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F. No. 15/16/2013-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

Dated the 23rd March, 2015

NOTIFICATION

(Final Findings)

Subject: Final Findings in the sunset review of anti-dumping duty imposed on the imports of Acrylic Fibre originating in or exported from Korea RP and Thailand-reg.

A. BACKGROUND OF THE CASE

1. No. 15/16/2013-DGAD:- Whereas having regard to the Customs Tariff Act, 1975 as amended from time to time (herein after referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as the AD Rules), the Designated Authority (herein after referred to as the Authority), initiated the original anti dumping investigation in respect of the imports of Acrylic Fibre (hereinafter referred to as the subject goods) originating in or exported from USA, Thailand and Korea RP on 13.9.1996 and definitive anti dumping duty was recommended vide Final Findings Notification No. 47/ADD/1W dated 14.10.1997. The Central Government had imposed the anti dumping duty. The sunset review of the anti dumping duty so imposed against USA, Thailand and Korea RP was initiated by the Authority vide Notification No. 26/1/2001-DGAD dated 07.08.2001 and the Final Findings were issued vide Notification No. 26/1/2001-DGAD dated 06.08.2002. Definitive antidumping duty was levied by the Central Government on the subject goods originating in or exported from USA, Thailand and Korea RP vide Customs Notification No. 106/2002-Customs dated 09.10.2002. Second Sunset review of the anti dumping duty imposed on the imports of the subject goods originating in or exported from Thailand and Korea RP was initiated by the Authority vide Notification No. 10/7/2006-DGAD dated 08.10.2007 and the Final Findings were issued vide Notification No.10/7/2006-DGAD dated 03.10.2008, recommending continuation of the antidumping duty in force. Definitive antidumping duty was imposed by the Central Government on the subject goods from Thailand and Korea RP vide Customs Notification No. 123/2008-Customs dated 20.11.2008.
2. Whereas, in terms of the Act and the Rules, the antidumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.
3. And, notwithstanding the above provision, the Authority is required to review, on the

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

4. And, whereas, in terms of the above provisions, M/s Indian Acrylics Ltd; M/s Vardhman Acrylics Ltd and M/s Pasupati Acrylon Ltd (hereinafter referred to as the applicants) representing the Domestic Industry approached the Authority with a duly substantiated application requesting for another sunset review of the anti dumping duties earlier imposed on imports of Acrylic Fibre originating in or exported from Thailand and Korea RP (hereinafter referred to as the subject countries) and seeking the continuation of anti dumping duty on the imports originating in or exported from the subject countries. The request is based on the grounds that dumping has continued in spite of imposition of antidumping duty on the import of the subject goods from the subject countries and the domestic industry continues to suffer injury on account of dumping from the subject countries as the form and quantum of anti dumping duty in force has been insufficient. The applicants have further argued that expiry of the measure against the subject countries would be likely to result in continuation or recurrence of dumping and injury to the domestic industry.
5. And, the Authority on the basis of prime facie evidence given by the applicants considered it necessary to initiate the sunset review proceedings vide Initiation Notification No 15/16/2013-DGAD dated 24.09.2013 to examine the need for continuation of such duty to offset dumping from the subject countries and to examine as to whether the injury to the Domestic Industry is likely to continue or recur if the duties were removed or varied or both.
6. After the initiation of the subject investigation, the Central Government issued its Notification No 27/2013-Customs (ADD) dated 08.11.2013 extending the duty in force on the import of the subject originating in or exported from the subject countries up to 19.11.2014.
7. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject country.

B. PROCEDURE

8. The procedure described below has been followed in this investigation:
 - i) The Authority notified the embassies of the subject countries in India about the receipt of application alleging dumping of the subject goods originating in or exported from the subject countries before proceeding to initiate the investigation in accordance with the Anti-dumping Rules.
 - ii) The Authority issued a public notice dated 24th September, 2013, published in the Gazette of India, Extraordinary, initiating sunset review anti dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries.

- iii) The Authority forwarded a letter along with copy of the public notice to all the known exporters and other interested parties/industry associations (whose details were made available by the domestic industry) in the subject countries and gave them opportunity to make their views known in writing within the prescribed time limits in accordance with the anti-dumping rules.
- iv) The Authority provided a copy of the non-confidential version of the application to the known exporters of the subject country in accordance with the Anti-dumping Rules. A copy of the application was also made available to other interested parties, upon request.
- v) Copies of the letter and the exporter questionnaires sent to the exporters/producers in the subject countries were also sent to the embassy of the subject countries in India along with a list of known exporters / producers with a request to advise the known exporters / producers from the subject countries as also other exporters / producers from the subject countries to respond to the questionnaires within the prescribed time limits.
- vi) The Authority sent exporter's questionnaires to elicit relevant information to the following known exporters in the subject countries in accordance with the Anti-dumping Rules:
- vii) The Authority sent exporter questionnaires, to elicit relevant information, to the following known exporters from the subject countries:
 - a) Thai Acrylic Fibre Company Ltd., Thailand
 - b) Hanil Synthetic Fibre Company Ltd., Korea RP
 - c) Taekwang Industrial Company Ltd., Korea RP
- viii) Only one exporter from Thailand, namely, M/s Thai Acrylic Fibre Company (hereinafter also called Thai Acrylic or TAF), responded to the exporter questionnaire in response to the above notification.
- ix) The Department of Foreign Trade, Government of Thailand, also submitted its comments on the initiation.
- x) The Authority forwarded a copy of the public notice to the following known importers/consumers/consumer associations (whose names and addresses were made available to the Authority) of subject goods in India and advised them to make their views known in writing within the prescribed time limit in accordance with the Rule 6(4):
 - a) Rajasthan Spinning & Weaving Mills Ltd.
 - b) Vardhaman Spinning & General Mills
 - c) Deepak Spinners Limited
 - d) Malwa Cotton Spinning Mills Ltd.
 - e) Shiwaliya Spg. & Wvg. Mills (P) Ltd.
 - f) Deepak Spinners Limited
 - g) Shiva Fabricator (P) Limited
 - h) Supreme Tex Mart Limited

- i) Yogendra Worsted Limited
 - j) Shree Rajasthan Syntex Limited
 - k) Banswara Syntex Limited
 - l) Ganga Acrowools Limited
 - m) Shital Fibres Limited
 - n) Arisudana Industries Limited
 - o) Sportking India Limited
 - p) Texas Woollen Mills (P) Limited
 - q) Jindal Cotex Limited
 - r) Garg Acrylics Limited
- xi) The following submitted their legal submissions after the initiation.
- a) Vanaik Spinning Mills Ltd, Ludhiana
 - b) Sportking India Ltd, Ludhiana
 - c) Venus Texspin Ltd, Ludhiana and
 - d) Ganga Agrowools Ltd, Ludhiana
- xii) The period of investigation for the purpose of the present review is 1st April 2012, to 31st March, 2013 (12 months). However, injury analysis covered the years 2009-10, 2010-11, 2011-12 and the POI.
- xiii) 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 investigation. The import information provided by DGCI&S on transaction-wise basis has been adopted in this investigation.
- xiv) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6(7).
- xv) In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 5th August, 2014. In addition to the interested parties who had responded after the initiation of the investigation, a large number of other importers/users of the subject goods who had not responded after the initiation requested the Authority to allow them to participate in the oral hearing. They were allowed to participate in the oral hearing through their representative body Punjab Spinners Association with the permission of the Authority. Forum of Acrylic Fibre Manufacturers, New Delhi and Knitwear Club, Ludhiana also attended the oral hearing. Some individual importers/users also attended the oral hearing.
- xvi) The parties presenting their views in the oral hearing were requested to file written submissions of the views expressed orally. The submissions made by the interested parties during the course of the investigation and the oral hearing, have been addressed in this Disclosure Statement, to the extent considered relevant by the Authority.
- xvii) The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in

India so as to ascertain if anti- dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

- xviii) Verification of the information and data submitted by the responding exporter and the applicants was carried out to the extent deemed necessary.
- xix) Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xx) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded this Disclosure Statement on the basis of the 'facts available' and treated such parties as non-cooperative.
- xxi) The Central Government, at the request of the Authority, extended the time to complete the investigation up to 23.03.2015
- xxii) A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 16.03.2015. The post Disclosure Statement submissions have been considered, to the extent found relevant, in this Final Findings Notification.
- xxiii) The exchange rate for the POI has been taken by the Authority as Rs.54.65 = 1 US\$.
- xxiv) **** In the Final Findings Notification represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

C. PRODUCT UNDER CONSIDERATION AND 'LIKE ARTICLE'

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

Views of the opposing Interested Parties

Views of the Department of Foreign Trade, Government of Thailand

- 10. Thai Acrylic Fibre Company Ltd, in Thailand, manufactures speciality Acrylic Fibre

which is not produced by the Domestic Industry in India and hence for these products, there can be no injury caused to the Domestic Industry.

