Chuanglai Fibre (Foshan) Co., Ltd., the producer of the subject goods in China and its related exporter/trader The LYCRA Company Singapore Trading Pte. Ltd, Singapore, the Authority proposes to

construct the normal value for all producers in China PR in accordance with para 7 of Annexure I of the Rules. Para 7 lays down hierarchy for determination of normal value and provides that normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other country, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin. Thus, the Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Annexure 7.

46. The Authority notes that since the product under consideration in the present investigation is coming in different PCNs and the analysis of the Authority is also made PCN-wise, consolidated information provided by exporters from China PR or available in public domain is therefore, not relied upon for the purpose of the constructed normal value. It is further submitted that in terms of Para 7 neither the domestic industry proposed any surrogate country nor exporters from China PR suggested any surrogate country. In addition to above, it is also noted that the prices or constructed value of the subject goods in an appropriate market economy third country or the PCN wise prices from such third country to other countries, including India, have neither been made available by the applicant nor by any interested parties first two options available in Para 7 cannot be adopted by the Authority. As mentioned above, PCN wise information is also not available from any public source, therefore, Authority cannot resort to any other method except, the only option available is to determine the normal value considering the price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin (i.e., constructed normal value). The normal value so determined is given in the Dumping Margin Table below.

#### **Export Price for all producers in China PR**

47. Since the Authority proposes not to accept the incomplete responses of Chuanglai Fibre (Foshan) Co., Ltd., the producer of the subject goods in China PR and its related exporter/trader The LYCRA Company Singapore Trading Pte. Ltd, Singapore, the Authority proposes to determine the export price for all the producers/exporters of the subject goods from China PR based on the facts available in terms of the Rules.

#### **G.5 Normal Value and Export Price for South Korea**

##### **i. Hyosung TNC Corporation, Korea RP**

##### **Normal Value**

48. During the POI, Hyosung TNC Corporation, who is a producer of the subject goods in South Korea, has sold \*\*\* MT of the subject goods for \*\*\* US\$ in the domestic market. The domestic sales are in sufficient volumes when compared with the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine the profit-making domestic sales transactions with reference to the cost of production of the subject goods. The Authority noted that if the profit-making transactions are more than 80%, all the transactions in the domestic sales are to be considered for the determination of the normal value and in case the profit-making transactions are less than 80%, only the profitable domestic sales are to be taken into consideration for determining the normal value. With regard to Hyosung TNC Corporation, Korea RP, since the profit-making sales are less than 80%, the Authority has considered only the profitable sales to determine the normal value. Hyosung TNC Corporation has claimed adjustment on account of inland

transportation, insurance, credit cost and bank charges, which have been allowed. The Authority has cross checked the data to the extend necessary and accepted the same. Accordingly, the normal value at ex-factory level for Hyosung TNC Corporation has been determined and the same is shown in the Dumping Margin Table below.

#### **Export Price**

49. Hyosung TNC Corporation, the producer and exporter of the subject goods in South Korea, has filed questionnaire response. During the POI, Hyosung TNC Corporation has exported \*\*\* MT of the subject goods for \*\*\* US\$ to India directly. Hyosung TNC Corporation has claimed adjustment on accounts of ocean freight, insurance, port and other related expenses, credit cost, bank charges, port charges, air freight and brokerage and the same have been allowed by the Authority. Accordingly, the ex-factory export price has been determined and the same is shown in the Dumping Margin Table below.

#### **ii. TK Chemical Corporation (TKC)**

##### **Normal Value**

50. During the POI, TK Chemical Corporation, who is a producer of the subject goods in South Korea, has sold \*\*\* MT of the subject goods for invoice value of \*\*\* KRW in the domestic market to unrelated parties. The domestic sales are in sufficient volumes when compared with the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine the profit-making domestic sales transactions with reference to the cost of production of the subject goods. If profit making transactions are more than 80% of the total sales, then all the transactions in the domestic sales are considered for the determination of the normal value and in case the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of the normal value. In the present case, since the profit-making sales are above 80%, all the domestic sales have been considered to determine the normal value. TK Chemical Corporation, Korea RP has claimed adjustment on account of inland freight, packing expenses and credit cost and the same have been allowed by the Authority. Accordingly, the normal value at ex-factory level for TK Chemical Corporation, Korea RP has been determined and the same is shown in the Dumping Margin Table below.

##### **Export Price**

51. TK Chemical Corporation, who is a producer and exporter of the subject goods in South Korea, has filed questionnaire response. During the POI, TKC has exported \*\*\* MT of the subject goods for \*\*\* US\$ to India directly. It is also noted that TK Chemical Corporation has a 100% subsidiary in India, namely, SM TKC India Pvt. Ltd. SM TKC India Pvt. Ltd. is performing only the liaison services on behalf of the parent company and is not involved in either the imports or sale of the subject goods in India. It has, therefore, claimed India branch expenses for this service only. TK Chemical Corporation, Korea RP has claimed adjustment on account of ocean freight, packing expenses, port handling charge, inland transportation, marine insurance, credit cost, brokerage charges, bank charge, commission, India branch expense and duty drawback and the same have been allowed by the Authority. Accordingly, the export price at ex-factory level for TK Chemical Corporation, Korea RP has been determined and the same is shown in the Dumping Margin Table below.



iii. **Other Producers normal value and export price**

52. The normal value and the export price for all other non-cooperating producers and exporters from South Korea is determined as per the facts available considering the data provided by the cooperating producer and the same are mentioned in the Dumping Margin Table below.

