

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

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Notification

New Delhi, the 7th December, 2001

Preliminary Findings

Subject: Anti-dumping investigation concerning imports of Acrylic Fibre originating in or exported from UK, Germany, Brazil and Bulgaria - preliminary findings.

No. 42/1/2001-DGAD - The Government of India 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:-

- i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from Forum of Acrylic Fiber Manufacturers, New Delhi on behalf of the domestic industry, alleging dumping of Acrylic Fibre (hereinafter referred to as subject goods) originating in and exported from UK, Germany, Brazil and Bulgaria (hereinafter referred to as subject countries) ;
- ii. The following producers of acrylic fibre in India and members of the Forum (hereinafter referred to as the petitioners) have specifically consented to participate in the anti-dumping investigations:
 - a. M/s Indian Acrylics Limited, having its office at:
SCO, 49-50, Sector 26,
Chandigarh.
 - b. M/s Consolidated Fiber and Chemicals Limited, having its office at:
97, Park Street 3rd, Kolkata.
 - c. M/s Pasupati Acrylon Limited, having its office at:
M-14, Connaught Place, New Delhi.

Two other domestic producers, viz., M/s. Indian Petrochemicals and Chemicals Ltd., Baroda; and M/s. Vardhman Acrylics Ltd., Ludhiana have supported the petition.

- iii. The Authority notified the Embassies of UK, Germany, Brazil and Bulgaria in India about the receipt of dumping application made by the petitioners before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

- iv. The Authority issued a Public Notice dated 28th August, 2001 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Acrylic Fibre falling under Chapter heading/subheading 5501.30 and 5503.30 of Schedule I of the Customs Tariff Act.
- v. The Authority forwarded copy of the said public notice to the known exporters, importers, industry associations and to the complainants and gave them an opportunity to make their views known in writing.
- vi. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassies of subject countries in India.
- vii. The Authority sent questionnaires, to elicit relevant information, to the following exporters:
 - 1. Acordis Ag,
Kasinostrasse 19,
42103, Wuppertal,
Germany.
 - 2. Bayer Faser Gmbh,
41538, Dormagen,
Gesellschafften Faserwerke Lingen,
Gvw Garnveredlingswerke Gmbh, Goch,
Germany.
 - 3. Markische Faser Ag,
Parkstrasse,
14727, Premnitz,
Germany.
 - 4. Du Pont De Nemours (Deutschland),
Du Pont Strasse 1,
61352, BAD HOMBURG V.D.H,
Germany.
 - 5. Accordis,
Westcrogt, Saint Street,
Bradford,
U.K.
 - 6. Neftokhim Petrochemical Complex,
Acrylic Fibre Complex,
Burgas,
Bulgaria.
 - 7. Rhodia Bresil Crylor,
Acrylic Fibre Division,
Centro Empresarial A.V. Maria,
Coelho Aguiar 215,
Bloco B, Cep05804-902,
Sao Paulo,
Brazil.
- viii. The Embassies of subject countries in New Delhi were also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time;
- ix. The questionnaire was sent to the following users/importers/association of subject goods:

1. M/s. Rajasthan Spinning & Weaving Mills Ltd.,
Bhilwara Bhawan,
40-41, Community Center,
New Delhi – 110 065.
2. M/s. Siddharth Super Spinning Mills Ltd.,
211, Gagan Deep,
12, Rajendra Place,
New Delhi – 110 008.
3. M/s. Adhinath Textiles Ltd.,
Village – Bholapur,
P.O. Sahabana Mundia,
Ludhiana,
Punjab.
4. M/s. Vardhaman Spinning & General Mills,
Chandigarh Road,
Ludhiana – 141 011,
Punjab.
5. M/s. Malwa Cotton Spinning Mills Ltd.,
Industrial Area, 'A',
Ludhiana – 141 003,
Punjab.'
6. M/s. Winsome Textile Industries Ltd.,
SCO 144-145, Sector 34-A,
Chandigarh – 160 022.
7. M/s. Bhiwani Textile Mills,
Bhiwani (Dist. Hissar),
Haryana.
8. M/s. Shruti Synthetics Ltd.,
Village Loyaran, Gagunda Road,
Udaipur,
Rajasthan.
9. M/s. Nahar Spinning Mills Ltd.,
373, Industrial Area – A,
Ludhiana – 141 003,
Punjab.
10. Indian Spinners' Association,
C/o The Millowners' Association,
Elphinstone Building,
10, Veer Nariman Road,
Fort, Mumbai – 400 001.

