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**F. No. 6/25/2019-DGTR
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF TRADE REMEDIES
Jeevan Tara Building, 5, Parliament Street, New Delhi-110001**

Dated 01st September, 2020

NOTIFICATION

FINAL FINDINGS

Case No. (OI) 18/2019

**Subject: Final Findings in anti-dumping investigation concerning imports of
“Acrylic Fibre” originating in or exported from Belarus, European Union,
Peru and Ukraine**

A. BACKGROUND OF THE CASE

Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also 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, 1995, as amended from time to time, (hereinafter also referred to as the “Rules”) thereof:

1. The Designated Authority (hereinafter referred to as ‘Authority’) received a joint application dated 3rd September, 2019 from M/s Indian Acrylics Limited, M/s Pasupati Acrylon Limited and M/s Vardhman Acrylics Limited requesting initiation of anti-dumping duty (ADD) investigation under the Act and the Rules on imports of ‘Acrylic Fibre’, (hereinafter also referred to as ‘subject goods’ or ‘product under consideration’ or ‘PUC’) originating in or exported from Belarus, European Union, Peru and Ukraine (hereinafter referred to as ‘subject countries’).
2. The Authority, on the basis of prima facie evidence submitted by the Applicants, issued a public notice vide Notification No. 6/25/2019 -DGTR dated 24th September, 2019, published in the Gazette of India, initiating the subject investigation in accordance with Rule 5 of the Rules to determine 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.

B. PROCEDURE

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:

- a. 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 investigation in accordance with Sub-Rule (5) of Rule 5 supra.
- b. The Authority issued a public notice dated 24th September 2019 published in the Gazette of India Extraordinary, initiating the anti-dumping investigation concerning imports of the subject goods.
- c. 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 Applicants and requested them to make their views known in writing within 40 days of the initiation notification.
- d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules supra.
- e. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their 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.
- f. The Authority sent Exporters questionnaires to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules:
 - i. Montefibre Spa, Italy
 - ii. Acordis AG, Germany
 - iii. Markische Faser AG, Germany
 - iv. Pumica Trading Corp Ltd., Latvia
 - v. LUKOIL Company, Bulgaria
 - vi. International Rayon and Synthetic Fibres Committee, Belgium
 - vii. Dralon GmbH, Germany
 - viii. Neftokhim Petrochemical Complex, Bulgaria
 - ix. Polymir, Republic of Belarus
 - x. JSC Polymir, Republic of Belarus
- g. In response, the following exporters/producers from the subject countries filed exporter's questionnaire response:
 - i. Dralon GmbH, Germany

- ii. Sudamericana De Fibras S.A., Peru (SDEF)
 - iii. OJSC, Naftan, Republic of Belarus
- h. The Authority sent Importer's/User's Questionnaires to the following known importers/users of product under consideration in India calling for necessary information in accordance with Rule 6(4) of the Rules:
- i. Rajasthan Spinning and Weaving Mills Ltd.
 - ii. Deepak Spinner Limited
 - iii. Shiwaliya Dpg. And Wvg Mills (P) Ltd.
 - iv. Shiva Fabricator (P) Limited
 - v. Yogendra Worstedi Limited
 - vi. Banswara Syntex Limited
 - vii. Shital Fibres Limited
 - viii. Sportking India Limited
 - ix. Vardhman Spinning and General Mills
 - x. Malwa Cotton Spinning Mills Ltd.
 - xi. Deepak Spinner Limited
 - xii. Supreme Tex Mart Limited
 - xiii. Shree Rajasthan Syntex Limited
 - xiv. Ganga Acrowools Limited
 - xv. Arisudana Industries Limited
 - xvi. Texas Woollen Mills (P) Limited
 - xvii. Jindal Cotex Limited
 - xviii. Garg Acrylics Limited
 - xix. Indian Spinners' Association
 - xx. Ludhiana Spinners Association
- i. In response, the following importers/users have responded and filed importer's questionnaire response:
- i. Ganga Acrowools Ltd.

- ii. Ganga Spinning and Weaving Mills Ltd
 - iii. Garg Acrylics Ltd.
 - iv. Lakshmi spinner
 - v. Longowalia yarns limited
 - vi. Luxmi Spinning mills pvt.ltd
 - vii. Oswal Woolen Mills Ltd
 - viii. Paramount Syntex Private Limited
 - ix. Ramji Acro Limited
 - x. Sharman Woolen Mills Ltd
 - xi. Shiv Woolen Mills
 - xii. Shiwalya Spinning and weaving mills(p) ltd.
 - xiii. Shree Ganesh Acro Yarns Pvt. Ltd
 - xiv. Sportking India Limited
 - xv. Udey Udyog
 - xvi. Venus Texspin Ltd
- j. The Ludhiana Spinners Association, Northern India Textile Mills' Association and European Man-Made Fibres Association also made submissions during the course of the investigation which have been incorporated and duly addressed in these Final Findings.
- k. The Authority made available non-confidential version of the evidences presented by various interested parties in the form of a public file for inspection by interested parties.
- l. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of product under consideration for the past three years, and the period of investigation. The same was provided by DGCI&S to the Authority. The Authority has relied upon the DGCI&S transaction-wise data for computation of the volume of imports and other relevant analysis.
- m. The Non-Injurious Price (NIP) has been determined based on the cost of production and cost to make & sell the product under consideration 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 Rules so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- n. Verification of the information provided by the Applicants, to the extent deemed necessary, was carried out by the Authority. Only such verified information with

- necessary rectification, wherever applicable, has been relied upon for the purpose of present Final Findings.
- o. Verification of the information provided by the producers/exporters, to the extent deemed necessary, was carried out by the Authority and has been relied upon for the purpose of present final findings.
 - p. The Period of Investigation (POI) for the purpose of the present anti-dumping investigation is from April 2018 to March 2019 (12 Months). The injury investigation period has however, been considered as the period from 2015-2016, 2016-2017, 2017-2018 and the POI.
 - q. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 28th May, 2020. Subsequently, another oral hearing was held on 16th July, 2020 on account of change of the Designated Authority. All the parties who had attended the oral hearing were provided an opportunity to file written submissions, followed by rejoinders, if any.
 - r. The arguments made in the written submissions/rejoinders received from the interested parties have been considered in the present final findings.
 - s. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority in this final findings.
 - t. 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.
 - u. 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 the Final Findings on the basis of the facts available.
 - v. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 21st August, 2020 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings.
 - w. *** in these Final Findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
 - x. The exchange rate adopted by the Authority for the subject investigation is US\$ 1 = ₹70.82.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. The product under consideration is Acrylic Fibre of all types (hereinafter referred as subject goods). Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile which is a major raw material for production of acrylic fibre. The term acrylic fibre includes acrylic staple, acrylic tow and acrylic top. In other words, acrylic staple fibre, acrylic tow and acrylic top are known as acrylic fibre in the commercial parlance.
5. Subject goods are classified under Chapter 55 of Customs Tariff Act, 1975 under the subheading 5501, 5503 and 5506 at 4-digit level. The product is covered under tariff heading 55013000, 55033000 and 55063000 of the Customs Tariff. The customs classification is indicative only and not binding on the scope of investigation.

C.1. Submissions made by the Domestic Industry

6. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
 - a. The PUC in the present investigation is *“Acrylic Fibre of all types. 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, acrylic tow and acrylic top. In other words, acrylic staple fibre, acrylic tow and acrylic top are known as acrylic fibre in the commercial parlance.”*
 - b. The PUC is classified under chapter 55 of Customs Tariff Act, 1975 under the subheading 5501, 5503 and 5506 at 4-digit level. The product is covered under HS code 55013000, 55033000 and 55063000.
 - c. There is no significant difference in goods produced by the domestic producers and the subject goods exported from the subject countries, and they are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods. The domestic producers produce like article to the PUC.
 - d. There is no justification for exclusion of Homopolymer Acrylic Fibre containing 100% Acrylonitrile and the domestic industry strongly objects to this request for exclusion. The domestic industry can produce and supply the product. It is the consumers who have preferred to import the material rather than asking the domestic industry to provide the material.
 - e. Import of about 1500 MT Acrylic fibre waste has been reported from Peru alone. This implies excessive waste generation. India is the only dumping ground available to producers in subject countries to dump their waste production. The technology employed by producers in subject countries is the same as the technology employed by the domestic producers. The waste generation of domestic producers is much lower.

C.2.Submissions made by other interested parties

7. The submissions made by the exporters, importers, users and other interested parties with regard to product under consideration and like article, and considered relevant by the Authority, are as follows:
- a. Sudamerican De Fibras, a producer from Peru, has submitted that it does not export the PUC to India. The products produced and exported by the producer to India, i.e. synthetic waste or acrylic soft waste fall under the definition of "Acrylic Fibre Waste", which is different from the defined scope of the PUC.
 - b. The products exported by the Peruvian producer fall under a different HS Code, i.e. 5505 with the heading "Waste (including noils, yarn waste, and garneted stock) of Man-Made Fibres". The HS Code has not been covered in the product scope in the present investigation.
 - c. The HS Codes mentioned in the initiation are indicative only and the imposition of duty (if any) would be on the determined PUC. However, it is submitted that acrylic waste falls outside the scope of the PUC, as the products are technically distinct and are different products altogether from that of the PUC.
 - d. It is the consistent practice of the Authority to rely upon critical parameters while determining likeness between the imported products and the domestic industry's product. Such critical parameters are: physical and chemical characteristics, product specifications, manufacturing process and production technology including plant and equipment, functions and end-uses, end-user requirement, end-user perception, distribution and marketing, technical and commercial substitutability.
 - e. In a recent investigation, the Authority had specifically excluded certain grades from the scope of the investigation as the domestic industry did not show equivalence of its grades with the grades that were sought to be excluded by the exporters from the subject countries therein.
 - f. There is technical difference in terms of weight, length, moisture, resistance, processability and colour between Acrylic Waste exported to India and Domestic Industry's Products.
 - g. The difference between acrylic waste and the PUC is not of quality. The difference is symptomatic of deeper technical and commercial differences between these products.
 - h. Acrylic Waste possesses completely different specifications. For example, (i) sub-standard product are those products which do not meet the technical specifications of first quality products; (ii) second quality products are irregular blend of products and not classifiable by colour, or processing condition etc.
 - i. It is not possible to produce good quality yarns or fabrics with Acrylic Waste. From example, they are used to produce second quality blankets. The end-use of acrylic waste is very different from the PUC.
 - j. If an end-user would require first quality grade, it would not substitute the same for a lower quality grade as the lower quality grade would not be able to fulfil the specifications and technical requirements of said end-user.

- k. The pricing of Acrylic Waste is much lower than the first quality grades produced by the domestic industry, or the first quality grades produced by the Peruvian Producer itself.
- l. In the Final Findings for '*Anti-Dumping investigation concerning imports of Acrylic Fibre, originating in or exported from China PR, Belarus, Ukraine, EU and Peru*' dated 16th April, 2018, the Authority accepted the submissions made by the interested parties with regard to the exclusion of "Homopolymer Acrylic Fibre containing 100% Acrylonitrile" from the scope of the PUC.
- m. Domestic Industry still continues to not produce Homopolymer Acrylic Fibre containing 100% Acrylonitrile and the same should be excluded from the scope of the PUC in the present investigation as well.
- n. It is a settled position of law and also the consistent practice of the Authority to exclude any product which is not being produced by the domestic industry from the scope of the PUC.
- o. The importers of acrylic fibre confirm that they never imported any acrylic fibre waste as acrylic fibre. The import of acrylic waste as per DGCI&S shared by the domestic industry shows that import of acrylic waste from Ukraine and Belarus was NIL during the POI. An import of about *** MT is seen from Peru at a rate of INR ***/kg and some *** MT from Germany at a price of INR ***/kg. This is when import of acrylic fibre from EU was at a price of INR ***/kg and INR ***/kg from Peru.
- p. The domestic industry understands that the injury margin shall be negative in the present case, and it believes that adding Acrylic Waste to the PUC will increase the injury margin.
- q. Imports of waste have been taking place for years, and no such contention was made in any of the previous investigations.
- r. Belarus sells really small volumes of white acrylic tow under Customs code 550130, which is not a like product to 'acrylic fibre' in general.
- s. Nitron-D Fibre bale weight is about 200-230 kg. The tow of the first sort may not have more than two breaks in a bale.
- t. The petition of the domestic industry failed to give details of the product manufactured by the domestic industry. A petition must include the complete description of the product under consideration.
- u. There are substantial differences in the technological process of acrylic fibre manufacturing between OSJC Naftan and the domestic industry. Indian Acrylics uses the dry spinning process of DuPont Company and Vardhman Textiles Ltd. used the process of Japan Exlan that is suspension polymerization process. This leads to difference in costs. Only Pasupati uses a process similar to OJSC, i.e. SNIA Italy. However, none of the companies have their own monomer feedstock production, which OJSC has. They bear the risks and expenses of purchasing acrylonitrile and methyl acrylate.

