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Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

NOTIFICATION

Date 24 March, 2017

Subject: Anti-dumping duty investigation concerning imports of Elastomeric Filament Yarn from China PR, South Korea, Taiwan and Vietnam

1. Whereas the Designated Authority (hereinafter referred to as the Authority), under the Rules, received a written application from M/s Indorama Industry Ltd. (hereinafter also referred to as petitioner or applicant) alleging dumping of Elastomeric Filament Yarn of all deniers upto and including 150 Deniers excluding coloured yarns (hereinafter also referred to as subject goods or product under consideration) from China, Korea, Taiwan and Vietnam (hereinafter also referred to as subject countries).
2. Whereas the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 27th January, 2016 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods, originating in or exported from the subject countries, in accordance with the sub-Rule 6(1) of the Rules, to determine the existence, degree and effect of alleged dumping and to consider recommendation of the anti-dumping duty.

A. PROCEDURE

3. The following Procedure described below has been followed with regard to this investigation:
 - i. The Authority notified the embassies of the subject countries in India about the receipt of dumping application before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Anti-dumping Rules.
 - ii. The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 27th January, 2016, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods, originating in or exported from subject countries.
 - iii. The Authority forwarded a copy of the public notice to all the known exporters and other interested parties (whose details were made available by the Applicant) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the Anti-dumping Rules.
 - iv. The Authority provided a copy of the non-confidential version of the application to the known exporters and the embassies of the subject countries in India in accordance with Rule 6(3) of the Anti-dumping Rules. A copy of the Application

was also made available other interested parties, upon request.

- v. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4) of the Antidumping Rules:
 - a. M/s Hyosung Corporation, Korea
 - b. M/s Invista (Korea) Inc., Korea
 - c. M/s Teakwang Industrial, Korea
 - d. M/s T.K.Chemicals, Korea
 - e. M/s Hyosung Vietnam Co, Vietnam
 - f. M/s Yantai, China
 - g. M/s Investa, China
 - h. M/s Asahi, Taiwan

- vi. Following companies have filed the exporter questionnaire response as a producer/exporter of the product under consideration in India:
 - a. T. K. Chemicals Corporation, Korea
 - b. Hyosung Corporation, Korea
 - c. Chon Woung Textiles Co. Ltd, Korea
 - d. Winwin Corporation, Korea
 - e. Hanswill Co. Ltd., Korea
 - f. Fotrust Co. Ltd., Korea
 - g. SO FNC International, Korea
 - h. Hyosung Vietnam Co. Ltd., Vietnam
 - i. Hyosung Dong Nai Co. Ltd., Vietnam
 - j. Hangzhou Sunrise Spandex Co. Ltd., China
 - k. YantaiTayho Advanced Materials Co. Ltd, China
 - l. Invista Fibre (Shanghai) Company Limited, China
 - m. Invista Fibre Foshan Company Limited, China
 - n. Invista Fibre Company Limited, China
 - o. Invista Singapore Pte Ltd., Singapore

- vii. Questionnaires were sent to the following known importers/users / associations of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-dumping Rules:
 - a. Auro Spinning Mills
 - b. Aarvee Denims and Exports Ltd.
 - c. Aggarwal Metal Industries
 - d. Alok Industries Ltd
 - e. BST Textile Mills Pvt Ltd
 - f. Blaumann Industries Pvt Ltd.
 - g. Bombay Rayon Fashions Ltd.
 - h. Deepak ImpexPvt Limited
 - i. Saijpur-Gopalpur
 - j. Confederation of Indian Textile Industry (C I T I)
 - k. Indain Spinners Association (I S A)
 - l. Indian Woollen Mills Federation
 - m. Federation of Indian Art Silk Weaving Industry

viii. Following importers/users responded and filed importer questionnaire response:

- a. Gimatex Industries Limited
- b. Mafatlal Industries Limited
- c. Association Chemical Corporation
- d. International Business & Trade
- e. Mascot Exports
- f. Sachinam Fabrics Pvt. Ltd.
- g. Rama Spinners Pvt. Ltd.
- h. Anaadhi
- i. Century Textiles & Industries Ltd.
- j. S. Bhaskar Industries Pvt. Ltd.
- k. Ginni International Limited
- l. M/s Vardhman Textiles Limited
- m. M/s. Raymond UCO Denim Pvt. Ltd.
- n. M/s Vardhman Acrylics Ltd.
- o. BanswaraSyntex Limited
- p. Malwa Industries Ltd.
- q. M/s. Arvind Limited
- r. M/s. Vardhman Textiles Limited
- s. Jindal Denim Inc.
- t. Aarvee Denim
- u. Loyal Textile Ltd

ix. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.

x. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange for details of imports of subject goods for the past three years, including the period of investigation. The Authority has, therefore, relied upon the DGCI&S data and the detailed information submitted by cooperative exporters for computation required analysis.

xi. Optimum 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) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry. The NIP has been determined by the Authority in terms of the principles laid down under Annexure III to the Anti-dumping Rules.

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

xiii. In accordance with Rule 6(6) of the Anti-dumping Rules, the Authority also

provided opportunity to the interested parties to present their views orally in a public hearing held on 7th October, 2016. A second public hearing was conducted on 7th November, 2016 in view of the change of the Designated Authority as directed by the Hon'ble Supreme Court in the case of Automotive Tyre Manufacturers' Association (ATMA) vs Designated Authority, delivered in Civil Appeal No. 949 of 2006 on 07-01-2011. The parties, who presented their views in the oral hearings, were requested to file written submissions of their views expressed orally, followed by rejoinder submissions. Another opportunity of hearing was given by the Designated Authority to the importer namely M/s Associated Chemical Corp., who could not appear on 7th November 2016 because of non-receipt of information. The DI, Importer/user (M/s. Arvind Limited) and the exporter (M/s Hyosung Corp, India) were also accompanied the importer.

- xiv. The submissions made by the interested parties during the course of the investigation have been considered by the Authority, wherever found relevant, in this Final Finding. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry and the exporters.
- xv. Investigation was carried out for the period 1st October 2014 to 30th September 2015 (POI). The examination of trends, in the context of injury analysis, covered the period from April 2012-March 2013 April, April 2013-March 2014 April 2014-March 2015 and the POI.
- xvi. The submissions made by the interested parties during the course of the present investigation and considered relevant by the Authority have been addressed in this Final Finding.
- xvii. ***In this Final Finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xviii. The average exchange rate of 1US\$ = Rs 64.11 prevailing during the POI has been adopted by the Authority for the analysis.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Submissions made by producers/exporters/importers/other interested parties

- 4. The subject goods produced by the Domestic Industry are not like article to the goods exported by subject countries. Further, the goods produced by the Domestic Industry do not meet the quality requirements of the user industry.
- 5. Interested parties also submitted that the products not manufactured by the Domestic Industry should not be included in the scope of the product under consideration. They specifically submitted that the subject goods packed in beam form, yarn below 20 deniers, coloured yarns, etc. are not manufactured by the DI. The Exporters in their submission established key differences between Beam Type Elastomeric Yarn and Cone type Elastomeric Yarn. The Beam Type Elastomeric Yarn is not a like product to Cone type Elastomeric Yarn on account of differences in the production process; appearance; end usage; pricing etc. Since the Domestic Industry cannot produce Beam Type Elastomeric Yarn, the same should be excluded from the scope of the PUC in pursuance of Rule 2(b) of the AD Rules.

6. Invista group has strongly contended that the goods produced and supplied by them under the brand name of “Lycra” should be excluded from the scope of the subject goods for the following reasons:
 - i. INVISTA produces and exports two types of Elastomeric Filament Yarn to India: (a) ELASPAN yarn, which is standard grade of elastomeric filament yarn with limited performance and is similar to the elastomeric filament yarn offered by the Petitioner and (b) highly specialized spandex yarn that is sold under the brand name “LYCRA”, the Petitioner does not produce this specialized grade of Elastomeric Filament Yarn substitutable for or interchangeable with LYCRA.
 - ii. LYCRA differs from the goods produced by the domestic industry on account of recovery force, yarn friction, whiteness retention, resistance to chlorine, soft comfort, pricing, end-user requirement, consumer perception. Lycra as compared to any other grade in the market, including the petitioner’s grades, is superior in quality, particularly with respect to suitability, consistency, uniformity, recovery power, yield and consumer recognized functionality.
 - iii. It is therefore the submission of INVISTA that LYCRA ought to be excluded from the scope of the product under consideration in light of Article 2.6 of the Anti-dumping Agreement and Rule 2(d) of the Indian Anti-dumping Rules.
7. Hyosung group has submitted that they manufacture and export their own brand of Elastomeric Filament Yarn which is called Creora spandex (‘Creora’), which is a high quality spandex brand. In this respect, the Exporter has submitted that the DI’s product (‘Inviya’) cannot be considered ‘like article’ to Creora on account of differences in physical and chemical characteristics like growth% (recovery), elongation% (stretch), chlorine resistance and fluorescence. also the product specifications like low heat settable, eco soft black dope dyed, super chlorine, nylon dyeable, anti odor, are far superior to the products of Domestic Industry. Additionally, the end-user requirement and consumer perception place the product grade Creora spandex in different league from applicant’s product and the two products are not “like articles”. The Exporter has submitted that Creora cannot be subjected to any anti-dumping duty.
8. The importers and users have also submitted that their ultimate buyers insist upon them that the fabric manufactured by them should have subject goods of brands like Lycra and Creora in it because of the better quality perception and brand value. It is also submitted that Lycra or Creora are in a completely different commercial segment and market than the products manufactured by the Domestic Industry. Lycra and Creora cannot be treated as like or substitutable with the product manufactured by the domestic industry or imported in India from any source. Therefore, they strongly submitted that these two brands should be excluded from the scope of product under consideration.
9. User industry also submitted that the quality of the goods produced by the Domestic Industry is not acceptable and very often they have to face quality issues in the fabric manufactured by them, which results in financial losses. They also alleged that Domestic Industry is not producing certain deniers within the scope of the product under consideration and same should be excluded from the scope of the product under consideration.

Views of the Domestic Industry

10. The product under consideration in the present application is “Elastomeric Filament Yarn of all deniers upto and including 150 Deniers, excluding coloured yarns”. It is submitted

by the Domestic Industry that they are producing all variants of the product under consideration with acceptable quality and same can be considered as like or directly substitutable product to the imported goods. It is further submitted that the Domestic Industry is offering complete range of product under consideration to meet the same specific end-applications or requirement.

