

Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan

NOTIFICATION

Final Findings

New Delhi, the 19th April, 2005

Subject : Mid-term Review of anti dumping duty imposed on imports of Acrylic Fibre below 1.5 Denier from Italy - Final Findings.

No. 15/17/2004-DGAD - Whereas the Designated Authority, having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred to as Rules) vide Notification No.43/1/2001-DGAD dated 12th August, 2002 issued its Final Findings recommending definitive anti dumping duty in the anti dumping investigation concerning imports of Acrylic Fibre below 1.5 Denier (hereinafter also referred to as subject goods) from Italy (hereinafter referred to as subject country). Definitive anti dumping duty was imposed vide Customs Notification No.95/2002-Customs dated 12th September, 2002.

2. And whereas, the Designated Authority (hereinafter also referred to as Authority), received a written application from the International Rayon and Synthetic Fibres Committee (CIRFS), Brussels on behalf of the exporter from Italy for review of anti dumping duty imposed on imports of subject goods due to changed circumstances with regard to injury. The request for the review, which contained positive information, was fully supported by the European Commission (EC). Mid-term Review of anti dumping duty imposed on imports of Acrylic Fibre below 1.5 Denier originating in or exported from Italy into India was initiated by the Designated Authority vide Notification No.15/17/2004-DGAD dated 3rd September, 2004 as per Rule 23 to determine whether the continued imposition of anti dumping duty is required to off-set dumping, and whether injury would be likely to continue or recur if the duty were removed or varied or both.

A. The Original Investigation

3. The original investigation concerning imports of Acrylic Fibre below 1.5 Denier originating in or exported from Italy was initiated on 28th August, 2001, the preliminary findings were issued by the Designated Authority on 6.12.2001 and provisional duty was imposed vide Customs Notification dated 10.1.2002. The final findings were issued on 12.8.2002 and definitive anti dumping duty was imposed vide Customs Notification No. 95/2002-Customs dated 12th September, 2002.

B. PROCEDURE

4. **The procedure described below has been followed with regard to this investigation:-**
 - i. The Authority issued a Public Notice dated 3rd September, 2004 published in the Gazette of India, Extraordinary, initiating Mid-term Review of anti dumping duty imposed on imports of Acrylic Fibre below 1.5 Denier originating in or exported from Italy into India covered under heading/subheading 5501.30 and 5503.30 of Schedule I of the Customs Tariff Act;
 - ii. The Authority forwarded copy of the said public notice to the known exporters, known importers, the domestic industry, the Embassy of Italy in India, the Delegation of EC in India and gave them an opportunity to make their views known in writing;
 - iii. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the application to the following known exporters and Embassy of subject country in India and according to sub-rule (4) of Rule 6 supra, the Authority also sent a questionnaire to the following known exporters/representative body to give information within forty days from the date of initiation of this review:
 - **M/s Monte Fibre,**
Milan, Italy
 - **International Rayon And Synthetic**
Fibres Committee,
Avenue E. Van Nieuwenhuyse, 4,
B - 1160 Brussels
Belgium
 - iv. Request was made to the Central Board of Excise and Customs (CBEC) and Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods;

- v. The Embassy of the subject country and the Delegation of EC in India was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, application and questionnaire sent to the exporters was also sent to them;
- vi. A questionnaire was sent to the following known importers/users/industry's associations of subject goods in India calling for necessary information in accordance with Rule 6(4);

- **M/s. Rajasthan Spinning & Weaving Mills Ltd.,**
Bhilwara Bhawan,
40-41, Community Center,
New Delhi - 110 065.
- **M/s. Siddharth Super Spinning Mills Ltd.,**
211, Gagan Deep,
12, Rajendra Place,
New Delhi - 110 008.
- **M/s. Adhinath Textiles Ltd.,**
Village - Bholapur,
P.O. Sahabana Mundia,
Ludhiana,
Punjab.
- **M/s. Vardhaman Spinning & General Mills,**
Chandigarh Road,
Ludhiana - 141 011,
Punjab.
- **M/s. Malwa Cotton Spinning Mills Ltd.,**
Industrial Area, 'A',
Ludhiana - 141 003,
Punjab.'
- **M/s. Winsome Textile Industries Ltd.,**
SCO 144-145, Sector 34-A,
Chandigarh - 160 022.
- **M/s. Bhiwani Textile Mills,**
Bhiwani (Dist. Hissar),
Haryana.
- **M/s. Shruti Synthetics Ltd.,**
Village Loyaran, Gagunda Road,
Udaipur,
Rajasthan.

