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**F. No. 7/18/2019-DGTR**
**GOVERNMENT OF INDIA**
**MINISTRY OF COMMERCE & INDUSTRY**
**DEPARTMENT OF COMMERCE**
**DIRECTORATE GENERAL OF TRADE REMEDIES**
**Jeevan Tara Building, 5, Parliament Street, New Delhi-110001**

Dated 31st August 2020

# NOTIFICATION

## FINAL FINDINGS

## Case No. (SSR) 08/2019

**Subject: Sunset Review of anti-dumping investigation against imports of Acrylic Fibre originating in or exported from Thailand.**

## A. BACKGROUND OF THE CASE

1. Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD Rules or Rules), the Designated Authority (hereinafter referred to as the Authority) initiated the original anti-dumping investigation in respect of the imports of Acrylic Fibre (hereinafter referred to as the subject goods or PUC or Product Under Consideration) originating in or exported from USA, Thailand and Korea RP on 13.9.1996 and definitive anti-dumping duty was recommended vide Final Findings Notification No. 47/ADD/1W dated 14.10.1997. The Central Government had imposed the anti-dumping duty vide Custom Notification No. 81/97 dated 24.10.1997.

2. The sunset review of the anti-dumping duty so imposed against USA, Thailand and Korea RP was initiated by the Authority vide Notification No. 26/1/2001-DGAD dated 07.08.2001 and the Final Findings were issued vide Notification No. 26/1/2001-DGAD dated 06.08.2002. Definitive antidumping duty was levied by the Central Government vide Customs Notification No. 106/2002-Customs dated 09.10.2002.

3. The second sunset review of the anti-dumping duty imposed on the imports of the subject goods originating in or exported from Thailand and Korea RP was initiated by the Authority vide Notification No. 10/7/2006-DGAD dated 08.10.2007 and the Final Findings were issued vide Notification No.10/7/2006-DGAD dated 03.10.2008, recommending continuation of the antidumping duty on the subject imports. Definitive antidumping duty was imposed by the Central Government on the subject goods from Thailand and Korea RP vide Customs Notification No. 123/2008-Customs dated 20.11.2008.

4. Third sunset review of the duty imposed on the imports of the subject goods from Korea RP and Thailand was initiated by the Authority vide Notification No. 15/16/2013-DGAD dated 24.09.2013 and the Final Findings were issued vide Notification No. 15/16/2013-DGAD dated 23.03.2015, recommending continuation of the duty in force. Definitive duty was imposed by the Central Government on the subject goods from Thailand and Korea RP vide Notification No. 27/2015- Customs (ADD) dated 1st June 2015.

5. Whereas, in terms of the Act and the Rules, the antidumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.

6. And, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantial request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury

7. And, whereas, in terms of the above provisions, M/s. Indian Acrylics Limited, Ms. Pasupati Acrylon Limited, and M/s. Vardhman Acrylics Limited (hereinafter also referred to as "Applicants" or "Domestic Industry") have filed an application before the Designated Authority (hereinafter also referred to as "Authority") in accordance with the Act and the Rules, for initiation of Sunset Review Investigation against imports of Acrylic Fibre (hereinafter referred to as "subject goods" or "PUC" or "Product Under Consideration" ) originating in or exported from Thailand (hereinafter referred to as "subject country"), and requested for extension of the duty. The request is based on the grounds that dumping has continued in spite of imposition of antidumping duty on the import of the subject goods from the subject country and the domestic industry continues to suffer injury on account of dumping from the subject country. The applicants have further argued that expiry of the measure against the subject country would be likely to result in continuation or recurrence of dumping and injury to the domestic industry.

8. Whereas, the Authority, on the basis of prima facie evidence submitted by the Applicants, issued a public notice vide Notification No. 7/18/2019 -DGTR dated 30th September, 2019 published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the Rule 6(1) of the Rules to examine as to whether expiry of duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

9. After the initiation of the subject investigation, the Central Government issued its Notification No 10/2020-Customs (ADD) dated 29.5.2020 extending the duty in force on the import of the subject originating in or exported from the subject country up to 30.11.2020.

10. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject country.

## B. PROCEDURE

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

i. The Authority notified the embassies of the subject country in India about the receipt of the present application before proceeding to initiate the investigations in accordance with sub-rule 5(5) of the AD Rules.

ii. The Authority issued a Notification dated 30th September, 2019, published in the Gazette of India Extraordinary, initiating investigation concerning imports of the subject goods from the subject country.

iii. The Authority sent a copy of the initiation notification to the embassies of the subject country in India, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification in accordance with Rule 6(2) of the AD Rules.

iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, known importers and to the embassies of the subject country in India in accordance with Rule 6(3) of the AD Rules.

v. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject country, whose details were made available by the applicant, to elicit relevant information in accordance with Rule 6(4) of the Rules:

   a. Thai Acrylic Fibre Co. Ltd, Thailand

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

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

   a. Thai Acrylic Fibre Co. Ltd, Thailand

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

   a. Rajasthan Spinning & Weaving Mills Ltd., New Delhi

   b. Vardhaman Spinning & General Mills, Ludhiana

   c. Deepak Spinners Ltd., Chandigarh

   d. Malwa Cotton Spinning Mills Ltd., Ludhiana

   e. Shiwaliya Spg. & Wvg. Mills (P) Ltd., Ludhiana

f. Deepak Spinners Ltd. Solan Baddi

g. Shiva Fabricator (P) Ltd., Ludhiana

h. Supreme Tex Mart Ltd., Ludhiana

i. Yogendra Worsted Ltd., Ludhiana

j. Shree Rajasthan Syntex Ltd, Dungarpur

k. Banswara Syntex Ltd., Banswara

l. Ganga Acrowools Ltd., Ludhiana

m. Shital Fibres Ltd., Jalandhar

n. Arisudana Industries Ltd., Ludhiana

o. Sportking India Ltd., Ludhiana

p. Texas Woollen Mills (P) Ltd., Ludhiana

q. Jindal Cotex Ltd., Ludhiana

r. Garg Acrylics Ltd., Ludhiana

s. Indian Spinners' Association, Mumbai

t. Ludhiana Spinners Association, Ludhiana

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

a. Ganga Acrowools Ltd.

b. Ganga Spinning and Weaving Mills Ltd

c. Garg Acrylics Ltd.

d. Lakshmi Spinner

e. Longowalia yarns limited

f. Luxmi Spinning mills pvt.ltd

g. Oswal Woolen Mills Ltd

h. Paramount Syntex Private Limited

i. Ramji Acro Limited

j. Sharman Woolen Mills Ltd

k. Shiv Woolen Mills

l. Shiwalya Spinning and weaving mills( p) ltd.

m. Shree Ganesh Acro Yarns Pvt. Ltd

n. Sportking India Limited

o. Udey Udyog

p. Venus Texspin Ltd

x. Additionally, submissions/ comments were filed by following parties during the course of the investigation:

a. The Royal Thai Government

b. Ludhiana Spinners Association & its member's

c. Northern India Textile Mills' Association & its member's

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

xii. The Period of Investigation for the purpose of the present investigation has been considered from April 2018 – March 2019 (12 Months). The injury investigation period has been considered as the period 2015-16, 2016-17, 2017-18, and the POI. The Authority has also considered April 2019-September 2019 as the Post-POI for the purposes of a likelihood of continuation or recurrence of dumping and injury analysis.

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

xiv. The Non-Injurious Price (NIP) is based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD Rules. It has been worked out so as to ascertain whether duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

xv. Information provided by the Directorate General of Commercial Intelligence and Statistics (DGCI&S) on transaction-wise basis for the past three years, and the period of investigation has been adopted for determination of volume and value of imports of product concerned in India.

xvi. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 13th May 2020. Subsequently, another oral hearing was held on 16th July 2020 on account of change

of the Designated Authority. All the parties who had attended the oral hearing were provided an opportunity to file written submissions, followed by rejoinders, if any.

xvii. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final finding.

xviii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

xix. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded this final findings on the basis of the facts available.

xx. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 19th August, 2020 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings.

xxi. *** in these final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

xxii. The exchange rate adopted by the Authority during the POI for the subject investigations is 1 US$= Rs. 70.82.

## C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

12. The product under consideration for the purpose of present investigation is "Acrylic Fibre".

13. Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile, which is a major raw material for production of acrylic fibre. It is broadly described in terms of colour, length and denier of the fibre. It is used for the purpose of manufacturing apparels, household items and has great industrial use etc.

