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**F. No. 14/50/2016-DGAD**  
**Government of India**  
**MINISTRY OF COMMERCE & INDUSTRY**  
**DEPARTMENT OF COMMERCE**  
**(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)**  
**4<sup>th</sup> Floor Jeevan Tara Building, 5, Parliament Street, New Delhi-110001**

Dated 16<sup>th</sup> April, 2018

**NOTIFICATION**

**FINAL FINDINGS**

**Subject: Anti-dumping investigation concerning imports of ‘Acrylic Fibre’, originating in or exported from China PR, Belarus, Ukraine, EU and Peru.**

**No. 14/50/2016-DGAD:** Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules) thereof M/s Indian Acrylics Ltd. and M/s Pasupati Acrylon Ltd. (hereinafter also referred to as “the Petitioners” or “the Domestic Industry”) have filed an application before the Designated Authority (hereinafter also referred to as “the Authority”) in accordance with the Act and the AD Rules, for initiation of anti-dumping investigation concerning imports of “Acrylic Fibre” (also referred to as “the subject goods”), originating in or exported from China PR, Belarus, Ukraine, EU and Peru (also referred to as “the subject countries”) and requested for levy of anti-dumping duties on the subject goods.

2. Whereas, the Authority, on the basis of prima facie evidence submitted by the Petitioners, issued a public notice vide Notification No. 14/50/2016 -DGAD dated 19<sup>th</sup> April, 2017 published in the Gazette of India, Extraordinary, initiating the subject investigations in accordance with the Rule 6(1) of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the subject countries, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.

**A. PROCEDURE**

3. The procedure described herein below has been followed by the Authority

with regard to this subject investigation:

- i. The Authority notified the embassies of the subject countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule 5(5) of the AD Rules.
- ii. The Authority issued a Notification dated 19<sup>th</sup> April, 2017, published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from the subject countries.
- iii. The Authority sent a copy of the initiation notification to the embassies of the subject countries in India, known producers/exporters from the subject countries, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification in accordance with Rule 6(2) of the AD Rules.
- iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, known importers and to the embassies of the subject countries in India in accordance with Rule 6(3) of the AD Rules.
- v. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject countries, whose details were made available by the applicant, to elicit relevant information in accordance with Rule 6(4) of the Rules:
  - a. Montefibre Spa, Italy (EU)
  - b. International Rayon and Synthetic Fibres Committee, Belgium
  - c. Acordis AG, Germany
  - d. Dralon GmbH, Germany
  - e. Markische Faser AG, Germany
  - f. International Rayon and Synthetic Fibres Committee, Belgium
  - g. Acordis UK Ltd.
  - h. Neftokhim Petrochemical Complex, Bulgaria
  - i. LUKOIL Company, Bulgaria
  - j. JSC POLYMIR, Belarus
  - k. Anqing Petrochemical, China PR
  - l. Pumica Trading Corpn Ltd., Latvia
  - m. Jilin Qifeng Chemical Fiber Co. Ltd., China PR
  - n. Jilin Jimont Acrylic Fiber Co. Ltd., China PR
  - o. Shanghai Petrochemical, China PR
  - p. Qilu Petrochemical, China PR
  - q. Sudamericana de Fibras S.A, Peru

vi. The Embassies of the subject countries in India were also requested to advise the exporters/producers from the subject countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.

vii. The following producers/exporters from the subject countries filed exporter's questionnaire response in the prescribed format:

- a. Sudamericana de Fibras S.A (Producer) – Peru
- b. Jilin Qifeng Chemical Fiber Co. Ltd. (Producer/Exporter)– China PR
- c. Sinopec Shanghai Petrochemical Co. Ltd. (Producer) – China PR
- d. China Jinshan Associated Trading Corporation(Exporter)– China PR
- e. Dralon GmbH, Germany (Producer/Exporter) – European Union
- f. Open Joint-Stock Company Naftan (Producer/Exporter)-Belarus

viii. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user associations, whose names and addresses were made available to the Authority, of subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):

- a. Rajasthan Spinning & Weaving Mills Ltd., New Delhi
- b. Vardhaman Spinning & General Mills, Ludhiana
- c. Deepak Spinners Ltd., Chandigarh
- d. Malwa Cotton Spinning Mills Ltd., Ludhiana
- e. Shiwaliya Spg. & Wvg. Mills (P) Ltd., Ludhiana
- f. Deepak Spinners Ltd. Solan Baddi
- g. Shiva Fabricator (P) Ltd., Ludhiana
- h. Supreme Tex Mart Ltd., Ludhiana
- i. Yogendra Worsted Ltd., Ludhiana
- j. Shree Rajasthan Syntex Ltd, Dungarpur
- k. Banswara Syntex Ltd., Banswara
- l. Ganga Acrowools Ltd., Ludhiana
- m. Shital Fibres Ltd., Jalandhar
- n. Arisudana Industries Ltd., Ludhiana
- o. Sportking India Ltd., Ludhiana
- p. Texas Woollen Mills (P) Ltd., Ludhiana
- q. Jindal Cotex Ltd., Ludhiana
- r. Garg Acrylics Ltd., Ludhiana
- s. Indian Spinners' Association, Mumbai
- t. Ludhiana Spinners Association, Ludhiana

ix. The following importers or consumers of the product have filed the importer's questionnaire response in the prescribed format:

- a. Ganga Spinning and Weaving Mills Ltd.
- b. Banswara Syntex Ltd., Banswara
- c. Vanaik Spinning Mills Ltd.

x. Submissions/ comments were filed by following parties during the course of the investigation :

1. Delegation of the European Union to India and Bhutan
2. Embassy of the Republic of Belarus, Embassy of Ukraine
3. Embassy of Peru
4. Dralon GmbH, Germany
5. Jilin Qifeng Chemical Fiber Co. Ltd., Sinopec Shanghai Petrochemical Co. Ltd. and China Jinshan Associated Trading Corporation from China PR
6. Sudamericana de Fibras S.A (Peru)
7. Open Joint-Stock Company Naftan Belarus
8. Indian Spinner Association, Punjab Spinners Association, Supreme NonWoven India Pvt. Ltd, Ganga Spinning and Weaving Mills Ltd, Ganga Acrowools Ltd, Banswara Syntex Ltd., and Vanaik Spinning Mills Ltd.

xi. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file, kept open for inspection by the interested parties as per Rule 6(7). Submissions made by all interested parties have been taken into account in the present disclosure statement.

xii. The Period of Investigation for the purpose of the present investigation has been considered from April 2016 – March 2017 (12 Months). The injury investigation period has been considered as the period April 2013 - March 2014, April 2014 - March 2015, April 2015 - March 2016 and the POI.

xiii. Additional/supplementary information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry and exporters/producers was conducted to the extent considered necessary for the purpose of the investigation.

xiv. The Non-Injurious Price (NIP) is based on the cost of production and cost to make and sell the subject goods in India based on the information furnished

by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD Rules. It has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

- xv. Information provided by the Directorate General of Commercial Intelligence and Statistics (DGCI&S) on transaction-wise basis for the past three years, and the period of investigation has been adopted for determination of volume and value of imports of product concerned in India.
- xvi. The Authority held an oral hearing on 12<sup>th</sup> March, 2018 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6(6) of AD Rules. All the interested parties who presented their views orally at the time of hearing were advised to file written submissions of the views expressed orally. The interested parties were also provided opportunity to offer rejoinder submissions to the submissions made by opposing interested parties.
- xvii. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this disclosure statement.
- xviii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xix. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded this disclosure statement on the basis of the facts available.
- xx. The Authority issued a disclosure statement under Rule 16 on 27<sup>th</sup> March, 2018 and provided an opportunity to give comments to the disclosure statement till 4<sup>th</sup> April, 2018.
- xxi. In this final findings, \*\*\* represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

xxii. The exchange rate adopted by the Authority during the POI for the subject investigations is 1 US\$= Rs 67.95.

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

4. The product under consideration for the purpose of present investigation is “Acrylic Fibre” (also referred to as “subject goods”).

### **B.1. Submissions made by Domestic industry**

5. The domestic industry has submitted as follows with regard to product under consideration and like article:

- a. Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile units (major raw material for production). The term Acrylic Fibre includes acrylic staple fibre, acrylic tow, and acrylic top, all of which are known as Acrylic Fibre in commercial parlance. The only difference between acrylic staple fibre and acrylic tow is the difference in length. In case of length more than 2 meters, it is known as tow and in case of cut lengths, it is known as staple fibre. All forms of acrylic fibre are within the scope of the product under consideration.
- b. Acrylic Fibre is lightweight, soft and warm with wool-like feel. It is very resilient and shows high resistance to acids and alkalies compared to other synthetics and natural fibres. Some varieties of acrylic fibre are used as less expensive alternative to cashmere wool due to the similar feeling of the materials. Acrylic Fibre is an economical substitute of wool. Acrylic fibre takes colour well, is washable, and is generally hypoallergenic.
- c. Acrylic Fibre is classified under chapter 55 of the Customs Tariff Act under the sub-heading 5501, 5503 and 5506 at 4-digit level. The product is covered under HS code 550130, 550330 and 550630 at six-digit levels and under 55013000 and 55033000 at eight-digit levels.
- d. Acrylic Fibre has application in day-to-day human life. Acrylic Fibre has variety of applications in apparel, household and industrial areas.
- e. Acrylic Fibre falls under Chapter 55 of the Customs Tariff Act under the category "Man Made Staple Fibres".
- f. Acrylic Fibres produced by the domestic industry should be treated as like article to the Acrylic Fibre imported from the subject countries in accordance with the Anti-dumping Rules.

