

# MINISTRY OF COMMERCE

## PRELIMINARY FINDINGS

### NOTIFICATION

New Delhi, the 20th October, 1998

**Subject :** Anti-dumping investigation concerning imports of Acrylic Fibre from Japan, Portugal, Spain and Italy Preliminary Findings.

**32/1/97-ADD :** Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof;

### **A : PROCEDURE**

1. The procedure described below has been followed with regard to the investigation:
  - i. The Designated Authority (hereinafter also referred to as Authority), under the above Rules, received a written application from Indian Acrylic Ltd., Pasupati Acrylon Ltd., JK Synthetics Ltd. and Consolidated Fibres and Chemicals Ltd (referred to Indian Acrylic, Pasupati, JK and consolidated hereinafter) respectively on behalf of the domestic industry, alleging dumping of acrylic fibre (hereinafter also referred to as subject goods) originating in or exported from Japan, Portugal, Spain and Italy.
  - ii. Preliminary scrutiny of the application filed by petitioner revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was therefore considered as properly documented;
  - iii. The Authority, on the basis of sufficient evidence submitted by the petitioner decided to initiate the investigations against imports of acrylic fibre from Japan, Portugal, Spain and Italy. The Authority notified the Embassy of Japan, Portugal, Spain, and Italy about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-rule 5(5) of the Rules;
  - iv. The Authority issued a public notice dated 7th January 1998 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of Acrylic fibre classified under custom code 550330 of Schedule 1 of the Customs Tariff Act, 1975 originating in or exported from Japan, Portugal, Spain and Italy (hereinafter also referred to as the subject country).
  - v. The Authority forwarded a copy of the public notice to all the known exporters (whose details were, made available by the petitioners) and industry associations and gave them an opportunity to make their views known in writing in accordance with the rule 6(2);
  - vi. The Authority forwarded a copy of the public notice to all the known importers (whose details were made available by petitioner) of Acrylic fibre in India and advised them to make their views known in writing within forty days from the date of issue of the letter;
  - vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of Acrylic fibre made in India during the past three years, including the period of investigation. No information was, however, received from CBEC;

- viii. The Authority provided a copy of the petition to the known exporters and the Embassy of the subject countries in accordance with rules 6(3) supra. A copy of the petition was also provided to other interested parties, wherever requested;
- ix. The Authority sent a questionnaire to elicit relevant information, to the following known exporters, in accordance with the rule 6(4);
  - a. Komatsuya Corporation - Japan
  - b. Fibras Sinteticas de Portugal - Portugal
  - c. Courtaulds Europeans Fibre - Spain
  - d. Monte Fibre SPA - Italy.

A number of parties requested for extension of time, which was allowed by the Authority by four weeks. The responses received after the extended time have not been considered for determining the preliminary findings.

The following exporters responded:

### **I. Japan**

- a. Ashahi Chemicals Industries Ltd.
- b. Sumikin Bussan Corpn.
- c. Nichimen Corporation
- d. Marubeni Corporation
- e. Mitsubishi Rayon & Ltd.
- f. Toyobo Co Ltd.
- g. Kanematsu Corpn.
- h. Komatsuya Corpn.
- i. Itochu Corpn.
- j. Mitsui & Co.
- k. Mitsubishi Corpn.
- l. Kaneka Corporation

### **II. Italy**

- a. Montefibre SPA

### **III. Spain**

- a. Montefibre Hispania SA Spain
- b. Courtaulds Espana SA

### **IV. Portugal**

- a. Fisipe

- x. The Embassy of the subject countries in New Delhi was informed about the initiation of the investigation in accordance with rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to the Embassy, alongwith a list of known exporters/producers.

xi. A questionnaire was sent to the following known importers of Acrylic fibre calling for necessary information in accordance with rule 6(4);

- Vardhman Spg & Gen Mills - Ludhiana
- Nahar Spg Mills Ltd. - Ludhiana
- Malwa Cotton Spg Mills Ltd.- Ludhiana
- Rajasthan Spg & Wvg Mills Ltd.- New Delhi
- Winsome Textile Inds Ltd. - Chandigarh
- Siddhartha Super Spg Mills Ltd.-New Delhi
- Bhiwani Textile Mills - Haryana
- Adhinath Textiles Ltd.- Ludhiana
- Shruti Suyntetics Ltd.- Udaipur
- Arihant Spg Mills.
- Banswara Syntex Ltd.
- Atlantic Spg & Wvg. Mills.
- Arham Spg Mills, Ludhiana
- Ashupati Textiles.

A number of parties requested for extension of time, which also was allowed by the Authority by four weeks. Response to the questionnaire was filed by the following;

- Association of Wool Mark Knitwear - Ludhiana.
- Ludhiana Spinner Association - Ludhiana
- Kohinoor Woolen Mills \_ Ludhiana
- Oswal Woolen Mills - Ludhiana
- Arham Spinning Mills - Ludhiana
- Vardhman Spinning & General Mills Ltd., - Ludhiana
- Nahar Fibres Ltd. - Ludhiana
- Shruti Synthetic Ltd. - Udaipur
- Adinath Textiles Ltd. - Ludhiana
- Rajasthan Spinning & Weaving Mills Ltd. - Mumbai
- Malwa Cotton Spinning Mills - Ludhiana

- xii. Additional information regarding injury was sought from the petitioners, which was also furnished;
- xiii. The Authority conducted on-the-spot investigation at the premises of the co-operating exporters and petitioners to the extent considered necessary;
- xiv. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties;
- xv. Cost investigations were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioners also as to ascertain if anti-dumping duty lower than dumping margin would be sufficient to remove injury to the domestic industry. It is submitted by the forum of acrylic fibre manufacturers that, JK Synthetics has since been closed and therefore it is difficult to submit any information with respect to the company and thus cost of production data could not be obtained from JK Synthetics Ltd.
- xvi. \*\*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules;

- xvii. Investigation was carried out for the period starting from 1st April, 1996 to 31st March, 1997.