14. It is classified under Chapter 55 of the Customs Tariff Act, 1975. Customs classification of Acrylic Fibre is 5501.3000, 5503.3000 and 5506.3000. The classification is, however, indicative only and is in no way binding on the scope of the present investigation.

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

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

a. Present investigation being a sunset review investigation, product under consideration remains the same as defined in the original as well as previously conducted investigation. Further, no significant developments have taken place over the period. Therefore, domestic industry refers to and relies upon the previous investigation with regard to product under consideration and like article.

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

16. No submission has been made by any interested party in this regard.

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

17. The product under consideration in the original investigations was defined as under in the final findings:

> *"The product involved in the original investigation and subsequent review investigations is Acrylic Fibre. Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile, which is a major raw material for production of acrylic fibre. It is broadly described in terms of colour, length and denier of the fibre. It is used for the purpose of manufacturing apparels, household items and it has a great industrial use etc. It is classified under Chapter 55 of the Customs Tariff Act, 1975. Customs classification of Acrylic Fibre so far as it relates to the product is 5501.3000, 5503.3000 and 5506.3000. The classification is, however, indicative only and is in no way binding on the scope of the present investigation."*

18. It is noted that in the anti-dumping investigation concerning imports of Acrylic Fibre, originating in or exported from China PR, Belarus, Ukraine, EU and Peru, the Authority had excluded Homopolymer Acrylic Fibre containing 100% Acrylonitrile from the scope of the PUC, since the domestic industry did not manufacture the same. It has been noted that the domestic industry continues to not produce Homopolymer Acrylic Fibre containing 100% Acrylonitrile, and thus the same should be excluded from the scope of the present sunset review investigation as well.

19. Therefore, the Authority adopts a narrower scope of PUC by excluding Homopolymer Acrylic Fibre containing 100% Acrylonitrile from the scope of the PUC. With regard to the PUC, it is noted as under:

> *The product involved in this sunset review investigation is Acrylic Fibre, excluding Homopolymer Acrylic Fibre containing 100% Acrylonitrile. Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile, which is a major raw material for production of acrylic fibre. It is broadly described in terms of colour, length and denier of the fibre. It is used for the purpose of manufacturing apparels, household items and has great industrial use etc. It is classified under Chapter 55 of the Customs Tariff Act, 1975. The Customs classification of Acrylic Fibre so far as it relates to the product is 5501.3000, 5503.3000 and 5506.3000. The classification is, however, indicative only and is in no way binding on the scope of the present investigation.*

## D. SCOPE OF DOMESTIC INDUSTRY & STANDING

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

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

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

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

a. The application for initiation of sunset review was filed by M/s Indian Acrylics Limited, M/s Vardhman Acrylics Limited and M/s Pasupati Acrylon Ltd. The production of petitioner companies constitutes 100% of Indian production of the subject goods and there is no other producer of the subject goods in India.

b. The Applicants are not related, either directly or indirectly, to any exporter in the subject country or any importer of the dumped article within the meaning of Rule 2(b).

c. One of the Applicants, Indian Acrylics Limited, has imported small volume of subject goods (206 MT) from Thailand under advance licenses against exports during injury period.

d. The imports in POI has been made only under advance license.

e. The volume of imports by Indian Acrylics Limited is not significant so as to disentitle it from being treated as eligible domestic industry.

f. In the previous sunset review of Acrylic Fibre (March 2015), it was noted that the Authority has been consistently holding the view that if the goods have been procured under the duty exemption schemes, it does not disentitle the company from being considered as part of domestic industry.

g. In the last 22 findings of the Authority in the matter of Acetone and Phenol, Authority has considered SI Group as eligible domestic industry, when they have imported the product under consideration under advance license.

h. The Authority had the same approach in the following investigations:

   i. Viscose Staple Fibre from China and Indonesia (May 2010)

   ii. Carbon Black (SSR) from China, Russia and Thailand (October 2015)

   iii. 2 Methyl (5) Nitro Imidazole from China PR (June 2007)

   iv. Flax Yarn from China PR (September 2018)

i. The Authority gave detailed reasoning as to how imports under advance license cannot disqualify a domestic producer from being treated as an eligible domestic industry in the matter of Phenol from Taiwan and USA (August 2014).

j. In the final findings of Viscose Staple Fibre (May 2010), the Authority stated that it would be inappropriate to exclude such domestic producers importing under advance license from the scope of the domestic industry.

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

22. The submissions made by the interested parties in this regard are as follows:

a. Indian producers of Acrylic Fibre or their affiliates have been importing Acrylic Fibre from Thailand and also other countries.

b. An import of about 206 MT has been made by the Indian Acrylics Ltd. from Thailand under the Advance License Scheme. Such import constitutes about 2.34% of the total imports into India from Thailand in 2018-19.

c. A related party of Vardhman Acrylics Ltd. has imported substantial volume of the subject goods (about ***MT) from EU during the POI. In an investigation concerning imports of Acrylic Fibre from EU, Peru, Belarus, China and Ukraine, Vardhman Acrylics Ltd. was not considered a part of the domestic industry for the same reason.

d. The Indian producers are using duties as a means to earn super-normal profits, while benefitting from the imports themselves.

### D.3. Examination by the Authority

23. The petition in the present case has been filed by the three domestic producers, M/s Indian Acrylics Limited, M/s Vardhman Acrylics Limited and M/s Pasupati Acrylon Ltd. The petitioners command 100% share in the Indian production in the POI. Further, the present investigation is a sunset review investigation.

24. The Authority on the basis of information on record found that Indian Acrylics has imported the subject goods, and the same are under the duty exemption scheme and these import volumes constituted a very insignificant proportion as compared to their own production or the Indian production or the imports of the subject goods into India or the demand in the country. It is further noted that the Authority has been consistently holding that if the goods have been procured under duty exemption scheme, the same does not disentitle the domestic industry from being considered as part of the domestic industry. In any case, the volume of imports made by the company is quite insignificant considering the volume of imports into India as well as Indian demand. The Authority, therefore, holds that Indian Acrylics constitutes to be an eligible domestic industry within the meaning of Rules 2(b) of the AD Rules.

25. Considering the information on record, the Authority holds that the production of the petitioner companies, i.e. M/s Indian Acrylics Limited, M/s Vardhman Acrylics Limited and M/s Pasupati Acrylon Ltd constitute major proportion of the Indian production and thus constitute domestic industry within the meaning of the Anti-Dumping Rules.

## E. CONFIDENTIALITY

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

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

a. The responding importers/users have claimed excessive confidentiality. The responses do not allow a meaningful understanding of the information claimed confidential.

b. The responding importers/users have disregarded the guidelines issued by the Authority, vide Trade Notice no. 10/2018 dated 7th September 2018.

c. Any interested party claiming information as confidential is required to provide a non-confidential summary. However, most of the responding importers/users have failed to provide the same.

d. The information kept confidential by the interested parties form an essential party of the questionnaire response. Due to lack of such vital information, the domestic industry is unable to offer any comment to protect their interests.

e. This also amounts to lack of opportunity to an interested party for defending its interests, breaching the principles of natural justice, and hampering the investigation process.

f. A questionnaire response is required to be rejected in the following situations:

   i. When the importer has resorted to unwarranted/unjustified confidentiality.

   ii. When the importer has claimed confidentiality on the information which the importer is obliged to disclose publicly.

   iii. When the importer has claimed confidentiality on the information which the importer/user has otherwise disclosed publicly in exporting country.

   iv. When it is established that the importer is unwilling to disclose information publicly even when it has been pointed out that the importer has resorted to unwarranted confidentiality.

   v. The deficiencies in the responses filed prejudice the interests of the domestic industry.

g. The Authority is requested to disregard these responses and declare them as non-cooperative.

h. In the absence of even indexed information, the domestic industry is handicapped in defending its interests.

i. The Hon'ble Supreme Court had held in *Sterlite Industries (India) Ltd.* v. *Designated Authority* that under Rule 7, the Authority must be satisfied as to the confidentiality of that material. Even if the material is confidential, a non-confidential summary must be provided. Confidentiality under Rule 7 is not something which can be automatically assumed.