- **M/s. Nahar Spinning Mills Ltd.,**
373, Industrial Area - A,
Ludhiana - 141 003,
Punjab.
- **Indian Spinners' Association,**
C/o The Millowners' Association,
Elphinstone Building,
10, Veer Nariman Road,
Fort, Mumbai - 400 001.
- **APM Industries Ltd., (Unit : Orient Syntex),**
1009, Ansal Bhavan,
16, Kasturba Gandhi Marg,
New Delhi - 110001.
- **Deepak Spinners Ltd.,**
S.C.O. 16, 2nd Floor,
Sector 26,
Chandigarh - 160019.
- **Ludhiana Spinners Association,**
75, Industrial Area-A,
Ludhiana - 141 003.

- vii. The Authority provided an opportunity to the interested parties to present their views orally in a public hearing held on 21 December 2004. All parties presenting views were requested to file written submissions of their views expressed. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
- viii. The Authority made available to all interested parties the public file containing non-confidential version of evidence submitted by various interested parties for inspection, upon request as per Rule 6(7);
- ix. Arguments made by the interested parties after initiation of the mid-term review investigation, subsequent to the public hearing and in response to the disclosures have been appropriately dealt with in these findings;
- x. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties on 7th March, 2005 vide a disclosure statement and comments received on the same have also been duly considered in these findings;
- xi. Cost investigations including spot verification (as deemed necessary) of the domestic industry were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the domestic industry;

- xii. *** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
- xiii. The investigation covered the period from 1st April, 2003 to 31st March, 2004. The injury analysis covered the three preceding years 2000-2001, 2001-2002, 2002-2003 and the POI.
- xiv. Copies of the Initiation Notice were also sent to FICCI, CII, ASSOCHAM etc. for wider circulation.

C. Product under Consideration and Like Article

5. Product under consideration

The product under consideration in the original investigation was acrylic fibre below 1.5 Denier and for the present review also the product under consideration is acrylic fibre below 1.5 Denier. Acrylic fibre is covered under Heading No.5501.30 and 5503.30 of Chapter 55 of the First Schedule of the Customs Tariff Act and ITC HS Classification. This classification, however, is indicative only and is in no way binding on the scope of the present investigation. Indian Spinners Association, Mumbai has given arguments that Acrylic Fibre and Tow should be segregated as there are two separate HSN lines for fibre and tow. Fibre is the raw material for spindles working on cotton spinning system, while tow is the raw material of the knitting industry. Further, Mod Acrylic imports should be excluded from the imports. The domestic industry has argued that the arguments of ISA have already been dealt with in other investigations concerning acrylic fibre and the Authority has considered that acrylic fibre and tow are like article. This issue has already been decided by Hon'ble CESTAT in Appeal No.C/70/99-AD of M/s Oswal Woolen Mills Vs. Designated Authority.

The Authority is of the view that this is a Mid-term Review regarding anti dumping duty imposed on imports of Acrylic Fibre below 1.5 Denier. The scope of the product under consideration is not under review. Moreover, the issue of Acrylic Staple Fibre and Tow to be covered by the product description Acrylic Fibre has also been decided in the above appeal by the Hon'ble CESTAT. The Authority, therefore, holds that the product under consideration is Acrylic Fibre below 1.5 Denier which includes staple fibre and tow. Mod acrylic fibre is not covered in the scope of the product under consideration.

6. Like Article

The domestic industry has claimed that there is no significant difference between the product manufactured by them and the product imported from subject country. They have also stated that the subject product has characteristics closely resembling to the goods being imported from the subject countries. There are no arguments to oppose this claim. The Authority notes that the domestic industry produces acrylic fibre of various deniers including below 1.5 denier. Based on the information received from the importers and the information furnished by the domestic industry, the Authority is of the view that the product being manufactured by the domestic industry is a commercial substitute of the product under consideration and is comparable in terms of characteristics such as physical and chemical characteristics, functions and uses, distribution and marketing and tariff classification. The Authority, therefore, holds the acrylic fibre of all deniers manufactured by the domestic industry as like article to the subject goods being imported from subject country.