G.6 **Normal Value and Export Price for Vietnam**

iv. **Hyosung Dongnai Co. Ltd., Vietnam**

**Normal Value**

53. During the POI, Hyosung Dongnai Co., Ltd., who is a producer of the subject goods in Vietnam, has sold \*\*\* MT of the subject goods for \*\*\* US\$ in the domestic market to related and unrelated parties. Out of this, Hyosung Dongnai Co., Ltd has sold \*\*\* MT of the subject goods through its related company, namely, Hyosung International (HK) Ltd, Hong Kong, which has not filed a separate response but has provided the sales, profitability information with response of Hyosung Dongnai Co., Ltd. Since the domestic sales by Hyosung International (HK) Ltd, Hong Kong, are only to the extent of \*\*\*% of the total domestic sales by Hyosung Dongnai Co., Ltd, the Authority is of the view that it does not affect the domestic price of the producer. The domestic sales made by Hyosung Dongnai Co., Ltd are in sufficient volume when compared with the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine the profit-making domestic sales transactions with reference to the cost of production of the subject goods. The Authority noted that if profit making transactions are more than 80%, all transactions in the domestic sales are being considered for the determination of the normal value and in case the profit-making transactions are less than 80%, only the profitable domestic sales are being taken into consideration for the determination of the normal value. With regard to Hyosung Dongnai Co., Ltd., since the profit-making sales are below 80%, the Authority has considered only the profit-making sales to determine the normal value. Hyosung Dongnai Co., Ltd. has claimed adjustment on account of inland freight, brokerage, insurance, credit cost, packing expense and bank charges which have been allowed. The Authority has cross checked the data to the extend necessary and accepted the same. Accordingly, the normal value for Hyosung Dongnai has been determined and the same is shown in the Dumping Margin Table below.

**Export Price**

54. Hyosung Dongnai Co., Ltd., who is a producer and exporter of the subject goods in Vietnam, has filed questionnaire response. During the POI, Hyosung Dongnai Co., Ltd., has exported \*\*\* MT of the subject goods for \*\*\* US\$ to India. Out of the exports to India, \*\*\* MT was manufactured by Hyosung Dongnai Co., Ltd. and \*\*\* MT was manufactured by related company, namely, Hyosung VietNam Co., Ltd., Vietnam. The exports to India are made either directly or through Hyosung VietNam Co., Ltd, Vietnam. The export through Hyosung VietNam Co., Ltd., Vietnam is \*\*\* MT. Hyosung Dongnai Co., Ltd., has claimed the adjustment on accounts of ocean freight, insurance, inland freight, port and other related expenses, credit cost, bank charges, commission, service fee, packing expenses and the same have been allowed by the Authority. Accordingly, the ex-factory export price has been determined and the same is shown in the Dumping Margin Table below.

v. **Hyosung VietNam Co. Ltd., Vietnam**

**Normal Value**

55. During the POI, Hyosung VietNam Co., Ltd., who is a producer of the subject goods in Vietnam, has sold \*\*\* MT of the subject goods for \*\*\* US\$ in the domestic market to related and unrelated parties. Out of the total domestic sales, Hyosung Vietnam Co., Ltd has sold \*\*\* MT of the subject goods through its related company, namely, Hyosung International (HK) Ltd, Hong Kong, which has not filed a separate response but has provided the sales, profitability information with response of Hyosung VietNam Co. Ltd. Since the domestic sales by Hyosung International (HK) Ltd, Hong Kong, are only to the extent of \*\*\*% of the total domestic sales by Hyosung VietNam Co., Ltd, the Authority is of the view that it does not affect the domestic price of the producer. The domestic sales made by Hyosung VietNam Co., Ltd are in sufficient volume when compared with the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine the profit-making domestic sales transactions with reference to the cost of production of the subject goods. The Authority noted that if profit making transactions are more than 80%, all transactions in the domestic sales are being considered for the determination of the normal value and in case the profit-making transactions are less than 80%, only the profitable domestic sales are being taken into consideration for the determination of the normal value. With regard to Hyosung VietNam Co., Ltd., since the profit-making sales are below 80%, the Authority has considered only the profit-making sales to determine the normal value. Hyosung VietNam Co., Ltd. has claimed adjustment on account of inland freight, brokerage, insurance, credit cost, packing expense and bank charges which have been allowed. The Authority has cross checked the data to the extend necessary and accepted the same. Accordingly, the normal value for Hyosung VietNam has been determined and the same is shown in the Dumping Margin Table below.

**Export Price**

56. Hyosung VietNam Co., Ltd., who is a producer and exporter of the subject goods in Vietnam, has filed questionnaire response. During the POI, Hyosung VietNam Co., Ltd., has exported \*\*\* MT of the subject goods for \*\*\* US\$ to India. Out of the exports to India, \*\*\* MT was manufactured by Hyosung VietNam Co., Ltd. and \*\*\* MT was manufactured by related company namely, Hyosung Dongnai Co., Ltd., Vietnam. The exports to India are made either directly or through Hyosung Dongnai Co., Ltd, Vietnam. The export through Hyosung Dongnai Co., Ltd., Vietnam is \*\*\* MT. Hyosung VietNam Co., Ltd., has claimed the adjustment on accounts of ocean freight, insurance, inland freight, port and other related expenses, credit cost, bank charges, commission, service fee, packing expenses and the same have been allowed by the Authority. Accordingly, the ex-factory export price has been determined and the same is shown in the Dumping Margin Table below.

vi. **Other Producers**

57. The normal value and the export price for all other non-cooperating producers and exporters of Vietnam is proposed to be determined as per the facts available considering the data provided by the cooperating producer and is same is mentioned in the Dumping Margin Table below.

G.7 **Normal Value and Export Price for Taiwan**

58. Since none of the producers / exporters from Taiwan has participated in the investigation, the Authority proposes to determine the normal value and the export price for all the producers/exporters of the subject goods from Taiwan based on the facts available in terms of the Rules.

