

Government of India
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)

NOTIFICATION

NEW DELHI, the 3rd October 2007

Final Findings

Sub: Mid-term Anti-dumping review investigations in the matter relating to imports of Acrylic Fibre from Thailand

NO. 15/13/2006: - Having regard to the Customs Tariff Act 1975 as amended in 1995 (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, 1995, (hereinafter referred to as the Rules) thereof:

A BACKGROUND OF THE CASE

1. Whereas on the basis of an application filed by the domestic producer in India, the Designated Authority (herein after referred to as the Authority) initiated an antidumping investigation on 13.9.1996 and notified its final findings recommending definitive antidumping duty on import of Acrylic Fibre (hereinafter referred to as subject goods) originating in or exported from Thailand, USA and Korea RP, vide Notification No. 47/ADD/IW, dated 14.10.1997. Subsequently mid-term review was undertaken vide Notification No. 21/1/99-DGAD, dated 26.4.1999 and definitive anti dumping duty was recommended vide final findings Notification No. 21/1/99-DGAD, dated 19.4.2000. Sunset review of the anti dumping duty was initiated vide Notification No. 26/1/2001-DGAD, dated 07.8.2001 and the final findings were issued vide Notification No. 26/1/2001-DGAD, dated 06.8.2002. Definitive antidumping duty was re-imposed on the subject goods vide Customs Notification No. 106/2002-Customs, dated 09.10.2002.

2. And Whereas one of the exporters, of the subject goods from Thailand i.e., M/s. Thai Acrylic Fibre Company Ltd. have filed an application substantiating the need for mid term review of the anti-dumping duty imposed on the subject goods originating in or exported from Thailand. The applicant claimed that the conditions of dumping have changed substantially requiring a review of the anti-dumping measure in force in respect of this exporter. On the basis of the sunset review investigation the applicant exporter was subjected to anti dumping duty @US\$ 0.16/Kg. However, the applicant claimed that a period of 3 ½ years has already been lapsed since the imposition of existing duty and the dumping margin determined in the sunset review at 12.39% had undergone significant changes due

to change in market conditions, cost and prices of subject goods. Since the applicant filed positive evidence, prime facie establishing the need for a review of the dumping margin and rate of duty for the said exporter, the Authority initiated a mid-term review of the measure in force in so far as it concerned the above exporter and other exporters in Thailand (hereinafter referred to as the subject country), vide notification dated 3rd July 2006, under Section 9A (5) of the Act and Rule 23 of the Antidumping Rules, to determine whether the continued imposition of the duty is required in respect of the subject country, to offset dumping, and whether injury would be likely to continue or recur if the duty were removed or varied, or both. This investigation, however, did not cover other countries against which the measure was continued vide the sunset review findings dated 06.08.2002.

B. PROCEDURE

3. The procedure described below has been followed with regard to this investigation:
 - i) After initiation of the review investigation, in accordance with Rule 6(4), the Authority notified the domestic industry, all known exporters/producers in the subject country and known importers in India, calling for questionnaire responses and necessary information;
 - ii) In accordance with Rule 6(2), the Embassy of the subject country in New Delhi was informed about the initiation of the investigation with a request to advise the exporters/producers in the subject country to respond to the questionnaire within the prescribed time.
 - iii) Investigation was carried out for the period starting from 1st April 2005 to 31st March 2006 (12 months). However, injury examination was conducted for a period covering 2002-2003, 2003-2004, 2004-2005 and April 2005-March 2006 (POI).
 - iv) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, and the period of investigations;
 - v) The following domestic producers of the subject goods have provided their cost and injury information for injury investigation.
 - a. M/s Indian Acrylic Ltd;
 - b. M/s Pashupati Acrylon;
 - c. M/s Vardhaman Acrylic
 - vi) Following other interested parties filed their responses to the initiation notification:
 - a) Indian Spinners Association;
 - b) Ludhiana Spinners Association;

- vii) The Authority has considered all views expressed and submissions made by various interested parties to the extent they are relevant for the present investigation.
- viii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- ix) The Authority verified the information furnished by the domestic industry to the extent possible to examine the injury suffered and to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the applicants so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
- x) The Authority also verified the data of the cooperating exporter and applicant for the subject review, to determine the normal value and dumping margin as per the Rules.
- xi) The Authority held a public hearing on 27th September 2006 to hear the interested parties orally, which was attended by representatives of the domestic industry, exporters of the subject goods from the subject countries. The parties attending the public hearing were requested to file written submissions of views expressed orally. The written submissions received from interested parties have been considered and incorporated in the disclosure to the extent they are relevant and substantiated with evidence;
- xii) Confidentiality claims of various interested parties in respect of the data submitted by them have been examined. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties, along with non-confidential summary thereof, has been treated confidential *** in this finding represents information furnished by the domestic industry on confidential basis and so considered by the Authority under the Rules.
- xiii) The essential facts of the case were disclosed to all interested parties in the form of confidential and general disclosures on 17th September 2007. Comments of the interested parties on the disclosure statement have been considered by the Authority, to the extent they are relevant and supported by evidence.

C. PRODUCT UNDER CONSIDERATION AND 'LIKE ARTICLE'

4. The initiation notification notified that the product involved in the original investigation and this current review is Acrylic Fibre. Acrylic Fibre is a long chain of synthetic polymer composed of at least 85% by weight of Acrylonitrile, which is the 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. It is classified under

Chapter 55 of the Customs Tariff Act, 1975. Acrylic fibre is classified under the heading 550330 of schedule-I of Custom Tariff Act and 55033000 as per Indian Trade Classification. No comment has been made by any interested party in respect of the product under consideration. Therefore, the product under consideration is hereby confirmed.

5. The Authority notes that Acrylic fibre falling under customs heading 5503.30 and Acrylic tow falling under customs heading 5501.30 have been treated as like articles in certain previous investigations concerning this product. However, this review investigation does not cover tow as a product under consideration since the original investigation did not cover this product. Therefore, only for the purpose of injury investigation acrylic tow has been treated as a like product. The products imported from the subject country and produced by the domestic industry are like articles in view of their physical and chemical characteristics, production process and technical and commercial substitutability. Therefore, the imported products and domestic products have been treated as like articles. The above classifications are, however, indicative only and are in no way binding on the scope of the present investigation.

D. Domestic Industry

6. In response to the initiation of the review investigation on the request of one exporter from Thailand, the Forum for Acrylic Fibre Manufacturers (FAFM) filed its response on behalf of the domestic producers of the subject goods in India. However, the exporter has submitted that FAFM has furnished information relating to only two domestic producers of the product concerned though there are many other producers in India. It was also argued that since the submission made by FAFM covers only two of the domestic producers, the domestic industry has not come forward to file the requisite information and appropriate adverse inference should be drawn on them by treating them as non-cooperative and the existing duties should be withdrawn.