## **B. PETITIONER VIEW**

2. The petitioners have raised the following major issues in their petition and subsequent submission.
  - a. The combined capacity of Indian Industry is 102000 MT PA. The combined capacity of the petitioner is around 75% of total Indian production. The petitioners have submitted support expressed by the forum of acrylic fibre manufacturers, signed by conveyer. The petitioners have submitted that this forum represents other Indian producer and therefore application made by petitioner may be treated as made by or on behalf of the domestic industry and the petitioner may be treated as the domestic industry.
  - b. Dependence of the country on imports has gone down with the installation of more and more plants, yet a lot of fibre is still being imported. Faced with heavy surplus capacity, loss of domestic market and fall in exports, the exporters from Europe and Japan have resorted to panic selling and dumping of fibre in India.
  - c. The country today has sufficient capacity to meet the current as well as the future demand. The capacity world over is significantly higher than the global demand and a lot of producers are faced with lot of surplus capacity.
  - d. The petitioner has claimed the normal value in the case of Japan on the basis of domestic price prevailing in Japan, in the case of Portugal on the basis of domestic prices prevailing in Portugal as well as on the basis of constructed cost of production, in the case of Spain on the basis of domestic prices prevailing in Spain as well as on the basis of constructed cost of production, and in the case of Italy on the basis of domestic price prevailing in Italy as well as on the basis of constructed cost of production.
  - e. The petitioner has requested that EU as whole should be considered for the purpose of levy of anti-dumping duty as Portugal, Spain and Italy forms an integral part of European Union and are part of 16 members European Union who have signed the common treaty which abolishes all trade barrier between the European countries as trading, imports, exports and sales. Thus the probe be against the European Union as a whole.
  - f. The petitioner is claiming injury due to
    - increase in imports from the subject countries
    - increase in market share of import from the subject countries
    - selling prices significantly lower than the cost of production resulting in huge financial losses to petitioners.
    - High level of stocks. Higher capacity utilization, production and sales are at the cost of sales below cost of production and high inventories
    - The industry is finding it difficult to expand in view of severe financial constraints arising out of sustained dumping resulting in losses and poor market opportunities.
    - Extremely poor ability to raise funds
    - Negative return on massive investments
    - Inability to fund research and development.

## **C. 3 VIEWS OF EXPORTERS, IMPORTERS. AND OTHER INTERESTED PARTIES**

### **I. IMPORTERS' VIEW**

- a. The claim made by the domestic industry that there are five units in the country having installed capacity of 1,02,000 MT is not a factual information. It is further stated that J.K. Synthetic Ltd. has gone into liquidation and taken over by Board of Industrial & Financial reconstruction. The company is not producing acrylic fibre for last three years.
- b. At present the effective capacity is not more than 70000 Tonnes p.a. as the first plant of IPCL established in 1979 has already lived its life. The aforesaid capacity of 70000 MT consist of 36000 tonnes of wet spun acrylic fibre and 34000 MT of Dry spun acrylic fibre. This capacity is not sufficient to meet the demand in the country.
- c. The consumption of acrylic fibre is continuously growing as it is a cheaper substitute for the wool. Due to inadequate production of acrylic fibre in the country, the spinning and knitting industry of acrylic had to depend upon imports.
- d. The production as well as imports of acrylic fibre are growing as the consumption of acrylic fibre is increasing. The domestic production is not able to meet the full requirement of total industry and therefore imports are inevitable.
- e. The claim of the petitioner that China has reduced imports of acrylic fibre and Europe is the major producer of acrylic fibre is incorrect.
- f. Marubeni of Japan in collaboration is putting up an acrylic fibre plant with a capacity of 34000 tons. In case the capacities in the countries were sufficient, such international companies are not going to make such heavy investment in the country.
- g. M/s Indian Acrylic Ltd is producing only dry spun fibre made under Dupont Technology. The total imports of fibre in the country constitute more than 95% of the wet spun fibre and thus Indian acrylic can not be considered to have suffered injury and thus can not be a party, to petition. Imports of Dry spun fibre is negligible. Japan, Portugal and Spain do not produce any dry spun fibre.
- h. The market of acrylic in India clearly distinguish between wet spun and dry spun fibre. Two type of fibres are marketed giving them specific brand names. In the common Indian market "India fibre" is known as wet spun fibre and "Supa fibre" is known as dry spun fibre. "Supa fibre" is always sells at a discount of Rs. 7/- to Rs. 10/- per kg and therefore dry spun fibre can not be equal to wet spun fibre. 90% of the import of acrylic fibre into the country is of wet spun fibre. These are two different products as their process is also different. There is a considerable difference in dyeing of yarn made from wet spun fibre and dry spun fibre. Thus these are two different products.
- i. The production undertaken by Indian manufacturer is just of routine type and can not cater to all needs of acrylic industry. The claim of the domestic industry that the process of manufacturing, the requirement of raw material and production cost largely remain the same with respect of any deniers of fibre is wrong and misleading.
- j. The long list of usage of acrylic fibre submitted by petitioner is misleading information with regard to Indian market. 95% of the acrylic fibre in India is consumed for sweaters, shawls and blankets.
- k. The domestic manufacturers are creating scarce situation by eliminating healthy competition from the foreign manufacturers.

- l. Import of acrylic fibre is never a cheaper substitute as the imports can be effected only after payment of customs duty and CVD. Imports are effected not due to its cheaper prices but due to non-availability of fibre from domestic manufacturers.
- m. Domestic manufacturers always have a tendency of charging higher price for the products. Their price quotation have no relevancy to their major raw material i.e. Acrylonitrile (ACN) which is 90% raw material of acrylic-fibre and is always near to the price of DMT and PTA prices. DMT and PTA are raw material for polyester fibre also. As on today the price of acrylic fibre are double than the price of polyester fibre and therefore massive profits are being concerned by acrylic fibre manufactures.
- n. The ACN prices have fallen considerably during 1996-97 but the domestic manufacturers have not-reduced their prices and have taken full benefits of scarce supply of acrylic fibre in the country. Acrylic fibre manufacturers have formed a forum which is monopolising the trade.
- o. The plant of the petitioner are being run most inefficiently due to which their cost of production is higher and they are adding this cost to the pricing of products. The domestic industry production in 1996-97 was. 61187 MT against the installed capacity of 102000 MT. Thus they are operating at about 60% of the capacity due to which their cost of production is higher.
- p. The root cause of injury to domestic industry is uneconomical plants, poor quality, and the erratic, supplies. The domestic industry wants to pass of their inefficiencies on the Indian consumers in the grab of Anti-dumping duties.
- q. The domestic producer of acrylic fibre are not interested in Research and Development (R&D). They make very narrow range of fibres. The industry is left with no option but to rely on imports of fibre to make a better product. The spinning industry is already in recession. Any restrictive measure will lead to the closure of the mills leaving thousands of workers unemployed. Anti-dumping duties will raise the cost structure of the industry. Since Acrylic Fibre is a substitute of wool, the end product is used mainly by lower section of society who will be hard hit. Such duties may attract retaliatory measures from the affected countries with regards to export of acrylic products from India.
- r. It is pointed out that M/s Mitsubishi Rayon Co Ltd. is producing some special type of fibre in their brand "Vonnell" and "finel". M/s Ashai of Japan is also producing a special fibre in the brand name of "Cashmilon". As no Indian manufacture is producing such type of special fibre, these fibres be kept out of preview of - antidumping duties.