D. Domestic Industry :

7. At the time of original investigation, Forum of Acrylic Fibre Manufacturers had filed the application and M/s Indian Acrylics Limited, M/s Pasupati Acrylon Ltd. and M/s Consolidated Fibre and Chemicals Ltd. had furnished information and participated in the investigation. In the present review investigation, besides the above three producers, M/s Vardhman Acrylics Ltd. has also given relevant information regarding cost and injury determination. The above four producers represent a major proportion of the total domestic production of the subject goods. The Authority has treated these producers as representing the 'Domestic Industry' within the meaning of Rule 2(b) supra.

E. Initiation of the Review, Responses received and Arguments raised:

8. In response to the initiation, responses have been made by the following:

- a. **Exporters**

M/s Monte Fibre, Italy has given information regarding export of about *** MT of acrylic fibre below 1.5 denier. They have given information regarding the export price. They have, however, not given information on the questionnaire regarding domestic sales, cost of production etc. to determine normal value. No other exporter has furnished any response. CIRFS has not made any response subsequent to initiation of this review investigation.

- b. **Importers/ Association**

The following importers/Association filed responses:

- i. M/s Banswara Syntex Limited, Banswara.
- ii. M/s Rajasthan Spinning & Weaving Mills Ltd., Mumbai.
- iii. M/s Sutlej Industries Ltd., Mumbai.
- iv. Indian Spinners Association, Mumbai.

c. **Domestic Industry**

9. **Procedural Issues raised by Interested Parties**

- a. Locus Standi of ISA - It has been argued by the domestic industry that Indian Spinners Association (ISA) cannot be considered as an interested party under Rule 2(c) as they have not produced list of its members and their status with regard to consumption of acrylic fibre. ISA has argued that members of ISA are importers of acrylic fibre and some members have replied to the importer's questionnaire from time to time. Further, there may be no objection if a user asks its representative body to appear on its behalf just as consultants/advocates are allowed to participate in an investigation. The Authority notes that three importers had filed response in this MTR and they have given authorization to ISA to represent them. The Authority considered it appropriate to examine the arguments made by ISA.
- b. No Justification for Mid-term Review Investigation - It has been argued by domestic industry that :
 - The alleged changed circumstances stated by the petitioner do not constitute changed circumstances warranting Mid-term Review.
 - The petition filed by the CIRFS is grossly deficient and has no positive evidence nor is sufficient information on record of Designated Authority demonstrating changed circumstances to warrant a Mid-term Review. The initiation is on the basis of unsubstantiated petition.
 - It is not even the claim of the foreign producer that the product is no longer being dumped in the Indian market or the domestic industry is no longer suffering injury or is unlikely to suffer injury as a result of revocation of anti dumping duty.
 - Price undercutting is just one parameter relating to the injury to the domestic industry. There are number of other parameters which would show that not only there is dumping but also injury is being caused to the domestic industry. The claim of exporter that there is negative price undercutting is not established by them.
 - The petitioner further claimed that situation of the domestic industry deteriorated due to inefficiency and poor quality. The difference between

EU and Indian producers with regard to standard of scale, efficiency and quality are not only factually incorrect but also misleading and legally untenable. The scale of operation of the EU plants claimed is factually incorrect. A Spanish plant has recently closed its operation. None of the Indian plants has faced closer in last ten years in spite of all kinds of difficulties created by dumped imports. The fact is that the European plants are crippled with much higher cost and large scale inefficiency and under utilization of plants. The domestic industry is making improvement in terms of sales, market share and capacity utilization, cash flow operations, return on investment. Though the profitability of the domestic industry has improved but it is not up to the mark due to continued dumping in the market.

- The jurisprudence on the Sunset Review regarding examination of likelihood of injury to Indian industry is to be equally applied in a Mid-term Review.
 - The Authority must consider in view of the alleged changed circumstances warranting review, the likely volume, price effect and impact of imports on the domestic industry if the order is discontinued.
 - As the grounds alleged by the exporter do not constitute changed circumstances warranting a review, the present review investigation is required to be terminated.
- c. It has been argued by Indian Spinners Association (ISA) that the Designated Authority has recently issued Final Findings in the Mid-term Review of anti dumping duty on imports of Acrylic Fibre from Japan, Spain, Portugal and Italy vide Notification dated 10.11.2004 and the Authority had held that there was no need to continue anti dumping duty on import of Acrylic Fibre from Italy. In the said Notification, no denier has been specified and hence this finding is applicable to Acrylic Fibre of all deniers coming from Italy including denier below 1.5.
- d. As regards the arguments of the domestic industry regarding the initiation of this review, the authority holds that the review is in accordance with Rule 23 of Anti Dumping Rules. CIRFS had furnished positive information regarding the changed circumstances of absence of price undercutting and resultant injury to the domestic industry. In response to the Disclosures, the domestic industry has argued that there was no evidence of negative price undercutting with the Designated Authority to justify initiation of review. The Authority is of the view that the applicant had furnished positive information as per Article 11.2 of the Anti Dumping Agreement and the Authority had prima facie examined the veracity of the information before initiating the review. Absence of price undercutting is also one of the significant parameters in the injury examination.