7. The Authority notes that initially, acting on behalf of the domestic industry, the Forum for Acrylic Fibre Manufacturers filed the response in respect of two domestic producers namely, M/s Indian Acrylics and M/s Vardhaman Acrylon. Subsequently they have filed the data in respect of another domestic producer i.e. M/s Pashupati Acrylon. The Authority also notes that the other major producers of the subject goods i.e., M/s Consolidated Fibre and Chemicals and IPCL have suspended their production some time back (after the POI). The three responding producers command more than 50% of total production of the subject goods in India during the POI and therefore, are required to be treated as the domestic industry for the purpose of injury examination in the present case.

E. Other issues raised by Interested Parties

E.1 Views of the applicant for the review i.e., M/s Thai Acrylic Fibre Company Ltd.

8. The application for the review has been filed by M/s Thai Acrylic Fibre Company Ltd. The applicant, in its application seeking review and subsequent submissions, has made the following submissions:

- That market conditions have changed substantially requiring a review of the antidumping measures;
- That under the first proviso to Section 9A(5) of the Act, in a sunset review, the authority is required to examine whether cessation of existing duty is likely to lead to continuation or recurrence of dumping and injury. On the contrary, in a mid term review, the Authority is required to examine dumping and injury and re-determine the duty based on the results of the review. In terms of Rule 23, the Designated Authority is required to review the need for continued imposition of duty. If the authority is satisfied that there is no need for continued imposition, he shall recommend withdrawal of duties. However, if the Authority is not satisfied about the withdrawal but comes to a conclusion that it shall be continued, he shall determine at what rate the duties shall continue. He is required to determine whether the duties shall continue at the same rate or at a different rate. The rate may be lower or higher. For instance, in a mid term review, if the dumping margin determined by the authority is higher than what was determined in the original investigation, it would be unfair to continue the duty at the old level. Similarly, if the dumping margin has come down as compared to the original investigation, there is a case for reduction of the duty.
- That the current investigation would reveal that either the domestic industry does not suffer any injury or the injury suffered is not on account of the imports from the subject country. Therefore, there is no need for continued imposition of the duty in the present case.

9. In its post disclosure comments the applicant exporter has reiterated its stand that this being a mid term review, there is no legal basis for examination of continuation or recurrence of dumping and injury, which is required only in a sunset review.

E.2 Views of the domestic industry:

10. The domestic industry, in its various submissions, has opposed the initiation of the review and has *inter alia* submitted:

- that the duty shall expire on 8th October, 2007 if the five year period is counted from the date of extension i.e 9th October, 2002. Therefore, the sunset review was due in October, 2006. Therefore, the present application for MTR should be terminated and SSR investigation should be taken up by the Authority;
- that in previous four findings, the Authority has found significant dumping margin, on the basis of data/information filed by M/s. Thai Acrylic Fibre, though this exporter kept claiming de minimus dumping margins and the fact and circumstances in the current investigation period were such that the dumping margin could have at best substantially increased and not decreased as has been claimed by the exporters.

- that the exporter has not filed any information about likelihood of dumping. Thai Acrylic Fibre took a clear position at the time of oral hearing that the Designated Authority was not required to determine likelihood of dumping in a mid term review. The claim of Thai Acrylic Fibre is untenable, having regard to the Indian Rules and WTO Agreement Article 11.2.
- that the expression “whether the continued imposition of the duty is necessary to offset dumping” is synonym with “whether there is no justification for the continued imposition of such duty.” It has been argued that the anti dumping duty can be withdrawn only if there is no justification for the continued imposition of the anti dumping duty. In other words, the anti dumping duty cannot be withdrawn merely because the dumping margin in period of investigation of review investigation has declined. Having established low dumping margin in the period investigation, exporter is thereafter required to establish that there is no justification for continued imposition of anti dumping duty by establishing that the dumping is unlikely to recur in the event of withdrawal of anti dumping duty.
- that Acrylonitrile is a major input for production of the subject goods. The increase in the oil prices was a global phenomenon which led to increase in the many petroleum based derivatives. Prices of Acrylonitrile increased very significantly during the present injury period.
- that in other jurisdictions like the EC and the US pricing behaviour of the exporter is examined, in detail, on invoice by invoice basis, in order to examine whether the exporter was likely to dump the goods in the importing market in the event of revocation of anti dumping duties.

11. In its post disclosure submissions the domestic industry has reiterated its stand that that exporter has not provided adequate information on third country export price for determining dumping margin in respect of third countries for likelihood examination. The domestic industry has further argued that dumping and consequent injury will intensify with reduction or withdrawal of anti dumping duties.

E.3 Views of the other interested parties:

12. M/s Indian Spinners Association and Ludhiana Spinners Association in their brief submissions have inter alia supported the contentions of the exporter M/s Thai Acrylic for review of the antidumping duty in force and have argued that there is no dumping from the applicant exporter and injury, if any, suffered by the domestic industry is not on account of dumping from the subject country.

13. In their post disclosure submissions the interested parties, including the domestic industry and applicant exporter, and the associations above have raised certain issues which have been examined and incorporated in the findings at relevant places, to the extent the issues raised are valid and duly substantiated.

E.4 Examination by the Authority

14. The Authority has carefully examined various submissions made by the interested parties in connection with the initiation of this review investigation.

15. Section 9A (5) read with Rule 23 of the Anti Dumping Rules provides that the Designated Authority shall, from time to time, review the need for continued imposition of anti dumping duty and if it is satisfied on the basis of information received by it that there is no justification for the continued imposition of such duty, shall recommend the Central Govt. for its withdrawal.

16. Article 11.2 of the Agreement provides that the authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti dumping duty, upon request by any interested party, which submits positive information substantiating the need for a review. Interested parties shall have the right to request the authorities to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If, as a result of the review under this paragraph, the authorities determine that the anti dumping duty is no longer warranted, it shall be terminated immediately.

17. The Authority notes that in their application for review, the applicant exporter from Thailand had requested for a review of its dumping margins only and no plea was made for any review of the injury aspect. However, the Authority extended the scope of the review to cover the injury also, in so far as import from Thailand was concerned. Therefore, while reviewing the extent of dumping margin for the applicant exporter, the Authority is also required to examine whether continued imposition of duty is required in view of the changed circumstances. The Authority also notes that in other jurisdictions the practice evolved in this respect is to examine the lasting nature of the changed circumstances leading to decline in dumping margin or injury, for continued imposition of the duty. This, examination of lasting nature of changed circumstances would require examination of the likelihood aspect of dumping and injury. Accordingly, the Authority has examined the current dumping and injury as well as lasting nature of changed circumstances to determine the need for continued imposition of duty and quantum thereof.