## **B.2 Submissions made by other interested parties**

6. The following submissions are made by other interested parties:
  - i. The PUC should not cover lower quality grades or second grades as they are inferior in technical characteristics and by definition do not meet the technical criteria to be classified as the product under consideration.
  - ii. It has been submitted by M/s Supreme Nonwoven that Homo Polymer Acrylic Fibre being a speciality fibre having superior properties should be exempted from the proposed anti-dumping duty. They have further stated that there is no producer of Homo Polymer Acrylic Fibre in India and that this product was excluded in previous antidumping investigations in notifications issued in August 2002 and 20<sup>th</sup> November 2008.

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

7. The product under consideration is Acrylic Fibre. Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile units (major raw material for production). The term Acrylic Fibre includes acrylic staple fibre, acrylic tow and acrylic top, all of which are known as Acrylic Fibre in commercial parlance. The only difference between acrylic staple fibre and acrylic tow is the difference in length. In case of length more than 2 meters, it is known as tow and in case of cut lengths, it is known as staple fibre. All forms of acrylic fibre are within the scope of the product under consideration.

8. Acrylic Fibre is lightweight, soft, and warm, with a wool-like feel. Its fibres are very resilient and shows high resistance to acids and alkalies compared to both other synthetics and natural fibres. Acrylic Fibre is an economical substitute of wool.

9. Acrylic Fibre is classified under chapter 55 of the Customs Tariff Act under the sub-heading 5501, 5503 and 5506 at 4-digit level. The product is covered under under HS code 550130, 550330 and 550630. However, the customs classification is indicative only and in no way binding upon the product scope.

10. With regard to the issue of lower quality or second grades, the Authority notes that product cannot be excluded from the scope of the investigation merely on the quality grounds. Further, interested parties have not provided any evidence to demonstrate that these lower quality grades are not competing with the like article manufactured by the domestic industry. Therefore, Authority determines not to exclude these grades.

11. It is an admitted fact that the domestic industry does not manufacture Homopolymer Acrylic Fibre containing 100% Acrylonitrile. A letter from M/s Pasupati Acrylon Ltd. mentioning that they do not produce Homo Polymer Acrylic Staple Fibre too has been furnished. Therefore, the Authority determines to exclude “Homo Polymer Acrylic Fibre containing 100% Acrylonitrile” from the purview of the product under consideration.

12. After considering the information on record, the Authority holds that there is no known difference in the subject goods produced by the Indian industry and that exported from the subject countries. Subject goods produced by the Petitioners and that imported from the subject countries are comparable, in terms of product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Acrylic Fibre produced by the Domestic Industry is technically and commercially substitutable to the imported Acrylic Fibre. The Authority holds that the product under consideration produced by the applicant domestic industry is like article to the subject product under consideration imported from the subject countries. However, the Authority determines to exclude “Homo Polymer Acrylic Fibre containing 100% Acrylonitrile” from the purview of the product under consideration.

### **C. SCOPE OF DOMESTIC INDUSTRY & STANDING**

13. Rule 2(b) of the AD rules defines domestic industry as under:

*“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term, ‘domestic industry’ may be construed as referring to the rest of the producers.”*

#### **C.1. Submissions made by the Domestic industry**

14. Submissions made by the domestic industry in this regard are as follows:

- a. The Petition has been filed by M/s Indian Acrylics Ltd. and M/s Pasupati Acrylon Ltd.
- b. There is one other producer of the subject goods in India namely Vardhman Acrylics Ltd. Vardhman Acrylics Ltd. has imported significant volumes of subject goods from the Europe.

- c. Production of the Petitioners constitutes 78% of Indian production of the product under consideration.
- d. One of the Petitioners, Indian Acrylics Ltd., has imported the subject goods from Thailand under advance licenses against exports during the injury period.
- e. Petitioners are not related (either directly or indirectly) to any exporter or importer of product under consideration within the meaning of Rule 2(b).
- f. While Petitioners are not importers of the product under consideration from subject countries, Vardhman Acrylics Ltd. is a regular importer of product under consideration from the EU. Imports made by Vardhman Acrylics Ltd. are quite significant and are not for self-consumption. Petitioners have the standing whether Vardhman Acrylics is considered as an eligible or ineligible constituent of the domestic industry in view of its imports.

**C.2. Submissions made by other interested parties**

15. No submissions have been made by any of the interested parties in this regard.

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

16. The present application has been filed by M/s Indian Acrylics Ltd. and M/s Pasupati Acrylon Ltd. as the domestic producers of the product under consideration.

17. The Authority notes that the Petitioners are two of the three main producers of the subject goods in India. Production of the Petitioners constitutes 78% of Indian production of the product under consideration.

18. In view of the above facts, the Authority holds that the Petitioners constitute Domestic Industry in terms of Rule 2(b) of the AD Rules and satisfy the standing requirement in terms of Rule 5(3) of the AD Rules.

**D. CONFIDENTIALITY**

**D.1. Submissions made by the Domestic industry**

19. Submissions made by the domestic industry in this regard are as follows:

- a. Though one of the producers from Peru has filed the questionnaire response, the Petitioners are unable to make any comments on the same in view of excessive confidentiality claimed by the Peruvian producer.

## **D.2. Submissions made by the other interested parties**

20. Submissions made by other interested parties in this regard are as follows:

- a. Petitioners have not provided good cause statement as required under para 2.ii of Trade Notice No. 1/2009 in claiming confidentiality in respect of captive and export sales volume.
- b. Petitioners have claimed excessive confidentiality in respect of captive and exports sales volume without providing any basis for doing so.
- c. While volumes of both exports and captive sales have been mentioned in the original Petition, they have been claimed as confidential in the updated Annexures. The domestic industry has not provided indexed figures also against these parameters, and has resorted to such misuse of confidentiality.

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

21. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:

*“7. Confidential information- (1) Notwithstanding anything contained in sub rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated Authority on a confidential basis by any party in the course of investigation, shall, upon the designated Authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*

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

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

22. Information provided by the domestic industry as well as other interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to the other interested parties.

## **E. MISCELLANEOUS ISSUES**

### **E.1. Submissions made by the Domestic industry**

23. Submissions made by the domestic industry in this regard are as follows:

- a. Exporters from more than one country are dumping the subject goods in the Indian market. In terms of the provisions under Annexure II(iii) of the AD Rules, in case imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority should cumulatively assess the effect of such imports.
- b. Export price from the subject countries significantly differs in terms of customer and time period and therefore it is a fit case where weighted average normal value cannot be compared with weighted average export price. The Authority is requested to consider weighted average normal value and compare with individual export price and in all those import transactions where the dumping margin is negative, the same may be excluded for determination of dumping margin.
- c. Ukrainian imports should not be excluded from the scope of the investigation as it is well settled law that the injury analysis is undertaken considering the POI. The previous years are taken into account only to make a comparative analysis.
- d. Duties have to be imposed as and when there are instances of dumping activities. None of the interested parties have established how the imposition of duties will impact the downstream users.

### **E.2. Submissions made by other interested parties**

24. Submissions made by other interested parties in this regard are as follows:

- a. Imports from Belarus were only 2.94% of the total imports to India during the POI as per the petition. It has been rounded off to 3% at certain places in the Petition. Investigation against Belarus is bad in law and should be terminated immediately.

- b. Taiwan has been kept out of the scope of the present investigation. This is discriminatory and also frustrates the entire causal link analysis of injury. This situation also warrants termination of the present investigation in view of Rule 5(3).
- c. The data with regard to capacity and ability to raise capital investments submitted by the Domestic Industry in their Petition differs from and is contrary to the data in their Annual Reports.
- d. Conditions of inter-se competition between the subject goods imported into India and the conditions of competition between the subject goods imported into India and the like domestic product are not the same. Therefore a cumulative assessment would not be appropriate.
- e. The requirement for the Authority to conduct cumulative assessment stands vitiated on the fact that Taiwan is not included in the scope of subject countries and share of Belarus was below 3% in total imports at the time of initiation. Such being the case, any cumulative assessment shall only lead to distorted conclusions and a country wise examination including Taiwan should be done in the present case.
- f. The end-user industry is already reeling under margin pressures, and the prices offered by the domestic industry are not competitive. In the interest of these end-users, the domestic industry should not recommend any anti-dumping duty as it will lead to the closure of a large number of small scale users of the product under consideration.
- g. Imports from the European Union should not be included in the cumulative assessment of the effect of imports since the landed value of the product under consideration from the EU is the highest, the market share of imports from the EU has declined in the POI, and volume of imports from the EU has declined in the POI.
- h. In almost every anti-dumping investigation initiated since 1996, anti-dumping duties have been recommended and levied on imports of Acrylic Fibre, some of which are still in place. Thus the domestic producers of Acrylic Fibre have had more than adequate protection from imports vide anti-dumping duties.
- i. In the context that a lot of specialty grades have been imported, a PCN wise comparison may be made to ensure fairness in determination of dumping and injury margin. The product here involves multiple grades and types and at the best a PCN analysis is appropriate.