The Authority holds that the review is in accordance with Rule 23 and Article 11.2 of the Agreement. As per Rule 23, the Authority is required to reach to a conclusion regarding continued imposition of the duty and where it is found that there is no justification for the continued imposition of the duty, the Authority has to recommend for its withdrawal. The conclusion can be reached after initiation of the review initiated on the basis of furnishing of positive information.

- e. As regards arguments of ISA about the necessity of this Mid-term Review in view of another Mid-term Review finding dated 10.11.2004 in respect of imports of Acrylic Fibre from Japan, Spain, Portugal and Italy, the Authority is of the view that anti dumping duty had been recommended under a separate findings under Notification No.43/1/2001-DGAD dated 12th August, 2002 in respect of imports of Acrylic Fibre below 1.5 denier from Italy. Therefore, Mid-term Review initiated on 3.9.2004 of the anti dumping duty on imports of Acrylic Fibre below 1.5 denier from Italy is appropriate and is held in order.

F. EXAMINATION OF CLAIMS REGARDING NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN.

Normal Value

10. Copy of Initiation Notice was sent to the Embassy of subject country, Delegation of EC in India, CIRFS, the known exporters, importers and domestic industry. In response to the initiation of Mid-term Review, neither CIRFS nor any of the exporters from Italy have given information on the questionnaire. M/s Monte Fibre, Italy has given information regarding export of about *** MT of acrylic fibre below 1.5 denier. They have given information regarding the export price. They have, however, not given information on the questionnaire regarding domestic sales, cost of production etc. to determine normal value. No other exporter has furnished any response. There has been no response from the exporters and CIRFS to the Disclosures. In response to the Disclosures, the domestic industry while supporting the Authority's resort to 'facts available' as per Rule 6(8) has stated that the adjustments made were unreasonably low, without specifying the adjustments. In the absence of any specific claim regarding adjustments, the Authority has considered the adjustments made as appropriate. In response to the Disclosures, ISA has argued that it may be unfair to work out domestic prices in Italy on the basis of average domestic prices of Europe. The domestic industry should have submitted price details as published in commercial newspapers in Italy instead of relying on Tecnon prices, which gives average prices for the continent as a whole. The Authority has found that none of the exporters from Italy, nor

CIRFS has given any information about domestic sales price of subject goods in Italy. ISA has also not furnished any information in support of their argument. In the absence of any response from the exporters and other interested parties, the Authority holds the exporters from Italy as non-cooperative and is constrained to resort to facts available as per Rule 6(8) read with Article 6.8 and Annex II of the Anti Dumping Agreement.

11. The domestic industry had furnished information regarding estimate of normal value in the written submissions subsequent to the public hearing. In support of their claim for normal value, they had relied on the trade journal Tecnon - 17th March, 2004 issue. The journal reported the domestic price of acrylic fibre prevailing during April 2003 - March 2004 in different regions including Europe. The Authority has determined normal value for Italy on the basis of the average domestic price of Acrylic fibre for Europe for the period April 2003 - March 2004 as reported in the journal Tecnon for determining normal value. Adjustment of 5% has been made from the average price on account of retailer's margin and local freight. On the basis of this information, normal value is worked out as US\$ 1731.85 PMT.

12. Export Price

The domestic industry had furnished DGCI&S data relating to imports of Acrylic Fibre from various countries. As per DGCI&S data, the imports of acrylic fibre from Italy are 1141796 kgs for value of Rs.7,43,42,016/-. As per Monte Fibre, the exports of acrylic fibre below 1.5 denier are around *** MT. As per the Authority's information, there is no other exporter from Italy. The Authority is of the view that the higher exports quantity reported in DGCI&S data would be on account of exports of acrylic fibre of all deniers. The Authority has relied on the information given by M/s Monte Fibre as regards export price. Adjustments have been made from the export price on account of ocean freight @ \$*** per ton, insurance @ 0.5%, commission @ 3%, inland freight @ 1%, port expenses @ 1%. The net export price at ex-factory level has been determined as US\$ *** PMT.