F. DUMPING DETERMINATION

F.1 Continuance of Dumping: Determination of Normal Values, Export Prices and Dumping Margins: M/s Thai Acrylic Fibre Company Ltd, Thailand

18. Only one exporter/manufacturer from Thailand i.e. the applicant for the current review, M/s Thai Acrylic Fibre Company Ltd., has filed its domestic sales and export sales, as well as cost of production data, as per the questionnaire for determination of revised dumping margins as per their request for review. The information submitted by the exporter was also verified by the Authority as per the procedure prescribed and the dumping margin has been determined as follows:

a) Normal Value:

19. The applicant for the review filed a detailed questionnaire response with the details of domestic as well as exports sales of the subject goods manufactured and sold by them. For computation of Normal Value domestic sales of the subject goods,

in the ordinary course of trade, have been considered based on the verified data. Appropriate adjustments on account of discount, credit cost, guarantee commission and inland freight, as verified have been applied to arrive at the ex-works price of each transaction in the domestic market.

20. In its post disclosure comments the domestic industry has raised certain issues regarding the treatment of wastes in the cost of production, adjustments and ordinary course of trade test. The issue has been examined by the Authority. The Authority notes that the waste generated has been treated by product for the purpose of determination of cost of production of the product under consideration as per standard costing practice. All adjustments towards direct selling expenses have been made at the transaction level before ordinary course of trade test. Therefore, concerns of the domestic industry in respect of the wastes and adjustments have been taken care of and no change in the methodology of determination is required. The exporter has also pointed out a minor error in computation of the credit adjustment, which has been rectified. Accordingly, the Normal Value at ex-factory level works out as follows:

| Computation of Normal Value | Qty Kg | Value Baht |
|---|---------------|-------------------|
| Domestic Sales | ***** | ***** |
| Gross sales Price/MT | | ***** |
| Adjustments | | |
| Discount already adjusted | | |
| Interest computed at 4.55% being avg rate for short term loan during 2005 | | ***** |
| Guarantee Commission as per Books of accounts | | ***** |
| Inland Freight | | ***** |
| Total Adjustment | | ***** |
| Ex-factory Normal Value (A) Baht/MT | | ***** |

b) Export Price:

21. During the POI Thai Acrylic had exported *****MT Acrylic Fibre to India. The invoice-wise details of exports to India during the period of investigation were considered based on verified data. Adjustments as claimed by the exporter in Appendix-3 have been considered based on verified data and to arrive at the ex-factory export price to India. Details regarding their claim of adjustments were verified during the course of verification from the records maintained by the company. Accordingly, net ex-works export price works out as follows:

| Ex-port Price | Qty in KG | Baht |
|---|------------------|-------------|
| CIF Price as per Appendix 2/MT | ***** | ***** |
| Export Incentives | | ***** |
| Share of gain on foreign exchange (App 9) | | ***** |
| Gross Export Price | | ***** |
| Less : Adjustments as per Appendix 2 | | |
| Ocean Freight | | ***** |

| | | |
|--|--|-------|
| Clearing & Forwarding | | ***** |
| Inland Freight | | ***** |
| Port Charges | | ***** |
| Insurance | | ***** |
| Total Adjustments | | ***** |
| Ex-factory Export Price Baht/MT (B) | | ***** |

F.2 All other exporters from Thailand

a) Normal Value

22. No other exporter from Thailand made any submission before the Authority in response to this review investigation. Therefore, for all other exporters from Thailand the Authority has adopted the normal value determined for the cooperating exporter as the normal value for Thailand as a whole, in terms of Supreme Court Judgment in RIL matter.

b) Export Price

23. The net export price has been determined based on the lowest export transaction value from Thailand based on the export data of the cooperating exporter from Thailand, after allowing for adjustments towards transportation, ocean freight commission etc. Net export price works out to Baht *****per MT.

F.3 Dumping Margin

24. The normal value determined at the ex-factory level has been compared with the net export prices determined at the ex-factory level to determine the dumping margins as follows:

| Dumping Margin Calculations | Normal Value Baht/ MT | Export Price Baht/ MT | Dumping Margin | Dumping Margin % |
|------------------------------------|-----------------------|-----------------------|----------------|------------------|
| M/s Thai Acrylic, Thailand | ***** | ***** | ***** | 2.53% |
| All Others exporters from Thailand | ***** | ***** | ***** | 29.65% |

25. The current dumping margins from the subject country have been found to be above de minimis.

F.4 Lasting Nature of the changed circumstances and likelihood of continuation or recurrence of dumping

26. In order to determine whether the changed circumstances of dumping is of lasting nature and whether the dumping would continue or recur in the future if the duties removed, the trend in volume of sales of the applicant exporter and its prices in the home market and third country export markets have been examined at the aggregate level.

27. It is noticed that the volume of exports of the applicant exporter to India has increased by almost 30% in the last three years whereas its domestic sales has declined by almost 9%. Exports of this exporter to other countries have increased by about 70%. Total exports constitute about 70% of total sales of the company and export to India is about ***% of total exports. Therefore, there is a significant surplus capacity of the company far beyond the domestic demand in Thailand and the company heavily depends on the export market and Indian market remains an important market for the exporter.

| Volume of sales of Thai Acrylic in Kg | 2004 | 2005 | POI |
|---------------------------------------|--------|--------|--------|
| 1. EXPORTS TO INDIA | ***** | ***** | ***** |
| Trend | 100.00 | 134.38 | 129.52 |
| 2. DOMESTIC SALES | ***** | ***** | ***** |
| Trend | 100.00 | 94.26 | 91.43 |
| 3. EXPORTED TO OTHER COUNTRIES | ***** | ***** | ***** |
| Trend | 100.00 | 164.75 | 171.45 |
| TOTAL | ***** | ***** | ***** |
| Trend | 100.00 | 130.98 | 132.80 |

28. The price data of the company shows that while the export price to India has increased by about 10% after imposition of duty, the domestic price has increased by only 7% and the export price to third countries has increased by only about 5%. The export price to third countries remains significantly lower than the export price to Indian market. The price trends indicate that the change in price to the Indian market is more due to the antidumping duty, rather than the general trend in prices of the company in other markets.

| Prices of M/s Acrylic in Baht/Kg | 2004 | 2005 | POI |
|----------------------------------|--------|--------|--------|
| 1. EXPORTS TO INDIA | ***** | ***** | ***** |
| Trend | 100.00 | 109.03 | 109.93 |
| 2. DOMESTIC SALES | ***** | ***** | ***** |
| Trend | 100.00 | 106.25 | 107.08 |
| 3. EXPORTED TO OTHER COUNTRIES | ***** | ***** | ***** |
| Trend | 100.00 | 104.73 | 104.88 |

29. The Authority also notes that Acrylic Fibre price is dependant upon the Acrylonitrile price which has increased significantly during this period and the rise in the price of main raw material might not have been fully reflected in the price structure of the exporter which shows a moderate increase. Therefore, the volume and price data shows that though the dumping margin in the current investigation period has come down, it may not be of a lasting nature and there is a significant possibility of recurrence of dumping by the applicant exporter from the subject country, if the duties are removed.