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

25. With regard to the various issues raised by the domestic industry and the other interested parties, the Authority notes as follows:

- a. With regard to the issue of imports from Belarus, the Authority notes that the actual volume of imports of the product under consideration from Belarus during the POI is more than 3% of the volume of all imports of the product under consideration. Therefore, there is no merit in the submission that the investigation against Belarus should be terminated in accordance with the AD Rules.
- b. With regard to the inclusion of Taiwan in the scope of investigations, the Authority notes that no arguments have been advanced or evidence produced to show that imports of the product under consideration from Taiwan are being dumped into India. Hence, there is no requirement to include Taiwan within the scope of this investigation.

### **F. MARKET ECONOMY TREATMENT (MET), NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

#### **Normal Value**

26. Under Section 9A(1)(c) of the Customs Tariff Act, 1975, as amended, the 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 articles in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*
  - a. *Comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
  - b. *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

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

#### **F.1. Submissions by the Domestic industry**

27. Submissions made by the domestic industry in this regard are as follows:

- a. One of the provisions of China PR's Accession Protocol has expired on 11th December, 2016. The Designated Authority may consider Chinese producers as producers operating in non-market economy conditions for the following reasons:
  - i. The investigation period proposed by the Petitioners in the present case is Jul 2016 to December 2016 (6 months). The injury investigation period has been proposed as the period 2013-14, 2014-15, 2015-16, April-June 2016, and the POI.
  - ii. The Chinese producers are required to be treated as non-market economy companies for the reasons that the costs and prices in China do not reasonably reflect the market forces.
  - iii. Chinese producers are required to be treated as non-market economy companies till such time the investigation period includes the period specified in China's Accession Protocol.
- b. China PR had agreed to be considered as non-market economy upto 11<sup>th</sup> December 2016, as per the Accession Protocol. Technically, China PR held NME status during the proposed injury period as well as the POI proposed in the present case. Therefore, there should be no change in the status of China PR in this investigation.
- c. Normal value in China PR, Belarus and Ukraine – Since they are non-market economies, the Authority should follow para 7 of Annexure I of the AD Rules.
- d. None of the exporters from Ukraine and Belarus have responded to the Exporters Questionnaire. Thus the normal value of these countries should be determined in accordance with the written submissions filed by the Petitioners and as per best available information.

- e. Petitioners have claimed determination of normal value in China PR, Belarus and Ukraine on the basis of regional prices of Acrylic Fibre prevailing in Asia (Far East) Region as per IHS Chemical reports for the proposed POI on CFR basis. The Authority may kindly apply ordinary course of trade test on these prices and ascertain that these prices are above full cost of production.
- f. Petitioners have been able to get evidence of delivered basis prices prevailing in West Europe region as per IHS Chemical reports and have adopted these prices as the basis for the normal value for the proposed POI. The Authority may kindly apply ordinary course of trade test on these prices and ascertain that these prices are above full cost of production.
- g. Petitioners have been able to get evidence of delivered basis prices prevailing in South America regions as per IHS Chemical reports and have adopted these prices as the basis for the normal value for the proposed POI. The Authority may kindly apply ordinary course of trade test on these prices and ascertain that these prices are above full cost of production.
- h. All those import transactions where the dumping margin is negative should be excluded for determination of dumping margin.

**F.2. Submissions made by other interested parties**

28. Submissions made by the foreign producers/exporters/other interested parties with regard to normal value are as under:

- a. The Authority should determine dumping margin by calculating the normal value and export price based on the Questionnaire response filed by the Exporters.
- b. Ukraine should be treated as Market Economy Country. India has already recognised Ukraine as market economy in cold rolled coils investigation.
- c. The export prices of Acrylic Fibre by OJSC Naftan are higher than the domestic selling prices of Acrylic Fibre in Belarus in the POI.
- d. The Republic of Belarus is a state with market economy. The Govt. of India has recognized Belarus as a market economy during the visit of President Mukherjee to Belarus in 2015.

- e. The exclusion of those transactions where the dumping margin is negative is a methodology known as zeroing which has been conclusively deemed to be inconsistent and in violation of the AD Agreement and the AD Rules.

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

29. The following producers/exporters from the subject countries have filed exporter's questionnaire:

- a. Sudamericana de Fibras S.A (Producer) – Peru
- b. Jilin Qifeng Chemical Fiber Co. Ltd. (Producer/Exporter)– China PR
- c. Sinopec Shanghai Petrochemical Co. Ltd. (Producer) – China PR
- d. China Jinshan Associated Trading Corporation(Exporter)– China PR
- e. Dralon GmbH, Germany (Producer/Exporter) – European Union
- f. Open Joint-Stock Company Naftan , Belarus

#### **a) Examination of Market Economy Claims and Normal Value**

30. Article 15 of China's Accession Protocol provides as follows:

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

*(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*

*(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*

*(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*

*(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SC M Agreement shall apply; however, if there are special*

*difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*

*(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*

*(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.”*

31. Article 15 implies that provisions of one of the sub-paragraph shall expire 15 years from date of China's Accession. The provisions of this sub-paragraph expired on 11<sup>th</sup> Dec., 2016. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone is relevant, appropriate and necessary for the purpose of present investigation. The Period of Investigation (POI) for the purpose of the present review is April 2016 to March 2017. Since the subparagraph of Article 15 was in existence during the period of investigation, the Authority is entitled to use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

32. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the Rules.

33. As per Paragraph 8, Annexure I to the AD Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provides information and sufficient evidence on the basis of the criteria specified in subparagraph (3) in Paragraph 8. The cooperating exporters/producers of the subject

goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:

- a. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values.
- b. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts.
- c. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms.
- d. The exchange rate conversions are carried out at the market rate.

#### **Determination of Normal Value for producers and exporters in China PR**

34. None of the exporters/producers from China PR have claimed market economy status. In the absence of any reliable price and cost details for the subject goods in any market economy third country, the normal value for China PR has been constructed considering optimum cost and consumption norms of the most efficient constituent of the domestic industry plus reasonable profit. The normal value so determined is provided in the Dumping Margin Table herein below.

#### **Determination of Normal Value for producers and exporters in Belarus**

35. Normal value for cooperating producer/exporter from Belarus is determined on the basis of information provided by the concerned producer/exporter as Belarus has been treated as market economy by the Government of India, which was conveyed to the Embassy of the Republic of Belarus vide letter no. 11/1/2013-FT(CIS) dated 10.06.2015 from the Department of Commerce, Ministry of Commerce and Industry, Government of India.

#### **Open Joint-Stock Company Naftan (Belarus)**

36. In view of questionnaire response from the producers/exporters in Belarus, normal value and dumping margin in case of responding producers and exporters has been determined on the basis of their questionnaire response.

37. From the Exporter Questionnaire response, the Authority notes that M/s Naftan, is a producer/exporter of the subject goods. As per information available in the exporter's questionnaire response, during the period of investigation, Naftan made \*\*\* MT domestic sales to unrelated customers. The ordinary course of trade (80:20) test conducted on the sales indicates that \*\*\* % of sales were profitable. The normal value of the subject goods in the POI therefore has been determined by taking average price of the profitable domestic sales in the subject country. No adjustments has been claimed from normal value by the company. The normal value is thus considered as \*\*\* USD/MT.

#### **Determination of Normal Value for producers and exporters in Ukraine**

38. The Authority notes that none of the producers/exporters from Ukraine have filed exporter questionnaire response. In view of non-cooperation from all the producer-exporters in Ukraine, the Authority has determined normal value on the basis of best available information in terms of Rule 6(8) and the same is indicated in the dumping margin table given below.

#### **Determination of Normal Value for producer/exporters from European Union**

##### **Dralon GmbH, Germany (Exporter/Producer)**

39. From the Exporter Questionnaire (EQ) response, the Authority notes that Dralon GmbH is a producer and exporter of the subject goods. Dralon has claimed normal value on the basis of sales made in the domestic market. As per information available in the EQ response, during the period of investigation Dralon made \*\*\* MT of domestic sales to unrelated customers. The ordinary course of trade (80:20) test conducted on the sales of Dralon indicates that \*\*\*% of the domestic sales are profitable. Therefore, normal value of the subject goods in the POI has been determined by taking average price of the profitable domestic sales in the subject country. Dralon has claimed adjustments on account of inland freight, packing cost, commission and credit cost. Authority has allowed the same after due verification and normal value is thus arrived as \*\*\* USD/MT.

#### **Determination of Normal Value for producers and exporters in Peru**

##### **Sudamericana de Fibras S.A, Peru (Producer)**

40. The Authority notes that Sudamericana de Fibras S.A from Peru has filed exporter questionnaire response.

41. From the Exporter Questionnaire (EQ) response, the Authority notes that Sudamericana de Fibras, Peru is a producer of the subject goods. Sudamericana de Fibras has claimed normal value on the basis of sales made in the domestic market. However, due to reasons given in subsequent paragraphs, normal value for Sudamericana de Fibras S.A has not been determined on the basis of the questionnaire response submitted by them but has been constructed on the basis of facts available.

**Determination of Normal Value for Non-cooperating producers and exporters from European Union, Belarus and Peru**

42. For the other producers/exporters of European Union, Belarus and Peru, normal value has been considered based on the facts available. Based on this the dumping margin is indicated in the dumping margin table.

**b) Export Price**

**Determination of Export Price for producers/exporters from China PR**

43. The Authority notes that the following producers/exporters from China PR have filed exporter questionnaire response:

- a. Jilin Qifeng Chemical Fiber Co. Ltd. (Producer/Exporter) – China PR
- b. Sinopec Shanghai Petrochemical Co. Ltd. (Producer) – China PR
- c. Jinshan Associated Trading Corporation (Exporter) – China PR

44. In view of questionnaire response from the producers/exporters in China PR, export price in case of responding producers and exporters has been determined on the basis of their questionnaire response.