59. The proposed normal value, the ex-factory export price and the dumping margin determined in the present investigation for the subject countries are as follows:

**Dumping Margin Table**

Country	Producer / Exporter	Normal Value (USD/MT)	Export Price (USD/MT)	Dumping Margin (USD/MT)	Dumping Margin (%)	Range
China PR	Any producer	***	***	***	***	(50)-(60)
Korea RP	Hyosung TNC Corporation, Korea RP	***	***	***	***	0-10
Korea RP	TK Chemical Corporation, Korea RP	***	***	***	***	0-10
Korea RP	Any other producer	***	***	***	***	50-60
Vietnam	Hyosung VietNam Co. Ltd., Vietnam & Hyosung Dongnai Co. Ltd., Vietnam	***	***	***	***	10-20
Vietnam	Any other producer	***	***	***	***	20-30
Taiwan	Any producer	-	-	-	-	-

**H. METHODOLOGY FOR INJURY DETERMINATION AND EXANINATION OF INJURY AND CAUSAL LINK**

60. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "*.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...* ". In considering the effect 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.
61. Rule 23 of the Rules provides that the provisions of Rule 6,7,8,9,10,11,16,18, 19 and 20 shall apply mutatis mutandis in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and has also examined as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

**H.1. Submissions made by the other interested parties**

62. The following submissions have been made by the other interested parties with regard to the injury suffered by the domestic industry and the causal link.
- i. The imports from Korea RP have not caused injury as the imports of the subject goods from Korea have declined. Further, any injury to the domestic industry during the POI is only because of COVID-19 and not because of the imports from South Korea.
  - ii. It is also submitted by the Korean association that continued duties against China PR and Taiwan are important to protect the investment in India.
  - iii. The domestic industry has not suffered any injury from the imports from the subject countries. The domestic industry has failed to demonstrate that they are suffering injury either in price or in volume.
  - iv. The capacity of the domestic industry increased during the injury investigation period. This shows that they are doing well.
  - v. The profits of the domestic industry show an improvement due to higher increase in the selling price than the increase in the cost of sales.

**H.2. Submissions made by the domestic industry**

63. The submissions of the domestic industry with regard to injury and causal link are as under:
- a. Due to existence of the anti-dumping duties, the exporters from China PR and Taiwan are not able to export the subject goods to India. Moreover, lower quantum of imports from these two countries proves beyond doubt that exporters from these countries cannot compete with domestic players at fair price.

- b. The domestic industry is not recovering its full cost despite its best efforts. The low-priced imports from the subject countries have created significant price pressure on the domestic industry. It is further submitted by the domestic industry that the exporters are giving post sales discount.
- c. The domestic industry has submitted that since causal link has already been established in the original investigation, the Authority is required to examine whether cessation of the anti-dumping duty would lead to continuance or recurrence of dumping and injury.
- d. There is positive price undercutting from the subject countries as a whole. This shows that the domestic industry is still under price pressure.
- e. It is also submitted that since the quantity exported from China PR is very negligible, their prices should not be considered for any analytical purposes as the same are not reflective of true market prices.
- f. It is also submitted that the existing anti-dumping duty helped the domestic industry to reduce its losses. However, the recovery process could not be attained due to low-priced dumped imports from the subject countries. In view thereof, the continuation of duties is very critical to the applicant and other producers of the subject goods.
- g. There is significant difference between the cost of sales and the selling price, which could not be filled due to aggressive pricing by the exporters of the subject goods from the subject countries. This has resulted in losses and negative return on the capital.
- h. This situation clearly depicts the price pressure on the domestic industry wherein if they do not produce the subject goods, their fixed costs will increase substantially and their losses would also increase.

### **H.3. Examination by the Authority**

- 64. The Authority has taken note of the submissions made by the domestic industry and the other interested parties. Annexure-II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on the prices in the domestic market for the like articles; and (b) the consequent impact on the domestic producers of such products.
- 65. According to Section 9(A)(5) of the Customs Tariff Act, 1975, the anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time-to-time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of the order of such extension.
- 66. In consideration of the various submissions made by the domestic industry and the other interested parties in this regard, the Authority has examined the current injury, if any, to the

domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of the imports from the subject countries.

67. The Authority notes that it is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority consider all injury parameters and, thereafter, concludes whether injury to the domestic industry continues, or will recur in case the antidumping duty is ceased. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and the other interested parties.

68. The Authority has taken note of the various submissions made by the domestic industry and the other interested parties on injury and causal link and analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority in the succeeding preceding paras ipso facto addresses submissions made by the domestic industry and the other interested parties.

### **H.3.1. Volume Effect of dumped imports and impact on the domestic industry**

#### **i. Assessment of Demand/ Apparent Consumption**

69. With regard to the volume of the 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. For the purpose of injury analysis, the Authority has relied upon the import data procured from the DGCI&S. The demand has been determined as the sum of the domestic sales of all the domestic producers and the imports from all the countries. The apparent demand/consumption of the subject goods shows a positive trend throughout the injury period as can be seen from the table below:

<b>Particulars</b>	<b>UoM</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>POI</b>
Domestic Industry sales	MT	***	***	***	***
Trend	Indexed	100	117	139	111
Sales of Other Domestic Producers	MT	***	***	***	***
Trend	Indexed			100	138
Total Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	117	220	223
Imports from Subject Countries	MT	14547	15559	13820	2982
- Imports from China	MT	233	69	13	36
-Imports from South Korea	MT	3349	2699	3023	2256
-Imports from Taiwan	MT	38	85	-	-
-Imports from Vietnam	MT	10928	12707	10784	690
Imports from Other Countries	MT	2702	2094	2209	1275
Total Imports	MT	17248	17653	16029	4257
Total Demand	MT	***	***	***	***
Trend	Indexed	100	106	121	69
Market share of Domestic sales in Demand	%	***	***	***	***

Particulars	UoM	2017-18	2018-19	2019-20	POI
Trend	Indexed	100	114	182	327
% Share of Import from Subject Countries in Demand	%	***	***	***	***
Trend	Indexed	100	100	77	30

70. The demand of the subject goods has increased from \*\*\* MT in the base year to \*\*\* MT in the 2019-20. The domestic industry submitted that that due to Covid-19 pandemic, the demand declined in the POI but this is a short phenomenon, which is over. The domestic industry has further submitted that the imposition of the anti-dumping duties helped the applicant to increase its market share, but still the market share of imports from subject countries is very high.