30. The Authority notes the arguments of the Indian Spinners Association and Mill Owners Association that it is not correct to contend that the price of a product should proportionately increase with every increase in the price of input. It has

been argued by these associations that what the Authority has stated is an ideal situation, which never exists in actual practice. Although the price of input may increase, the producer will not be able to pass on the input cost increase by increasing the price of the final output. After all price depends upon demand-supply question, impact of substitution effect and general economic conditions etc. It has been further argued that the major market of Thai Acrylic is not India, where export increased by 30%, but other countries where exports increased by 70%. Therefore, there is no reason to believe that changed circumstances would not be of lasting nature.

31. In this connection the Authority notes that both, volume of exports to India and other countries, as well as price trends, indicate that the price increase to India is an isolated phenomena which is not conforming to the general trend of price of the company in other markets. The prices of the exporter in its home market and in other export markets indicate that its export prices in other markets are also at significant dumped prices. The Authority also notes that export orientation of the company being quite prominent, it would be difficult to conclude that the change circumstances are of lasting nature and the price level to India would continue if the duties are revoked. Therefore, the Authority is of the view that the changed circumstances, in the form of decline in the level of dumping by the applicant exporter, is not of lasting nature and there is a significant possibility of recurrence of dumping by the applicant exporter from the subject country, if the duties are removed.

G. INJURY AND CAUSAL LINKS DETERMINATION

G.1 Views of the interested parties

G.1.1 Views of M/s Thai Acrylic Fibre Company Ltd, Thailand

32. The Authority notes that in its original application for review the applicant exporter from Thailand, M/s Thai Acrylic Fibre Company Ltd., did not make injury to the domestic industry as an issue for the review. However, subsequently, they have made the following arguments on the issue of injury to the domestic industry:

- That the domestic producers have indeed gained market share during the period of investigation and *inter se* competition between the domestic producers alone appears to be the cause of (a) fall in the market share of imports from subject countries and from other countries;(b) a significantly higher increase in market share achieved by some producers as compared to the others.
- That even if the duties are withdrawn, the probability of increase in imports from subject country appears to be thin.
- That the existing duties were imposed on 9th October, 2002. In the year 2003-04, the domestic sales of the two participating producers increased by 13%. However, even with anti dumping duties in force, the domestic sales went down by 10% during 2004-05, and it decreased by another 1% during 2005-2006.

- That the Director's Report of the domestic producers identifies the reasons for poor performance of the acrylic fibre business as the tax anomalies and high input prices adversely affecting the demand growth of Acrylic Yarn; inability of the spinning industry to utilize input stage excise duties in the case of production of yarns from man-made fibres resulting in a setback to the demand of synthetic and blended yarns; and erosion margins of acrylic producers.
- That price of acrylic yarn also remained depressed due to cotton yarn and polyester competition in India. It was also argued in the said report that a stand alone plant of acrylic fibre is likely to face huge losses due to under utilization of input credits on raw materials.
- The said reports also mention that the global demand of acrylic fibre in the year 2005 slipped to 2.64 million MT from 2.72 million MT in 2004, a drop of nearly 3%. A part of this drop could be attributed to inter-fibre substitution due to lower prices of cotton globally leading to drop in polyester consumption and its prices, which has in turn impacted acrylic fibre consumption and prices. Acrylic fibre producers' world over faced twin problems of falling fibre prices and surging acrylonitrile prices. The average spread available to acrylic fibre producers was one of the lowest in last more than five years.
- That the Indian domestic producers export a significant quantity of their production to other countries. They have suffered significant losses in their export sales. While determining the injury for the domestic industry, the loss suffered on account of exports should be excluded and the losses, if any suffered on domestic sales alone should be taken.
- Summarizing the above position the exporter has *ineter alia* argued that the injury suffered during 2005-2006 was due to factors other than dumping such as the following and dumped imports were not the cause of injury to the Indian domestic industry:-
 - Abolition of excise duty on cotton yarn without a similar treatment to man-made fibre;
 - Non availability of input credits on raw materials;
 - Demand supply mismatch due to increase in installed capacities;
 - Inter-fibre substitution;
 - Fall in apparent consumption of acrylic fibre in India;
 - Capacity enhancement by domestic fibre producers leading to lower capacity utilization that brought significant pressure on prices and margins.

G.1.2 Views of the Domestic Industry

33. The domestic industry, in its submissions has inter alia argued

- That the domestic industry has suffered injury from dumping of the product from a number of sources. A number of these sources are either attracting anti dumping duties or duties has been recently revoked. Thus, the injury to the domestic industry in this midterm review investigation is required to be seen in the light of existing duties.

- That the demand for acrylic fibre in India over past one decade has at best shown an increase. However, while the acrylic fibre capacity in the world is far beyond the demand, producers such as Thai Acrylic Fibre have been expanding capacities without proportionate increase in their domestic demand, obviously considering export markets. Such capacity expansions are naturally at the peril of other producers.
- That Thai Acrylic Fibre is also not as promising as is sought to be projected by the company before the Designated Authority as this company ended with a meager profit margin in 2005.
- That the imports are still continuing at dumped prices and extent of dumped imports has remained at significant levels in the present investigations. The circumstances which were prevalent at the time of original investigations are very much in existence even till date. There has been no change in the circumstances which only reflects that the dumping would recur at higher levels.
- That the capacity created by producer in Thailand is significantly higher than demand in their local market. Huge volume of exports made by the petitioner to third country market makes it evident that the volume of imports would increase significantly in the event of revocation of ADD. Further it is the understanding of the domestic industry that petitioner is also expanding its capacity.
- That the exports of the exporter to third countries are at significantly dumped prices.
- That it is evident that the domestic industry is facing continuous dumping of subject goods from the subject country and other countries. However, there is no reason or justification to believe that withdrawal of the duty would not lead to increased or continued dumping at large scale with consequent injury to the domestic industry.
- The domestic industry suffered injury due to dumping in this period from various countries, including subject country. The surplus unutilized capacity of the product world over is resulting in exports of the product below prevailing normal values which is resulting in continued dumping and continued injury to the domestic industry.
- That this being a review investigation, it is not necessary that the volume of dumped imports might show an increasing trend. In fact, it is expected that the volume of imports should decline. However, volume of imports from Thailand has remained quite significant. In fact, the same appears to have shown an increase in the investigation period.

G.1.3 Views of other interested parties

34. The Indian Spinners Association, in its submissions has argued

- That the imports from Thailand and the exporter concerned has decreased significantly and there is absolutely no possibility of any significant increase of exports of subject goods to India by the applicant exporter as major production of this exporter is for domestic sales and exports to India accounts for a very low share of its total production.

- That domestic availability of the subject goods is suffering because of the closure of M/s Consolidated Fibres and Chemicals Ltd. and therefore, imports are inevitable to meet the gap in supply.
- That the staple fibre is a commodity and commodity markets are volatile and depend on downstream markets and downstream demand holds the key for acrylic fibre price. It also depends upon the price of woolen yarn and is also affected by the trend in prices of other fibres like cotton polyester and viscose etc.
- That since India has accepted the multi-fibre policy; spinning industry can switch over from one fibre to another depending upon its comparative economics. Therefore the impact of downstream demand, woolen prices and price of other fibre is significant on the prices of acrylic fibre;
- That if, despite long standing protection, the domestic industry is not able to improve its position; it means that the industry is suffering from serious inefficiency and not because of imports. Efficiency is related very largely to the age of the technology and the plant.
- That the quality of the domestic industry is not upto the mark. The technology used by domestic industry is old and outmoded.