## **II. EXPORTERS' VIEW**

- a. The petitioners do not satisfy the definition of "domestic industry" as per Rule 2(b). It is pointed out that petitioners have suggested that four of the fibre producers be treated as domestic industry. However JK Synthetic with an installed capacity of 24000 MT has been closed and does not manufacture acrylic fibre for lost two years. Indian acrylic with an installed capacity of 24000 MT Per annual can not be considered as domestic. industry as its subsidiary Indian Chemicals Ltd has imported acrylic fibre from Japan during the period of investigation. This leaves consolidated fibre and Pasupati Acrylon Ltd., whose total installed capacity is 30000 MT, and output for 1996-97 is 29940 MT which does not constitute a major proportion of the total domestic production.- It constitute less than 50% of the total output and their combined capacity is about 30% of the total installed capacity. The actual production

including that of IPCL is 82819 MT for 1996-97 and figure of production given by petitioner are not correct.

- b. Calculation of dumping margin etc should be done grade wise as done by Authority in the earlier case of Acrylic fibre from USA. There is no domestic manufacturer of GK 3.0 Denier, K 75 3.0 Denier, K 75 6.0 Denier, FKL2 5.0 Denier, and hence these grades be excluded from investigation. There in no like products of these grades in the domestic market.
- c. There is no injury to the petitioner.
- d. The loss suffered by domestic industry earlier has been reduced .in 1996-97 in respect of one petitioner. Other petitioner who were earlier incurring losses have started making, profit during the period of investigation. The production and capacity utilisation of the three petitioners have increased considerably. They are operating at 98-107% of capacity utilization. Sales price have decreased because the cost of manufacture has decreased during the period of investigation. Acrylonitile (ACN) is the main raw material required for manufacturing acrylic fibre. The price of Acrylonitile have decreased from US\$ 1400 PMT in 1995 to US\$ 800 in February 1997. In domestic market the price of ACN has gone down from Rs. 50000/- PMT in Feb 95 to Rs. 38000/- PMT in 1996-97. With reduction in the price of major raw material, the cost of manufacture has reduced and hence the selling price have also reduced.
- e. The petitioner do not have sufficient capacity to meet the demand. In future also, the domestic industry including the capacity which are being generated, will not be able to meet the growing demand of Acrylic Fibre, even if the domestic industry operates at 100% capacity utilisation.
- f. Assessment of injury be done not cumulatively but exporter wise as cumulative assessment of the effect of import is inappropriate in view of the fact that different grades may be exported by different exporters and the dumping margin and injury margin would have to be computed exporter wise and grade wise.
- g. The increase in imports is due to the fact that domestic producers have not been able to meet the demand even at near full capacity utilisation.
- h. The exporters have denied to claim of domestic manufacture that they sold the fibre at a price below the cost of production as they have made profits during period of investigation. Also none of the producers of acrylic fibre have any plans for expansion of capacities:
- i. The question of ability to raise found is irrelevant. None of the domestic producers have any R&D facilities.
- j. It is pointed out that the Designated Authority has initiated the investigation on the basis of proof of domestic price in Japan from Komatsuya Corpn. This invoice, it is submitted, is a fictitious invoice and therefore investigation which has been started upon a fraudulent premises can not be sustained.
- k. The period of investigation fixed by Designated Authority is unfair and damaging to exporters. By selecting in period which is over nine months before the date of initiation notification, the Designated Authority is calling upon historical data which has little or no bearing upon the prevailing market conditions. The petitioner has deliberately manipulated data to select a period in which imports from Japan have increased as the Authority had earlier imposed duty on import of acrylic fibre from USA, Thailand and South Korea. Increase of imports from Japan was due to the threatened duties upon USA, Thailand and South Korea and not because of any dumping by Japan.

- l. Domestic industry has higher production cost for reasons particular to its economy. The Indian Industry has to bear much higher interest and infrastructure cost making it incompetitiveness in the international market. Injury to Indian Industry because of these factors can not be attributed to dumping.
- m. There is no evidence of causal link between the alleged dumped imports and the injury to the domestic industry in the petition.
- n. Most of the Indian consumers have purchased imported fibre for export of acrylic yarn as these consumers enjoy certain benefits of duty. If the quantity of acrylic fibre imported and consumed for exports is excluded, the balance quantity forms a very small percentage of indigenous capacity and annual production.
- o. Quality of Indian fibre is inferior.
- p. The acrylic fibre exported from Japan and acrylic fibre produced by domestic industry are not like articles as the Japanese fibre is of much superior quality. "Conjugate" and "Special" fibres are different goods which are not produced in India and therefore these should be excluded from investigation. TOW, TOP, Waste, synthetic staple fibre of acrylic, Carded, Combed are distinctly separate goods and therefore be excluded from the scope of investigation.
- q. Comite International De La Rayonnet Des Fibre Syntheigues (CIRFS) on behalf of exporters from Portugal, Spain and Italy has stated that injury suffered by the Indian Industry was due to factors other than the effects of alleged dumping and that consequently there was no causal relationship between the allegedly dumped imports and any injury suffered by the domestic industry. Regarding the increase in imports, it is stated that these exporters entered into the Indian Market in 1995-96 and thus the increase in exports is normal. It is also stated that the individual market share of the European exporters were negligible. Regarding the fall in imports price, it is stated that the fall was due to general collapse in the world price of acrylic fibre during the period. It is also stated that no injury has been caused by loss of production and production has increase by nearly 12% in 1996-97. Further the closing stock at the end of 1996-97 given in petition is equivalent to 1.8 week of sales and thus there is no evidence of an excessive stock and thus no injury in caused by the need to hold increased stock. Further there is no evidence of loss of sale by the domestic producers. Regarding prices depression it is stated that Indian producer did not suffer price depression in 1997-98 and none was caused by imports under investigation. It is also stated that substantial quantities were imported from other countries at prices below those of imports under investigation. The average price of imports concerned compare with-lowest average price of the imports from Japan, Portugal, Spain or Italy. Thus if any price depression were experienced by the Indian producers it was not due to the prices of imports from Japan, Portugal, Spain and Italy and there is no causal connection between these imports and any injury suffered by the Indian Industry in this respect. It is further stated that another factor other than the allegedly dumped imports which was a cause of injury to Indian producer is the collapse in the world market price of acrylic fibre which occurred in the second half of 1995 and first half of 1996 and prices in Asia fell by 17% in between 95-96 and. 96-97 and the fall in the Indian producer's price is only of 10.5% which reflects the high degree of protection enjoyed by Indian producer. It is also stated that the Indian acrylic fibre Industry is characterized by small production units, many of which are old plants imported second hand many years ago and the inability to take advantage of advances in technology. In modern production of product, advantage can be taken of economies of scale and latest technology. Due to this, the cost of production in Indian plants is relatively high and producers are unable to supply the full range of products.

