

MINISTRY OF COMMERCE & INDUSTRY
(Department of Commerce)
(Directorate General of Anti-Dumping & Allied Duties)

NOTIFICATION

New Delhi, the 27th August 2002

Final Findings

Subject: Anti dumping investigation concerning imports of Acrylic Fibre originating in or exported from UK, Germany, Brazil and Bulgaria – Final Findings. No.42/1/2001-DGAD – 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, thereof.

A . PROCEDURE:

2. The procedure described below has been followed with regard to the investigations:-
 - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from the Forum of Acrylic Fibre Manufacturers, New Delhi on behalf of the domestic industry alleging dumping of Acrylic Fibre (hereinafter referred to as subject goods) originating in or exported from UK, Germany, Brazil and Bulgaria (hereinafter referred to as subject countries);
 - ii. The Authority notified the Embassies of UK, Germany, Brazil and Bulgaria in India about the receipt of petition made by the petitioners before proceeding to initiate the investigation in accordance with sub rule (5) of Rule 5 supra;
 - iii. The Authority on the basis of information and evidence available before it decided to initiate anti dumping investigations against imports of subject goods from the subject country;
 - iv. The Authority issued a Public Notice dated 28th August, 2001 published in the Gazette of India, Extraordinary, initiating anti dumping investigations concerning imports of subject goods from subject country, falling under Heading 5501.300 & 5503.30 of Schedule I of the Customs Tariff Act.
 - v. The Authority notified preliminary findings vide notification dated 7th December, 2001 on anti-dumping investigation concerning imports of subject goods from UK, Germany, Brazil and Bulgaria and requested the interested parties to make their views known in writing within forty days from the date of its publication;
 - vi. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the preliminary findings within forty days from the date of its publication;
 - vii. The Authority also forwarded a copy of the preliminary findings to the Embassies of UK, Germany, Brazil and Bulgaria in New Delhi and to the Delegation of the European Commission in India.
 - viii. The Authority provided an opportunity to the interested parties to present their views orally on 27.03.2002. 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;
- ix. The Authority made available the public file to all interested parties containing non-confidential version of evidence submitted by various interested parties for inspection, upon request;
 - x. Arguments made by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for sake of brevity. However, the arguments raised by the interested parties subsequently have been appropriately dealt in these findings;
 - xi. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties on 8.8.2002 vide a disclosure statement and comments received on the same have also been duly considered in these findings;
 - xii. The Authority also provided an opportunity of one-to-one hearing to the Associations of the user Industry.
 - xiii. The investigation covered the period from 1st April, 2000 to 31st March, 2001.
 - xiv. ***** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;

B. VIEWS OF PETITIONERS, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES AND EXAMINATION BY AUTHORITY.

- 3. The views expressed by various interested parties have been discussed in the preliminary findings and also in the disclosure statement. The views which have not been discussed earlier in the preliminary findings and disclosure statement and those now raised in response to the disclosure statement are discussed in the relevant paragraphs herein below to the extent these are relevant as per rules and have a bearing upon the case. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in the relevant paragraphs herein below.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 4. The product under consideration in this investigation is Acrylic Fibre. Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile units. Acrylic fibre can be acrylic staple fibre, acrylic tow or acrylic top. All the three forms are the subject matter of this investigation. Acrylic Fibre is classified in chapter heading 55.01 and 55.03. The product is classified under 5501.30 and 5503.30 under the Customs Tariff Act at six digit levels and under 5501.3000 and 5503.3000 under ITC. The present investigations were in respect of the product under consideration irrespective of the classification under which they are imported. Customs classification is indicative only and is in no way binding on the scope of the present investigation. Subsequent to the issue of disclosures Ludhiana Spinners Association has argued that the Authority is considering Acrylic Fibre, Tow and Tops for the investigation and the customs authorities do not consider on similar lines. The Association has further prayed that before considering all the three forms of Acrylic

Fibre, the customs authorities may also confirm that Acrylic Fibre can be Acrylic Fibre, Acrylic Tow and Acrylic Top. Till such time this is done the anti-dumping duty may be limited to Acrylic Fibre only. The Authority finds that the Ludhiana Spinners Association had not made any arguments on the product under consideration in any of their earlier submissions after initiation of investigation or after preliminary findings or after the oral hearing so that submissions made by them could be made available by the Authority to the other interested parties to offer their views or rebuttals. Therefore the Authority views that these arguments have been made at a very delayed stage. Nonetheless, the Authority holds that the arguments made by the Ludhiana Spinners Association is not acceptable and confirms the preliminary findings as regards product under consideration.