C.3. Examination by the Authority

8. The product under consideration is Acrylic Fibre of all types. 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 terms acrylic fibre includes acrylic staple, acrylic tow and acrylic top. In other words, acrylic staple fibre, acrylic tow and acrylic top are known as acrylic fibre in the commercial parlance.
9. Subject goods are classified under Chapter 55 of Customs Tariff Act, 1975 under the subheading 5501, 5503, and 5506 at 4-digit level. The product is covered under Tariff Item 55013000, 55033000, and 55063000 of the Customs Tariff. The customs classification is indicative only and not binding on the scope of the investigation.
10. The domestic industry has requested for inclusion of acrylic fibre waste within the scope of PUC. Other interested parties have made submissions that acrylic fibre waste should not be included the scope of the PUC on account of following broad reasons:
 - a. The imported acrylic fibre waste and domestic produced products are not like articles.
 - b. First grade acrylic fibre is not substitutable by acrylic fibre waste due to low quality and cheaper price. Acrylic fibre waste is used for low end items.
 - c. There is no direct competition between acrylic fibre waste and acrylic fibre products.
 - d. There are technical differences between acrylic fibre waste and acrylic fibre products.
 - e. Second quality products are irregular blend of products and not classifiable by colour, or processing condition.
 - f. The pricing of Acrylic Fibre Waste is much lower than the first quality grades as produced by the domestic industry.
11. With regard to like articles, Rule 2(d) of the Rules provides as under:

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.

12. The Authority has examined the submissions on record. The domestic industry has primarily asked for relief against dumped imports of Acrylic Fibre of all kinds. Acrylic fibre is primarily used in the apparel industry to make sweaters, tracksuits, linings, etc. It is also used in the production of carpets and furnishing fabrics. The Authority notes that acrylic fibre waste, having different technical and physical characteristics, cannot be used interchangeably with acrylic fibre. Acrylic fibre waste is used in the production of low quality pillows and mattresses, manufacturing of acrylic base adhesives and paints, etc. The need of acrylic fibre cannot be fulfilled by acrylic fibre waste. The Authority notes that the applications, uses, physical attributes, markets of competition, and customs classification of acrylic fibre waste and acrylic fibre are completely different. As pointed out by the interested parties, the difference between the two products is not merely that of

quality. In such a situation, it would be inappropriate to expand the scope of the PUC to include acrylic fibre waste.

13. With regard to the increased chances of circumvention by way of misdeclaration of acrylic fibre as acrylic fibre waste, the Authority notes that mis-classification of imported products does not fall within the scope of the present investigation. In the event acrylic fibre is imported as acrylic fibre waste, the specialized agencies mandated to deal with such mis-declaration/ misclassification of imported goods can be approached. It is not appropriate to expand the scope of the PUC to include a separate product in order to protect the domestic industry from mis-declared imported goods. Therefore, the Authority holds to not include acrylic fibre waste within the scope of the PUC.
14. With regard to the exclusion of Homopolymer Acrylic Fibre containing 100% Acrylonitrile from the scope of the PUC, the Authority notes that it is an admitted fact that the domestic industry does not manufacture Homopolymer Acrylic Fibre containing 100% Acrylonitrile. Therefore, the Authority holds to exclude "Homo Polymer Acrylic Fibre containing 100% Acrylonitrile" from the purview of the product under consideration.
15. It has also been argued that 'White Acrylic Tow' does not fall under the ambit of the PUC. In this regard, it is noted that there are no firm physical attributes or technical distinctions that differentiate this product from the PUC. The Authority holds not to exclude 'White Acrylic Tow' from the scope of PUC.
16. After considering the information on record, the Authority holds that there is no known difference between the subject goods produced by the Indian industry and that exported from the subject countries. Subject goods produced by the domestic industry and those 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.
17. The Authority defines the PUC as follows:

"Acrylic Fibre of all types, excluding Homo Polymer Acrylic Fibre containing 100% Acrylonitrile 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 terms acrylic fibre includes acrylic staple, acrylic tow and acrylic top. In other words, acrylic staple fibre, acrylic tow and acrylic top are known as acrylic fibre in the commercial parlance. Subject goods are classified under Chapter 55 of Customs Tariff Act, 1975 under the subheading 5501, 5503, and 5506 at 4-digit level. The product is covered under Tariff Item 55013000, 55033000 and 55063000 of the Customs Tariff. The customs classification is indicative only and not binding on the scope of the investigation."

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the Domestic Industry

18. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & standing are as follows:
- a. The petition for initiation of the investigation was filed by M/s Indian Acrylics Limited, M/s Vardhman Acrylics Limited (VAL) and M/s Pasupati Acrylon Ltd. The production of applicant companies constitutes 100% of Indian production of the subject goods in the country, as there are no other producers of the subject goods in India.
 - b. The domestic industry is not related to any exporter in the subject countries of the dumped article within the meaning of Rule 2(b). The Applicants have not imported the alleged dumped article.
 - c. Except for VAL, none of the applicants are related to exporters of product concerned in subject countries or importers in India. VAL is not related to the exporters in subject countries, but is related to importer of product concerned, i.e. Vardhman Textiles Limited, who has imported the subject goods from one of the subject countries. The related importer has not traded the product but has imported for captive consumption.
 - d. The imports of the related company constitute only a small proportion of the Indian production and the Indian demand.
 - e. The volume of imports by the related company of Vardhman Acrylic Limited is not significant so as to disentitle Vardhman Acrylic Limited from being treated as eligible domestic industry.
 - f. VAL is a domestic producer of the PUC and has the right to seek an anti-dumping duty on account of the injury suffered by it.

D.2. Submission made by other interested parties

19. The submissions made by various interested parties with regard to scope of domestic industry & standing are as follows:
- a. It is submitted that since VAL is related to an importer of the PUC from the subject countries, it should not be considered as a constituent of the domestic industry.
 - b. According to Rule 2(b) of the AD Rules, a domestic industry includes domestic producers as a whole who are engaged in the production of PUC or domestic producers whose collective output of PUC constitutes a major proportion of total domestic production of the PUC, except when such producers are related to the exporters or importers of the alleged dumped PUC or are themselves importers thereof.
 - c. In the past, VAL has imported substantial quantities of the PUC itself.
 - d. It is acknowledged that the Authority has the discretion to include any producer who is an importer or related to subject country producer/importer of the PUC. However, it is submitted that this discretion is not unfettered, and if the Authority chooses to exercise

such discretion, it must do so in observance of due process and the principles of natural justice.

- e. The Authority must determine if Vardhman has made any imports of the PUC and if so, in what amounts. The Authority has allowed producers who are importers of PUC to constitute domestic industry only in limited instances wherein imports made by the domestic producer were in minor quantities from subject countries or wherein imports were insignificant when compared to the total Indian production and the total imports into the country or wherein imports were made for bonafide reasons or wherein imports were made from non-subject countries.
- f. The Authority must also determine if Vardhman Textile Limited has made negligible or substantial imports of the PUC from the subject countries in relation to imports of the PUC in India as well as in relation to Indian production & consumption and the production of Vardhman Acrylics Limited.
- g. The Authority should have provided sufficient reasons in the initiation for the inclusion of VAL within the scope of the domestic industry.
- h. In the most recent investigation with respect to Acrylic Fibres from China PR, Belarus, Ukraine, EU and Peru, the domestic industry constituted of M/s. Indian Acrylics Limited and M/s. Pasupati Acrylon Ltd.
- i. It was submitted by these two applicants that VAL was *“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.”*
- j. The Authority must examine the volume and value of imports by Vardhman and its related importer in the POI and the periods preceding the POI of the current investigation. We submit that a producer who is an importer of the subject goods or is related to an importer of the subject goods does not qualify as a constituent of the domestic industry.
- k. It is submitted that a producer who has imported the subject goods or is related to an importer of the subject goods, at allegedly dumped prices, can be said to have inflicted the alleged injury upon the other constituents of the domestic industry. At the same time, it could have “shielded” itself from any ill-effects of the alleged dumping, by benefitting from the purchase, use and sale of the allegedly dumped goods. In such a case, the Authority must (i) consider the impact of such imports on the state of the domestic industry as a contributing factor to injury, as well as (ii) exclude such imports which are self-inflicted from the volume of imports under consideration.
- l. In the final finding issued in 2018, it was found that from 2015-16 to 2016-17, the cost of sales had actually decreased. However, the present petition data shows an increase in cost of sales from 2015-16 to 2016-17.
- m. In the previous investigation the Profit per unit remained almost same during the years 2015-16 and 2016-17. However, the present petition data shows that profit per unit has reduced by 31 indexed points from 2015-16 to 2016-17.

- n. Domestic Industry calls its affiliate's imports 'good imports' and imports by others are termed as 'bad and harmful' imports.
- o. The imports by the domestic industry's affiliate would constitute a substantial share in the total imports of the PUC from the subject countries into India.
- p. In the previous investigation, VAL itself had imported around *** MT from Germany in the POI (2016-17).

D.3. Examination by the Authority

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

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

- 21. The Authority notes that the application in the present investigation has been filed by M/s. Indian Acrylic Limited, M/s Pasupati Acrylon Ltd. and M/s. Vardhman Acrylics Limited, as domestic producers of the product under consideration. The Applicants have provided relevant information for the initiation of this investigation.
- 22. The Authority notes that Vardhman Acrylics Limited is related to one of the importers of the PUC from the subject countries, i.e. M/s. Vardhman Textiles Ltd. Imports made by M/s. Vardhman Textiles Ltd. during POI in relation to their own production, imports into India and demand in India in the POI are as under:

Parameter	Unit	Volume	Range
Total Imports from subject countries	MT	19,459	
Total Imports from other countries	MT	15,386	
Total imports by M/s Vardhman Textiles Ltd.	MT	***	
Total imports into India	MT	34,846	
Demand (Excluding Captive)	MT	96,765	
Share of imports in % by M/s. Vardhman Textiles Ltd. with regard to:			
Imports into India from subject countries	%	28.5	20-30%
Production of Vardhman Acrylics Ltd.	%	***	20-30%
Demand in India	%	5.7	0-10%

- 23. In the POI of the subject investigation, M/s Vardhman Textiles Ltd.'s share of imports of the subject goods in the total imports from subject countries is quite significant being in the range of 20%-30%. In view of this significant level of imports made by M/s. Vardhman Textiles Ltd, which is a related party of M/s. Vardhman Acrylics Ltd., the Authority does not consider it appropriate to include Vardhman Acrylics Ltd. as a part of the Domestic Industry. The Authority, therefore, holds to exclude Vardhman Acrylics Ltd. from the scope of the Domestic Industry.
- 24. Indian Acrylics and Pasupati Acrylon account for 100% of the total Indian Production excluding production of Vardhman Acrylics Ltd. On the basis of the above, the Authority

holds that M/s. Indian Acrylics Ltd. and M/s. Pasupati Acrylon Ltd. constitute a 'major proportion' of total Indian production of the like product and they satisfy the requirements of 'standing' under Rule 5 of the Rules and constitute 'Domestic Industry' in terms of Rule 2(b) of the Rules.