- x. Additional information regarding injury was sought from the petitioners, which was also furnished;
- xi. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties;
- 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, 2000 to 31st March, 2001;

- xiv. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. Petitioner's Views

3. The petitioners have made the following major arguments in their submissions:-

- i. The product under consideration in the present petition is Acrylic Fibre
- ii. 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. Acrylic staple fibre, acrylic tow and acrylic top are all known as acrylic fibre. The only difference between acrylic fibre and acrylic tow is the difference in length. Acrylic Fibre is produced in various grades, which are defined in terms of its Denier. Acrylic Fibre is an economical substitute for expensive wool. Acrylic Fibre has application in day to day human life use. Acrylic Fibre has a variety of applications in apparel, house-hold and industrial areas.
- iii. Acrylic Fibre (which includes tow, top and staple) is classified under Chapter 55 of the Customs Tariff Act at subheading nos. 5501.30 and 5503.30.
- iv. There is no known difference in Acrylic Fibre produced by the Indian industry and the Acrylic Fibre exported from the subject countries. The Acrylic Fibre produced by the Indian industry and that imported from the subject countries is comparable in terms of characteristics, such as, physical and chemical, manufacturing process and technology, functions and uses, products specification, pricing, distribution and marketing and tariff classification of the goods. Therefore, the Acrylic Fibre produced by the domestic industry should be treated as like article to the subject goods imported from subject countries within the meaning of the Rules supra.
- v. The petitioners represent the domestic industry as they have a majority share in the domestic production of Acrylic Fibre.
- vi. As regards the normal value in the case of UK, the petitioners have claimed the same on the basis of an evidence of domestic sale in UK. The petitioner has made adjustment on account of VAT and Inland freight for determination of normal value in UK. As regards normal value in Germany the petitioner has not been able to get any evidence of domestic sales in Germany. They have produced evidence of exports of subject goods by German producer to a third country. They have claimed the normal value based on the export price to the third country after making adjustments on account of inland freight. As regards Brazil and Bulgaria the petitioners have not been able to get evidence of domestic sales in these countries or any exports to third country. They have claimed normal value on the basis of constructed cost of production after taking the price of major raw material Acrylonitrile on the basis of internationally published prices.
- vii. The petitioners have claimed export price based on the published data of DGCI&S, Kolkata. The petitioners have made adjustments from the weighted average CIF export price on account of ocean freight, marine insurance, commission, inland transportation in the country of export and port handling charges.
- viii. As per the petitioners, prior to this petition, the domestic industry was suffering from dumping of Acrylic Fibre from various countries and the Designated Authority has conducted investigations in respect of imports of Acrylic Fibre from USA, Thailand, Korea RP, Italy, Spain, Portugal, Japan, Mexico, Turkey and Taiwan. Evidently, the domestic industry has been suffering regularly due to dumping from various sources one after the another.

- ix. The exporters from UK, Germany, Brazil and Bulgaria are dumping Acrylic Fibre into India and the Designated Authority may examine the cumulative effect of these dumped imports from different sources as required under the Anti Dumping Rules.
- x. The quantum of imports from each of the subject country is more than the de-minimus limit.
- xi. Market share of imports from subject countries has increased.
- xii. Production, capacity utilization and sales of the domestic industry declined during the POI.
- xiii. The selling price of the domestic industry has increased during the POI. However, the industry has not been able to realize a fair price even after imposition of anti-dumping duty on imports from various sources as imports have started from newer sources.
- xiv. Sales volume of the domestic industry declined by more than 17% during 2000-01 which was directly due to shifting of some of the customers to the dumped imports.
- xv. Though there is no significant change in the employment level in the petitioner companies. However, should the situation continue, the domestic industry will have to restrict/close down production which would have significant adverse impact on employment.
- xvi. The sales of Acrylic Fibre at prices significantly below cost of production and fair selling price has resulted in heavy losses to the domestic industry. Continued dumping from one after other source has forced the domestic industry to sell the products at a price which does not permit recovery of even full cost of production.
- xvii. The injury to the domestic industry is directly being caused due to dumped imports from the subject countries

C. EXPORTERS', IMPORTERS', USERS' AND OTHER INTERESTED PARTIES' VIEWS

4. Responses have been received from the following exporters and 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.

5. The submissions made and/or the information provided by the above are as follows:

- i. **Acordis UK Ltd., UK.**
M/s. ACORDIS in their response, have offered price undertaking by confirming to undertake in consultation with the domestic Acrylic Fibre industry of India to not export Acrylic Fibre at a price which is injurious to the domestic industry.
- ii. **M/s. Lukoil Company, Bulgaria.**
M/s. Lukoil Company has furnished information regarding total quantity and value of exports to India, exports to other countries and domestic sales during the POI and in the years 1998 and 1999. As per the company the Acrylic Fibre was sold via a company registered in UK through an agent in India. The domestic market sales price include about 3% cost of financing since the terms of sale are usually with 90-120

days deferred payment and the normal interest rate around being 12% per annum. The exporter has not furnished complete response as per the prescribed questionnaire with Appendix 1 to 10.