5. Like Article:

The petitioner claimed that the goods produced by them are like articles to the goods originating in or exported from subject countries. None of the interested parties who have responded to the investigation has disputed that Acrylic Fibre exported by the subject countries and Acrylic Fibre produced by the domestic industry are like article. Thus, the Authority confirms that Acrylic Fibre being produced by the domestic industry is like article to the product under consideration.

D. DOMESTIC INDUSTRY:

6. The petition has been filed by Forum of Acrylic Fiber Manufacturers, New Delhi on behalf of the domestic industry. The following producers of acrylic Fibre in India had specifically consented to participate in the present Anti-dumping investigations.
 - Indian Acrylics Limited,
 - Consolidated Fiber and Chemicals Limited,
 - Pasupati Acrylon Limited,

The above-mentioned companies provided all information required for the purpose of the present investigation and had offered themselves for information and verification.

Views of Ludhiana Spinners Association:

7. It has been argued by Ludhiana Spinners Association that the production figures for the domestic industry is distorted as it does not include production of all the Indian producers.

Views of Indian Spinners Association

8. Indian Spinners Association has argued that while the petition for imposition of anti-dumping duty may be filed by the requisite percentage of the industry, the impact of imports has to be studied for all the domestic producers taken together. The method of pick and choose followed by the domestic producers is not fair and proper.

Examination by the Authority

9. The Authority finds that the share of three petitioner companies accounts for 61% of total Indian production of subject goods including the production of M/s. Vardhman Acrylics Ltd., who are an importer of subject goods. After excluding the production of M/s. Vardhman Acrylics Ltd., from the total Indian production, the share of the three petitioner companies is 73.85% of the Indian production.
10. As per Rule 2(b) of the Anti Dumping Rules, "domestic industry means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case (such producers shall be deemed) not to form part of domestic industry." As the petitioners account for a major proportion of the total Indian production of subject goods, i.e. more than 50%, the Authority is of the view that the petitioners be treated as 'domestic industry' within the meaning of Rule 2(b) supra.

E. EXAMINATION OF ISSUES RELATED TO NORMAL VALUE, EXPORT PRICE AND DUMPING

11. Views of the domestic industry

The Designated Authority sent questionnaire to the known exporters/producers in Brazil, Bulgaria, Germany and UK. A few exporters responded to the Authority. However, responses filed by all exporters are grossly insufficient and inadequate, as held by the Designated Authority in the preliminary findings. None of the exporter have furnished any additional information to the Designated Authority. Therefore, the responses of the exporters should be rejected for the final determination. The Authority would be justified in proceeding with the best available information in accordance with the Rules.

12. Views of Indian Spinners Association

Indian Spinners Association has expressed the following views:

- i. Normal value determination on the basis of one transaction is not correct. This could be unusual transaction.
- ii. CRFIS situated in Brussels have informed that US \$ 2.67 is price for speciality product. This information should not be rejected.
- iii. Normal value for Germany US \$ 1.66, if found as correct then normal value in UK can not be US \$ 2. 67 in any case. This shows false claim by the domestic industry.
- iv. Normal value for Germany is also determined on the basis of one single transaction, which is not correct.
- v. Information supplied by exporters from Bulgaria should be taken into consideration as a guideline. The cost route adopted to arrive at normal value is replete with guess work.
- vi. As regards Brazil, there is no clue, how petitioner worked out conversion cost, power cost, labour cost and financial cost etc. and therefore the calculation of normal value should not be accepted.

- vii. As regards export price the Authority has allowed standard adjustments on account of freight, insurance, commission, inland freight and port charges. The Authority should consider the incidence of actual costs on account of these adjustments.

