

**GOVERNMENT OF INDIA**  
**MINISTRY OF COMMERCE & INDUSTRY**  
**DEPARTMENT OF COMMERCE**  
**(DIRECTORATE GENERAL OF ANTI-DUMPING &**  
**ALLIED DUTIES)**

**NOTIFICATION**

New Delhi, The 10th November 2004

**SUNSET REVIEW FINAL FINDINGS**

**Subject : Sunset Review of Anti-Dumping duty on imports of Acrylic Fibre originating in or exported from Italy, Spain, Portugal, and Japan**

**No. 15/4/2003-DGAD - WHEREAS**, The Designated Authority (herein after also referred to as the Authority), having regard to the Customs Tariff Act, 1975 as amended in 1995 (herein after referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (herein after referred to as the Rules) investigated and recommended imposition of provisional Anti Dumping duty on imports of Acrylic Fibre (hereinafter referred to as subject goods) falling under Sub-heading 5501.30 and 5503.30 of ITC HS classification and originating in or exported from Japan, Spain, Portugal and Italy (hereinafter referred to as subject countries). The interim findings of the Authority were published vide Notification no. 32/1/97-ADD dated 20<sup>th</sup> October 1998 and provisional duty was imposed on the subject goods vide Customs notification No. 90/98 dated 17.11.1998. The Authority came out with its final findings on 24<sup>th</sup> December 1998 and definitive anti dumping duty was imposed by the Central Government vide notification No8/99 dated 22.01.1999 as amended by Notification No. 53/99-Cus. dated 04.05.1999.

**2. AND WHEREAS**, The Designated Authority, under Section 9A (5) of the Act and Rules made there under, received an application from the Forum for Acrylic Fibre Manufacturers, New Delhi on behalf of the following producers of Acrylic Fibre in India i.e., M/s Indian Acrylic Ltd., Chandigarh; M/s Consolidated Fibre and Chemicals Ltd, Calcutta; and M/s Pasupati Acrylon Ltd., New Delhi, for initiation of a sunset review investigation for continuation of the antidumping duty imposed on the subject goods under the above mentioned notifications for a further period of 5 years. One of the other Indian producers i.e. M/s Vardhaman Acrylics Ltd supported the application filed by the Forum for Acrylic Fibre Manufacturers. The Authority, on the basis of a request made on behalf of the domestic industry, issued a public notice dated 03.09.2003 published in the Gazette of India, Extraordinary, initiating Anti-Dumping sunset review investigation in respect of the duty in force against the subject countries as above, to determine whether the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

3. **AND WHEREAS** the antidumping duty as notified vide notification No8/99 dated 22.01.1999 as amended by Notification No. 53/99. Cus. dated 04.05.1999 was extended up to 16<sup>th</sup> Nov 2004 vide notification No. 158/2003 dated 22.10.2003 in terms of Section 9 (A) (5) of the said Act.

## **A : BACK GROUND OF THE CASE**

4. On the basis of an application filed by the above domestic producers in India alongwith M/s J.K. Synthetic Ltd, the Designated Authority conducted an investigation into Dumping, injury and Causal links of the imports from the above named countries and on the basis of its determination of dumping, injury and causal links notified its final findings on 24<sup>th</sup> December 1998. Acting Upon the findings of the Authority the Central Government imposed antidumping duty on imports of the subject goods from the subject countries vide Customs notification No. 8/99 dated 22.01.1999. However, certain interested parties appealed against the findings of the Designated Authority and Notification of the Central Government before the CEGAT. While disposing off the petitions by several interested parties CEGAT modified the duty recommended by the Authority under para 55 of its final findings. The duty was converted into Dollar term. Acting upon the orders of the CEGAT, the Central Government amended the duties vide Notification No. 53/99. Cus. dated 04.05.1999.

## **B : PROCEDURE**

5. The procedure described below has been followed with regard to the investigation:

- i. The Authority sent questionnaires, alongwith the initiation notification, to the following known exporters/producers, in accordance with the Rule 6(4), to elicit relevant information;
  1. M/s Ashahi Chemicals Industry Co. Ltd. Japan
  2. M/s Komatsuya Corporation, Japan
  3. M/s Fibras Simteticas De Portugal, Portugal
  4. M/s Courtaulds Europeans Fibre, Spain
  5. M/s Monte Fibre SPA, Italy
- ii. The Embassies/High Commissions/ Representatives of the subject countries including the Delegation of the European Union in New Delhi were informed about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers from their respective countries to respond to the questionnaire within the prescribed time. Copies of the letters, petitions and questionnaires sent to the exporters were also sent to the Embassies/High Commissions of subject countries alongwith a list of known exporters/ producers.
- iii. Questionnaires were sent to known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4).
- iv. Investigation was carried out for the period starting from 1<sup>st</sup> April, 2002 to 31<sup>st</sup> March, 2003 (POI). However, injury examination was conducted for a period from 1999-00 to 2002-03.
- v. Request was made to the Central Board of Excise and Customs (CBEC) and DGCI&S to arrange details of imports of subject goods for the past three years, and the period of investigations;

- vi. In response to the initiation communications were received from the following exporters through their legal representatives:
  - a. M/s Mitsubishi Rayon Co. Ltd Japan,
  - b. M/s Japan Exlan Co. Ltd, Japan,
  - c. M/s Marubeni Corporation, Japan,

The response of M/s Mitsubishi Rayon was incomplete in all respect and in spite of deficiency reminders the Company did not respond to complete the questionnaire. The other two exporters from Japan submitted their questionnaire responses but did not respond to the Authority's communication regarding the verification requirement of the data submitted by them vide letters dated 7<sup>th</sup> April 2004 and 22<sup>nd</sup> April 2004. Vide their letter dt. 30<sup>th</sup> April, 2004 the representative of the companies informed that due to major reshuffle in the acrylic fibre departments of their clients, they were unable to confirm any date for verification and that they have advised their clients that the investigation being time bound, the authority will make a decision on the basis of best information available under Rule 6.8 of the Anti Dumping Rules. Verification of cost of production is an essential component of anti dumping investigation for determination of normal value in the country of export in ordinary course of trade. Since the exporters involved did not cooperate for verification of their data, the questionnaire response submitted by them could not be relied upon and the above named exporters from Japan were treated as non-cooperative for the purpose of this investigation. These exporters also did not participate in the public hearing but the consultants for them filed two written submission after the public hearing based on the submissions made by others. The miscellaneous submissions made by these exporters have been considered to the extent they are relevant.

- d. M/s Fisispe Barcelona S.A., Portugal intimated that they have decided to leave the Indian Market and therefore, would prefer not to respond to the questionnaire.
  - e. M/s Asahi Kasei Corporation, Japan intimated that they are not the exporters or producers of the subject goods any more and therefore, not interested to participate in the investigation.
  - f. No other exporter from any of the countries named, have submitted any response, in any manner, to the initiation notification.
- vii. Following importers/ users of the subject goods filed their submissions in response to the initiation notification:
    - M/s Rajasthan Spinning Mills Ltd. through the Indian Spinner's Association
    - Indian Spinners Association and Ludhiana spinners Association also made their representations at different stages of the investigation.

viii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;

ix) The other Indian manufacturers of the subject goods i.e. M/s Vardhaman Acrylics Ltd and M/s IPCL, who had not initially participated in the investigation and joined as applicants for the review, were requested by the Authority for their cost as well as other relevant data for a broad based examination of injury and non-injurious price. Whereas M/s Vardhaman Acrylic

subsequently submitted their cost data and joined the other applicants as a supporter of the application for review, M/s IPCL provided very limited information which has been taken into consideration to the extent found relevant.

x) The Authority verified the information furnished by the domestic industry as well as the supporting party to the extent possible to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the applicants so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;

xi) The Authority held a public hearing on 02.04.2004 to hear the interested parties orally, which was attended by representatives of the domestic industry, importers/ users of the subject goods and representative of the Delegation of European Union. None of the exporters from the subject countries however, appeared for the public hearing, except a representative of the Delegation of the European Union. The parties attending the public hearing were requested to file written submissions of views expressed orally. The written submissions received from interested parties have been considered by Designated Authority in this finding;

Xii) In accordance with Rule 16 of the Rules supra, the essential facts considered for these findings and basis of determination were disclosed to known interested parties vide general disclosure and confidential disclosures to parties involved vide letters dated 15<sup>th</sup> October 2004. Comments to the disclosures received from the interested parties have also been duly considered in these findings to the extent the arguments and claims made by various parties are substantiated with evidence and data;

Xiii) \*\*\*\* In the Notification represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

## **C : PRODUCT UNDER CONSIDERATION AND ‘LIKE ARTICLE’**

6. The product under consideration in the original investigation and the product attracting antidumping duty on the basis of the final findings of the Authority is "Acrylic fibre, both in shrinkable and non-shrinkable form, ranging from 1.5 Denier to 8 Denier and covered tow, top and staples fibres". The product is classified under ITC HS classification Nos. 5501.30 and 5503.30.

### **C.1 Views of Petitioners, exporters, importers and other interested parties**

#### **C.1.1 Petitioner’s views**

7. The applicants have argued that the product involved in the present investigation is Acrylic Fibre, irrespective of its customs subheadings. Being a review investigation, the product under consideration in the present investigation has to be the same as it was in the original investigation. They have further argued that the scope of the product has also been settled by the Appellate Tribunal in this case and therefore, there is no scope for further deliberation on this matter

### **C.1.2 Views of the Exporters**

8. There is no full cooperation from any of the exporters and this issue has not been addressed by any of them in their limited submissions.