11. Domestic Industry further submitted that none of the interested parties had filed any material evidence to substantiate their claim for exclusion from the product scope. They have only made self-serving statements during the course of the investigation through various submissions, merely based on conjectures and therefore, all such claims need to be rejected. It is settled jurisprudence that a product cannot be excluded from the scope of the product under consideration unless and until it is proved that the product for which exclusion is sought is not a like product to the goods produced by the Domestic Industry or the goods which the Domestic Industry is capable of producing.
12. It is also submitted by the Domestic Industry that all the products which qualify as a like product should remain a part of the Product under Consideration. Moreover, it is for the party claiming exclusion to prove along with requisite evidence and technical specifications that any particular product is not a like product. In the absence of any such claim or evidence, the arguments of the interested party ought to be rejected outright.
13. In relation to the requests for exclusion of specific brands made by the Invista Group and the Hyosung Group, the Domestic Industry submitted that the exporters have failed to distinguish their product on the basis of technical characteristics/specifications and tests of technical and commercial substitutability and hence their products cannot be excluded. They further submitted that a claim of superior quality and premium price in the market cannot be a basis for exclusion of their products. Domestic Industry also raised its strong objection on any demand of the interested party to exclude any product on the basis of the “brand name” alone. It is also submitted that even the Chinese Authority in their examination did not allow Invista group to get their brand ‘Lycra’ to be excluded from the product under consideration.
14. In relation to exclusion of elastomeric yarns coming in beam form, the Domestic Industry submitted that beam is only a mode of packing and cannot *per se* be a basis for making any distinction from the basic elastomeric yarns. In view thereof, Domestic Industry submitted that the Authority should not accept the request of interested party to exclude elastomeric filaments yarns merely because they are coming in different form of packaging.
15. According to the Domestic Industry, there is no difference in the subject goods produced by them and that imported from the subject countries. The subject goods produced by the domestic industry and the subject goods imported from subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods.

Examination of the Authority

16. The product under consideration in the present application is Bare Elastomeric Filament Yarn of all varieties and deniers upto and including 150 Deniers. These filament yarns are also commonly referred to as Spandex or Elastane. The product under consideration gives the fibre its built-in lasting elasticity. It is an elastomeric fibre used widely as the

minor component in garments to provide stretch with recovery. Subject goods are mainly used to make such garments that require great comfort and fit. As such, they find applications in manufacturing of hosiery, swimsuits, aerobic or exercise wear, ski pants, golf jackets, disposable diaper, waist bands, bra straps and bra side panels etc. They are also extremely suitable for making shaped garments like bra cups. Subject goods are also used to make compression garments such as surgical hose, support hose, bicycle pants, foundation garments etc. The subject goods are classified under chapter heading 54041100. However, the subject goods are also being imported under tariff headings 54024400 and 54026990. In any case, the custom classification is indicative only and has no bearing on the product scope involved in these investigations.

17. It is also noted that the subject goods are described in terms of the deniers and are sold generally in the range of 10 to 1680 deniers. The Domestic Industry has the capability to produce the entire range of these deniers but is currently producing upto 150D only as bulk of the demand is in this range. However, Domestic Industry is planning to produce higher deniers later with expansion of its production capacity. Further, domestic Industry does not produce coloured elastomeric yarns. Therefore, coloured elastomeric yarns and elastomeric yarns above 150 deniers were not included in the scope of the Product under Consideration at the time of initiation of the investigation.
18. In relation to the issues of quality complaints made by the interested parties, it is noted that the quality per se is not a determinative factor for the purpose of anti-dumping investigations. However, it is noted that while the Domestic Industry may have had some quality issues in the initial phase of their operations, they have been able to demonstrate that during the period of investigation, quality claims received by them have been very miniscule i.e., less than **% of their total turnover. During the course of the proceedings, it was also noted that returns take place in this industry not necessarily on account of poor or unacceptable quality but also due to issues arising out of machine compatibility, technology, finish oil used, etc. Further, the Domestic Industry has produced documentary evidence to establish that both the Domestic Industry and exporters occasionally compensate users for any compatibility or quality issues concerning their product which was duly verified at the spot verification. Therefore, return of certain quantities on the alleged ground of poor quality or lack of compatibility cannot be considered as a valid ground for the purposes of anti-dumping investigations.
19. The Authority also notes that even when the interested parties have disputed the quality of subject goods, the very same parties have repeatedly purchased subject goods from the Domestic Industry. It is also noted that the Domestic Industry was exporting the product to various countries, which proves that their quality is acceptable. In any case, it is also a well-settled jurisprudence that quality perception is not relevant for defining the scope of the Product under Consideration in an anti-dumping investigation.
20. In relation to the exclusion requests of brands like Lycra and Creora from the scope of the product under consideration, the authority noted that the submissions made by the interested parties are not a sufficient evidence to prove their claim of exclusion and have failed to distinguish their product on technical basis and their imported subject products are commercially and use wise substitutable with the domestically produced subject goods. Further, no product can be excluded based on their brand names from the scope of the product under consideration. Therefore, the Authority noted that the criteria for exclusion have not been satisfied, and thus the request of the interested parties to exclude brands like Lycra and Creora from the scope of the product under consideration has been rejected.

21. In relation to the exclusion of elastomeric yarns coming in beam form from the scope of the product under consideration, it is noted that the subject goods imported in beam type is only a different mode of packaging and does not render any different characteristic to the product. However, the Authority notes that the Domestic Industry is not producing the elastomeric yarn in beam form. While the form of packaging per se cannot be a basis to decide the issue of “like article”, the Authority notes that the user industry in this case cannot substitute the beam form by cone packaging for their normal operations. The steps involved from cone type to beam type are many and there is a huge value addition in the process. Accordingly, the Authority decides not to consider elastomeric yarn in beam form as like article to the Product under Consideration.

22. In view of the aforesaid, the Product under Consideration is defined as follows:

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

23. The Authority notes that there is no known difference in product under consideration, as defined above, produced by the Indian industry and exported from 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 Rule 2(d) of anti-dumping Rules.

C. DOMESTIC INDUSTRY AND STANDING

Submissions made by Producers/Exporters/Importers/Other Interested Parties

24. It has been submitted by the opposing interested parties that M/s Indorama Industries Ltd. should not be considered as domestic industry by virtue of being the sole producer of Elastomeric Yarns in the country. In this context, it is submitted that the Domestic industry has been defined to consider “domestic producers” in plurality to exclude a sole oligopolistic producer from its definition (Rule 2(b) of AD Rules). While defining domestic industry, the plural reference to domestic producers should not be construed for a single entity to be considered as domestic industry. Singularity on account of exclusion from domestic industry or exclusion for administrative purposes by the authorities or unavailability of data is an acceptable reason. But, where a single oligopolistic producer is considered to constitute domestic industry, this would void the provisions under rule 5(3)(a) and 5(3)(b).

25. A single producer cannot form Domestic Industry by virtue of exclusion or non-availability of data only. The intent of the law in defining domestic producers in “plurality” was to protect industry at large and not grant a sole producer unfair pricing mechanism in India. In view thereof, the interested parties requested the Authority to kindly terminate the investigation as a single domestic producer cannot be said to be eligible to file or seek any protection of anti-dumping measures.

Views of the Domestic Industry

26. The petition has been filed by M/s Indorama Industry Ltd, accounting for 100% of the total Indian production. Moreover, it is submitted that the petitioner has neither imported the subject goods from the subject countries nor they are related to any importer of the subject goods from the subject countries. Therefore, the applicant satisfies the requirements of 'standing' under Rule 5 of the AD Rules and also constitutes 'Domestic Industry' in terms of Rule 2(b) of the AD Rules.
27. In relation to the issue that the definition of Domestic Industry under Rule 2(b) does not cover a situation where there is a single producer of the like article in India as Rule 2(b) refers to "producers" and not "producer", in this context, Domestic Industry submitted that the whole issue is simply devoid of any merit or substance and hence needs to be rejected. They further, submitted that according to Section 13 of the General Clauses Act 1897 categorically the words in the singular shall include the plural, and vice versa in all Central Acts and Regulations. Therefore, the use of the word "producers" in Rule 2(b) shall automatically include its singular form i.e., "producer". Further, there is nothing in the entire Rule 2(b) which may suggest that reading singular in a plural expression would be repugnant to the subject or the context. It is also submitted by the Domestic Industry that the Authority had considered single domestic producer as eligible Domestic Industry.

Examination of the Authority

28. Rule 2(b) of the AD Rules defines domestic industry as under: -

"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"

29. The Application has been filed by M/s Indorama Industry Ltd. and account for 100% of the total production of the like product produced in India. It is further noted that they have neither imported the product under consideration, nor they are related to any importer or exporter of the product under consideration. Therefore, the petitioner constitutes 'Domestic Industry' in terms of Rule 2(b) of the AD Rules. Since the application is filed by applicant accounts for 100% of the total domestic production and is supported by other producers, it satisfies the requirements of 'standing' under Rule 5 of the AD Rules.
30. As regards the issue that the petitioner being the sole producer cannot constitute domestic industry, the Authority does not find any merit in the argument. As pointed out by the Domestic Industry, Section 13 of the General Clauses Act 1897 categorically states that the words in the singular shall include the plural, and vice versa in all Central Acts and Regulations. Therefore, the use of the word "producers" in Rule 2(b) shall automatically include its singular form i.e., "producer". In view thereof, there is no bar that a single domestic producer cannot be considered as eligible Domestic Industry in terms of Rule 2(b). The arguments raised by the interested parties that single domestic producer cannot be treated as eligible Domestic Industry is rejected being devoid of any merit.
31. In light of the above, the Authority holds that the petitioner satisfies the requirement of standing to file the present petition and constitutes 'Domestic Industry' within the meaning of the AD Rules.

D. CONFIDENTIALITY

Submissions made by producers/exporters/importers/other interested parties

32. The various submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are as follows:
- i. The petition suffers from excessive confidentiality. The petition provides absolutely no information with respect to volume related information also.
 - ii. Information relating to petitioner's policy regarding its distribution channels, commission/discount policy, credit terms, normal value calculation etc also kept as confidential.
 - iii. The domestic industry has claimed and has been allowed excessive confidentiality in the sense that they have not made available their annual report in the public file.
 - iv. Domestic Industry has also not provided the details of their costing.

Submissions made by the domestic industry

33. The various submissions made by the domestic industry with regard to confidentiality and considered relevant by the Authority are as follows:
- i. Excessive confidentiality has been claimed by the exporters. Exporters had not only claimed confidentiality on the volume related information but also kept certain narrative portion of the response as confidential.
 - ii. Non-confidential versions of the questionnaire response were not the exact replica of the confidential version filed by the exporters.
 - iii. Petitioner has claimed confidentiality on information provided by them as allowed in rule 7 of the AD rules and a meaningful summary of such information with narrative description were also provided in the non-confidential version of the petition. The claims of interested parties that the petitioner has claimed excessive confidentiality are baseless.

Examination by the Authority

34. The various submissions made by the interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are examined and addressed as follows:
- i. With regard to confidentiality of information Rule 7 of Anti-dumping Rules provides as follows:-

Confidential information: (1) Notwithstanding anything contained in sub-rules and (7) of rule 6, sub-rule (2), (3) (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as

to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

- ii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

E. MISCELLANEOUS SUBMISSIONS

Submissions made by producers/exporters/importers/other interested parties

35. The miscellaneous submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation and considered relevant by the Authority are as follows:
 - i. The application filed by the Domestic Industry is not in the form and manner prescribed by the Authority. The petition is deficient and therefore the investigation needs to be terminated.
 - ii. The DG Safeguards, which is a quasi-judicial authority functioning under the Ministry of Finance, had given definitive findings that the Applicant had faced no injury from imports of the subject goods between 2012-13 and 2014-15 Q1. The Applicant also never challenged these findings in any appellate forum. This means that the order of the DG Safeguards stands intact and is binding on the Designated Authority, which is also a quasi-judicial authority that is conducting the present investigation on the same subject goods.
 - iii. The Authority has not evaluated the petition properly in terms of Article 5.3 of the WTO Anti-Dumping Agreement read with Rule 5(3) of the AD Rules and therefore, the investigation needs to be terminated.
 - iv. Domestic Industry had got support from the Government of India in terms of the benefit in the zero duty for the imports of their major raw materials. This reduction had helped the Domestic Industry to reduce their cost of sales and improve their profitability of the subject goods.