13. Submissions made by Ludhiana Spinners Association:

1. The contention of the domestic producers regarding dumping by exporters from the four countries under reference is untenable as the goods have been supplied by the producers from these countries at the normal price. The price at which the exporters have supplied goods to importers in our country is based on their huge modern plants, cost awareness and efficiency.
2. For normal value determination solitary transaction should not form the basis. The type of goods exported is also of better quality and not of normal Acrylic Fibre.
3. Normal value should not be determined on the constructed cost. Authority may use services of Indian Missions in these countries

Examination by the Authority

14. Normal Value :

As brought out in the preliminary findings, the Designated Authority sent questionnaires to known exporter of the subject goods in the subject countries. The Authority had informed the Embassies of subject countries in India with a request to advise the exporters from these countries to respond to the Authority. Responses had been received from the following exporters/ exporters' organization:

- i. Acordis UK Ltd., UK.
- ii. M/s. Lukoil Oil Company, Bulgaria.
- iii. DuPont Deutschland Holding GmbH & Co. KG, Germany.
- iv. Dralon GmbH – Bayerwerk, Germany.
- v. International Rayon and Synthetic Fibres Committee (CIRFS), Brussels.

These responses had been dealt with appropriately at the preliminary findings stage. The Authority had informed the Embassies of the subject countries and the Delegation of the European Commission in India of the preliminary findings.

15. Subsequent to the preliminary findings following responses have been receive

- i. M/s Lukoil Bulgaria have reiterated that their export of Acrylic Fibre to India has been done via a trader located in Great Britain who actually sold the fibres to Indian end-users at prices higher than those mentioned in their earlier response.
- ii. M/s. Acordis UK informed that they are in the process of submitting price undertaking. However, the Authority has not received any complete price undertaking on the proforma sent to the exporter mentioning the actual export price of subject goods offered by the exporter in order to enable the Authority to take a view in the matter.
- iii. M/s Markische Faser AG, Germany have informed that they have closed the production of Acrylic Fibre in September 2000.

- iv. The Embassy of the Federative Republic of Brazil has made following submissions subsequent to their disclosures:
- v. The Government of Brazil, as an interested party in the investigation, would like to assert that the report divulged does not contain the essential facts under judgment, which would substantiate a decision by the investigating authority. Those facts are equally absent from the report and the preliminary notification of injury, issued on December 7th 2001.
- vi. Those essential facts, as per article 69 of the WTO Anti-Dumping Agreement, henceforth referred to as "WTO Agreement", should have been determined by the Anti-dumping investigation undertaken to determine injury and causal relation.
- vii. As per Article 2 of WTO Agreement, the methodology employed to determine normal value, export price and dumping margin, should have been disclosed and so should the respective elements and values.
- viii. The volumes per origin and the cumulative evaluation of the effects of imports, as of convenience, are not to be found, and neither is data concerning competition between imports from different sources and the national production, as per articles 3.2, 3.3. and 5.8 of the WTO Agreement.
- ix. As per article 4 of the same agreement, accurate data on the volume of production of the petitioner companies and those supporting them should have been disclosed, as well as data pertaining to factors and economic indicators relevant for the establishment of injury, in accordance with article 3.4 of the WTO Agreement.
- x. Furthermore, relevant data should have included, among others, on the following aspects:
- xi. Production and sales of the domestic industry and of the national industry as compared to the volume of imports.
- xii. Patterns of apparent demand in the Indian market.
- xiii. Evolution of the utilization of the installed capacity.
- xiv. Price composition.
- xv. Evolution of employment and salaries in the industry.
- xvi. Patterns of industrial productivity.
- xvii. Profit, investment returns and utilization of the installed capacity; factors that influence internal prices, real or potentially negative effects on liquidity, growth and capacity to increase capital and attract investments.
 - The mere presentation of comments, counter-arguments and rejoinders of the interested parties do not constitute, as the afore mentioned Report seems to imply, the unique essential facts as per Article 6.9 of the WTO Agreement.
 - The Brazilian Government sustains that there is no characterization of injury to the domestic industry by imports allegedly at dumped prices.
- xxviii. It has been further argued by the Brazilian Embassy that the investigating authority has not considered the information regarding production, sales, costs of the other Indian domestic companies that did not sign the petition. Further, factors like operating conditions of the domestic industry as per the technology employed and obsolescence of equipment, capacity of domestic industry in meeting demand and evaluation of other factors other than imports have not been considered by the Authority.
- xxix. In the light of their submissions, the Brazilian Embassy has requested for closure of the investigation.