## **D : EXAMINATION OF THE ISSUES RAISED**

4. The submission made by exporters, importers, petitioner and other interested parties have been examined and considered and have been dealt at appropriate places in these findings.

## **E. PRODUCT UNDER CONSIDERATION**

5. The product involved is Acrylic Fibre both in shrinkable and non-shrinkable form, ranging from 1.5 Denier to 8.0 Denier and is classified under custom code 5501.30 and 5503.30 of Customs Tariff Act, 1975. The classification is however indicative only and in no way binding on the scope of present investigation. The acrylic fibres is a economical substitute of wool which is expensive. Acrylic fibre is produced either through wet technology or dry technology. Acrylic fibre has application in day to day life use i.e. apparel, household uses and some industrial use.

## **F. LIKE ARTICLES**

6. Acrylic fibre is produced and sold in various specification. The various specification, however, merely depict the properties of the fibre and may result in varying end uses. However there is no significant difference in terms of process, equipment or technology to produce different varieties of acrylic fibre. It is also observed that market pattern of different varieties is also similar. It is therefore considered that acrylic fibre produced and sold by the domestic industry has characteristics closely resembling to the acrylic fibres imported from Japan, Portugal, Spain and Italy and may be treated as like articles within the meaning of the rules supra.

## **G. DOMESTIC INDUSTRY**

7. The petition is jointly filed by M/s Indian Acrylics Ltd., Chandigarh, Pasupati Acrylon Ltd., New Delhi, J.K. Synthetics Ltd., New Delhi and Consolidated Fibre and Chemicals Ltd. Calcutta. It is claimed by the petitioner that Indian petrochemical Ltd., having their plant at Vadodra is the other company producing acrylic fibre. Thus, it is claimed that these are the five units who produce acrylic fibre having a combined capacity of 1,02,000 MT. The total production of acrylic fibre in 1996-97 is stated as 79000 MT and the production of petitioner companies is 61187 MT. The petition has the support of "forum of Acrylic Fibre manufacture" and all the five companies are members of the forum of acrylic fibre manufacturer. Thus the petitioner accounts for more than 25% of domestic production and therefore have a standing to file a petition on behalf of domestic industry under the rules.

## **H. DUMPING**

8. Under Section 9A(1)(C), normal value in relation to an article means:

- i. The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
- ii. When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:
  - a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub section(6); or
  - b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs aid 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 transshipped 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.

9. The Authority sent questionnaires to the exporters from the subject countries in terms of the section cited above. The claim made by the exporters with regard to normal-value and export price are as under:

## **I. CLAIMS OF THE EXPORTERS**

### **Country: Japan**

a. Kanematsu Corporation, Osaka, Japan. The exporter has claimed that the product they shipped was Acrylic staple fibre “ Exlan Brand” for which producer is “Toyobo Co Ltd.: It is stated by them they exported \*\*\* kg of this brand during the period of investigation. It is also claimed by them that “Exlan” brand acrylic fibre is all for high pile knitting uses and all of these products are specialty fibres. These fibre have flat cross section and this type of fibre is not produced in India. It is also claimed that this being a specialty acrylic staple fibre command extremely high selling price as compared to normal acrylic staple fibre and this clearly proves that this is a distinct product.

Also almost all the product exported by them were in 10 denier so that is coarser denier than the Authority is investigating in this case. It is also stated that they exported only \*\*\* kg of 5 denier fibre during the said period and it is also a specialty type of fibre which has a flat cross section. Based on this, they have stated that they are not required to response to the questionnaire for exporters.

They have also claimed that they shipped all mod acrylic staple fibre” Kanecaron” brand of which “Kaneka Corporation” is the producer. It is stated that they exported \*\*\* kg of this brand. It is also claimed that “Kanecaron” brand mod acrylic fibre is not the object of the investigation and should be excludes from the investigation on the following grounds.

- i. "Kanecaron" brand modacrylic fibre consist of acrylonitrial and polyvinyl-chloride with its ratio of about 50-50%. This means the relative fibre has content of a acrylonitrial with less than 85%.
- ii. Modacrylic staple fibre is totally not in production in India and therefore there is no injury.

They have submitted some invoices of exports to India. They have not submitted the response in the prescribed proforma due to reasons explained above and have contended that there is no case against them for levy of anti-dumping duty.

#### **b. Komatsuya Corporation**

The exporter has claimed that they were never the producer nor the trader of Acrylic fibre. It is stated that they had contributed to the customers to supply various kind of chemical and never handled synthetic fibre and never exported acrylic fibre itself.

#### **c. Itochu Corpn.**

The exporter has informed that during the period of investigation, they did not have any export sale of acrylic fibre to India and therefore regretted that they could not assist in the investigation with the required details.

#### **d. Mitsubishi Corporation**

They have stated that they have not made any export of acrylic fibre to India during the period of investigation and therefore requested to exempt their company from the procedure of investigation.

#### **e. Kaneka Corporation/Mitsui & Co.**

They have stated that during the period of investigation they exported Kanecaron brand modacrylic staple fibre and pretax brand modacrylic staple fibre to India through Mitsui & Co Ltd. and Kanematsu Corpn, the details of which would be supplied by Mitsui & Co Ltd. and Kanumatsu Corpn Ltd. respectively. It is also stated that the product exported do no answer to the description of product involved as indicated in the petition filed on behalf of the domestic industry. Kaneka Corpn producers only modacrylic fibre, which consist of about 50% of the acrylonotrile units by weight. The product under investigation is acrylic fibre which is long chain of synthetic polymer composed of at least 85@/oby weight of acrylonotrile units. Further there is no producer of modacrylic fibre in India. Further the volume of imports as compared to domestic production and capacity is negligible and therefore the interest of domestic industry cannot be affected.

They have not submitted the information called for in the formats in view of above and submitted that on a prima facie basis, no case is made out for levy of anti-dumping duty on its product either with respect to the product, the margin of alleged dumping thereof or the resultant injury to the domestic industry.

#### **f. Nichimen Corporation**

They have stated that they are a trading company and purchased the acrylic fibre from the manufacturer under terms of “Makers FOB” and exported them to their buyer under terms of CIF Bombay.

Thus they do not know all charges before FOB and all charges after arrival of their cargo at Bombay Port. Regarding the charges before FOB, it is stated that the producer Mitsubishi Rayon Co Ltd. will reply through their counsel. Regarding domestic prices, it is stated that they do not have record of selling these type of acrylic fibre to domestic market. Since they are trader, they have expressed their inability to submit about “cost of production”.