E. ISSUES RELATING TO CONFIDENTIALITY

E.1. Submissions made by the Domestic Industry

25. The following submissions have been made by the domestic industry with regard to confidentiality issues:

- a. The exporter questionnaire response filed by Dralon GmbH claims excessive confidentiality with regard to information already available at public sources such as the website of the producer. The company on its website, has published the step by step detailed production process along with a flowchart. However, this has been claimed confidential in its submissions. The company has also disclosed the annual installed capacity on its website, however the same has been provided in trends in the questionnaire response.
- b. SDEF, Peru has completely disregarded the practice and procedure of the Authority and has claimed the following information as confidential, in excess to the provisions of the Trade Notice 10/2018:
 - i. Channel of marketing of goods in home market
 - ii. Channel of marketing of goods in India market
 - iii. Description and specification of product
 - iv. Channel of distribution for exports to India
 - v. Channel of distribution for sale in home market
 - vi. Sales Negotiation process
 - vii. Post invoicing discounts/rebates
 - viii. List of products sold
- c. SDEF has claimed complete confidentiality to all mandated questions in Section F: Domestic Sales and Section G: Information on production process and cost of production.
- d. SDEF has also not provided any information in the Appendix 1: Performance Parameters in trends as mandated by the Trade Notice. It has claimed all particulars as confidential and has not provided any information in the Appendix.
- e. Publicly available information has also been claimed confidential by SDEF, such as the product description and input from related parties.

- f. Applicants have disclosed all the essential information in the non-confidential version of the application in accordance with Rule 7 of Rules and Trade Notice no. 10/2018 dated 7th September, 2018.
- g. The decision of Supreme Court in *Sterlite Industries (India) LTD. v. Designated Authority* is relevant for the present case. The Hon'ble Supreme Court in Sterlite Industries case has held that confidentiality under Rule 7 cannot be "automatically assumed". Under Rule 7, the Authority has to be satisfied regarding the confidentiality of the material. Even if the material is confidential, the Authority has to ask the parties providing the information, on confidential basis, to furnish a non-confidential summary thereof. Under Rule 7(3), Authority can also come to the conclusion that confidentiality is not warranted and it may, in certain cases, disregard that information.
- h. A statement of reasoning with regard to the same is to be submitted. A mere statement which states "summarization of legal documents is not possible" cannot fulfil the legal requirement.
- i. It is a requirement under the trade notice and Rule 7 of the Rules that the non-confidential version of the Application is required to have confidential data indexed and summarized.
- j. The non-confidential summary is supposed to give details to permit a reasonable understanding of the substance of information furnished on confidential basis. Paragraph (vi) of Trade notice explicitly states that any submission made without a meaningful non-confidential version of the confidential version shall not be taken on record by the Authority.

E.2. Submissions made by other interested parties

- 26. The following submissions have been made by other interested parties with regard to confidentiality issues
 - a. Submissions of the interested parties are in consonance with the Trade Notice No. 10/2018.
 - b. The Applicants have not provided the transaction wise import data and methodology relied upon by them to sort the transaction wise import data.
 - c. The Applicants have also not provided appropriate information for the following:

Particulars	Comments
Write-up on broad stage-wise manufacturing process	Domestic Industry has claimed this information as business sensitive information and that the disclosure of this information could provide competitors with an advantage. It is submitted that the same is contradictory to the Applicants claim that "there is no material difference between production

	process followed by the foreign producers and that employed by the petitioners”.
Relationship, if any, of Applicants with Foreign Producers /Exporters/Importers/domestic producers of subject goods	The Applicants have not provided any information regarding the relationship between Vardhman Acrylics Limited and its related importer, Vardhman Textiles Ltd. The Applicants have merely stated that Vardhman Acrylics Limited and Vardhman Textiles Ltd are related without explaining the relationship.
Sales value, Inventory, Inventory as number of days of production, PBIT per unit – Domestic sales, Total profit before interest & tax – domestic Sales realization per Unit Cost of Sales per Unit- Export Export Price/Unit	Not in compliance with the Trade Notice.
Purchase (Qty. as well as Value) of PUC, R&D Expenses, Funds Raised	The Applicants have neither provided this information nor provided any reasons for their claim of confidentiality in the table at page 3 of the Petition.
Non-Injurious Price	The Applicants have neither provided this information nor provided any reasons for their claim of confidentiality in the table at page 3 of the Petition.

- d. The non-confidential summary is supposed to give details to permit a reasonable understanding of the substance of information furnished on confidential basis. Paragraph (vi) of Trade notice explicitly states that any submission made without a meaningful non-confidential version of confidential version shall not be taken on record by the Authority.
- e. The questionnaire response filed by SDEF is in line with the provisions of Trade Notice No. 10/2018. The Producer has redacted (where summarization is not possible) or

summarized only the confidential information (which is business propriety in nature or not available in the public domain) to the extent possible in the non-confidential version of the questionnaire response. The Producer has also provided justifiable reasons for claiming certain information as confidential in its non-confidential questionnaire response.

- f. SDEF submits that several of the domestic industry's allegations on confidentiality are baseless as per Trade Notice no. 10/2018. For example, the domestic industry has alleged that the channels of marketing goods are not provided in their non-confidential response. The information pertaining to channels of marketing entails sensitive and proprietary commercial information and is not available in the public domain. The Producer is not mandated to provide channel of marketing of goods in home market, channel of marketing of goods in India market, description and specification of product, channel of distribution for exports to India, channel of distribution for sale in home market, sales negotiation process, post invoicing discounts/ rebates and list of products sold under Trade Notice no. 10/2018 as claimed by the domestic industry.
- g. The information on company's production facilities, change in accounting methods over last three financial years, list of raw materials etc. have been provided by SDEF.
- h. Dralon GmbH submits that the production process given as a part of the Questionnaire Response is much more detailed than the one available in public domain. The production process published on the website is more generic in nature and can be made public. The production process which has been incorporated in the Questionnaire Response includes business sensitive information and cannot be disclosed to the public at large.

E.3. Examination by the Authority

27. With regard to confidentiality of information, Rule 7 of Rules provides as follows:

"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.

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."

28. The Authority made non-confidential version of the information provided by various interested parties available to all interested parties for inspection through the public file containing non- confidential version of evidences submitted by various interested parties and also through e-mail communication between various parties.
29. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. The Authority has also duly noted the submissions made by interested parties citing the decision of the Hon'ble Supreme Court of India in the Sterlite Industries case and emphasizing the point that confidentiality under Rules cannot be automatically assumed. The Authority notes that the information provided by the interested parties on confidential basis was duly examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions made by the Domestic Industry

30. The following miscellaneous submissions have been made by the domestic industry:
- a. This is an original investigation and not a review investigation. There is no excessive protection to the domestic industry. In fact, anti-dumping duty is not a 'protection'. Anti-dumping duty is a trade remedy measure to address unfair pricing. An anti-dumping duty can only be imposed when the legal requirements have been met.
 - b. The findings of previous investigations do not hold good in the present investigation since the POI is different in both cases and also the situation of the domestic industry.
 - c. The approximate cost of Acrylic Fibre in a sweater is only 6%. Therefore, the growth of sweater industry cannot be dependent on Acrylic Fibre prices.
 - d. The performance of the downstream industry has in fact improved over the injury period.
 - e. Domestic industry has established that dumping of the product from subject countries has caused injury to the domestic industry. Polyester constitutes about 45% of total textiles (where PTA is a basic input), acrylic fibre constitutes only about 1% of total textiles. The economics of the two business are totally different.
 - f. Inverted duty structure is not the subject matter in the present investigation. An inverted duty structure cannot be a reason for non-imposition of anti-dumping duty.

F.2. Submissions made by other interested parties

31. The following miscellaneous submissions have been made by other interested parties:

- a. The Authority has conducted many trade remedy investigations on different types of 'Acrylic Fibre' in the past 23 years. It is noted that since 1997, the Authority has recommended imposition of anti-dumping duties with respect to the subject goods. These duties have remained in force to date, in some form or the other and against one or the other subject country.
- b. Apart from the numerous investigations and reviews, it is also important to note that the Authority has investigated a claim from two of the applicants concerning the imports of the subject good from the subject countries, along with China PR as latest at 2018. Upon conclusion, the Authority had issued Final Findings dated 16 April 2018 and found that there was no material injury to the applicants therein, i.e., M/s. Indian Acrylics Ltd. and M/s. Pasupati Acrylon Ltd.
- c. Material injury caused to the domestic industry due to imports of different types of Acrylic Fibre from various sources (and particularly from the European Union) has already been remedied over 23 years of trade remedial measures, which was also affirmed by the Authority, by giving a negative finding in the previous investigation.
- d. The injury of the domestic industry appears to be deeply flawed and must be re-examined.
- e. The Authority is not supposed to initiate an investigation unless it examines the accuracy and adequacy of the evidence provided in the application and satisfies itself that there is sufficient evidence regarding dumping, injury and causal link. While the domestic industry has relied upon an IHS report for determining the normal value (which has a bearing on dumping), the Authority has constructed its own normal value for the purposes of initiation. It particularly appears that the Authority was not satisfied with the evidence / IHS report placed on record by the domestic industry on normal value. In such a scenario, the Authority ought to have not proceeded with the initiation of investigation when it was not satisfied with the adequacy and accuracy of information / evidence provided by Applicants for dumping, as such an initiation is in violation of Rule 5 and 6 of the AD Rules.
- f. Acrylic Fibres are Synthetic Fibres and are a good replacement for wool and the main end use of the yarn is in sweaters etc. There are three prominent producers of Acrylic Fibre in India who employ about 1500-2000 people collectively. These producers are in the organized sector and earning very good profits. India has about 30-40 spinning mills which employ about 15000 people producing yarn which falls under the semi-organized sector. The sweater, shawl and other product makers have 7500-10000 units in total (MSMES and SMES) and employ about 10 lakh people. These segments are suffering due to the anti-dumping duties already in place since 1997-98.
- g. Acrylic Fibre should be made available in India at fair rates so that the opportunities in the sweater industry are fully tapped into. Anti-dumping duties have led to higher yarn prices as compared to other Asian Countries and this has made the downstream industry rather uncompetitive in the export markets. Countries like China, Vietnam and Bangladesh are taking benefit of the situation.
- h. Imposition of any further ADD will only add on to the huge profits already being earned by the Acrylic Fibre producers and the larger national interest and the interest of downstream producers will be adversely impacted further by such duties.

- i. Recommendations to abolish the existing Anti-dumping duties and also no fresh Anti-dumping duties on Acrylic Fibre by the Authority is the need of the hour to protect the entire value chain of acrylic fibre in India. This would help overall growth of this high potential sector and this would be in public interest. The downstream users can grow fast in their value-added products and contribute to the Make in India movement in a competitive manner creating millions of employment opportunities and livelihoods provided the key input is available in the country at fair prices.
- j. Since the economic reform in the early 90s, Peru has maintained and strengthened an open economy and has signed 19 trade agreements with 53 countries, and right now is in the process of negotiating a trade agreement with India. The bilateral relations of Peru and India are built upon trust. The Peruvian Government trusts that DGTR will carry out the investigation in observance of its obligations under WTO.

F.3. Examination by the Authority

32. With regard to the contention of the interested parties that imposition of anti-dumping duty will not be in public interest, the Authority notes that the purpose of anti-dumping duties, in general, is to eliminate the injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.
33. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods.
34. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the end user. The end user could still maintain two or even more sources of supply. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not affect the availability of the subject goods to the consumers.
35. With regard to the issue of continued duty raised by the interested parties, the Authority notes that there is no bar on the number of times a duty can be imposed or extended on a given product. If the legal requirement to extend antidumping duty is met, only then the duty is extended to protect the interests of the domestic industry.
36. With regard to the issue of negative findings dated 16th April, 2018 issued by the Authority in the previous investigation concerning imports of Acrylic Fibre from Peru, Belarus, Ukraine, EU and China PR, the Authority notes that there is no bar on the number of times a domestic industry can apply for the initiation of an anti-dumping investigation concerning the same product. The POI in both investigations is different, and the situation of the domestic industry has to be analysed accordingly.