13. Dumping Margin

The Authority followed the consistent practice of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I to the anti-dumping rules. Dumping margin has been determined on the basis of a fair comparison of Export Price with the Normal Value in pursuance of the principle laid down in Para 6 of Annexure-1 to the Rules. The comparison is at the same level of trade, i.e. Ex-factory level. Normal Value at ex-factory level has been compared with the export price at ex-factory level of Acrylic Fibre below 1.5 denier. Based on the Normal Value and export price as determined above, the Authority has determined the following dumping margin (%):

Normal Value	1731.85
Export Price	***
Dumping Margin	***
Dumping Margin %	24.20

G. INJURY TO THE DOMESTIC INDUSTRY

14. Issues raised by the domestic industry

There is no claim by the petitioner that withdrawal of anti dumping duty is not likely to result in continued injury. As stated earlier, the claim of the petitioner with regard to negative price undercutting is clearly conjecture, unsubstantiated with positive evidence and unaccompanied with verifiable evidence.

1. World Production of Acrylic Fibre

The producers in Europe are facing losses because of sluggish demand in Europe. They have no choice but to dump the product in Asian market. Earlier China was importing huge volumes of subject goods from a number of countries. However, China has now increased its own domestic capacity and has in fact started exporting the product to other countries. This has resulted in unutilized capacities with several producers world over, and specifically in Europe.

2. Vulnerability of the Domestic Industry

The domestic industry has suffered continued material injury from the dumped imports from a number of countries. There is a great possibility that withdrawal of duty will result in flooding of the material in the Indian market. This is evident from the continued dumping from Italy even after duty in force. In other words, the Indian Market is vulnerable to imports, as the domestic industry could not completely survive due to past dumping from the present country and other countries. Such being the case, it is evident that the domestic industry is vulnerable to injury.

3. Ample Production Capacity of Exporters

Producers in Italy are having significant ample production capacity, whereas demand for the product in Europe is significantly low. It is understood that producers in Europe have significant capacities. Withdrawal of present duty therefore would result in significant imports in Indian market.

4. Level of Current Dumping Margin

It is evident that dumping margin from subject country is more than prescribed limits. In the previously concluded investigation also, the Designated Authority found significant dumping margin.

5. Dumping from a number of countries

The domestic industry suffered injury due to dumping from various countries, including the subject country, investigations against which are either under progress or anti dumping duty is already in force. The surplus unutilized capacity of the product world over is resulting in exports of the product below prevailing normal values. Unfortunately, the situation is resulting in continued dumping in Indian Market and continued injury to the domestic industry.

6. Injury from a number of sources

The domestic industry has suffered injury from dumping of the product from a number of sources. A number of these are attracting anti dumping duties. Thus, the injury to the domestic industry is required to be seen in the light of existing duties and on-going investigations against other countries.

7. Import and Market Share

With regard to the volume of the dumped imports and its effect on the domestic industry, the ADA requires whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing member. In case of mid term review, what the Designated Authority is required to examine is whether the domestic industry is no longer suffering injury and the withdrawal of ADD would not result in continued injury or recurrence of injury. Potential volume of imports, in the event of withdrawal of ADD is thus more relevant and important in case of midterm review than the actual volume of imports over the past period. It would be seen from the information on record that after imposition of anti dumping duty import from subject country showed decreasing trend over the years. Thus, imposition of duty enabled the domestic industry to increase its performance (on volume front) and consequently revocation of duty would lead to intensified injury to the domestic industry in terms of potential decline in its sales volumes.

8. Production, Sales, Capacity Utilization and Productivity

It would be seen that production, capacity utilization, productivity and sales of the domestic industry have increased over the years as a result of imposition of anti dumping duty.

9. Profit/Loss, Cash Flow, Return on Capital Employed

Though, the industry is not making sufficient profits, yet profitability improved. It is most likely that withdrawal of ADD would either result in flooding of the market with subject material in the Indian market or the domestic industry would have to reduce its selling price. Should the domestic industry prefer to reduce the selling price (which is the most likely situation, as the reduction in production would have very severe impact and is the last resort situation for the domestic industry), it clearly implies that withdrawal of ADD would have adverse impact on cash flow, profit and return on investment.

Return on capital employed and cash flow from operation showed improvements subsequent to imposition of anti dumping duty. In case anti dumping duty is withdrawn, it will not be in a position to maintain even the present level of return on investments. Such being the situation, injury to the domestic industry is likely to recur should the anti dumping duty be revoked.