Views of M/s Thai Acrylic Fibre Company Ltd, Thailand and other opposing interested parties

11. The views of M/s Thai Acrylic Fibre Company Ltd and other opposing interested parties are as under:

- a) The scope of the product selected is too wide and it has not been defined appropriately. The scope of the investigation not only includes all types of Acrylic Fibres, irrespective of the fact whether these types are being produced by the domestic industry or not, but also value added products, which is against the very tenets of anti-dumping rules and regulations.
- b) The scope of the investigation must exclude products that are not manufactured by the domestic industry in India and for which no technically and commercially substitutable goods are produced in the country as the domestic industry is not impacted by imports of such products. At the same time, these speciality products are critical for the user industry.
- c) Acrylic Top is a value added product and hence it must be excluded from the ambit and scope of the investigation.
- d) CFCL (Consolidated Fibres and Chemicals Ltd) and Vardhman Acrylic Ltd (VAL) were two companies manufacturing “Exlan” technology Fibre in India. This kind of Fibre is highly liked by modified cotton spinning sectors as it imparts special feel and bulk in the yarn. Yarn made from India Acrylic Ltd (IAL) and Pashupati Acrylon Ltd (PAL) is limpy and of low bulk and, therefore, it is not liked in the modified cotton spinning sector.
- e) IAL’s (Dupont technology) Fibre is used mostly in shawls / weaving sector, producing a too soft and limpy yarn. The yarn does not have standing and hence cannot be used much to make sweaters. To satisfy its customers, the domestic industry keeps buying Acrylic fibre from Thailand (CY 2011: 103.3 MT, CY2012: 254.5 MT was imported by them). [please note that these are confidential figures and need to be suppressed]
- f) PAL’s (Snia technology) Fibre is used in the ready to use cone sector which is mainly used by the customers having tow breaking facilities. Fibre made from PAL doesn’t have good bulking properties unlike Exlan Fibre which is prerequisite for modified cotton mills.
- g) The total demand of Exlan Fibre in India is 35,000MT per annum, while VAL produces only 18,000MT, leaving a shortage of 17,000MT per year.
- h) After the closure of CFCL (12Kt capacity), the manufacturers of yarn started sourcing this from Thai Acrylic Fibre.
- i) PAL and IAL manufacture mainly tow, while VAL manufactures only fibre. This segregation is due to the mutually exclusive end uses of the products from the three companies. It is to be further noted that Thai Acrylic Fibre exports only normal quality exlan fibre and super speciality tow in their value added product segments, which is not manufactured in India.
- j) Vardhman Group is importing substantial quantity of specialty fibre from Germany, showing that specialty products have a mutually exclusive usage. Vardhman Group has an exclusive arrangement with Dralon, GmbH, whereby no other yarn manufacturer in India can import from Dralon.

Views of the Domestic Industry

12. The views of the domestic industry are as follows:

- a) Acrylic Fibre implies Acrylic Staple Fibre, Acrylic Tow Fibre and Acrylic Top Fibre. Acrylic staple fibre, acrylic tow and acrylic top are known as acrylic fibre in the commercial parlance. The only difference between acrylic staple fibre and acrylic tow is the difference in length. In case of length of more than 2 meters, it is known as tow and in case of cut lengths, it is known as staple fibre. The present investigation is a sunset review investigation. The product involved in the previous investigations and in the present sunset review investigation is the same as has been held by the Designated Authority in the previous investigations. Acrylic Fibre (which includes tow, top, staple) is classified under Chapter 55 of the Customs Tariff Act. Customs classification of Acrylic Fibre so far as it relates to the product is 5501.3000, 5503.3000 and 5506.3000.
- b) The issue raised by these parties is well decided in number of investigations conducted by the Authority. The present investigation is third sunset review. Two reviews were earlier conducted by the Authority. Further, investigations were conducted in respect of a number of other countries. The Authority has not granted exclusion in the past for any product type. The present investigation being only a sunset review, in any case, the Authority should not now restrict the scope of the product under consideration. The entire argument is meant for creating a loophole in the proposed measures so that anti dumping duty can be circumvented. Further, as far as imports for exports are concerned, in any case, the Designated Authority is allowing the same without payment of anti dumping duty.
- c) The scope of the product has already been decided by the Authority in the past investigations wherein the Authority has held that no specialty Fibre is required to be excluded. The argument of Thai Acrylic Fibre with respect to exclusion of Acrylic Top is required to be rejected in view of the past findings of the Authority and decision of the CESTAT in the matter of Thai Acrylic Fibre Co. Ltd. versus Designated Authority (Final Order No. AD/5/2010(PB) dated 30-4-2010 in Appeal No. AD/4/2009) wherein the Tribunal has held that Acrylic Tow and Acrylic Top are also Acrylic Fibres.
- d) CFCL was forced to close its operation despite alleged preference for Thai Acrylic's fibre because of injury suffered by the company due to dumping of the product in the country. Thus, despite alleged claim of preference for Thai Acrylic's fibre, the company was forced to close down its operations. Moreover, under the rules, the legal requirement is whether goods produced by the domestic industry are like articles to the goods imported in India from Thailand. The issue is well settled by the past findings of the Authority wherein it has been clearly held that the goods produced by domestic industry are like article to the goods imported from Thailand and other countries.
- e) Sales of "other Indian producers" declined in 2006-07 and there were no sales from 2007-08 whereas the imports started increasing from Thailand since 2011-12. Therefore, it is incorrect that the imports from Thailand increased after the closure of CFCL.
- f) Submissions made by M/s Shiwalaya Spinning at the time of oral hearing are contrary to the statement of the exporter that all the three companies in India (PAL, VAL and IAL) find their customers in different sectors of end uses and almost not competing to each other. M/s. Shiwalaya Spinning conceded that they were buying fibre from all the three producers. In any case, even if it is admitted that there are different market segments, presence of some producers in some market segment does not imply products are different.

- g) All the three petitioners together produce staple fibre, tow and top.
- h) Vardhman is not the sole importer from Germany. There is no exclusive arrangement with the Germany suppliers. A statement showing party wise imports from Germany has been provided to the authority.