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

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

a. The Applicants have not provided the volume information pertaining to exports, captive consumption and inventory, even though the production and sales volume is provided. This is done to conceal captive consumption.

b. ROCE range has not been provided and the indexation is not a reasonable summary to enable the opposing parties to offer their comments.

c. Adjustments are claimed on export price but no evidence of the same is provided.

d. The costing formats are made confidential, which do not permit any understanding of efficient use of raw materials/utility/etc.

### E.3. Examination by the Authority

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

> *"Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule12,sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*
>
> *(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*
>
> *Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information."*

29. The Authority made non-confidential version of the information provided by various interested parties available to all interested parties for inspection through the public file containing non-confidential version of evidences submitted by various interested parties.

30. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. The Authority has also duly noted the submissions made by interested parties citing the decision of the Hon'ble Supreme Court of India in the Sterlite Industries case and emphasizing the point that confidentiality under Rule cannot be automatically assumed. The Authority notes that the information provided by the interested parties on confidential basis was duly examined with regard to sufficiency

of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential

## F. MISCELLANEOUS ISSUES

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

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

a. The legal requirements are different for an original investigation and sunset review investigation.

b. While imposing duty, the Authority is required to determine whether the product under consideration has been exported below normal value and whether the dumping has caused material injury.

c. At the stage of review investigation, the Authority is required to determine whether cessation of anti-dumping duty is likely to lead to continuation of recurrence of dumping and injury.

d. There is no excessive protection to the domestic industry. In fact, duty is not a protection, it is a trade remedy to address unfair pricing.

e. The quantum of duty is not excessive, it is as per law. Duty is only imposed/extended when the requirements are met.

f. The exporter is habitually exporting the PUC at dumped prices. The domestic industry cannot be barred to approach the Authority for the prevention of unfair trade practices.

g. The performance of the downstream industry has improved over the injury period.

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

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

a. The current sunset review investigation concerns duties in imports of Acrylic Fibre from Thailand originally imposed in 1997 and thereafter extended vide SSR investigations. The duties have been in force for over two decades.

b. The original imposition covered USA and South Korea, but the duties on imports from those country ceased to exist.

c. If the duties were imposed to remove the injury caused by dumping from Thailand, the injury data shows the domestic industry have not shown any sign of injury on account of imports from Thailand in the injury period/POI considered by the Authority.

d. India has conducted about 21 AD investigations (both fresh and reviews) concerning imports of Acrylic Fibre from various sources. The duties have been in force for the past two decades and such duties have provided disproportionate protection to the domestic industry.

e. AD rules have no bar on number of reviews or extensions. However, circumstances have undergone a tremendous change from original imposition. The domestic industry has reached high levels in profitability and performance.

f. The imports coming in from Thailand are essential imports to meet the Indian demand and are not driven by any particular price behaviour of the exporter.

g. Anti-dumping duty on almost all imports of acrylic fibre, has stagnated the user industry and has made users incapable to export. India is losing on valuable global market and employment opportunities due to anti-dumping duty as other country are taking advantage of the high yarn prices in India.

### F.3. Examination by the Authority

33. With regard to the issue of continued duty raised by the interested parties, the Authority notes that there is no bar on the number of times a sunset review can be conducted, and antidumping duty extended. If the legal requirement to extend antidumping duty is met, only then the duty is extended to protect the interests of the domestic industry. The duties on imports from USA and Korea RP ceased to exist and were not extended since the imports stopped being injurious to the domestic industry.

34. With regard to the issue of the imports being necessary imports since there is a demand-supply gap in the country, the Authority notes that antidumping duty does not bar the imports from coming into India. It merely ensures that the imports come into India at fair price. Having said that, the Authority also notes that the domestic industry has increased its capacity in the POI to meet the demand of the Indian market.

35. Lastly, with regard to the issue of the injury caused to the downstream user industry owing to the imposition of duty, the Authority reiterates that antidumping duty only ensures that imports come in at a fair price.

## G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

### G.1. Submissions made by the Domestic industry

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

a. Thai Acrylic Fibre Co. Ltd. (TAF) has claimed that it captively produces utility. In case a producer has captively produced raw material or utilities, the transfer price must conform to the market price.

b. The foreign producer is required to provide the following information in case utility is captively produced:

   i. The basis of pricing;

ii. How the exporter considers that the pricing is considered reflective and representative of a fair market price;

iii. Provide purchase prices from independent parties for an identical or comparable input product.

c. TAF has intentionally avoided the information sought by the Authority and has not replied to the question regarding valuation of utility. The response is insufficient.

d. Import of *** MT of 'Acrylic Fibre Waste' is reported from Thailand. Even if it is considered that Thai Acrylic Fibre production is to the extent of 1 lac MT, it implies waste generation of only 1%.

e. The technology employed by Thai Acrylic Fibre is the same technology employed by Vardhman Acrylics Ltd. The waste generation in VAL is in the region of 0%. The same is true for the other Applicants as well.

f. The price at which acrylic waste is claimed to have been imported into India is 2-3 times the price at which acrylic fibre waste has been sold by Indian producers.

g. TAF has claimed to have charged a price for waste fibre at a rate which is 80% of the 'good fibre' price.

h. Good fibre has been reported in the name of acrylic fibre waste and anti-dumping duty has been evaded. This is not a conjecture, given the recoveries made by the DRI from the importers, which run into INR 25 crores.

i. It is requested that the Authority determine the CIF import price for TAF by adding these imports of acrylic fibre declared as acrylic waste.

j. The exporter has demanded comparison of normal value and export price on quarterly basis on the grounds that there is significant difference in the price of the product on quarterly basis. Perusal of the import data shall show that the difference in price over time is less than the difference in price on transaction to transaction basis.

k. The purpose of quarterly comparisons is to address the situation of significant difference in the price within the time period. However, the difference in price is must higher within the same period.

l. Without prejudice, applicant submits that the authority may kindly determine dumping margin in individual import transactions and segregate the same into dumped & injurious and un-dumped and non-injurious. It would be seen that significant proportion of the imports are dumped and injurious. This itself establishes likelihood of dumping and injury to the domestic industry.

m. The domestic industry has obtained evidence of the delivered basis prices prevailing in South-East Asia Region as per IHS Chemical Reports. The prices have been adjusted for inland freight, custom duty and port expenses for calculation of normal value.

n. Domestic industry has obtained the import data from DGCI&S and relied upon the same for export price. The export price has been adjusted for Ocean Freight, Marine Insurance, Port Expenses, handling charges, bank charges and commissions.

o. Exporters have made misleading statements in their questionnaire response. TAF buys raw material called Sodium Meta Bisulfite from its group company namely Aditya Birla Chemicals in Thailand. Aditya Birla Chemicals is situated in the same complex as TAF.

p. The conduct of the exporter and importer is dubious. The DRI has made large scale recoveries. It is pointed out that significant imports have been mis-declared.

### G.2. Submissions made by other interested parties

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

a. The Authority must conduct quarterly examination of dumping and injury margin in the present case as there have been significant fluctuation in the cost and price of the subject goods during the POI.

b. Such fluctuation warrants quarterly analysis to ensure fair examination.

c. The supply of Acrylonitrile was tight due to unplanned shutdowns in the first half of the year with very high prices.

d. With regard to domestic industry's request of segregating non-injurious and injurious imports/dumped and un-dumped imports, it is submitted that this practice amounts to zeroing and is not allowed under the WTO regime.

e. TAF is a single entity where power production is integrated and is only used to produce Acrylic Fibre. There is no internal transfer pricing of utility and actual cost details have been provided in the response.

f. TAF has not exported any waste as subject goods. In fact, import of waste which was *** MT in 2012-13 and ***MT in 2016-17 has sharply declined to *** MT in 2018-19 (POI) and to *** MT in the post POI period (April 2019-January 2020).

g. There is no bar under the rules to determine the dumping margin on a quarterly basis.

h. The Manual for Operating Practices published by the DGTR, states that in some cases monthly or quarterly Export Prices/Normal Value must also need to be worked out especially in case of products with highly volatile market prices.

i. A quarterly examination has been done in the following investigations:

    i. Investigation concerning imports of Styrene Butadiene Rubber (SBR) of 1500 series and 1700 series, originating in or exported from European Union, Korea RP and Thailand- Final Findings dated 12th July, 2017- Dumping and injury examination done on quarterly basis by DGTR/DGAD.

    ii. Investigation concerning imports of Flat base Steel Wheels originating in/exported from China PR.- Final Findings dated 28th November 2007- Quarterly examination of import related parameters done by DGTR/DGAD.