iii. **DuPont Deutschland Holding GmbH & Co. KG, Germany**

M/s. Dupont have informed that they are currently not producing and exporting Acrylic Fibre from Germany to India. Following a decision taken in June, 1990 the parent company and its affiliates have withdrawn from the production of Acrylic Fibre in the early 1990s. Therefore, they have not answered to the questionnaire.

iv. **Dralon GmbH – Bayerwerk, Germany M/s.**

Dralon GmbH has informed that they are legal successor of Bayer Faser GmbH Business Unit Acrylic Fibres which was founded on January 1st 2001. The exports of their company during April 2000 – March, 2001 were 994 MT. During the preceding twelve month period the exports of their company were 1337 MT and so their business with India in volume terms has shrunk by 26% during the period of investigation. Compared to a mill consumption in India of approximately 1,20,000 T/annum their market share was about 0.8% during the POI and with this market share they do not see any danger for the Indian domestic producers (as per de-minimis Rules). According to them the utilization rate of the Indian domestic Acrylic Fibre producers of around 93-94% during the period of investigation indicates the performance which is equal to or above the average of the world-wide industry. They requested that the anti-dumping complaint against Dralon should be cancelled as they consider it to be unfounded. However, they have not furnished complete information as required under Appendix 1 to 10 of the questionnaire sent to them.

v. International Rayon and Synthetic Fibres Committee (CIRFS), Brussels As per this association CIRFS is the representative association for the European man-made fibre industry. CIRFS has made the following major arguments in their communication sent through E-Mail:

- Market Share

The market share in India of imports from UK and Germany has remained at a very low level. In the case of Germany, market share (using the information in the Petition filed by the Forum of Acrylic Fibre Manufacturers) in 2000/2001 can be deduced as only 1.7%, and 1.1% in the case of the UK. It is the contention of CIRFS that, in the circumstances of the Indian acrylic fibres market, these market shares are too low to be the cause of injury to Indian producers.

- Normal Value in UK and Germany

The assessment of normal value in UK and Germany contained in the Petition is highly misleading. Information from specialist consultants shows estimates for selling prices in the West European market in April 2000 to March 2001 ranging from \$ 1.20 to \$ 1.45 per kg, with a weighted average of \$ 1.33. Assessment by the Petitioners of normal value in Germany as \$ 1.66 and \$ 2.67 in UK has thus clearly been made on the basis of specialist products, which are not comparable to those generally exported to India. The evidence in the consultants' report should thus be taken as the best evidence available of normal value in Germany, UK as the consultants concerned have an international reputation. However, the stated report of the consultant has not been received by the Authority.

As per CIRFS the true causes of injury to domestic industry are:

a. Insufficient scale

The average size of the plants of the Petitioners ranges from 12,000 tonnes to 38,500 tonnes, with an average of 24,000 tonnes. This is well below the economic size needed to run efficient acrylic fibres production units.

In UK and Germany plant size varies from 70,000 tonnes to 150,000 tonnes. Some plants elsewhere in the world exceed 200,000 tonnes. The Petitioners will continue to have serious problems unrelated to imports for as long as they continue to run units of uneconomic size.

b. Inadequate technology

The Indian plants are in some cases old, some of them imported second-hand many years ago, and technologically obsolescent. This means that production costs are high, quality unreliable and that producers are unable to supply a full range of products.

c. Excessive Protection of Acrylic Fibre Producers

The Indian textile industry (spinning, weaving, manufacture of finished apparel and household textiles) is both an essential supplier of products to the Indian population and a major export sector. It employs large numbers of people, and makes a very large contribution to India's export earnings. However, it has been seriously harmed by the imposition of anti-dumping duties, and will be further harmed if the current investigation results in the imposition of further anti-dumping duties.

CIRFS has further stated that:

i. indian acrylic fibre prices are among the highest in the world

According to the leading firm of consultants the price of acrylic fibre in Asia in 2000/2001 averaged \$ 1.36 per kg. This is equivalent to approximately Rs 63. No specific information on selling prices in India in the same period is given in the Petition.

ii. Indian producers have increased prices faster than in other regions of the world

According to the Petition, selling prices of the Petitioners increased by 26.5% between 1999/2000 and 2000/2001. This is a much higher rate than in other regions of the world.

iii. The Indian textile industry will be denied access to better quality and more innovative fibres needed to increase the value added of their products

Producers in UK and Germany produce fibres to the highest quality standards, including many fibre variants not manufactured in India. These value added products will help Indian spinners, weavers and knitters increase the quality and attractiveness of their products, and the prices they can obtain on local and international markets, if they are permitted free access to them.

CIRFS has, therefore urged for immediate termination of the anti-dumping investigations concerning Germany and UK on the grounds of their incompatibility with the WTO

Agreement and the serious damage which will be caused to the Indian textile industry by further anti-dumping action on acrylic fibre.