Examination by the Authority

- 13. The product under consideration in the present review investigation is Acrylic Fibre. Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile, which is a major raw material for production of acrylic fibre. It is broadly described in terms of colour, length and denier of the fibre. It is used for the purpose of manufacturing apparels, household items etc and also has a great industrial use. It is classified under Chapter 55 of the Customs Tariff Act, 1975.
- 14. With regard to various contentions of the opposing interested parties, the Authority noted that:
 - i) The scope of the product has already been decided by the Authority in the past investigations wherein the Authority has held that no speciality fibre is required to be excluded from the scope of the product. It is noted that Thai Acrylic Fibre has taken technology for production of the product from Japan and the Japanese producers had also raised similar claim for exclusion in the first investigation. Thereafter, anti dumping duty has been extended on the imports of the subject goods from Japan. The Authority has not granted exemption for these speciality fibres to the Japanese producers also. As regards the argument that Acrylic Top is a value added product and, thus, should be treated outside the scope of the product under consideration, it is noted that the CESTAT in the matter of Thai Acrylic Fibre Co Ltd vs. Designated Authority Final Order No AD/5/2010(PB), dated 30.04.2010 in appeal no. AD/4/2009 has held, inter-alia, that in fact Chapter 55 covers (man made staple) fibres and Acrylic Fibre being one of them. Acrylic Tow, Acrylic staple Fibre and Acrylic Top are all acrylic fibres falling under Chapter 55, and hence, coverage of all these products under the anti-dumping notification which Acrylic Fibres of Chapter 55 cannot be denied. The Authority thus considers that it would not be appropriate to exclude speciality fibre from the ambit of anti dumping duty.
 - ii) It has been contended that different producers are selling different product types and the same are going for different market segments. However, the product produced and sold by the three petitioning companies and product imported from Thailand is "acrylic fibre". Mere presence of different market segments does not imply that the products are different. So long as the goods produced and sold by the petitioning companies constitute acrylic fibre, the same cannot be segregated into different product types for the purpose of injury analysis. The Authority is required to determine injury to the domestic industry by considering production and sales data relating to the like article produced and sold by the domestic industry.
 - iii) It has been established in the previous investigations that the goods produced by domestic industry are like article to the goods imported from the subject countries as well as other countries. Further, as per the evidence on record, all the three petitioners put together produce speciality grade Acrylic fibre.
 - iv) The Authority, therefore, holds that the scope of the product under consideration in the present review investigation remains the same as it was in the previous investigations.

D. STANDING AND SCOPE OF THE DOMESTIC INDUSTRY

15. The petition was filed by M/s Indian Acrylics Limited, M/s Vardhman Acrylics Limited and M/s Pasupati Acrylon Ltd. All the petitioning companies have filed their injury and costing information.

Views of the opposing Interested Parties –

16. Indian Acrylic Limited has imported the product under consideration from Thai Acrylic, quantum of which has not been disclosed. Even though imports by Indian Acrylics were affected under the Advance license (DFIA scheme), yet these goods could have easily been procured indigenously and AROs could have been issued to such a supplier as is envisaged under the Foreign Trade Policy.

Views of the Domestic industry

17. The petition was filed by M/s Indian Acrylics Limited, M/s Vardhman Acrylics Limited and M/s Pasupati Acrylon Ltd. The petitioners command 100% share in the Indian production in the POI and, therefore, constitute domestic industry. Further, in case of sunset review, standing is not required to be examined.
18. Domestic industry further claims that Indian Acrylics has imported the subject goods under advance license from Thailand. Imports made by the company are very small in volumes, considering gross imports of product under consideration in India, production of Indian Acrylic and Indian production and consumption of Acrylic Fibre. Further, the focus of the company has not turned to trading. Trading is not a principal activity of the company and imports are under duty exemption/remission scheme of the Government of India. The decisions of Madras High Court in the matter of Nirma Ltd. vs. Saint Gobain Glass India Ltd. and Calcutta High Court in the matter of State of Gujarat Fertilizers & Chemicals Limited vs. Designated Authority are referred, wherein it has been held that the Designated Authority has discretion under Rule 2(b) and the amendment dated 27th Feb., 2010 has not taken away the discretionary power of the Authority.

Examination by the Authority

19. The petition in the present case has been filed by the three domestic producers, M/s Indian Acrylics Limited, M/s Vardhman Acrylics Limited and M/s Pasupati Acrylon Ltd. The petitioners command 100% share in the Indian production in the POI. Further, the present investigation is a sunset review investigation.
20. The Authority on the basis of information on record found that Indian Acrylics has imported the subject goods, and the same are under the duty exemption scheme and these import volumes constituted a very insignificant proportion when compared with their own production, Indian production and the demand in the country. The Authority also notes that the focus of the company has not turned to trading. The Madras High Court in the matter of Nirma Ltd. vs. Saint Gobain Glass India Ltd. has held that the Designated Authority has discretion under Rule 2(b) and the amendment dated 27.2.2010 has not taken away the discretionary power of the Authority. As regards the argument that the company could have sourced the product under ARO, the Authority notes that use of one of the schemes available under the Foreign Trade Policy of the Government of India is the decision of the individual companies. The Authority has been consistently holding that if the goods have been procured under duty exemption scheme, the same do not disentitle the domestic industry from being considered as

part of the domestic industry. In any case, the volume of imports made by the company is quite insignificant considering production by the company, production in India and consumption in India. The Authority, therefore, holds that Indian Acrylics constitutes to be an eligible domestic industry within the meaning of Rules 2(b).

21. Considering the information on record, the Authority, holds that production of the petitioner companies, i.e., Vardhman Acrylics, Pasupati Acrylon and Indian Acrylics constitute major proportion of the Indian production. Therefore, the petitioner companies constitute domestic industry within the meaning of the anti dumping Rules and also have standing under the Rules.

E. MISCELLANEOUS ISSUES

Views of the opposing Interested Parties

22. The views of the opposing interested parties are as follows:
 - a) There is no case for continuation of anti dumping duty in India beyond 15 years. Duty should not be extended.
 - b) In Doha Agreement – 2007 WTO Chair Text on duration of duty – India has supported the view that anti dumping duty should not be extended beyond 10 years as was decided by the Authority in the matter of anti dumping investigation concerning Dry Cell Battery.
 - c) The present SSR investigation (POI April 2012 to March 2013) is erroneous. The law enjoins that the POI in SSR proceedings must end with the period that is as close as possible to the date of expiry of the anti-dumping duty. It is, therefore, requested that the Authority must determine the likelihood of any dumping and consequent injury only upon examination of the latest data (from July 2013 to June 2014).
 - d) Excessive confidentiality claimed in the petition, i.e., the imports made by Indian Acrylics Limited has not been disclosed at all.
 - e) Key stakeholders should be informed and allowed to attend public hearing. However, the same has been denied on 22nd July, 2014.
 - f) While initiating the present investigation, the requirements of Rule 5(3) (b) of the AD Rules have not been duly followed.
 - g) The Applicants' claim that "the antidumping duties can be discontinued only and only when the Authority comes to a conclusion that the cessation / discontinuance of anti-dumping duty would not lead to recurrence or continuance of dumping and injury to the domestic industry." However, according to Section 9A(5), discretion has been vested with Authorities to choose not to further extend the duties.
 - h) Egypt has supplied only Dyed Fibre.
 - i) If the Applicants were indeed suffering injury despite imposition of the anti-dumping duty; then why they did not come forward before the Authority by filing a Mid-Term Review application seeking appropriate enhancement of the measures in place.
 - j) Applicants are preventing the consumers from coming forward and defending their interest.
 - k) Due to high cost of the raw material for manufacture of Acrylic Fibre, the fibre is already costlier than polyester, viscose and cotton.
 - l) Further, high price of fibre has resulted in import of yarn, leading to non-growth of downstream industry in the domestic and export market.

- m) Due to escalation in exchange rate, the anti dumping duty in terms of rupee value has increased.
- n) Fibre manufacturers are importing acrylic fibre to meet shortage of user demand. They are also exporting Acrylic Fibre at low price and importing against advance licence.
- o) Bangladesh has earned a good reputation in sweater manufacturing as they can get good quality of specialty yarn made from anti-piling, conjugate, gel dyed, etc at the prevailing international price.