**M/s Jilin Qifeng Chemical Fiber Co.Ltd.,(“Jilin”) (Producer/Exporter),China PR**

45. The Authority notes that Jilin has exported \*\*\* MT of the subject goods to India. All exports to India were made directly to unrelated Indian customers. Jilin had claimed adjustments on account of ocean freight, insurance, inland freight and port handling charges. The Authority has made further adjustments for bank charges and credit cost to determine net export price at ex-factory level. The ex-factory export price for Jilin is determined as \*\*\* USD/MT.

**M/s Sinopec Shanghai Petrochemical Co.,Ltd., (“Sinopec”) (Producer) and M/s Jinshan Associated Trading Corporation (Jinshan) (Exporter) China PR**

46. The Authority notes that Sinopec has exported \*\*\* MT of the subject goods to India directly and through related trader Jinshan. The related trader has exported 316 MT through another trader Xinhe Trading HK Limited based in HongKong. Xinhe Trading HK Limited has not cooperated with the Authority. Accordingly, Authority determines not to accept the response filed by Sinopec and Jinshan. The Authority has accordingly determined export price on the basis of facts available in terms of Rule 6(8) and the same is indicated in the dumping margin table given below.

**Determination of Export Price for producers/exporters from Belarus**

**Open Joint-Stock Company Naftan (Belarus)**

47. The Authority notes that Naftan has exported \*\*\* MT of the subject goods to India to unrelated customers in India. Naftan has not claimed any adjustment from the export price. All export sales to India were on FCA basis. Therefore, the Authority has made appropriate adjustments on account of inland freight, port handling charges, bank charges and credit cost to determine net export price at ex-factory level. The ex-factory export price is determined as \*\*\* USD/MT.

**Determination of Export Price for producers/exporters from European Union**

**Dralon GmbH (Producer/ Exporter)**

48. The Authority notes that Dralon GmbH has exported \*\*\* MT of the subject goods to unrelated customers in India. Dralon has claimed adjustments on account of ocean freight, insurance, inland freight, port handling charges, commission and credit cost to determine net export price at ex-factory level, and the Authority has allowed the same after due verification. The ex-factory export price is determined as \*\*\* USD/MT.

**Determination of Export Price for producers/exporters from Ukraine**

49. The Authority notes that none of the producers/exporters from Ukraine have filed exporter questionnaire response. In view of non-cooperation from all the producer-exporters in Ukraine, the Authority has determined export price on the basis of best available information in terms of Rule 6(8) and the same is indicated in the dumping margin table given below.

## **Determination of Export Price for producers/exporters from Peru**

### **Sudamericana de Fibras S.A, Peru (Producer)**

50. The Authority notes that Sudamericana de Fibras has sold \*\*\* MT of the subject goods to India. It is submitted by the producer that all exports to India were made directly to Indian customers. From the response filed by the producer, Authority notes that almost \*\*\* % of exports to India were made through Dubai based traders namely M/s. Trans Galactic Trading FZ and M/s. Lanas Fibras Limited. Further, from the sample documents provided by the company, it is noted that the export price reported by the producer is not matching with the values in export invoices. Therefore, the Authority decides to not accept the response of Sudamericana de Fibras. Accordingly, the export price for Sudamericana de Fibras has been determined on the basis of facts available.

### **Determination of Export Price for Non-cooperating producers and exporters from China PR, European Union, Belarus and Peru**

51. For the other producers/exporters of China PR, European Union, Belarus and Peru, the export value has been considered based on the facts available. Based on this the dumping margin is indicated in the dumping margin table.

#### **F.4. Calculation of Dumping Margin**

52. Comparing the aforesaid normal values and export prices as determined, the dumping margin proposed to be determined for the subject countries during POI are as follows:

**Dumping Margin Table**

Country	Producer	Exporter	Normal Value	Ex-factory Export Price	Dumping Margin	Dumping Margin	Dumping Margin
			US\$/MT	US\$/MT	US\$/MT	%	Range
China PR	M/s Jilin Qifeng Chemical Fiber Co.Ltd	M/s Jilin Qifeng Chemical Fiber Co.Ltd	***	***	***	***	0-10
China PR	All Others	All Others	***	***	***	***	0-10
Belarus	Open Joint-Stock Company Naftan	Open Joint-Stock Company Naftan	***	***	***	***	30-40

Country	Producer	Exporter	Normal Value	Ex-factory Export Price	Dumping Margin	Dumping Margin	Dumping Margin
Belarus	All Others	All Others	***	***	***	***	65-75
European Union	Dralon GmbH	Dralon GmbH	***	***	***	***	10-20
European Union	All Others	All Others	***	***	***	***	30-40
Ukraine	All	All	***	***	***	***	0-10
Peru	All	All	***	***	***	***	20-30

53. It is seen that the dumping margins are more than the de-minimis limits prescribed under the Rules in respect of exports made from each of the cooperating producers/exporters and non-cooperative producers/ exporters from subject countries.

#### **G. DETERMINATION OF INJURY AND CAUSAL LINK**

54. The Petitioners have alleged that the dumped imports from the subject countries are causing material injury to the domestic like product in India. Having determined that the goods are entering from the subject countries at dumped prices, the Authority proceeds to examine the degree and extent of injury, if any, suffered by the domestic industry.

55. Rule 11 of the Rules read with Annexure – II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... *taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....*”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

##### **G.1. Submissions made by the Domestic Industry**

56. Submissions made by the domestic industry in this regard are as follows:

- i. Landed price of subject goods has remained below the cost of sales as well as the selling price. Imports are suppressing/depressing the domestic prices.
- ii. Imports are resulting in significant price underselling as evidenced by the difference between the non-injurious price and landed price of imports.
- iii. Performance of the domestic industry has deteriorated in terms of production, capacity utilization, sales, inventories, profits, return on investments, cash flow, and market share.
- iv. The deterioration in performance of the domestic industry is more prominent in the POI on quarterly basis.
- v. Domestic industry has been prevented from utilizing its capacities to the fullest extent on account of continued dumped imports in the market from existing and fresh sources.
- vi. Market share of the domestic industry declined drastically over the injury period whereas that of subject countries has increased. Market share of Indian industry as a whole has also declined despite having sufficient capacity to cater to the demand.
- vii. Domestic industry is not in a position to make any fresh investments.
- viii. Anti-dumping duty is urgently required to be imposed on subject countries in order to prevent further deterioration of performance of the domestic industry.
- ix. The capacity utilization of any industry is seen for the production as a whole, since at the stage of production, the domestic and export production cannot be segregated.
- x. Employment and wages are not truly reflective factors of the injury being suffered by the domestic industry.
- xi. With regard to return on capital employed, domestic industry has claimed volume injury in the present case.
- xii. The dumping margin is positive and therefore the fact that the import prices declined due to raw material price decline is irrelevant. The domestic industry suffered adverse volume effect due to price undercutting and resultant increase in imports. As a direct consequence, the production, capacity utilization, market share, sales volumes declined and inventories increased.

- xiii. The ROI of the domestic industry over the injury period have been quite low. Further, the average ROI of the domestic industry since its inception have been quite low. The domestic industry has never paid dividend to the shareholders and is facing quite low credit ratings.
- xiv. Price undercutting should be determined only considering injurious import transactions. Petitioner's concern is not against non-injurious imports. Reference is made to the Hon'ble CESTAT's decision in *Kothari Sugars & Chemicals Ltd. vs. DA*. Reference is also made to WTO panel report in *EC – Tube or Pipe Fittings*.

## **G.2. Submissions made by the foreign producers/exporters/other interested parties**

57. Submissions made by the foreign producers/exporters/other interested parties in this regard are as follows:

- i. The domestic industry's claims of injury need extra scrutiny by the Authority as the facts show a robust situation.
- ii. Demand has not fallen per se. The exporters are capable of supplying specialty product given the divergent needs of the Indian users and the domestic industry's inability to cater to the demand for specialty grades should not be seen as an adverse implication for market share.
- iii. Profitability of domestic industry with regard to domestic sales has not declined rather has substantially increased. In fact, in 2015-16 and 2016-17, the domestic industry has made super profits. Similarly, cash profits, profit before interest and tax, and return on capital have substantially increased in the injury period.
- iv. Production and capacity utilization have significantly increased in the injury period. In fact, capacity utilization has settled at a high of 89% in the POI.
- v. Domestic sales have declined because domestic industry is diverting its production for export sales as can be seen from an increase in export sales value.
- vi. Decline in domestic industry's domestic sales volume can be explained by decline in total demand for the subject goods in India.
- vii. Annual Report of Pasupati Acrylon Ltd. itself states that it has taken a conscious decision to increase thrust on exports.