6. The following importers/association have responded :

M/s. APM Industries Ltd., Bhiwadi, Rajasthan.

M/s. Deepak Spinners Ltd., Chandigarh.

M/s. Indian Spinners Association, Mumbai.

i. M/s. APM Industries Ltd., Bhiwadi, Rajasthan

M/s. APM Industries Ltd. have given information relating to their imports from Italy and Japan which are not relevant to these investigations.

ii. M/s. Deepak Spinners Ltd., Chandigarh

M/s. Deepak Spinners Ltd have given partial information to the questionnaire . In respect of imports from the subject countries they have given information about imports of *** quantity from Germany under Advance Licence (Duty exemption Scheme) @ *** CIF Mumbai. They have not shown any other imports of subject goods with payment of Duty in Annexure 4. They have also not furnished any information in respect of Annexure 5,6&7.

iii. M/s. Indian Spinners Association, Mumbai.

Indian Spinners Association has in their response made the following major arguments:

a. Insignificant imports from UK and Germany:

As per the Indian Spinners Association the figures of imports of Acrylic Fibre are as under:

(Quantity in kg.)

Year	U.K.	Germany	Brazil	Bulgaria
1996-97	55,624	10,14,658	Nil	Nil
1997-98	3,56,056	5,88,861	6,585	Nil
1998-99	18,521	8,56,765	25,334	Nil
1999-2000	9,404	9,76,966	70,213	18,070
2000-2001 (Apr. to Feb.)	94,074	11,11,224	Nil	18,519

Imports of acrylic fibre from the U.K. have come down substantially since 1997-98. The drop in import is of the order of 75%. In the case of Germany, there has been a small increase in imports, which is of the order of 8 to 9%. In the case of Brazil, there are no imports in the period of investigation. Bulgaria is not a regular supplier of the subject goods to India, and imports have taken place only in the last two years, i.e. 1999-2000 and 2000-2001, and the level of imports is more or less the same. The above facts do not show any threat of increased imports from subject countries.

b. Normal Value:

In the case of the U.K., the normal value has been worked out on the basis of one solitary sale document in the domestic market. An important issue like, normal value cannot be determined on the basis of one single transaction. A solitary transaction might be an unusual deal being for a small quantity or terms of trade in favour of the buyer might have influenced the transaction or there might have been an urgent and out-of-turn supply etc. It will therefore, be totally misleading to go by just one transaction to determine the normal value.

In the case of Germany, the price is determined on the basis of price in a single transaction of a producer from Germany exporting the subject goods to a third country. Here again it is necessary to go into the levels of trade, quantities involved and conditions and terms of sale. It is also necessary to find out whether the third country is an appropriate country to consider the price. More importantly, a single transaction may be a freak deal.

The costing route adopted in the case of Brazil and Bulgaria raise the question of the assumptions made in the determination of cost of production, and their justification. Since the assumptions have not been given, it is not possible to comment on the same.

c. Evidence of Injury:

- The figures of country-wise imports given in the petition do not appear to be correct as they appear to be at variance with DGCIS data for April, 2000 to February, 2001. The correct figures should be as given in para 6(iii)(a) above.
- So far as production and capacity utilization are concerned, here again data given by the petitioner has been distorted by referring to only three petitioners and leaving out supporting producers. If the total production of the industry as a whole is taken, then the picture is as under:-

Year	Production of Acrylic Fibre (Quantity in tons)
1998 - 1999	78,917
1999 - 2000	79,313
2000 - 2001	94,704

- It would thus be seen that in the year of investigation, domestic production of acrylic fibre has increased by 20% over the previous year.
- So far as the market share is concerned the correct picture is as under:-

Year	Market Share			
	Production in Tonn's	Imports from 4 countries in Tonns	Total	Imports to Total as %
1999-2000	79,313	1075	80,388	1.34
2000-2001	94,704	1224	95,928	1.27

- It will be seen from the above that the Market Share of domestic producers has increased, while that of imports has gone down.
- The price of Acrylic fibre vis-à-vis that of Acrylonitrile, the main raw material depict the following position:-

Price Per Kg.

Year	Acrylic	Acrylonitrile
1999 - 2000	74	31

2000 - 2001	90	42
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- While the raw material cost increased by Rs.11 per kg., the selling price increased by an hefty Rs.16 per kg.
- Profitability depends upon various factors like Managerial efficiency, productivity, level of technology, upkeep of machines level of rationalization, industrial relations etc. Hence losses suffered by the domestic producers, if any, cannot be said to have increased because of imports. The petitioners have also not given information on many parameters as required statutorily.

d. Causal Link

The information on causal link is not proper and to the point and the domestic producers have failed to establish the causal link. Thus the petitioners have failed to establish any dumping or injury or causal link. There is therefore no justification to proceed with the investigation and the finding may be given to say that there has been no dumping and no ground for imposition of anti-dumping duty.