### **C.1.3 Views of Importers and other Interested Parties**

9. The Indian Spinners Association in its submissions before the Authority has argued:

- That the domestic industry has clubbed two different items viz. acrylic/modacrylic fibre having HSN No.5503.3000 and synthetic filament tow falling under Hearing No.5501.3000.
- While subject goods include two different and distinct items having two distinct trade classification numbers under Customs Tariff Act, data relating to the domestic industry with regard to price, production etc, relate to acrylic fibre only. This has totally vitiated the investigation.
- That it was admitted by the representative of the Domestic Industry during the public hearing that filament tow has to undergo a further process before it becomes fibre.
- That there is a difference of about Rs.8/- per kg. in the prices of the two. By taking the average price of tow and fibre originating/exported from the subject countries and at the same time, by taking the price of only fibre in respect of domestic industry, the price comparison gets totally vitiated, because the difference of about Rs.8/- per kg., in the prices of tow and fibre mars the comparison
- That while computing market share, the quantity of imports would include both fibre and tow in the case of imports, while it would include only fibre in the case of domestic industry. This vitiates the comparisons and yields misleading results.
- That by mixing up two items for purposes of import data and taking only one item for purpose of domestic industry, the whole enquiry has been vitiated.

10. In their post disclosure submissions the interested parties have again reiterated their stand on separation of tow and fibres on the grounds that acrylic fibre and tow are two separate and distinct items covered by two distinct ITC classifications and they have separate end uses. While tow is used as raw material in the knitting industry, fibre is used by the spinners working on cotton spinning system. Knitting yarn is used for the manufacture of knitted fabrics while spun yarn goes for manufacture of woven cloth. Therefore, it has been argued that quality, specification, pricing and consequently economics of these two products are entirely different.

## **C.2 Examination by the Authority**

11. The Authority has carefully considered the views of the petitioners, exporters and importers, and other interested parties on the issue of the product under consideration and the like article including submissions made in response to the disclosure statement.

12. For the purpose of this investigation the product under consideration was ‘Acrylic fibre, both in shrinkable and non-shrinkable form, ranging from 1.5 Denier to 8 Denier and covered tow, top and staples fibres’. The issue has been deliberated and settled appropriately in the final findings of original investigation itself and the subsequent CEGAT orders. Moreover, this being a sunset review investigation, the scope of the investigation is limited to the product already identified in the original investigation.

13. The products i.e. tow and fibre, are manufactured in the same manufacturing process though fibre requires minor incremental processing of crimping and cutting to staple lengths. The price differential is essentially due to the incremental process involved and the differential has been found to be marginal. For the purpose of this investigation weighted average cost of Acrylic fibre and tow has been taken for all comparisons of normal value and export price from the countries of exports. Therefore, the cost comparison of the domestic industry and that of the imports is considered to be fair and reasonable. The domestic industry also produces both, tow and fiber in different proportions depending upon the demand. This being a settled issue in the Appellate Tribunal also the Authority finds no reason to alter the product under consideration or the like article in any manner.

## **D : INITIATION AND STANDING OF THE DOMESTIC INDUSTRY**

14. The review has been initiated on the basis of a duly substantiated request submitted on behalf of the domestic industry in terms of Article 11.3 of the Antidumping Agreement read with Section 9 A (5) of the Acts, and the same has not been challenged by any of the interested parties. However, the Authority notes that standing is not an issue in a sunset review request.

## **E : ISSUES BEFORE THE AUTHORITY**

15. Section 9 A (5) of the Act provides that the Authority, in a sunset review, is required to examine, whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury. Therefore, the issues before the Authority are to determine:

- a. Whether Dumping is likely to continue or recur, if definitive duties are removed or expired;
- b. Whether Injury to the Domestic Industry is likely to continue or recur, if definitive duties are allowed to expire or removed.

On the basis of the above the Authority proceeds to examine these issues in the succeeding paragraphs.

## **F : CONTINUATION OR RECURRENCE OF DUMPING:**

### **F.1 Applicant's Views**

16. Quoting the US practice in their Sunset Review investigations, the applicants have argued that the following circumstances would lead to affirmative determination in a sunset review:

- a. Dumping continued at any level above 0.5% after the issuance of definitive duty order;
- b. Imports ceased after issuance of the order; Or
- c. Dumping was eliminated after the issuance of the order and import volumes declined significantly.

17. The applicants have also argued that existence of actual imports in the POI is not a pre-requisite in a sunset review investigation which is more of a likelihood test rather than an actual dumping and injury test. In this connection they have quoted the decision of the EC in the matter of Polyester Staple Fibre from Belarus in which the said authority has continued the duty even when there was no imports from that country, holding that revocation of the duty would lead to recurrence of dumping. The applicants have also quoted Brazil; Import of Jute bags from India, sunset review case, where the duties have been continued even though there were no imports from India in the entire five year period.

18. The applicants further argue that the WTO Appellate Body, in the matter of US sunset review of antidumping duties on Corrosion Resistant Carbon Steel Products from Japan, held that there is no obligation under the antidumping agreement for investigating Authorities to calculate or rely on dumping margins in determining the likelihood of continuation or recurrence of dumping.

19. In summary the arguments of the applicants are that inescapable conclusion in any of the following conditions would be likelihood of continued dumping or likelihood of recurrence of dumping:

- a. In case the product has been exported to India from the subject countries at prices below normal value in the relevant period;
- b. In case exports of the product have ceased after imposition of Antidumping Duty but the exporting country producers continue to export the products at dumped prices in other countries.

## **F.2 Views of exporters, importers and other interested parties**

20. The Indian Spinner's Association in its submission has argued that the domestic industry should have relied on the actual transaction data reported in reputed trade journals published in the subject countries for estimation of the normal values in the countries of exports rather than the price data reported in Technon. They have questioned the standing and reputation of Technon regarding reliability of data published by it. They have also argued that the Technon data shows the average price for a region which may not be representative for the countries involved. They have also questioned reliance of the petitioners on the Textile Handbook 2003 for the purpose of prices in Japan.

21. They have further argued that in the case of Portugal, its proximity to Spain and Italy does not imply that the same price would prevail in Portugal also, which prevails in Spain and Italy. Interested parties have argued that simply because, European Union is a customs union, it does not mean that in all Member-countries, wage rates, power tariff and other

elements of cost are the same and, therefore, cost of production is the same. Therefore, there is bound to be difference in the prices of different producers.

22. In their post disclosure submissions the interested parties have again reiterated their stand on acceptance of the Technon data and also stated that they have not been provided a copy of the same though these are published public documents to comment on the limitations and shortcomings in those data.

23. The exporters from Japan in their post public hearing submission have urged the authority to fix normal value for them based on their questionnaire response. They have also raised the issue of data anomaly in the monthly import data as compiled by DGCI&S and submitted by the applicants.

24. Interested parties however, have not countered the arguments raised by the petitioners regarding the standards and scope of sunset review investigation based on international practices.

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

25. The Authority notes that interested parties, while arguing against use of the information from the secondary sources as produced by the petitioners, have not submitted any useful information about the domestic prices in these countries. During the public hearing itself the interested parties were asked to make any reliable information in this regard available to the authority. The Technon news letters which are available in the public domain are easily available to the interested parties dealing with the same product. However, copies of the news letters as produced by the applicants were also placed in the public file for inspection by all interested parties. Therefore, the authority finds no justification in the arguments raised by the interested parties in this regard.

26. The responding exporters from Japan have not fully cooperated with the Authority and did not offer themselves for verification. In the absence of cooperation from them their data could not be relied upon and authority had to resort to facts available. In view of the above facts available method for determination of dumping margin for Japan was resorted to in terms of Article 6.8 of the Agreement. As far as their arguments regarding the import data is concerned it is noted that reconciled transaction-wise annual import data of DGCI&S has been relied upon for all determinations in this case.

27. The Authority has noted the arguments made by the applicants on the methodology and practices adopted by various Authorities in their Sunset Reviews and the relevant WTO jurisprudence on the subject and have examined the issue of continuance and likelihood of recurrence of dumping to decide the matter in this case F.4 Continuance of Dumping: Determination of Normal Values, Export Prices and Dumping Margins

28. As a first step to determine whether dumping has continued during the period in which the duty was in force, particularly the POI, the Authority determined the normal value, export price and dumping margin for individual countries of exports.

29. The Authority notes that none of the exporters from Spain, Portugal and Italy has provided any information and cooperated in the investigation in order to enable the Authority to determine the normal value and export price of the subject goods from these countries. The

exporters from Japan, after their initial partial cooperation, have not responded to subsequent queries and the verification requirements. Therefore, the Authority is forced to ignore their data for the purpose of this investigation and proceeds to determine dumping margin on the basis of facts available in terms of Rule 7(8) of Antidumping Rules read with Article 6.8 of the Agreement.

#### **F.4.1 Normal Values**

30. In the absence of any cooperation from any exporter from the subject countries the Authority has relied on facts available method to determine the normal value and/or constructed the normal value in the countries of exports.