Views of the Domestic industry

23. The views of domestic industry are as follows:

- a) Thai Acrylic Fibre has not filed questionnaire response Part II till date.
- b) The Authority has issued a Public Notice at the stage of initiation. It was for the interested parties to respond to the Authority and participate in the investigations. If these interested parties have chosen not to respond to the notice of initiation and have not participated from the stage of initiation with questionnaire response, these parties acquire no such right at this stage.
- c) The argument that high price of fibre has resulted in import of yarn is without any basis. In fact, imports of yarn are minimal in the country. A statement showing imports of yarn is enclosed. In any case, if imports of yarn are happening at low price, the consumers are free to file a petition regarding the same.
- d) The issue escalation in exchange rate is well decided. With a change in exchange rate, the cost of production of the domestic industry also changes. Thus, the impact of exchange rate is not selectively on the selling price of PUC, it is on the cost of production of the PUC as well.
- e) There is no shortage for the product in the country. The domestic industry has sufficient capacities for the product. Exports by the domestic industry are actually because of imports being made by the consumers
- f) If Bangladesh has earned a good reputation, the industry should blame itself. Imports for exports does not attract anti dumping duty and the Indian manufacturing could attain the same reputation as has been allegedly attained by the producers in Bangladesh. It is certainly not the price of imports which is the cause for current situation. The volume of exports to Bangladesh are hardly 25% of the volume of exports to India, the price at which goods have been exported from Bangladesh is about 5% higher than the price to India and the exports to Bangladesh are also at dumping prices.
- g) The issue of high cost of the raw material for manufacture of Acrylic Fibre, is entirely irrelevant. Acrylic fiber, Polyester, Viscose and Cotton are being used since initial imposition of anti dumping duty. No significant change has happened in this regard. Such being the case, there is no merit in the argument. The interested parties are raising issues which were never relevant.
- h) It is indeed surprising that Thai Acrylic Fibre is pointing out at non disclosure of import volumes by the IAL when Thai Acrylic Fibre has not disclosed total exports made by the company to India, even when Thai Acrylic Fibre is possibly the only exporter of the product from Thailand and exports made by Thai Acrylic Fibre are recorded and published both by Thai Customs and Indian Customs. Indeed, nothing can be claimed confidential with regard to total volume of exports made by a company, when the company happens to be the only exporter of the product from the country and relevant information is publically made available by customs authorities of the exporting and importing country.

- i) Excessive confidentiality in fact has been resorted to by Thai Acrylic Fibre. Not only questionnaire response filed by Thai Acrylic Fibre is contrary to the legal provisions, but also it is in violation of the trade notice issued by the Authority.
- j) Thailand has exported 5,174 MT waste in India as against its gross production of 1.10 lac MT.
- k) If imports into India are to be considered, it would appear that Thai Acrylic Fibre has claimed that it has generated 4-5% waste production even if it is considered that entire waste production has been exported to India. This is simply not possible for the reason that Thai Acrylic Fibre has the same technology as has been employed by M/s Vardhman. M/s Vardhman's waste production is practically nil. Under these circumstances, it is not possible that Thai Acrylic Fibre plant is generating 4-5% waste.
- l) Increase in imports is because of enhancement of capacity by Thai Acrylic Fibre without commensurate increase in consumption of the product under consideration in the domestic market.
- m) Rule 5 is not attracted in case of review, as would be seen from Rule 23(3). Provisions of the Rule 5 are with regard to imposition of anti dumping duty, whereas the product is already attracting anti dumping duty. Secondly, petitioners filed a duly documented petition, as acknowledged and stated so by the Designated Authority in the notice of initiation. Thirdly, the submissions made by the exporter in any case do not establish that the initiation was flawed for any reasons. Further, causal link analysis is not required at the stage of review.
- n) The Rule nowhere states that POI in SSR proceedings must end with the period that is as close as possible to the date of expiry of the anti-dumping duty. Thai Acrylic Fibre has read the legal obligations not listed under the law. In fact, the interpretation drawn by Hon'ble High Court recently in the matter of M/s. Kumho Petrochemicals Co. Ltd. vs. Union of India & Ors [W.P. (C) 1851/2014, C.M. NO. 3866/2014 & 3867/2014] implies that the sunset review should be initiated before the expiry of the existing anti dumping duty.
- o) No petition in the past for third sunset review only implies that the domestic industry in those products may no longer have considered a need for extension of anti dumping duty in view of facts prevailing in those cases. In the facts pertaining to present case, however, there is a clear evidence of continued dumping in the POI and further of likelihood of continuation or recurrence of dumping and injury to the domestic industry in the event of cessation of anti dumping duty.
- p) In the matter of anti dumping investigation pertaining to Dry Cell Battery, the Authority considered that market share of the subject imports was insignificant and, therefore, concluded that there is no likelihood of injury to the domestic industry if anti dumping duty is not extended. In the present case, imports of the product under consideration from Thailand have increased significantly in absolute terms and in relation to production & consumption in India and are causing injury to the domestic industry.
- q) There has been gradual deterioration in the profitability and return on investment of the domestic industry cumulatively. Further, production & capacity utilization of the domestic industry declined in the period of investigation. In any case, the Authority has earlier rejected midterm review application in other products (NTCF from China, PVC paste resin from Korea & Taiwan) on the grounds that sunset review was becoming due. Thus, the domestic industry could not have sought midterm review based on its performance in the period of investigation or even in the preceding year.
- r) The discretion under Section 9A(5) of the Act at most is with the Central Government and not with the Designated Authority. The Authority cannot recommend discontinuation if the Authority comes to a conclusion that cessation /discontinuance

of anti-dumping duty would lead to recurrence or continuance of dumping and injury to the domestic industry. The submissions of the petitioners in the application are with regard to the powers of the Authority under the rules. The present investigation is not by Central Government. The present investigation is by the Authority.

Examination by the Authority

24. With regard to the various contentions of the interested parties, the Authority notes as follows:
- a) With regard to the contention raised by the opposing interested parties that there is no case of anti dumping duty in India beyond 15 years and duty should not be extended, the Authority notes that the Act and the Rules do not prescribe any time limit beyond which the anti dumping duty should not be extended. Section 9A(5) clearly provides that the anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, in which case, the Central Govt. may, from time to time, extend the period of such imposition for a further period of five years. Thus, the legal provision clearly is that the anti dumping duty can be extended further from time to time, if it found that the dumping and consequent injury to the domestic industry is likely in the event of cessation of anti dumping duty. The petition filed by the domestic industry contained sufficient information on dumping and consequent injury which were examined by the authority before initiation of investigations and, on being prima facie satisfied, the Authority had initiated the investigations. As regards Doha round of WTO negotiation, the Authority notes that there is no decision of the WTO to cap the maximum period of duty.
 - b) The Authority notes that in a sunset review investigation, anti dumping duty is required to be imposed so long as the investigation shows that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.
 - c) With regard to the decision of the Authority in the matter of Dry Cell Battery, it is noted that the decision does not establish that the anti dumping duty should not be extended further if there is dumping causing injury or there is likelihood of dumping and injury. Rather, the present investigation has shown dumping and continuation of injury to the domestic industry. The facts of the present investigation are totally different from facts of the Dry Cell Battery investigation. In dry cells batteries, the authority came to a conclusion that dumping causing injury to the domestic industry was unlikely and therefore the Authority considered that it was not necessary to extend the duty further.
 - d) With regard to the contention that the law enjoins that the POI in SSR proceedings must end with the period that is as close as possible to the date of expiry of the anti-dumping duty, it is noted that as per the provisions of the Act read with Rules, the sunset review has to be initiated before expiry of the existing anti dumping duty. There is no legal prescription with regard to the POI in SSR case and its relationship with expiry of duty.
 - e) With regard to sufficiency of the confidentiality claim, it is noted that the Authority has granted confidentiality wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. Information with regard to volume of imports is sensitive business information. It is

noted in this regard that despite responding exporter being the sole producer in Thailand, the company has not disclosed its volume of exports to India, claiming the same as confidential.