### **H.3.2. Price effect of the imports on the domestic industry**

#### **i. Price Undercutting**

71. Price undercutting has been worked out by comparing the landed price of the imports with the domestic industry's net sales realization. The domestic industry has also analyzed the PCN-wise undercutting which shows that the domestic industry is forced to match the PCN-wise landed value from each of the subject countries in order to retain its customers and market share. The details of price undercutting are as below:

	UoM	2017-18	2018-19	2019-20	POI
<b>China PR</b>					
Landed value from China PR	Rs/MT	347011	366742	379475	834172
Trend	Indexed	100	106	109	240
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Price Undercutting	Rs/MT	***	***	***	***
Trend	Indexed	-100	-479	-976	-12672
Price Undercutting	%	***	***	***	***
Trend	Indexed	-100	-453	-892	-5271
Price Undercutting	Range	(5) - 5	(5) - 5	(10) - 0	(60) - (50)
<b>Vietnam</b>					
Landed value from Vietnam	Rs/MT	353602	373351	347555	326282
Trend	Indexed	100	106	98	92

	UoM	2017-18	2018-19	2019-20	POI
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Price Undercutting	Rs/MT	***	***	***	***
Trend	Indexed	-100	-236	-39	406
Price Undercutting	%	***	***	***	***
Trend	Indexed	-100	-223	-40	440
Price Undercutting	Range	(5) - 5	(10) - 0	(5) - 5	10-20
<b>South Korea</b>					
Landed value from Korea RP	Rs/MT	368186	404665	366473	371238
Trend	Indexed	100	110	100	101
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Price Undercutting	Rs/MT	***	***	***	***
Trend	Indexed	-100	-223	-92	-13
Price Undercutting	%	***	***	***	***
Trend	Indexed	-100	-203	-93	-13
Price Undercutting	Range	(10) - 0	(20) - (10)	(10) - 0	(20) - (10)
<b>Subject countries as a whole</b>					
Landed value from Subject Countries	Rs/MT	356463	377515	351724	366430
Trend	Indexed	100	106	99	103
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Price Undercutting	Rs/MT	***	***	***	***
Trend	Indexed	-100	-216	-62	11
Price Undercutting	%	***	***	***	***
Trend	Indexed	-100	-204	-63	11
Price Undercutting	Range	(5) - 5	(10) - 0	(5) - 5	0-10

72. The Authority has also observed that different PCNs have been exported by the exporters from different subject countries and therefore, consolidated data is not reflective of the



correct price pressure on the Domestic Industry. The Authority has therefore, carried out detailed PCN-wise analysis. It is further observed from the consolidated data that the prices of the Domestic Industry are in the range of (+/-) 5% of the landed value from subject countries. This further proves the credence of the submissions of the Domestic Industry that they have to match PCN-wise imports from subject countries. The PCN-wise analysis for the POI is tabulated below:

China PR/PCN	UoM	C015025	C025035	C035045	C065075	Other
Particulars	MT	17	17	0	0	1
Import Volume	Rs. Lacs	144	133	1	1	6
Imports value (CIF)	Rs./MT	829,561	767,169	570,621	569,703	579,487
CIF Price	%	5%	5%	5%	5%	5%
Customs Duty (Rate)	Rs./MT	41,478	38,358	28,531	28,485	28,974
Customs Duty	Rs./MT	4,148	3,836	2,853	2,849	2,897
Cess on custom duty amount	Rs./MT	875,187	809,364	602,005	601,037	611,359
Landed price of imports	Rs./MT	426,104	375,675	340,674	349,261	426,104
Domestic Selling Price	Rs./MT	***	***	***	***	***
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	(45)-(35)	(60) - (50)	(40) - (30)	(45) - (35)	(35) - (25)

South Korea	UoM	C015025	C025035	C035045	C055065	C065075	Others
Import Volume	MT	818	143	573	18	630	74
Imports value (CIF)	Rs. Lacs	3,024	553	1,914	61	2,134	253
CIF Price	Rs./MT	369,596	386,485	334,270	333,641	338,925	340,260
Customs Duty (Rate)	%	5%	5%	5%	5%	5%	5%
Customs Duty	Rs./MT	18,480	19,324	16,713	16,682	16,946	17,013
Cess on custom duty amount	Rs./MT	1,848	1,932	1,671	1,668	1,695	1,701
Landed price of imports	Rs./MT	389,924	407,741	352,655	351,992	357,566	358,975
Domestic Selling Price	Rs./MT	***	***	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***	***	***
Price undercutting	Rs./MT	5-15	(10) - 0	(10) - 0	(5) - 0	(10) - 0	15-25

Vietnam	UoM	C000015	C015025	C035045	C055065	C065075	C075085	C105115	C135150
Import Volume	MT	4	139	253	53	198	14	12	18
Imports value (CIF)	Rs. Lacs	14	538	765	155	634	39	43	63
CIF Price	Rs./MT	355,985	387,424	303,000	293,004	319,451	288,604	355,985	356,480
Customs Duty (Rate)	%	0	0	0	0	0	0	0	0

Vietnam	UoM	C000015	C015025	C035045	C055065	C065075	C075085	CI05115	C135150
Customs Duty	Rs./MT	0	0	0	0	0	0	0	0
Cess on custom duty amount	Rs./MT	0	0	0	0	0	0	0	0
Landed price of imports	Rs./MT	355,985	387,424	303,000	293,004	319,451	288,604	355,985	356,480
Domestic Selling Price	Rs./MT	***	***	***	***	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***	***	***	***	***
Price undercutting	Rs./MT	15-25	5-15	5-15	10-20	5-15	5-15	0-10	0-10

Subject countries as a whole	UoM	C000015	C015025	C025035	C035045	C055065	C065075	C075085	CI05115	C135150	Others
Import Volume	MT	4	975	160	825	71	828	14	12	18	75
Imports value (CIF)	Rs. Lacs	14	3,706	686	2,680	215	2,769	39	43	63	259
CIF Price	Rs./MT	355,985	380,343	427,747	324,741	303,407	334,288	288,604	355,985	356,480	343,457
Customs Duty (Rate)	%	0.00%	4.27%	5.00%	3.57%	1.41%	3.86%	0.00%	0.00%	0.00%	5.00%
Customs Duty	Rs./MT	-	16,258	21,387	11,600	4,271	12,888	-	-	-	17,173
Cess on custom duty amount	Rs./MT	-	1,626	2,139	1,160	427	1,289	-	-	-	1,717
Landed price of imports	Rs./MT	355,985	398,227	451,273	337,502	308,105	348,464	288,604	355,985	356,480	362,348
Domestic Selling Price	Rs./MT	***	***	***	***	***	***	***	***	***	***

Price undercutting	Rs./MT	***	***	***	***	***	***	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***	***	***	***	***	***	***
Price undercutting	Rs./MT	15-25	0-10	(20)-(10)	0-10	5-15	0-10	15-25	0-10	0-10	15-25

73. From the above, PCN-wise detailed analysis, the Authority notes that the Domestic Industry has suffered price undercutting against some of the deniers from some of the subject countries in various combinations. The Domestic Industry has claimed that they could not increase its selling price due to price pressure of low-priced dumped imports from the subject countries.