They have exported one consignment to India during the period of investigation. However as per the information submitted, the price at ex-factory level for export transaction is shown as “Unknown” and about many price adjustment they have indicated “unknown” in App 3A. Thus neither the export price nor the normal value can be determined from the information submitted.

#### **g. Asahi Chemical Industries Ltd. & Sumikin Bussan Corpn Osaka.**

It is claimed that exports to India are undertaken by Asahi through Sumikin which is a large trading house in Japan. The fibre is sold by Ashai to Sumikin, on principal to principal basis on 30 days credit ‘Sumikin pays price and interest for the goods. Acrylic fibre is sold by Sumikin to Indian importer on CIF price basis.

They have submitted the price structure grade wise and in two parts. Part A deals with price structure from the time sumikin purchases the goods till sold on cif basis and part B deals with the price structure till the fibres is sold to Sumikin.

Sumikin has claimed the deductions on account of overseas freight, overseas insurance, Indian agent commission, bank charges, and Sumikin commission to arrive at the purchase price from Ashahi. M/s Ashahi has claimed the deductions on account of inland freight, insurance, storage, selling and general administration expenses while arriving at the ex-factory level of the export price. They have given credit on account of interest received.

While calculating the domestic price at ex-factory level, they have claimed price adjustments on account of rebate, packing (label charges), inland freight including insurance which is borne by trucking company), storage, selling and general admn. expenses. It is also claimed that neither Ashahi nor Sumikin received any incentive on export sales of acrylic fibre from Government of Japan.

#### **h. Mitsubishi Rayon Co Ltd. (MRC)**

It is claimed they are the producer of rayon staple since 1933. It is claimed that three out of five type of acrylic fibre exported by MRC to India during Period of investigation are of special type and should be excluded from the present investigation. These are V 86 - Mohair type, V 85 - Super shrinkable type and H 525 - patented technology fibre. It is claimed that V 86 mohair type differs from the acrylic fibre produced by Indian industry in terms of manufacturing process, technology, plant and equipment, physical characteristics, technical specification, uses, pricing, consumer perception, public perception etc. V86 type has a bright shine. It is claimed that V 85 fibre must be used in conjunction with V86 in order for the end

product to have a uniform colour. H 525 is a unique product, the technology differs from acrylic fibre exported to India.

It is further submitted that MRC caters to Japanese and overseas market. In the overseas market, MRC does not sell the goods directly and the same is sold through traders. In case of India, the goods have been exported primarily through Marubeni Corpn. Thus, it is claimed that, MRC has no information about the expenses incurred by Marubeni on account of overseas, freight, marine insurance etc. It is also submitted that acrylic fibre of 9 D and above and also tow and top should be excluded. It is also submitted that Japan is a high cost economy and customer servicing cost in Japan are significantly higher.

They have claimed price adjustment on account of variable expenses, fixed expenses and indirect expenses while arriving at the ex-factory level in the export price to India. Similar deductions/price adjustment have been claimed from the domestic price to arrive at the ex-factory level price in the domestic market sales. It is also submitted that list price mentioned in App 3A is the selling price net of discount/rebate and all direct expenses incurred by the company in shipment of goods such as inland freight. Similarly in respect of App 3 B, the selling price is shown net of discount/debate to customers commanding higher volumes except for H 525 and all direct expenses incurred by the company in shipment of goods such as inland freight. The exporter has further stated that they have claimed an adjustment of yen \*\*\* per kg from the net selling price in home market and this is based on the differences in the expenses incurred by the company in two market..

#### **Marubeni Corpn.**

It is claimed by the exporter that they are a trading corporation and have been advised by Mitsubishi and Toyobo to file responses to Designated Authority. It is stated that they exported acrylic fibre to India which is purchased from Toyobo or Mitsubishi on FOB basis and all expenses upto FOB are borne by the company producing the goods. They sell to Indian customers primarily on CIF basis. It is further stated that details of expenses incurred by the company on account of overseas freight, marine insurance etc is being furnished by Marubeni so as to complete response and co-operation by Mitsubishi & Toyobo. It is also stated that though they are selling in domestic market, they are not producer and only trader and hence not submitting the information in relations to domestic sales as the Designated Authority does not assess traders. They have submitted importer wise detail showing the invoice no. and date, contract no. and date, bill of lading no. and date, specification, quantity, invoice value, purchase bill etc and which are produced by Mitsubishi or Toyobo.

However they have not submitted any invoice or evidence in support of their claims.

#### **Toyobo Company Ltd.**

It is stated by them that they hold directly or indirectly 80% share of Japan Exlan Co who produces acrylic fibers and sell them exclusively to Toyobo. Toyobo in turn sell under "Exclan" brand name. Toyobo itself does not produce acrylic fibre. Thus Toyobo has filed a consolidated reply with exlan. It is also stated that during the period of investigation, exports were done exclusively through Marubeni Corpn. Some special type of fibre (of higher denier and or flat/section fibre) was exported through Kanematsu.

Further, Toyobo sells in domestic market directly to consumers as also through a number of Japanese trading houses.

It is further claimed that since company does not directly exports goods to India, they do have information about the expenses incurred by Marubeni on account of overseas freight, marine insurance etc. it is stated that they exported conjugate type (3.0 D and 2.5 D), Regular Type (1.4D, 2.0D & 3.0D) and special type (4.51), 9.0D & 13. D) to India.

### **Country - Spain**

#### **Monte fibre hispania S.A Spain**

The exporter has stated that they are a producer of acrylic fibre in Spain. It is also stated that their company did not export acrylic fibre to India during the period of investigation and thus there is no dumping on their part. They have also requested that in the event of any measures being applied on a country wide basis, rather than a company basis, they should be excluded from the measure.

#### **Courtaulds Espana SA Spain**

It is claimed that they have neither received subsidies, nor tax exemptions nor incentives on export sales and imported raw material purchases other than suspension of raw materials tax import where they are incorporated into export products. It appears that they are exporting 4 grades of acrylic fibres to India namely staple 1.7 dtex, 2.2 dtex, 2.5 dtex and 3.3 dtex. They have submitted the information about their exports to India, domestic sales and exports to other countries in respect of above grades. They have claimed the price adjustment on account of commission /rebate, credit cost, inland freight, handling, overseas freight and insurance while calculating ex-factory level price in the export price to India. They have claimed price adjustment of prompt payment discount, credit cost, inland freight while calculating domestic price.