- viii. Petitioners' market share in India has declined due to increased focus on exports and decline in demand in domestic market.
- ix. Market share of Other Domestic Producer – Vardhman Acrylics Ltd, has remained more or less the same in spite of absolute increase in import volume from the subject countries. This shows that the Domestic Industry has not been as efficient and competitive as the other domestic producer.
- x. Market share of imports from the EU has decline in the POI in comparison to the base year.
- xi. The increase in Domestic Industry's inventory is due to increase in export sales. Increase in inventory must be assessed as a percentage of total sales volume.
- xii. Increase in import volume as a proportion of both production and consumption has been not more than 10% throughout the injury period, which cannot be considered significant at all.
- xiii. Share of subject imports as a proportion of overall imports is not a factor for determination of volume effect and hence of injury.
- xiv. Volume of imports from the EU has declined in the POI.
- xv. Petitioners' calculation of landed value is erroneous as customs duty and cess have been added to the CIF value instead of the assessable value, thereby resulting in a lower landed value.
- xvi. Though the landed value is the same in both the Original Petition and the revised Annexures for the years 2013-14, 2014-15, and 2015-16, the price undercutting range in the revised Annexures has been shown as 0-30%. Such a dramatic increase needs explanation. Further, the range of undercutting of 0-30% is too wide in comparison to an acceptable range of 5-10 points.
- xvii. Domestic industry has not reduced its domestic selling prices to the extent of the decline in raw material costs, which the exporters have done, thereby resulting in landed prices being lower than the domestic selling prices.
- xviii. Impact of imports from Taiwan is not segregated and it cannot be said that any alleged impact on various injury parameters is on account of imports from subject countries.
- xix. Landed value of imports from the European Union is the highest.

- xx. The Petitioner – Indian Acrylics Ltd. has cited demonetization as having affected growth in its Annual Report 2016-17.
- xxi. Decline in domestic sales volume in 2016 is due to warm winter and increase in preference of lower-priced leather jackets.
- xxii. The economic parameters such as salary and wages, employees, return on capital employed, and profit/(loss) demonstrate that the Petitioners have in fact seen a positive growth during the POI and hence cannot state that it is suffering injury.
- xxiii. The Appellate body in the European Communities – Anti-Dumping Duties On Imports Of Cotton-Type Bed Linen From India WT/DS141/AB/R dated March 1, 2001 held that the zeroing methodology is inconsistent with Article 2.4 and Article 2.4.2 of the AD Agreement
- xxiv. Hon'ble Tribunal's order in the case of Kothari Sugars & Chemicals Limited versus Designated Authority (2005 (187) ELT 185 Tri Del) that has been relied upon by the Petitioners cannot be considered in the present factual matrix. The Hon'ble Tribunal's order was based on the fact that the data from EU was incomplete and the imports were preventing a price increase
- xxv. It is reiterated that the performance of the petitioner especially profitability clearly establishes neither direct nor indirect link between the two i.e., domestic industry's performance and importation of subject goods. It is also pertinent to mention here that the profitability of the petitioners were at their lowest when the imports from the subject countries were at its lowest (i.e., during the base year) but the same increased significantly over the injury period including POI despite alleged increase in alleged dumped imports from subject countries. This clearly proves that the import from the subject countries has not impacted on the profitability of the petitioners' or its commercial performance.
- xxvi. The decline in volume parameters, when the DI could admittedly maintain its prices at robust margin levels cannot be presumed to have been caused by alleged dumped imports.
- xxvii. It can be seen that all the parameters that existed in Playing Cards case are almost similar as the parameters existing in Acrylic Fibre case. Thus, in view of the above, the Anti-Dumping Duty should not to be continued and present investigation should be terminated on the same grounds.

xxviii. The decline in volume parameters when the domestic industry could admittedly maintain its prices at robust margin levels cannot be presumed to have been caused by alleged dumped imports.

xxix. An objective examination of injury necessitates examination of overall position of the domestic industry including the price parameters which would show that there is no injury as envisaged in the AD Rules. If a holistic view of the case is taken then there is no case of injury demonstrated by the domestic industry.

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

#### **a) Cumulative Assessment**

58. Annexure II (iii) of the AD Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that: -

- a) the margin of dumping established in relation to the imports from each country/ territory is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries is less than three percent, the imports cumulatively accounts for more than seven percent 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 articles.

59. In the present case, the margin of dumping from each of the subject countries have been found to be more than the de minimis limit prescribed; the volume of dumped imports from each of the subject countries is more than the limits prescribed; and the exports from the subject countries directly compete inter se and with the like goods offered by the domestic industry in the Indian market. Cumulative assessment of the effects of the dumped imports is appropriate in the light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product. The Authority, therefore, considers it appropriate to cumulatively assess the effect of dumped imports from the subject countries.

#### **b) Examination of Injury Parameters**

60. The Authority has taken note of the submissions made by the interested parties. The Authority has examined the submissions made by the domestic

industry and other interested parties with regard to the injury in accordance with the Antidumping Rules.

**i. Assessment of Demand and Market Share**

61. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed is given in the table below.

Demand	Unit	2013-14	2014-15	2015-16	POI
Sales of Domestic Industry	MT	52,739	41,655	48,200	37,749
Sales of Other Producers	MT	20,616	20,620	20,585	18,333
Imports - Subject Countries	MT	12,596	14,215	16,270	17,951
Import - Other Countries	MT	19,523	17,257	18,493	13,445
Total Demand	MT	1,05,203	93,746	1,03,548	87,479
Market Share	%				
Domestic industry	%	50	44	47	43
Other Producers	%	20	22	20	21
Subject countries	%	12	15	16	21
Other Countries	%	18	18	18	15
Total	%	100	100	100	100

62. The Authority notes that the demand for the product under consideration has decreased in the POI. Demand has declined from 2013-14 to 2014-15, before increasing in 2015-16. However, there is decline in demand in the POI as compared to 2015-16 and also earlier years. The market share of the domestic industry has declined from 50% in 2013-14 to 44% in 2014-15. It then increased slightly to 47% in 2015-16 before again declining to 43% in the POI.

63. The market share of the other domestic producer has more or less remained stable during the injury period.

64. Market share of the subject countries on the other hand has increased from 12% in the base year to 15% in 2014-15 to 16% in 2015-16 and then to 21% in the POI.

**Volume and Price Effect of the dumped imports on the Domestic industry**

**ii. Volume Effect: Import Volume and share of subject countries**

65. With regard to volume of the dumped imports, the Authority has examined whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. The volume of imports of the subject goods from the subject countries have been analyzed as under:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Import Volumes					
China	MT	23	1,529	2,737	2,989
Belarus	MT	2,185	2,613	1,322	1,023
European Union	MT	10,388	10,073	12,034	9,357
Ukraine	MT	-	-	-	2,195
Peru	MT	-	-	177	2,387
Subject Countries	MT	12,596	14,215	16,270	17,951
Countries attracting ADD	MT	11,274	12,683	13,670	10,656
Other Countries	MT	7,979	4,573	4,823	2,790
Total	MT	31,848	31,471	34,763	31,397
Market Share in Imports					
China PR	%	0.07	4.86	7.87	9.52
Belarus	%	6.86	8.30	3.80	3.26
European Union	%	32.62	32.01	34.62	29.80
Ukraine	%				6.99
Peru	%			0.51	7.60
Subject Countries	%	39.55	45.17	46.80	57.18
Countries attracting ADD		35.40	40.30	39.32	33.94
Other Countries	%	25.05	14.53	13.87	8.88
Total	%	100.00	100.00	100.00	100.00
Demand	MT	1,05,203	93,746	1,03,548	87,479
Indian Production	MT	88,211	85,220	1,01,386	90,869
Subject Imports in relation to					
Demand	%	12	15	16	21
Indian Production	%	14	17	16	20

66. The Authority notes that the volume of dumped imports of the product under consideration have increased in absolute terms as well as in relation to consumption and production in the country, throughout the injury period, except during 2015-16 when it marginally declined in relation to the production as compared to previous year.

67. Share of imports from the subject countries as a whole in relation to the total imports into India has increased to 57.18% in the POI from 39.55% in the base year.

**iii. Price Effect of dumped imports and impact on the domestic industry**

68. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in normal course.

69. Accordingly, the impact on the prices of the domestic industry on account of dumped imports of the subject goods from the subject countries has been examined with reference to price undercutting, price suppression/depression and price underselling, if any. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed price of imports from subject countries.

**Price Undercutting**

70. Price undercutting has been determined by comparing the landed price of imports from the subject countries with the net sales realisation of the domestic industry in India.

Particulars	Unit	2013-14	2014-15	2015-16	POI
Net Sales Realization	Rs/MT	***	***	***	***
<b>Subject Countries as a whole</b>					
Landed Price	Rs/MT	1,64,370	1,71,432	1,33,021	1,15,383
Price undercutting	Rs/MT	***	***	***	***
Price undercutting %	%	***	***	***	***
Price undercutting	Range	Negative	Negative	0-10	10-15
<b>BELARUS</b>					
Landed Price	Rs/MT	1,81,152	1,81,901	1,34,812	1,08,167
Price undercutting	Rs/MT	***	***	***	***
Price undercutting %	%	***	***	***	***
Price undercutting	Range	Negative	Negative	0-5	15-20
<b>CHINA PR</b>					

Particulars	Unit	2013-14	2014-15	2015-16	POI
Landed Price	Rs/MT	2,36,374	1,67,059	1,30,136	1,18,984
Price undercutting	Rs/MT	***	***	***	***
Price undercutting %	%	***	***	***	***
Price undercutting	Range	Negative	0-5	0-5	0-10
<b>EUROPEAN UNION</b>					
Landed Price	Rs/MT	1,60,682	1,69,380	1,33,618	1,18,619
Price undercutting	Rs/MT	***	***	***	***
Price undercutting %	%	***	***	***	***
Price undercutting	Range	0-5	Negative	0-5	0-10
<b>UKRAINE</b>					
Landed Price	Rs/MT	-	-	-	1,17,680
Price undercutting	Rs/MT	-	-	-	***
Price undercutting %	%	-	-	-	***
Price undercutting	Range	-	-	-	5-15
<b>PERU</b>					
Landed Price	Rs/MT	-	-	1,23,702	99,173
Price undercutting	Rs/MT	-	-	***	***
Price undercutting %	%	-	-	***	***
Price undercutting	Range	-	-	0-10	20-30

71. It is seen from the table above that the landed price of imports from the subject countries are undercutting the domestic selling prices in the POI.