**ii. Price suppression/depression**

74. In order to determine whether the dumped imports are suppressing or 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 in normal course, the Authority considered the changes in the costs and prices over the injury period, as detailed below:

Particulars	UoM	2017-18	2018-19	2019-20	POI
<b>Landed value from Subject Countries</b>	Rs/MT	356,463	377,515	351,724	366,430
Trend	Indexed	100	106	99	103
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Cost	Rs/MT	***	***	***	***
Trend	Indexed	100	96	86	92
<b>China PR</b>					
Landed value from China PR	Rs/MT	347,011	366,742	379,475	834,172
Trend	Indexed	100	106	109	240
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Cost	Rs/MT	***	***	***	***
Trend	Indexed	100	96	86	92
<b>Vietnam</b>	<b>UoM</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>POI</b>
Landed value from Vietnam	Rs/MT	353,602	373,351	347,555	326,282
Trend	Indexed	100	106	98	92
Domestic Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	102	100	107
Cost	Rs/MT	***	***	***	***
Trend	Indexed	100	96	86	92
<b>South Korea</b>	<b>UoM</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>POI</b>
Landed value from Korea RP	Rs/MT	368,186	404,665	366,473	371,238
Trend	Indexed	100	110	100	101
Domestic Selling Price	Rs/MT	***	***	***	***

Trend	Indexed	100	102	100	107
Cost	Rs/MT	***	***	***	***
Trend	Indexed	100	96	86	92

75. From the above Table, it is clear that due to the low-priced landed value of imports from subject countries, the domestic selling is forced to match their prices in order to retain their customers. Since selling price of the Domestic Industry is lower as compared to the cost of the Domestic Industry, it shows adverse price pressure as they are not able to increase their sales price. This clearly proves that the prices of the Domestic Industry are suppressed and depressed.

### H.3.3. Impact on economic parameters of the domestic industry

76. Annexure - II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on the domestic producers of such products. The Anti-Dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in the 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. Accordingly, the various injury parameters relating to the domestic industry are discussed herein below.

#### i. Capacity, production, sales & capacity utilization

77. The performance of the domestic industry with regard to the production, the domestic sales, the capacity and the capacity utilization is as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	157	157	157
Production – Total	MT	***	***	***	***
Trend	Indexed	100	113	128	96
Production – PUC	MT	***	***	***	***
Trend	Indexed	100	113	126	92
Capacity utilization based on Total production	%	***	***	***	***
Trend	Indexed	100	72	82	61
Domestic sales	MT	***	***	***	***
Trend	Indexed	100	117	139	111

78. The applicant has claimed capacity as reported by the management and as reflected in the cost audit report. However, the Authority has considered the capacity as reported in the Pollution Control Board Certificate submitted by the applicant.
79. With regard to the utilization of capacity in this investigation, the Authority notes that the issue as to what capacity of the applicant is to be considered for the PUC was also discussed at length in another anti-dumping investigation conducted by the Authority involving the same applicant and the same PUC. That anti-dumping investigation was concerning the import of "Elastomeric Filament Yarn" originating in or exported from Singapore. In that investigation, the final findings notification was issued on 28<sup>th</sup> September, 2021. In that investigation, the domestic industry had argued on the modification of the capacity, production, regrouping/disallowance of certain expenses while computing the NIP and the Authority had noted that each element of the cost in the NIP along-with the capacity considered for optimization was disclosed to the applicant domestic industry vide email dated 27<sup>th</sup> August, 2021. As regards the capacity, the domestic industry had provided the certificate dated 11.10.2018 of the installed capacity issued by the Department of Industries, Government of Himachal Pradesh and approval of the Board of Directors of the domestic industry dated 05.09.2016. On the website of Indorama Industries (<https://www.indorama.com/affiliated-companies/indorama-industries-limited>) also, the installed capacity of \*\*\* MT was mentioned. Therefore, the capacity of \*\*\* MT per annum was considered in the NIP workings. However, the domestic industry had submitted that the Authority need not consider these aforesaid documents as its increased installed capacity is based on different assumption and its real installed capacity is different. The domestic industry had also submitted subsequent Board resolution dated 10<sup>th</sup> August, 2021, which stated the achievable and the practical capacity of \*\*\*MT. The domestic industry was requested several times to provide supporting documents like internal project report, capacity evidence submitted to any other authority, 3<sup>rd</sup> party project report submitted to any bank, technical evidence for different assumptions and other documents to substantiate its claim. However, the domestic industry could not provide any evidence. Accordingly, the capacities mentioned in the certificate issued by the Department of Industries (Government of Himachal Pradesh) and also supported by the domestic industry's own Board of Directors approval was considered for working out the NIP on the basis of the best available facts and in terms of Rule 6(8) of the ADD Rules.
80. Therefore, in the present sunset review investigation also, the capacity of \*\*\* MT per annum has been considered in the NIP working.

**ii. Market share**

81. The market share of the alleged dumped imports and the domestic industry have been examined as below:

Market Share	UoM	2017-18	2018-19	2019-20	POI
Total Demand	MT	***	***	***	***
Trend	Indexed	100	106	121	69
Domestic Sales	%	***	***	***	***
Trend	Indexed	100	114	182	327
Subject Countries	%	***	***	***	***
Trend	Indexed	100	100	77	30

Market Share	UoM	2017-18	2018-19	2019-20	POI
Other countries	%	***	***	***	***
Trend	Indexed	100	75	67	67

82. It is noted from the above that the demand / apparent consumption for the product under consideration has increased till 2019-20. However, the same declined in the POI. The market share of the domestic industry increased in the POI as imports were restricted due to covid pandemic. The domestic industry claims that only due to low priced imports, the imported goods are preferred over their goods.