- v. The elastomeric filament yarn is a costly material and constitutes almost 35% of total cost even though content wise it constitutes 2 -10% of total fibers in the yarn/fabric. The imposition of duty will lead to making the Indian fabric noncompetitive resulting in loss of sales particularly export sales.

Views of the Domestic Industry

36. The miscellaneous submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority are as follows:
- i. The supply chain of responding exporters are not complete and therefore, their response needs to be rejected. Hyosung group had not provided the responses of their all related companies in all the subject countries and therefore their response needs to be rejected.
 - ii. It is also submitted by the Domestic Industry that Hyosung group has not disclosed the existence of its Delhi office, which is helping the complete group in their sales and marketing of subject goods in India. It is also submitted that the Hyosung group knowingly not disclosed the fact that their related entity in China has exported the subject goods to India.
 - iii. Domestic Industry also submitted that all the responding associations cannot be considered as interested parties in terms of Rule 2(c) of the anti-dumping Rules. These associations can be permitted to participate as an interested party in the investigations only and only if it proves to the satisfaction of the Authority that the majority of the members are either importers or producers of subject goods. It is pertinent to note that the majority test is to be applied in the context of total membership of respective association. It is important to note that there is no evidence on record that such an exercise has been carried out by any of these associations to prove the basic requirements for being considered as an interested party. Since none of the association has even provided the list of their members along with their respective activities, under no circumstances, all responding associations can be considered as an interested party.
 - iv. In relation to submissions of the other interested parties relating the past Safeguard investigations on the subject goods, Domestic Industry submitted that the history of the previous cases is of no legal or factual relevance to the fact of this case as the product under consideration and period of investigation are different. The Authority is required only to see whether a case for imposition of anti-dumping duties is made out in the facts and circumstances of the present case. It is further submitted that any previous investigation under a different law is of no consequence in the present case, as the law, purpose and objective of both the laws are different. Therefore, to compare the proceedings in two different authorities, setup for achieving different objectives, is not only misconceived but devoid of any factual or legal merit.
 - v. In relation to the impact of Anti-dumping duties on end consumer it has been stated that there will be marginal / negligible impact on the downstream industry / ultimate user on account of imposition of anti-dumping duties. The Domestic Industry has carried out an impact analysis assuming that the Hon'ble Authority recommends levy of 20% anti-dumping duties. The impact on immediate consumer i.e., fabric manufacturers will be in the range of 0.6% to 3%, whereas the end consumer of

fabric will have to pay a meager 0.1% to 0.49% additional amount on account of levy of anti-dumping duties. The calculation of impact on downstream industry for various manufactured products is as follows:

S No	Details	UOM	Pair of Socks	Stretch Denim Fabric	Suiting Fabric	Ladies Brassiere	T-Shirts	Jeans	Legging
1	Fabric type Used		Knitted	Woven	Woven	Woven/ Knitted	Knitted	Woven	Knitted
2	Total Weight of Fabric	Grams/ UOM	40.00	520.00	375.00	50.00	300.00	600.00	300.00
3	Spandex/ Elastomeric Yarn Content	%	5.00	2.00	2.00	10.00	3.00	2.00	5.00
4	Spandex/ Elastomeric Yarn Content	Grams	2.00	10.40	7.50	5.00	9.00	12.00	15.00
5	Spandex Denier Consumed	Den	20	70	70	40	20	70	40
6	Spandex Imported - CIF India price	USD/Kg	5.80	4.50	4.50	4.50	5.80	4.50	4.50
7	Avg. Delivered price to customer (net of CVD)-0% BCD from ASEAN	Rs./Kg @ ex- 67.50	381	315	315	315	381	315	315
8	Cost of Spandex in the Product	Rs./Pc	0.76	3.28	2.36	1.58	3.43	3.78	4.73
9	Avg. Selling Price for Manufactured Garment	Lowest -Rs.	70	170	500	200	400	500	200
10	Spandex % cost of Total Price	% of Price	1.1%	1.9%	0.5%	0.8%	0.9%	0.8%	2.4%
11	Likely Delivered price of spandex - on increase of Imp Duty	20%	460	380	380	380	460	380	380
12	Likely cost of Spandex in Product Manufactured	Rs./Pc	0.92	3.95	2.85	1.90	4.14	4.56	5.70
		% of Price	1.3%	2.3%	0.6%	1.0%	1.0%	0.9%	2.9%
13	Impact on product sold, in case of Increase of Spandex Duty	Rs./Pc	0.16	0.68	0.49	0.33	0.71	0.78	0.98
		% of Price	0.23%	0.40%	0.10%	0.16%	0.18%	0.16%	0.49%

- vi. From the above, it is clear that the impact on the user industry on account of any levy of anti-dumping duties is negligible. Such impact can be on account of exchange rate fluctuations as well as on account of the fluctuating international prices of major raw material. Therefore, the contention of a part of the user industry that their local or export market will be impacted is incorrect. On the contrary, the imposition of anti-dumping duties at this stage will ultimately benefit the user industry as they would be assured of regular and quick supplies of locally produced quality goods at competitive rates.

Examination by the Authority

37. The various miscellaneous issues raised by the interested parties during the course of the present investigation and considered relevant by the Authority are examined herein below:
- a. As regards the argument of the responding parties that the petition is deficient and therefore the investigation needs to be terminated, the Authority notes that the present investigation was initiated on the basis of *prima facie* evidence furnished by the domestic industry showing dumping, injury and causal link. There was sufficient evidence to justify the initiation of the investigation in accordance with the Act and Rules. The Authority has also called for additional information wherever required and verified the information furnished by the domestic industry.
 - b. As regards the arguments of the interested parties that the Authority failed to properly evaluate the validity of the application by the Domestic Industry, in terms of the Article 5(3) of WTO and Rule 5(3) of the AD Rules. Further, they have relied upon WTO Panel Report in DS 156 Guatemala – Definitive Anti-Dumping Measures on Grey Portland Cement from Mexico. In this context, Authority notes that the interested parties have completely failed to appreciate and understand the scope of Rule 5 and the obligations of the Authority at the time of initiation of an investigation. It is also a settled law that the final determination is required to be based on the information made available by the Domestic Industry as well as other interested parties after proper examination and verification by the Authority. Therefore, the method of normal value used for the purpose of initiation recedes in the background and would have no bearing on the outcome of the case.
 - c. In relation to the allegation of the Domestic Industry that supply chain of the responding interested party are not complete, the same have been discussed under the relevant paragraphs relating to the computation of dumping margin.
 - d. As regards the issues of treating trade associations as eligible interested parties in terms of Rule 2 (c), it is noted that the contention of the Domestic Industry to reject the responses filed by associations, holds merit as none as associations have fulfilled their obligations in terms of the Rules. However, the Authority in view of the larger interest, have accepted submissions / information filed by them.
 - e. As regards to the submissions of the interested parties that the Domestic Industry have got advantage due to reduction in import duties for the major raw materials, it is noted that the impact of the same has already been considered in cost and non-injurious price determination.
 - f. As regards the impact of duty on downstream industry, the analysis carried out by Domestic Industry was examined and the Authority noted that the impact is not significant in terms of cost increase to the users and manufacturers of the fabric because the content of the subject goods is very low in the final manufactured products. The imposition of antidumping duties, if any, will only marginally affect the price level of product in India.

NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

F. Normal Value

38. Under section 9A (1) (c) normal value in relation to an article means:

- (i) The comparable price, in the ordinary course of trade, for the like article, when meant 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 or 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 (6);

Provisions relating to Non- Market Economy countries

39. 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 of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay of 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

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”.

40. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. The following producers and exporters from the subject countries filed the prescribed questionnaire responses.

- a. Hyosung Corporation, Korea
- b. Hyosung Vietnam Co. Ltd., Vietnam
- c. Hyosung Dong Nai Co. Ltd., Vietnam
- d. T. K. Chemicals Corporation, Korea
- e. Chon Woung Textiles Co. Ltd, Korea
- f. Winwin Corporation, Korea
- g. Hanswill Co. Ltd., Korea
- h. Fotrust Co. Ltd., Korea
- i. SO FNC International, Korea
- j. Hangzhou Sunrise Spandex Co. Ltd., China
- k. YantaiTayho Advanced Materials Co. Ltd, China
- l. Invista Fibre (Shanghai) Company Limited, China
- m. Invista Fibre Foshan Company Limited, China
- n. Invista Fibre Company Limited, China
- o. Invista Singapore Pte Ltd., Singapore

I. CHINA PR

Views of the Domestic Industry

41. The Domestic Industry had filed full information with regard to the normal value and export price which was necessary for the purpose of initiation of an investigation. In terms of Rule 5, the Domestic Industry is required to give information which is sufficient to justify the initiation of an investigation. Necessary evidence had also been provided in support of their claim of normal value as well as export price.
42. The INVISTA group has companies in Taiwan, Vietnam and South Korea who have not participated in the present investigation. The response is therefore incomplete and should be rejected.
43. China PR should be treated as nonmarket economy country for the following reasons:
 - i. Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values.
 - ii. Market economy treatment must be rejected in such situations where Chinese exporters are unable to establish that their books are consistent with International Accounting Standards (IAS). The requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report.
 - iii. Market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the rules. Contrarily, while examining material injury existence of a single parameter is considered sufficient to establish such injury. In other words, where one parameter is sufficient to establish existence of injury, failure to pass one single parameter is sufficient to reject the claim of market economy status.
 - iv. It is not for the Authority to establish that the responding companies are operating under market economy environment and are entitled for market economy treatment. But it is for the responding Chinese exporters to establish that they are operating under market economy conditions.
 - v. Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected.
 - vi. It has been submitted that the normal value for China in such a case can be determined only in accordance with the provisions of para 7 of the Annexure I to Anti-dumping Rules without invoking proviso to 8(2) in view of the aforementioned facts and circumstances.
 - vii. The normal value in China can thus be determined on the basis of (a) 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 normal value are available, the Designated 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.