### **Price Suppression / Depression**

72. In order to determine whether the dumped imports are suppressing or depressing the domestic prices, the Authority notes the changes in the costs and prices over the injury period. The position is shown as per the table below:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Cost of Sales	Rs/MT	***	***	***	***
<i>Indexed</i>		<i>100</i>	<i>104</i>	<i>76</i>	<i>73</i>
Selling Price	Rs/MT	***	***	***	***
<i>Indexed</i>		<i>100</i>	<i>103</i>	<i>84</i>	<i>81</i>
Landed Price from subject countries	Rs/MT	***	***	***	***
<i>Indexed</i>		<i>100</i>	<i>104</i>	<i>81</i>	<i>70</i>

73. The cost of sales has declined by 27% in the POI as compared to base year whereas the Petitioners have decreased the selling price only by 19% in the POI. So, imports have had no suppressing effect on the domestic selling price. The landed price of imports from subject countries has been above the cost of sales of the domestic industry throughout the injury investigation period and also during the POI.

**Price underselling**

74. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject countries. It is noted that there has been price underselling only from Belarus and Peru during the POI on account of dumped imports. There has been no price underselling from China PR, EU and Ukraine during the POI as can be seen in the table below:

Particulars	Unit	China PR	Belarus	EU	Ukraine	Peru
Non-Injurious Price	Rs/MT	***	***	***	***	***
Landed price of imports in POI	Rs/MT	1,18,984	1,08,167	1,18,619	1,17,680	99,173
Price Underselling	Rs/MT	***	***	***	***	***
Price Underselling	%	***	***	***	***	***
Price Underselling	Range%	Negative	0-10	Negative	Negative	0-20

**G.4. Examination of economic parameters relating to the domestic industry:**

75. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like products. With regard to consequent impact of these imports on domestic producers of like products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth and ability to raise capital investments.

76. Accordingly, various economic parameters of the domestic industry are analyzed herein below:

**a) Capacity, Production and Capacity Utilization & Sales**

77. The Authority has considered capacity, production, capacity utilization and sales volume of the domestic industry over the injury period and notes as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Capacity	MT	81,600	81,600	81,600	81,600
Production	MT	67,783	64,425	80,706	72,536
Capacity Utilisation	%	83	79	99	89
Domestic Sales	MT	52,739	41,655	48,200	37,749
Demand	MT	1,05,203	93,746	1,03,548	87,479

78. It is noted from the table above that:

- i. The domestic industry has maintained the same level of capacity over the entire injury period and POI.
- ii. While production declined in 2014-15, it increased significantly in 2015-16, before declining again in the POI. Capacity utilization increased to 99% in 2015-16 before settling at 89% in the POI.
- iii. The volume of domestic sales decreased in 2014-15 before increasing in 2015-16 and again decreasing in the POI.

**b) Market Share of Domestic industry in demand**

79. The effects of the dumped imports on the market share of the domestic industry have been examined as below. It is noted that barring slight increase during 2015-16, the market share of the domestic industry has decreased throughout. The market share of the other domestic producer, Vardhman Acrylics Ltd., however has remained at more or less the same level.

<b>Market Share</b>	Unit	2013-14	2014-15	2015-16	POI
Domestic Industry	%	50	44	47	43
Other Producer	%	20	22	20	21
Subject Countries	%	12	15	16	21
Other Countries (including countries attracting ADD)	%	18	18	18	15
Total	%	100	100	100	100

**c) Stock/inventories**

80. The Authority further notes that the average inventory levels of the domestic industry has shown increasing trend. However, the inventory levels cannot be considered in isolation and hence the Authority deems it necessary to examine the same with the volume of total sales.

Particulars	Unit	2013-14	2014-15	2015-16	POI
Average Inventory	MT	***	***	***	***
<i>Trend</i>		100	117	143	172
Total Sales	MT	68,762	62,834	81,314	70,589
Inventory as a proportion of total sales	%	***	***	***	***
<i>Trend</i>	%	3%-5%	3%-5%	3%-5%	3%-5%

81. Inventory as a proportion of total sales has increased only by a small percentage during the POI. The average inventory level is equivalent to approximately half a month's production only.

**d) Profits, Cash Profits and Return on Capital Employed**

82. Performance of the domestic industry was examined in respect of profits, cash profits and return on capital employed.

Particulars	Unit	2013-14	2014-15	2015-16	POI
Cost of Domestic Sales	Rs/MT	***	***	***	***
<i>Indexed</i>		100	104	76	73
Selling Price	Rs/MT	***	***	***	***
<i>Indexed</i>		100	103	84	81
Profit / Loss	Rs/MT	***	***	***	***
<i>Trend</i>		100	87	322	320
Profit / Loss	Rs. Lacs	***	***	***	***
<i>Trend</i>		100	69	294	229
Cash Profit	Rs. Lacs	***	***	***	***
<i>Trend</i>		100	68	217	170
Profit before Interest & Tax	Rs. Lacs	***	***	***	***
<i>Trend</i>		100	73	212	165
Return on Capital Employed	%	***	***	***	***

Particulars	Unit	2013-14	2014-15	2015-16	POI
<i>Trend</i>		<i>100</i>	<i>79</i>	<i>239</i>	<i>176</i>

83. It is noted from the table above that:

- i. Profits/ MT has increased substantially in the POI and the preceding year (2015-16).
- ii. Cash profits have improved considerably during 2015-16 before registering a slight decline in the POI. However, even after the slight decline, cash profits in the POI are much above the cash profit in the base year.
- iii. Return on capital employed has improved significantly in the injury period.
- iv. Return on capital employed has been well above the standard 22% allowed by the Authority while determining the NIP throughout the injury investigation period including POI.
- v. Return on capital employed during the POI was as high as in the range of 50%-60%.

**e) Employment and Wages**

84. It is seen from the table below that the number of employees has witnessed marginal increase in 2015-16 and POI. Salaries and wages paid by the domestic industry have however increased in greater proportion.

Particulars	Unit	2013-14	2014-15	2015-16	POI-A
Employment	Nos	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>100</i>	<i>103</i>	<i>106</i>
Salary and Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>108</i>	<i>116</i>	<i>146</i>

**f) Growth**

85. Examination of growth parameters of the domestic industry during the injury period is shown below.

Growth	Unit	2013-14	2014-15	2015-16	POI
Production	%	-	-4.95	25.27	-10.12
Sales	%	-	-21.02	15.71	-21.68
Capacity Utilization	%	-	-4.82	25.32	-10.10
Profit/Loss per unit	%	-	-12.67	268.19	-0.46
Return on Capital Employed	%	-	-21	160	-63
Market Share - DI	%	-			

**g) Level of Dumping and Dumping Margin**

86. The dumping margin in respect of each of the subject countries is not only more than de-minimis but also significant.

**h) Factors affecting domestic prices**

87. The selling prices of the domestic industry has not been affected by dumped imports from the subject countries because there is no price suppression. The domestic industry is earning healthy profits and return on capital employed. The selling price of the domestic industry during POI was significantly more than the NIP determined by the Authority.

**i) Ability to raise fresh Investment**

88. The Authority notes that the domestic industry is earning healthy profits and healthy return on capital employed, therefore it has the ability to raise fresh investments.

**G.5. Magnitude of Injury And Injury Margin**

89. The non-injurious price of the subject goods produced by the domestic industry when compared with the landed value of the exports from the subject country shows the position as under :

Country	Producer	Exporter	NIP US\$ per MT	Landed Value US\$ per MT	Injury Margin US\$ per MT	Injury Margin INR per MT	Injury Margin %
			US\$/MT	US\$/MT	US\$/MT	%	Range
China PR	M/s Jilin Qifeng Chemical Fiber Co.Ltd	M/s Jilin Qifeng Chemical Fiber Co.Ltd	***	***	***	***	(10)-0
China PR	All Others	All Others	***	***	***	***	(10)-0
Belarus	Open Joint- Stock Company Naftan	Open Joint- Stock Company Naftan	***	***	***	***	0-10
Belarus	All Others	All Others	***	***	***	***	15-25
European Union	Dralon GmbH	Dralon GmbH	***	***	***	***	(15)-0

Country	Producer	Exporter	NIP US\$ per MT	Landed Value US\$ per MT	Injury Margin US\$ per MT	Injury Margin INR per MT	Injury Margin %
European Union	All Others	All Others	***	***	***	***	(5)-0
Ukraine	All	All	***	***	***	***	(10)-0
Peru	All	All	***	***	***	***	5-15

## **H. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES**

90. The post disclosure submissions have been received from the interested parties. Majority of the issues raised therein have already been raised earlier during the investigation and also addressed appropriately. Additional submissions have been analysed as under:

### **H.1. Submissions by the domestic industry**

91. The Domestic Industry has made the following submissions:

- i. Homo polymer is also acrylic fibre and is not a separate product and should not be excluded from the PUC. There has been no exclusion in the scope of the PUC by the Authority in several investigations conducted in the past.
- ii. The POI in the present investigation is within the year 2016, which is well before the expiry of China's Accession Protocol. In any case, the provisions of Article 15(a)(i) of the Accession Protocol are still applicable and must be considered for determination of normal value for China.
- iii. The Authority has constructed the normal value based on best available information and have considered cost of production of the domestic industry for the same. However, the earlier submitted evidence of price of Acrylic Fibre prevailing in Asia (Far East) Region as per IHS Chemical report has not been considered. There is no reasoning in the disclosure statement as to why such information cannot be accepted and the hierarchy laid down under the law should not be followed.
- iv. The import volume has increased despite a decline in demand. This fact is sufficient to hold that the domestic industry has suffered injury.