37. With regard the contention that the initiation notice was violative of Rule 5 of the AD Rules, the Authority notes that the investigation was only initiated after examination of the evidence provided by the domestic industry. Only when all the requirements under Rule 5 were met, the investigation was initiated by the Authority.

G. NORMAL VALUE, EXPORT PRICE & DETERMINATION OF DUMPING MARGIN

G.1. Submissions made by the Domestic Industry

38. The following submissions have been made by the domestic industry:

- a. The price at which Acrylic waste has been imported into India is 2-3 times the price at which acrylic fibre waste has been sold by Indian Producers in India. Producers in subject countries have charged 60-80% of the good fibre price for waste.
- b. Good fibre has also been reported as acrylic fibre waste. This is confirmed by the fact that the DRI made recoveries of up to INR 25 crores from the importers. Information regarding the same can be sought from Ramji Acro, Maibapp Agency, Paramount, GR Fibres, Parasnath, and Paragjyoti.
- c. The applicants have considered normal value of the subject countries based on delivered basis prices prevailing in these regions as per IHS Chemical reports, duly adjusted i.e. inland freight, custom duty and port expense.
- d. The Authority, for the purposes of Initiation, considered constructed normal value on the basis of cost of production, duly adjusted, and after additions for selling, general & administrative expenses and reasonable profits.
- e. Section 9A(1)(c) clearly provides for a hierarchy, which is as follows:

“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

When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:

a. Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or

b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

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. The Hon'ble Supreme Court of India in the matter of *Ministry of Commerce v. M/s. Haldor Topsoe* held that there is a sequence for determining normal value. If acceptable material is available in regard to the comparable price in the ordinary course of trade in the exporting country itself, then the normal value will have to be determined on that basis. It is only if such information is not available, the Authority has a choice to consider either the comparable representative export price or the cost of production in the country of origin of the goods.
- g. It is submitted that IHS Report is an 'acceptable material' with regard to the price in the exporting subject countries in terms of the above-mentioned Supreme Court Order. IHS report provides historical and forecasted pricing on a world-wide basis. Each month, it publishes a market summary and market statistics supplement. The market summary includes an analysis of the current market situation as well as price and margin history and forecasts. IHS Report is mostly accessed by highly experienced researchers. It has recognition and reliability about the authenticity and usefulness of the data and information published in it. The price reported by IHS report is a good indicator of the prevailing prices of subject goods in the domestic markets in various countries/regions.
- h. The Authority has considered prices as published in the said weekly and other trade journals in several cases, for determination of normal value.
- i. The notice of initiation states that the application was duly documented and contains all relevant information and evidence. Such being the case, it does not make sense to ignore the information on prices and determine the normal value on the basis of constructed normal value.
- j. The Authority did not have information with regard to actual cost of production. Use of constructed normal value implies that the normal value has been determined based on Indian cost structures.
- k. Domestic industry has obtained the import data from transaction wise DGCI&S and has relied upon the same for export price. It may be noted that the export price is calculated at the CIF level. According to the WTO Agreement on Anti-Dumping and Indian Rules, comparison of normal value and export price should be done at same level of trade. Therefore, the export price has been adjusted for the following expenses, which may have been incurred by the exporter for exporting the material to India:
 - a. Ocean Freight
 - b. Marine Insurance
 - c. Port Expenses
 - d. Handling Charges
 - e. Bank Charges
 - f. Commission

- l. The dumping margins are not only above the de-minimis level but also substantial for each country.
- m. The Authority should determine dumping margin on the basis of responding exporter's data subject to accuracy and adequacy of the data filed.
- n. As regards increase in export price of the responding exporters, it is submitted that the raw material prices of the product have increased which has led to increase in prices of the product under consideration in general. However, increase in import price does not mean that the exporter is not dumping the product under consideration.

G.2.Submissions made by other interested parties

39. The following submissions have been made by other interested parties:

- a. The Authority is requested to take into account the filed questionnaire response by the interested parties for the purposes of determining normal value, export price and dumping margin.
- b. The issue of misclassification of acrylic fibre as acrylic fibre waste, which is being dealt with by the DRI, is irrelevant for the purposes of the present investigation as the scope of the AD Rules does not allow the Authority to assess misclassification / customs issues in an anti-dumping investigation. Particularly, the prerogative of the Authority under the AD Rules is to only assess dumping of acrylic fibre from subject countries and consequent injury to domestic industry.
- c. The Period of Investigation in the previous investigation was April 2016- March 2017. Dralon GmbH's export price to India has increased significantly in the present POI as compared the POI of the previous investigation. This can be clearly seen from the questionnaire response filed by the producer and also the import data provided in the application filed by the domestic industry.
- d. The CIF import price from Germany is higher than the average CIF price of imports from EU.
- e. Germany's CIF price is higher than all countries' import price of the PUC which are being investigated under this investigation and other con-current investigations.
- f. Ukraine is a full-fledged market economy where prices and decisions on investment, production and distribution of goods and services are made on the basis of demand and supply. Ukraine joined the WTO on 16 May 2008, and the Working Party Report on its accession recognizes the successful efforts that Ukrainian authorities have deployed in order to ensure that its economic policies were in line with market economy principles.
- g. EU, USA, Brazil, Canada, Pakistan, Turkey treat Ukraine as a Market Economy.
- h. WTO law does not distinguish between market economy and non-market economy countries. In particular, it does not set forth the requirements that WTO Members have to meet in order to qualify as market economies. With specific regard to the anti-dumping framework, Article VI of the GATT 1994 and the Anti-Dumping Agreement are clear in requiring that, in order to determine whether dumping occurs, a comparison

shall be made between the normal value of the products under investigation in the country of production and the export price of the same products.

- i. There are no grounds for treating Ukraine as a non-market economy in the absence of a specific discipline in its protocol of accession to the WTO. Irrespective of any considerations on the Ukrainian economy, there are no possible legal grounds that could allow the DA to disregard the normal value of the products concerned. Any deviation from the standard methodology would amount, in this respect, to a violation of several provisions of the Anti-Dumping Agreement and may lead to a challenge of both the anti-dumping measures eventually imposed and the Indian regulations governing anti-dumping investigations before a WTO panel.
- j. Irrespective of the evolutions of the current investigation with regard to imports from Ukraine, the relevant discipline concerning the treatment of non-market economies for anti-dumping investigations in India is “as such” inconsistent with Article 2.2 of the Anti-Dumping Agreement, because it allows the DA to disregard the domestic prices of the products concerned in their country of origin on the basis of a presumption that these countries are non-market economies.
- k. Paragraphs 7 and 8 of Annexure I to Indian Anti-Dumping Rules do not ensure that the DA acts in a manner that is consistent with India’s WTO obligations. By expanding the scope of non-market economy treatment to situations not expressly covered by the limited exceptions explained above (specific language in the protocols of accession or the second Ad Note to Article VI of the GATT 1994), they violate “as such” Article 2.4 of the Anti-Dumping Agreement and could be challenged before a WTO panel.

G.3. Examination by the Authority

40. The following producers/exporters from the subject countries have filed exporter’s questionnaire:
 - a. Dralon GmbH, Germany (Producer/Exporter) – European Union
 - b. Sudamericana de Fibras S.A (Producer) – Peru
 - c. Open Joint-Stock Company Naftan , Belarus

G.3.1. Normal Value

41. 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 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 or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting 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 or territory to an appropriate third 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 of export or such article is not produced in the of export or there is no comparable price in the of export, the normal value shall be determined with reference to its price in the of origin.

I. Determination of Normal Value for producer/exporters from European Union

Dralon GmbH, Germany (Exporter/Producer)

42. From the Exporters Questionnaire (EQ) response, the Authority notes that Dralon GmbH is a producer and exporter of the subject goods based in Germany. 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 and *** MT to related customers. The related customers have consumed the subject goods for products manufactured by them. The ordinary course of trade (80:20) test conducted on the domestic sales of Dralon shows that less than 80% 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 freight, insurance, packing cost, commission and credit cost. Authority has allowed the same after due verification and normal value thus arrived is shown in dumping margin table below.

II. Determination of Normal Value for producers and exporters from Peru

Sudamericana de Fibras S.A, Peru (Producer)

43. The Authority notes that Sudamericana de Fibras S.A from Peru has filed exporter questionnaire response. 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 information provided in EQ response and the same has been constructed on the basis of facts available using international price of major raw-material namely Acrylonitrile.

III. Determination of Normal Value for producers and exporters from Belarus

Open Joint-Stock Company Naftan

44. M/s OJSC Naftan, is a producer/exporter of the subject goods and has filed the Exporters Questionnaire (EQ) response with the Authority. The Authority requested M/s OJSC Naftan to provide the relevant documents for desk study of the EQ response submitted by them. However, M/s Naftan did not make available the necessary documents requested by the Authority for desk study exercise. In view of non-cooperation by M/s OJSC Naftan,

the Authority is unable to accept EQ response filed by M/s Naftan and holds to determine the normal value on the basis of best available information and the same is indicated in the dumping margin table given below.

IV. Determination of Normal Value for producers and exporters from Ukraine

45. The Authority notes that none of the producers/exporters from Ukraine have filed Exporters Questionnaire response. In view of non-cooperation from all the producers/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.

G.3.2. Export Price

I. Determination of Export Price for producers/exporters from European Union

Dralon GmbH (Producer/ Exporter)

46. 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, packing cost 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 so determined is indicated in the dumping margin table given below.

II. Determination of Export Price for producers/exporters from Peru

Sudamericana de Fibras S.A, Peru (Producer)

47. From the response filed by the producer, the Authority notes that more than 30% of exports to India have been made through Dubai based trader namely M/s. Lanás Fibras Limited. M/s. Lanás Fibras Limited has not filed its response in the subject investigation. Therefore, the Authority holds not to accept the response of Sudamericana de Fibras because the complete export chain for a significant portion of the exports made to India is not before the Authority. Accordingly, the export price for Sudamericana de Fibras has been determined on the basis of facts available.

III. Determination of Export Price for producers/exporters from Belarus

Open Joint-Stock Company Naftan (Belarus)

48. As stated above, the Authority is unable to accept EQ response filed by M/s OJSC Naftan in view of the non-cooperation shown by the company during the desk verification exercise for the EQ response submitted by them. The Authority holds to determine the export price on the basis of best available information and the same is indicated in the dumping margin table given below.

IV. 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 producers/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.

V. Determination of Export Price for Non-cooperating producers and exporters from European Union

50. For the other producers/exporters from European Union, the export price has been determined based on the facts available. Based on this the dumping margin is indicated in the dumping margin table below.

G.3.3. Calculation of Dumping Margin

51. Comparing the aforesaid normal values and export prices as determined, the dumping margin holds to be determined for the subject countries during POI is as follows:

DUMPING MARGIN TABLE

Country	Producer	Normal Value	Ex-factory Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		US\$/MT	US\$/MT	US\$/MT	%	Range
European Union	Dralon GmbH	***	***	***	***	10-20
European Union	All Others	***	***	***	***	30-40
Ukraine	All	***	***	***	***	20-30
Peru	All	***	***	***	***	10-20
Belarus	All	***	***	***	***	10-20

52. 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.

H. INJURY ASSESSMENT AND CAUSAL LINK

H.1. Submissions made by the Domestic Industry

53. The domestic industry has made the following submissions with regard to assessment of injury and causal link:

- a. Rule 11 of the Rules read with Annexure II pertain to the principles governing the determination of injury during an anti-dumping investigation. Paragraph (i) & (ii) of Annexure II read as follows:

“(i) A determination of injury shall involve an objective examination of both (a) volume of the dumped imports and the effect of the dumped imports on prices in the domestic like article and (b) consequent impact of these imports on domestic producers of such products”

(ii) While examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the designated authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like products in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred, to a significant degree.”