    iii. Investigation concerning imports of D (-) Para Hydroxy Phenyl Glycine Base (PHPG Base) originating in or exported from the European Union dated

7th March 2003- Quarterly and month wise examination of import related parameters done by DGTR/DGAD.

iv. Preliminary Finding Concerning Bilateral Safeguard Investigation concerning imports of "Phthalic Anhydride" into India from Korea RP under India-Korea Comprehensive Economic Partnership Agreement (Bilateral Safeguard Measures) Rules, 2017 dated 11.5.2020- Quarterly examination of injury for the injury period as proposed by the Indian producers done by DGTR.

v. Dioctyl Terephthalate (DOTP) from Korea Investigation- No. 731-TA-1330 (Final)- August 2017- Used Quarterly data to examine injury by USITC (USA Authority).

vi. Hot-Rolled Steel Products from China, India, Indonesia, Taiwan, Thailand, and Ukraine- August 2019- Used Quarterly data to examine injury- USITC (USA Authority).

vii. Definitive duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China dated 5th April 2017- European Commission conducted quarterly examination of dumping and injury parameters (EU Authority).

viii. TAF has demanded the comparison of normal value and export price on a quarterly basis in view of significant fluctuation in cost.

**G.3. <u>Examination by the Authority</u>**

38. Authority notes that only one producer/exporter namely Thai Acrylic Fibre Co. Ltd, from the subject country has filed exporter's questionnaire response.

**<u>Normal Value</u>**

39. Under Section 9A(1)(c) of the Customs Tariff Act, 1975, as amended, the normal value in relation to an article means:

i. *the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*

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

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

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

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

### G.3.1. Determination of Normal Value for Thai Acrylic Fibre Co. Ltd (TAF)

40. Normal value for Thai Acrylic Fibre Co. Ltd has been determined on the basis of information provided by the producer/exporter. TAF has sold the subject goods to affiliated parties and non-affiliated parties in the domestic market during the POI. It was noted by the Authority that TAF has sold *** MT of the subject goods with net invoice value of THB *** in the domestic market to non-affiliated customers and *** MT with net invoice value of THB *** to affiliated customers. The affiliated customers have consumed the subject goods for manufacturing their own products. To determine the normal value, the authority conducted the ordinary course of trade test to determine profit making domestic sales transactions (affiliated and non- affiliated sales) with reference to cost of production of subject goods. It was noted by the authority that profit making transactions are less than 80% and therefore authority has considered only profit making transactions in the domestic market for the determination of the normal value.

41. TAF claimed adjustments on account of inland freight, sales expenses and credit expenses from the domestic selling price. The authority has allowed the adjustments after verification. Accordingly, weighted average normal value at ex-factory level for TAF so determined is indicated in the dumping margin table below.

### G.3.2. Determination of Normal Value for non-cooperating producers and exporters from Thailand

42. For the other producers/exporters from Thailand, normal value has been determined based on the facts available. The normal value so determined is indicated in the dumping margin table below.

**Export Price**

### G.3.3. Determination of Export Price for Thai Acrylic Fibre Co. Ltd (TAF)

43. From the response filed by TAF, the Authority notes that TAF has exported *** MT of the subject goods to India directly to unrelated customers. TAF has exported the subject goods on CIF terms. TAF has claimed adjustments on account of ocean & inland freight, port handling expenses, insurance, sales expenses, credit expenses and incentive. The Authority has allowed all the deductions except incentive claim. Accordingly, the weighted average export price at ex-factory level so determined for TAF is indicated in the dumping margin table below.

### G.3.4. Determination of Export Price for Non-cooperating producers and exporters from Thailand

44. For the other producers/exporters from Thailand, export price at ex-factory level has been determined based on the facts available. The export price so determined is indicated in the dumping margin table below.

**Calculation of Dumping Margin**

45. Comparing the aforesaid normal value and export price as determined, the dumping margin determined for the subject country during POI is as follows:

**Dumping Margin Table**

| Subject Country | Producer | Exporter | Normal Value | Ex-factory Export Price | Dumping Margin | Dumping Margin | Dumping Margin |
|---|---|---|---|---|---|---|---|
| | | | US$/MT | US$/MT | US$/MT | % | Range |
| Thailand | TAF | TAF | *** | *** | *** | *** | 10-20 |
| Thailand | All Others | All Others | *** | *** | *** | *** | 30-40 |

46. It is noted that the dumping margins are more than the de-minimis limits prescribed under the Rules in respect of exports made by cooperating producers/exporters and non-cooperating producers/ exporters from subject country.

## H. INJURY AND CAUSAL LINK ANALYSIS

### H.1. Submissions made by the Domestic Industry

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

a. The volume of dumped imports has declined till 2017-18 but has increased during the period of investigation.

b. The volume of dumped imports from subject country continued to be significant despite imposition of duty.

c. Imports from Belarus, Ukraine, EU and Peru are also dumped, and a separate investigation is ongoing with regard to the same.

d. The imports are undercutting the prices of the domestic industry. The domestic industry is already suffering suppressing effects. The cost of production and selling prices increased over the injury period. The domestic industry was not able to increase its price in proportion to the increase in costs.

e. Domestic industry has increased their capacity during the period of investigation. Production and capacity utilization of the domestic industry declined over the injury period. Even though production and capacity utilization increased in the POI, the levels achieved in the POI were still lower than the levels achieved in the past.

f. Domestic sales of the domestic industry have shown the same trend as that of production.

g. Exports being made by the domestic industry are only a result of inability of the domestic industry to sell in the domestic market.

h. Captive consumption has increased as a result of efforts being made by the domestic industry in creating market for its product.

i. Profitability of the domestic industry has declined over the injury period with a significant decline during period of investigation.

j. PBIT has declined throughout the injury period.

k. Cash flow and return on capital employed has also declined over the period.

l. There was significant deterioration in the performance of the domestic industry in the current period as compared to the past. Under the circumstances, cessation of anti-dumping duty would add fuel to the fire.

m. There is no requirement of establishing causal link in a sunset review investigation.

n. Imports from subject country are undercutting the prices of the domestic industry. Considering that producers in the subject country have surplus capacities, the volume of dumped imports would surge significantly.

o. In case the duty is ceased, imports from the subject country will further increase, and the domestic industry would be forced to reduce the prices of the goods significantly. This will lead to an impact on profitability, cash flow and ROCE.

p. If domestic industry chooses to maintain its normal price levels, it is bound to lose its sales volume.

q. If sales volumes are lost, it would lead to bigger injury. Loss in sales volume would lead to increase in fixed costs and inventory, and a loss in production, capacity utilization, productivity and profits.

r. A comparison of the data of 2016-17 with the POI shows the following:

    i. The profits of the domestic industry have declined significantly

    ii. The cash profits have declined

    iii. The ROCE has declined.

s. 8% market-share of imports is sufficient to cause injury to domestic industry in the event of cessation. Imports from Thailand continue to be dumped into India despite duty.

t. India is not a monopolistic market where the domestic industry can dictate its prices. India is an extremely competitive market. The domestic industry cannot afford to sell its products at non-competitive prices. The allegation of high NSR is without substance.

u. The domestic industry offered its goods at sub-optimal prices to reduce inventory. This led to loss of profitability.

v. Public statements in Annual Report do not alter the conclusion that dumping of the product has contributed to injury of the domestic industry.

w. The assumption of the interested parties that dumping should be the sole cause of injury to the domestic industry is incorrect.

x. The statements in the Annual Report are not with regard to deterioration in performance of the domestic industry over the injury period. The Authority's decision is not based on the POI alone.

y. The Authority is concerned about the company's domestic operations. The Annual Reports are concerned with overall operations.

z. Employment and wages are dependent on a number of other parameters and are not reflective of impact of dumping on the domestic industry.