Para 7 of the Annex II to the Agreement on Antidumping provide that:

"if the authorities have to base their findings, including those with respect to normal value, on information from a secondary source, including the information supplied in application for initiation of investigation, they should do so with special circumspection. In such case, the authority should, where practicable, check information from other independent sources at their disposal, such as published price lists, official import statistics and customs returns, and from the information obtained from other interested parties during the investigation. It is clear, however, that if an interested party does not cooperate and thus relevant information is being withheld from the authorities, this situation could lead to a result which is less favorable to the party than if the party did cooperate".

31. The applicants have submitted copies of Tecnon Orbichem, a monthly news letters in the Fibres & Intermediate Consulting Services, published from London, for the relevant periods in the POI. The news letter publishes quarterly data on trade in the above products, along with price trend in different markets. Though the interested parties have objected to use of this data none of the interested parties have brought any other relevant information before the Authority to refute the price trends published in these news letters. In the absence of any other reliable data on the home market prices in the exporting countries, this published data has been relied upon for the purpose of determination of home market prices of the subject goods in the subject countries.

32. The interested parties in their post disclosure submissions have questioned the method of determination of normal values, export prices and adjustments adopted by the authority and have inter alia argued that:

- i. if Technon prices are the starting point, prices in the country has to be determined taking into account difference in wage rates, power tariff rates, interest rates etc. and denier differences in the case of Japan.
- ii. From the market rates given in Tecnon, amounts towards excise duty, trade margin, transportation, other taxes, etc. will have to be deducted to arrive at the mill gate price of the fibre in the country of origin.
- iii. Inland transportation and handling should not be deducted from CIF price for purposes of comparison of Normal value with export price.

33. These arguments of the interested parties have been carefully examined. However, none of these parties have provided any useful information on the prices and information on adjustments proposed by them. In the absence of reliable information from the interested

parties, including the exporters in the subject countries, the Authority has resorted to facts available method of determination of normal value in those countries and adjustments to the export prices to the extent possible.

34. However, the arguments of interested parties that the published data of Technon might be reflecting the wholesale price of the commodity in the market and not the ex-works price of the commodity, merits consideration. Therefore, a term of trade and level of trade adjustment has been made on these prices to arrive at the ex-works normal value in the countries of exports assuming that the reported prices are at wholesale level and a commission of 3% and an additional selling and general expenses of 2% are incurred in those transactions. Accordingly the following determinations have been made.

**Normal value: Spain, Portugal and Italy:**

35. For the purpose of home market prices in the European Countries (Spain, Portugal & Italy) in this case, the quarterly prices of the Acrylic fibre in the West European Market as reported in this news letter has been accepted. In the absence of prices in the individual countries the prices published in the news letter appears to be the best that can reflect the home market price in these countries. Moreover, it is noted that the countries involved being part of the same customs union the prices in these markets will be more or less uniform. The details of the published data are as follows:

Prices \$/per Ton										
Product Description	Jul-02		Oct-02		Jan-03		Mar-03		Average	
	High	Low	High	Low	High	Low	High	Low	High	Low
Acrylic Fibre Tow Undyed	1610	1559	1678	1658	1846	1793	1858	1825	1748	1708.75
Average Price for the Year										1728.38

Spain, Portugal and Italy:

Selling Price (High) : US\$1748 Per Ton i.e. US\$1.74 Per Kg

Selling Price (Low) : US\$1708 Per Ton i.e. US\$1.70 Per Kg

Average Selling Price : US\$1728 per Ton i.e. US\$1.728 Per Kg

Adjustments : US\$86.4 per Ton i.e. US\$0.864 Per Kg

Normal Value : US\$1641.6 Per Ton i.e. US\$1.641 Per Kg

**Normal Value: Japan**

36. M/s Japan Exlan had furnished its home market sales prices in Japan, but subsequently did not cooperate with the Authority and the data could not be verified. In the absence of verification of their cost of production the normal value of the product in Japan in the ordinary course of trade could not be determined based on the exporter’s data. It is also noticed that substantial domestic sales of this exporter are to their affiliated parties i.e. their own yarn business. Therefore, in the absence of complete verification of their affiliated party transactions, the data could not be accepted. The other exporter i.e. M/s Marubeni Corporation is only a trader involved in exports to India and, therefore, in normal value

determination in their case depended upon the cooperation of the manufacturer. The applicants have enclosed a copy of the e-mail from the Indian Mission at Osaka providing the domestic price information of Acrylic fibre in Japan based on the data collected from JETRO, Osaka. The prices indicated in the report of Indian mission are as follows:

Prices March 2002: JYen350 per Kg = 2.7 US\$ @ Approx Yen 130 =1Us\$

June 2002: JYen 350 per Kg = 2.7 US\$

These prices appear to be at the retail level or for some high end products which do not give a sound basis for adopting the same.

37. In the absence of any other reliable data on the home market sales price in Japan the published information in Tecnon has been relied upon. But the above publication does not indicate the prices in Japan in its Asian Prices segment. However, prices in China are available for only 3 Den fibres. In the absence of any other reasonable information, the prevailing prices in China was examined as the closest possible information on the domestic prices in Japan to work out the Normal value for Japan as follows:

Prices \$/per Ton										
Product Description	Jul-02		Oct-02		Jan-03		Mar-03		Average	
	High	Low	High	Low	High	Low	High	Low	High	Low
Acrylic Fibre	1630	1580	1750	1730	1590	1510	1750	1740	1680	1640
Average Price for the Year1660.00										

38. This data was compared with the Japan's export price to China during April 2003 as reported in the same documents, which also shows an average price of US\$1.72 per kg. Therefore, the Authority hold that the above estimation is more appropriate and accordingly normal value in Japan is worked out as follows:

Selling Price (High) : US\$1680 Per Ton i.e. US\$1.68 Per Kg

Selling Price (Low) : US\$1640 Per Ton i.e. US\$1.64 Per Kg

Average Selling Price : US\$1660 Per Ton i.e. US\$1.66 Per Kg

Adjustments : US\$83 Per Ton i.e. US\$0.83 Per Kg

Normal value : US\$1577 Per Ton i.e. US\$1.577 Per Kg

## F.4.2 Export Prices

39. In the absence of actual export data from the subject countries the transaction-wise import data as compiled by DGCI&S has been examined after pruning the data of the unrelated products wherever necessary. Necessary adjustments towards inland and ocean freight, handling charges, insurance, commissions etc have been applied to the CIF import price as per the DGCIS data to arrive at weighted average ex-works export price in the country of export for both tows and fibers as follows:

## F.4.3 Adjustments:

### Spain, Portugal and Italy:

40. Adjustments towards Ocean Freight, Insurance, Commissions and port handling in case of exports from European countries have been worked out as per the data provided by one of the cooperating importers in India i.e. M/s Rajastan Spinning Mills in its questionnaire responses and the inland transportation charges has been worked out on the facts available basis. Accordingly, the adjustments allowed for exports from these countries are as follows:

- a. Net CIF Price US\$/Kg =\*\*\*\*\*
- b. Net FOB Price US\$/Kg =\*\*\*\*\*
- c. Adjustments towards Ocean Freight, Insurance and Handling =  $a - b = 0.047$
- d. Adjustments towards Inland transportation and handling = 0.004
- e. Total Adjustments =  $c + d = 0.051$  US\$/Kg

### Japan:

41. As far as exports from Japan are concerned actual adjustment towards ocean freight, commissions, handling, insurance, as well as inland transportation charges, as provided by one of the Cooperative exporters in its questionnaire response has been used to arrive at net export price of exports from Japan.

- a. Ocean freight, Commission, insurance etc. : US\$ \*\*\*\*\* /kg
- b. Inland transportation Charges : US\$ \*\*\*\*\* /Kg

Total Adjustments : US\$ 0.1358/Kg

(a) Net Export Price: Spain

42. As per DGCI&S import data the quantity and CIF Value of imports from Spain in respect of Tow and Fiber are as follows:

Item	Qty in Kgs	Value in Rs	Assessed Rate Rs/Kg	Assessed Rate US\$/	CIF Rate	Adjustments	Net Export Price
					US\$/Kg		
Tow	754047	46698347	61.93	1.273	1.26	0.051	1.21
Fiber	33760	1799166	53.29	1.095	1.08	0.051	1.03
Weighted Average Net Export Price = US\$1.202 Per Kg							1.202

Exchange rate: Rs48.64=US\$1.0

### (b) Net Export Price: Portugal

43. DIGCI&S data shows no imports of both tow and fiber from Portugal. Therefore, continuation of dumping from Portugal is not an issue.