16. The Authority recalls its preliminary findings as regards normal value. None of the exporters from UK had filed complete response on the questionnaire. Only M/s. Acordis, UK had responded and had offered a price undertaking. However, the Authority has not received any complete price undertaking on the proforma sent to the exporter mentioning the actual export price of subject goods offered by the exporter in order to enable the Authority to take a view in the matter. The Authority confirms, in the absence of complete and sufficient response from the exporters from subject countries in the form and manner prescribed, having made the findings with regard to exports from UK on the basis of the facts available to it as per rule 6(8) supra. The Authority has considered the views of various interested parties as regards the basis of normal value adopted in respect of UK for the preliminary findings. The Authority finds that the domestic sales transaction relied upon for the preliminary findings for normal value determination appeared to relate to special Acrylic Fibre. The Authority has also considered the constructed cost of production for Acrylic Fibre and is of the view that this may form the basis for normal value in respect of UK and therefore normal value for UK has been determined on the basis of constructed cost of production as per information furnished by the petitioner.
17. The Authority recalls its preliminary findings on normal value in respect of Germany. No fresh evidence has been made available to the Authority. The Authority has also considered the information on constructed normal value. The Authority finds that the normal value determined, on the basis of evidence furnished by the petitioner regarding exports from Germany to a third country, is lower than the constructed normal value. The Authority confirms, in the absence of complete and sufficient response from the exporters from subject country in the form and manner prescribed, having made the findings with regard to exports from Germany on the basis of the facts available to it as per rule 6(8) supra. Accordingly, the Authority confirms the normal value as determined for the preliminary findings.
18. In respect of Bulgaria the Authority had determined the normal value for preliminary findings on the constructed cost of production as per information furnished by the petitioner. No fresh evidence has been made available to the Authority. The Authority confirms, in the absence of complete and sufficient response from the exporters from Bulgaria in the form and manner prescribed, having made the findings with regard to exports from Bulgaria on the basis of the facts available to it as per rule 6(8) supra. Accordingly, the Authority has constructed the normal value on the best available information.
19. There has been no response from any exporter from Brazil at any stage. As regards the arguments put forward by the Brazilian Embassy in response to the disclosure, the Authority finds that no submissions were made by any exporter or the Brazilian Government immediately after the initiation or after notification of preliminary findings. As regards the methodology employed for determination of normal value the Authority holds the view that the disclosures issued under the Rules have clearly stated that in respect of Brazil the normal value is to be considered on the basis of constructed cost of production. This is due to the fact that none of the exporters from Brazil cooperated with the Authority in furnishing information to determine normal value. The Authority confirms, in the absence of complete and sufficient response from the exporters from Brazil in the form and manner prescribed, having made the findings with regard to exports from Brazil on the basis of the facts available to it as per rule 6(8) supra. Accordingly, the Authority has constructed the normal value on the best available information.
20. Export Price:

The Authority recalls its preliminary findings as regards the export price determination. There has been no response from any exporter giving more information/ evidence regarding the export price or the adjustments allowed. The authority therefore confirms the preliminary determination of export price in respect of UK, Germany and Bulgaria. In respect of Brazil the Authority had called more information on export transactions from DGCI&S. No further transaction-wise information has been received by the Authority. The Brazilian Embassy in their comments on disclosures has not given any information relating to export prices, etc. of the Brazilian exporter. In the absence of any fresh information relating to Brazil exports the Authority is constrained to rely upon the best available information, i.e. as per DGCI&S published data and therefore confirms the export price as determined for the preliminary findings.

21. Dumping Margin:

The principles governing the determination of normal value, export price and the dumping margin are laid down in Annexure-I to the Rules. For the purpose of the fair comparison between the normal value and export price, the Authority has made calculations and comparisons at the same level of trade. Normal Value at ex-factory level has been compared with the export price at ex-factory level. Considering the normal value and export price, determined as detailed above, the dumping margin comes as under:

| S. No. | Country | Dumping Margin % |
|--------|----------|------------------|
| 1. | UK | 26.16% |
| 2. | Germany | 10.29% |
| 3. | Bulgaria | 31.37% |
| 4. | Brazil | 185.58 % |

F . INJURY AND CAUSAL LINK

22. Rule 11 of Anti Dumping Rules reads as follows:

"Determination of Injury:

- i. In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry or materially retards the establishment of any industry in India;
- ii. The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules."