They have also claimed that they are incurring loss on export sales to India and earning profit on domestic sales. However they are not earning profit on 2.5 dtex in domestic sales. The exporter has also claimed that they do not use list price. Prices are negotiated by individual customer. It is also claimed that a higher price can normally be obtained in domestic market on the basis of better technical support, after sales service and quicker and more flexible delivery. It is further stated that in the Indian market the lower prices partly reflects their desire to establish a presence in the market through a limited number of sales to key customers. They have claimed the different cost for export goods and domestic goods on the assumption that contract ACN purchases are for the regular domestic market while spot purchases covering one of export operations.

### **Country - Italy**

#### **Montefibre SPA Italy**

They have claimed that no incentive are given by the Italian Government on export sales. It is stated that all their sales are on CIF Indian port basis. They have claimed price adjustment on account of commission, inland transport, overseas transport and insurance while calculating ex-factory level in the export price to India. They have claimed price adjustment on account of payment and quantity discount, transport cost, promotion - advertising - R&S - technical services cost, stock (warehousing and financing) while calculating the domestic price. They

have not submitted the price-structure grade/denier wise. Regarding promotion - advertising - ~R&S - technical service cost, it is stated that these cost are allocated to domestic sales and to EU countries sales and India is excluded. Regarding stock (warehousing and financing) charges, it is stated that these costs charged only to sales of domestic market and sales to India are exclusively supplied with production. ‘

The price claimed at ex-factory level in respect of export to India is US\$\*\*\* per kg. and in respect of domestic sales, it is US\$ \*\*\* per kg.

**Country - Portugal**

**Exporter -- Fibras Sinteticas De Portugal SA, Portugal.**

It appears that they are exporting 3 grades of acrylic fibre viz Denier 2.2, Denier 3.3, and Denier 5.6. They do not appear to have sales to other countries. They have claimed price adjustment on account of discount, inland freight, overseas freight, overseas insurance shipping charges while calculating export price to India. They have claimed price adjustment on account of discounts, inland freight, storage, cost of credit while calculating the domestic price.

It is also claimed that no financial assistance is provided to customers. There is no special price list for exports to India and prices being negotiated individually with each customer. Also there is no other matter with Indian customer which affects the actual export price of the goods and prices are at sight payment basis. They have submitted sample invoices in respect of export sales and domestic sales.

## **J. EXAMINATION OF THE CLAIMS OF THE EXPORTERS BY THE AUTHORITY**

11. On the basis of the facts available with the Authority, it is observed that the various deniers of Acrylic Fibres do not display any significant difference in terms of the costs or prices and are in the same range. Moreover, there is a considerable amount of substitutability among the different varieties. The Authority has, therefore, grouped all fibres (described as product under consideration) for these investigations.

### **DUMPING MARGIN**

#### **ASAHI CHEMICAL INDUSTRIES LTD.**

##### **NORMAL VALUE:**

a) Normal Value is based on the weighted average selling prices to the trading houses. Adjustments on account of discounts given on invoices, packing, inland freight and expenses specific to particular markets have been allowed. The Authority disallows claims made on account of discounts based on turnover and end-use as the incidence of such discounts/rebates is not ascertainable at the time of pricing decisions. Adjustment on account of storage cost has been claimed on the basis of inventories held by the company, which is also being disallowed.

## **EXPORT PRICE**

i) The company has exported the subject goods through Sumiken Bussan, who have also furnished necessary information and were verified. The export price has been determined on the basis of the CIF price at which goods have been sold by Sumiken to the Indian buyers. While arriving at export price, adjustment on account of overs. - freight & insurance, bank charges, commission to the Indian agent, inland freight and specific expenses on account of export sales have been made to arrive at the ex-works export price. Asahi has claimed expenditure incurred on account of loading of goods, their marking, custom clearance, documentation and inspection under the head "storage". Though the expenditure has been claimed as storage costs, it is in the nature of expenditure incurred by the company on export of goods and, therefore, has been deducted from the selling prices. Further, Asahi has sold goods to Sumiken on credit and has charged interest on the credit sales. This being an income of Asahi, has been added to the selling price.

On the basis of above, the normal value (ex-factory basis) is determined at US \$ \*\*\* per kg. export price (ex-factory basis) is determined at US \$ \*\*\* per kg. Thus the dumping margin is US \$ \*\*\* per kg., which is 24.36 % of the export price.

## **TOYOBO CO.**

### **NORMAL VALUE:**

The selling price has based on the basis of weighted average of the selling prices in the home market. The company has claimed adjustments on account of differences in the expenses incurred in the home market and exports to India on the basis of its income statement, which have been allowed.

### **EXPORT PRICE:**

The company has exported the subject goods through Marubeni Corpn., who have also furnished necessary information and the same were verified to the extent deemed necessary. The export price has been determined on the basis of the CIF price at which goods have been sold by Marubeni to Indian buyer. Marubeni has claimed adjustments on account of ocean freight, insurance, commission and interest on the basis of actual expenses and therefore, have been allowed. Charges after ex factory and upto FOB incurred by Toyobo Co and claimed as price adjustment on account of inland freight, insurance, shipping charges and storage on the basis of the basis of actual expenses incurred have been allowed.

On the basis of above, the normal value (ex-factory basis) is determiner) at US \$ \*\*\* per kg. export price (ex-factory basis) is determined at US \$ \*\*\* per kg. Thus the dumping margins is US \$ \*\*\* per kg., which is 5.72 % of the export price.

## **MITSUBISHI RAYON**

### **NORMAL VALUE:**

The selling price is based on the basis of average of the selling prices to a customer purchasing highest volumes. It has, however, not been demonstrated by the company that the

selling prices to various customers depended on the volumes. It is also found that the company has sold fibre to its related companies. Selling prices have, therefore, been determined on the basis of average selling prices after reducing sales to related companies.

The company has claimed adjustments on account of differences in the expenses incurred in the home market and exports to India on the basis of its income statement, which have been allowed.

### **EXPORT PRICE:**

The company has exported the subject goods through Marubeni Corpn., who have also furnished necessary information and the same were verified to the extent deemed necessary. The export price has been determined on the basis of the CIF price at which goods have been sold by Marubeni to Indian buyer.

Adjustments on account of expenses after FOB and upto CIF for overseas freight, overseas insurance, Indian agent's commission have been made.

i) Sumiken commission: This is the commission which Marubeni has earned. This has been worked out by the company considering the price at which the goods have been sold by Mitsubishi Rayon and prices at which goods have been sold by Marubeni and considers all expenses incurred by Marubeni. This is allowed.

Charges after ex-factory and upto FOB incurred by Mitsubishi have been adjusted. On the basis of above, the normal value (ex-factory basis) is determined at US \$ \*\*\* per kg. export price (ex-factory basis) is determined at US \$ \*\*\* per kg. Thus the dumping margin is US \$ \*\*\* per kg., which is 9.80 % of the export price.