### iii. Inventories

83. The inventory with the domestic industry has been examined as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Average inventory	MT	***	***	***	***
Trend	Indexed	100	72	103	71

84. It is seen that the average inventory level of the domestic industry has shown increasing trend till 2019-20. However, during the POI the inventory declined.

### iv. Profits, Return on Investment and Cash Profit

85. The performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed:

Particulars	UoM	2017-18	2018-19	2019-20	POI
Sales	MT	***	***	***	***
Trend	Indexed	100	117	139	111
Sales value (Rs. Lacs)	Rs. Lacs	***	***	***	***
Trend	Indexed	100	119	139	119
Selling price	Rs. /MT	***	***	***	***
Trend	Indexed	100	102	100	107
Landed Value without ADD	Rs. /MT	356,463	377,515	351,724	366,430
Indexed	Indexed	100	106	98	99
Anti-dumping duty (average)	Rs. /MT	21,456	22,655	21,488	12,771
Landed Value with ADD	Rs. /MT	377,919	400,170	373,212	379,202
Cost	Rs. Lacs	***	***	***	***
Trend	Indexed	100	113	119	103
Cost	Rs. /MT	***	***	***	***
Trend	Indexed	100	96	86	92
Profit/loss	Rs. Lacs	***	***	***	***
Trend	Indexed	(100)	(77)	(11)	(12)

Particulars	UoM	2017-18	2018-19	2019-20	POI
Profit/loss per unit	Rs. /MT	***	***	***	***
Trend	Indexed	(100)	(66)	(8)	(11)
Depreciation	Rs. Lacs	***	***	***	***
Trend	Indexed	100	123	137	135
Depreciation	Rs. /MT	***	***	***	***
Trend	Indexed	100	108	108	143
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	(100)	56	350	344
Cash Profit	Rs. /MT	***	***	***	***
Trend	Indexed	(100)	(3)	141	187
Capital employed	Rs. Lacs	***	***	***	***
Trend	Indexed	100	92	102	96
ROCE	%	***	***	***	***
Trend	Indexed	(100)	(84)	(11)	(12)

v. **Employment, Wages and Productivity**

86. The Authority has examined the information relating to employment, wages and productivity, as given below:

Year	Unit	2017-18	2018-19	2019-20	POI
Production	MT	***	***	***	***
Trend	Indexed	100	113	128	96
Employees	Nos	***	***	***	***
Trend	Indexed	100	104	106	108
Production/employee	MT/Nos	***	***	***	***
Trend	Indexed	100	110	118	87
Wages	Rs. Lacs	***	***	***	***
Trend	Indexed	100	110	127	118
Wages / Employee	Rs. Lacs	***	***	***	***
Trend	Indexed	100	106	120	109

vi. **Magnitude of dumping**

87. The magnitude of dumping is an indicator of the extent to which the imports are being dumped in India and are consequently causing injury to the domestic industry. The dumping margin from the subject countries except China PR is positive.

vii. **Growth**

88. The parameters such as production, sales, capacity utilization, profits, profit before interest, return on capital employed were analysed.

viii. **Ability to raise fresh investment**

89. The applicant has submitted that the profitability of the domestic industry has been impacted by the dumped imports in the past and considering the significant capital investment being undertaken in the country by other producers, protection against the dumped imports is necessary.

**ix. Magnitude of Injury Margin**

90. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP of the PUC have been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practising accountant for the POI. The NIP has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the NIP, the best utilisation of the raw materials and utilities has been considered over the injury period. The best utilisation of the production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the PUC was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure III of the Rules and being followed.

91. Based on the landed price and the NIP determined as above, the proposed injury margin for producers/exporters as determined by the Authority is provided in the table below:

Country	Producer / Exporters	NIP (USD/MT)	Landed value (USD/MT)	Injury Margin (USD/MT)	Injury Margin (%)	Range
China PR	Any producer	***	***	***	***	(40)-(50)
Korea RP	Hyosung TNC Corporation, Korea RP	***	***	***	***	(30)-(40)
Korea RP	T K Chemical Corporation, Korea RP	***	***	***	***	10-20
Korea RP	Any other	***	***	***	***	20-30



Vietnam	Hyosung VietNam Co. Ltd., Vietnam & Hyosung Dongnai Co. Ltd., Vietnam	***	***	***	***	30-40
Vietnam	Any other producer	***	***	***	***	40-50
Taiwan	Any producer	-	-	-	-	-

### **I. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS**

92. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which are injuring or are likely to cause injury to the domestic industry so that the injury caused by these other factors is not attributed to the dumped imports. While the present investigation is a sunset review investigation and causal link has already been examined in the original investigation, the Authority still examined whether other known listed factors have caused or are likely to cause injury to the domestic industry. It was examined whether other factors listed under the AD Rules could have contributed or are likely to contribute to the injury suffered by the domestic industry.

### **J. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY**

#### **J.1. Submissions made by the other interested parties**

93. The submissions of the other interested parties with regard to the likelihood of injury are as below:

- i. The applicant has failed to prove that cessation of such duty is likely to lead to continuation or recurrence of dumping and injury. There is no evidence to show that cessation of duty will translate into injury in future.
- ii. There is no price attractiveness of the Indian market. The users prefer to buy from the Indian producers and only some specific brands are being imported.
- iii. There is no surplus capacity with the participating exporters.
- iv. Threat parameters listed in Annexure II are mandatorily required to be examined as per Hon'ble Gujarat High Court decision in the case of Nirma Limited vs Union of India. The Authority has examined the same in the sunset review investigation of Certain Rubber Chemicals and Sodium Nitrite.

- v. The domestic industry is required to prove that there is likelihood of continuation or recurrence of dumping and injury in event of cessation of duty which cannot be shifted to the exporters. The contention that the exporter should establish no likelihood of continued dumping is deprived of merit.