D. EXAMINATION AND FINDINGS BY THE AUTHORITY

7. The submission made by the petitioners, importers, exporters and other interested parties, to the extent filed before the Authority have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.
8. 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 subject countries on the basis of the facts available to it as per rule 6(8) supra.
9. The cases of new exporters or those stated to be willing to give price undertaking shall be considered, on request, by the Authority in accordance with the Rules supra.

Product Under Consideration And Like Article

10. 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 produced in various grades, which are defined in terms of its Denier. Acrylic Fibre finds application in apparel, household and industrial areas. 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 are 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.
11. The petitioner claimed that the goods produced by them are like articles to the goods originating in or exported from subject counties. 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 holds, for the purpose of preliminary determination, that Acrylic Fibre being produced by the domestic industry is like article to the product under consideration.

De-Minimus Limits

12. As regards ascertaining that the imports from the subject countries during the period of investigation (POI) are above de-minimus levels, the Authority has referred to the DGCI&S published data. As per the data of DGCI&S the imports of Acrylic Fibre during POI under the classification 55013000 ‘Synthetic Filament Tow, Acrylic/Mod-Acrylic’ and 55033000 ‘Staple Fibres of Acrylic/Mod-Acrylic’ are as under:

Country Name	Quantity (MT)	%age share in imports
Brazil	665.51	4.765
Bulgaria	540.29	3.868
Germany	1782.94	12.765
UK	1206.36	8.637

Thus, the Authority finds that the imports from the subject countries during the POI are above de-minimus levels. The Authority does not find the contention of Indian Spinners Association as correct that there are no imports of Acrylic Fibre from Brazil during POI. The Initiation Notification dated 28th August, 2001 had clearly mentioned that Acrylic Fibre can be Acrylic Staple Fibre, Acrylic Tow or Acrylic Top.

Domestic Industry

13. 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 have 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 have provided all information required for the purpose of the present investigation and have offered themselves for further information and verification. These companies account for a major proportion of the total Indian production of subject goods. None of the responding interested party has raised any point regarding the standing of the petitioners. Thus, the Authority holds that petitioners satisfy the criteria of standing to file the petition on behalf of the Domestic Industry in terms of Rule 5(3) (a) of the Rules supra, for the purpose of preliminary finding. The Authority also considers these petitioner companies as ‘domestic industry’ within the meaning of Rule 2(b) supra.

E. DUMPING & EXAMINATION OF CLAIMS MADE ON NORMAL VALUE & EXPORT PRICES

Normal Value

14. Under Section 9A(1)(c) of the Customs Tariff (Amendment) Act,1995 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);

15. The Authority sent questionnaire to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). The Authority received responses from the following exporters and exporters association.

- 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.

However, the responses filed by the exporters are found to be grossly insufficient and incomplete for the purpose of preliminary finding, as discussed in detail hereinbelow. Normal value determination for UK

16. The Authority notes that none of the exporters from UK has filed complete response. Only M/s. Acordis, UK has responded and has offered price undertaking. They have not given full information as required under Appendix 1 to 10 and part A to H of the questionnaire. As per Rule 15(2) "No undertaking as regards price increase under clause (ii) of the sub-rule (1) shall be accepted from any exporter unless the Designated Authority had made preliminary determination of dumping and the injury". Therefore, it is incumbent upon the Authority to make preliminary determination of dumping and injury. As no information about domestic sales price structure of the subject goods in UK, its cost of production and other information as per the questionnaire has been furnished, the Authority has proceeded to rely upon the best available information for determination of normal value. The petitioners have claimed normal value in respect of UK on the basis of an evidence of domestic sales in UK based on a solitary sales invoice. Indian Spinners Association has stated that normal value cannot be determined on the basis of one single transaction as it may not be a truly representative transaction.

17. As per International Rayon and Synthetic Fibres Committee (CIRFS), Brussels the assessment of normal value in UK contained in the petition is highly misleading. The normal value of dollar 2.67 in the case of UK as claimed in the petition is made on the basis of specialty products. The Authority finds that none of the exporters have given complete and sufficient information to enable it to determine the normal value based on the domestic sales price. As per the Anti Dumping Rules Annexure 1(2) sales of the like product in the domestic market of the exporting country have to be in the ordinary course of trade. The Authority is not able to accept the view of CIRFS unless such a claim is supported by full information as required in the questionnaire. 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 subject countries on the basis of the facts available to it as per rule 6(8) supra.