- v. The volume of subject imports constitutes significant share of imports into India and such share, as a whole, to the total imports into India has increased to 57.18% in the POI from 39.55% in the base year.
- vi. The prior submission that price undercutting should be determined considering only those transactions whose landed price of imports is below the selling price of the domestic industry, though noted by the Authority, has not been examined.
- vii. The cost of sales increased till 2014-15 but declined thereafter. The selling price of the domestic industry also followed the same trend but the landed price of the subject goods remained below the cost of sales as well as the selling price.
- viii. In determination of price effect, the AD rules have an “OR” as a requirement and not “AND” between suppression/depression and price undercutting.
- ix. The domestic industry’s production has improved till 2015-16 and declined thereafter in the POI. Sales have declined significantly over the injury period and the decline is much more than the decline in demand. Capacity utilization has declined as compared to the year preceding the POI.
- x. The Authority is requested to correlate various parameters relating to the domestic industry, while concluding adverse volume effect in the present case. Imports have not followed the trend of demand. Even when demand declined, imports increased.
- xi. Inventories have increased both in absolute terms and in proportion to domestic sales. The legal requirement is whether performance of the domestic industry deteriorated in respect of inventories. There was no reason for the domestic industry to increase its inventories when its production and sales were falling.
- xii. The domestic industry has been forced to suspend production and suffered heavily due to decline of production and sales. It would also be seen that there is a direct correlation between decline in production and increase in inventories
- xiii. The domestic industry’s market share has declined drastically over the injury period whereas that of the subject countries has increased. Market share of Indian industry as a whole has also declined despite having sufficient capacity to cater to the demand.

- xiv. The domestic industry's profitability, cash profit and return on investment has improved. Thus, the effect of dumping is not visible on these parameters. The domestic industry withheld price declines partially at the time of reduction in raw material prices in view of its long adverse performance with regard to profits.
- xv. The continued/renewed dumping/long history of dumping from various sources has not given the Petitioners a single chance to recover from the ill effects of such continuous dumping and pay dividends to its shareholders even once.
- xvi. The wages paid and number of employees has increased in the injury period. These are not solely dependent on the performance of the subject goods, and are governed by overall operations of the company and the economy. They may not reflect the adverse impact of dumping.
- xvii. The domestic industry is not in a position to make any fresh investments as it is facing dumping of imports from various countries.
- xviii. The average import price from subject countries is much lower than the non-injurious price of the domestic industry showing significant injury margin.
- xix. The imports of the PUC from other countries are negligible, both in volume and value, and imports from Thailand are already attracting duty. Almost 57% of imports are from subject countries.
- xx. There is a decline in demand of the subject product. However, imports from subject countries have increased in the injury period including POI, thus, causing material injury to the domestic industry in a situation of declining demand.
- xxi. In past investigation such as viscose staple fibre, front axle beam; wherein the demand for the PUC had declined; the Authority held that the increase in imports in a situation of decline in demand established that dumping has caused injury to the domestic industry.
- xxii. Detailed breakup of NIP has to be disclosed by the Authority.
- xxiii. The NIP considered by the Authority has been quite low thereby resulting in an unduly low injury margin.

- xxiv. The Authority may disclose the non-confidential version of the verification report of the exporters/producers from the subject countries to offer meaningful comments on the dumping margin calculated.
- xxv. The disclosure statement gives an impression that the following have been considered as facts, whereas these are parameters: trends in import volume; price effect; cumulative assessment of injury. Essential facts under consideration with regard to injury to the domestic industry have not been disclosed in the disclosure statement.
- xxvi. The form of anti-dumping duty should be fixed quantum of anti-dumping duty.
- xxvii. The anti-dumping duty should be imposed in terms of US\$ in the final determination. Rupee has depreciated significantly and therefore, the definitive duties may kindly be expressed in US\$.

## **H.2. Submissions by other interested parties**

- 92. The following submissions have been made by producers/exporters/importers/other interested parties:
  - i. The downstream industry is forced to import several types of speciality acrylic fibres on account of non-availability/non-manufacturing of the same by any domestic producer. The need and requirement of specific types of Acrylic Fibre for the production of downstream goods of specific quality/characteristic is not governed by the import price but on account of specific speciality acrylic fibre.
  - ii. These speciality fibres are required for qualities like anti-piling, soft and lustrous look etc. which is not possible to achieve by using acrylic fibre produced by Indian producers. Hence, the import of these speciality fibres should be kept out of the scope of PUC for the purpose of instant investigation.
  - iii. There are differences between the first quality grades and the lower quality grades. These cannot be considered as “like articles” because they are different with respect to technical and commercial substitutability, product specifications, functions and end-uses, end-user requirement and pricing. The Authority may exclude Second Grade from the scope of the PUC.

- iv. The normal value of OJSC Naftan should be determined on the basis of information provided in the questionnaire because Belarus was recognized by the Government of India as a country with a market economy.
- v. OJSC Naftan disagrees with the dumping margins calculated by the Authority. According to the information sent by OJSC Naftan in the questionnaire, the dumping margin is negative. Thus, the investigation against acrylic fibre produced by OJSC Naftan should be terminated.
- vi. The Authority is requested to take into account the submissions made by Sudamericana de Fibras S.A in order to calculate the export price rather than merely construct it. Accordingly, Sudamericana may also be granted an individual margin of dumping and injury.
- vii. A negative injury margin has been calculated for China PR, European Union and Ukraine. This indicates that only 19% of the subject imports are below non-injurious price. There is no cause for injury to be caused by those low-priced imports, which are above the NIP.
- viii. While the point-to-point analysis of the trend of imports shows that the imports have increased, the trend of increased imports is not established during the entire injury period (for FY 2015-2016 there is dip in the imports into India).
- ix. Given the fact that there is no injury margin for imports originating from China PR, European Union and Ukraine (comprising more than 75% of total imports from subject countries) the volume and price effect do not establish a causal link between injury to the domestic industry and the low-priced imports from subject countries.
- x. There is an inherent contradiction in the manner in which the conclusion on underselling has been arrived. The disclosure statement states that there is underselling in the prices of PUC, however the table shows that there is no underselling from more than 75% of the imports in India from subject countries.
- xi. There is a pattern of fixed increase and decrease in capacity utilization of the domestic industry.
- xii. Since major financial parameters such as profits, cash flows and return on capital employed have substantially improved, the economic indicators do not provide a substantive evidence as to existence of injury to the domestic industry.

- xiii. The Disclosure Statement does not provide any analysis on the impact of such duties on the users / importers. If duty is levied on Acrylic Fibre then the cost of spinning companies for acrylic yarn will increase.
- xiv. The impact of duty will have to be absorbed by the ailing spinning industry since the weavers and knitters (end users of acrylic yarns) do not have alternative sources available from sources outside India.
- xv. The import volume of acrylic fibre produced by Belarusian companies has decreased and does not cause any injury to the domestic industry, or threat thereof.
- xvi. The imposition of anti-dumping duty on imports of the PUC will harm the users and lead to the closure of a large number of small end-users of the PUC.
- xvii. The production, capacity utilization and sales has moved in accordance with the market trend over the injury period.
- xviii. There is contraction in demand for the PUC in the POI as compared to 2015-16. The market share of the domestic industry has followed a similar trend. The domestic industry's market share is also required to be seen in the light of inter-se fibre competition and need for speciality fibre by the user industry.
- xix. While determining volume effect, the Authority must note that the increase in subject imports is largely on account of necessity for speciality fibre for production of speciality yarn in order to remain relevant in the increasingly competitive market due to free availability of imported material on account of various FTAs with the countries like Thailand, Bangladesh, Sri-Lanka etc.
- xx. A simple comparison of NSR with landed price in India will not give a true account as regard to price-undercutting as the Petitioners' domestic selling prices are significantly higher than the NIP.
- xxi. The domestic industry has resorted to premium pricing in domestic market to subsidise their export sales and such examination of price under-cutting with significantly higher price of the domestic industry would result in a skewed analysis and distorted picture.
- xxii. There is neither price suppression/depression nor price underselling. The imports have shown no impact on the pricing of the petitioners' performance in this respect.