15. Comments of the domestic industry on Disclosures

The Designated Authority has examined only current injury suffered by the domestic industry. In a Mid-term Review likelihood of continued dumping and injury should also be examined. Given the fact that anti dumping duty is already in force, what is required to be examined under Section 9A(5) and Rule 23 is whether withdrawal of anti dumping duty is likely to result in continuance and/or recurrence of injury. Further, it has been argued that the test for threat of material injury are not applicable or relevant to the examination of recurrence of injury. The domestic industry is likely to suffer material injury as a result of continued dumped imports in the event of withdrawal of anti dumping duty. Improvements in one or several parameters after imposition of anti dumping duty does not imply that duty should be revoked. The performance of the domestic industry improved because of the present anti dumping duty. Price undercutting cannot be seen in isolation, when the domestic industry is faced with imports from a number of sources. As the essential parameters are satisfied, the anti dumping duties are required to be continued.

16. Issues raised by ISA

- i. There is a need to make separate calculation for filament tow and acrylic fibre. It is also necessary to exclude imports of mod-acrylic and unrelated products.
- ii. CIRFS has given a note on the situation of the domestic industry which establishes that present problems of the acrylic fibre industry are due to small plant size, lack of efficiency, lack of quality, technological deficiency. Imports cannot be blamed for the problems of the domestic industry.

- iii. The market share of domestic industry has greatly improved and that of imports has sharply fallen. Production and sales have shown improvement. Exports by domestic industry have shot up.
- iv. The domestic industry has been able to achieve significant increase in the price of acrylic fibre. This increase in prices much more than that warranted because of the increase in the price of acrylonitrile.
- v. Domestic prices inclusive of freight from the factory of the domestic producer to the gate of the mill plus sales tax and octroi which amounts to Rs.6.25 per kg. While making comparison of sales price for price undercutting, it is necessary to take this in view.
- vi. The price of subject goods also depends upon the trend in prices of competing fibres like cotton, polyester, viscose etc. A holistic picture of all competing fibres has to be taken into account.
- vii. As there is no injury because of imports, there is no need to continue the anti dumping duty in this case.

17.Examination by the Authority

As regards arguments of ISA to make separate calculations for Filament Tow and Acrylic Fibre, the Authority is of the view that this is a Mid-term Review regarding anti dumping duty imposed on imports of Acrylic Fibre. The scope of the product under consideration is not under review. Moreover, the issue of Acrylic Staple Fibre and Tow to be covered by the product description Acrylic Fibre has also been decided in the appeal by the Hon'ble CESTAT. The Authority, therefore, holds that the product under consideration as Acrylic Fibre below 1.5 denier includes staple fibre and tow. The producers also report their annual accounts under overall description of acrylic fibre. The spinning of Tow and Staple fibre under two different spinning processes does not warrant segregation of Tow and Fibre. As regards Mod acrylic fibre, the Authority has analyzed the transaction-wise import data received from DGCI&S and Mod Acrylic Fibre has been excluded from the volume of imports. Authority does not find the argument of ISA as regards competition from other fibres as relevant. Moreover, no data has been furnished in support of the statement.

18.Analysis of injury parameters:

The authority has analyzed the injury information in respect of various injury parameters of domestic industry as under:

19.Volume of dumped imports and import prices

The volume of imports of Acrylic fibre as per DGCI&S data has been found as under:

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Imports	MT	1155	1033	2060	1142
<i>Trend</i>	<i>Indexed</i>	100	89.4	178.35	98.87
Other Countries	MT	12812	8636	19351	11417
Total Imports	MT	13967	9669	21411	12559
Market share in Imports					
Subject Country	%	8.27	10.68	9.62	9.09

The Authority found that imports from subject country had not increased significantly and were almost constant. The share of imports from subject country in total imports had marginally increased from 8.27% in 2000-01 to 9.09% during POI.