- b. The domestic industry has already supplied all the relevant data/information to the Authority establishing dumping, injury and causal link between dumping and injury. The evidence provided by the Domestic Industry was, thus, sufficient to justify commencement of the present investigation.
- c. The volume of dumped imports from subject countries has increased throughout the injury period. The demand of the product has decreased, and the imports from subject countries have increased.
- d. The volume of imports from subject countries constitute 56% of the total imports into India during POI and has increased by 17% in the POI from the base year.
- e. Share of subject imports has also increased in relation to demand and production of the country.
- f. Exporters from Thailand are also dumping the product under consideration in India. The Authority is conducting a sunset review investigation against Thailand.
- g. The imports from each of the subject countries are undercutting the prices of the domestic industry.
- h. The domestic industry is suffering suppressing effects. Even though the cost of production and selling prices increased over the injury period, the domestic industry was not able to increase its price in proportion to the increase in costs.
- i. The economic parameters of the domestic industry show that the performance of the domestic industry deteriorated:
 - i. Domestic industry has increased its capacity during the POI;
 - ii. Production and capacity utilization of the domestic industry has declined over the injury period. Even though production and capacity utilization increased in the POI, the levels achieved in the POI were still lower than the levels achieved in the past;
 - iii. Exports being made by the domestic industry are only a result of inability of the domestic industry to sell in the domestic market;
 - iv. Captive consumption has increased as a result of efforts being made by the domestic industry in creating market for its product in view of significant adverse market conditions and competition being faced by the domestic industry;

- v. The average inventory of the domestic industry has increased over the injury period;
 - vi. Profitability of the domestic industry has declined over the injury period with a significant decline during period of investigation;
 - vii. Cash flow, PBIT and return on capital employed also declined over the period.
- j. The domestic industry submits that the injury has not been caused by imports from third countries as they are attracting anti-dumping duty or are at high prices. The demand has increased since the base year. There are no changes in technology for production of PUC. Performance of other products and export performance are not relevant since data pertains to domestic performance of PUC. There are no trade restrictive patterns. Nor there have been material changes in the pattern of consumption.
- k. Imports are undercutting the prices of the domestic industry. Resultantly, lower import prices are preventing the domestic industry from aligning their prices to the cost of production. The domestic industry is unable to increase its price to the extent of cost increases. Thus, the price undercutting is leading to price suppression in the domestic market.
- l. Even when the domestic industry has been offering sub-optimal prices it is losing its market share. Thus, decline in market share is a direct consequence of dumped imports from the subject countries.
- m. Price undercutting resulted in reduction in the selling prices. As a direct consequence, the domestic industry is suffering decline profits, cash profits and ROCE.
- n. The imports price from EU is undercutting and underselling the prices of the domestic industry. Imports from EU constitute 39% of the total imports in India which is significant. It cannot be said that imports from EU are not causing price pressures for the domestic industry.
- o. As regards NSR being higher than NIP, it is submitted that the purpose of calculating NIP is primarily to compute injury margin, i.e., use of the calculated NIP is not to conclude on injury. Further, there have been plethora of cases where the Authority has imposed anti-dumping duty or extended anti-dumping duty in review cases where NIP was lower than NSR.
- p. A comparison of the data from 2016-17 with the POI shows the following:
- i. The profits of the domestic industry have declined significantly
 - ii. The cash profits have declined significantly
 - iii. The return on investments have declined
- q. The average cost of production must include duty free imports of raw materials for export of acrylic fibre as well. The Authority is requested to determine the profits and ROCE after making an adjustment for the same.

- r. The claimed injury is on account of domestic operations. The domestic industry has provided segregated data of domestic operations and therefore export performance cannot be a cause of injury.
- s. Exports and captive sales being made by the domestic industry are only a result of the inability of the domestic industry to sell profitably in the domestic market.
- t. Public statements in the Annual Report do not alter the conclusion that dumping of the product has contributed to injury to the domestic industry.
- u. It has been wrongly assumed by the interested parties that dumping of the product should be the sole cause of injury to the domestic industry.
- v. The statements in the annual reports are not with regard to deterioration in performance of the domestic industry over the injury period. The Authority is concerned with performance of the domestic industry over the injury period. Authority's decision is not based on POI alone.
- w. The Authority is concerned about domestic operations, whereas the Annual Reports are concerned about company's overall operations.
- x. The Authority is not concerned about reasons for dumping. Annual reports go into the reasons for dumping. The shareholders and other stakeholders are interested in knowing not only the performance during the year but also reasons for the performance. The companies in general not only give reasons but also attempt to explain the reasons for these business situations in the annual reports.
- y. The factors listed in the annual reports are in the context of absolute levels of performance of the domestic industry.
- z. A situation where the domestic industry has not been able to align its prices with the key raw material is well covered under Annexure-II where it provides whether imports are suppressing or depressing the prices of the product in the market.
- aa. It would be seen that the import price has increased due to increase in raw material prices. Whereas the raw material prices have increased to the extent of 26-69%, the import price from the subject countries have only increased by 30%.
- bb. In addition to material injury, the domestic industry also submits that the imports are causing threat of material injury, as would be seen from the following:
- cc. The volume of dumped imports from the subject countries have further increased in the Post-POI.
- dd. Market share of the domestic industry has declined whereas that of subject countries has increased in the post-POI.
- ee. There is a decline in the profits of the domestic industry during Post-POI showing a causal link with the dumped imports and need for the imposition of duty.

H.2.Submission made by other interested parties

54. The submissions made by other interested parties with regard to injury and causal link, considered relevant by the Authority, are as follows:

- a. The domestic industry does not seem to have suffered any injury on account of the subject imports.
- b. The Authority in its previous final finding dated 16th April 2018 concerning imports of PUC from China PR, Belarus, Ukraine, EU and Peru has noted that there is no injury to the domestic industry on account of imports from subject countries. It is relevant to note that the injury period therein has an overlap with the injury period herein.
- c. The imports from Peru have neither increased in absolute or relative terms. In fact, the imports from Peru have decreased in comparison to the previous years, i.e. 2017-18 and 2016-17.
- d. When there has been an alleged increase in imports from subject countries in the POI, there has been a significant improvement in the domestic industry's performance.
- e. The landed price of the subject imports has not impacted the prices of the domestic industry, thus not causing a price suppression/depression in the present investigation. It must be noted that the POI was 2016-17 in the previous investigation, where the Authority found no injury. Any improvement in the price suppression/depression figures can only imply that there continues to be a lack of price injury.
- f. It must be noted that the profits of the domestic industry have fluctuated even though the price undercutting has been stable in the injury period, therefore indicating that there is no correlation between the alleged imports and the performance or prices of the domestic industry.
- g. The economic parameters including production, sales volume and sales value have shown a positive trend in the POI in comparison to 2016-17 and 2017-18.
- h. The domestic sales volume and sales value have been steadily growing in the POI in comparison to the previous years.
- i. The production of the domestic industry has increased by 11 index points in the POI as compared to the previous year. It can also be seen from the Annual Report 2018-19 of Indian Acrylics that the production of acrylic fibre increased.
- j. The wages have also increased in the POI as compared to the previous years.
- k. It appears that the focus of the domestic industry is on captive consumption of the PUC. In the event that duties are imposed on imports of PUC, it would create a supply crush of PUC in India.
- l. The domestic industry has not included their captive consumption of the PUC while determining total demand.
- m. There are imports of PUC from Thailand which are entering India at dumped prices. In the sunset review of anti-dumping investigation concerning imports of Acrylic Fibre

from Thailand, the period of investigation is April 2018 to March 2019 and the injury period is 2015-16, 2016-17 and 2017-18 and April 2018 to March 2019, which is same as the POI and injury period in the present investigation. In view of the same, based on dumped imports in the injury period from Thailand and lack of injury due to imports from subject countries, it is evident that injury, if any, is suffered by imports from Thailand.

- n. As can also be seen from the relevant extracts of the Annual Reports of the Applicants, there are various factors such as volatility in the Acrylonitrile (a major raw material for PUC) market due to volatility in crude oil market (Acrylonitrile is a derivative of crude oil), demonetization, GST, and mild winter which have impacted the performance of the Applicants in the PUC market. Accordingly, alleged injury to the Applicants cannot be attributed to imports from subject countries.
- o. On 16th April 2018, the Authority issued a negative final finding in the Anti-dumping investigation concerning imports of 'Acrylic Fibre' originating in or exported from China PR, Belarus, Ukraine, EU and Peru. The POI in the previous investigation was April 2016-March 2017. No duty was recommended in the previous investigation on various grounds. It is submitted that there has been no change of circumstances from the POI of the previous investigation (2016-17) to the POI of the ongoing investigation (2018-19).
- p. In the previous investigation, the Authority had determined that the landed price of subject goods from EU, Ukraine and China PR during POI had been above the NIP determined for the domestic industry. Therefore, the imports from subject countries had not caused any kind of price suppression for the domestic industry. It must be noted that the landed value of imports from Germany has only increased over the injury period and cannot be said to be causing any kind of price pressure on the domestic industry. The landed price of European imports has increased by 50% from 2016-17 to the current POI. If the landed price from EU did not cause injury to the domestic industry in 2016-17, there is no manner in which injury can be caused to the domestic industry in the current POI.
- q. It is submitted that the sales realization per unit of the domestic industry has increased throughout the injury period in the present investigation as well. In fact, when compared with the selling price from 2016-17, the selling price has increased substantially.
- r. There has been an improvement in the economic parameters of the domestic industry. This is particularly true if compared with the status of the economic parameters as it prevailed in 2016-17.
- s. The Authority had determined that the ROCE of the domestic industry was as high as in the range of 50-60% in 2016-17. From 2016-17, the ROCE has only fallen by 14 indexed points in the POI of the present investigation. This shows that the ROCE is still exceptionally high and would be upwards of the 22% return that the Authority normally considers reasonable in anti-dumping investigations. As per our estimate, ROCE is likely in the range of 35%-45% during the POI of the current investigation.
- t. The inclusion of Vardhman Acrylics Limited has led to deflated trends of profitability and performance. In such a case, the treatment of the entire domestic industry as "injured" due to the injury suffered by only one of its constituents is inappropriate.

- u. The comparison of data with the base year 2015-16 is incorrect, when it has already been determined that the profitability in that period was exceptional and ROCE was in the range of 50-60%. It is submitted that the decline in profits appears to be sudden and significant but is actually reflective only of the normalization of these previous super-normal profits.
- v. It is submitted that the Applicants appear to have wilfully redacted / not provided any information pertaining to the export price of the Applicants. In such a situation, it is not possible to figure out whether it is export performance or domestic performance of the Applicants which is the root cause of their injury.
- w. Domestic Industry has diverted a substantially big part of their production towards captive consumption as well. The pricing of such products merits consideration. Interestingly, data pertaining to the sales value of captively consumed goods has been withheld.
- x. Based on a comparison of the information pertaining to price undercutting and price underselling with respect to Ukraine and Peru, we note that the Applicants' selling price is higher than its non-injurious price. This can be easily deduced from the fact that the difference between net selling price and landed value (5-15% for Ukraine and 10-20% for Peru) is greater than the difference between non-injurious price and landed value (0-10% for Ukraine and 0-10% for Peru).
- y. The landed value for EU imports has increased from INR ***/MT to INR ***/MT, an increase of 31% compared to the base year and an increase of about 48% compared to 2016-17. It is also relevant to note that as per the Final Findings dated 16 April 2018, the Authority had found that the EU prices, in 2016-17, were non-injurious to the domestic industry. Since the prices have only increased since, and at such a significant scale, it is understood that even now the subject imports from EU are entering at non-injurious prices.
- z. It is submitted that the price of the domestic industry has faced some impact owing to the variant prices of the imports from other non-subject countries, particularly Thailand which is subject to anti-dumping duties with respect to the subject goods. It is also relevant to look at the imports from Turkey in this regard.
- aa. The Annual Reports indicate that the domestic industry is facing issues due to increased capacities in China and increased and continuous dumping by it. The Annual Reports have made no reference to the imports from EU at all.
- bb. The fact that domestic industry increased its capacity by about *** MT during the POI indicates a healthy situation for the domestic industry. Infusion of fresh investment is clearly a sign of absence of material injury and it also shows that the domestic industry has a positive outlook with regard to its future business.
- cc. It is also to be noted that Acrylic Fibre is an important input for large number of spinners in India and still imports from subject countries constituted only 20% of Indian demand and about 65% of the market share was still held by the domestic industry.