Views of the opposing Interested Parties/exporter

44. The general submissions concerning normal value, export price and dumping margin made by the opposing producers/exporters/importers/other interested parties during the

course of the investigation and considered relevant by the Authority are as follows:

- i. The Domestic Industry did not produce any evidence in support of their claim for normal value as well as export price. In this connection, it is submitted that no investigation is tenable without the fulfillment of the basic evidentiary standards and, therefore, the present investigation must be terminated immediately.
 - ii. The conditions specified in the relevant provisions do not include “non-availability” of data relating to domestic selling prices as a ground for construction of normal value. The basis stated in the application for resorting to constructed normal value is thus erroneous.
 - iii. The estimate of inland freight, ocean freight, commission, etc., provided by the Domestic Industry is also not supported by any evidence. The application did not contain any evidence as to how the figures cited were arrived at and what the relevant calculations are.
 - iv. The normal value and export price arrived at by petitioner in the petition cannot be accepted as correct since petitioner had not made available any evidence to support their computation.
 - v. The Designated Authority has also not followed the prescribed procedure with regard to Normal Value terms of paragraph 7 of Annexure I of the Anti-dumping Rules.
 - vi. The adjustments made by the Domestic Industry with respect to the export price are abnormally high and unsupported by any evidence. Therefore, the Authority should use correct adjustments while computing Export price.
45. INVISTA has three companies in China namely M/s INVISTA Fibers Company Limited (‘IFC’), M/s. INVISTA Fibers (Foshan) Company Limited (‘IFF’) and M/s. INVISTA Fibers (Shanghai) Company Limited (‘IFS’), which produce and export the product under consideration to India, through their Singapore based company namely, M/s INVISTA (Singapore) Pte. Limited (‘ISP’). All the three companies in China are held by a wholly-owned subsidiary, namely, CH Hong Kong Holdings II Ltd. who is an indirect wholly-owned subsidiary of INVISTA B. V., a company registered under the laws of Netherlands. INVISTA B. V. is a wholly-owned subsidiary of Koch Industries Inc. INVISTA group has asked for Market Economy treatment and have given detailed Questionnaire response. It was explained that INVISTA operates in market economy conditions and is a foreign owned company. INVISTA obtains raw materials from its related companies’ on arm’s length basis and various utilities on market prices.
46. It has been stated that even though INVISTA has presence in Taiwan and South Korea, neither of those companies have exported the subject product to India in the period of investigation or the injury period. As regards Vietnam, INVISTA has no presence there whatsoever. Therefore the response submitted by INVISTA is complete with respect to various entities.

Examination of Authority regarding MET claim

47. The Authority observed that INVISTA is a group of various companies dealing in various related goods. The raw material for the subject goods are also procured from the related companies. The company stated that raw materials are at market price but no supporting papers were submitted in this regard. In fact the prices of these raw material prices so procured are lower than the prevailing market prices. In view thereof, the Authority has decided not to grant Market Economy Status to INVISTA group as they have not operated under market economy environment and normal value has been constructed on

the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin.

48. The submission of INVISTA, regarding participation of all the relevant entities in the present investigation is correct. In view thereof, the Authority has decided to calculate individual dumping margin to INVISTA group as a whole as all the three companies are considered as single economic entity.

Export Value in case of M/s INVISTA Group, China

49. IFC: In Appendix-2 IFC has reported *** transactions of exports to India during POI, through Invista Singapore. The producer has claimed adjustment on account of overseas freight and the same have been accepted after necessary verification.
50. IFS: In Appendix-2 IFS has reported *** transactions of exports to India during POI through Invista Singapore. The producer has claimed adjustment on account of overseas freight and the same have been accepted after necessary verification.
51. IFF: In Appendix-2 IFF has reported *** transactions of exports to India during POI through Invista Singapore. The producer has claimed adjustment on account of overseas freight and the same have been accepted after necessary verification.
52. Invista Singapore has reported *** transactions of exports to India during POI produced by their related producers IFC, IFS and IFF. The exporter has claimed adjustment on account of freight, clearance & handling charges, overseas insurance, SG&A, Profit and credit cost. The same have been accepted after necessary verification. The export price for the exporter is as mentioned in table below.

Constructed Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	5-15

Normal Value in case of M/s Hangzhou Sunrise Spandex Co. Ltd., China

53. The Authority noted that the M/s Hangzhou Sunrise Spandex Co. Ltd has not claimed market economy treatment in terms of Para 8(3) of Annexure 1 to the Anti-Dumping Rules, the Designated Authority is left with no alternative but to determine normal value estimated on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin.

Export price in case of M/s Hangzhou Sunrise Spandex Co. Ltd, China

54. During the POI, M/s Hangzhou Sunrise Spandex Co. Ltd, China has exported *** MT of the subject goods to India. The exporter claimed adjustment on account of inland freight, overseas freight, marine insurance, credit cost, and Bank charges and the same have been accepted after necessary verification. The CNV & net export price was calculated PCN wise. The weighted average for the same is as below.

Constructed Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range

***	***	***	***	***	***	***	35-45
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Normal Value in case of M/s YantaiTayho Advanced Materials Co. Ltd, China

55. The Authority noted that the M/s YantaiTayho Advanced Materials Co. Ltd, has not claimed market economy treatment in terms of Para 8(3) of Annexure 1 to the Anti-Dumping Rules, the Designated Authority is left with no alternative but to determine normal value estimated on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin.

Export price in case of M/s YantaiTayho Advanced Materials, China

56. During the POI, M/s YantaiTayho Advanced Materials Co. Ltd, China has exported *** MT of the subject goods to India. The exporter claimed adjustment on account of inland freight, overseas freight, handling charges, marine insurance, credit cost, bank Charges and VAT. The same have been accepted after necessary verification. The CNV & net export price was calculated PCN wise. The weighted average for the same is as below.

Constructed Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	45-55

Normal value and Export Price for all other producers and exporters

57. For other producers/ exporters from China who have not participated / cooperated in this investigation, The Authority proposes to determine the normal value and export price on the basis of best facts available in terms of Rule 6(8) of the Antidumping Rules. The normal value, net export price and dumping margin in respect of other producers/exporters of the subject goods so determined is as follows.

Constructed Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	45-55

II. KOREA

Submissions by the Domestic Industry

58. The submissions made by the domestic industry concerning normal value, export price and dumping margin against Hyosung Corporation are as follows:

- i. The Domestic Industry has submitted that while Hyosung group has filed its responses from Korea and Vietnam, it has failed to provide correct and complete details in relation to their complete supply chain. They have withheld the critical information about their manufacturing activities of the subject goods in China which also happens to be one of the subject countries in the instant investigation. The Domestic Industry has further submitted that Hyosung Group has also not disclosed the fact that Hyosung China has supplied the subject goods to India and to other three subject countries namely South Korea, Vietnam and Taiwan.

- ii. Hyosung group has provided incomplete information as they did not disclose their office in India, which is involved in the marketing and after sales service.
- iii. Hyosung group has not reported the fact that they are giving commission of 3% - 6% to their Delhi branch and also giving post sales rebates to traders. This information has direct impact on the calculation of export price and dumping margin. In view thereof, the export price of Hyosung Korea and Hyosung Vietnam cannot be accepted. This approach of the Authority will be in line with the view taken by the Authority in recent findings.
- iv. Hyosung group has not reported instances of Commissions paid by Hyosung group to importers / users of the subject goods to compensate for the price difference between the landed value and sales made to users of the subject goods. This has effectively reduced the ability of the Domestic Industry to match landed value and therefore, price undercutting apparently seems to be negative.
- v. Hyosung group has not reported instances of Hyosung group giving post sales commissions / rebates to importers / traders to undercut the prices of Domestic Industry.
- vi. Hyosung group has also not reported instances of compensation paid to importers / traders for defects in the quality to be ultimately reimbursed to users of the subject goods.
- vii. It is also submitted that since all the Hyosung entities have not participated in the current investigations, the basic statutory tests in relation to normal value for Korea and Vietnam cannot be applied. Accordingly, their information cannot be accepted for the purpose of determination of exporter-specific normal value.
- viii. Responding exporter has specifically withheld information from the Authority in relation to the sources of supply of raw material and utilities. Even the costing heads have not been provided in Appendix 8, which gives rise to a suspicion that they are attempting to hide something or to mislead the Authority.

Submissions by Hyosung Corporation

- 59. The Hyosung Group has filed detailed submissions for the three entities of the group namely, Hyosung Korea, Hyosung Vietnam Co. Ltd. and Hyosung Dong Nai Co. Ltd, which are complete in every way. Further, Hyosung Viet Nam Co., Ltd. and Hyosung Dong Nai Co., Ltd. have asked for single dumping margin at the group level as they are affiliated entities of the same group.
- 60. Hyosung group has specifically rebutted the allegation made by DI regarding submissions dealing with normal value and export price:
 - a. Hyosung China has only exported Elastomeric Yarn above 150 deniers which is not part of the PUC. The Exporters have also provided the details of the export made by Hyosung China to India which establishes that it has not exported the PUC to India.
 - b. Hyosung had mentioned about India office but due to an inadvertent omission, the address of Hyosung India office was not provided in the Exporter Questionnaire.

However, Hyosung entities have cooperated in this investigation and provided all the relevant information.

- c. Hyosung group has stated that no commission has been paid to Hyosung Delhi office. However, Hyosung Vietnam provides monetary support to the Hyosung Delhi office as the Delhi office undertakes various activities on behalf of Hyosung Vietnam and incurs various expenses on all these business activities. The details of these amounts have been shown as post sales expenses in Appendix 2 of the Exporter Questionnaire response of Hyosung Vietnam. Further, they have made oral submission through their legal consultants that if the Authority considers it as commission then they may consider it so and adjust it from export price, however they have requested to rely upon submissions made by them during the investigation.
- d. They have further clarified that Hyosung Vietnam provides compensation for the defect in the PUC for both the export and domestic market in order to guarantee the product quality. The total number of claims reimbursed by Hyosung Vietnam to the Indian customers during the POI is *** and it is related with *** transactions out of total export sales to India. Further, the total claim expense is ***% of the total export sales value to India. In addition, Hyosung Vietnam has *** claim compensations for domestic sales in Vietnam which is just ****% of the total domestic sales value. It is to be noted that all the transactions related to compensation claims were directly traced and actual amounts pertaining to the same has been reported to the Authority.
- e. Hyosung group have clarified that no post sales rebate has been provided to compensate for the price difference for the PUC. As explained above, commission is provided to unrelated sales agents and to Hyosung India office, on account of expenses, the details of which have already been provided in Appendix 2 of the EQR of Hyosung Vietnam. Further, the Exporters in their submission have also highlighted that except for the 2 debit notes submitted by DI, all other invoices are beyond the POI. Thus, the Exporters submit that the documents and data pertaining to post POI period are not relevant for this investigation and therefore, the debit notes which do not relate to the POI are irrelevant for this investigation and should be rejected.

Examination of the Authority

61. The Authority noted that three entities of Hyosung group have filed the exporter questionnaire responses, namely Hyosung Corporation from Korea, Hyosung Vietnam Co. Ltd., and Hyosung Dong Nai Co. Ltd., from Vietnam, who all are producers of the subject goods. The group has filed detailed response which is complete and is accepted.
62. It is observed that there are other Hyosung entities in China and Taiwan who have not participated in the investigation as none of them have exported the subject goods to India during POI. Therefore, response filed by Hyosung group is considered complete.
63. The various other submissions by all the opposing interested parties regarding export price of Hyosung Group have been examined in detail. The producers exporters M/s Hyosung Corporation and M/s Hyosung Vietnam were asked to respond to the representation of DI regarding payment of large commission to their Delhi office attaching therewith some documents as evidence. The submissions and counter

submissions have been examined in depth by the Authority and it has been decided to make appropriate adjustments in the export price, on account of commission based on the documents furnished as verification Exhibits, to arrive at the net ex-factory export price for the Hyosung Group.

Normal value and Export Price for Hyosung Corporation

64. The questionnaire response filed by the exporter has been examined for domestic sales and it is found that ***% transactions of the total domestic sales is profit making. Therefore, the Authority has proceeded to determine the normal value based on complete sales data. The Producer has exported directly to India. They have claimed adjustment on account of inland freight, overseas freight, handling charges, marine insurance, credit cost; bank Charges and duty drawback reimbursement. The same have been accepted after necessary verification. An additional adjustment has been made on account of commission paid to their Delhi office. The normal value and export price for the producer exporter is as below.

Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	(10)-0

Normal Value in case of M/s T K Chemicals.

65. The questionnaire response filed by the exporter has been examined and it is found that T.K. Chemicals has provided details of the subject goods in relevant Appendices of their response. It was noted that **% transactions of the total domestic sales is profit making. Therefore, the Authority has proceeded to determine the normal value based on complete sales data. The Normal value of the exporter so determined is mentioned in the table below.

Export price in case of M/s T K Chemicals

66. The producer has exported directly as well as through other unrelated exporters. They have submitted detailed questionnaire response for their own unit and with other unrelated exporters covering majority of the exports. The adjustments claimed by the exporter on their direct exports are on account of inland freight, overseas freight, handling charges, marine insurance, brokerage, credit expense, bank charges and duty drawback reimbursement. The same have been verified and accepted to the extent found correct. The Net Export price of the exporter for the direct exports so determined is as below.

Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	1-10

Export price in case of M/s Chon Woung Textiles Co. Ltd

67. During the POI, M/s Chon Woung Textiles Co. Ltd has exported subject goods which were procured from the unrelated producer namely M/s T K Chemicals, Korea. M/s Chon Woung Textiles Co. Ltd has exported *** MT of the subject goods to India. The exporter claimed adjustment on account of overseas freight, clearance & handling charges, overseas insurance, brokerage, SG&A, Profit and credit expense, and the same

have been accepted after necessary verification. The export price for the exporter is as mentioned in table below.

Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	5-15

Export price in case of M/s Winwin Corporation, Korea

68. During the POI, M/s Winwin Corporation has exported subject goods which were procured from the unrelated trader M/s Chon Woung Textiles Co. Ltd, who had sourced the subject goods from the unrelated producer namely M/s T K Chemicals, Korea. M/s Winwin Corporation has exported *** MT of the subject goods to India. The exporter claimed adjustment on account of overseas freight, clearance & handling charges, overseas insurance, brokerage, SG&A, Profit and credit expense, and the same have been accepted after necessary verification. The export price for the exporter is as mentioned in table below.

Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	5-15

Export price in case of M/s Hanswill Co. Ltd., Korea

69. During the POI, M/s Hanswill Co. Ltd. has exported subject goods which were procured from the unrelated producer namely M/s T K Chemicals, Korea. M/s Hanswill Co. Ltd. has exported *** MT of the subject goods to India. The exporter claimed adjustment on account of overseas freight, clearance & handling charges, overseas insurance, brokerage, SG&A, Profit and credit expense, and the same have been accepted after necessary verification. The export price for the exporter is as mentioned in table below.

Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	10-20

Export price in case of M/s Fotrust Co. Ltd., Korea

70. During the POI, M/s Fotrust Co. Ltd has exported subject goods which were procured from the unrelated producer namely M/s T K Chemicals, Korea. M/s Fotrust Co. Ltd has exported *** MT of the subject goods to India. The exporter claimed adjustment on account of overseas freight, clearance & handling charges, overseas insurance, brokerage, SG&A, Profit and credit expense, and the same have been accepted after necessary verification. The export price for the exporter is as mentioned in table below.

Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	5-15

Export price in case of M/s So FNC International, Korea

71. During the POI, M/s So FNC International has exported subject goods which were procured from the unrelated producer namely M/s T K Chemicals, Korea. M/s So FNC International has exported *** MT of the subject goods to India. The exporter claimed adjustment on account of overseas freight, clearance & handling charges, overseas insurance, brokerage, SG&A, Profit and credit expense, and the same have been accepted after necessary verification. The export price for the exporter is as mentioned in table below.

Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	5-15

Normal value and Export price for all other producers and exporters

72. For other producers/ exporters from Korea who have not participated / co-operated in this investigation, the normal value and export price for other exporters has been determined on the basis of best facts available in terms of Rule 6(8) of the Antidumping Rules. The normal value, net export price and dumping margin in respect of other producers/exporters of the subject goods so determined is as follows:

Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	30-40

III. VIETNAM

Normal value and Export price

73. The Questionnaire response has been received from two producers in Vietnam covering the majority of the Vietnam exports to India. These two producers of the subject goods belong to Hyosung group. Out of these two entities Hyosung Vietnam Co. Ltd. has exported the subject goods to India during POI, but Hyosung Dong Nai Co. Ltd. has not exported the subject goods to India. However, the two producers in Vietnam are one and have asked to be treated as single entity for analysis of dumping and injury. Hyosung Vietnam Co., Ltd. and Hyosung Dong Nai Co., Ltd. share “common ownership structure; administrative departments; technical service, sales team; sales management department; sales office; salary and human resource system etc”. Also both the companies are located in the same geographical area and manufacture the same brand of subject merchandise (known as, “CREORA”). There is no difference in the production process and the products manufactured by Hyosung Vietnam and Hyosung DongNai. In view of the same, Hyosung Vietnam and Hyosung Dong Nai should be considered as a single entity and therefore, these two entities should be provided a single dumping/injury margin.

74. The submissions of the Hyosung group Vietnam were considered and it has been decided to give both the producer companies in Vietnam a single dumping margin as they are related companies of the same group. Also it has been the consistent practice of the Authority to consider related exporting producers or exporting producers belonging to the same group as one single entity for the determination of a dumping margin and thus to establish one single dumping margin for them.

Normal value/Export Price for Hyosung Vietnam Co. Ltd &Hyosung Dong Nai Co

75. The questionnaire response filed by the exporter has been examined for domestic sales and it is found that ***% transactions of the total domestic sales are profit making. Therefore, the Authority has proceeded to determine the normal value based on complete sales data. The Producer has exported directly to India. The exporter has claimed adjustment on account of inland freight, overseas freight, clearance & handling charges, overseas insurance, credit cost, Bank Charge, Claim Expense, Commission and Ex-Factory Expense and the same have been accepted after necessary verification. An additional adjustment has been made on account of commission paid to their Delhi office. The normal value and export price for the exporter is as mentioned in table below

Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	1-10

Normal value and Export price for all other producers and exporters

76. For other producers/ exporters from Vietnam who have not participated / co-operated in this investigation, the normal value and export price for other exporters has been determined on the basis of best facts available in terms of Rule 6(8) of the Antidumping Rules. The normal value, net export price and dumping margin in respect of other producers/exporters of the subject goods so determined is as follows:

Normal value		Net export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	35-45

IV. TAIWAN

77. No producer/ exporter from Taiwan has filed a questionnaire response. Therefore, the normal value and export price for all exporters has been determined on the basis of best facts available in terms of Rule 6(8) of the Antidumping Rules. The normal value, net export price and dumping margin in respect of all producers/exporters of the subject goods so determined is as follows

Constructed Normal value		Constructed Export Price		Dumping Margin			
USD/KG	Rs/KG	USD/KG	Rs/KG	USD	Rs	%	Range
***	***	***	***	***	***	***	55-65

DUMPING MARGIN

78. The dumping margin for subject goods has been determined by comparing PCN wise normal value (constructed wherever the actual normal value is not available/acceptable) and net export price at ex-factory level for the subject goods. The table below shows the weighted average values for various subject countries. It is seen that the dumping margin for the subject goods is more than de-minimus for imports from all the subject countries except one cooperative exporter from Korea.

Sr. no.	Country	Producer	Exporter	NV/CNV	NEP	Dumping Margin

Sr. no.	Country	Producer	Exporter	NV/CNV	NEP	Dumping Margin			
				USD/KG	USD/KG	USD/KG	%	Range	
1.	China								
	i	Hangzhou Sunrise Spandex Co. Ltd	Hangzhou Sunrise Spandex Co. Ltd	***	***	***	***		35-45
	ii	YantaiTayho Advanced Materials Co. Ltd	YantaiTayho Advanced Materials Co. Ltd	***	***	***	***		45-55
	iii	Invista Fibre (Shanghai) Company Limited; Invista Fibre Company Limited; INVISTA Fibers (Foshan) Company Limited	Invista Singapore Pte Ltd., Singapore	***	***	***	***		5-15
	iv	Any Other	Any Other	***	***	***	***		45-55
2.	Korea			***	***	***	***		
	i	Hyosung Corporation	Hyosung Corporation	***	***	***	***		(10) - 0
	ii	T. K. Chemicals Corporation	T. K. Chemicals Corporation	***	***	***	***		1-10
	iii	T. K. Chemicals Corporation	Chon Woung Textiles Co. Ltd,	***	***	***	***		5-15
	iv	T. K. Chemicals Corporation	Winwin Corporation,	***	***	***	***		5-15
	v	T. K. Chemicals Corporation	Hanswill Co. Ltd.,	***	***	***	***		10-20
	vi	T. K. Chemicals Corporation	Fotrust Co. Ltd.,	***	***	***	***		5-15
	vii	T. K. Chemicals Corporation	SO FNC International,	***	***	***	***		5-15
	viii	Any Other	Any Other	***	***	***	***		30-40
3.	Vietnam								
	i	Hyosung Vietnam, Hyosung Dong Nai	Hyosung Vietnam, Hyosung DongNai	***	***	***	***		1-10
	ii	Any Other	Any Other	***	***	***	***		35-45
4.	Taiwan	Any producer/exporter	Any producer/exporter	***	***	***	***		55-65

METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

Submissions made by the producers/exporters/importers/other interested parties

79. The injury related submissions made by various opposing interested parties during the course of the present investigation and considered relevant by the Authority are summarized as follows:

- i. Import prices have increased during the injury period and therefore the claim of the petitioner that the dumped imports are affecting profitability and its inability to increase its selling price has no merit. There is no volume effect as well.
- ii. There is huge demand and supply gap and therefore imports from subject countries are inevitable and therefore, these imports cannot be said to be injuring the Domestic Industry.
- iii. There has been admitted improvement in production, production capacity, sales,

employment, productivity (per day as well as per employee) etc., when compared to the base year. Thus, injury claimed by domestic industry holds no merit. It is also submitted that the Domestic Industry has gained market share whereas market share of subject countries has declined. Therefore, injury to the Domestic Industry cannot be attributed to imports from subject countries.

- iv. In the post-POI period, the domestic sales, profitability and inventory situation of the Applicant further improved, which demonstrated that imports were not causing any serious injury to the Applicant.
- v. The real cause for the alleged injury if any to the petitioner is not dumping of subject goods but rather due to other reasons such as high freight cost, backward area benefit which the Applicant was not able to avail, quality issues which are also recorded by the DG Safeguards.
- vi. Domestic Industry miserably failed to establish its case for material injury and also failed to establish causal relationship between alleged dumped imports and injury, if any, suffered by the Domestic Industry.