**H.2. <u>Submissions made by other interested parties</u>**

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

a. The injury data of the domestic industry does not show any continuation of material injury on account of alleged dumped imports.

b. It is important to note that on 16th April 2018, the DGTR terminated an AD investigation concerning acrylic fibre from China, Belarus, Ukraine, EU and Peru, on account of no injury being caused to the domestic industry. The POI was 2016-17, whereas the POI for this investigation is 2018-19.

c. The performance of the domestic industry has only improved further between 2016-17 and 2018-19 concerning all key parameters.

d. The final finding mentioned about 50-60% ROCE in the year of 2016-17. In the current POI, the DI must have earned a ROCE in the rage of 40-50% as extrapolated from the indexed figures.

e. The domestic industry has increased their capacity by about 5000 MT during the POI, which is an indicator of good health for any industry. Infusion of fresh investment is clearly a sign of absence of material injury.

f. Acrylic Fibre is an input for a large number of spinners in India and still imports from Thailand were only 8% of Indian demand. 65% of the market share was still held by the domestic industry.

g. The domestic industry's selling price has been very high during the POI and also the injury period.

h. Level of average inventory with domestic industry declined in the POI over the previous year which is also a positive parameter.

i. The increase in cost is directly linked to increase in interest. The interest which was INR 10.65 Crores increased to INR 15.15 Crores in the POI.

j. The annual report of Indian Acrylic Ltd. covering the POI suggests that the movement of key raw material prices had created some price pressure on the domestic industry in the first half of the POI, but the same has been mitigated. Any increase in cost due to raw materials cannot be attributed to the imports from Thailand.

k. While the number of employees may have increased, the wages and wages per unit of production has increased. Productivity per day and productivity per employee has declined.

l. Injury parameters have shown overall improvement and very healthy performance.

m. Landed price of imports have increased by 31% in the POI.

### H.3. Examination by the Authority

49. Rule 11 of the Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "*.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....*". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared to the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

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

#### H.3.1. Assessment of Demand and Market Share

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

| Demand | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Sales of Domestic Industry | MT | 68,785 | 57,143 | 58,875 | 61,919 |
| | Index | 100 | 83 | 86 | 90 |
| Imports – Thailand | MT | 13,670 | 10,747 | 8,336 | 8,797 |
| | Index | 100 | 79 | 61 | 64 |
| Import - Other Countries | MT | 21,094 | 20,314 | 19,908 | 26,049 |

| Demand | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| | Index | 100 | 96 | 94 | 123 |
| Total Demand (excluding captive) | MT | 1,03,549 | 88,205 | 87,119 | 96,765 |
| | Index | 100 | 85 | 84 | 93 |
| Captive Consumption by DI | MT | *** | *** | *** | *** |
| | Index | 100 | 347 | 508 | 704 |
| Total Demand (including captive consumption) | MT | *** | *** | *** | *** |
| | Index | 100 | 90 | 91 | 104 |
| Market Share (Including captive) | | | | | |
| Domestic industry (Including captive) | % | 67 | 67 | 70 | 68 |
| | Index | 100 | 98 | 103 | 97 |
| Subject country | % | 13 | 11 | 9 | 8 |
| | Index | 100 | 85 | 69 | 62 |
| Other Countries | % | 20 | 22 | 21 | 24 |
| | Index | 100 | 110 | 105 | 120 |
| Total | % | 100 | 100 | 100 | 100 |

52. The Authority notes that the demand for the product under consideration (excluding captive consumption) came down in 2016-17 and 2017-18 but has increased thereafter in the POI. The market share of the domestic industry has more or less remained stable during the injury period.

53. Market share of the subject country on the other hand has decreased from 13% in the base year to 8% in the POI.

### H.3.2. Volume Effect of the dumped imports on the Domestic industry

54. The effects of the volume of dumped imports from the subject country as well as imports from other countries have been examined by the Authority as follows:

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| **Import Volume** | | | | | |
| Thailand | MT | 13,670 | 10,747 | 8,336 | 8,797 |
| | Index | 100 | 79 | 61 | 64 |
| Other countries | MT | 21,094 | 20,314 | 19,908 | 26,049 |
| | Index | 100 | 96 | 94 | 123 |
| Total Imports | MT | 34,763 | 31,062 | 28,244 | 34,846 |
| | Index | 100 | 89 | 81 | 100 |
| Market Share in Imports | | | | | |
| Thailand | % | 39 | 35 | 30 | 25 |
| | Index | 100 | 88 | 75 | 64 |
| Other countries | % | 61 | 65 | 70 | 75 |

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| | Index | 100 | 107 | 115 | 123 |
| Total Imports | % | 100% | 100% | 100% | 100% |
| Demand | MT | 1,03,549 | 88,205 | 87,119 | 96,765 |
| | Index | 100 | 85 | 84 | 93 |
| Indian Production | MT | 1,01,386 | 92,279 | 86,454 | 96,907 |
| | Index | 100 | 91 | 85 | 96 |
| Subject Imports in relation to: | | | | | |
| Demand | % | 13 | 12 | 10 | 9 |
| | Index | 100 | 88 | 67 | 62 |
| Indian Production | % | 13 | 12 | 10 | 9 |
| | Index | 100 | 86 | 72 | 67 |

55. The Authority notes that the volume of dumped imports of the product under consideration from Thailand have decreased in absolute terms as well as in relation to consumption and production in the country, throughout the injury period.

56. Share of imports from the subject country as a whole to the total imports into India has decreased to 25% in the POI from 39% in the base year.

### H.3.3. Price Effect of dumped imports and impact on the domestic industry

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

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

#### I. Price Undercutting

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

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Net Sales Realization | Rs/MT | *** | *** | *** | *** |
| | Index | 100 | 97 | 112 | 133 |
| Thailand | | | | | |
| Landed Price | Rs/MT | 1,29,827 | 1,16,687 | 1,38,433 | 1,71,013 |
| Price undercutting | Rs/MT | *** | *** | *** | *** |
| Price undercutting % | % | *** | *** | *** | *** |
| Price undercutting | Range | 0-10 | 5-15 | 0-10 | 0-10 |

60. It is seen from the above table that the landed price of imports from the subject country are undercutting the domestic selling prices throughout the injury examination period including the POI.

**II. Price Suppression / Depression**

61. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority notes the changes in the costs and prices over the injury period. The position is shown as per the table below:

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Cost of Sales | Rs/MT | *** | *** | *** | *** |
| | Index | 100 | 93 | 113 | 142 |
| Selling Price | Rs/MT | *** | *** | *** | *** |
| | Index | 100 | 97 | 112 | 133 |
| Landed Price from subject country | Rs/MT | 1,29,827 | 1,16,687 | 1,38,433 | 1,71,013 |
| | Index | 100 | 90 | 107 | 132 |

62. The cost of sales has increased by 42% in the POI as compared to base year whereas the applicants have been able to increase the selling price by 33% during the same period. Therefore, imports have caused a suppressing effect on the domestic selling price.

**III. Price underselling**

63. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject country. It is noted that there has been negative price underselling on account of dumped imports as shown in the table below:

| Particulars | Unit | Thailand |
|---|---|---|
| Non-Injurious Price | USD/MT | *** |
| Landed price of imports in POI | USD/MT | 2,414.76 |
| Price Underselling | USD/MT | (***) |
| Price Underselling | % | (***) |
| Price Underselling | Range% | (0-10) |

**H.3.4. Examination of economic parameters relating to the domestic industry**

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

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

**I. Capacity, Production Capacity Utilization and Sales**

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

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Capacity | MT | 1,04,000 | 1,04,000 | 1,04,000 | 1,09,000 |
| | Index | 100 | 100 | 100 | 105 |
| Production | MT | 1,01,386 | 92,279 | 86,454 | 96,907 |
| | Index | 100 | 91 | 85 | 96 |
| Capacity Utilisation | % | 97% | 89% | 83% | 89% |
| | Index | 100 | 91 | 85 | 91 |
| Domestic Sales | MT | 68,785 | 57,143 | 58,875 | 61,919 |
| | Index | 100 | 83 | 86 | 90 |
| Demand | MT | 1,03,549 | 88,205 | 87,119 | 96,765 |
| | Index | 100 | 85 | 84 | 93 |

67. It is noted from the above table that:

i. The domestic industry has increased its capacity in the POI.

ii. The production of the domestic industry has declined till 2017-18 but has increased during the POI. Similar trend is noticed in case of capacity utilization also.

iii. The volume of domestic sales decreased in 2016-17 but has increased thereafter in 2017-18 and POI.