- f) With regard to the contention that the requirements of Rule 5(3) (b) of the AD Rules have not been duly followed, the Authority notes that even though provisions of Rule 5 are not applicable in case of a sunset review, the Authority has examined the claims of the domestic industry on dumping and injury and initiated the investigations on being satisfied with there was sufficient prima facie evidence provided showing that cessation of anti dumping duty was likely to lead to dumping and consequent injury to the domestic industry.
- g) The Authority has noted the provisions under Section 9A(5) and Rule 23 and considered the same.
- h) With regard to the contention that Egypt has supplied only Dyed Fibre, the Authority notes that while the transaction-wise import information collected from DGCI&S shows that there were significant imports of grey fibre from Egypt.
- i) With regard to the contention of the exporter that the domestic industry has not applied for mid-term review, it is noted that the domestic industry has claimed injury in the period of investigation for the sunset review. Therefore, question of mid-term investigations does not arise.
- j) With regard to the contention that petitioners are preventing the consumers from defending their interest, it is noted that dumping law permits filing of submissions by any interested party on confidential basis after giving due cause for such claims of confidentiality.
- k) With regard to imports of Acrylic Fibre wastes, it is clarified that the Authority has considered only imports of acrylic fibre into India. The Authority has not considered any imports of waste for the purpose of present determination.
- l) As regards the contention that all parties should be invited for oral hearing, the Authority notes that all those interested parties who made themselves known or who had filed submissions before the Authority were invited for the public hearing. Further, the Authority had in fact permitted all other interested parties who had requested the Authority to be present in the public hearing to present their views directly and also through their Association.
- m) As regards the contention that the domestic industry could have filed petition seeking midterm review of anti dumping duty, the Authority notes that the present investigation is a sunset review investigation and in case an interested party has not sought a midterm review, the Authority is required to consider provisions concerning sunset review and make determination accordingly.
- n) As regards the contention that the domestic industry prevented the opposing interested parties from defending their interests, the Authority notes that the interested parties were free to advance their arguments in accordance with the law. Further, the Authority had permitted all other interested parties who had requested the Authority to be present in the public hearing to present their views directly as also through their Association. It thus cannot be accepted that the domestic industry was preventing the interested parties from making submissions.
- o) As regards the high cost of raw material leading to high cost of fibre, the Authority notes that the demand for the product under consideration has shown rising trend in the present injury period. It is thus not a case that demand for the product was taken away by other textile fibres during the POI.
- p) As regards the increase in prices due to devaluation of Rupee, the Authority notes that it cannot be considered that the devaluation of Rupee has impacted the cost of fibre. It has impacted on the cost of production of the product and import price of eventual product (yarn) as well.

- q) As regards the imports of fibre due to demand-supply gap, the Authority reiterates its consistent position that imposition of anti dumping duty does not restrict imports.
- r) As regards the comparison with Bangladesh and quality of their product, the Authority notes that the issue cannot be linked to anti dumping duty. The anti dumping duty does not apply on imports under duty exemption scheme and, therefore, the consumers are free to import and compete with Bangladesh.

F. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

Determination of Dumping

Views of Thai Acrylic Fibre Company Ltd, Thailand and other opposing interested parties

25. Main views of the opposing interested parties are as follows:
- a) Prices of acrylic fibre in Thailand are not higher and Thai Acrylic Fibre Co has not sold the product at higher prices in the domestic market of Thailand.

Views of the Domestic industry

26. The views of domestic industry are as follows:
- a) Other than M/s Thai Acrylic Fibre from Thailand, none of the interested parties in the subject countries has responded to the Authority. The Authority may hold that none of the other interested parties from the subject countries has cooperated with the Authority.
 - b) The exporter has not provided third country sales on the grounds that normal value has been claimed on domestic market. At the same time, the exporter has not provided information in response to questionnaire part II. Thus, the exporter has withheld relevant information with regard to exports to third countries which will clearly prevent the Authority from considering the questionnaire response for the present purpose.
 - c) The Authority has clearly held in the matter of anti dumping investigation pertaining to ductile iron pipes that questionnaire response cannot be accepted unless the exporter has filed response to questionnaire response part II. Further, the Authority rejected the entire questionnaire response in that case. Such being the case, the Authority is requested to reject the questionnaire in the present case as well.
 - d) Price of the product under consideration in Thailand is higher than the price at which goods have been exported to India. The questionnaire response would establish the same.
 - e) With regard to imports from Korea RP, there is a significant difference in the volume of exports reported in Korean Customs and volume of imports reported in Indian Customs. It is, thus, evident that volume of exports reported in Indian customs is grossly low as compared to the volume of exports reported in Korean customs. In view of the same, petitioners have requested the Authority to consider Korean customs data for determination of volume and value of imports in so far as Korea is concerned, holding that full volume of imports is not reflected in Indian customs data.

Examination by the Authority

27. Only one exporter/manufacturer, M/s Thai Acrylic Fibre Company Ltd. (TAF) has filed its questionnaire response. 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.

Normal Value for Thailand:

Normal Value for M/s Thai Acrylic Fibre Company Ltd, Thailand (TAF)

28. TAF filed a questionnaire response containing details of the domestic as well as exports sales of the subject goods manufactured and sold by them. For computation of Normal Value, the domestic sales of the subject goods were considered based on the verified data in Appendix -1. It was noted that ***% of the domestic sales are profitable sales and the same have been considered for the purpose of determining the Normal Value. Adjustments as claimed were allowed by the Authority. The Normal Value at ex-factory level as worked out by the Authority taking into consideration the above factors is indicated in the Dumping Margin Table below.

Normal Value for all other exporters from Thailand

29. No other exporter from Thailand filed questionnaire response before the Authority in the present investigation. The Authority, therefore, adopts the normal value determined for the cooperating exporter from Thailand, for all other exporters from Thailand as well.

Normal Value for Korea RP

30. The Authority notes that none of the exporters from Korea RP has filed any response to the prescribed questionnaire. As information about actual domestic sales price, information on exports to third country or cost of production in Korea RP and other information as per the questionnaire have not been furnished by any producer/exporter in that country, the Authority has relied upon best available information for determination of Normal Value. The petitioners claimed that efforts were made by them to get any information about the price at which subject goods were being traded in the domestic market of Korea RP. Efforts were also made to get any other reasonable evidence of price of the subject goods prevailing in Korea RP. Petitioners have not been able to get evidence of prices of the subject goods in the domestic market of Korea RP. The normal value is, therefore, determined taking constructed value approach. The Normal Value as worked out by the Authority is given in the Dumping Margin Table below.

Export Price for Thailand

Export Price for M/s Thai Acrylic Fibre Company Ltd, Thailand (TAF)

31. TAF filed a questionnaire response containing details of the domestic as well as exports sales of the subject goods manufactured and sold by them. The export price has been determined based on the verified data in Appendix-2. After allowing the adjustments as claimed, the export price at ex-factory level as worked out by the Authority is given in the Dumping Margin Table below.

Export Price for all other exporters from Thailand

32. The net export price has been determined by the Authority based on facts available. The net export price at ex-factory level worked out by the Authority for all other exporters from Thailand is given in the Dumping Margin Table below.

Export Price for Korea RP

33. The Authority has considered the import price on the basis of the DGCI&S import volumes. After making adjustments as claimed, the ex-factory export price calculated by the Authority is given in the Dumping Margin Table below.

Dumping Margin

34. The normal values determined at the ex-factory level have been compared with the respective net export prices determined at the ex-factory level to determine the dumping margins. The dumping margins are as follows:

Dumping Margin Table

Dumping Margin Calculations for	Normal Value US\$/ MT	Export Price US\$/ MT	Dumping Margin US\$/ MT	Dumping Margin %	Dumping Margin Range%
M/s Thai Acrylic Co Ltd, Thailand	***	***	***	***	15-25
All other exporters/producers from Thailand	***	***	***	***	35-45
All exporters/producers from Korea RP	***	***	***	***	20-30

35. The dumping margins from the subject countries are significantly above de-minimis levels.

G. ASSESSMENT OF INJURY AND CAUSAL LINK

Injury and Causal Link

Views of the Department of Foreign Trade, Government of Thailand

36. The duty has been in effect for almost 17 years. Thai Acrylic Fibre Company Ltd, in Thailand, manufactures specialty Acrylic Fibre which is not produced by the Domestic Industry in India and hence for these products there can be no injury caused to the Domestic Industry. There is no dumping from Thailand.