- dd. Some minor fluctuations in certain profitability parameters are linked to internal issues of the domestic industry and are not driven by landed price of imports from subject countries in any manner which in fact increased by 30% by the POI.
- ee. It can be noted that the increase in imports from subject countries from *** MT in the base year to *** MT was coincided with an increase in price of about 30% from Rs***/Kg to Rs***/Kg which shows the increase in import was driven by demand supply imbalance in India and not by price.
- ff. The domestic industry has alleged threat of material injury and filed Post-POI data in this regard. With regard to the same, it is submitted:
- gg. The imports from Peru have decreased in the POI in comparison to 2017-18 and 2016-17 and have further reduced in the Post-POI.
- hh. The Profit of the domestic industry has increased by 30 indexed points in the Post-POI as compared to POI.
- ii. The Post-POI data indicates an increase in production and capacity utilization compared to the POI.
- jj. Material injury and threat of material injury are two different legal standards. The domestic industry has been claiming 'material injury' and not 'threat of material injury' throughout the investigation. It is not permissible for the domestic industry to change the standard at this stage of the investigation.
- kk. The threat of material injury cannot be determined on conjecture and have to be fact-based. The threat of material injury can be established if the domestic industry can establish that (a) there has been a significant increase in imports, (b) there is freely disposable and unutilized capacity in the exporting country, (c) the import price has a depressing or suppressing effect on domestic prices, and (d) inventory of the article being investigated. The domestic industry has not provided any of the information as required by Annexure II. Vague allegations have been made without any concrete evidence or relevance to the issue at hand.
- ll. Post-POI data is not relevant in the case of an original investigation. Post-POI data is only considered by the Authority in a sunset review, where the likelihood of continuation or recurrence of dumping and injury has to be determined. The scope of an original investigation is limited to the POI, as determined by the Authority. In this case, the POI is 2018-19. The consistent practice of the Authority has been to reject Post-POI claims in an original anti-dumping investigation.
- mm. There is no production of acrylic fibre in Ukraine. The Petition information concerning imports from Ukraine does not correspond to the official data of the State Statistics Service of Ukraine. No exports were made under 550130, 550330 and 550630 by Ukraine to India in 2015-16, 2016-17, 2017-18, 2018-19.

H.3. Examination by the Authority

- 55. The Authority has taken note of the submissions made by the interested parties and has examined the various parameters in accordance with the Rules after duly considering the submissions made by the interested parties.

56. As addressed in the relevant portion of this final findings, Vardhman Acrylics Limited has not been considered a part of the domestic industry due to the significant volume of imports made by one of its affiliates. For the purposes of this investigation, M/s. Indian Acrylics Ltd. and M/s. Pasupati Acrylon Ltd. constitute a 'major proportion' of total Indian production and constitute 'Domestic Industry' in terms of Rule 2(b) of the Rules.
57. With regard to the contention of the domestic industry facing 'threat of material injury', the Authority notes that there are three standards of injury under the Anti-Dumping Rules, (i) material injury, (ii) threat of material injury, and (iii) material retardation. The standard adopted by the Authority for the purpose of initiation of the present investigation was that of 'material injury' and not 'threat of material injury'.
58. The Authority is only required to examine and consider the information for POI and the previous three years as undertaken at the time of the initiation under the AD Rules for the determination of dumping, injury and causal link. It is the consistent practice of the Authority not to consider Post-POI data in an original investigation.

H.3.1. Cumulative Assessment

59. Para (iii) of Annexure II of the Rules states the following:

“(iii) In cases where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the designated authority will cumulatively assess the effect of such imports, only when it determines that (a) the margin of dumping established in relation to the imports from each country is more than two per cent expressed as a percentage of export price and the volume of imports from each country is three per cent of the import of like article or where the export of individual countries less than three per cent, the imports collectively account for more than seven per cent of the import of the like article; and (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic products.”

60. The Authority notes that:

- a) The product under consideration is being dumped into India from subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
 - b) The volume of imports from each of the subject countries is individually more than 3% of total volume of imports.
 - c) Cumulative assessment of the effects of imports is thus appropriate as the exports from the subject countries not only directly compete inter se but also with the like articles offered by the domestic industry in the Indian market.
61. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from imports of the product under consideration from the subject countries.
62. 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 a significant price undercutting by the dumped imports as compared to 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. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

63. The submissions made by the domestic industry and other interested parties during the course of the investigation with regard to injury and causal link and considered relevant by the Authority are examined and addressed as under:

H.3.2. Volume Effect of Dumped Imports on the Domestic Industry

I. Assessment of Demand/Apparent Consumption

64. The Authority has taken into consideration, 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, captive consumption and imports from all sources. The demand so assessed shows that even though it faced a decrease during the injury period, it increased substantially in the POI.

Particulars	Unit	2015-16	2016-17	2017-18	POI
Sales of Domestic Industry	MT	***	***	***	***
<i>Indexed</i>		100	78	79	85
Captive Consumption by DI	MT	***	***	***	***
<i>Indexed</i>		100	347	508	704
Sales of Vardhman	MT	***	***	***	***
<i>Indexed</i>		100	94	102	103
Imports					
Belarus	MT	1,322	1,023	820	2,195
EU	MT	12,187	9,350	11,233	13,592
Peru	MT	177	2,387	2,105	2,074
Ukraine	MT	0	2,195	1,895	1,598
Imports from Subject Countries	MT	13,686	14,955	16,053	19,459
Thailand- SSR	MT	13,670	10,747	8,336	8,797
Korea RP (Attracting ADD, but no SSR investigation is being conducted)	MT	0	0	0	31

Particulars	Unit	2015-16	2016-17	2017-18	POI
Countries attracting ADD	MT	13,670	10,747	8,336	8,797
Other Countries	MT	7,407	5,360	3,856	6,558
Total Imports	MT	34,763	31,062	28,244	34,846
Total Demand (including Captive)	MT	1,05,326	94,362	96,154	1,09,282

II. Import Volumes from subject countries in Absolute Terms

65. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports from subject countries, either in absolute terms or relative to production or consumption in India.

Particulars	Unit	2015-16	2016-17	2017-18	POI
Import Volume					
Subject countries	MT	13,686	14,955	16,053	19,459
Countries attracting ADD	MT	13,670	10,747	8,336	8,797
Other Countries		7,407	5,360	3,856	6,589
Total Imports	MT	34,763	31,062	28,244	34,846
Market Share in Imports					
Subject countries	%	39%	48%	57%	56%
Countries attracting ADD	%	39%	35%	30%	25%
Other Countries	%	22%	17%	13%	19%
Total Imports		100%	100%	100%	100%
Demand(including captive)					
	MT	1,05,326	94,362	96,154	1,09,282
<i>Indexed</i>		<i>100</i>	<i>90</i>	<i>91</i>	<i>104</i>
Indian Production					
	MT	***	***	***	***
<i>Indexed</i>		<i>100</i>	<i>91</i>	<i>85</i>	<i>96</i>
Subject Imports in relation to					
Demand(including captive)	%	13%	16%	17%	18%
<i>Indexed</i>		<i>100</i>	<i>122</i>	<i>128</i>	<i>137</i>
Indian Production					
	%	***	***	***	***
<i>Indexed</i>		<i>100</i>	<i>120</i>	<i>138</i>	<i>149</i>

66. The Authority notes that dumped imports of the product under consideration from the subject countries have increased in absolute terms as well as relative terms during the POI as compared to the base year.

III. Market Share

67. The Authority notes that the market share of the subject imports has increased in the POI as compared to base year (2015-16). The market share of the domestic industry has also increased in the POI as compared to the base year.

Particulars	Unit	2015-16	2016-17	2017-18	POI
Market Share					
Domestic industry	%	47	47	49	49
<i>Indexed</i>		<i>100</i>	<i>98</i>	<i>103</i>	<i>103</i>
Vardhman	%	20	21	22	19
<i>Indexed</i>		<i>100</i>	<i>105</i>	<i>112</i>	<i>99</i>
Subject countries	%	13	16	17	18
Countries attracting ADD	%	13	11	9	8
Other Countries	%	7	5	3	6
Total	%	100	100	100	100

H.3.3. Price Effect of Dumped Imports on the Domestic Industry

68. With regard to the effect of the dumped imports on prices, it is required to be analysed 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 the normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject countries has been examined with reference to price undercutting, price underselling, price suppression and price depression, if any. For the purposes 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 landed price of imports of the product under consideration from the subject countries.

I. Price Undercutting

69. For the purposes of the price undercutting analysis, the net selling price of the domestic industry has been compared with the landed value of imports from the subject countries. While computing the net selling price of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level has been determined for comparison with the landed value of the dumped imports. Accordingly, the price undercutting effect of the dumped imports from the subject countries in the POI works out as follows:

Particulars-POI	Unit	Belarus	EU	Peru	Ukraine
Net Sales Realization	Rs/MT	***	***	***	***
Subject Countries					
Landed Price	Rs/MT	1,59,717	1,71,387	1,54,377	1,56,594
Price undercutting	Rs/MT	***	***	***	***
Price undercutting %	%	***	***	***	***

Price undercutting	Range	10-20	0-10	10-20	10-20
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70. From the aforesaid table, it can be seen that the price undercutting from the subject countries during POI is positive.

II. Price Suppression and Depression

71. In order to determine whether the dumped imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, were compared as below:

Particulars	Unit	2015-16	2016-17	2017-18	POI
Cost of Sales	Rs/MT	***	***	***	***
<i>Indexed</i>		100	93	110	140
Selling Price	Rs/MT	***	***	***	***
<i>Indexed</i>		100	97	113	132
Landed Price from subject countries	Rs/MT	1,28,902	1,09,982	1,37,591	1,67,602
<i>Indexed</i>		100	85	107	130

72. From the above table, it can be seen that the cost of sales has increased by 40 indexed points during POI as compared to 2015-16 but selling price has increased by only 32 indexed points during the same period, thereby resulting in price suppression.

III. Price Underselling

73. The non-injurious price (NIP) of the domestic industry has been determined and compared with the landed value of the product under consideration to arrive at the extent of price underselling. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation on the basis of principles mentioned in Annexure III of the Rules. The analysis shows that during the period of investigation, the landed value of subject imports was below the non-injurious price of the domestic industry.

Particulars	Unit	Belarus	EU	Peru	Ukraine
Non-Injurious Price	USD/MT	***	***	***	***
Landed price of imports in POI	USD/MT	2,255.26	2,420.04	2,179.85	2,211.16

Price Underselling	USD/MT	***	***	***	***
Price Underselling	%	***	***	***	***
Price Underselling	Range%	0-10	Negative	0-10	0-10

H.3.4. Economic Parameters of the Domestic Industry

74. Annexure II to the Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped imports on domestic producers of such 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, ability to raise capital investments.

I. Production, Capacity, Capacity Utilization and Sales

75. Capacity, production, capacity utilization and sales of the domestic industry over the injury period is given in the following table: -

Particulars	Unit	2015-16	2016-17	2017-18	POI
Capacity	MT	***	***	***	***
<i>Indexed</i>		100	100	100	104
Production	MT	***	***	***	***
<i>Indexed</i>		100	90	82	94
Capacity Utilization	%	***	***	***	***
<i>Indexed</i>		100	90	82	91
Domestic Sales	MT	***	***	***	***
<i>Indexed</i>		100	78	79	85
Demand(excluding captive)	MT	***	***	***	***
<i>Indexed</i>		100	85	84	93

76. From the aforesaid table, it can be seen that:
- i. The capacity has remained the same throughout the injury period. It has increased slightly in the POI.
 - ii. The production of the domestic industry decreased in 2016-17 and 2017-18. However, it increased again in the POI. The production in the POI is still lower than the production in the base year. The same trend can be seen for capacity utilization of the domestic industry.
 - iii. The domestic sales decreased in 2016-17 and remained stagnant in 2017-18. There has been a slight increase in the domestic sales in the POI.

iv. The demand in the POI has increased in comparison to 2016-17 and 2017-18.