20. Price Effect

a. Price Undercutting

The Authority examined the effect of the dumped imports on the prices in the domestic market of subject goods. While examining the price undercutting, the Authority considered the sales realization of the like article produced by the domestic industry and compared it with the landed value of imports of subject goods from subject country. The Authority has also taken note of the argument of ISA as regards adjustments in domestic sales price due to freight, octroi etc. The Authority has considered the net sales realization of domestic industry excluding excise rebates, freight. The element of octroi is not included in the sales realization. Thus the comparison is at the same level. The evolution of price undercutting is found to be as under:

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Export price	Rs./MT	64870	63150	63360	***
Landed Value	Rs./MT	78622	76538	76792	***
Net Sales Realization	Rs./MT	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***
Price undercutting Range	%	1-10%	(-) 8-18%	(-) 1-10%	(-) 5-15%

The Authority found that the price undercutting was negative in respect of imports from Italy. The Authority does not find any price undercutting from the imports of subject countries.

b. Price Suppression and Depression

The Authority has examined the evolution of sales price and cost of production data of domestic industry during the injury analysis period as under:

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Cost of Production	Rs./MT	***	***	***	***
Trend	Indexed	100	82.94	83.87	83.99
Net Sales Realisation - Domestic	Rs./MT	***	***	***	***
Trend	Indexed	100	84.22	93.43	96.92

The Authority found that the cost of production of domestic industry has shown declining trend. The sales realization has, however, not declined to that extent. It had declined during 2001-02. However, the sales realization increased during 2002-03 and 2003-04. The Authority did not find any price suppression or price depression.

21. Capacity, output and capacity utilization of domestic industry

The Authority found the production capacity, output and capacity utilization of the domestic industry as under:

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Capacity	MT	***	***	***	***
Production	MT	***	***	***	***
Trend	Indexed	100	104.58	106.19	117.86
Capacity Utilization	%	88.01	92.03	93.45	103.73

The Authority found that the output of the domestic industry showed improvement and it increased to 117% with reference to the base year. The capacity utilization also showed improvement as it increased to 103.73% during POI in comparison to 88.01% during 2000-01.

22. Sales, Demands and Market Share

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Sales of domestic industry	Indexed	100	113.25	98.10	105.25
Sales of IPCL	Indexed	100	118.44	125.83	116.64
Sales of Indian Industry	Indexed	100	114.10	102.67	107.13
Imports	MT	13967	9669	21411	12559
Demand	MT	***	***	***	***
Trend	Indexed	100	108.17	109.37	104.99
Market share in Demand					
Domestic industry	%	72.47	75.88	65.01	72.75
Trend	Indexed	100	104.70	89.70	100.38
IPCL	%	14.29	15.65	16.44	15.90
Trend	Indexed	100	109.50	115.05	111.15
Subject Country	%	1.09	0.9	1.78	1.03
Trend	Indexed	100	82.66	163.06	94.28
Other Countries	%	12.14	7.56	16.76	10.32

<i>Trend</i>	<i>Indexed</i>	100	62.31	139.09	84.99
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The Authority found that the sales of domestic industry increased with reference to the base year. The share of domestic industry in total demand remained almost same though there was an increase and drop in the intervening years. However, the domestic industry did not lose its market share. The other producer improved its market share in demand marginally. However, the share of imports from subject country declined to 1.03% during POI from 1.09% during 2000-01 and from 1.78 % during previous year.

23. Profitability:

The profitability of domestic industry in the sales of subject goods has been analyzed as under:

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Profits					
Cost of Production	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	82.94	83.87	83.99
Net Sales Realisation - Domestic	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	84.22	93.43	96.92
Profit/Loss (Per Unit)	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	-100	-74.42	-20.13	2.27

The Authority found that the profitability of domestic industry had improved during the POI and it was making profits in the sales of subject goods whereas they were suffering losses in the previous years.

24. Employment

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Employees	Indexed	100	96	92	92

The above analysis shows a decline in the number of employees in the industry.

25. Wages:

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Wages paid to employees	Indexed	100	102	104	110

The Authority found that there was an increase in the wages paid to the employees. However, this increase in wages was considered to be normal for the industry.

26. Productivity

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Productivity per Employee	Indexed	100	109.22	115.3	128.13

The Authority found that the productivity of the domestic industry had improved as the domestic industry increased its output whereas there was a small decline in the number of employees.

27. Return on Investment

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Return on Investment on NFA	Indexed	(-)100	2.71	467.7	530.31

The Authority found that the domestic industry had improved return on investment as regards ROCE on Net Fixed Assets during the POI. From a position of negative return on investment, the industry recorded a significant improvement in the return on investment.

28. Factors affecting domestic prices

The Authority examined the evolution of sales price and cost of production of domestic industry. The sales price was affected by the price of the major raw material Acrylonitrile. The cost of production showed the following trends. It declined significantly during 2001-02 and thereafter, remained marginally the same with slight increase during POI. The sales realization also showed similar trends. However, the sales realization improved during POI.