Views of the opposing interested parties

37. The views of opposing interested parties with respect to injury and causal link are as follows:
- In the petition it has been stated that the imports grew “exponentially” whereas imports into India from Thailand have more or less remained constant. The imports of acrylic fibre into India from Thailand have increased insignificantly over the period of 2009-10 to 2012-13.
 - The dip in Acrylic Fibre prices as shown in the graph of the evolution of price effect

as reflected in the Application, is attributable to the prices of Acrylonitrile, which is a primary factor governing the prices of Acrylic Fibre and after April / May 2012, there was a steep fall in Acrylonitrile prices, which is reflected in the acrylic fibre prices.

- c) The petitioners have claimed price suppression effect on account of the imported subject goods. The “cost of sales” as mentioned in the petition, should consist of freight, and other selling expenses. The comparison of the cost of sales to the selling price has little meaning. Also, cost of sales is a very small number compared to revenue and cost of goods sold. However, the price of Acrylic Fibre depends on Acrylonitrile prices to a great extent.
- d) Extracts from the Director’s Report for the period ending 31.03.2013 of M/s Indian Acrylic Ltd. claims that despite decrease in overall sales, Gross profit before interest, depreciation interest and tax (GPBIDT) during the current year is higher.
- e) There is continuous increase in domestic sales. It may also be noted that loss in production is due to lower volume in export market in 2012-13 and decrease in finished goods inventory in 2011-12 by 3772MT which reduced the production by 1816MT.
- f) The Applicants have also failed to demonstrate a significant decline in the sales volume and not furnished any evidence of lost contracts or declining sales.
- g) Decrease in inventory is a clear indicator of a healthy state of affairs for the domestic industry.
- h) The imports are only for meeting the gap in demand in the country.
- i) The imports from Germany have steadily increased over the last few years. Most of the material imported from Germany is by the Vardhaman Group, proving that the fibres manufactured by different technologies and different techniques can result in different applications, finding use in different applications. Hence, Indian manufacturers being unable to sell their own fibre in the domestic market, are importing fibre of different technology and different types to meet the demands of different customers.
- j) Annual Reports of the petitioners show different reasons for injury. The evidence at hand (the Annual reports of Indian Acrylics Limited and Pasupati Acrylon Limited) show that serious contradictions exist in the applicants’ claims of injury and the facts as reflected in these Annual reports. M/s Pasupati Acrylon Ltd in its Annual Report for 2012-13, provides a very bright assessment of its performance without any reference whatsoever to injury on account of foreign competition.
- k) Indian Acrylic Ltd. has also acknowledged that it is dependent on imported raw materials to a large extent and sudden increase in crude oil, naphtha or gas prices also adversely affect the company.
- l) These domestic producers have acknowledged and identified critical factors such as volatility in the raw material prices, subdued demand in global markets leading to lower capacity utilization, rise in USD vis-a-vis INR and higher borrowing costs as challenges and key factors leading to the revenue losses that the domestic industry in India faced during the years designated as the period of injury.
- m) Dismal global scenario such as currency fluctuation, sudden increase in competition from other fibres, softening of commodity prices and Euro zone crisis have also been specified cited as the prime reason for their poor performance, apart from alleged dumping.
- n) The fact that one of the domestic producer’s performance is distinctly better than other two, would amply prove that injury if any is self-inflicted and due to inter se competition amongst the domestic producers.
- o) It is indeed strange that on one hand the production of the domestic industry was falling yet on the other hand it chose to employ more people (5% increase over the injury period) which has resulted into higher costs of production. Employing more

- people in the scenario of dropping production has led to lower productivity. It is a classic case of self-inflicted injury and can hardly be attributed to alleged dumping.
- p) The Application at length dwells on relevance and importance of profits, but does not spell out what should be a reasonable profit, that too in trying economic conditions.
 - q) The losses suffered by the domestic industry due to other factors ought not to be attributed to alleged dumping.
 - r) One Applicant has very assiduously chosen not to mention anything whatsoever as regards the export performance, despite the fact that the domestic industry had been significantly exporting the subject goods that plummeted to almost half in the POI as compared to the base year, viz. 2009-10 period. The Applicant has instead merely stated that it has provided costing and injury information for domestic sales, which does not answer the adverse impact on dismal export performance of the domestic industry. This is a serious flaw and because of this ground alone the investigation merits termination.
 - s) The Applicant has deliberately provided wrong information/data. It is prayed that the investigation must be terminated on this ground alone. Further, there is lack of causal link between alleged dumped goods and alleged injury to the domestic industry.

Views of the Domestic Industry

38. The domestic industry, in its submissions, has inter-alia argued as follows:

- (i) There is continued dumping of the product concerned from the subject countries.
- (ii) Dumping of the product under consideration is likely to intensify from the subject countries should the current antidumping duty be withdrawn.
- (iii) Volume of imports from Thailand has shown an increasing trend during the injury period. In fact, the volume of imports from Thailand has phenomenally increased in the current period. This increase in import is despite significant imports that are occurring from Egypt, which are exports made by the related party. In fact, it is petitioner's understanding that the same sets of team are exporting both from Thailand and Egypt;
- (iv) Though the volume of imports as reported by Indian Customs data shows a decline; the volume of exports reported by Korean Customs data shows significant volume of exports of Acrylic Fibre to India. The petitioners request the Authority to consider the volumes as reported by Korean Customs to assess the volume of dumped imports from Korea to India.
- (v) Imports from the subject countries at dumped prices continue to enter the Indian market.
- (vi) Volume of imports has increased in absolute terms and in relation to domestic sales of the domestic industry, production and consumption of the product in the country;
- (vii) Price undercutting is significantly positive;
- (viii) Performance of the Domestic Industry in terms of production, capacity utilization, profits, return on investments, cash flow, inventories etc. has deteriorated in the current injury period;
- (ix) Despite antidumping duty in force, performance of the Domestic Industry has declined. Should the current antidumping duties cease, performance of the domestic industry would further deteriorate;
- (x) Domestic Industry has been prevented from utilizing its capacities to the fullest extent on account of continued dumped imports in the market;
- (xi) Selling price in the domestic market is directly linked to import prices. Revocation of anti dumping duty shall imply intensified dumping from these countries in the

Indian market. Consequently, the domestic industry would be forced to reduce the selling prices;