35. Ludhiana Spinners Association, in its brief submission has argued

- That antidumping duty has been imposed on almost all countries manufacturing acrylic fibre on the pretext of the FAFM. In the previous investigation the domestic industry claimed injury on cumulative basis for imports of acrylic fibre. But the scenario has changed and existence of injury to the domestic injury has almost seized due to closure of several manufacturing units of acrylic fibre and fall in imports.
- That there is no price undercutting by the exporters from Thailand and therefore, no likelihood of injury to the domestic industry.
- That the domestic industry is also exporting Acrylic Fibre at identical prices of exports from Thailand;
- That the Acrylic Fibre Manufactures have enjoyed monopoly under the effect of antidumping duty and there seems no recurrence of dumping that would lead to material injury to the domestic industry or likelihood of such injury.

36. In their post disclosure submissions the Indian Spinner's Association and Mill Owner's Association have reiterated the arguments in respect of injury and causal link.

G.2 Examination by the Authority

37. The Authority has taken note of various arguments raised by various parties in their submissions and issue of continuation of injury to the domestic industry has been examined in the light of these arguments made before the Authority. This review was initiated on the request of one exporter from Thailand. There was no request for review of the injury situation of the domestic industry in the review application of the applicant exporter. However, the Authority initiated the investigation covering both dumping and injury in respect of the subject country. The Authority notes that having initiated the investigation in terms of Rule 23 of the

Rules, the Authority is required to examine whether the continued imposition of the duty in respect of the subject country is required in view of the changed circumstances. As far as dumping is concerned, the Authority notes that the current dumping margins from the subject country are above de minimis level. The Authority has therefore, examined the current injury, if any, to the domestic industry and lasting nature of such changed circumstances, as well as the likelihood aspects of dumping and injury on account of imports from the subject country.

G.3 Current Injury and causal link

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

39. For the purpose of current injury analysis the Authority has examined the volume and price effects of dumped imports of the subject goods from the subject country on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority notes that antidumping duty is also in force on the subject goods being imported from a number of countries. Accordingly, the volume and price effect of dumped imports have been examined as follows:

(A) VOLUME EFFECT: Volume Effect of dumped imports and Impact on domestic Industry

40. The effects of the volume of dumped imports from the subject countries, as well as imports from other countries, have been examined as follows:

i) Import volumes and share of subject countries:

41. The domestic industry has argued that the DGCI&S data does not reflect the complete import data and the import volume is higher than that has been reported in the DGCI&S data. The domestic industry has again raised the issue of data anomaly in its post disclosure comments. The Authority notes that the export data of the applicant exporter from Thailand shows higher volume of exports than the import volume reported in DGCI&S data. Therefore, volume of imports from the subject country and other countries have been examined taking into account DGCI&S data and the data submitted by the applicant exporter from the subject country as follows:

| Particulars | UOM | 2002-03 | 2003-04 | 2004-05 | 2005-06 |
|---------------------------------|-------|---------|---------|---------|------------|
| IMPORTS | | | | | POI |
| Thailand | MT | 2272 | 2566 | 3448 | 3323 |
| Trend | | 100 | 113 | 152 | 146 |
| Other Countries Attracting Duty | MT | 14138 | 10461 | 9957 | 4259 |
| Trend | | 100 | 74 | 70 | 30 |
| Others not attracting duty | MT | 4683 | 791 | 1267 | 4615 |
| Trend | | 100 | 17 | 27 | 99 |
| Total Imports | MT | 21093 | 13818 | 14672 | 12197 |
| Trend | Index | 100.00 | 66 | 70 | 58 |

42. The data shows that the import from the subject country has marginally declined in the POI compared to the previous year and increased by about 46% compared to the base year. Imports from the other countries attracting duty has been drastically reduced to about 30% of the volume in the base year. However, import from other countries not subject to antidumping duty shows significant increase after a steep decline in the intervening period though total import is at about 58% level of the volume in the base year.

ii) Demand, Output and Market shares

a) Production of the Domestic Industry

| Capacity & Production of DI * | UOM | 2002-03 | 2003-04 | 2004-05 | 2005-06 |
|-------------------------------|-------|---------|---------|---------|------------|
| | | | | | POI |
| Installed capacity of DI | MT | 77500 | 77500 | 85000 | 85000 |
| Trend | Index | 100 | 100 | 110 | 110 |
| Total production of DI | MT | 69200 | 78325 | 84738 | 75378 |
| Trend | Index | 100 | 113 | 122 | 109 |
| Capacity utilization of DI | % | 89.29 | 101.06 | 99.69 | 88.68 |
| Trend | Index | 100 | 113 | 112 | 99 |

*DI constitutes the participating producers i.e., M/s Indian Acrylic Ltd., M/s Vardhaman Acrylon and M/s Pashupati Acrylon.

43. The above data shows that there is about 10% growth in capacity of the domestic industry. However, production of the domestic industry after showing an impressive growth till 2004-05 has again declined in the POI. Capacity utilization of the domestic industry, after showing a very significant improvement in the previous two years, has dropped again to the base year level in POI.

b) Sales of Domestic Industry

| Particulars | UOM | 2002-03 | 2003-04 | 2004-05 | 2005-06 |
|---------------|-------|---------|---------|---------|------------|
| | | | | | POI |
| Opening Stock | MT | 647 | 4625 | 1553 | 4380 |
| Trend | Index | 100 | 715 | 240 | 677 |

| | | | | | |
|----------------|-------|-------|-------|-------|-------|
| Production | MT | 69200 | 78325 | 84738 | 75378 |
| Trend | Index | 100 | 113 | 122 | 109 |
| Domestic sales | MT | 60612 | 66114 | 65504 | 68249 |
| Trend | Index | 100 | 109 | 108 | 113 |
| Export sales | MT | 4620 | 15282 | 16407 | 6419 |
| Trend | Index | 100 | 331 | 355 | 139 |
| Closing Stock | MT | 4625 | 1553 | 4380 | 5091 |
| Trend | Index | 100 | 34 | 95 | 110 |

44. Domestic as well as export sales of the domestic industry also show significant improvement compared to the base year. However, increase in sales of the domestic industry, examined alongside the decline in production and sales of the other two domestic producers i.e. IPCL and Consolidated fibres, eventually leading to their suspension of production, shows that the domestic industry was occupying some space vacated by these two producers during this period.