**II. Market Share of Domestic Industry in Demand**

68. The effects of the dumped imports on the market share of the domestic industry have been examined as below. It is noted that the market share of the domestic industry (including captive consumption) has more or less remained at the same level throughout the injury period. However market share of domestic industry (excluding captive consumption) has declined by 10% in POI as compared to base year.

| Market Share | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Domestic industry (including captive consumption) | % | 67 | 67 | 70 | 68 |
| | Index | 100 | 98 | 103 | 97 |
| Subject country | % | 13 | 11 | 9 | 8 |
| | Index | 100 | 85 | 69 | 62 |
| Other Countries | % | 20 | 22 | 21 | 24 |
| | Index | 100 | 110 | 105 | 120 |

**III. Inventory**

69. The Authority further notes that the average inventory level of the domestic industry has shown increasing trend till 2017-18 before dipping in the POI.

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Average Inventory | MT | 3,725 | 4,616 | 5,549 | 4,072 |
| | Index | 100 | 124 | 149 | 109 |

## IV. Profits, Cash Profits and Return on Capital Employed

70. Performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed.

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Cost of Domestic Sales | Rs/MT | *** | *** | *** | *** |
| | Index | 100 | 93 | 113 | 142 |
| Selling Price | Rs/MT | *** | *** | *** | *** |
| | Index | 100 | 97 | 112 | 133 |
| Profit / Loss per unit | Rs/MT | *** | *** | *** | *** |
| | Index | 100 | 123 | 110 | 61 |
| Profit / Loss | Rs. Lacs | *** | *** | *** | *** |
| | Index | 100 | 102 | 95 | 55 |
| Cash Profit | Rs. Lacs | *** | *** | *** | *** |
| | Index | 100 | 102 | 95 | 60 |
| Profit before Interest & Tax | Rs. Lacs | *** | *** | *** | *** |
| | Index | 100 | 102 | 96 | 63 |
| Return on Capital Employed | % | *** | *** | *** | *** |
| | Index | 100 | 101 | 81 | 53 |

71. It is noted from the above table that:

Profit, cash profit, PBIT, return on capital employed have reduced during the POI as compared to previous three years.

## V. Employment and Wages

72. It is seen from the table below that the number of employees has witnessed a marginal increase in 2016-17. Salaries and wages paid by the domestic industry have been increasing during the injury period.

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Employees | Nos | 1,369 | 1,377 | 1,377 | 1,377 |
| | Index | 100 | 101 | 101 | 101 |
| Salary and Wages | Rs. Lacs | *** | *** | *** | *** |
| | Index | 100 | 111 | 113 | 119 |

## VI. Growth

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

| Growth | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Production | % | - | -9 | -6 | 12 |
| Domestic Sales | % | - | -17 | 3 | 5 |
| Capacity Utilization | % | - | -9 | -6 | 7 |
| Profit/Loss per unit | % | - | 23 | -10 | -45 |
| Return on Capital Employed | % | - | 1 | -20 | -34 |
| Market Share – DI (including captive) | % | - | - | 3 | -2 |

74. It can be seen that the production, domestic sales and capacity utilization have had a positive growth in the POI. Parameters such as Profit/Loss per Unit, ROCE and market share have had a negative growth in the POI.

## VII. Level of Dumping and Dumping Margin

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

## VIII. Factors affecting domestic prices

76. The selling prices of the domestic industry have been affected by dumped imports from the subject country because there is price suppression caused by the dumped imports from subject country.

## IX. Ability to raise fresh Investment

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

### H.3.5. Conclusions on injury:

78. Considering various parameters relating to material injury, the Authority notes that:

a. There has been a decrease in the volume of dumped imports of the subject goods during POI, in absolute terms and in relation to production and consumption in India.

b. Parameters like production and capacity utilization of the domestic industry have improved during the POI as compared to the previous years.

c. Profitability parameters have decreased during the POI in comparison to previous years.

d. Dumping margin from the subject country is positive and significant.

### H.3.6. Causal Link

79. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry,

so that the injury caused by these other factors may not be attributed to the dumped imports.

80. It was examined whether the following other factors listed under the AD Rules could have contributed to the injury suffered by the domestic industry.

**I. Volume and price of imports from third country:**

81. The Authority notes that the volume of imports of the product under consideration from third countries (EU, Belarus, Ukraine and Peru) in the POI is quite significant. The Authority is conducting a parallel anti-dumping investigation concerning the imports of acrylic fibre from EU, Belarus, Ukraine and Peru.

**II. Export Performance:**

82. The Authority notes that significant volumes of the product under consideration have been exported by the domestic industry in the injury period. The export sales have reduced during the POI but are still significant.

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Domestic Sales Volume | MT | 68,785 | 57,143 | 58,875 | 61,919 |
| | Index | 100 | 83 | 86 | 90 |
| Exports Sales Volume | MT | 31,337 | 26,683 | 18,974 | 24,995 |
| | Index | 100 | 85 | 61 | 80 |

**III. Captive Sales**

83. The Authority notes that the captive sales of the domestic industry have increased exponentially in the injury period. While the volume of domestic sales has decreased in the injury period, the volume of captive sales on the other hand has continuously increased throughout the injury period.

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Domestic Sales Volume | MT | 68,785 | 57,143 | 58,875 | 61,919 |
| | Index | 100 | 83 | 86 | 90 |
| Captive Sales Volume | MT | *** | *** | *** | *** |
| | Index | 100 | 347 | 508 | 704 |

**IV. Development of Technology:**

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

**V. Performance of other products of the company**

85. The Authority notes that no submission has been made by any of the interested parties to the effect that the performance of other products being produced and sold by the applicants is a possible cause of injury to the domestic industry.

**VI. Trade Restrictive Practices and Competition between the Foreign and Domestic producers:**

86. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. The domestic producers compete with the landed prices of the subject goods. The price of the domestic industry is influenced substantially by the landed

prices of subject goods. Moreover, no evidence has been submitted by any interested party to suggest that the conditions of competition between foreign and domestic producers have undergone any change.

**VII. Contraction in Demand and Changes in pattern of consumption:**

87. The Authority notes the domestic sales of the domestic industry have followed the same pattern as demand. The fall in demand during the relevant years is also a factor which could be seen as responsible for decline in sales of the domestic industry during some years.

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI |
|---|---|---|---|---|---|
| Sales of Domestic Industry | MT | 68,785 | 57,143 | 58,875 | 61,919 |
| | Index | 100 | 83 | 86 | 90 |
| Total Demand (Excluding Captive) | MT | 1,03,549 | 88,205 | 87,119 | 96,765 |
| | Index | 100 | 85 | 84 | 93 |

**VIII. Productivity of the domestic industry**

88. The Authority notes that no submissions have been made by either the domestic industry or any of the interested parties regarding the injury to the domestic industry on account of productivity of the domestic industry.

## I. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

### I.1. Submissions made by the Domestic Industry

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

a. TAF is the fifth largest manufacturer and the second largest exporter of the PUC in the world.

b. TAF is the sole producer of the PUC in Thailand.

c. The capacity of TAF has remained the same. However, the company has set up one more line to enhance its capacities of Acrylic Fibre.

d. Sales of TAF have declined in all the markets. Exports to India have declined by 27%, exports to third country have declined by 8% and domestic sales have declined by 2%.

e. Inventories of TAF have declined despite decline in sales. This clearly means that TAF has undertaken production cuts.

f. Demand of the product in Thailand has declined. This clearly shows that surplus capacities with TAF have increased.

g. The cost of sales for TAF increased by 37%, but the domestic selling price increased only by 22% and export price to India increased by only 14%. This shows that:

    i. TAF was not able to increase prices in proportion to the increase in cost;

ii. Increase in domestic price was more than the increase in export price to India;

iii. The dumping margin has increased in the current period as compared to the preceding period;

iv. TAF fixes its prices based on market movements rather than costs.

h. The questionnaire response affirms the same position. It states that no price list is maintained by the company since the prices are determined by the prevailing market conditions.

i. The dumping from subject country has continued despite the imposed duty.

j. The imports are undercutting the prices of the domestic industry by 5%.

k. The foreign producer is faced with significant surplus production capacities far beyond the domestic demand.

l. Considering the exports and production, the foreign producer is highly export oriented. 85% of its sales are export sales.

m. The level of capacity utilization of the foreign producer is low.

n. If the duty ceases to exist, the profit of the domestic industry will decline from INR ***/MT to a loss of INR ***/MT, ROI will decline by ***%, and cash profits will reduce by a large amount.

o. The dumping and injury margin in the current POI is positive and significant.

p. Exporters from the subject country are not only dumping in India, but also in other country.

q. The price attractiveness of the Indian market must also be taken into account.

r. Export price to other country is lower than the export price to India.

s. The domestic industry has also provided the Post-POI data which clearly shows an increase in the subject imports.