II. Profitability, return on investment and cash profits

77. Profitability return on investment and cash profits of the domestic industry over the injury period is given in the table below: -

Particulars	Unit	2015-16	2016-17	2017-18	POI
Cost of Domestic Sales	Rs/MT	***	***	***	***
<i>Indexed</i>		100	93	110	140
Selling Price	Rs/MT	***	***	***	***
<i>Indexed</i>		100	97	113	132
Profit / Loss per unit	Rs/MT	***	***	***	***
<i>Indexed</i>		100	139	142	55
Profit / Loss	Rs. Lacs	***	***	***	***
<i>Indexed</i>		100	109	112	47
Cash Profit	Rs. Lacs	***	***	***	***
<i>Indexed</i>		100	107	109	51
Profit before Interest & Tax	Rs. Lacs	***	***	***	***
<i>Indexed</i>		100	107	110	61
Return on Capital Employed	%	***	***	***	***
<i>Indexed</i>		100	106	89	47

78. From the above table, it is noted that the PBIT, cash profit, profit per unit, total profit and ROCE of the domestic industry have reduced in the POI as compared to the earlier years.

III. Employment, productivity and wages

79. Employment, productivity and wages of Domestic Industry over the injury period is given in the table below.

Particulars	Unit	2015-16	2016-17	2017-18	POI
Employment	Nos	***	***	***	***
<i>Indexed</i>		100	100	100	101
Salary and Wages	Rs. Lacs	***	***	***	***
<i>Indexed</i>		100	111	112	120

80. It is noted that the number of employees has marginally increased in the POI, but the salary and wages have increased by 20 indexed points in the POI as compared to the base year.

IV. Inventories

81. Inventory position with the domestic industry over the injury period is given in the table below:

Particulars	Unit	2015-16	2016-17	2017-18	POI
Average Inventory	MT	***	***	***	***
<i>Indexed</i>		<i>100</i>	<i>121</i>	<i>149</i>	<i>111</i>

82. It is noted that the inventories with the domestic industry have increased during the POI as compared to the base year but have decreased in comparison to 2016-17 and 2017-18.

V. Growth

83. Profitability and ROCE of the domestic industry have deteriorated during the POI, as compared to 2017-18. However, other factors such as production, sales, capacity utilization have improved in the POI as compared to 2017-18.

Particulars	Unit	2016-17	2017-18	POI
Production	%	-10%	-9%	15%
Sales	%	-22%	0.3%	8%
Capacity Utilization	%	-10%	-9%	11%
Profit/Loss per unit	%	39%	3%	-61%
Return on Capital Employed	%	3%	-15%	-48%
Market Share - DI	%	-2%	5%	0%

VI. Ability to Raise Capital Investments

84. Domestic Industry has claimed that if the duty is not imposed, it will lead to further decline in profitability of the petitioning domestic industry. This is likely to affect its ability to raise capital investments.

VII. Factors affecting domestic prices

85. The domestic industry has not been able to increase the selling price commensurate with the increase in cost of sales. There is significant price effect of the imports coming in at a low price.

H.3.5. Magnitude of Injury and Injury Margin

86. The Authority has determined Non-Injurious Price for the domestic industry on the basis of principles laid down in Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The NIP of the domestic industry has been compared with the landed price from each of the subject countries for calculating injury margin. For determining NIP, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been done with the utilities. The best utilisation of production capacity over the injury period has been considered. The production in POI has been calculated considering the best capacity utilisation and the same production has been considered for arriving per unit fixed cost. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. Average Net Fixed Assets plus Average Working Capital) for the product under

consideration was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure-III and being followed. The non-injurious price so determined has been compared with the landed prices of imports from the subject countries to determine the injury margin as follows:

Country	Producer	Non-Injurious Price	Landed Value	Injury Margin	Injury Margin	Injury Margin
		US\$/MT	US\$/MT	US\$/MT	%	Range
European Union	Dralon GmbH	***	***	***	Negative	Negative
European Union	All Others	***	***	***	***	0-10
Ukraine	All	***	2,211.16	***	***	0-10
Peru	All	***	2,179.85	***	***	0-10
Belarus	All	***	2,255.26	***	***	0-10

H.3.6. Causal Link

87. As per the Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which at the same time are causing injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the domestic industry.

I. Volume of imports from third countries

88. The Authority notes that the imports of the product under consideration from non-subject countries (except Thailand) are not in significant quantity. The Authority is conducting a parallel sunset review investigation against Thailand with respect to the anti-dumping duty in force against Thailand.

II. Export Performance and Captive Consumption

89. The exports and captive consumption made by the domestic industry are as follows:

Particulars	Unit	2015-16	2016-17	2017-18	POI
Domestic Sales Volume	MT	***	***	***	***
<i>Indexed</i>		100	78	79	85
Captive Sales Volume	MT	***	***	***	***
<i>Indexed</i>		100	347	508	704
Exports Sales Volume	MT	***	***	***	***

90. The Authority notes that the captive sales have increased exponentially in the POI as compared to the base year as well as the previous years. The export sales by the domestic industry have also been significant in nature.

III. Development of Technology

91. None of the interested parties have raised any issue with regard to developments in technology as being the cause of injury to the domestic industry.

IV. Performance of other products of the company

92. The Authority notes that the performance of other products being produced and sold by the Applicants does not appear to be a possible cause of injury to the domestic industry.

V. Trade Restrictive Practices and Competition between the Foreign and Domestic producers

93. The imports of the product under consideration are not restricted in any manner and the same are freely importable in the country. No evidence has been submitted by any interested party to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

VI. Contraction in Demand and Changes in pattern of consumption

94. It is noted that the demand of the product under consideration has increased in the period of investigation as compared to the previous years.

VII. Conclusion on Injury and Causal link:

95. The Authority, thus, notes as under:

a) Imports of the product under consideration have increased in absolute terms over the entire period of investigation. Imports of PUC from subject countries have increased in absolute terms from 13,686 MT in 2015-16 to 19,459 MT in POI.

b) There is positive price undercutting/underselling due to low priced dumped imports coming into India. There is price suppression due to low priced dumped imports coming into India.

c) The Domestic Industry's profitability has reduced during the POI as compared to the previous years.

d) There are no trade restrictive practices, technology issues, productivity issues or any other factor which can be attributed to the injury being suffered by the domestic industry.

e) The demand for the product under consideration has increased during the POI as compared to previous years. Accordingly, fall in demand cannot be the reason for injury to the domestic industry.

f) The imports non-subject countries (except Thailand) are not significant in volume terms so as to cause or threaten to cause injury to the domestic industry. The Authority is conducting a parallel sunset review investigation against Thailand with respect to the anti-dumping duty in force against Thailand.

I. POST DISCLOSURE COMMENTS

I.1. Submissions made by the Domestic Industry

96. The following submissions have been made by the domestic industry:

- a. Each of the producers in the subject countries are dumping the product under consideration into India.
- b. In a situation where performance of the domestic industry first deteriorated and thereafter improved, but still remained below earlier levels, it must be concluded that the performance of the domestic industry has indeed deteriorated.
- c. It is requested to determine market share after excluding captive consumption. The captive consumption is insulated from adverse effects of competition and therefore increased over the period.
- d. The market share of the domestic industry declined over the injury period as far as merchant market is concerned, whether compared with the base year or with preceding year.
- e. The decline in market share is quite significant, in view of significant decline in the sales volumes, even when demand increased. While domestic sales declined by 15% over the injury period, the market share declined by 19%. This is in a situation where the domestic industry lost production and had to undertake loss making exports.
- f. The demand has increased over the injury period but the sales of the domestic industry have declined. Also, as compared to previous year, the domestic industry was still unable to increase its sales in proportion to increase in demand.
- g. Performance of the domestic industry in fact deteriorated in respect of production, domestic sales, capacity utilization, market share over the injury period. The analysis and conclusion cannot be restricted to a comparison of POI with preceding year.
- h. Increase in parameters such as production, sales, capacity utilisation and market share need to be seen in comparison to imports from subject countries and demand in India. As submitted earlier, even when the sales of the domestic industry have increased during period of investigation as compared to the previous year, the domestic industry was still unable to increase its sales in proportion of increase in demand. The market share of domestic industry has declined in the POI.
- i. Domestic Industry requests the Authority to reject the exporter questionnaire response filed by Dralon GmbH owing to the excessive confidentiality claimed by them.
- j. There is no provision under the law which prevents the Authority from examining material injury along with threat of material injury, even if the same was not examined at the stage of initiation.

- k. Domestic industry submits that the exports being made by the domestic industry are only a result of the inability of the domestic industry to sell profitably in the domestic market.
- l. As far as captive consumption is concerned, the same has increased only because the captive market is insulated from dumping. Increase in captive consumption and decline in domestic sale itself is the biggest evidence of adverse effect of dumping on the domestic industry.
- m. The decline in production and capacity utilisation clearly shows that the decline in domestic sales is not because of increase in captive consumption. Thus, despite increase in captive and export sales in POI as compared to preceding year, (a) the overall sales of the domestic industry have declined over the injury period, (b) export sales of the domestic industry in POI were lower than that in the base year.
- n. Despite increase in captive and export sales, the overall sales of the domestic industry have declined. Also, the capacity utilization of the domestic industry has declined. It shows that the domestic industry has suffered injury due to imports.
- o. Domestic industry requests for imposition of fixed quantum of antidumping duty, expressed in US\$/kg.
- p. The applicants' requests additional disclosure of (1) whether producers in subject countries provided details of acrylic fibre waste produced and exported to India during the POI and injury period and whether the same shows that the volume of waste exports made are reasonable having regard to the level of waste production generally found (2) whether CIF import price has been determined by adding the imports of acrylic fibre waste (3) A non-confidential version of supplementary information, if any, filed by foreign producer (4) A non-confidential version of deficiencies issued to foreign producers, if any, (5) Copy of communications sent by the Authority and copy the replies filed by the interested parties (6) Copy of rejoinder submissions (7) A non-confidential version of verification report.

I.2. Submissions made by other interested parties

- a. The Authority has failed to adequately examine SDF's arguments that the Acrylic Waste exported to India do not fall within the scope of the PUC.
- b. The Authority's assessment has overlooked the critical parameters for determining likeness between products.
- c. Production of Acrylic Waste does not follow the same process, but rather is a result of specific failures in individual process steps for manufacturing Acrylic Fibre.
- d. There are significant technical differences in terms of weight, length, moisture, resistance, processability and colour between Acrylic waste and the domestic industry's products. The differences are not merely a question of quality but reflect deeper technical and commercial differences between the products.
- e. Domestic industry itself has implied that the Acrylic waste is not in the scope of present PUC. Acrylic waste do not meet the technical specifications of Acrylic fibre and the fineness, finish, tenacity or elongation, weight, shrinkage, etc. are all out of

specification, and cannot be used for the same purposes as Acrylic fibre. Therefore, they are not technically or commercially substitutable with the domestic industry's products.