Views of the Domestic Industry

80. The following injury related submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority are summarized as below:
 - i. Imports of the product under consideration have shown significant increase over the years with a significant increase in POI;
 - ii. Market share of subject countries in demand is significant. Market share of the domestic industry has decreased during the POI as compared to the immediately preceding year. The same is due to significant imports from subject countries;
 - iii. Domestic industry prices reflect the effect of the prices that are being offered by the importers in the domestic market. With reduction in the prices by the foreign producers, the only choice available to the Indian producers is to either realign their prices with the changes in the import prices or lose orders and consequently the market share;
 - iv. It is also submitted that exporters from subject countries are giving post sales discounts and commission to assert pressure on the Domestic Industry;
 - v. Imported goods have suppressed / depressed the prices of the domestic industry;
 - vi. The profitability of the domestic industry has severely affected in the period of investigation due to dumped imports from subject countries. As a result of the increased volumes at dumped prices, the domestic industry is suffering injury during the injury investigation period. Further, it clearly indicates that the dumped imports from subject countries have caused serious injury by preventing the domestic industry from increasing its prices to a remunerative level throughout the injury period. Thus, the dumped imports have not only severely affected their profitability but also resulted in impediment of the legitimate return on investments to a very significant extent;
 - vii. Decline in profitability of the domestic industry was due to increase in the import

volume at non-remunerative prices from the subject countries.

- viii. Decrease in the selling price was more than the decrease in cost of production. This indicates that the dumped imports are creating price suppression effect on the domestic industry.
- ix. Domestic industry has suffered material injury in connection with dumping of subject goods from subject countries. Further, the domestic industry is threatened with continued injury, should the present condition continue.
- x. Regarding the Demand and Supply Issues, the Domestic Industry has stated that they had planned to set up 15000 MT to cater to the increased demand in India, to be installed in three phases of 5000 MT each. The submissions are backed by documentary evidence to that effect. However, due to price pressure created by the exporters Domestic Industry was not able to implement its targeted phase-wise installation of capacity on time. Further, it has been stated that the objective of anti-dumping duty is not to block the imports but to address the issues of dumping of subject goods and consequent injury faced by the Domestic Industry. It was also submitted that similar arguments have been raised in the past before the Hon'ble Authority but have been rejected consistently. Domestic Industry has cited previous cases in support of their contention and requested the Authority to reject the issues relating to demand and supply as even if there is a gap in the demand-supply position, it has no bearing on the fact that the subject goods are being dumped at injurious prices into India. The very essence of the anti-dumping laws and rules is to provide a level playing for domestic manufacturers vis-a-vis any other manufacturer exporting to India.

Examination by the Authority

- 81. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
- 82. As regards the contention that there is a huge demand supply gap, the Authority notes that the demand supply gap justifies imports per-se but not dumping of the product in the country. The Authority holds that the demand supply gap in the product cannot prejudice the rights of the domestic industry to seek protection under the law. It is the consistent practice of the Authority to recommend imposition of anti-dumping duties, if it is established that dumping is causing injury to the domestic industry.
- 83. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties. For the examination of the impact of imports on the domestic industry in India, the Authority has considered indices having a bearing on the state of the industry such as production, capacity utilization, sales quantum, stock,

profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

84. Non-injurious price has been computed in accordance with Annexure 3 to the Anti-dumping Rules and the established practices of the DGAD.

A. Volume Effect of Dumped Imports

Import Volume and Market Share

85. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCIS. The volume of imports of the subject good from the subject countries has been analyzed as under:

Sr No.	Particulars	Units	2012-13	2013-14	2014-15	POI
1	China P RP	MT	2174	1318	1459	1689
2	Korea RP	MT	2066	1948	1908	2095
3	Taiwan	MT	465	257	428	553
4	Vietnam	MT	3534	3947	5565	6904
5	Imports from subject countries	MT	8240	7470	9359	11241
5a	Trend	Indexed	100	91	114	136
6	Imports from other countries	MT	1539	2323	2819	2377
6a	Trend	Indexed	100	151	183	154
7	Total Imports	MT	9779	9793	12178	13619
7a	Trend	Indexed	100	100	125	139
8	Domestic Sales-Applicant	MT	1592	3280	3487	3608
8a	Trend	Indexed	100	206	219	227
8	Total Demand (MT)	MT	11371	13073	15666	17227
9a	Trend	Indexed	100	115	138	151
10	Share in Total Demand					
A	Imports from China PR	%	19	10	9	10
B	Imports from Korea	%	18	15	12	12
C	Imports from Taiwan	%	4	2	3	3
D	Imports from Vietnam	%	31	30	36	40
E	Total Imports- Subject Countries	%	72	57	60	65
F	Imports from Other Countries	%	14	18	18	14
11	Sale of Domestic Industry	%	14	25	22	21

86. It is noted from the above table that imports of the subject goods from the subject countries have increased in absolute terms in POI as compared to the previous years. The imports from subject countries have increased to the extent of 36% during the POI as compared to base year i.e., 2012-13.

87. The share of imports of subject countries in overall imports is 83%. Similarly, the market share of subject countries in the total demand is 65%, which is significant. Thus, it is seen that the volumes from subject countries are very significant in absolute terms as

well as in relation to total imports and the overall demand in the country.

B. Price Effect of Dumped Imports on the Domestic Industry

88. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred, in normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject countries has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from subject countries. The Authority has carried out the analysis of price undercutting and price underselling on PCN basis as there is significant variation in the per kg prices of various types of Deniers.

a. Price Undercutting

89. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry on PCN to PCN basis, the weighted average of various deniers is as below:

	Units	China	Korea	Taiwan	Vietnam	Subject Countries
Quantity	MT	1689	2095	553	6904	11241
Landed Value	Rs./ MT	471390	468043	293717	444659	445610
Selling Price	Rs./ MT	***	***	***	***	***
Price Undercutting	Rs./ MT	***	***	***	***	***
Price Undercutting	%	***	***	***	***	***
Price Undercutting	Range	(20) - (10)	(15) - (5)	30-40	(15) - (5)	(15) - (5)

90. A detailed analysis was carried out PCN wise and 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 subject countries which have also increased substantially in quantitative terms during POI.

b. Price Underselling

91. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject countries. The comparison has been made on PCN wise and weighted average of all the calculations is as follows:

	Units	China	Korea	Taiwan	Vietnam	Subject Countries
Quantity	MT	1689	2095	553	6904	11241
Landed Value	Rs./ MT	471390	468043	293717	444659	445610

	Units	China	Korea	Taiwan	Vietnam	Subject Countries
Non Injurious Price	Rs./ MT	***	***	***	***	***
Price Underselling	Rs./ MT	***	***	***	***	***
Price Underselling	%	***	***	***	***	***
Price Underselling	Range	20 - 30	30 - 40	75-85	15-25	20-30

It is noted from the above table that the domestic industry has suffered significant price underselling on account of imports of the subject goods from the subject countries.

c. Price Suppression and Depression

92. 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:

Weighted Average	Unit	2012-13	2013-14	2014-15	POI
Wt. Average Landed Value of Imports of Subject Countries	Rs./MT	375718	473280	463123	445610
Index	Indexed	100	126	123	119
Wt. Average Cost of Sales	Rs./MT	***	***	***	***
Trend	Indexed	100	77	71	70
Wt. Average Domestic Selling Price	Rs./MT	***	***	***	***
Trend	Indexed	100	113	122	117

93. From the above Table, it is clear that the (weighted average) landed value of imports from subject countries as a whole increased in the injury period except during the POI where it decreased as compared to the immediate preceding year. Similarly, the domestic selling prices showed the same trend during the period. However, the decline in selling price during the POI as compared to preceding year is much more than the decline in cost of sales. This clearly proves that the prices of the Domestic Industry are suppressed and depressed.

C. Economic Parameters of the Domestic Industry

94. 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 domestic producers of such products. With regard to consequent impact of these imports on 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 and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital

investments.

95. The various injury parameters relating to the domestic industry are discussed herein below:

i. **Market share:** The details of imports, domestic sales and the market share of the domestic industry is as below:

	Unit	2012-13	2013-14	2014-15	POI
Domestic Industry Sale	MT	1592	3280	3487	3608
	Indexed	100	206	219	227
Imports from Subject Countries	MT	8240	7470	9359	11241
Imports from Other Countries	MT	1539	2323	2819	2377
Total Imports	MT	9779	9793	12178	13619
Total Demand	MT	11371	13073	15666	17227
	Trend	100	115	112	184
Market share in Demand					
Of Domestic Sales	%	14.00	25.09	22.26	20.95
Of Imports from Subject Countries	%	72.46	57.14	59.74	65.25
Of Imports from Other Countries	%	13.53	17.77	18.00	13.80

As mentioned earlier, imports of the subject goods from subject countries have increased from 2013 to POI. It may also be noted that market share of domestic sales has decreased during POI as compared to the preceding years whereas during the same period market share of imports from subject countries increased substantially.

ii. **Profitability:** It is noted that despite the fact that cost of sales of the Domestic Industry declined in the POI and that Domestic Industry is operating at its full capacity, they are still unable to make profits due to the price pressure exerted by the dumped imports from the subject countries. The Domestic Industry has submitted that they were forced to match the post landed discounted prices offered by the exporters. It is also seen that while the selling price saw an upward trend upto 2013-14, and declined in the POI, the same consistently remained below the cost of sales of the Domestic Industry resulting into continued losses due to the overall pressure on their selling prices.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Cost of sales	Rs./MT	***	***	***	***
Trend	Indexed	100	77	69	70
Selling price	Rs./MT	***	***	***	***
Trend	Indexed	100	113	122	116
Profit/Loss	Rs./MT	***	***	***	***
Trend	Indexed	(100)	(31)	0	(5)
Profit/Loss	Rs. Lacs	***	***	***	***
Trend	Indexed	(100)	(64)	0	(11)
Interests	Rs. Lacs	***	***	***	***
Trend	Indexed	100	53	45	47

Particulars	Unit	2012-13	2013-14	2014-15	POI
PBIT	Rs. Lacs	***	***	***	***
Trend	Indexed	100	49	26	56

iii. **Return on Investment:** The return on investment has seen similar trend as that of profitability as can be seen from the table below:

Particulars	Unit	2012-13	2013-14	2014-15	POI
ROI	%	***	***	***	***
Trend	Indexed	(100)	(60)	0	(9)

iv. **Production and Capacity Utilization:** It can be seen that the production of the Domestic Industry has increased in the POI as compared to the base year which is largely due to the fact that base year was the very first year of their operations. However, it is important to note that the production of the subject goods decreased in the POI as compared to the immediate preceding year i.e., 2014-15. The capacity utilization of the Domestic Industry also followed the same trend as that of production. This decline in the production and capacity utilization in the growing market reflects the adverse impact of imports from the subject countries on the Domestic Industry.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Capacity	MT	5,131	5,131	5,131	5,131
Total Production	MT	2,364	4,681	4,914	4,724
	Indexed	100	198	208	200
Capacity Utilization	%	46%	91%	96%	92%
	Indexed	100	198	208	200

v. **Sales Volumes:** It is noted that the sales volume of the Domestic Industry has increased in the POI as compared to the base year which is largely due to the fact that the demand in the country has increased.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Sales volume					
Domestic	MT	1592	3280	3487	3608
	Indexed	100	206	219	227
Exports	MT	188	1373	1182	1042
	Indexed	100	730	629	554
Total Sales	MT	1780	4653	4670	4651
	Indexed	100	261	262	261

vi. **Inventories:** The data relating to inventory of the subject goods is shown in the following table:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Inventory	MT	629	640	699	671
Trend	Indexed	100	102	111	107

It is noted from the above table that the inventory of the Domestic Industry increased in the POI as compared to the base year. It is also noted that the inventory is around 14% of the total production of the Domestic Industry, which is significant seeing the growth in the demand in the country and also seeing the capacity of the Domestic Industry.