### **COURTAULD ESPANA, SPAIN**

Normal value is based on the weighted average of the selling prices. Price adjustment claimed on account of prompt payment discount, credit cost and inland freight are allowed. During verification the exporter requested to allow a deduction equal to the weighted average commission paid to Indian agent. This request is on the grounds that exports to India are made through an agent whereas sale in Spain# are without agent/dealer. However in the absence of substantiation by the exporter even at the time of verification visit, the Authority is not in a position to allow this claim. Os observed in respect of 2.5 dtex that the volume of sale in domestic market is negligible ( \*\*\* tonnes) and the company is selling the product at a loss: Therefore its domestic price claimed can not be considered to calculate the normal value. Accordingly the normal value of 2.5 dtex is calculated on constructed cost, which is \*\*\* USD per kg.

### **Export price**

Export price is based on the weighted average selling prices. Adjustments have been made on account of commission/rebate credit cost, inland freight, handling, ocean freight and insurance.

On the basis of above, the normal value (ex-factory basis) is determined at US \$ \*\*\* per kg. export price (ex-factory basis) is determined at US \$ \*\*\* per kg. Thus, the dumping margin is US \$ \*\*\* per kg., which is 38.01% of the export price.

## **MONTEFIBRE ITALY**

### **Normal value**

Normal Value is based on the weighted average selling price. Adjustments on account of prompt payment, quantity discount, transport cost, promotion, advertisement, R&D, technical services cost and stock (warehousing and financing cost) have been claimed.

Prompt payment and quantity discount has been, claimed on an estimation. It is claimed that it varies from 1 to 4% and therefore an average of 2% has been used to claim the deduction. Since actual data were not made available, claim is not allowed on-estimates. Transport cost is the expense incurred by the exporter and therefore is allowed. Regarding promotion, advertising, R&D and technical service, cost it is claimed that these cost are allocated to domestic sales and to EU countries and India is excluded. It is claimed that these R&D projects are for the purpose of product sold within Italy and EU. The Authority does not find justification to allow these expenses in the absence of evidence to establish that the benefits of these activities have been restricted to domestic sales only.

Regarding stock (warehousing and financing) claimed on the basis of inventory holding by the company is not allowed. During verification the exporter requested to allow a deduction equal to the weighted average commission paid to Indian agent. However in the absence of substantiation by the exporter even at the time of verification visit, the Authority is not in a position to allow this claim.

### **Export price**

Export price is based on the weighted average selling prices. Adjustment on account of commission, inland transport, overseas transport and insurance have been allowed.

On the basis of above, the normal value (ex-factory basis) is determined at US \$ \*\*\* per kg. export price (ex-factory basis) is determined at US \$ \*\*\* per kg. Thus the dumping margin is US \$ \*\*\* per kg., which is 24.43% of the export price.

## **FISIPE PORTUGAL**

### **Normal value**

Normal Value is based on the weighted average selling prices. Adjustments have been claimed on account of discount, inland freight, storage charge and cost of credit. The expenses on discount and inland freight are on the basis of expenses incurred and hence allowed. Regarding storage, it is observed that adjustment on account of storage cost has been claimed on the basis of excess inventory holding by the company. This expenditure is not allowed. The cost of credit has been worked out on approximation basis and may be allowed at USD \*\*\* per kg as there is difference in the terms of sales in domestic market and export market. During verification the company has also claimed adjustment on account of technical

assistance (expenses incurred in giving assistance to their domestic customers and traveling expenses). The expenditure on this account is allowed.

## **Export price**

Export price is based on the weighted average selling prices. Adjustments have been made on account of discounts/commission, inland freight, overseas freight, overseas insurance and shipping charges.

On the basis of above, the normal value (ex-factory basis) is determined at US \$ \*\*\* per kg. export price (ex-factory basis) is determined at US \$ \*\*\* per kg. Thus the dumping margin is US \$ \*\*\* per kg., which is 10.85 % of the export price.

## **K. INJURY**

12. Under Rule II supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the 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 article...” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

Annexure II(iii) under rule 11 supra further provides that in case where imports of a product from more than one country are being simultaneously subjected to Anti dumping investigation, the Designated Authority will cumulatively assess the effect of such imports, only when .it determines that the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

The Authority notes that the margin of dumping and quantum of imports from subject country are more than the limits prescribed above. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject country were directly competing with the prices offered by the domestic industry in the Indian market.

For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on, the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the rules supra.

### **a. Quantum of Imports**

The total imports of acrylic fibre were 8195 MT, 10482 MT and 21114 during 94-95, 95-96 and 96-97. Thus the increase was 27.9% in 95-96 over 94-95 and 101% in 96-97 over 95-96. The increase was 158% in 96-97 over 94-95. Thus the quantum of imports have significantly gone up during the period of investigation. The quantum of imports from the said countries was 3733 MT, 3396 MT and 9548 MT in 94-95, 95-96 and in 1996-97. It is observed that quantum of imports from said countries decreased in 95-96 over 94-95 but in 96-97, it has gone up by 181% over 95-96. Thus there is a significant rise in imports from said countries over the years. The quantum of imports from other countries was 4462 MT, 7086 MT and 11566 MT in 94-95, 95-96 and 1996-97. The share of said countries in total imports were 45.52%, 32.40% and 45.22%.

**b. Production and capacity utilisation.**

It is observed that the production capacity and production of the petitioners (viz Indian Acrylic, JK, Pasupati & Consolidated) are as

Year Capacity(MT) Production(MT) Capacity Utilization

1994-94 60,000 54717 91.2%

1995-96 68,000 48186 70.8%

1996-97 73,000 61187 83.8%

The additional capacities were generated by M/s Indian Acrylics over the years. It is also observed that the capacity utilisation of JK Synthetics were 66%, 28% and 29% in 94-95, 95-96 and in 96-97. The capacity utilisation of Pasupati, Consolidated and Indian Acrylic were 98%, 103% and 107%. Thus it is observed that the increase in production in 96-97 was 27% over 95-96 during this period whereas the growth in installed capacity was 7.35%. It is also observed that overall low capacity utilization during the period of investigation was due to extremely low capacity utilisation of JK Synthetics and other company's capacity utilization was in the range of 98% to 107%.

**c. Sales and Market share**

It is observed that demand of acrylic fibre was 83200 MT, 82000 MT and 101000 MT in 94-95, 95-96 and in 1996-97 respectively. The share of imports in total demand was 9.80%, 12.8% and 21% in 94-95, 95-96 and in 96-97 respectively. The share of Indian producers were 90.2%, 87.2% and 79% respectively in 94-95, 95-96 and in 1996-97. Thus it is observed that the share of imports are rising in total demand and the share of Indian Industry is going down in the total demand.