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Cost of Production	Rs./MT	***	***	***	***
Trend	Indexed	100	82.94	83.87	83.99
Net Sales Realisation - Domestic	Rs./MT	***	***	***	***
Trend	Indexed	100	84.22	93.43	96.92

29. The magnitude of margin of dumping

It was found that the margin of dumping in respect of exports from Italy was 24.20%.

30. Actual and potential negative effects on Cash Flow

The cash flow position was analyzed as under:

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
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Cash flow from Operation	Indexed	-100	1066.71	796.5	1580.6
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The Authority noted that there was a significant improvement in the cash flow position of domestic industry during the POI and in the previous years with reference to the year 2000-01.

31. Inventories

The Authority analyzed the closing stock of subject goods of domestic industry in absolute quantity as well as number of days production in stock as under:

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Closing Stock	Indexed	100	20	88	34
No. of days production in stock	Indexed	100	19	83	29

The Authority found that inspite of increased production, the inventory of the domestic industry had come down significantly due to higher sales. This showed significant improvement in performance.

32. Growth

The Authority analyzed the growth of domestic industry on parameters such as turnover, sales, demand and demand vs. Sales on a year to year basis as under:

Particulars	Unit	2000-01	2001-2002	2002-2003	2003-2004
Growth in Turnover	Indexed	9.20	-4.33	1.52	24.99
Growth in Sales Volume	Indexed	-10.26	13.60	-8.49	20.48
Growth in Demand	Indexed	-8.67	8.17	1.11	-4.01
Growth in Demand V/s. Sales	Indexed	-1.59	5.44	-9.60	24.49

The growth in terms of turnover, sales, demand vs. Sales was considered quite significant. The overall demand also remained somewhat similar.

33. Ability to raise capital or investment:

The domestic industry has shown improved performance during the POI and the returns on capital employed had improved. It was operating at full capacity. However, the demand for the subject goods did not indicate any significant rising trend. The industry could not give any definitive indication for any new investment.

34. Overall assessment of injury:

From the evaluation of the above injury parameters, the Authority found that most of the parameters like output, sales, market share, productivity, return on investment, utilization of capacity showed improved performance by the domestic industry during the POI. Though the exports from Italy of subject goods were found to be dumped with a dumping margin of 24.2%, these exports had not caused any price undercutting on the domestic sales of the industry. Price undercutting was negative in respect of these imports. Inventories of domestic industry have declined in spite of increased production. The industry has shown growth on parameters like sales, output. Cash flow has improved. As per the above examination, the authority found that there is no present material injury evident to the domestic industry.

35. Likelihood of recurrence of dumping and injury:

As per the above evaluation, the Authority has found that there was no present injury to the domestic industry. Dumping of subject goods was continuing from subject country and therefore, it was not considered necessary to examine likelihood of dumping. The trend of exports from subject country do not indicate any likelihood of increased exports. Moreover, there is no material or evidence on record to suggest that there is augmentation of capacity in Italy to indicate intensified dumping. As regards likelihood of recurrence of injury, should the duty be removed, the Authority finds that dumping continued during the current investigation from subject country. There was no perceptible adverse impact on the prices of domestic industry and the general state of the domestic industry in respect of various parameters. Almost all the parameters showed improved performance. Though it can be attributed to the present anti dumping duty in force on the subject countries, however, in spite of continued dumping from Italy there was no material injury to the domestic industry. The demand of the product has remained somewhat constant during the injury analysis period and there is no material on record that dumping would intensify should the anti dumping duty be removed. The Authority does not find any likelihood of recurrence of injury in case the present anti dumping duty is removed.

H. CONCLUSIONS

36. The Authority has, after considering the foregoing, come to the conclusion that in the review investigation:

- i. Acrylic fibre below 1.5 denier has been exported to India from Italy below its normal value;
- ii. The domestic industry has not suffered material injury as a result of dumping of subject goods from subject country;

iii. There is no likelihood of recurrence of injury in case the anti dumping duty imposed on imports of subject goods from subject country is withdrawn.

37. The Authority, therefore, in accordance with Rule 23, recommends withdrawal of anti dumping duty imposed on imports of acrylic fibre below 1.5 denier originating in or exported from Italy as per Authority's recommendations in final findings dated 12 August 2002 and Custom's Notification No. 95/2002 dated 12 September 2002.

38. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

Christy L. Fernandez
Designated Authority