## **J.2. Submissions made by the domestic industry**

94. The submissions of the domestic industry with regard to the likelihood of injury are as below:

- i. The domestic industry is still suffering injury from the dumped imports from the subject countries. This in itself is a good indicator for extension of the anti-dumping duties. Even other investigating authorities around the world consider current injury due to dumped imports a strong ground for continuation of the anti-dumping duties.
- ii. The decline in the imports post imposition of the duty and positive dumping margin and price undercutting in such imports implies likelihood of dumping in the event of withdrawal of duty and it in itself justifies extension of anti-dumping duty.
- iii. Post imposition of the duties, Hyosung Corporation (Korean producer) has started its operation in India to cater the growing Indian demand. This shows as to how important the Indian market is, if duties are removed at this stage from the subject countries, not only applicant's investment, but the investment of Hyosung India (the only other producer of the subject goods in India) will be at risk.
- iv. In terms of the attractiveness of the Indian Market, it is submitted that due to high growth chances, India is the prime market for the subject goods for the subject countries.
- v. The domestic industry has submitted that India ranks 6<sup>th</sup> in terms of the preferred export destination for the Chinese producers. It is also submitted that countries ahead of India do not have enough demand to consume the Chinese sales fully. Since India has the capability to consume Chinese exports, the current level of imports will unquestionably increase in case of any revocation of duties at this moment.
- vi. The domestic industry has submitted that as per China Spandex Industry Outlook Report, their existing capacity is 872,000 MT, which is \*\* times of the Indian demand. It is further submitted that Chinese producers are also about to increase new capacity of 120,000 MT which is around 8 times of the Indian demand. Post increase in demand, the Chinese capacity will be around \*\* times which is substantial and can ruin the Indian market, which is protected by way of the anti-dumping duties.
- vii. The domestic industry has submitted that the operating rate of spandex plant in China has increased/is expected to increase from 83% in 2020 to 95% in 2021. With increase in the capacity and the operating rate, Chinese exports are also like to

increase by 24%. At this time, if duties are not extended, Indian market will be captured by the Chinese exports. Therefore, extension of duties is very important.

- viii. The domestic industry has submitted that in addition to above, the domestic industry has also submitted that by 2022, about 112,000 MT (232,000-120,000) of capacity is also about to be added in China. This addition of capacity clearly indicates that if the anti-dumping duties are removed at this stage, it will be detrimental for the Indian industry's current and future investment.
- ix. In the case of Vietnam, Indian ranks at 3<sup>rd</sup> position in terms of the preferred export destination for the Vietnamese producers.
- x. Similarly, India rank 5<sup>th</sup> in terms of the preferred export destination for the South Korean producers.
- xi. None of the producers have participated from Taiwan. However, based on trade map data the dumping and injury margin are positive. Hence, Taiwan is also export attractiveness for India.
- xii. India is placed 10<sup>th</sup> for exports of the subject goods from China PR. This low % in comparison to the other subject countries is also because of duties and if duties are removed, the subject goods will again flow into the Indian market. Even the Korean exporters and their association have also requested for extension of the anti-dumping duties on China PR.
- xiii. The domestic industry has submitted that as per the reports of the Trade Map, there is significant untapped export potential from the subject countries. Therefore, if the duties are not continued against the subject countries, the producers / exporters from the subject countries will increase their exports to India.

**a. Continued dumping of the subject goods**

- 95. The Authority notes that the dumping of the subject goods has continued from subject countries, in spite of the duties in force, except China as their quantities are too small and prices are not representative
- 96. It is submitted by the Domestic Industry that only because of higher anti-dumping duties exporters from China and Taiwan are not able to export the subject goods to India. The duties from each of the subject countries is tabulated below:

Country of Import	Anti-dumping duties*		Import Quantity
	\$/Kg	Rs. / Kg	MT
Vietnam	0.36*	26.6	690
Korea	0.15*	11.1	2256
China	3.44*	254.6	36
Taiwan	2.50*	185.0	0

\*Highest duty from respective Country

**b. Untapped export potential of the subject countries**

97. The Authority notes that the domestic industry has adduced evidence of untapped export potential from the subject countries. The information on record is as under:

Particulars	UoM	Export Potential	Current Exports	Untapped Potential	Untapped Potential %
China	USD	21400000	5500000	15900000	74%
South Korea	USD	788200	13100	775100	98%
Taiwan	USD	708700	306000	402700	57%
Vietnam	USD	1000000	85000	915000	92%

98. The Authority further notes that the above information is for Elastomeric Filament Yarn (EFY) as a whole and not for the product under consideration as defined. The Authority has, therefore, checked the reasonableness of this information by analyzing the product under consideration percentage to overall production of EFY from the data submitted by the producers / exporters from the subject countries and also by the domestic industry.

Particulars	Total Production (in MT) POI	PUC Production (in MT) POI	% of PUC Production	% of PUC Production Range
Domestic Industry	***	***	96.66%	90-100%
Hyosung TNC, Korea	***	***	58.52%	55-65%
T K Chemicals, Korea	***	***	99.60%	90-100%
Hyosung Dong Nai, Vietnam	***	***	100.00%	90-100%
Hyosung VietNam, Vietnam	***	***	84.77%	80-90%
Chuanglai Fiber (Foshan) Co., Ltd, China	***	***	100.00%	90-100%
Total	***	***	84.43%	80-90%

**c. Freely disposable capacities present with subject countries and their export Orientation**

99. From the information on record, shows the capacity available with the producers of the subject goods in the subject countries.

Particulars	Total Capacity	Surplus Capacity	Current Exports	Export Orientation	Export Orientation Range
Hyosung TNC	***	***	***	42%	40-50%
T K Chemicals	***	***	***	88%	80-90%
Korea	***	***	***	64%	60-70%
Hyosung Dong Nai	***	***	***	83%	80-90%
Hyosung Vietnam	***	***	***	67%	65-75%
Vietnam	***	***	***	73%	70-80%

Chuanglai Fiber (Foshan) Co., Ltd	***	***	***	56%	50-60%
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100. In relation to China, the domestic industry has submitted data showing that the current capacity in China, i.e., 872000 MT is more than \*\*\* times of the demand in India.