23. The principles for determination of injury set out in Annexure-II of the Anti-Dumping Rules lay down that:

- a. A determination of injury shall involve 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 like article and (b) the consequent impact of these imports on domestic producers of such products.
- b. While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of Rule 18 the Designated Authority shall consider whether there has been a significant price under-cutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree.

24. Views of the domestic industry:

- i. The domestic industry suffered injury due to dumping in the investigation period from various sources including subject countries, investigation against which are either under progress or anti-dumping duty is already in force. 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.
- ii. The sales volume of the domestic industry, which were increasing till 1999-2000, declined in the investigation period.
- iii. Given the level of price undercutting, the sales of the domestic industry would have declined further, had the domestic industry not compromised on the prices.
- iv. The domestic industry is making losses year after year due to continued dumping of acrylic fibre from one after another countries, which includes subject countries also.
- v. Market share of imports from the subject countries is significant. The share has increased over the years.
- vi. The productivity of the domestic industry declined in the investigation period due to steep decline in the production, in spite of reduction in the number of employees.
- vii. The return on investment for the domestic industry continues to remain negative in spite of imposition of anti dumping duty on a number of sources.
- viii. The return on investment declined significantly in the investigation period due to heavy losses faced by the domestic industry in this period.
- ix. The capacity utilization has declined very significantly in the investigation period due to decline in production.
- x. The landed value of imported material from a number of countries is significantly below the selling price of the domestic industry causing severe price undercutting.
- xi. The landed value of the imported material is below cost of production of the domestic industry causing severe price suppression and depression.
- xii. The dumping margin from the subject countries are not only more than de-minimus but also very significant.
- xiii. The cash flow was negative in 98-99, which became positive in 99-00. However, the cash flow was again negative in 2000-01.
- xiv. The level of stocks with the domestic industry increased sharply in spite of reduction in production by the domestic industry.
- xv. The domestic industry has no other option but to increase the wages for the employees due to the prevailing regulations.

- xvi. The domestic industry has enhanced capacity by debottlenecking in an effort to reduce the incidence of fixed costs. However, this has also not helped the domestic industry in reducing the losses.
- xvii. The constituents of domestic industry had to undergo financial restructuring some time back with lot of difficulties. The financial institutions are not willing to lend funds to the domestic industry due to continued losses.
- xviii. Dumping from Bulgaria, Brazil, Germany and UK has resulted in injury to the domestic industry.
- xix. The final duties may also be recommended in terms of US \$ only (in fixed amounts), so that erosion in the quantum of protection does not take place on account of changes in the exchange rate.

25. Views of Indian Spinners Association:

- i. Injury should be seen for Indian industry as a whole and not for the petitioners.
- ii. The domestic industry should provide information with regard to all producers. Method of pick and choose is not just and fair.
- iii. Production and market share of domestic producers increased as per data of the office of Textiles Commissioner.
- iv. Capacity and its utilization has increased, hence, there is no injury to the domestic industry.
- v. Cost of production of the domestic industry increased by 38% whereas selling price increased by 41 %.
- vi. There is no dumping and no injury.
- vii. The injury to the domestic industry if any is due to lack of cost consciousness, insufficient scale of production, lack of R&D and poor working.

26. Views of Ludhiana Spinners Association

- i. We are largest consumer of acrylic fibre in the country, however, no notice has been served to us before imposition of provisional duty.
- ii. 14 countries are attracting Anti Dumping Duty at present. No other textile product attracts Anti Dumping Duty from so many sources.
- iii. This is an attempt of the domestic industry to cover their mismanagement, inefficiency and ultimate aim is to create monopoly in the Indian market.
- iv. Production figures of the domestic industry is distorted as it does not include production of all Indian producers.
- v. Production of the Industry has gone up by 29% over previous year.
- vi. Injury due to cyclone in Gujarat and earth quake in Gujarat is the reason behind injury if any.
- vii. Injury is due to reduction in customs duty in budget and not imports.
- viii. None of the domestic producers stated in their balance sheet that their profitability is lower due to dumping from newer sources.
- ix. The industry has old and outdated machinery, which is resulting into injury to the industry.
- x. The industry is not able to meet the present demand and future demand.