- (xii) Any decline in selling price would have its adverse impact on profitability, return on investment and cash profit situation of the domestic industry;
- (xiii) The domestic industry has suffered injury from intensified dumping of the product in the country;
- (xiv) The fact that prices of Acrylic Fibre in the period of investigation have changed more than what could be attributed to changes in Acrylonitrile gets fully established by the trend of profitability of Thai Acrylic Fibre. The exporter has conceded that it suffered financial losses in the period of investigation, which implies that the changes in Acrylic Fiber prices were less than the changes in Acrylonitrile prices.
- (xv) TAF clearly agrees that the price of Acrylic Fibre depends on Acrylonitrile prices to a great extent. As regards inclusion of expenses such as freight and selling expenses included under cost of sales, petitioners submit that these expenses are in fact required to be added for all purposes in order to ensure fair comparison. The landed price of imports also includes freight and other selling expenses, and, therefore, it would be appropriate to add freight and direct selling expenses to the domestic selling price and domestic cost of production before comparing with the imported product price in order to ensure apple to apple comparison.
- (xvi) As regards higher borrowings cost of Indian producers, petitioners submit that it is a well known settled legal position that the domestic industry is required to be seen in the form and manner under which it has been established and not under ideal conditions. Further, with the similar level of borrowings cost, the performance of the domestic industry steeply deteriorated over the present period which clearly establishes that the deterioration in performance is not because of borrowing cost.
- (xvii) The domestic industry has provided elaborate information on likelihood in the petition itself, non confidential version of which has been made available to other interested parties. In fact, there is no prescribed requirement for providing likelihood information, despite which the petitioners have provided this information on the basis of their knowledge and experience.
- (xviii) The Euro Zone crisis led to the decline in demand for the downstream products in Europe, as a result of which the consumption of Acrylic Fibre in the international market declined. Resultantly, demand for Acrylic Fibre for the companies such as TAF declined, as a result of which companies such as TAF resorted to aggressive pricing to such an extent that they started selling the product at a price below home market price and cost of production. Thus, TAF even sold the product materially below the cost and suffered financial losses during the period of investigation. The aggressive pricing resorted by TAF, therefore, forced producers such as Indian companies to suffer injury, even though Indian producers of the product under consideration are not exposed to international market to significant extent and are, therefore, not directly impacted by Euro Zone crisis.
- (xix) Decrease in inventories is required to be seen along with the production trend. It would be seen that inventories have declined because of production curtailed. The option with the domestic industry is either to produce and sell or to pile up the inventories.
- (xx) It would be seen that the number of employees has increased up to 2011-12 and then marginally declined in the POI.
- (xxi) The application need not be referred with regard to the level of reasonable profit, as the Authority has well laid down practice with regard to the level of reasonable profit. The Authority considers 22% return on capital employed as reasonable profit. As regards adverse economic conditions, the same is entirely irrelevant. There is nothing like adverse economic conditions in the product calling for different/lower

level of profits. Possibly, adverse economic conditions are with the exporter, as the exporter is faced with a situation where it has to export more than 90% of its production. The petitioners have sufficient domestic demand and can easily sell their entire volumes in the domestic market.

- (xxii) Performance of the domestic industry till 2010-11 was much better and thus shows why the petitioners could not have sought midterm review of the anti dumping duties in force. As the trend in capacity utilization and profits shows, the steep deterioration was in 2011-12.
- (xxiii) The exporter has referred to profit before interest and depreciation, whereas the relevant legal requirement is profit before tax. It would be seen that profits of the domestic industry, profit before interest, cash profit and profit before interest and tax declined over the injury period.
- (xxiv) The exporter has not filed response to prescribed questionnaire part II and, therefore, should not be permitted to contend anything with regard to likelihood. The exporter could have made submissions with regard to likelihood only if the exporter had filed the questionnaire response. Notwithstanding, the publically available information clearly shows that the exporter is resorting to dumping in third countries as well.
- (xxv) The injury suffered by the domestic industry is directly linked to dumped imports. As submitted earlier, effect of other factors identified in the Annual Reports eventually culminate into competition from imports.
- (xxvi) Under the Rules, the Authority is required to consider performance of the domestic industry as a whole. The mere fact that performance of one producer is distinctly better than others does not imply that producer has not suffered injury. Furthermore, the interested parties themselves contended that 70% of production of Vardhman Acrylic is sold to their own group company. In other words, performance of Vardhman to the extent of its sales to related company is not impacted by dumping of the product in the country. Such being the situation, it is evident that the performance of Vardhman in any case is not indicative of the impact of dumped imports on the domestic industry. Performance of Vardhman is required to be segregated from the scope of domestic industry and the performance of Pasupati and Indian Acrylic alone should be considered for the purpose of assessment of injury to the domestic industry. Existence of inter-se competition amongst domestic producers does not imply absence of injury due to imports. In fact, inter-se competition would and should invariably exist and absence of inter-se competition should attract attention of Competition Commission of India.
- (xxvii) The exporter has suppressed vital information from the authority and has not filed even response to questionnaire part II which implies that the Designated Authority should reject the entire response considering consistent practice applied by the Authority in the past and having regard to the decision of the Designated Authority in the matter of ductile iron pipes.
- (xxviii) Demand-supply gap in India should not be a concern of a producer in Thailand. Domestic industry lost production and sales during the period. In any case, demand supply gap does not justify dumping of the product in the country. On the contrary, in a situation of demand supply gap, the exporter could have easily sold the product in the country at a fair price. The exporters were not required to resort to dumping of the product in the country.
- (xxix) Whereas one consumer contended that anti dumping duty has resulted in de-growth in the downstream industry, another consumer has contended that the company has seen such significant growth. It, therefore, follows that there is no truth in the contention that anti dumping duty has led to de-growth of the downstream industry. Further, no other consumer claimed that they had to reduce production due to

antidumping duty. This is despite presence/participation of a large number of consumers in the present case.

- (xxx) Whereas one of the consumers contended that goods produced by Indian Acrylic, Pashupati Acrylon and Vardhman are different; another consumer contended that it is buying Fibre from all the three suppliers. This clearly shows contradiction in their arguments. In any case, the contention is contrary to the past findings of the Authority. The Authority has earlier held that goods produced by domestic industry are like article.
- (xxxi) One of the consumers submitted that imports included duty free imports as well. Petitioners submit that while it is true that there are duty free imports of the product under consideration from Thailand, extent of which is not publically available information, in any case, exemption from payment of anti dumping duty on such imports establishes that imposition or continuation of anti dumping duty, does not prejudice the interests of the consumers as far as duty free imports are concerned. However, the duty free imports also cause injury to the domestic industry in the form of their adverse price effect on the domestic industry.
- (xxxii) One of the consumers contended that the increase in imports from Thailand is because of closure of production by two other companies in India. Petitioners submit that the other domestic producers reduced supplies in 2006-07 and completely stopped supplies thereafter. However, imports from Thailand have surged from 2011-12.
- (xxxiii) There has been continuous increase in capacities by Thai Acrylic Fibre without commensurate increase in consumption of the product under consideration in the domestic market. This establishes that increase in imports from Thailand is because of repeated expansion by Thai Acrylic Fibre, which was aimed towards global markets, including India (which is one of the large consuming markets for the product under consideration). Since Thai Acrylic Fibre expanded capacities without increase in domestic market, it is natural that the company is looking for Indian market as a great business opportunity. In fact, the present effort of Thai Acrylic Fibre to seek revocation of anti dumping duty, by not only participating in the present proceeding, but also pooling participation by consumers in a large number is because of the sales pressure being felt by the company in view of absence of sufficient demand. It is more than obvious that all the consumers who attended the hearing or all those consumers who sought permission to attend the hearing did so at the behest of Thai Acrylic Fibre.
- (xxxiv) The above mentioned expansion of capacities by Thai Acrylic Fibre is all the more alarming and damaging to the established producers like Indian domestic industry in a situation where it is quite known globally that Acrylic Fiber demand is not showing significant increase. In fact, one of the largest producers of Acrylonitrile (the main raw material for production of Acrylic Fiber) mentioned that demand for Acrylic Fiber is stagnant to slightly negative globally, in Asia and in China. Under these circumstances prevailing globally and despite meager domestic demand; Thai Acrylic Fibre has expanded its capacities phenomenally. Thereafter, the company has set up a plant in Egypt, which has further aggravated injury being suffered by other global players. In fact, Thai Acrylic Fibre stated at the time of hearing that it has suffered financial losses in the present period of investigation.

Examination by the Authority

39. The Authority has considered various arguments put forth by various interested 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. On the

basis of data and information available to it, the Authority concludes that the current dumping margins from the subject countries are above *de minimis* level. The Authority, therefore, proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.