### I.2. Submissions made by other interested parties

90. The information on likelihood of dumping and injury provided in the petition is grossly insufficient and unreliable.

a. Rule 23 clearly states that the likelihood of dumping and injury should exist simultaneously. It is also very clear that the onus to demonstrate the consequences of such likelihood is on the domestic industry. The likelihood cannot be based on presumptions and conjectures.

b. The trend of price and volume of import from Thailand rules out any likelihood of dumping and injury. The import data shows a decline in imports from Thailand with an

increase in price. The imports were 13670 MT in 2015-16 and declined to 8797 MT in the POI. This is a decline of 35%. The import prices have risen by 31% from 2015-16 in the POI as well.

c. Decline in imports shows the availability of better market elsewhere for the Thai producers.

d. 97-99% of the exports to third country were at a price significantly higher than the export price to India. About 80-85% of such exports were at a price higher by about 7-15%.

e. There are no cogent reasons for the company to divert any such volumes to India based on the expiry of the duties. The prices available in the other markets are more attractive even after the expiry of such duties.

f. TAF has been operating at very high capacity utilization levels in the entire injury period. This has been the case since the past 10 years.

g. The fact that the imports declined over the years but increased its prices is evidence of there being no unutilized or excess capacity.

h. The inventory level of PUC has reduced during the injury period. There is no significant inventory available with the company.

i. Absence of continued injury through the injury period and POI is also a crucial parameter which rules out any dumping and injury on account of expiry of present duties.

j. All the volume parameters of injury show a healthy condition, and the profitability of the domestic industry is very high.

k. ROCE must have clocked a level of 40-50% in the POI, and that in itself shows no injury.

l. It is the reasonable estimate of the exporter that the NSR of the domestic industry is higher than the NIP.

m. Exports are at a declining trajectory with an increasing price.

n. A comparison of cost and export price is not a parameter which must be examined for the purposes of determining likelihood.

o. If the landed price with the anti-dumping duty did not cause injury to the domestic industry, the landed price without the anti-dumping duty will also not cause injury to the domestic industry.

p. Capacity utilisation also depends on the product mix in a given period and lower capacity utilisation for a given period cannot be construed as factor indicating capability of dumping.

### I.3. Examination by the Authority

91. The present investigation is a sunset review of duties imposed on the imports of subject goods from Thailand. Under the Rules, the Authority is required to determine whether

continued imposition of antidumping duty is warranted. This also requires an examination of whether the duty imposed is serving the intended purpose.

92. There are no specific methodologies available to conduct such a likelihood analysis. However, Clause (vii) of Annexure II of the Rules provides, inter alia for factors which may be taken into consideration viz.:

a) A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;

b) Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;

c) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and

d) Inventories of the article being investigated.

93. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. The examination of the parameters of likelihood is as follows:

## IX. Continued Imports of appreciable quantum in presence of Anti-Dumping Duty

94. The import details in the subject investigation are as follows:

| Particulars | Unit | 2015-16 | 2016-17 | 2017-18 | POI | Post-POI (A) |
|---|---|---|---|---|---|---|
| Imports from Thailand | MT | 13,670 | 10,747 | 8,336 | 8,797 | 15,502 |
| | Index | 100 | 79 | 61 | 64 | 113 |

95. The Authority notes that the volume of dumped imports of the product under consideration have decreased in absolute terms throughout the injury period and the POI. However, these imports have increased in the Post-POI.

## I. Price Suppression/Undercutting

96. The Authority notes that the landed price of imports from the subject country is undercutting the domestic selling prices throughout the injury examination period including the POI.

97. The imports have caused a suppressing effect on the domestic selling price. There is likelihood of continuation of this trend.

## II. Excess Inventories

98. The Authority notes that there are no excess inventories with the exporting Producer which can be exported to India. However, Authority notes that there is also a significant reduction in the production in the POI as compared to base year.

## III. Freely disposable Capacities with the foreign producers

99. The Authority notes that the capacity utilization of the foreign producer from Thailand (TAF) who has participated in the investigation has declined by 14% (from 108% in 2015-16 to 94% in the POI) and hence there are unutilized capacities with the foreign producer.

## IV. Level of current and past dumping margin

100. The level of dumping margin in the original, mid-term and sunset reviews as well as present investigation is significant. Given the level of price undercutting the volume of dumped imports is likely to increase further in the event of revocation of duty.

## V. Post-POI Analysis

101. The Authority has also conducted a Post-POI analysis for the purposes of determining likelihood of continuation or recurrence of dumping and injury. The following is noted with regard to the same:

| Particulars | Unit | 2015-16 | 2016-17 | 2017-2018 | POI | Post-POI (A) |
|---|---|---|---|---|---|---|
| Import Volume-Thailand | MT | 13,670 | 10,747 | 8,336 | 8,797 | 15,502 |
| | Index | 100 | 79 | 61 | 64 | 113 |
| Demand | MT | 103,549 | 88,205 | 87,119 | 96,765 | 113,022 |
| | Index | 100 | 85 | 84 | 93 | 109 |
| Domestic Sales | MT | 68,785 | 57,143 | 58,875 | 61,919 | 54,017 |
| | Index | 100 | 83 | 86 | 90 | 79 |
| Indian Production | MT | 101,636 | 92,279 | 86,454 | 96,907 | 105,860 |
| | Index | 100 | 91 | 85 | 95 | 104 |
| Capacity | MT | 104,000 | 104,000 | 104,000 | 109,000 | 109,000 |
| | Index | 100 | 100 | 100 | 105 | 105 |
| Capacity Utilization | % | 97 | 89 | 83 | 89 | 97 |
| | Index | 100 | 91 | 85 | 91 | 100 |
| Export Sales | MT | 31,337 | 26,683 | 18,974 | 24,995 | 27,890 |
| | Index | 100 | 85 | 61 | 80 | 89 |
| Captive Sales | MT | *** | *** | *** | *** | - |
| | Index | 100 | 347 | 508 | 704 | - |
| Average Inventory | MT | 3,725 | 4616 | 5549 | 4072 | 5260 |
| | Index | 100 | 124 | 149 | 109 | 141 |
| Cost of Sales | INR/MT | *** | *** | *** | *** | *** |
| | Index | 100 | 93 | 113 | 142 | 133 |
| Selling Price | INR/MT | *** | *** | *** | *** | *** |
| | Index | 100 | 97 | 112 | 133 | 129 |

102. In this regard, the Authority notes the following:

a. The import volume from Thailand has increased in the Post-POI Period. There has been an increase of 13 indexed points in the Post-POI (A) as compared to

the base year and an increase of 49 indexed points in the Post-POI (A) as compared to the POI.

b. The total demand has increased in the Post-POI (A), but the domestic sales have reduced.

c. In the Post-POI (A), the production and capacity utilization have increased, but the domestic sales have reduced. The inventories have increased and the export sales have also increased.

d. The selling price of the domestic industry is above the cost of sales in the Post-POI (A).

## VI. Magnitude of Injury and Injury Margin

103. The non-injurious price of the subject goods produced by the domestic industry when compared with the landed value of the exports from the subject country shows positive injury margin during POI.

| Subject Country | Producer | Exporter | NIP | Landed Value | Injury Margin | Injury Margin | Injury Margin % |
|---|---|---|---|---|---|---|---|
| | | | US$/MT | US$/MT | US$/MT | % | Range |
| Thailand | TAF | TAF | *** | *** | *** | *** | 0-10 |
| Thailand | All Others | All Others | *** | 2,292.45 | *** | *** | 0-10 |

### I.4. Conclusion on Likelihood of Dumping and Injury

104. The evidences on record show that imports from the subject country increased during POI and have further increased significantly during post POI period. The information on record also shows that the imports from the subject country are undercutting and supressing the prices of the domestic industry. Thus, these parameters indicate that in the event of cessation of anti-dumping duty, the exporters in the subject country are likely to continue export of PUC to India at dumped prices, leading to recurrence of injury to the Domestic Industry.

## J. POST DISCLOSURE COMMENTS

105. Post- disclosure submissions have been received from the interested parties. The Authority has examined the post-disclosure submissions made by the interested parties including reiterations which have already been examined suitably and addressed adequately in the relevant paras of these final findings. The issues raised for the first time in the post disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below.