- xxiii. The domestic industry's sales performance is required to be analysed keeping in view the contraction of demand and inter-se fibre competition.
- xxiv. The decline in market share is also required to be seen in light of contraction of demand, inter-se fibre competition and need for importation of speciality fibre which is other-wise not produced domestically.
- xxv. Only 20% of the total imports in the POI was from Belarus and Peru and the rest were from EU, Ukraine and China PR. In such a scenario, any decision to still slap anti-dumping duties on Belarus and Peru based on the positive IM on paper would be illogical and irrational given the fact that the domestic industry did not suffer any material injury.
- xxvi. The domestic producers in India lag in production technology and are incapable of producing speciality fibres. As a result, the user industry is forced to import the same for the purpose of staying relevant in the market in the background of stiff competition due to various FTAs
- xxvii. There is a direct conflict of interest between the Indian producers of Acrylic Fibre and user industry in India. The domestic industry shares a dual relationship with the user industry i.e., that of client and competitor. The domestic industry is charging higher prices for subject goods from the user industry not only to earn higher profits but also to gain an economic edge over user industry in the downstream market as well, which certainly qualifies as both restrictive as well as anti-competitive practices.
- xxviii. Cognizance should have been taken with regard to imports from Taiwan which were much higher than the imports from Belarus. The share of imports from Taiwan stood at about 5% in total imports and the price from Taiwan was lower than the price of the subject goods from subject countries.
- xxix. Without prejudice, should the domestic industry still claim injury on account of imports from subject countries, they need to first establish why imports from Taiwan were not causing any injury though they were above de-minimis levels and also at lower prices comparable to subject countries.
- xxx. With regard to the inclusion of Taiwan in the scope of investigations, the Authority notes that no arguments have been advanced or evidence produced to show that imports of the product under consideration from Taiwan are being dumped into India. Hence, there is no requirement to include Taiwan within the scope of this investigation.

- xxxi. Sudamericana de Fibras S.A has complied with the confidentiality requirements as per AD Rules and trade notices. Therefore, the Petitioner's excessive confidentiality claims made with respect to Sudamericana should be disregarded.

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

93. The examination by the Authority for the issues raised above and considered relevant is as under:

- i. The product under consideration is Acrylic Fibre. It is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile units (major raw material for production). The term Acrylic Fibre includes acrylic staple fibre, acrylic tow and acrylic top, all of which are known as Acrylic Fibre in commercial parlance. The only difference between Acrylic staple fibre and Acrylic tow is the difference in length. In case of length more than 2 meters, it is known as tow and in case of cut lengths, it is known as staple fibre.
- ii. Acrylic Fibre is lightweight, soft, and warm, with a wool-like feel. Its fibres are very resilient and shows high resistance to acids and alkalis compared to both natural and other synthetics fibres. Acrylic Fibre is an economical substitute of wool.
- iii. Acrylic Fibre is classified under chapter 55 of the Customs Tariff Act under the sub-heading 5501, 5503 and 5506 at 4-digit level. The product is covered under HS code 550130, 550330 and 550630. However, the customs classification is indicative only and in no way binding upon the product scope.
- iv. With regard to the issue of lower quality or second grades, the Authority notes that product cannot be excluded from the scope of the investigation merely on the quality grounds. Further, interested parties have not provided any evidence to demonstrate that these lower quality grades are not competing with the like article manufactured by the domestic industry. Therefore, Authority determines not to exclude these grades.
- v. It is an admitted fact that the domestic industry does not manufacture Homopolymer Acrylic Fibre containing 100% Acrylonitrile. A letter from M/s Pasupati Acrylon Ltd. mentioning that they do not produce Homo Polymer Acrylic Staple Fibre too has been furnished. Therefore, the Authority determines that the scope of the product under consideration is all forms of Acrylic Fibre except Homo Polymer Acrylic Fibre containing 100% Acrylonitrile.

- vi. After considering the information on record, the Authority intends to hold that there is no known difference in the subject goods produced by the domestic industry in India and that exported from the subject countries. Subject goods produced by the Petitioners and that imported from the subject countries are comparable, in terms of product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Acrylic Fibre produced by the Domestic Industry is technically and commercially substitutable to the imported Acrylic Fibre. The Authority proposes to hold that the product under consideration produced by the applicant domestic industry is like article to the subject product under consideration imported from the subject countries. However, the Authority holds that “Homo Polymer Acrylic Fibre containing 100% Acrylonitrile” should be excluded from the purview of the product under consideration.
- vii. No evidence has been adduced by any of the interested parties to show that the domestic producers lag in production technology and are incapable of producing speciality fibres. Therefore, it is not shown that possible injury to the domestic industry could have been caused by developments in technology.
- viii. With regard to the claim concerning market economy status, Authority notes that none of the exporters/producers from China PR has claimed market economy status. Normal value for China PR has been constructed considering optimum cost and consumption norms of the most efficient constituent of the domestic industry plus reasonable profit in terms of the provisions under the Anti-Dumping Rules and the consistent practice of the Authority.
- ix. With regard to the submission made by OJSC Naftan regarding their dumping margin determination, the Authority notes that the dumping margin for OJSC Naftan has been determined in accordance with the Anti-Dumping Rules.
- x. With regard to the submission made by Sudamericana de Fibras S.A for determining individual dumping and injury margin for them, the Authority notes that it is not possible for the Authority to determine individual dumping and injury margin because of non-participation of all the parties involved in export chain to India.
- xi. With regard to the inclusion of Taiwan in the scope of investigation, the Authority notes that no arguments have been advanced or evidence

produced to show that imports of the product under consideration from Taiwan are being dumped into India. Hence, there is no requirement to include Taiwan within the scope of this investigation.

- xii. As regards existence of injury due to increase in imports and decline in demand, Authority observes that examination of injury involves examination of all factors relevant under Annexure II of the Anti-dumping Rules.
- xiii. With regard to the submission that price undercutting should be determined by considering only transactions whose landed price of imports is below the selling price of the domestic industry, Authority observes that it is the established practice of the Designated Authority that price undercutting analysis is undertaken taking into account all the import transactions.
- xiv. As regards the claim that NIP determined by the Authority should be disclosed, Authority notes that detailed calculation of NIP was disclosed to the domestic industry along with the disclosure statement.
- xv. As regards the claim that verification report of the exporters/producers should be disclosed, Authority notes that such verification reports contain confidential information of the exporters and such report is not disclosed by the Authority in any anti-dumping investigation.
- xvi. With regard to confidentiality of information, Authority has examined the confidentiality claims of the interested parties. The Authority has considered the claims of confidentiality made by the petitioners and the opposing interested parties and on being satisfied about the same, the Authority has allowed the claim on confidentiality. The Authority had made available to all interested parties the public file containing non-confidential version of evidences submitted by various interested parties for inspection, upon request as per Rule 6(7).
- xvii. As regards the claim that disclosure statement should disclose conclusion reached by the Authority on injury parameters, Authority notes that disclosure statement is issued in accordance with Rule 16 of the Anti-dumping rules by which it has informed all interested parties of the essential facts under consideration which would form the basis of the final decision.
- xviii. Authority has noted the submissions made by the domestic industry and other interested parties with regard to injury in accordance with Anti-dumping Rules. The Authority notes that profits, cash profits and return on

capital employed of the domestic industry have substantially improved over the injury period. Return on capital employed during the POI was as high as in the range of 50%-60%. The selling price of the domestic industry for subject goods during POI was significantly more than the NIP determined by the Authority. The imports have had no suppressing effect on the domestic selling price.

- xix. The Authority further notes that even though there has been an increase in the volume of dumped imports from the subject countries in absolute terms and in relation to production and consumption in India, the landed price of subject goods during POI from China PR, EU and Ukraine has been above the NIP determined by the Authority for the domestic industry. Imports from these three subject countries account for approximately 81% of the total imports of subject goods from all the subject countries taken together. Therefore, approximately 81% of the imports from all the subject countries taken together cannot be said to be causing injury to the domestic industry.
- xx. On a holistic analysis of all the injury parameters, it can be concluded that the domestic industry is not suffering material injury as contemplated under the Anti-Dumping Rules.

#### **G.6. Conclusions on Injury**

94. Considering various parameters relating to material injury provided under the Anti-Dumping Rules, the Authority concludes as follows:

- a. There has been an increase in the volume of dumped imports from the subject countries in absolute terms and in relation to production and consumption in India. Dumping margin from the subject countries is also positive and significant. However, landed price of subject goods during POI from China PR, EU and Ukraine has been above the NIP determined by the Authority for the domestic industry. Imports of subject goods from these three subject countries account for approximately 81% of the total imports from all the subject countries taken together. Therefore, approximately 81% of the imports from all the subject countries taken together cannot be said to be causing injury to the domestic industry. The imports from subject countries have also not caused any kind of price suppression for the domestic industry.
- b. The landed price of imports from subject countries has been above the cost of sales of the domestic industry throughout the injury investigation period and also during the POI.

- c. While capacity of the domestic industry has remained at the same level during the injury period, the other parameters like production, capacity utilization and market share of the domestic industry have followed a fixed pattern of decrease and increase in alternate years.
- d. Profits, cash profits and return on capital employed have substantially improved over the injury period.
- e. Return on capital employed during the POI was as high as in the range of 50%-60%.
- f. The selling price of the domestic industry for subject goods during POI was significantly more than the NIP determined by the Authority.

95. Based on the above, the Authority concludes that the domestic industry is not suffering material injury during the POI in terms of the relevant provisions under the Anti-Dumping Rules.

#### **H. CAUSAL LINK AND OTHER FACTORS**

96. As the Authority has concluded that the domestic industry is not suffering any material injury during the POI, the Authority is not undertaking causal link and non-attribution analysis.

#### **I. RECOMMENDATION**

97. Having examined the contentions of various interested parties and on the basis of above facts, circumstances and analysis, the Authority concludes that the domestic industry is not suffering material injury in terms of the provisions enshrined under the Anti-Dumping Rules. In view of the above, the Authority does not consider it appropriate to recommend levy of anti-dumping duty on the imports of subject goods from subject countries and hereby terminates this investigation in accordance with Rule 14(b) of the Anti-Dumping Rules.

#### **J. FURTHER PROCEDURE**

98. An appeal against the order of the Central Government that may arise out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

**(Sunil Kumar)**  
Additional Secretary & Designated Authority