c) Demand and Market Share

| | Qty in MT | | | |
|---------------------------------|------------------|----------------|----------------|----------------|
| | 2002-03 | 2003-04 | 2004-05 | 2005-06 |
| IMPORTS | | | | POI |
| Thailand | 2272 | 2566 | 3448 | 3323 |
| Trend | 100 | 113 | 152 | 146 |
| Other Countries Attracting Duty | 14138 | 10461 | 9957 | 4259 |
| Others | 4683 | 791 | 1267 | 4615 |
| Total Imports | 21093 | 13818 | 14672 | 12197 |
| Trend | 100 | 66 | 70 | 58 |
| Total Sales of DI | 60612 | 66114 | 65504 | 68249 |
| Trend | 100 | 109 | 108 | 113 |
| Other Domestic Producers | 34899 | 27500 | 31760 | 27138 |
| Trend | 100 | 79 | 91 | 78 |
| Total Domestic Demand | 116604 | 107432 | 111936 | 107584 |
| Trend | 100 | 92 | 96 | 92 |
| Share in Demand | | | | |
| Domestic Industry | 51.98 | 61.54 | 58.52 | 63.44 |
| Other Domestic Producers | 29.93 | 25.60 | 28.37 | 25.22 |
| Subject Country | 1.95 | 2.39 | 3.08 | 3.09 |
| Others attracting duty | 12.12 | 9.74 | 8.90 | 3.96 |

45. The above data shows that the domestic demand registered a drop of about 8% in the POI compared to the base year. Total import, as well as imports from other countries attracting antidumping duty, has declined significantly. The import volume from the subject country and imports from other countries not subject to antidumping duty have increased. Market share of the domestic industry and all domestic producers taken together, has increased compared to the base year. But the gain in market share of the domestic industry appears to be more due to the space vacated by other two domestic producers who were gradually reducing their production and sales and eventually have suspended their full production. At the

same time the market share of the subject country also shows a marginal increase compared to the previous year and almost a 50% growth compared to the base year.

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

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

(i) Price undercutting and underselling effects

47. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject countries over the entire period of investigation with the weighted average net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the value reported in the DGCI&S data of import prices from the subject country.

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

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

Values in Rs/MT

| Particulars | UOM | 2002-03 | 2003-04 | 2004-05 | POI 2005-06 |
|---------------------------------------|--------|---------|---------|---------|-------------|
| Cost of sales | Rs./MT | ***** | ***** | ***** | ***** |
| Selling Price | Rs./MT | ***** | ***** | ***** | ***** |
| Landed Value (Thailand) | Rs./MT | 72314 | 77219 | 95053 | 94079 |
| Landed Value (others attracting duty) | Rs./MT | 80888 | 80281 | 98490 | 94103 |
| Landed Value others | Rs./MT | 72249 | 77660 | 97519 | 94078 |
| Price undercutting (Thailand) | Rs./MT | | | | (-)***** |
| Price undercutting (Thailand) | % | | | | (-)5 to 15% |
| Non Injurious Price | Rs./MT | | | | **** |
| Price Underselling (Thailand) | Rs./MT | | | | **** |
| Price Underselling (Thailand) | % | | | | 5 to 15% |

50. The Authority notes that the landed value of imports from the subject country was above the net sales realization of the domestic industry, thus resulting in negative price undercutting. But the landed value of dumped imports from the subject country seems to have significant price underselling. However, price

undercutting is to be seen alongwith the price suppression and depression in the domestic market as in a situation of significant price suppression or depression in the domestic market the import prices could have negative undercutting.

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

51. The price suppression effect of the dumped imports have been examined with reference to the cost of production, net sales realization and the landed values from the subject countries. The above data shows that the cost of production of the subject goods have significantly increased compared to the base year as well as the previous year. The increase in cost of production is linked to the increase in ACN price which is the basic raw material of Acrylic fibre. Import data of ACN shows an increase of about Rs8/- per Kg during 2004-05 and 2005-06. However, the CIF import price and the landed value of dumped imports from the subject country have not registered any significant increase. At the same time the selling price of the domestic industry has declined substantially in the POI after improvement till the previous year indicating significant price depression. The Authority also notes that there is a significant decline in the demand for the subject goods in the domestic market whereas dumped imports are continuing from several sources. Therefore, the domestic industry appears to have been forced to keep the prices low in order to retain its market share.

G.4 Examination of other Injury Parameters

52. Other economic parameters, which could indicate existence of injury to the domestic industry, have been analysed here as follows:

i) Productivity

53. Productivity of the domestic industry has been measured in terms of its labour productivity of the output and it has been noticed that the productivity has improved because of increase in production while employment level remains the same compared to the base year.

| Particulars | Unit | 2002-03 | 2003-04 | 2004-05 | POI 2005-06 |
|---|--------------|---------|---------|---------|-------------|
| Productivity | Per Employee | 50.04 | 59.56 | 62.91 | 54.50 |
| Trend | Indexed | 100 | 119.04 | 125.73 | 108.93 |
| Productivity | MT/Day | 192 | 218 | 235 | 209 |
| Productivity per Day - (Considering 360 days of production in a year) | | | | | |

ii) Profits and actual and potential effects on the cash flow

| Particulars | Unit | 2002-03 | 2003-04 | 2004-05 | 2005-06 (POI) |
|---------------|---------|---------|---------|---------|---------------|
| Cost of Sales | Rs./MT | ***** | ***** | ***** | ***** |
| Trend | Indexed | 100 | 99.09 | 107.11 | 123.54 |
| Selling Price | Rs./MT | ***** | ***** | ***** | ***** |
| Trend | Indexed | 100 | 105 | 124 | 117 |
| Profit/Loss | Rs. MT | (*****) | ***** | ***** | (*****) |

| | | | | | |
|-------------------------------------|----------|---------|-------|-------|---------|
| Trend | Indexed | (100) | 1652 | 5000 | (2200_ |
| Total Profit/Loss on Domestic Sales | Rs. Lacs | (*****) | ***** | ***** | (*****) |
| Trend | Indexed | (100) | 1802 | 5404 | (2477) |
| Depreciation | Rs. Lacs | ***** | ***** | ***** | ***** |
| Trend | Indexed | 100 | 100 | 98 | 101 |
| Cash Profit/Loss | Rs. Lacs | ***** | ***** | ***** | (*****) |
| Trend | Indexed | 100 | 182 | 334 | (1) |

54. The performance of the domestic industry, in terms of profit and loss shows that after a significant improvement till 2004-05, the domestic industry has suddenly started suffering substantial loss in the POI. The loss is due to substantial increase in the cost of production in the POI while the selling prices have remained depressed during the same period.

iii) Employment and wages

| Particulars | Unit | 2002-03 | 2003-04 | 2004-05 | 2005-06 |
|-------------------|----------|---------|---------|---------|---------|
| Employment | | | | | POI |
| No. of Employee | Nos. | 1383 | 1315 | 1347 | 1383 |
| Trend | Indexed | 100 | 95.08 | 97.40 | 100.00 |
| Wages | Rs. Lacs | 1808 | 1915 | 1977 | 2162 |
| Trend | Indexed | 100 | 105.92 | 109.35 | 119.58 |
| Wage per Employee | Rs. Lacs | 1.31 | 1.46 | 1.47 | 1.56 |
| Trend | Indexed | 100 | 111.40 | 112.27 | 119.58 |