27. Views of M/s Lukoil, Bulgaria

The result of the preliminary investigation makes it evident that our market share is only 3%, which can not possibly affect the interests of the Indian producers. Neither can it have any influence on price levels for the aforesaid market.

Examination of Injury and Causal Link by the Authority:-

28. The Authority recalls its preliminary findings regarding injury analysis. The domestic industry has furnished information on various economic factors/indices relating to injury determination, viz., natural and potential decline in sales, profits, market share, productivity, return on investments, utilization of capacity, factors affecting domestic prices, profitability, return on investments, effects on cash flow, employment, wages, etc. The Authority has taken into account the aforesaid indices regarding injury while doing the final determination. The Authority has examined the submissions made by various interested parties, viz., domestic industry, exporters, Indian Spinners Association, Ludhiana Spinners Association and the Brazilian Embassy. The Authority is of the view that all the relevant indices as per Annexure II of the Rules have been examined in respect of the domestic industry for this investigation. While the Authority has examined all parameters mentioned in Annexure II of the Rules, however, some of the relevant parameters, which show injury, are discussed in detail as under:
29. As regards volume of imports The Authority has examined the information regarding the volume of exports from the subject country during the period of investigation and the preceding years. During the POI the imports from the four subject countries taken together were of 4195 MT. During the year 1999-2000 these imports were 2469 MT and 3739 MT during 1998-99 (as per DGCI&S data). These imports account for a market share of 3.35% in 1998-99, 2.18% in 1999-2000 and 3.73% during 2000-01. When compared to the previous year 1999-2000 the share in the market had shown an appreciable increase during the POI. However, in volume terms the imports from the subject countries during POI showed an increase of 69% over the imports in the previous year. The increase in market share though not very significant is however appreciable and the increase in imports in absolute terms does hold a threat for the domestic industry. The Authority has found that there has been an increase in the dumped imports in absolute terms.
30. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree. The Authority has compared the landed value of imports of subject goods from subject countries during the POI with the net sales realization and has found that there has been a significant price under-cutting by the dumped imports. The landed value of imports has been found to be significantly lower than the domestic industry's net sales realization. The imports were having significantly suppressing/ depressing effect on the prices in the domestic market, as the domestic industry has not been able to raise its selling price to earn a reasonable return in view of the dumped imports.
31. The capacity utilization of the domestic industry has declined from 93.07% in 1999-2000 to 84.03% in the investigation period due to decline in production. The installed capacity of the three petitioner companies had increased during the POI. However, the total production of the petitioner companies declined during the POI in comparison to the previous year. The production of the two other domestic producers, who have supported the petition but have not participated in the present investigation, may have

increased during the POI. The argument of the Indian Spinners Association is that the production of Acrylic Fibre has increased during POI. The petitioner companies account for 61% share, i.e. a major proportion of the domestic production of the subject goods during the POI and have been construed as 'Domestic Industry' in terms of Rule 2(b) supra. Therefore, the Authority holds the view that the domestic industry has suffered injury on account of decline in production and capacity utilization.

32. Till 1999-2000, sales volume of the domestic industry has been increasing. However, sales volume declined from 70591 MT in 1999-00 to 59119 MT in the investigation period i.e. by 16.25% in comparison to the previous year. Further, the domestic industry has been selling its material at a price, which do not permit recovery of even cost of production.
33. Since last few years, the domestic industry has not been able to make profits due to dumping of the product from one after another countries, which includes subject countries also. The losses of the domestic industry steeply increased in the investigation period from -100 (indexed) in 1997-98 to -373 (indexed) in the investigation period.
34. The productivity per employee declined in comparison to previous year, in the investigation period due to steep decline in the production, in spite of reduction in the number of employees.
35. The return on investment declined in the investigation period due to losses faced by the domestic industry in this period. The return on investment for the domestic industry continues to remain negative in spite of imposition of anti dumping duty on a number of sources.
36. The cash flow was negative in 98-99 which became positive in 99-00 . However, the cash flow was again negative in the investigation period.
37. The level of stocks with the domestic industry increased during POI in comparison to previous year in spite of reduction in production by the domestic industry.
38. The domestic industry is being forced to resort to curtailment of employment due to continued financial losses and negative cash flow.
39. Due to the prevailing regulations, the domestic industry has to increase the wages causing further impact on profits.
40. Enhancement of capacity by de-bottlenecking with a view to reduce the incidence of fixed costs has not helped the domestic industry during the period of investigation.
41. All above parameters cumulatively show that the domestic industry has suffered material injury from the dumping of subject goods from subject countries.
42. Cumulative assessment of injury