### (c) Net Export Price: Italy

44. As per DGCI&S import data the quantity and CIF Value of imports from Italy in respect of Tow and Fiber are as follows:

Item	Qty in Kg	Value in Rs	Assessed Rate Rs/Kg	Assessed Rate US\$/kg	CIF Rate	Adjustments	Net Export Price US\$/Kg
						US\$/Kg	
Tow	316348	18016988	56.95	1.17	1.16	0.051	1.11
Fiber	1743601	112509834	64.32	1.32	1.31	0.051	1.26
Weighted Average Net Export Price = US\$1.233 Per Kg							1.233

Exchange rate: Rs48.64=US\$1.0

#### (d) Net Export Price: Japan

45. As per DGCI&S import data the quantity and CIF Value of imports from Japan in respect of Tow and Fiber are as follows:

Item	Qty in Kgs	Value in Rs	Assessed Rate Rs/Kg	Assessed Rate US\$/kg	CIF Rate	Adjustments	Net Export Price US\$/Kg
						US\$/Kg	
Fibre	1326227	83511555	62.97	1.294	1.282	0.1358	1.1459
Tow	188760	11922129	63.16	1.298	1.285	0.1358	1.1498
Weighted Average Net Export Price = US\$ 1.1464 Per Kg							1.1464

Exchange rate: Rs48.64=US\$1.0

46. The above data has been compared with the questionnaire response filed by the exporters from Japan for a reasonable determination. On the basis of the questionnaire response filed by the exporters from Japan net export price from Japan works out to US\$\*\*\*\*\* per Kg, which is close to the export price derived on the basis of DGCI&S data. However, some of the transactions of the exporters are to their affiliated importer in India. In the absence of cooperation from both, the exporter and the importer in the situation of affiliated sales, determination of export price is not possible. Therefore, the net export price worked out on the basis of DGCI&S data has been found to be more appropriate.

## F.4.4 Dumping Margins

47. Normal value so determined being an average normal value for the product types (Fibres and Tows) for the POI have been compared with the weighted average export prices as determined above for the purpose of determination of average dumping margins. Accordingly dumping margins work out as follows:

Country	Average Normal Value US\$/Kg	Average Net Export Price US\$/Kg	Dumping Margin US\$/Kg	Dumping Margin as % of EP
Spain	1.641	1.202	0.439	36.5%
Italy	1.641	1.233	0.408	33.09%
Japan	1.577	1.146	0.431	37.60%
Portugal	No exports during POI			

48. The Dumping Margins so determined has been found to be significant and above de-minimis.

49. Dumping margin for Portugal could not be determined, in the absence of any export from that country, during the period under investigation.

## F.5 Likelihood of Recurrence of Dumping

50. The analysis in the earlier section shows that imports from Spain, Italy and Japan continue at dumped prices in spite of the antidumping duty in force. However, to examine the likely effect of withdrawal duties on the prices the authority analysed the current prices of imports from the subject countries against the background of the duty already in force. The current landed value of imports from these countries are found to be much below the reference price fixed by the Authority in the original investigation, as can be seen from the table below.

Duty In force (Reference Price Basis)		As per Final Findings		Average Landed Value 2002-03	
		RS	US\$	Rs	Us\$
Japan	Ashahi Chemicals	81.36	2.28	80.88	1.663
	Tyobo	77.09	2.23		
	Mitsubishi	79.57	2.16		
	All others	81.36	2.28		
Italy	All Exporters	61.12	2.30	68.34	1.405
Spain	All Exporters	82	2.08	74.32	1.528
Portugal	All Exporters	74.22	2.28	NIL	NII
				NIL	NIL

51. The above table shows that landed values of exports from all countries continue to be below the reference prices fixed. Further, likelihood of dumping is to be analysed with reference to the spare capacity in the countries involved. In this regard in the absence of any other data/information the conference report of Technon Orbichem:- 7<sup>th</sup> Asia Fibre markets (Shangahi, 17<sup>th</sup>-18<sup>th</sup> June 2004) has been relied upon.

52. The above report shows that though there is a huge gap between the capacity and production all over the world, production, both in West Europe and Japan, has been reduced while East Asia shows a huge jump in production. Therefore, rationalization of capacities in the subject countries indicates that there may not be enough spare capacity in these countries which can be utilized to continue to dump in India on marginal cost basis. As far as Japan is concerned, two major producers i.e., Asahi and Kanebo have stopped production. However, Japan has been a major exporter of Acrylic fibres to China with a quarterly export of about 55000MTs.

53. The report also suggests that two Acrylic fibre plants i.e Montefibre's Ottana plant and Fisper's Barcelona plants have been closed recently. Therefore, as far as Spain is concerned, the only large producer in that country has closed and therefore, there is no likelihood of recurrence of dumping from that country though the POI data shows current dumping.

54. Major producer and exporter from Portugal i.e. M/s Fisper Barcelona S.A., has intimated the Authority that they have decided to leave the Indian market and therefore, did not wish to

participate in the proceedings. The domestic industry in its post disclosure statement has confirmed that after closure of FISIPIE's Spain plant, this company is catering to the domestic market from its Portugal plant and therefore, do not have sufficient spare capacity to export. Therefore, likelihood of dumping from Portugal in the future is not foreseen.

55. In their post disclosure submissions the applicant domestic industry has submitted that though they do not disagree with the Authority that there appears little threat of continued dumping from Spain, Portugal and Italy, given closure of a number of plants in Europe, they disagree with the Authority that there is a huge gap between the production and capacity world over. They have accepted the fact that there is very little likelihood of dumping continuing from Spain, Portugal and Italy. On the other hand they have pleaded that while they are not much concerned about the possible continuance of dumping from Europe, because of overall decline of exports from Europe to the entire world market, they have argued that volume of exports from Japan is very huge and there is a strong likelihood continuation of dumping from Japan.

56. The authority has looked at the World Trade Atlas data for the years 2001, 2002 and 2003. This data showing the export from the subject countries to the entire world during the years 2001, 2002 and 2003 shows the following trend:

Country	World Exports		
	2001	2002	2003
Spain	7419	8793	6380
Italy	7059	6937	4645
Japan	314530	321213	270622

This indicates that total export from Spain and Italy to the world market is very insignificant. However, Japan continues to have a huge export volume in the world market despite closure of two of its units. Various reports quoted earlier also indicate that Japan has been a major exporter of Acrylic fibres to China with a quarterly export of about 55000MTs. However, saturation in Chinese demand is likely to create a glut in demand for Japanese producers and the spare capacity may be used to dump in India. Therefore, the applicants have argued that there is a strong possibility or likelihood of continuation and/or recurrence of dumping from Japan.

57. Various arguments raised by the applicants and other interested parties on the likelihood of continuation of dumping from the subject countries and the capacity rationalization as well as volume of exports from these countries have been examined. The facts brought before the authority indicates that the volume of exports from Spain, Portugal and Italy in last several years indicate that these countries do not have sufficient capacity to dump and therefore do not cause a threat to Indian Industry in the near future. However, Japan seems to have huge spare capacity and volume of exports to world market, China constituting about 50% of the total volume of exports. Various reports indicate that China has built up substantial capacity in last few years and with the built up of domestic capacity in China, likelihood of dumping into India from Japan becomes very high. On the basis of the above analysis the Authority holds that though dumping has continued from Spain, Italy and Japan during the period under investigation, there is no likelihood of continuation or intensification of dumping from Spain, Portugal and Italy if the duties are withdrawn. However, the same does not appear to be the case as far as Japan is concerned.

## **G : INJURY DETERMINATION**

58. As in the case of dumping determination, the injury analysis in case of a sunset review is required to examine whether Injury to the Domestic Industry is likely to continue or recur if definitive duties are allowed to expire or removed.

### **G.1 Cumulative Assessment of Injury**

59. The Authority notes that this is a sunset review of the measure already in force and examined the issue of cumulative assessment of injury to the domestic industry on account of simultaneous dumping from the subject countries, in terms of Annexure II (iii) of the Antidumping Rules and holds that the conditions specified in the said Rules are satisfied in this case for cumulative assessment.

### **G.2 Continuation of Injury**

#### **G.1.1 Views of the Domestic Industry**

60. The domestic industry has pleaded that the injury to the domestic industry continues in spite of the protection of antidumping duty available to them due to continuation of dumped imports from many sources. They have inter alia argued:

- That they have suffered injury due to dumping from various countries, including the present countries, investigations against which are either under progress, or antidumping duties are in force.
- That the domestic industry has been suffering for a long time due to dumping from various sources one by one. Therefore, the injury and the economic parameters indicating existence of injury is required to be seen in the light of existing duties and on-going investigations.
- That the imports of subject goods from various countries (including the subject countries) have increased significantly in absolute terms in spite of imposition of antidumping duty.
- Share of imports of the subject goods from the subject countries has increased in relation to demand of the product in India despite antidumping duty already in force.
- Share of imports of the subject goods from the subject countries has increased in relation to production of the domestic industry.
- That though there is a marginal increase in the selling prices of the domestic industry it is due to the fact that the cost of production has increased and the domestic industry has started its recovery due to antidumping duty protection after suffering losses for a longtime due to prolonged dumping.
- That landed prices of imports from subject countries are significantly lower than the selling prices of the domestic industry, undercutting the domestic industry's prices significantly.
- That the Landed price of imports is below the cost of production of the domestic industry thereby causing significant price underselling.
- That the domestic industry has lost significant sales volume and market share
- That the selling price of the domestic industry is below its cost of production.

- That even though the losses have declined it should be seen in the light of the antidumping protection and significant past losses. Though the cash flow has improved the domestic industry continues to suffer financial losses.
- That the dumped imports have forced the domestic industry to curtail its employment level
- That productivity has improved due to increase in production and reduction in employment level.
- That even when the market is growing, the growth of the domestic industry has been negative due to dumped imports.
- That all parameters collectively establish that the domestic industry has suffered material injury due to dumped imports from the subject countries and injury to the industry would intensify if the duties are revoked at this stage.