- vii. **Employment and Wages:** The position with regard to employment and wages is as follows:

	Unit	2012-13	2013-14	2014-15	POI
Employees	Number	382	376	368	364
	Indexed	100	98	96	95
Wages/employee	Rs/Number	25291	33284	33624	34742
	Indexed	100	132	133	137

It is noted from the above table that the employees engaged by the Domestic Industry declined throughout the injury investigation period. However, the wages paid to them increased during the same period.

- viii. **Productivity:** It can be seen from the table below that productivity in terms of production per employee has increased in the POI as compared to the base year. Despite increase in productivity, the performance of the Domestic Industry continued to be negative in POI. Accordingly, productivity is not a factor that can be attributed to injury.

	Unit	2012-13	2013-14	2014-15	POI
Production (MT)	MT	2,364	4,681	4,914	4,724
Employees	No.	382	376	368	364
Production/employee	MT/No.	6	12	13	13
Trend	Indexed	100	201	216	210

- ix. **Magnitude of Dumping:** Magnitude of dumping is an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The analysis shows that the dumping margin determined against subject countries is above *de minimis* and significant.
- x. **Ability to raise Capital Investment:** The future investment in the sector is marred by the presence of dumped imports from subject countries. The negative profitability, return on investment along with reduced market share indicates that the ability of the domestic industry to raise capital investments for the sector is seriously affected due to the dumped imports from the subject countries.
- xi. **Factors affecting domestic prices:** The examination indicates that there is a healthy demand in India for the subject goods. The dumped import prices from subject countries are directly affecting the prices of the domestic industry in the domestic market. It is also noted that the landed value of subject goods from subject countries are below non-injurious price of the domestic industry. Further, landed value from subject countries had suppressed / depressed the prices of the Domestic Industry causing financial losses to them. The imports of the product under consideration from countries other than subject countries are not injuring the domestic industry or are at non-dumped prices as the prices offered by these countries are significantly higher. Demand for the product is showing an increase trend and, therefore, could not have been a factor responsible for price

depression and suppression faced by the domestic industry. It is thus evident that the dumped goods from subject countries are responsible for the depressed and suppressed prices of the domestic industry.

- xii. **Growth:** There was positive growth of the domestic industry in terms of sales and production in the POI as compared to the base year. However, profits, cash profit as well as ROI remained negative in the POI as compared to the preceding years despite significant increase in demand. The domestic industry has contended that with increase in demand, the domestic industry had expected growth in profits, comfortable cash flow and increase in return on investments. However, the domestic industry was not able to achieve the same due to the presence of the dumped imports from subject countries.

D. CONCLUSION ON MATERIAL INJURY

96. After examining the volume and price effects of imports of subject goods from subject countries and its impact on the domestic industry, the Authority concludes that the dumped imports of the subject goods from subject countries increased significantly throughout the injury investigation period in absolute terms. With regard to price effect on account of imports of subject goods from subject countries, it is noted that imports of the subject goods from subject countries is significantly suppressing / depressing the prices of domestic industry. Comparison of the landed values with the non-injurious prices of the Domestic Industry also reveals significant price underselling. With regard to consequent impact of the dumped imports on the domestic industry, it is concluded that the performance remained negative in respect of profit, return on investment and the inventory level. Thus, the Authority proposes to conclude that the domestic industry has suffered material injury during the period of investigation.

E. OTHER KNOWN FACTORS & CAUSAL LINK

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

(a) Volume and prices of imports from third countries

98. During POI, imports of the subject goods from countries other than the subject countries are not significant in volume and were reported at high prices. Therefore, the imports from other countries cannot be considered to have caused injury to the domestic industry

Particulars	Unit	2012-13	2013-14	2014-15	POI
China	MT	2174	1318	1459	1689
Korea	MT	2066	1948	1908	2095
Taiwan	MT	465	257	428	553
Vietnam	MT	3534	3947	5565	6904
Total Subject Countries	MT	8240	7470	9359	11241
Others	MT	1539	2323	2819	2377
Total Imports	MT	9779	9793	12178	13619
Share in Import Volume from					

Particulars	Unit	2012-13	2013-14	2014-15	POI
China	%	22%	13%	12%	12%
Korea	%	21%	20%	16%	15%
Taiwan	%	5%	3%	4%	4%
Vietnam	%	36%	40%	46%	51%
Total Subject Countries	%	84%	76%	77%	83%
Others		5%	7%	5%	3%
Total Imports	%	100%	100%	100%	100%
Import Price (CIF Value per MT)					
China	Rs/MT	370639	445644	436080	448302
Korea	Rs/MT	356852	424438	451694	445120
Taiwan	Rs/MT	319934	368670	366503	279332
Vietnam	Rs/MT	346066	410289	434325	434577
Total Subject Countries	Rs/MT	353778	418783	435041	430968
Others	Rs/MT	479062	510279	513972	504740
Total Imports	Rs/MT	374605	442388	454311	452061

(b) Contraction of demand and changes in the pattern of consumption.

99. There has been a constant rise in demand of the product concerned throughout the injury period. Therefore, decline in demand is not a possible reason of injury to the Domestic Industry.

(c) Developments in technology:

100. Technology for production of the product concerned has not undergone any change. Thus, development in technology is also not a factor causing injury to the domestic injury.

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

101. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry as the raw materials as well as the subject goods are freely importable in the country.

(e) Export performance of the domestic industry

102. The injury analysis has been done by the Authority taking into consideration their domestic operations only. Therefore, performance in the export market has not affected the present injury analysis.

(f) Productivity of the Domestic Industry

103. It is noted that the productivity of the domestic industry in terms of production per employee as well as production per day has increased over the period.

104. It is thus noted that listed known other factors do not show that the domestic industry could have suffered injury due to these other factors. None of the interested parties has also led any evidence to suggest that the material injury caused to the Domestic Industry is attributable to other known factors. On the other hand, the following parameters show that injury to the domestic industry has been caused by dumped imports:

- a. The imported subject goods from subject countries were at significantly low prices. Resultantly, the domestic industry was not able to increase its prices commensurate with the increasing costs. In fact, the Domestic Industry could not increase its prices in the POI to recover its complete cost. The price depression and price suppression suffered by the domestic industry is primarily on account of the dumped imports of the product from subject countries.
- b. The pressure on the domestic prices of the domestic industry led to continued losses and negative return on investment during the POI. The disability to increase price coupled with the increasing costs has materially injured the financial performance of the Domestic Industry.

105. It is therefore, concluded that the domestic industry suffered material injury due to dumped imports from subject countries.

F. MAGNITUDE OF INJURY MARGIN

106. The non-injurious price of the subject goods produced by the Domestic Industry determined has been compared with the landed value of the exports from subject countries for determination of injury margin during POI. The injury margin determined are as under:-

Sr. no.	Country	Producer	Exporter	Landed Value	NIP	Injury Margin		
				USD/KG	USD/K G	USD/KG	%	Range
1.	China							
	i	Hangzhou Sunrise Spandex Co. Ltd	Hangzhou Sunrise Spandex Co. Ltd	***	***	***	***	45-55
	ii	YantaiTayho Advanced Materials Co. Ltd	YantaiTayho Advanced Materials Co. Ltd	***	***	***	***	60-70
	iii	Invista Fibre (Shanghai) Company Limited; Invista Fibre Company Limited; INVISTA Fibers (Foshan) Company Limited	Invista Singapore Pte Ltd., Singapore	***	***	***	***	15-25
	iv	Any Other	Any Other	***	***	***	***	60-70
2.	Korea							
	i	Hyosung Corporation	Hyosung Corporation	***	***	***	***	1-10
	ii	T. K. Chemicals Corporation	T. K. Chemicals Corporation	***	***	***	***	35-45
	iii	T. K. Chemicals Corporation	Chon Woung Textiles Co. Ltd, Korea	***	***	***	***	45-55
	iv	T. K. Chemicals Corporation	Winwin Corporation, Korea	***	***	***	***	40-50
	v	T. K. Chemicals Corporation	Hanswill Co. Ltd., Korea	***	***	***	***	25-35
	vi	T. K. Chemicals Corporation	Fotrast Co. Ltd., Korea	***	***	***	***	35-45

Sr. no.	Country	Producer	Exporter	Landed Value	NIP	Injury Margin		
	vii	T. K. Chemicals Corporation	SO FNC International, Korea	***	***	***	***	25-35
	viii	Any Other	Any Other	***	***	***	***	60-70
3.	Vietnam							
	i	Hyosung Vietnam Hyosung DongNai		***	***	***	***	25-35
	ii	Any Other		***	***	***	***	30-40
4.	Taiwan	Any producer/exporter		***	***	***	***	75-85

Post Disclosure Statement

107. The issues raised at post disclosure stage have already been raised earlier during the investigation and also addressed appropriately. However, for the sake of clarity the submissions by the interested parties have been summarised and again addressed as below:

Comments by the Domestic Industry

108. The comments submitted by domestic industry have been examined and are summarised as below:

i. It is submitted that the response of Hyosung Korea and Hyosung Vietnam is needed to be rejected as they have failed to provide complete information in relation to adjustments claimed in the export price which ultimately helped them to secure lower dumping margin. The Domestic Industry appreciates the efforts of the Hon'ble Authority for making appropriate adjustments from the export price of Hyosung Korea and Vietnam. However, the fact that Hyosung group had consistently denied on record the existence of any commission to Indian office, clearly shows that they had intentionally withheld critical information relating to certain adjustments which directly affects the price comparison and dumping margin. Under these circumstances, there is no reason for considering them as cooperating exporters. The Authority is requested to reject the responses filed by Hyosung entities from Korea and Vietnam on account of misdeclaration.

ii. Domestic Industry requests the Authority to kindly recommend single producer / exporter specific anti-dumping duty. In this context, it is submitted that combination duty will leave open a big window for the producers to export the subject goods via those exporters who have lesser or nil anti-dumping duties.