**d. Closing stocks**

It is observed that the closing stocks of petitioner were 1255 MT, 381 MT and 2095 MT in 94-95, 95-96 and in 96-97 respectively. Closing stocks have significantly gone up in 96-97 over 95-96. It is also observed that out of 2095 tonnes of closing stock, 1545 MT was held by Indian Acrylic.

**e. Price undercutting and price depression**

The petitioner companies have stated that imports from subject countries have been undercutting the prices of the fibre being sold by the Indian producers. The consumer industry is forcing Indian Industry to reduce the price under the pretext of cheaper imports from the subject countries. In view of this, they are forced to offer heavy discounts due to threat posed by the dumped imports. In spite of increase in cost of producing acrylic fibre, the Indian Industry is being prevented from increasing their selling prices. The average selling price of the petitioner has increased marginally in spite of increase in ACN prices. Thus the dumped imports from subject countries have suppressed the prices of fibre and caused immense losses to the petitioner. It is claimed that average selling prices were Rs.\*\*\*, \*\*\*, \*\*\* and \*\*\* during 93-94, 94-95, 95-96 and 96-97. It is also shown that losses of the petitioner companies were 46 crores, 71 crores and 54 crores in 94-95, 95-96 and 96-97 respectively. However, it is observed that different producers are charging different selling prices and profit/loss of different companies varies.

It is observed that the selling price charged were Rs. \*\*\*/-, Rs. \*\*\* Rs. \*\*\* and Rs.\*\*\* by JK, Pasupati, Consolidated and Indian acrylic. At this price level, JK had suffered a loss of 29.66crores, and Consolidated suffered a loss of Rs. 38.72 crores. However, Pasupati has earned a profit of Rs. 2.59 crores and Indian Acrylic has earned a profit of Rs. 12.17 crores during the period of investigation.

#### **f. Expansion of capacity**

It is stated that the plant of Indian acrylic was designed in such a way that the capacity was to be increased from 12000 MT to 35000 Tonnes in stages. However the company is finding it difficult due to financial constraints.

#### **g. Ability to raise funds**

It is claimed that most of petitioner companies are finding it difficult to repay loans and interest thereon. Moreover, due to inability to service the loan already taken, they are not able to raise funds further. This is affecting their future plans of expansion. It is also stated that domestic industry is incurring substantial cash losses resulting in negative cash flow. They are not able to get reasonable return on the investment.

h. The petitioner has claimed that with extensive research and development, the usage of acrylic fibre can be increased. However this requires extensive R&D efforts but which can not be done by Indian Industry as even its survival is at stake in the wake of continued dumping.

## **L. CONCLUSION ON INJURY**

13. In view of the foregoing paragraphs it is observed that:

- a. quantum of imports from subject countries have increased in absolute terms and relative to consumption in India,
- b. the market share of the petitioner companies has gone down,
- c. the domestic industry has been forced to sell at prices below its fair price resulting into losses or very low returns on investments,
- d. the imports are undercutting the prices of the domestic industry,
- e. closing stock of domestic industry has gone up ,

- f. the domestic industry is not in a position to expand their capacities and do not have sound liquidity position.
- g. The Authority, therefore, concludes that the domestic industry has suffered material injury.

## **M. CAUSAL LINK**

- 14. 14. In establishing that the material injury to the domestic industry has been caused by the imports from the subject countries, the Authority holds that increase in market share of imports from Japan, Portugal, Italy and Spain resulted in decline in the market share of the petitioner, were undercutting the prices of the domestic product forcing the domestic industry to sell below, its fair price. Resultantly, the domestic industry was not in a position to recover fair selling price. The material injury to the domestic industry was, therefore, caused by the dumped imports from the said countries.

## **N. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

- 15. The purpose of anti dumping duties, in general, is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.
- 16. It is recognized that the imposition of anti dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures, 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 measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of Acrylic Fibre. Imposition of anti dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the product to the consumers.
- 17. To ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry, the Authority rely upon reasonable selling price of Acrylic Fibre in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilization for the domestic industry.

## **O. LANDED VALUE:**

- 18. The landed value of imports is determined on the basis of export price of Acrylic Fibre, determined as detailed above in the para relating to dumping, after adding the prevailing level of customs duties and one percent landing and two percent handling charges.

## **P. CONCLUSIONS:**

19. It is seen. after considering the foregoing, that:

- a. Acrylic Fibre described under para 5 and originating in or exported from Japan, Spain, Portugal and Italy has been exported to India below normal value, resulting in dumping;
- b. The Indian industry has suffered material injury
- c. The injury has been caused cumulatively by the imports from the subject countries.

20. It is considered necessary to impose anti dumping duty, provisionally, pending final determination, on all imports of Acrylic Fibre originating in or exported from the subject countries, pending investigations.

21. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. Landed price of the imports, for the purpose, was compared with the fair selling price of the domestic industry, determined for the period of investigations. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, it is proposed that provisional anti dumping duties be imposed, from the date of notification to be issued in this regard by the Central Government, on all Acrylic Fibre originating in or exported from Japan, Spain, Portugal and Italy falling under Customs sub-heading 5501.30 and 5503.30 of the Customs Tariff Act, pending final determination. The anti-dumping duty shall be the difference between the amounts mentioned in column 4 and the landed price of imports per Kg. as per details below subject to a minimum anti-dumping duty per kg. as shown in column 5 below:

#### 1. Japan Asahi 82.97 9.04

S. No	Country	Name of the Producer	Amount	Amount
1	2	3	4 (Rs)	5(Rs)
1	japan	Asahi	82.97	9.04
2	Spain	Any other exporter	80.39	5.32
3	Portugal	Any other exporter	77.45	2.87
4	Italy	Any other exporter	74.21	5.04

Mitsubishi Rayon 80.39 5.32

Toyobo Inc. 77.45 2.87

Any other exporter 82.97 9.04

2. Spain Any exporter 82.97 13.35

3. Portugal Any exporter 74.21 5.04

4. Ital Any exporter 82.97 11.12

22. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties levied under Section 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

## **Q. FURTHER PROCEDURE:**

23. The following procedure would be followed subsequent to notifying the preliminary findings
  - a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
  - b. Exporters, importers; petitioners and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days of the dispatch of this notification. Any other interested party may also make known its views within forty days from the date of publication of these findings.
  - c. The Authority would provide opportunity to all interested parties for oral submissions;
  - d. The Authority would disclose essential facts before announcing the final findings.

**( RATHI VINAY JHA )**  
Designated Authority