61. In their post disclosure submissions, the applicants have argued that the improvement in certain parameters is due to imposition of antidumping duties on a number of sources. They have further argued that should the duties are withdrawn the domestic industry would again suffer injury. They have further argued that for the purpose of price undercutting and underselling determination allowance should be made from the landed value, for commission paid by the foreign producers to agents in exporting and/or importing country.

62. The applicants have also argued that the imports from sources attracting antidumping duty should be examined to see whether these imports are actually antidumping duty paid imports or imports under duty exemption schemes. Since these imports are mostly duty exempted imports under various schemes, the landed value of these imports without antidumping duty is relevant for price undercutting and underselling analysis.

## **G.2 Views of the exporters, importers and other Interested Parties**

63. The Indian Spinner's Association and Ludhiana Spinner's Association and the exporters from Japan in their respective submissions have inter alia argued:

- That the domestic industry has clubbed acrylic fibre and tow so far as imports are concerned and has taken the domestic sales figures of only acrylic fibre
- That although capacity has been claimed to remain stagnant in the short period, production has increased substantially and currently it is running above the capacity, therefore, not a sign of injury.
- that acrylic fibre produced by the domestic industry has to compete with other fibres produced or manufactured in India, which might be preferred by the consuming industry on the basis of change in the pattern of demand, price angle etc. In other words, there is no reserved market for any fibre, whether polyester or viscose or acrylic or cotton or any other fibre. The domestic industry has thus to stand in competition with other producers or manufacturers in India.
- that exports have suddenly jumped from a level of 320 tons per annum in earlier years to 5176 tons in 2002-2003. Competition from other fibres produced in India and exports has impacted sales in 2002-2003, despite a rising growth in the previous years. Therefore, this is certainly not a sign of injury from imports.
- That while Indian Petrochemicals Limited (IPCL) and Consolidated Fibres and Chemicals could improve production and Vardhaman could maintain it, two units, namely, Indian Acrylics and Pashupati Acrylon have reported drastic reduction.

- that the cost of production of Indian Acrylic and Pashupati Acrylon would be much higher in the year under review, as they are not harnessing their capacity properly, which increases the average cost of production of the industry. Thus, industry averages are vitiated and the study of trend in average selling price, cost of production, profit/loss are also vitiated.
- That when three units could do better and two units could not fare well, it means that the problem is not with imports, but it is due to own difficulties of those two units.
- That the calculations given by the domestic industry are wrong because imports include tow and fibre, whereas indigenous production is of fibre only.
- The average selling prices of the domestic industry are higher because of higher cost of some units, which are reporting decline in production due to their own deficiencies.
- That the domestic industry is exporting acrylic fibre at about Rs.65.87 per kg.
- that all statements with regard to price suppression/depression and price undercutting and price underselling are totally wrong because the imported prices are for tow and fibre while Indian prices are for fibre only.
- the rate of return on capital employed assumed is very high and therefore should be worked out on the basis of profit and loss figures and not on the basis of any norm.
- that the domestic industry should realize Anti-dumping Duty is an instrument for correcting market distortions and not for protecting the inefficiencies of the domestic industry.
- That due to the clubbing of acrylic fibre and tow in the case of imports and consideration of only acrylic fibre in the case of indigenous production by the domestic industry, all comparisons are vitiated and distorted and conclusions are misleading and wrong;
- That data for determination of normal price for Italy, Spain and Japan are patently wrong and unreliable and cannot be made use of for a tariff inquiry;
- That there are no imports from Portugal and the fear of likely imports is imaginary having no basis and is frivolous.
- That Parameters of capacity and production show no injury;
- That parameter of sales requires proper consideration, as stated earlier, to appreciate what influences sales. If the influencing factors are identified, it will be noted that import is not a cause for decline in sales;
- That parameters of market share, price undercutting, price suppression/ depression are influenced by the clubbing of tow and fibre in the case of imports and consideration of only fibre in the case of domestic industry.

64. In summary the interested parties have argued that the domestic industry has improved its performance and suffers no injury at the moment and injury if any is due to their own inefficiencies and therefore, cannot be attributed to the imports from these sources.

65. The interested parties have further reiterated their arguments in their post disclosure submissions and submitted that export sales by the domestic industry should also be added to the domestic industry to analyse the effect of imports on domestic industry. They have further confirmed that the imports are taking place under the duty free import schemes. They have further argued that for the purpose of price undercutting analysis the import price at the consumers gate should be worked out after adding transportation cost. They have also questioned the price suppression and depression analysis on the grounds that the cost of production of the domestic industry is high because of their uneconomic size and other managerial inefficiencies. They have reiterated their arguments on various parameters of injury to the domestic industry

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

66. The Authority has taken note of various arguments raised by various parties in their submissions and issue of continuation of injury to the domestic industry has been examined in the light of various arguments made before the Authority. The issue of number of investigations and antidumping duties in force against the subject goods imported from various countries has also been examined.

67. It is noted that in all the previous investigations Acrylic fibre and tow have been treated as like products and a single dumping margin and injury analysis based on combined volumes and values of both the products have been found appropriate. The Authority also notes that the domestic industry produces tow and fibre in varying proportions depending upon the demand and their sales realization in respect of both the products have been verified during the investigation process. Therefore, the weighted average cost of production and sales realization of the domestic industry does not vitiate injury analysis and dumping margin comparison against the interest of other parties. The issue has also been addresses adequately under 'like article' determination. Therefore, there arguments raised by interested parties against combined analysis of tow and fibre are not found to be tenable.

68. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the Volume effect of the dumped imports. The authorities are required to examine whether there has been a significant increase in imports, either in absolute or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

69. For the purpose of injury analysis the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.

70. Since positive dumping margin has been established for the exports from Spain, Italy and Japan, entire exports from those countries has been treated as dumped imports for the purpose of injury analysis and causal links.

#### **(A) VOLUME EFFECT:**

Volume Effect of dumped imports and Impact on domestic Industry

71. The effects of the volume of dumped imports from the subject countries as well as other countries attracting antidumping duty have been examined as follows:

i) Import Volumes and share of subject countries:

**Quantity in MT**

	1999-00	2000-01	2001-02	2002-03
Total Imports (Fibre+Tow)	14258	13967	9669	21093
Subject Countries Imports	4835	5092	3909	5743
Others with ADD	8436	7472	4709	12023
Total Imports with ADD	13271	12564	8618	17766
Others not with ADD	986	1403	1051	3326
% Subject Countries	34%	36%	40%	27%
% imports with ADD	93%	90%	89%	84%
% imports without ADD	7%	10%	11%	16%

Source: DGCIS&S data

72. Since tow and fibre has been treated as like products all analysis has been done for the total volume of tow and fibre together. It is noted that the volume of imports from the subject countries remain high in spite of the antidumping duty in force against them though in terms of its share in the total volume of imports has dropped from 34% in the base year to 27% during the POI after showing an upward swing in the previous year i.e. 2001-02. It also appears that 7% drop in share of imports from subject countries and 9% drop in share of imports from all sources attracting duty have been taken over by imports from other sources not attracting duty.

## ii) Demand, Output and Market shares

73. It may be noted that tow and fibre are produced in the same production line and product mix depends only on the demand for the two products. Therefore, total capacity and all other parameters have been worked out for the combined production of tow and fibres as follows:

		1999-00	2000-01	2001-02	2002-03
Capacity Domestic Industry *	MT	89500	89500	89500	89500
Capacity of Other Producers**	MT	24000	24000	24000	24000
Total Capacity	MT	113500	113500	113500	113500
Production Domestic Industry	MT	81592	77461	81754	82742
Trend	Indexed	100.00	94.94	100.20	101.41
Production others	MT	12607	21219	12231	20812
Total Production in the Country	MT	94199	98680	93985	103554

\* Domestic Industry Consists of M/s Indian Acrylics, M/s Consolidated Fibre, M/s Pashupati Acrylon and M/s Vardhaman Acrylic

- \*\* Others consists of M/s IPCL

		1999-00	2000-01	2001-02	2002-03
Capacity Utilization DI	%	91.16%	86.55%	91.34%	92.45%
Overall domestic Capacity Utilization including others	%	82.99%	86.94%	82.81%	91.24%

74. Average Capacity utilization of the domestic industry has remained above 90% though some of the units have been performing above their rated capacities. The overall capacity of the industry as a whole, taking into account the production of the other producers the capacity utilization has shown definite improvement from 83% in the base year to 91% in the POI.

### iii) Sales by Domestic industry

75. Domestic sales of the applicants have shown a perceptible decline compared to the base year. However, though the sale by other producers has increased marginally, the total sales of the industry has a whole shows decline and the space has been occupied by the imports.

		1999-00	2000-01	2001-02	2002-03
Sales of DI	MT	83000	75233	86053	76530
Trend	Indexed	100.00	90.64	103.68	92.21
Sales by other producers	MT	16346	15084	17866	18981
Total Domestic sales	MT	99346	90317	103919	95511
Export Sales by DI	MT	428	135	425	2170
Total Imports (Fibre+Tow)	MT	14258	13967	9669	21093

### iv) Demand and Market shares

76. The demand and corresponding shares of various segments have been analysed in the table below. The analysis shows that the increase in demand of the product is not very substantial over the base year and previous year. However, marginal increase in demand has been cornered by the imports from various sources including dumped imports from the subject countries. Total imports from the subject countries have increased marginally in spite of the duty being in force. Imports as a percentage of total demand has increased by 5.5% compared to the base year and 7% compared to the previous year, and the import from subject counties as a percentage of total demand has shown a marginal increase of less than 1% from base year and about 1.5% from the previous year. Therefore, volume effect of dumped imports from the subject countries appears to have a very marginal impact on the domestic industry. However, this is to be seen in the back ground of antidumping duty already in force against the subject countries.