55. Employment level and wages do not show any deterioration of the condition of the domestic industry. About 20% increase in wages over a period of 4 years is not significant considering general increase in wage level across the economy.

iv) Return on investment and ability to raise capital

| Particulars | UOM | 2002-03 | 2003-04 | 2004-05 | 2005-06 (POI) |
|--|----------|---------|---------|---------|---------------|
| Capital Employed - NFA + Working Capital | Rs. Lacs | ***** | ***** | ***** | ***** |
| Trend | Indexed | 100 | 85 | 89 | 90 |
| Profit | Rs. Lacs | (*****) | ***** | ***** | (*****) |
| Trend | Indexed | (100) | 1802 | 5404 | (2477) |
| Interest | Rs. Lacs | ***** | ***** | ***** | ***** |
| Trend | Indexed | 100 | 93.14 | 65.90 | 61.51 |
| PBIT | Rs. Lacs | ***** | ***** | ***** | (*****) |
| Trend | Indexed | 100 | 130 | 197 | -11 |
| Return on Capital Employed - NFA + | % | ***** | ***** | ***** | (*****) |

| | | | | | |
|-----------------|---------|-----|--------|--------|---------|
| Working Capital | | | | | |
| Trend | Indexed | 100 | 153.08 | 222.75 | (11.73) |

56. The above data shows that the profitability of the domestic industry, after a significant improvement up to 2004-05, has declined and has become negative during the POI due to increase in cost while the prices are depressed.

v) Investment

57. The domestic industry has not made any significant capacity addition or capital investments during the POI.

vi) Magnitude of Dumping

58. The dumping margin determined for the subject country and the applicant exporter is above de minimis level.

vii) Factors affecting prices

59. The interested parties have argued that other factors such as inter fibre competition at the spinning industry level and low demand for acrylic fibre in India during the POI has affected the prices of the subject goods manufactured and sold by the domestic industry. The Authority has examined the change in cost structure, competition in the domestic industry and prices of competing substitutes for analyzing the factors other than dumped imports that might be affecting the prices in the domestic market. Acrylic fibre is an economical substitute for wool and has several application in apparel, household and industrial areas and continues to remain so because the price of the substitute product remains high. However, domestic demand has declined by about 8% during the POI. The Authority also notes that the participating producers of the subject goods account for about 64% of total domestic demand and the price other producers, also move within similar price bands. It has also been brought to the notice of the Authority that two other producers of the subject goods were significantly reducing their production and eventually have suspended production, though out side the period of investigation. Therefore, several factors, including the demand situation in the country and volume and prices of dumped imports from various countries appear to be affecting the prices of the domestic industry simultaneously.

viii) Inventories

| Particulars | Unit | 2002-03 | 2003-04 | 2004-05 | 2005-06 |
|------------------------------------|---------|---------|---------|---------|------------|
| | | | | | POI |
| Inventories - at the end of period | MT | 4625 | 1553 | 4380 | 5091 |
| Trend | Indexed | 100 | 34 | 95 | 110 |
| Inventories as % of production | % | 6.68 | 1.98 | 5.17 | 6.75 |
| Trend | Indexed | 100 | 30 | 77 | 101 |

60. The inventory level of the domestic industry shows marginal increase during the POI.

G.5 Other Known factors and Causal Link

61. As recorded earlier the exporters and other interested parties have raised several arguments in their written submissions during the course of the investigation which essentially argues that the domestic industry has improved its overall performance and injury if any, has been suffered because of factors other than the dumped imports. The arguments of the interested parties have been examined with reference to mandatory factors and other factors that might have affected the condition of the domestic industry as follows:

i) Volume and prices of imports from other sources

62. During the POI, other than the subject countries, imports have taken place from several other countries, including countries against which antidumping duty is in force. The data also shows that imports from countries attracting antidumping duty have declined substantially. Imports from countries not attracting duty has increased after a significant decline till the previous year. However, the goods have been imported from several countries and volumes of import from individual countries are small and at similar price bands.

ii) Contraction in demand and / or change in pattern of consumption

63. Total domestic demand of the product under consideration, has shown a marginal decline of about 4% during the POI compared to the previous year and 8% compared to the base year. The interested parties have argued that the drop in demand is because of inter-fibre substitution at the yarn level due to multi-fibre policy and anomalies in tax structure. However, examination of out put and sales of the domestic industry indicates that contraction in demand does not seem to have affected the domestic industry in physical parameters in view of the fact that production and sales of the domestic industry has increased during the POI.

ii) Trade restrictive practices of and competition between the foreign and domestic producers

64. The subject goods are freely importable and there are no trade restrictive practices in the domestic market. The participating domestic industry constitutes over 70% of the capacity in the country. Though major proportions of imports from various other sources are attracting antidumping duty, antidumping duty unpaid landed value of imports from these sources are within a very narrow band indicating severe competition between various sources for the domestic market.

iii) Development of technology and export performance

65. The interested parties have argued that the technology and plants of the domestic industry are old and outdated. The Authority notes that world over acrylic fibres is manufactured using either dry technology or wet technology. Out of 5

producers in the country two producers' use dry technology and three use wet technology to produce the same product. In terms of technological standards and cost of operation there is no significant difference. Therefore, technological difference is not a factor affecting the performance of the domestic industry.

66. The exports of the product under consideration by the domestic industry have increased substantially from the base year.

| Particulars | | 2002-03 | 2003-04 | 2004-05 | 2005-06 |
|--------------------|-------|----------------|----------------|----------------|----------------|
| Qty in MT | | | | | POI |
| Export sales | MT | 4620 | 15282 | 16407 | 6419 |
| Trend | Index | 100 | 331 | 355 | 139 |

67. The interested parties have raised a point that the exports by the petitioners are at low prices which might have caused injury to them. But the volume of exports is less than 10% of their domestic sales and the price difference is also not very significant to contribute substantially to the injury of the domestic industry. However, the injury to the domestic industry has been assessed on the basis of their domestic performance only and injury if any caused due to their export performance has not been attributed to the dumped imports.

iv) Productivity of the Domestic Industry

68. Productivity of the domestic industry in terms of labour output and daily output has shown substantial improvement. Therefore, productivity is not a factor which can be attributed to the injury of the domestic industry. In fact domestic industry has tried to reduce its losses in its domestic operation through improvement in productivity.