**d. Imminent significant expansion in production capacities**

101. The domestic industry has provided information regarding expansion of capacities, which shows that the capacities in China PR are likely to increase by 232000 MT per annum by 2022, implying an average capacity expansion of about 116000 MT per annum, which is also around \*\*\* times of the Indian demand during POI. Further, the Chinese producers are already holding surplus capacities. Domestic Industry has also provided data indicating increase in operating rate of spandex plant in China from 83% in 2020 to 95% in 2021.

**e. Likely Dumping margin and Injury margin is positive from Taiwan**

102. Domestic Industry has submitted that none of the producers from Taiwan has participated in the investigation, as they cannot compete with domestic industry with current anti-dumping duties. It is noted that this is the reason why they are not exporting the subject goods to India. The domestic industry has, however, provided information about likely dumping and injury based on the available data from secondary sources. From the data, is noted that the dumping margin and injury margin is not only positive but also significant, indicating strong likelihood of increased in dumped and injurious imports from Taiwan.

**Likely Dumping and Injury Margin Calculation**

Taiwan Exports to World	KG	603911
FOB value	USD	1519000
FOB Rate	USD/KG	2.52
Less: Inland Freight @ 5% of FOB	USD/KG	0.13
Less: Port charges @ 1% of FOB	USD/KG	0.03
Net Export Price	USD/KG	2.36
Constructed normal value	USD/KG	3.768
Dumping Margin	USD/KG	1.40
Dumping Margin	%	59%
Dumping Margin	Range	55-65
Taiwan Exports to World	KG	603911
FOB value	USD	1519000
FOB Rate	USD/KG	2.52
FOB Rate	USD/MT	2515
Ocean Freight	USD/MT	98.8
Insurance @.5% of FOB	USD/MT	13
Landed Value	USD/MT	2,627
NIP	USD/MT	5,915
Injury Margin	USD/MT	3,289
Injury Margin	USD/MT	125%
Injury Margin	Range	110-120

**f. Price attractiveness of the Indian market**

103. The domestic industry has submitted that in case of expiry of duty, exports from the subject countries would channelize their output in the Indian market in view of the growing demand in India. The domestic industry has submitted as under:
- a. Post imposition of the duties, Hyosung Corp. (Korean producer) has started its operation in India to cater the growing Indian demand. If duties are removed at this stage from subject countries, not only applicant investment, but the investment of Hyosung India (the only other producer of subject goods in India), will be at risk. Moreover, future investigation in India will also be stopped.
  - b. In terms of the attractiveness of the Indian Market, it is submitted that due to high growth aspect, India is the prime market for the subject goods.
  - c. Based on the secondary source data, there is evidence of the preference of the Indian market for the exporters from the subject countries despite imposition of the anti-dumping duties. The domestic industry has also submitted that if anti-dumping duties are removed at this stage, ranking of the India as export destination would further go up.
    - i. India ranks 6<sup>th</sup> in terms of the preferred export destination for the Chinese producers. Here, it is important to note that countries ahead of India do not have enough demand to consume much Chinese sales. Since India has the capability to consume Chinese exports owing to huge demand, revocation of duties at this moment will jeopardize the position of Indian producers.
    - ii. India ranks 5<sup>th</sup> in terms of the preferred export destination for the South Korean producers. Similarly, for Taiwan also there is export attractiveness for India. India is placed 10<sup>th</sup> for exports of the subject goods This low % is also because of duties and if duties are removed, India's ranking would further go up as preferred export destination.
    - iii. India ranks 3<sup>rd</sup> position in terms of the preferred export destination for the Vietnamese producers.
104. The essential facts of the investigation gathered by the Designated Authority during the course of the investigation and analyzed by the Authority are being disclosed to the interested parties in order to enable these interested parties to offer their comments on these facts. The Authority would conclude on the matter after receiving the comments of the interested parties on this disclosure statement.
105. The Authority would conclude on the matter after receiving the comments of the interested parties on the disclosure statement.

**METHODOLOGY FOR DETERMINATION OF NON-INJURIOUS PRICE**  
**(Confidential Copy Only for Domestic Industry)**

106. The NIP has been determined by adopting the verified information/data relating to the cost of production for the period of investigation (1<sup>st</sup> January, 2020 to 31<sup>st</sup> December, 2020) in respect of the domestic industry. The detailed analysis/examination and reconciliation of the financial and cost records maintained by the company, wherever applicable, were carried out for this purpose. The NIP for the domestic industry has been determined in terms of the principles outlined in Annexure III to the Rules as briefly described below:

- a) RAW MATERIAL COST: The best utilization of raw materials by the domestic producer, over the POI and preceding three years period, at the POI rates was considered.
- b) COST OF UTILITIES: The best utilization of utilities by the domestic producer, over the POI and preceding three years period, at the POI rates was considered.
- c) PRODUCTION: The best utilization of production capacity over the POI and preceding three years period was considered.
- d) SALARY & WAGES: Propriety of the expenses grouped under this head and charged to the cost of production was examined. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production.
- e) DEPRECIATION: The reasonableness of the amount of depreciation charged to the cost of production was examined to ensure that no charge has been made for facilities not deployed on the production of the subject goods. Further amortization of goodwill has been disallowed.
- f) IDENTIFICATION AND ALLOCATION/APPORTIONMENT OF EXPENSES: The reasonableness and justification of various expenses claimed for the POI has been examined and scrutinized by comparing with the corresponding amounts in the immediately preceding year and admitted for computing NIP.
- g) REASONABLE RETURN ON CAPITAL EMPLOYED: A reasonable return (pre-tax) @22% on average capital employed (i.e., Average Net Fixed Assets and Average Working Capital) for the product under consideration was allowed for recovery of interest, corporate tax and profit. For the purpose of calculating working capital, certain items which were not considered while determining the NIP, have been shown in the NIP calculation sheet.
- h) Interest is allowed as an item of cost of sales and after deducting the interest, the balance amount of return has been allowed as pre-tax profit to arrive at the NIP.

NIP FOR THE DOMESTIC INDUSTRY: The NIP for the subject goods is **Rs. \*\*\*/MT.**