77. The data however, indicates that sales of the domestic industry as a ratio of its production have fallen to 92.5% indicating the inability of the domestic industry to off load its production in the market.

<b>Total Domestic Demand (sales + Imports)</b>	<b>MT</b>	<b>113604</b>	<b>104284</b>	<b>113588</b>	<b>116604</b>
Market Share of Imports					
Total Import as % of total Demand	%	12.55%	13.39%	8.51%	18.09%
Import from subject countries % of total demand	%	4.26%	4.88%	3.44%	4.93%
Imports from other Countries as % of total Demand	%	8.29%	8.51%	5.07%	13.16%
Market Share of DI					
Market Share of DI as % of total Demand	%	73.06%	72.14%	75.76%	65.63%
Market Share of others producers as % of total Demand	%	14.39%	14.46%	15.73%	16.28%
Sales of DI as a % of production	%	101.73%	97.12%	105.26%	92.49%

### (B) Price Effect of the Dumped imports on the Domestic Industry

78. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

79. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry (worked out after normating the costing information of the Domestic Industry and supporting producer) have been compared with the landed cost of imports from the subject countries.

(i) Price undercutting and underselling effects

80. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from each of the countries under investigation over the entire period of investigation with the weighted average net sales realization of the domestic industry for the same period. The arguments by the interested parties to include inland freight to the landed value to work out price at the consumers gates for comparison with NSR of domestic industry and claims of domestic industry to adjust notional commission from the CIF for the same purpose have not been found to be logical for a fair determination of price underselling and undercutting.

81. The landed value of imports has been calculated by adding applicable basic customs duty to the assessable value reported in the DGCI&S data of import prices from the subject countries.

82. In determining the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated.

83. For the purpose of price underselling determination the weighted average landed price of imports from each country has been compared with the Non-injurious selling price of the domestic industry determined for the POI and cost of production for the remaining years.

**Rs./ Kg**

	<b>1999-00</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>
				<b>POI</b>
NSR (Indexed)	100	121	101	111
COP	100	139	115	114
NIP				*****
Landed value				
Japan	100	116	111	113
Spain	100	110	115	111
Italy	100	107	104	0.93
Portugal	Nil	Nil	Nil	Nil
Price undercutting without ADD				
Japan				-0 to 5%
Spain				-0 to 5%
Italy				5 to 15%
Portugal				
Price Underselling				
Japan				5 to 15%
Spain				5 to 15%
Italy				15 to 25%

Portugal				
Landed Value others	(Indexed with reference to Landed value of Japan)			
Belarus				87.32
Average Landed Value from Countries not attracting duty				85.62
Average Landed Value from other Countries attracting duty				101.05

84. The price undercutting (without considering the antidumping duty in force) has been found to be negative in case of Japan and Spain and positive for Italy. However, price underselling has been found to be positive for all the three countries.

(ii) Price suppression and depression effects of the dumped imports:

#### Price Suppression

85. The price suppression effect of the dumped imports have also been examined with reference to the cost of production, net sales realization and the landed values from the subject countries.

		1999-00	2000-01	2001-02	2002-03
Cost of Production of DI	Rs./MT	****	****	****	****
Trend	Indexed	100.00	139.32	115.10	114.27
Net Sales Realization of DI	Rs./MT	****	*****	*****	*****
Trend	Indexed	100.00	121.17	83.76	110.12

86. The cost of production of the subject good depends upon the prices of highly fluctuating petroleum based raw materials like Acrylonitrile and others. While the cost of production has gone up by about Rs9.00 per kg during the POI compared to the base year, with the exception of an unusual year of 2000-01, the domestic industry has been able to raise its NSR by Rs7.00 per kg only. Therefore, it appears that the domestic industry has been prevented to raise its prices to recover the rising cost of production due to the lower landed value of dumped imports from the subject countries and imports from other sources.

#### Price Depression

87. Though the landed value of the imports from Japan (without taking into account antidumping duty payable) is above the COP and NSR of the domestic industry, lower landed value of the imports from Spain and Italy seem to have depression effect on the domestic prices as the domestic industry appears to have been forced to lower its prices in order to retain its market share. At the same time the price trend of the domestic industry is to be seen with reference to the landed value of imports from other sources. It is also seen that the imports from sources attracting only fixed duty and import from sources under investigation (Belarus) have depressing effect on the price of the domestic industry and the industry has not been able to raise its prices though antidumping duty against the subject countries provided the domestic industry a better cushion for increasing its prices to remunerative levels.

#### G.4 Examination of Injury Parameters

88. After having examined the effect of dumped imports on the volumes and prices of the domestic industry the parameters which could indicate existence of injury to the domestic industry have been analysed. In this respect the following mandatory parameters were examined.

i. Output and Capacity utilization

**Quantity in MT**

	<b>1999-00</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03 (POI)</b>
Capacity of DI	89500	89500	89500	89500
Capacity of Others	24000	24000	24000	24000
Total Domestic Capacity	113500	113500	113500	113500
Production of DI	81592	77461	81754	82742
Production of others	12607	21219	12231	20812
Total Domestic Production	94199	98680	93985	103554
Capacity utilization of Domestic Industry	91.16%	86.55%	91.34%	92.45%
Overall domestic Capacity Utilization	82.99%	86.94%	82.81%	91.24%

89. There has been no expansion of capacity during the injury investigation period and the production of the domestic industry as well as the capacity utilization shows marginal improvement. However, performance in terms of output and capacity is also to be seen along with the sales.

**Decline in sales**

	<b>1999-00</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>
Production of the DI	81592	77461	81754	82742
Sales of the DI	83000	75233	86053	76530
Exports by DI	428	135	425	2170
Total Sales of DI	83428	75268	86478	78700
Total Domestic sales	99346	90317	103919	95511
Sales of applicants as a % of production	101.73%	97.12%	105.26%	92.49%

90. The sales of the domestic industry (applicants as well as all domestic producers taken together) shows significant drop compared to the base year as well as the previous year. It is clear that the industry has not been able to discharge the output into the market and there is a decline in sales of the industry against same output level because of the price effect of imports. Total sales of the domestic industry shows declining trend compared to the base year. This decline of sales, seen with the marginal rise in the cost of production, and attempt by the domestic industry to increase its NSR to improve its bottom line, indicates that any attempt by the industry to raise its prices to a remunerative level leads to loss in volume terms because of the dumped price level prevailing to which the industry has to align in order to retain its market share.

**Market share and Growth of the industry**

**Quantity in MT**

	1999-00	2000-01	2001-02	2002-03
Total Domestic Demand (sales +imports)	113603	104284	113587	116603
Domestic Sales of DI	83000	75233	86053	76530
Market Share of DI as % of total Demand	73.06%	72.14%	75.76%	65.63%
Import from subject countries % of total demand	4.26%	4.88%	3.44%	4.93%
Market Share of others producers as % of total Demand	14.39%	14.46%	15.73%	16.28%
Market share of Imports from other Countries as % of total Demand	8.29%	8.51%	5.07%	13.16%
	100	100	100	100

91. There is only a marginal increase in the total demand of the product in the country as demonstrated in the table. However, total sales volume of the domestic industry shows a negative growth compared to the previous years. Sales as a % of production has also shown a declining trend indicating inventory built up. Market share of the domestic industry shows a significant decline of about 7%. At the same time imports from the subject countries as a percentage of demand shows 1.5% increase over the previous year and about 0.5% increase over the base year. Other domestic producer has gained a very marginal market share. Major part of the market lost by the domestic industry seems to have been taken over by imports from other sources, while the imports from the subject countries have also cornered a small share of this demand.

92. There has been no expansion or capacity addition by the domestic industry as the existing capacity in the country has not been fully utilized and the prevailing prices do not appear to be remunerative enough to add further capacity in spite of the fact that there is a marginal rise in demand for the product.

### Productivity

93. Productivity of the domestic industry has been measured in terms of its labour productivity of the output and it has been noticed that the productivity has improved because of reduction of the employment level and marginal increase in production. However, improved productivity has not resulted in commensurate profitability.

	1999-00	2000-01	2001-02	2002-03
Domestic Production	81592	77461	81754	82742
No of Employees	1875	1859	1780	1712
Productivity (Production/ employee)	43.52	41.67	45.93	48.33
Productivity per day (MT)	223.54	212.22	223.98	226.69

#### iv) Profits and actual and potential effects on the cash flow

94. Though the cash flow of the domestic industry as whole has improved, the industry continues to suffer loss during the investigation period. The industry has not been able to realize a fair price to recover its cost due to prevailing price of dumped imports.