Comments by Exporters/Importers/other interested parties

109. The comments submitted by exporters/importers/users/associations are repetitive and have already been examined and addressed appropriately in respective

paragraphs. However, some of the points requiring re-examination are summarised as below:

i. The Hyosung group has stated that the total amount of commission considered for adjustments for arriving at net export price is not correct which has been taken from verification exhibit 10 from the heading the actual commission amount paid to Hyosung India office. The Exporters have stated that there are many Performance Units of the group such as Power PU; Nautilus PU and Other segment PU within Hyosung India office. As such only the commission paid for the Spandex Performance unit ('PU') should have been considered for computing the export price and the resultant dumping margin.

ii. The INVISTA group has again requested to exclude Lykra from the scope of PUC on account of its superior quality and consumer perception. Further they have requested that a reference price imposition based on the Non Injurious Price of the Domestic Industry be considered in addition to the duty amount as the injury that is suffered by the Petitioner is on account of the imports of the lower quality goods at a low prices. They have also submitted that the same practice was followed by the Authority in past in the case of investigation concerning Nylon Filament yarn originating in or exported from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP vide Final Findings Notification No.14/5/2005-DGAD dated July 3, 2006.

iii. The INVISTA group has reiterated that the Authority should accept the market treatment claim of the group, as they are operating under market economy conditions and their normal value should be accepted for the purposes of dumping comparisons.

iv. The imports from Taiwan are negligible and therefore, the Authority should not recommend imposition of any anti-dumping duty against exports from Taiwan.

v. On behalf of importers and users' association it has been stated that responses of the associations should not be rejected, as the participation of associations does not affect interests of domestic industry in any way but only assist the Authority to reach to a fair conclusion by bringing on record important facets of the case.

vi. The importers/users have stated that the articles produced by the domestic industry are not like articles to the subject imported goods. The subject goods are of better quality than the goods produced by the domestic industry and the same possess different physical and technical characteristics. Therefore, the brands like LYCRA and Creora should be excluded from the scope of the present investigation

vii. The users of the subject goods submitted that the shortage of production capacity, capability and actual production etc. are the factors causing injury to the domestic Industry and not the imports as alleged by the domestic industry.

viii. The importers have contended that the Authority has used DGCI&S import data, in the disclosure statement, whereas all the proceedings were based on import data procured from secondary sources therefore, importers were not privy to DGCI&S import statistics thereby putting them at a disadvantage for their comments.

ix. It has been by an stated that in the instant investigation the Authority had conducted two public hearings due to change in the Designated Authority. However,

the Authority had failed to intimate all the interested parties for the second public hearing. Subsequently, the Authority conducted a separate hearing for the remaining parties. This separate hearing for few interested parties is against the principles of natural justice.

x. That the Designated Authority has failed to exclude un-dumped import volumes of Hyosung Corporation, Korea from the total volume of dumped imports while conducting injury analysis. This is in contravention to the express obligation provided under Paragraph (i) of Annexure II to the AD Rules and Article 3.1 of the WTO Anti-dumping Agreement.

xi. There is no injury suffered by the domestic industry and any injury caused is due to factors other than the subject imports. Therefore, the Authority should terminate the present proceedings for lack of evidence of dumping, injury and in the public interest.

xii. The initiation of investigation was done on 27th January 2016 and had to be completed by 27th January 2017. Since the public record of this investigation do not show that the Central Government has accorded approval to extend the investigation in light of any special circumstances, the Authority has no jurisdiction to continue the present investigation. The present disclosure statement, is therefore, void ab-initio as it has been issued without jurisdiction.

Examination by the Authority

110. The decision of the Authority on the issues raised above is as below:

i. The Authority noted that all the three entities of Hyosung group, namely Hyosung Corporation from Korea, Hyosung Vietnam Co. Ltd., and Hyosung Dong Nai Co. Ltd., from Vietnam, who all are producers of the subject goods, have filed the detailed exporter questionnaire responses which is complete and is accepted. The point regarding the commission which was not originally disclosed in full on account of difference of understanding by the Hyosung Group was subsequently admitted by the exporter. Therefore the Authority decided to accept their response after making appropriate modifications in export price instead of rejecting it.

ii. The amount of commission has been taken from the documents furnished as verification Exhibits, to arrive at the net ex-factory export price for the Hyosung Group. The representatives of Hyosung were asked to give evidence for their claim of product wise breakup of the commission, however, they were not able to provide any specific documents to that effect, therefore, the amount received by their Delhi office has been taken as the amount of commission paid and considered to make appropriate adjustments in the export price, on account of commission based on these documents.

iii. The Authority notes that the argument of interested parties that the imports from Taiwan being negligible, is not correct as the DGCI&S data shows that imports from Taiwan is above de-minimis level and are also coming at significantly dumped prices.

iv. With regard to the quality of product under consideration, like article and exclusion of the brands “Lycra” and “Creora” from the scope of PUC, it is reiterated

that the same have been examined in detail by the Authority in the relevant section of the final findings.

v. Regarding the request of INVISTA for accepting their MET claim, the Authority notes that their response was examined in detail and the Authority observed that INVISTA is a group of various companies dealing in various related goods. The raw material for the subject goods were also procured from their related companies. The company stated that raw materials were procured at market price but no supporting papers were submitted in this regard. In fact, it was observed that the prices of these raw material prices so procured were lower than the prevailing market prices. In view thereof, the Authority has decided not to grant Market Economy Status to INVISTA group as they have not operated under market economy environment.

vi. As regards the contention of the interested parties that the detailed transaction-by-transaction import statistics obtained from DGCI&S and relied upon by the Authority has not been provided, the Authority notes that it was specifically directed by the Authority during the public hearings that any of the interested party may ask for the DGCI&S data and it shall be provided to them upon receipt of a specific and authorized request for the same, however the authority notes that none of the interested parties had requested for the same with proper authorization. In the initiation notification itself it was mentioned by the authority that during the course of the investigation, DGCI&S data would be called for, therefore the claim of the interested parties that they were not aware of the presence of DGCI&S data is baseless.

vii. Regarding the issue of oral hearing by the Authority it is stated that there is no violation of the principle of natural justice. The Rule 6(6) of the Anti-Dumping rules provides that “the designated authority may allow an interested party or its representative to present the information relevant to the investigation orally but such oral information shall be taken into consideration by the designated authority only when it is subsequently reproduced in writing.” The Authority had informed all the interested parties to attend the hearing and also gave them the opportunity to file their written submissions. However, a few of the importers/users were inadvertently missed out from the invitation to the hearing. Therefore, to offer an opportunity to these missed out parties the Authority decided to invite them to present their views orally before the authority and also to file written submissions subsequently, if any. In view thereof, the Authority concludes that there is no violation or dilution of anybody’s interest as everyone was given opportunity of being heard before the authority and also to file their written submissions. The contention of the importer/user in this behalf is misplaced and without any basis.

viii. The volume of exports of subject goods from Hyosung Corporation, Korea, who is a cooperative exporter, is nominal and does not have any visible impact. Moreover, on the basis of lesser duty rule, the dumping margin is the determining factor in the instant case for imposition of anti-dumping duty for the cooperative and non-cooperative exporters.

ix. In relation to the submissions of the interested parties that Domestic Industry had not suffered any injury, it is noted that the Authority has used verified information of the Domestic Industry for injury analysis, the same is dealt in detail at the relevant section of this final findings.

x. The submissions of the interested parties that investigation should have been completed within 12 months, and that extension notification is not available in the public domain, is not correct. The extension of 3 months was duly granted by the Central Government in terms of Rule 17 and copy of extension notification was made available in the public file which has been inspected by all interested parties as per their convenience and whenever deemed necessary.

Conclusion

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

- a. The subject goods have been exported to India from the subject countries below its associated normal value;
- b. The domestic industry has suffered material injury;
- c. The material injury has been caused by the dumped imports of the subject goods from subject countries.

Indian Industry's Interest And Other Issues

112. The Authority recognizes that imposition of antidumping duties might affect the price level of product in India. However, fair competition in Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or more sources of supply.

113. The Authority notes that the purpose of antidumping duties, in general, is to eliminate injury caused to the Domestic Industry by unfair trade practices of dumping so as to re-establish a situation of open and fair competition in Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the products to the consumers.

RECOMMENDATIONS

114. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of antidumping duty is required to offset dumping and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.
115. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, from the date of notification to be issued in this regard by the Central Government, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the amount indicated in Col No.9 of the table

below is recommended to be imposed on all imports of the subject goods originating in or exported from the subject countries.

Duty Table									
Sl. No	Tariff code	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount (in USD)	UOM
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1)	5404 11 00*	Elastomeric Filament Yarns	All deniers upto and including 150 Deniers**	China PR	China PR	Hangzhou Sunrise Spandex Co. Ltd	Hangzhou Sunrise Spandex Co. Ltd	2.74	KGS
2)	5404 11 00*	Elastomeric Filament Yarns	-do-	China PR	China PR	Yantai Tayho Advanced Materials Co. Ltd	Yantai Tayho Advanced Materials Co. Ltd	3.34	KGS
3)	5404 11 00*	Elastomeric Filament Yarns	-do-	China PR	China PR	Invista Fibre (Shanghai) Company Limited; Invista Fibre Company Limited; Invista Fibers (Foshan) Company Limited	Invista Singapore Pte Ltd., Singapore	0.48	KGS
4)	5404 11 00*	Elastomeric Filament Yarns	-do-	China PR	China PR	Any	Any	3.44	KGS
5)	5404 11 00*	Elastomeric Filament Yarns	-do-	China PR	Any	Any	Any	3.44	KGS
6)	5404 11 00*	Elastomeric Filament Yarns	-do-	Any	China PR	Any	Any	3.44	KGS
7)	5404 11 00*	Elastomeric Filament Yarns	-do-	South Korea	South Korea	Hyosung Corporation	Hyosung Corporation	0.0	KGS
8)	5404 11 00*	Elastomeric Filament	-do-	South Korea	South Korea	T. K. Chemicals Corporation	T. K. Chemicals Corporation	0.15	KGS

		Yarns							
9)	5404 11 00*	Elastomeric Filament Yarns	-do-	South Korea	South Korea	T. K. Chemicals Corporation	Chon Woung Textiles Co. Ltd, Korea	0.79	KGS
10)	5404 11 00*	Elastomeric Filament Yarns	-do-	South Korea	South Korea	T. K. Chemicals Corporation	Winwin Corporatio n, Korea	0.69	KGS
11)	5404 11 00*	Elastomeric Filament Yarns	-do-	South Korea	South Korea	T. K. Chemicals Corporation	Hanswill Co. Ltd., Korea	0.97	KGS
12)	5404 11 00*	Elastomeric Filament Yarns	-do-	South Korea	South Korea	T. K. Chemicals Corporation	Fotrust Co. Ltd., Korea	0.86	KGS
13)	5404 11 00*	Elastomeric Filament Yarns	-do-	South Korea	South Korea	T. K. Chemicals Corporation	SO FNC Internation al, Korea	0.82	KGS
14)	5404 11 00*	Elastomeric Filament Yarns	-do-	South Korea	Any	Any	Any	1.90	KGS
15)	5404 11 00*	Elastomeric Filament Yarns	-do-	Any	South Korea	Any	Any	1.90	KGS
16)	5404 11 00*	Elastomeric Filament Yarns	-do-	Taiwan	Taiwan	Any	Any	2.40	KGS
17)	5404 11 00*	Elastomeric Filament Yarns	-do-	Taiwan	Any	Any	Any	2.40	KGS
18)	5404 11 00*	Elastomeric Filament Yarns	-do-	Any	Taiwan	Any	Any	2.40	KGS
19)	5404 11 00*	Elastomeric Filament Yarns	-do-	Vietnam	Vietnam	Hyosung Vietnam: Hyosung DongNai	Hyosung Vietnam; Hyosung DongNai	0.36	KGS
20)	5404 11 00*	Elastomeric Filament Yarns	-do-	Vietnam	Any	Any	Any	2.16	KGS

21)	5404 11 00*	Elastomeric Filament Yarns	-do-	Any	Vietnam	Any	Any	2.16	KGS
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* Custom classification is only indicative and the determination of the duty shall be made as per the description of goods at the time of importation.

** All deniers upto and including 150 Deniers, excluding coloured yarns and Beam type Elastomeric yarns.

116. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
117. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Dr. Inder Jit Singh)
Additional Secretary & Designated Authority