Accordingly, the Authority has considered the evidence as furnished by the petitioner for normal value determination, i.e. as per the domestic sales transaction as furnished by the petitioner. The normal value so determined for UK is US\$ ***

Normal value determination for Germany:

18. Only M/s. Dupont and M/s. Dralon have responded from amongst the exporters of Germany. M/s. Dupont have informed to have not exported Acrylic Fibre to India as they have withdrawn from production of Acrylic Fibre in early 1990s. M/s. Dralon, who are legal successor of M/s. Bayer Faser GmbH, have exported 994 MT to India during POI. They have given information about previous years export and that their business with India has shrunk by 26% during POI. However, they have not given complete information as required under Appendix 1 to 10 and part A to H of the questionnaire. As per Indian Spinners Association the single transaction of export from Germany to a third country may not be sufficient to know the level of trade, quantities involved and conditions and terms of sales. According to CIRFS, the normal value in Germany of dollar 1.66 in the petition is made on the basis of special products which are not comparable to the products generally exported to India. The Authority reiterates that as per the Anti Dumping Rules Annexure 1(2) sales of the like product in the domestic market of the exporting country have to be in the ordinary course of trade. The Authority is prevented to accept the view of CIRFS and Indian Spinners Association unless such a claim is supported by full information as required in the questionnaire. 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 subject countries on the basis of the facts available to it as per rule 6(8) supra.

Accordingly, the Authority has considered the evidence as furnished by the petitioner for normal value determination, i.e. as per the evidence of exports from Germany to a third country as furnished by the petitioner. The normal value so determined for Germany is US\$ ***

Normal value determination in respect of Bulgaria:

19. M/s. Lukoil Company has given information about total quantity and value of exports to India, exports to other countries and domestic sales. Average unit price has also been given. However, the information as required in Appendix 1 to 10 and part A to H

of the questionnaire has not been furnished. The Authority finds that the information is grossly insufficient and incomplete. The Authority is prevented from accepting the information furnished by the exporter from Bulgaria in view of its being insufficient and incomplete as according to the Anti Dumping Rules Annexure 1(2) sales of the like product in the domestic market of the exporting country have to be in the ordinary course of trade. 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 subject country on the basis of the facts available to it as per rule 6(8) supra. Accordingly, the Authority has considered the available information as furnished by the petitioner for normal value determination, i.e. as per the constructed cost of production of subject goods. The normal value so determined for Bulgaria is US\$ ***

Normal value determination for Brazil:

20. None of the exporters from Brazil has responded to the questionnaire. The domestic industry has claimed normal value in respect of Brazil on the basis of constructed cost of production. They have considered the price of major raw material Acrylonitrile on the basis of published price of this item in leading journal. Accordingly, the normal value so constructed is US\$ *** in respect of Brazil.

Export price in respect of UK and Germany:

21. None of the exporters from UK and Germany has cooperated in furnishing the export price. The petitioners have determined export price on the basis of DGCI&S published data. The DGCI&S published data is available for the period April 2000 – March 2001. The imports of Acrylic Fibre are shown in the data under the classification 55013000 ‘Synthetic Filament Tow, Acrylic/Mod-Acrylic’ and 55033000 ‘Staple Fibres of Acrylic/Mod-Acrylic’. The Authority has considered the export price in respect of UK and Germany based on this data. The petitioner has shown adjustments on account of ocean freight, insurance, commission, inland transportation and port handling charges. The Authority has allowed adjustments of \$*** on account of ocean freight @ \$50/MT, insurance .5% of CIF, commission 2% of CIF, inland freight 2% of FOB and port charges 2% of CIF. The ex-factory export price comes to US\$*** for UK. After allowing similar adjustments the export price at ex-factory level in respect of Germany comes to US\$ ***.

Export price in respect of Bulgaria:

22. M/s. Lukoil Company, Bulgaria has responded to the questionnaire but has given insufficient and incomplete information. They have not given transaction-wise details of exports made to India in the form given in Appendix- 2. Instead they have given total export sales, total exports to other countries and total domestic sales along with respective unit price. The Authority finds the information as insufficient and incomplete. It is however seen that the exporter has shown exports of 868 MT during POI. Price shown in the response are stated to be FCA Bourgas delivery and advance payment terms. In absence of clear and complete information about the CIF export price to India and other information as per the questionnaire the Authority could not consider even this limited information about the export quantity and export price as furnished by the exporter. The Authority therefore relied upon the DGCI&S data for

determining the export price which comes to dollar *** CIF. After making adjustment of dollar *** on account of ocean freight @ \$50/MT, insurance 0.5% of CIF, commission 2% of CIF, inland freight 2% of FOB and port charges 2% of CIF, the export price at ex-factory level comes to dollar ***.

Export price for Brazil:

23. There has been no response from any exporter from Brazil. The Authority has therefore relied upon the DGCI&S data for export price determination. As per this information the weighted average CIF export price comes to US\$ ***. Adjustments have been made on account of ocean freight @ \$50/MT, insurance 0.5% of CIF, commission 2% of CIF, inland freight 2% of FOB and port charges 2% of CIF. The export price at ex-factory level comes to US\$***.