#### Indexed

	1999-00	2000-01	2001-02	2002-03
NSR Per MT (DI)	100.00	121.17	83.76	110.12
COP Per MT (DI)	100.00	139.32	115.10	114.27

Profit/ Loss Per MT	100	-6453	-4825	-798
Cash Loss/ Profit (Rs in lakhs)	100	-12500	-12311	-2767

### Employment and wages

95. The employment level has declined by about 8% compared to the base year. But the expenses on account of salary and wages have increased by about 14%. However, increase in the expenses towards salary and wage is in tandem with the increase in production (about 14%) during the comparable periods.

		1999-00	2000-01	2001-02	2002-03
Employees	Nos.	100	99	95	91
Wages paid to employees	Rs. Lacs	100	110	112	115

### Return on investment and ability to raise capital

96. The return on capital employed by the domestic industry shows deterioration compared to the base year. However, compared to the previous two years the return on capital employed shows improvement, thereby indicating that the industry is in the process of recovery. However, positive rate of return is on account of only one domestic producer i.e. M/s Indian Acrylic Ltd., which has shown profit during the POI after posting losses for last several years.

		1999-00	2000-01	2001-02	2002-03
ROCE - NFA	%	100	-9.41	-13.75	67.42

### Investment

97. There has been no capacity addition or any fresh investment by the applicants during the investigation period.

### Magnitude of Dumping

98. Magnitude of dumping as an indicator of the extent to which the dumped imports can injure the domestic industry shows that the dumping margin determined against the countries named, for the POI, are substantial, even when the antidumping duty is in force.

### Factors affecting prices

99. Change in cost structure if any, competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors other than dumped imports that might be affecting the prices in the domestic market. Acrylic fibre is an economical substitute for wool and has several application in apparel, household and industrial areas and continues to remain so because, the price of the substitute product remains high. Therefore, its demand as a substitute for wool has not undergone any significant change to affect the prices. Major proportion (about 70% of total domestic production and sales) producers are party to this investigation and the price of other producers, also move within the same price band. Therefore, domestic competition does not appear to affect the prices of the domestic industry to a very significant extent.

		1999-00	2000-01	2001-02	2002-03
Selling Price of other Indian Producers	Rs/ MT				
IPCL		100	78.01	101.84	124.02

NSR of DI	100.00	121.17	83.76	110.12
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#### x) Inventories

		1999-00	2000-01	2001-02	2002-03
Trend	Indexed	100.00	156.94	27.86	138.28
Inventory as a % of Total Sales	%	4.39%	7.62%	1.18%	6.43%

100. The inventory in absolute term and as a ratio of sales shows significant inventory build up indicating inability of the domestic industry to discharge its products into the domestic market.

### G.5 Other Known factors and Causal Link

101. The exporters and other interested parties have raised several arguments in their written submissions during the course of the investigation which essentially argues that the domestic industry has improved its overall performance. They have further argued that while some of the constituents of the domestic industry have been performing well and making profit others are making losses due to their internal problems which has nothing to do with dumping from these sources. They have made of the following two arguments in their written submissions based on arguments made during the public hearing:

(a) As per the annual accounts/reports of the three petitioner companies, entire net worth of two has been eroded and they are in the process of applying to the BIFR authority. Even after definitive duties in force, one of the petitioners has become a sick company and the other is waiting to file its default status before the competent authority. Therefore, this implies improper management of the companies' affairs and the injury to the applicants has no relation to the imports from subject countries.

(b) While Indian Petrochemicals Ltd. (IPCL) and Consolidated Fibres and Chemicals could improve production and Vardhaman Acrylic could maintain it, two other units namely, Indian Acrylic and Pashupati Acrylon have reported drastic reduction. Therefore, cost of production of these two units would be higher vitiating the industry average. Since some of the units have not performed well it means that the injury is due to their own difficulties.

102. Both the issues have been examined, along with others, as a part of other factors analysis for determining the causal links between dumped imports and the injury suffered by the domestic industry. It is observed that the second issue raised is not factually correct. IPCL's improvement during the POI is due to a very low performance level during the previous year. Pashupati Acrylon's production has in fact improved with above 100% capacity utilization.

103. As far as the first issue is concerned, it may be noted that the condition of the domestic industry is to be seen as a whole, including dumping from various other sources, cost of production and the price that it can command on the face of continued dumping. The cost of production in the domestic industry is also linked to the cost of inputs which are mostly imported and the price of these petroleum based chemicals have remained volatile. The fair selling price/ Non-injurious price determined has taken into account the inefficiencies that might have affected the cost and price of the domestic industry. Therefore, self inflicted injury due to inefficiencies as alleged has not been attributed to the dumping.

104. The interested parties have argued that in spite of antidumping protection the applicants are in the verge of becoming sick. However, it may be noted that antidumping duties against most of the other countries are on fixed duty basis. Therefore, circumvention of the duties by lowering the prices cannot be fully ruled out. In such a situation, it appears that the prices at which the goods have entered the market have not allowed the domestic industry to recover its cost, and hence continuation of injury cannot be attributed to the inefficiencies within the companies. It must also be noted that in spite of operating at above 100% capacity, some of the applicant companies have suffered losses, which indicates inflexibility in the cost structure and depressive effects of the dumped imports on the prices.

105. Having examined the issues raised by the interested parties some of the non-attribution factors laid down in the Rules have also been examined.

**i. Volume and prices of imports from other sources**

**Qty in MT**

	<b>1999-00</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>
Total Imports (Fibre+Tow)	14258	13967	9669	21093
Imports from others sources attracting ADD	8436	7472	4709	12023
Import from other sources not attracting ADD	986	1403	1051	3326
Total imports from other sources	9422	8875	5760	15349

106. The Authority notes that dumped imports from the subject countries constitute about 27% of total imports and imports from all sources subjected to antidumping duty constitute almost 84% of the total imports, a drop of about 9% from the base year. Landed value of imports (excluding the antidumping duty applicable) from the sources attracting duty is much above the landed value of imports from sources not attracting duty. In fact weighted average landed value of imports from the countries not attracting duty is much below the NSR and COP of the domestic industry. It is also noted that a parallel investigation is in progress on alleged dumping of the subject goods from Belarus which accounts for more than 50% of the imports from all sources not attracting duty and the landed value from this country is about Rs66/- per Kg.

107. However, antidumping duty paid landed value of all imports from the countries against which duty is in force (which constitutes about 84% of total imports), is above the net sales realization of the domestic industry indicating a negative price undercutting at present. But Imports from the country under investigation separately i.e Belarus and other countries not attracting duty are at prices much below the landed value of imports from the subject countries. These imports taken together appear to have an overwhelming effect on the prices which has not allowed the domestic industry to raise its prices to remunerative levels. Therefore, volume and prices of imports from other sources appear to have more adverse effect on the domestic prices, significantly contributing to the current injury of the domestic industry than the imports from the subject countries.

**ii. Contraction in demand and / or change in pattern of consumption**

108. The demands of the subject goods have shown marginal increase during the injury investigation period. However this does not give a clear pattern of change in consumption pattern which is likely to alter the demand pattern of the subject good in the country

substantially. The marginal increase in demand has been taken over mostly by imports from other sources than the dumped imports from the subject countries.

### **iii. Trade restrictive practices of and competition between the foreign and domestic producers**

109. The subject goods are freely importable and there are no trade restrictive practices in the domestic market. The petitioners constitute almost 70% of the capacity in the country. The other producers of the subject goods also operate within the same price band. Though major proportions of imports from various other sources are attracting antidumping duty, antidumping duty unpaid landed value of imports from these sources are within a very narrow band indicating severe competition between various sources for the domestic market. It appears that volume and prices of imports from all sources found to be dumping, including the subject countries, have cumulatively contributed to the injury of the domestic industry. Therefore, the current injury to the domestic industry cannot be attributed to the dumped imports from the subject countries alone.

### **iv. Development of technology and export performance**

110. World over acrylic fibres is manufactured using either dry technology or wet technology. Out of 5 producers in the country two producers' use dry technology and three use wet technology to produce the same product and their technology is up to date. In terms of technological standards and cost of operation there is no significant difference. Therefore, technological difference is not a factor affecting the performance of the domestic industry.

111. The exports of the product under consideration have increased substantially from the base year. In fact the exports are substantial only during the POI. The interested parties have raised a point that the exports by the petitioners are at low prices which might have caused injury to them. But the volume of exports is very small and the price difference is also not very significant to contribute substantially to the injury of the domestic industry.

### **v. Productivity of the Domestic Industry**

112. Productivity of the domestic industry in terms of labour output and daily output has shown substantial improvement. Therefore, productivity is not a factor which can be attributed to the injury of the domestic industry.

113. The domestic industry in its post disclosure submissions has argued that the requirement under article 3.5 of agreement is to segregate injury caused by import not sold at dumped prices. Since imports from Belarus are separately under investigation, the imports from Belarus constitute imports at dumped prices and therefore, are not required to be aggregated under Article 3.5. The authority has examined the issue and is of the opinion that while the imports from the other countries are under investigation, particularly, Belarus, are at dumped prices, the price undercutting and underselling effects of imports from the subject countries indicate that the current injury to the domestic industry if any is more prominent in respect of other sources than the subject countries.

114. The above analysis of injury parameters and examination of non-attribution factors indicate that though there is improvement in several parameters in the performance of the domestic industry they do suffer material injury in terms of drop in volume of sales and price

suppression and depression due to the dumped imports from several sources including the subject countries. However, the landed values and volume of imports from subject countries indicate that current injury to the domestic industry is due mostly to the importation of the subject goods from several other sources simultaneously attracting antidumping duty or imported without duty. The dumped imports from the subject countries seem to contribute marginally to the material injury to the domestic industry at present because of the duty protection already available.