- f. The Producer agrees with the exclusion of Vardhman from the scope of Domestic Industry and requests that the Authority to retain the same in its final findings.
- g. There is no volume injury to the domestic industry. Imports from Peru have decreased in the POI in comparison to the previous years in the injury period i.e. 2017-18 and 2016-17. The Authority ought to have considered the trends as regards the entire injury period as opposed to a simple comparison of the base year and the POI.
- h. Even though the price undercutting has been stable in the injury period, domestic industry's performance has improved with respect to various economic parameters, indicating no correlation between the imports and the performance or prices of the domestic industry.
- i. The economic parameters including production, sales volume, wages and capacity have shown a positive trend in the POI in comparison to 2016-17 and 2017-18.
- j. SDF had requested calculation of market share to include the captive consumption. It is unclear whether the Authority has taken this into account. The Authority has not conducted any further analysis of the impact of the same on its determination of alleged injury suffered by the Domestic Industry and any causal link thereto.
- k. SDF had made detailed averments and references relating to relevant extracts of the Annual Reports of the domestic industry suggesting that factors such as volatility in the Acrylonitrile (a major raw material for PUC) market due to volatility in crude oil market (Acrylonitrile is a derivative of crude oil), demonetization, GST, and mild winter have impacted the performance of the DI.
- l. When Acrylic Fibre is produced, waste is generated as part of the production. Acrylic Fibre waste is not any product produced as such to be called as a "product". Its price depends on demand for such waste. The waste has separate classification and the basic product properties of Acrylic Fibre cannot be seen in Acrylic Fibre waste. Genuine imports of waste should not be subjected to any duty applicable on Acrylic Fibre. The importers have no objection to the authorities taking a step to stop the mis-declaration of acrylic fibre as acrylic fibre waste.
- m. The proposal to disqualify VAL as part of the domestic industry is a positive move. However, such disqualification alone is insufficient. Such significant imports by a domestic producer should lead to the termination of the present case. Any alleged injury from such imports is self-inflicted.
- n. The observation that dumped imports have increased in absolute and relative terms during the POI as compared to the base year needs reconsideration. The reality is that the imports increased because of substantial imports by the related party of an Indian producer. If such imports (about 29% in total subject imports) are removed, then a drastic fall in import shall be visible. The users and importers at large cannot be blamed for such increase in imports.

- o. The disclosure statement shows that there has been positive price undercutting, suppression and underselling. Such parameters should be noted in light of the fact that about 29% of the imports were made by a related party of an Indian producer who was a petitioner at the time of initiation.
- p. Total imports from subject countries were 19,459 MT during the POI out of which 13,952 MT or 70% imports were from EU which did not cause any price underselling effect. It is not logical that 5,867 MT import from Peru, Belarus and Ukraine put together have caused injury to the domestic industry.
- q. The figures in the disclosure statement do not reflect any volume or price injury. Profits have remained substantial during the POI. Deterioration in profits cannot be attributed to imports. About 70% of the imports from subject countries reached India without any underselling effects. About 29% of the imports from subject countries were made by a related party of the Indian producer who was a petitioner at the time of initiation. Indian producers cannot blame others for the consequences of imports made by them.
- r. The captive consumption of the domestic industry has increased significantly which shows that the domestic industry is facing 'margin pressure' in the sale of Acrylic Fibre and taking benefits in the downstream products.
- s. The causal link examination has not considered the fact that about 29% of the imports from subject countries were made by a related party of the Indian producer who was a petitioner at the time of initiation.
- t. The concerns of the users remain unaddressed in the disclosure statement. The users are already suffering irreparable injury due to the anti-dumping duty on other sources. Any further duty shall destroy the users in India forever. The present case is a fit case for not recommending any anti-dumping duty in the facts of the case and also in the larger interest of large number of users.
- u. According to the Ukrainian official statistics, Ukraine did not export the PUC to India during the injury investigation period and dumping investigation period (2015/16, 2016/17, 2017/18 & 2018/19).
- v. It is unclear how the Authority managed to calculate dumping margin for Ukraine that is based on export price without actual export supplies from Ukraine and what sources were used to calculate normal value on the basis of best available information. We consider the Authority's calculations to be invalid and, therefore, inconsistent with WTO provisions.
- w. The term "acrylic" includes acrylic staple, acrylic tow and acrylic tops. In other words, acrylic staple fibre, acrylic tow and acrylic tops are commercially referred to as 'acrylic fibre'. Belarus sells small volumes of raw white (undyed) acrylic tow under the Customs Code 550130, which is not a similar product within the definition of 'acrylic fiber' in general.
- x. The weight of a bale of Nitron-D fiber produced and sold by OJSC 'Naftan' is about 200-230 kg. The first grade tow cannot have more than two breaks per bale. At the same time, the processor has additional costs for reloading the tow when it breaks, equipment

downtime during reloading, and a decrease in equipment productivity due to additional technological pauses.

- y. The petition of the domestic industry does not contain information about the products manufactured. The petition must contain a complete description of the product being investigated.
- z. There are significant differences in the technological process of manufacturing acrylic fiber produced by JSC “Naftan” and the local industry. Indian Acrylics uses the DuPont company dry forming process and Vardhman Textiles Ltd. uses the Japanese Exlan process which is suspension polymerization. This leads to a difference in cost. Only Pasupati uses a process similar to JSC Naftan that is SNIA Italy. However, none of the companies have their own production of monomer raw materials, which JSC Naftan has. They bear the risks and costs of purchasing acrylonitrile and methyl acrylate as imported goods.
 - aa. The period chosen by Authority was characterized by the highest prices for acrylonitrile, the main raw material for the production of acrylic fibre. Such rise in raw material prices were not a problem for JSC Naftan due to backward integration.
 - bb. The domestic industry was not harmed by the imports in question but by the acrylonitrile suppliers.
 - cc. The prices of acrylonitrile have now decreased (in the Post-POI) from 1300-1400 USD/t CFR to 900-930 USD/t CFT. This will allow the domestic industry to cover production expenses and earn good profits.
 - dd. The normal value for comparable goods (excluding the cost of dyed fibre) is lower than the prices for exports to the Indian market.
 - ee. When sending physical copies by the mail, the documents were structured into 2 folders, one containing accounting documents and the other shipping documents. Accounting and documentation in Belarus is maintained in Russian and duplication of internal documentation in English is not provided. Translation of documents in English was not possible in the short dead line.
 - ff. The domestic industry was earning exceptional profits in 2015-16 and considering such an exceptional time period as the base year affects the entire injury analysis. For example, the exceptional profits of 2015-16 are experiencing normalization in 2016-17 and subsequent years, but it appears to be declining significantly.
 - gg. The cost of the Domestic Industry has increased by almost 1.5 times during POI. Interestingly, while the trend of cost shows measured increase year on year up to 2017-18, there is a sudden jump in the cost of sales during the POI alone. While it is understood that the price of raw materials for acrylic fibre is highly volatile, the cost increase for the domestic industry claimed by the Petitioners is abnormal and merits re-examination.
 - hh. Imports entering from non-subject sources accounting for a third of the total imports in India- such as Thailand and Turkey- at exceptionally low prices lesser than the prices

of the imports particularly from EU, and such imports from non-subject countries are causing injury to the domestic industry.

- ii. The Domestic Industry's export price has not been disclosed and the Petitioners' performance in the export market may be causing injury to the domestic industry.
- jj. The domestic industry has massively scaled up their captive consumption and the prices at which products are captively consumed may be causing injury to the domestic industry.
- kk. No duty should be imposed on Dralon GmbH, in light of the negative injury margin calculated for the exports made by the Respondent and the lesser duty rule followed by India.

I.3. Examination by the Authority

- 97. The Authority has examined the post-disclosure comments/submissions made by the interested parties including reiterations which have already been examined suitably and adequately addressed in the relevant paras of these final findings. The issues raised for the first time in the post disclosure comments/submissions made by the interested parties and considered relevant by the Authority are examined below.
- 98. With regard to the exclusion of acrylic fiber waste from the scope of the PUC, the Authority has re-examined the submissions on record, and has recorded its findings in the relevant paragraphs of these final findings. The Authority deems it fit not to include acrylic fibre waste within the scope of the PUC, due to differences in end-uses, physical characteristics and the customs classifications of the products.
- 99. With regard to the self-infliction of injury due to the imports made by a related party of Vardhman, the Authority notes that any chances of self-inflicted injury to the domestic industry are addressed by not including Vardhman as part of the domestic industry. Injury assessment has been done by the Authority based on the parameters of the other two domestic producers.
- 100. With regard to the submissions made by the interested parties relating to the material injury caused to the domestic industry, the Authority has examined the relevant parameters and has recorded its findings in the relevant paragraphs of the final findings.
- 101. With regard to the termination of the investigation against imports from EU owing to the negative underselling calculated for EU imports, the Authority notes that individual margins for dumping and injury are calculated for all participating exporters. In the event that a negative injury or dumping margin is calculated for an exporter, no duty is imposed on the said exporter, in light of the lesser duty rule followed by India. The duty on all others/non-cooperating producers/exporters is determined based on facts available.
- 102. With regard to the mismatch of Indian import statistics and Ukrainian export statistics, the Authority notes that it has relied on official DGCI&S import data, for the purposes of this investigation.
- 103. With regard to the non-cooperation of the exporter from Belarus, the Authority notes that ample time was granted to all the interested parties to file the required documents. It must be noted that an anti-dumping investigation is a quasi-judicial process and is time bound.

Multiple extensions cannot be afforded by the Authority at each stage of the investigation. The non-cooperation of the exporter did not allow the Authority to calculate an individual dumping or injury margin for the exporter.

J. INDIAN INDUSTRY'S INTEREST

104. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.

105. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

K. CONCLUSION

106. Having regard to the contentions raised, information provided, and submissions made and facts available before the Authority as recorded in the above findings and on the basis of the above analysis, the Authority concludes that:

- a. The product under consideration has been exported to India from the subject countries below its associated normal value, thus resulting in dumping.
- b. The domestic industry has suffered material injury due to dumping of the product under consideration from the subject countries.
- c. Material injury has been caused to the domestic industry by the dumped imports from the subject countries.

L. RECOMMENDATIONS

107. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules and having established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive antidumping duty is required to offset dumping and injury. The Authority, therefore, considers it necessary and recommends imposition of anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

108. In terms of provision contained in Rule 4(d) & Rule 17(1) (b) of the Rules, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the duty table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on all imports of goods described at Column 3 of the duty table, originating in or exported from subject countries.

DUTY TABLE

S. No	Heading/Sub Heading	Description of Goods	Country of Origin	Country of Export	Producer	Duty Amount	Currency	Unit
1	2	3	4	5	6	7	8	9
1	5501.3000, 5503.3000, 5506.3000*	Acrylic Fibre**	European Union (EU)	Any country including European Union	Dralon GmbH	NIL	US\$	MT
2	-do-	Acrylic Fibre**	European Union	Any country including European Union	Any producer other than mentioned at S.No. 1 above	212.98	US\$	MT
3	-do-	Acrylic Fibre**	Any country other than European Union, Belarus, Peru and Ukraine	European Union	Any	212.98	US\$	MT
4	-do-	Acrylic Fibre**	Belarus	Any country including Belarus	Any	114.97	US\$	MT
5	-do-	Acrylic Fibre**	Any country other than European Union, Belarus, Peru and Ukraine	Belarus	Any	114.97	US\$	MT
6	-do-	Acrylic Fibre**	Peru	Any country including Peru	Any	190.38	US\$	MT
7	-do-	Acrylic Fibre**	Any country other than European Union, Belarus,	Peru	Any	190.38	US\$	MT

			Peru and Ukraine					
8	-do-	Acrylic Fibre**	Ukraine	Any country including Ukraine	Any	159.07	US\$	MT
9	-do-	Acrylic Fibre**	Any country other than European Union, Belarus, Peru and Ukraine	Ukraine	Any	159.07	US\$	MT

* Note - Customs classification is only indicative, and the determination of anti-dumping duty shall be made as per the description of the PUC. The PUC mentioned above should be subject to above ADD even when it is imported under any other HS code.

** Note- *Acrylic Fibre of all types excluding "Homo Polymer Acrylic Fibre containing 100% Acrylonitrile". 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, acrylic tow and acrylic top. In other words, acrylic staple fibre, acrylic tow and acrylic top are known as acrylic fibre in the commercial parlance.*

M. FURTHER PROCEDURE

109. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the with the relevant provisions of the Act.



(B.B.Swain)

Special Secretary and Designated Authority