### J.1. Submissions made by the domestic industry

106. The submissions made by the domestic industry are as follows:

a. In a sunset review investigation, the Authority is required to consider the extent to which the existing anti-dumping duty in force is protecting the domestic industry from subject imports. A sunset review investigation does not require a strict application of Rule 11

and Annexure II since (i) Section 9A(5) does not require establishment of injury for SSR; and (ii) Rule 23(3) only requires the Authority to determine likelihood of recurrence of dumping and injury after mutatis mutandis application of Rule 11.

b. The potential increase/decrease in imports, production, sales, and market share may also be analyzed.

c. Despite the imposition of anti-dumping duty, the subject imports have remained significant. Imports from other dumping countries increased significantly in the injury period. This shows the vulnerable position of the domestic industry. It was the anti-dumping duty in force which ensured that the dumped imports did not increase in volumes. If the anti-dumping duty is allowed to expire, the dumped imports would increase.

d. Though sales by domestic industry increased in the POI by 5% as compared to preceding year, the same declined by 10% as compared to base year. Further, even compared to preceding year, whereas demand increased by 11%, domestic industry sales increased by 5% only and capacity utilization was still 9% lower than the levels achieved in the past. The domestic industry was unable to proportionately increase sales due to the dumped imports and resultantly suffered low capacity utilization.

e. The market share of domestic industry and subject imports have declined while market share of dumped imports from other dumping countries under investigation has increased.

f. Volume of subject imports increased in post-POI and would further increase if the anti-dumping duty were to expire.

g. The price undercutting and underselling is likely to continue in the current trend if the anti-dumping duty is removed.

h. The fact that TAF's inventories declined despite a decline in sales shows that TAF has taken a production cut. This shows that TAF can increase production on cessation of the anti-dumping duty. The Domestic Industry never argued that TAF has excess capacities. The argument was that TAF can divert production to India on cessation of anti-dumping duty.

i. TAF has lost significant production over the current injury period. Such being the case, it is factually incorrect that TAF does not have unutilized capacities.

j. From the calculation based on capacity utilization and its trend as disclosed by TAF, in the event of cessation of the anti-dumping duty, TAF would be able to increase imports to India by 15,400 MT which is higher than the current level of imports from Thailand. This is equivalent to 16% of Indian demand. Even if third countries exports are not diverted, the potential increase in imports is equivalent to 16% of the demand in India and therefore cannot be considered insignificant.

k. The freely disposable capacity is required to be seen in the context of highest achieved capacity utilization of the producer and capacities which have been committed by the producer in various other countries. In case of cessation of anti-dumping duty, Thailand will divert third countries exports to India. As per domestic industry's estimates, TAF

has the potential to divert significant third countries exports to India, in addition to 15,400 MT of unutilized capacities.

l. The domestic industry agrees with the Authority's finding on significant dumping margin and how price undercutting can attract increased volume of imports in all previous investigations.

m. In the Post-POI period, TAF has increased exports to India despite high capacity utilization. With increase in demand, domestic industry was unable to proportionately increase domestic sales. Import prices continue to suppress domestic prices even in the Post-POI.

n. Positive and significant injury margin shows likelihood of injury in the event of cessation of anti-dumping duty.

o. With the current price undercutting, if the anti-dumping duty is allowed to expire, the domestic industry will suffer financial losses and negative ROCE.

p. As per general practice, if imports from subject country do not cause material injury to the domestic industry in the POI, the Authority is not required to quantify Injury Margin or to re-fix duties. In such cases only likelihood of recurrence of injury and dumping is analyzed and the same anti-dumping duty is extended.

q. Authority is requested to continue anti-dumping duty in the same form and in terms of USD since depreciation of INR has impacted costs for the domestic industry.

**J.2. <u>Submissions made by other interested parties</u>**

a. A related party of Vardhman Acrylics Ltd. has imported substantial volume of the subject goods from EU during the POI at a price much lower than landed price from Thailand. The impact of such imports have not been examined in the present case.

b. The anti-dumping duty on Thailand has been in force over 23 years. The domestic industry directly or through their related parties have been importing the subject goods themselves either under Advance License on payment of duty. The users also have been compelled to import due to demand supply gap in India. Any further duty on the subject goods will impact large number of users especially in the MSME leading to high level of job losses and irreparable injury. Such concerns of the users are not fairly addressed in the Disclosure Statement issued by the Authority.

c. The facts of the present case shows that significant imports of the subject goods have been taking place from EU, Belarus, Peru and Ukraine against which an Anti-dumping investigation is under-way and it is apparent that the landed price from such sources have been lower than landed price of imports from Thailand. In that case any price undercutting, price suppression and price underselling during the POI cannot be attributed to imports from Thailand. In fact, the price of TAF is very high in India. The Authority may reconsider its view that there is likelihood of price undercutting, price suppression and price underselling from Thailand.

d. The domestic industry was earning healthy profits and healthy return on capital employed during the POI which rules out the possibility of any injury being suffered by them. Any

injury on account of other low-priced imports should not be made a ground to continue anti-dumping duties on Thailand.

e. It is evident that the overall performance of the domestic industry was affected due to a fall in demand and decline in sales and market share is directly linked to exponential increase in captive use of the product. This shows absence of causal link.

f. There is no excess capacity, under-utilization of capacities or any increase in inventories in Thailand. Since it is demonstrated that the price undercutting, suppression and underselling during the POI were not driven by landed value of imports from Thailand, the Authority may reverse its observation that these parameters during POI suggest likelihood.

g. The increase in imports during Post-POI is apparently due to the failure of the domestic industry to cater to some sudden increase in demand and also increase in captive consumption.

h. The Disclosure statement shows that none of the indicative parameters as listed in Clause (vii) of Annexure II of the Rules are met in the present investigation. This shows that expiry of the existing anti-dumping duty on imports from Thailand is not likely to lead to continuation or recurrence of dumping and injury to the domestic industry as envisaged in Rule 23 (1B) of the Anti-dumping Rules.

i. The Rules makes it clear that the Authority can revise the quantum of duty in a SSR anti-dumping investigation and the present case warrants such re-determination considering the fact that dumping margin and injury margin have reduced significantly and domestic industry was not suffering any injury.

### J.3. Examination by the Authority

107. With regard to the issues raised by parties relating to likelihood of continuation or recurrence of dumping and injury, the Authority has duly examined the relevant parameters and has recorded its findings in the relevant paragraphs of the present final findings.

108. With regard to the subject goods being imported by Vardhman Acrylics Limited and/or its related party from EU, the Authority notes that this issue has no direct bearing on the subject investigation.

## K. INDIAN INDUSTRY'S INTEREST

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

110. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the

Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

## L. CONCLUSION

111. Having regard to the contentions raised, information provided and submissions made and facts available before the Authority as recorded above and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the domestic industry, the Authority concludes that:

    a. The imports are likely to enter the Indian market at dumped prices in the event of expiry of duty.

    b. The domestic industry's performance remains vulnerable due dumping of the subject goods from the subject country.

    c. The information on record shows likelihood of continuation of dumping and likelihood of continuation/recurrence of injury to the domestic industry in case the Anti-dumping duty in force is allowed to cease at this stage.

## M. RECOMMENDATIONS

112. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and the causal link.

113. Having concluded that there is likelihood of continuation/ recurrence of dumping and injury if the existing anti-dumping duties are allowed to cease, the Authority is of the view that continuation of duty is required on the imports of PUC from the subject country.

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

## DUTY TABLE

| S. No | Heading/Sub Heading | Description of Goods | Country of Origin | Country of Export | Producer | Duty Amount | Currency | Unit |
|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 1 | 5501.3000, 5503.3000, 5506.3000* | Acrylic Fibre** | Thailand | Any country including Thailand | Thai Acrylic Fibre Co. Ltd | 15.87 | US$ | MT |
| 2 | -do- | Acrylic Fibre** | Thailand | Any country including Thailand | Any producer other than S.No. 1 above | 110.13 | US$ | MT |
| 3 | -do- | Acrylic Fibre** | Any country other than Thailand | Thailand | Any | 110.13 | US$ | MT |

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

** Note- Acrylic Fibre, excluding Homopolymer Acrylic Fibre containing 100% Acrylonitrile

### N. FURTHER PROCEDURE

115. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

**(B.B.Swain)**
**Special Secretary and Designated Authority**