## **G.6 Determination of Non-injurious Price of the Domestic Industry**

115. Non-injurious Price for the subject goods has been worked out by the costing division after a detailed analysis and scrutiny of information provided by the domestic industry. Weighted average Non-injurious price for the domestic industry has been determined by the Authority as Rs.\*\*\*\*\* per Kg.

## **G.7 Magnitude of Injury and injury margin**

116. The non-injurious price determined by the Authority has been compared with the landed value of the exports for determination of injury margin. The weighted average landed price of the exports from the subject countries and the injury margins have been worked out as follows:

Rs./Kg

<b>Injury Margins</b>	<b>Spain</b>	<b>Portugal</b>	<b>Italy</b>	<b>Japan</b>
NIP	****	****	****	****
Landed Value	****	****	****	****
Injury Margin	5 to 15%	NA	15 to 25%	5 to 15%

## **H : LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY**

117. The authority has earlier determined that there is no likelihood of dumping continuing or recurring from Spain, Portugal and Italy. However, in the case of Japan possibility of continuation of dumping has been established in the earlier section. Therefore, the likelihood of continuation and/or recurrence of injury has been examined in this section on the basis of the above observations.

118. In the absence of clear guidelines for a likelihood test the factors laid down in Article 3.7 of the ADA have been examined for determination of likelihood of recurrence of injury. However, the domestic industry in its post disclosure submissions has argued that the parameters laid down under Article 3.7 of the agreement are not relevant for a likelihood test and this provision is meant for the threat of injury analysis whereas requirement under sunset is to examine whether revocation of anti dumping duty is likely to lead to continuance or recurrence of injury to the domestic industry. On the basis of the practices followed in other countries, they have suggested certain parameters for examining the likelihood of continuation or recurrence of injury to domestic industry. Quoting the World Trade Atlas data the applicants have inter-alia argued that while there is no likelihood of dumping and

therefore, consequent injury due to imports from Spain, Portugal and Italy, on the face of their insignificant exports from these countries to the world market, Japan poses a serious threat because of its huge capacity, volume of exports to the world market and contraction of demand in their major exporting market i.e. China. They have further argued that non-cooperation and non-participation from the subject countries is because of the fact that the producers in this country are well aware of the fact of dumping and consequent injury to the domestic industry. Therefore, their non-participation in the review should be construed as an evidence of likelihood of intensified dumping and injury to the domestic industry should the duty be revoked. They have further argued that the imports have largely been reported under Advance License. This clearly implies that imposition of anti dumping duty largely prevented the Foreign Producer from selling the product on customs duty paid basis, because of imposition of anti dumping duty. Therefore, should the present anti dumping duty be revoked, large scale import under customs duty paid category are imminent.

119. The Authority has examined these arguments based on the information provided and also examined parameters laid down under Article 3.7 as follows:

(a) Whether there is a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation:

**Quantity in MT.**

	<b>1999-00</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>
Subject Countries	4835	5092	3909	5743
Rate of Increase		5.3%	-23.24%	46.97%

120. It is observed that the dumped imports from the subject countries have increased significantly compared to the base years after showing a negative growth in 2001-02. However, major portion of these imports are from Japan. These volumes and rate of increase is also to be viewed in the light of duty already in force. Positive growth during the POI indicates that the import volume may increase substantially if the duties are revoked.

(b) Whether there is sufficient freely disposable, or imminent, substantial increase in capacity of the exporters indicating likelihood of substantially increased dumped exports to the importing member's market, taking into account the availability of other export markets to absorb additional exports:

121. Various reports quoted earlier shows that Europe and Japan are the two major producers of the subject goods accounting for nearly 45-50% of total world production. In the examination of likelihood of recurrence of dumping and it was observed that there is a considerable rationalization of capacities in the subject countries in the past few years and several production capacities in these countries have shut down.

Company Year of Closure Capacity

1. Asahi, Japan 2003 65,000 MT
2. Montefibre, Italy 2003 90,000 MT
3. Kanebo, Japan 2003 38,000 MT

4. Fisipie, Spain 2004 68,000 MT

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261,000 MT

Source: 7<sup>th</sup> Asia Fibres Conference, 17<sup>th</sup> June 2004

122. The domestic industry has argued that closure of plants in Japan does not imply that Japan does not have excess capacity. They have submitted that Japan's domestic demand is much less compared to their total capacity and they have a huge surplus capacity of about 2,53,000 tonnes. The authority has examined these aspects on the basis of the reports referred above. These reports suggest that even after closure of one of the major producers, Japan has surplus capacity and this capacity is utilized to focus on exports, major portion of which is exported to China. China continues to be the major importing country of the product under consideration accounting for about 30% of total world demand of acrylic fibre and its demand was in excess of its capacities to absorb additional exports if any. These reports also suggest that China has built up its own capacity matching its domestic demand indicating that there could be a problem of over capacity in Japan. Therefore, while there may not be substantial excess capacity in European countries to continue dumping into Indian market, there is an imminent likelihood of continuation of dumping from Japan. It is also noted that the current prices from Japan are much lower than reference price fixed in the original investigation and most of the imports are taking place under the duty exemption schemes. Therefore, once the duties are revoked the current price level may not hold and imports are likely to take place outside the duty exemption scheme also.

(c) Whether the imports are entering at prices which have significant depressing effect on the domestic prices, and would likely increase demand for further imports:

123. In the price suppression and depression analysis it has been indicated that the current prices at which the goods from the subject countries are entering the Indian market have marginal suppressing and depressing effect on the domestic prices. It is also indicated that import prices from other sources not attracting duty at the moment appear to have overwhelming impact on the prices than the landed value of imports from the subject countries because of the antidumping duty protection already in force.

124. However, the current level of price suppression and depression may not give clear indication in this case because of the fact that the duty is already enforced and the imports are taking place under duty exemption schemes.

(d) Inventories of the product being investigated:

125. Since none of the exporters in the exporting countries have responded to the investigation and inventory position of the product is not publicly available, this aspect could not be examined.

## **I : Conclusions**

126. After examining the issues raised and submissions made by the interested parties and facts available before the Authority through the submission of interested parties or otherwise as recorded in the above findings and on the basis of the above analysis of the state of current dumping and injury and likelihood of continuation or recurrence of dumping and injury the authority concludes that:

- i. The dumping margins of the subject goods imported from Spain, Italy and Japan are substantial and above de minimis;
- ii. There is no likelihood of dumping to continue or recur from Italy, Portugal and Spain if the duties are revoked. However, there is a likelihood of dumping to continue or recur from Japan if the duties are revoked;
- iii. Though the domestic industry suffers marginal material injury at present the cause of the current injury is overwhelmingly the dumped imports from other sources not attracting duty at present;
- iv. Injury to domestic industry is not likely to continue or recur if the duties are revoked in respect of imports from Spain, Portugal and Italy. However, injury to the domestic industry is likely to continue or recur if the duties are revoked in respect of imports from Japan;

## **J. Indian industry's interest & other issues**

127. 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 restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

## **K. Recommendations**

128. Having concluded that there is no likelihood of continuation of dumping and injury on account of imports from Spain, Portugal and Italy, the Authority finds no justification for continuation of the duty against these countries and therefore, recommends revocation of duty in force against these countries. However, in view of positive determination of likelihood of dumping and injury on account of imports from Japan, the Authority is of the opinion that continuation of the measure is required against imports from that country. However, considering the current level of dumping from that country and injury suffered by the domestic industry, the Authority is of the opinion that the measure in force needs to be revised. Therefore, Authority considers it necessary and recommends anti-dumping duty on imports of subject goods from Japan in the form and manner described hereunder.

129. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the margin of dumping or margin of injury whichever is lesser, so as to remove the injury to the domestic industry. Considering that the duty in the original investigation was imposed on reference price basis the Authority recommends continuation of definitive antidumping duty, on all imports of subject goods originating in or exported from Japan, as the difference between the landed value and the reference price as indicated in Col 9 of the table below, if the landed value at the time of importation is below the value indicated at Col.9. For the purpose of this landed

value of imports will be determined as the value of the goods as assessed by Customs plus applicable basic Customs duty.

SI.No	Sub Heading or Tariff Item	Description of Goods	Specification	Country of origin	Country of Export	Producer	Exporter	Reference Price	Unit of Measure	Currency
1	55033000 & 55013000	Acrylic fibre, both in shrinkable and non-shrinkable form, covering tow, top and staples fibres	ranging from 1.5 Denier to 8 Denier	Japan	Any	Any	Any	1681	MT	US\$
2	55033000 & 55013000	Acrylic fibre, both in shrinkable and non-shrinkable form, covering tow, top and staples fibres	ranging from 1.5 Denier to 8 Denier	Any	Japan	Any	Any	1681	MT	US\$

## L. Further Procedures

130. An appeal against this order shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

131. The Authority may review the need for continuation, modification or termination of the definitive measure as recommended herein from time to time as per the relevant provisions of the Act and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party within the time limit stipulated for this purpose.

**(Christy L. Fernandez)**  
Designated Authority