Dumping margin

24. Considering the normal value and export price, determined as detailed above, the dumping margin comes as under:

S. No.	Country	Dumping Margin %
1.	UK	80.80 %
2.	Germany	10.51%
3.	Bulgaria	51.11%
4.	Brazil	229.72%

F. INJURY

25. **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."

26. **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.

27. Views of the petitioners

- i. The domestic industry was suffering from dumping of Acrylic Fibre from various countries and the Designated Authority has conducted investigations in respect of imports of Acrylic Fibre from USA, Thailand, Korea RP, Italy, Spain, Portugal, Japan, Mexico, Turkey and Taiwan. Evidently, the domestic industry has been suffering regularly due to dumping from various sources one after the another.
- ii. The exporters from UK, Germany, Brazil and Bulgaria are dumping Acrylic Fibre into India and the Designated Authority may examine the cumulative effect of these dumped imports from different sources as required under the Anti Dumping Rules.
- iii. The quantum of imports from each of the subject country is more than the de-minimus limit.
- iv. Market share of imports from subject countries has increased.
- v. Production, capacity utilization and sales of the domestic industry declined during the POI.
- vi. The selling price of the domestic industry has increased during the POI. However, the industry has not been able to realize a fair price even after imposition of anti-dumping duty on imports from various sources as imports have started from newer sources.
- vii. Sales volume of the domestic industry declined by more than 17% during 2000-01 which was directly due to shifting of some of the customers to the dumped imports.
- viii. Though there is no significant change in the employment level in the petitioner companies. However, should the situation continue, the domestic industry will have to restrict/close down production which would have significant adverse impact on employment.
- ix. The sales of Acrylic Fibre at prices significantly below cost of production and fair selling price has resulted in heavy losses to the domestic industry. Continued dumping from one after other source has forced the domestic industry to sell the products at a price which does not permit recovery of even full cost of production.
- x. The injury to the domestic industry is directly being caused due to dumped imports from the subject countries

28. Views of exporters and importers:

- i. As per Indian Spinners Association:
 - Imports of acrylic fibre from the U.K. have come down substantially since 1997-98. The drop in import is of the order of 75%. In the case of Germany, there has been a small increase in imports, which is of the order of 8 to 9%. In the case of Brazil, there are no imports in the period of investigation. Bulgaria

is not a regular supplier of the subject goods to India, and imports have taken place only in the last two years, i.e. 1999-2000 and 2000-2001, and the level of imports is more or less the same. The above facts do not show any threat of increased imports from subject countries.

- In the year of investigation, domestic production of acrylic fibre has increased by 20% over the previous year.
 - The Market Share of domestic producers has increased, while that of imports has gone down.
 - While the raw material cost increased by Rs.11 per kg., the selling price increased by an hefty Rs.16 per kg.
 - Profitability depends upon various factors like Managerial efficiency, productivity, level of technology, upkeep of machines level of rationalization, industrial relations etc. Hence losses suffered by the domestic producers, if any, cannot be said to have increased because of imports.
- ii. As per M/s. Dralon GmbH, Germany compared to a mill consumption in India of approximately 1,20,000 T/annum their market share was about 0.8% during the POI and with this market share they do not see any danger for the Indian domestic producers (as per de-minimus Rules). According to them the utilization rate of the Indian domestic Acrylic Fibre producers of around 93-94% during the period of investigation indicates the performance which is equal to or above the average of the world-wide industry.
- iii. As per CIRFS:

The market share in India of imports from UK and Germany has remained at a very low level. In the case of Germany, market share in 2000/2001 can be deduced as only 1.7%, and 1.1% in the case of the UK. These market shares are too low to be the cause of injury to Indian producers and according to them the true causes of injury to domestic industry are:

a. Insufficient scale

The average size of the plants of the Petitioners ranges from 12,000 tonnes to 38,500 tonnes, with an average of 24,000 tonnes. This is well below the economic size needed to run efficient acrylic fibres production units. In UK and Germany plant size varies from 70,000 tonnes to 150,000 tonnes. Some plants elsewhere in the world exceed 200,000 tonnes. The Petitioners will continue to have serious problems unrelated to imports for as long as they continue to run units of uneconomic size.

b. Inadequate technology

The Indian plants are in some cases old, some of them imported second-hand many years ago, and technologically obsolescent. This means that production costs are high, quality unreliable and that producers are unable to supply a full range of products.

c. The damage caused to Indian Textile Production is by excessive protection of acrylic fibre producers

Examination by the Authority:

29. 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 in view of the dumped imports.
31. For the examination of the impact on the domestic industry in India, the Authority also considered such further indices having a bearing on the state of industry as capacity utilization, production, sales, net sales realization profitability, etc. The Authority found that:
- a. The selling price of the domestic industry is significantly below the price which would have permitted the domestic industry a fair recovery of its cost of production and earn a reasonable return.
 - b. 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 mentioned in Para 2 (ii) earlier, 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 and so stated in foregoing Para 13 of these findings. Therefore, the Authority holds the view that the domestic industry has suffered injury on account of decline in production and capacity utilization. The sales volumes of the domestic industry as represented by the petitioner companies also declined during the POI by 16.25% in comparison to the previous year.
 - c. Though selling prices increased in the investigation period as compared to the previous years, the increase in the Cost of production was much more than the increase in the selling prices. In fact, it is found that the loss per unit has significantly increased in the investigation period. Thus, the dumped imports have prevented the

domestic industry from effecting legitimate price increase to realize a reasonable price. The industry has suffered material injury on account of depressed selling prices resulting in non-recovery of cost of production and thereby suffering financial losses.

Cumulative assessment of injury

32. 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 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.

G . CAUSAL LINK

33. 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."

Views of the Petitioners:

34. The petitioners have stated that injury to the industry has been caused by the dumped imports of subject goods from the subject countries. As the landed value of the subject goods is significantly below the selling price of the domestic industry, the industry has been forced to keep its selling price significantly below the cost of production. Therefore, the industry has not been able to realize a non-injurious price. The price suppression suffered due to dumped imports has resulted in severe financial losses to the domestic industry. The industry has also been prevented from increasing its sales and production. The domestic industry has also stated that there has not been a contraction of demand of the subject goods and the injury to the industry cannot be attributed to any fall in demand.

Examination and Findings of the Authority:

35. The Authority has also considered the views expressed by the Indian Spinners Association and CIRFS as regards the causal link, which have been mentioned, in the preceding paragraphs. The Authority, in its views, does not find the reasons adduced by the said interested parties attributable to the injury to the domestic industry in the present investigation. For the examination of the impact on the domestic industry in India, the Authority considered such indices having a bearing on the state of industry as production, sales, market share, profitability, net sales realisation etc. in accordance with Annexure-II (iv) of the Rules supra. The Authority has also found that the demand for the subject goods during the period of investigation (POI) has remained almost same as compared with the demand in the preceding year 1999-2000.
36. **After examining the various economic parameters as above the Authority has come to the following conclusions:**
- i. The capacity utilization of the domestic industry has declined and the domestic industry has been prevented from utilization of higher capacity due to dumped imports.
 - ii. The market share of the dumped imports from the subject countries has increased.
 - iii. Sales of the domestic industry have declined during the POI.
 - iv. The selling price of the domestic industry increased during the POI as compared to year 1999-2000. However, the same has been below the non-injurious price (NIP) on account of dumped imports.
 - v. The industry has suffered financial losses due to price undercutting of dumped imports.
 - vi. The domestic industry has suffered due to price suppression. They have not been able to raise their selling price to recover the cost of production, as the landed value of the dumped imports has been significantly lower than the cost of production.
 - vii. The above economic parameters cumulatively and collectively establish that domestic industry has suffered material injury on account of dumping.

H. INDIAN INDUSTRY'S INTEREST

37. 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.
38. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods 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.

I. CONCLUSIONS

39. **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 domestic industry has suffered material injury;
- iii. The material injury has been caused by the dumped imports from subject countries;

40. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of Acrylic Fibre from subject countries in order to remove the injury to the domestic industry. The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority proposes to recommend the amount of anti dumping duty not exceeding the margin of dumping or the margin of injury whichever is lesser and which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports is proposed to be compared with the non injurious selling price of the petitioner companies determined for the period of investigation.
41. Accordingly, the Authority recommends that provisional anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on all imports of Acrylic Fibre falling under Chapter 55 of Schedule I of Custom Tariff Classification originating in or exported from UK, Germany, Bulgaria and Brazil pending final determination. The anti dumping duty shall be as in column 3 in the following table.

S. No. (1)	Country (2)	Anti Dumping Duty (US \$ per Kg) (3)
1.	All producers/exporters from UK	0.684
2.	All producers/exporters from Germany	0.143
3.	All producers/exporters from Bulgaria	0.619
4.	All producers/exporters from Brazil	1.275

42. Landed value of imports for the purpose shall be 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.

J. FURTHER PROCEDURE

43. The following procedure would be followed subsequent to notifying the preliminary findings:-
1. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
 2. Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of these preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;
 3. The Authority would provide opportunity to all the interested parties for making oral submissions which have to be rendered thereafter in writing;
 4. The Authority would conduct further verification to the extent deemed necessary;
 5. The Authority would disclose essential facts before announcing final findings.

(L.V. Saptharishi)
Designated Authority