G.6 Overall assessment of Injury and Causal Link

69. In its post disclosure submissions the applicant exporter has submitted that Indian market of 100000 MTs is being catered to by 5 to 6 small producers and the undesirable competition among them is responsible for the current situation on the Indian Acrylic Fibre Industry. An import of 10,000 MT is an 110000 MT market can hardly be a reason for injury. As far as the increase in ACN prices and its impact on the product under consideration is concerned, the exporter has argued that their sales are made in line with the international prices and market conditions which may not always increase in line with the ACN price. In this connection the Authority notes that in a shrinking demand situation and surplus capacity in the domestic market any significant volume of imports with adverse price trend will have significant impact on the domestic industry which is demonstrated in this case.

70. The examination in the previous sections indicates that whereas the performance of the domestic industry has improved in terms of physical parameters such as capacity, production, capacity utilization and sales, the domestic industry's financial condition has deteriorated during the POI due to decline in selling price and increase in cost of production. The injury to the domestic industry appears to

have been caused cumulatively due to the volume and price effects of the dumped imports and other factors, such as decline in demand, as examined above.

G.6 Magnitude of Injury and injury margin

71. The non-injurious price of the subject goods, determined for the domestic industry taking into account the cost data of the domestic industry, has been compared with the landed value of imports from the subject country for determination of the injury margin which works out as follows:

| Injury Margins | | Thai Acrylic | Others |
|-----------------|--------|--------------|--------|
| CIF Price | Rs./Kg | ***** | ***** |
| Landed Value | Rs./Kg | 95611 | 82532 |
| NIP | Rs./Kg | ***** | ***** |
| Injury Margin | Rs./Kg | ***** | ***** |
| Injury Margin % | % | 0-10% | 15-25% |

H. Lasting Nature of changed circumstances and likelihood of continuation or recurrence of injury

72. Article 11.2 of the ADA provides that

The authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty, upon request by any interested party which submits positive information substantiating the need for a review. Interested parties shall have the right to request the authorities to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If, as a result of the review under this paragraph, the authorities determine that the anti-dumping duty is no longer warranted, it shall be terminated immediately.

73. Rule 23 of AD Rules of India also requires the Authority to examine the need for continued imposition of the duty from time to time. The exporter in its submission has argued that mid term review investigation does not require an examination of likelihood aspects as in the case of a sunset review. However, the Authority is of the view that such an examination would also involve an examination of the lasting nature of the changed circumstances and the likelihood scenario in the event of withdrawal of the duty. In order to determine whether the changed circumstances of dumping is of lasting nature and whether injury to the domestic industry would continue or recur in the future if the duties are removed, the trend in volume of sales of the applicant exporter and its prices in the home market as well as third country export markets; and their likely impact on the domestic industry has been examined.

74. In this connection the domestic industry has *inter alia* submitted:

- That the exporters from the subject country in general and the applicant for the review in particular, are still dumping the material in the Indian market. Though there is a significant increase in raw material prices, the export price of the applicant has not shown proportionate increase indicating absorption of cost by the exporter;
- That Domestic industry is suffering continued injury due to dumped import from subject countries and should the Anti Dumping Duty be revoked, the injury to the domestic industry would recur or intensify.
- That Volume of imports from subject countries has increased after imposition of antidumping duty while import from other countries attracting antidumping duty has declined significantly indicating thereby likelihood of intensification of dumping once the duties are revised or revoked;
- That the domestic industry is responding to the situation by reducing its selling prices though the cost of production has increased due to increase in raw material prices in the international market;
- That the producers in subject countries, particularly the applicant exporter from Thailand are holding significant surplus capacities and the demand in the subject countries is significantly below the capacities created by them. Therefore, there is a great possibility that revocation of duty would lead to surge in imports and severe injury to the domestic industry.

75. The Authority has examined these arguments in the light of the information on the capacity and production of the applicant exporter and the price levels of its domestic sales and exports to India and other countries. The Authority has also examined the price levels at which the goods are entering Indian market from the subject country in spite of the duty in force and its price undercutting and underselling levels, demand scenario, trend in cost of raw materials etc. to examine the lasting nature of the changed circumstance and likelihood of continuation or recurrence of injury to the domestic industry.

76. In this connection the Authority notes that total exports constitute about 70% of total sales of the applicant exporter and its export to India is about 6% of its total exports. The volume of its exports to India has increased by almost 30% in the last three years whereas its domestic sales have declined by almost 9%. Therefore, there is a significant surplus capacity of the company far beyond the domestic demand in Thailand and the company heavily depends on the export market. Indian market remains an import market for the exporter.

77. The price level of the product sold by the applicant in its domestic market, Indian market and other third country export markets also indicate that during the POI the increase in prices for exports to India has been by a higher percentage compared to the prices to other markets while these imports attract antidumping duty. Though the landed value of the subject goods did not undercut the domestic selling prices in India during the POI due to significant price depression, the price underselling was significant.

78. It is also noted that dumping is continuing from the subject country in spite of the antidumping duty in force. As far as continuation or recurrence of injury to the

domestic industry is concerned the price levels at which the goods are entering Indian market from the subject country, in spite of the duty in force, is an important indicator. The above factors indicate that the change in export prices to India is not in line with the general trend of prices of the applicant exporter and therefore, the change in export price does not appear to be of a lasting nature.

79. It is also noticed that there was no price undercutting during the POI though the price underselling by the exporters from the subject country, including the applicant for the review, were significant and volume of export of the applicant exporter to India has increased. The volume of exports of the applicant to third countries is also significant and price level is also lower than price to India and in the home market of the exporter. Therefore, export orientation of the exporter is very clear. The volume of exports of the applicant exporter from Thailand and its price level to third countries; and decline in demand in India indicates that the price to India could drop and volume could increase if the duty is revoked. Further reduction in prices and increase in volume, in a scenario of declining demand in the domestic market, is likely to continue and intensify the injury to the domestic industry. The Authority also notes that in spite of improvement in the condition of the domestic industry in several physical parameters, the performance in financial terms has not improved due to the fact that the goods are still being dumped from several sources and there is a slump in demand for the product in the domestic market.

80. Therefore, the Authority concludes that the changed circumstances, on the basis of which the applicant exporter has sought the review, are not of lasting nature and there is a significant possibility of dumping and injury to continue or recur if the duties are reduced or withdrawn based on the current dumping margin.

I Conclusion and recommendations

81. Having initiated and conducted the review as requested by the exporter and having examined various issues, as recorded in the foregoing paragraphs, the Authority is of the view that

- a) the subject goods continues to be sold by the applicant exporter and other exporter from Thailand, in the Indian market, at dumped prices and the dumping margin is above de minimis level;
- b) though the dumping margin of the applicant exporter has recorded a significant decline during the POI, the said decline is not of a lasting nature;
- c) the domestic industry continues to suffer material injury and the injury has been caused due to volume and price effects of dumped imports along with cumulative effect of other factors; and
- d) the changed circumstances of dumping and injury are not of lasting nature and are likely to recur or intensify if the duties are reduced or revoked.

82. In view of the above, the Authority does not recommend any revision of the duties in force against the subject applicant exporter and the subject country under review.

J Further Procedures

83. An appeal against the orders 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.

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

R. Gopalan
Designated Authority