As per annexure-II (iii), in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article --- and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article. The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%. The Authority has also found it appropriate to cumulatively assess the effect of imports of the subject goods from subject countries on the domestically produced like article and has found

that there is a cumulative effect of injury by imports of subject goods on the domestic industry.

43. While determining the non-injurious price for the like article for the domestic industry, the Authority considered the optimum cost of production for the domestic industry taking into account the normated best consumption norms and the actual price of the raw materials during the POI which went into the production of the product under consideration. Also, while arriving at the injury margin, the Designated Authority took into account optimum capacity utilization for arriving at a fair selling or non-injurious price. The Authority has carried out a detailed examination of the domestic industry to arrive at non injurious price. While arriving at non injurious price, the Authority has done appropriate analysis of the relevant factors such as usage of raw material and utilities, expenses incurred by the domestic industry during the period of investigation. Verification at premises of the domestic industry has been done to the extent required.

Causal Link :

44. As regards the impact of the dumped imports on the domestic industry the principle (iv) of Annexure-II of the Anti-Dumping Rules states:

"The examination of the impact of the dumped imports on the domestic Industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilisation of capacity; factors affecting domestic prices, the magnitude of margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments."

45. The Authority has examined all the relevant indices. Volume of dumped imports from subject countries has increased in absolute terms. The dumped imports have led to a significant price under-cutting effect on the domestic industry's product. Due to the landed value of the dumped imports the domestic industry has been selling its material at a price, which do not permit recovery of even cost of production. The domestic industry has not been able to realize a fair selling price on its product due to the dumped imports resulting in financial losses. The domestic industry has made losses. The return on capital investment has become negative. The industry is having negative cash flow. Unsubstantiated claims have been made by some interested parties that injury caused to the domestic industry is due to other factors like poor R&D, inefficiency etc. The Authority does not find any merit in these arguments. The Authority has thus come to conclusion that material injury has been caused to the domestic industry due to the dumped imports from the subject countries. Subject to these the Authority confirms the preliminary findings as regards injury and causal link.

G. INTEREST OF INDIAN INDUSTRY AND OTHER ISSUES:

46. It has been argued by some of the importers and users that the interest of the users of Acrylic Fibre should be taken into account while imposing anti dumping duty. They

have requested to reconsider the imposition of anti dumping duty on Acrylic Fibre since the threat of imports serves as a check on the prices of the local producers.

47. In this context the Authority reiterates its preliminary findings wherein it is stated that the purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market which is in the general interest of the country. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using Acrylic Fibre and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

H. FINAL FINDINGS

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

- i. Acrylic Fibre has been exported to India from subject countries below its normal value;
- ii. The Indian industry has suffered injury;
- iii. The injury has been caused by the dumped imports from subject countries;

49. The Authority proposes to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed price of imports has been compared with the non injurious selling price of the petitioner companies determined for the period of investigation. Landed value of imports for the purpose has been determined as the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

50. The Authority recommends imposition of definitive anti dumping duty on all imports of Acrylic Fibre from UK, Germany, Bulgaria and Brazil falling under Sub Heading 5501.30 and 5503.30 of chapter 55 of Schedule I of Customs Tariff Act . The anti dumping duty shall be as in Col 3.in the following table:

| Sl. No | Country | Anti Dumping Duty US \$ per Kg |
|--------|---------------------------------------|--------------------------------|
| (1) | (2) | (3) |
| 1. | All producers/exporters from UK | 0.33 |
| 2. | All producers/exporters from Germany | 0.14 |
| 3. | All producers/exporters from Bulgaria | 0.38 |
| 4. | All producers/exporters from Brazil | 1.03 |

51. Subject to the above, the Authority confirms the preliminary findings dated 7th December, 2001.

52. An appeal against this order shall lie before the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act, supra.

(**L. V. SATHARISHI**)
Designated Authority