40. With regard to the various contentions of the interested parties, the Authority observes as follows:
- a) With regard to the contention of the exporter that the domestic industry has claimed that the imports grew “exponentially” whereas imports into India from Thailand have more or less remained constant; the Authority notes that the imports from Thailand have increased significantly, even when anti dumping duty is already in force.
 - b) With regard to the contention of the exporter that “cost of sales” includes freight, and other selling expenses, it is clarified that the Authority has determined the cost and selling price of the domestic industry after deducting freight and other selling expenses before comparing the same with the landed price of imports.
 - c) With regard to the contention that Director’s Report of one of the petitioner companies has claimed higher gross profit before interest, depreciation interest and tax despite decrease in overall sales; the Authority notes that the profits of the domestic industry as a whole have declined over the injury period. The rules require the authority to consider "domestic industry as a whole". Injury determination cannot be based on consideration of data relating to only a constituent of the domestic industry.
 - d) With regard to the contention of the interested parties on improvement in the performance of domestic industry, it is clarified that the performance of the domestic industry has been examined over the injury period which starts from 2009-10 and not 2010-11. The Authority has examined all the relevant injury parameters relating to the domestic industry and has concluded about the performance of the domestic industry after considering all relevant parameters such as production, sales, capacity utilization, market share, profits, return on investment, cash profits, etc.
 - e) With regard to the contention that the domestic industry has not furnished any evidence of lost contracts or declining sales; it is clarified that the rules require the authority to consider performance of the domestic industry by considering various parameters laid down under the Rules. While lost contracts can be a parameter of injury, absence of lost contracts does not mean that the domestic industry has not suffered injury. Further, the domestic industry has suffered decline in sales volumes, which itself establishes that the consumers did not place orders on the domestic industry for some of its requirements and instead preferred imports.
 - f) With regard to the contention that decrease in inventory is a clear indicator of a healthy state of affairs for the domestic industry, the Authority notes that conclusion on injury is required to be based considering various economic parameters. Conclusion cannot be based selectively considering one parameter.
 - g) With regard to the contention that imports are only for meeting the gap in demand in the country; the Authority notes that demand supply gap does not justify dumping of the product in the country. On the contrary, in a situation of demand supply gap, the

exporter could have easily sold the product in the country at an undumped price.

- h) With regard to the contention that the exporter has not filed response to prescribed questionnaire part II, and, therefore, should not be permitted to contend anything with regard to likelihood, the Authority notes that the exporter was asked to submit questionnaire part II in the prescribed form and manner and the same has been provided by the exporter.
- i) With regard to the contention that the volume of exports reported by Korean Customs data shows significant volume of exports of Acrylic Fibre to India; the Authority has examined the facts in the light of the information available and considered the same for the purpose of likelihood of injury.
- j) With regard to the contention that imports from Thailand have increased as a result of expansion of capacity by Thai Acrylic Fibre; the Authority has examined the facts and considered the same for the purpose of likelihood of injury.
- k) With regard to the contention of some of the consumers in the public hearing that growth of the downstream industry has been impacted by the imposition of anti dumping duty, the Authority notes that none of the interested parties has established that downstream industry has been impacted by imposition of anti dumping duty. The authority notes that anti dumping duty has been in force for quite some time and there is no evidence of adverse impact on record of the authority.
- l) With regard to the issue of duty free imports raised by one of the consumers in the public hearing; it is noted that the interests of the importers are not affected by duty free imports, as anti dumping duty does not apply to imports under advance licence.
- m) With regard to the contention of some of the consumers in the public hearing that imports increased due to closure of two other Indian producers; the Authority has examined the historical data in this regard and notes that the other domestic producers reduced supplies in 2006-07 and completely stopped supplies thereafter. However, the increase in imports from Thailand started from 2011-12 onwards.
- n) With regard to the contention that the imports from Germany have steadily increased over the last few years, it is noted that the landed price of imports from Germany is higher than selling price of the domestic industry in the injury period and thus has not caused injury to the domestic industry.
- o) With regard to the contention of the exporter that the Annual Reports of the petitioners show different reasons for injury and there is contradiction in the statement in Annual Report and the present submissions, it is noted that the Annual Report contains statements with regard to macro economy situation, as the companies are required to inform their stakeholders/shareholders about overall business position, whereas the Authority considers operations of the product under consideration in the domestic market only for determination of injury to the domestic industry in the POI. Since the annual report statements are relevant to all stakeholders, it may deal with the situations relating to the raw materials, product and downstream product, whereas the authority is required to consider, in accordance with the provisions of Annexure-II to the Rules, information relating solely to the domestic production relating to the product. Annexure-II to the Rules provides in this regard that the effect of the dumped imports should be assessed in relation to the domestic production of the like article

when available data permit the separate identification of that production. It is only in a situation where separate identification of that production is not possible that the effects of the dumped imports are required to be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

- p) With regard to the impact of prices of imported raw material on domestic industry, it is noted that this is a global phenomenon. Both the domestic producers and exporters are affected by fluctuations in the price of raw materials.
- q) With regard to the contention of higher borrowings cost of Indian producers, the Authority notes that the actual performance of the domestic industry is required to be examined. The Authority has examined the injury information of the domestic industry and concludes that the performance of the domestic industry deteriorated as a result of continued dumping and not because of borrowing cost. It is not a case where the borrowing cost of the domestic industry was earlier materially lower and the same increased significantly in the POI.
- r) With regard to the contention of interested parties that dismal global scenario such as currency fluctuation, sudden increase in competition from other fibres, softening of commodity prices and Euro zone crisis causing injury to the domestic industry, it is noted that factors such as currency fluctuation are common to both raw material and finished product. As regards increased competition from other fibres, the data shows that the demand for the product has not declined as a result of this competition from other fibres. Demand for the product has in fact has increased.
- s) With regard to the contention regarding effect of softening of commodity prices or Euro zone crisis, it is noted that Euro crisis could not have been the cause of deterioration in the performance of the domestic industry in the domestic market. The determination is not based on the performance of the domestic industry in the international market. It is based on the performance of the domestic industry in the domestic market.
- t) With regard to the contention that injury, if any, is self-inflicted and due to inter-se competition amongst the domestic producers; it is noted that the Authority has examined performance of the domestic industry as a whole. The Authority notes that existence of inter-se competition amongst domestic producers does not imply absence of injury due to imports. Further, it is noted that the landed price of imports is lower than the selling price of the domestic industry.
- u) With regard to the contention that employing more people in the scenario of dropping production has led to lower productivity, the Authority notes that the productivity has declined as a result of decline in production. Further, even if productivity is considered at the same level as in the past, the data still shows significant decline in profits, return on investments and cash flow.
- v) With regard to the contention with regard to reasonable profit; it is noted that the Authority considers 22% return on capital employed as reasonable profit as a matter of practice and the same has been considered in the present case as well.
- w) With regard to the issue on export performance of the domestic industry, it is noted that export sales of the domestic industry have also declined in the POI. The petitioners have contended that if the production is considered after excluding exports, it would be seen that the production of the domestic industry still shows significant deterioration. Further, in any case, the authority has considered parameters such as profits, return on investments and cash profits for domestic operation only.
- x) With regard to the contention that one applicant has deliberately provided wrong

information/data and there is lack of causal link between alleged dumped goods and alleged injury to the domestic industry and, therefore, the investigation must be terminated on this ground alone; the Authority on complete examination and verification of the information provided by the domestic industry holds that the domestic industry has indeed suffered continued injury as a result of continued dumping.

Cumulative Assessment

41. The Authority has not carried cumulative assessment of injury to the domestic industry in view of the fact that the imports from Korea are below the limits prescribed under the law for cumulative assessment of injury to the domestic industry. Therefore, injury to the domestic industry has been examined cumulatively from the two subject countries.
42. Rule 11 of Antidumping Rules read with Annexure–II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to suppress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
43. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.
44. The present investigation is a sunset review of anti dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply on mutates mutandis basis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutates mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti dumping duties are in force on imports of the product under consideration, the Authority considers that the fact of existing anti dumping duties on imports of the product from Thailand and Korea RP is required to be considered while examining injury to the domestic industry. The Authority has examined whether existing measure is necessary to counteract the dumping causing injury.
45. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, in which case, the Central Govt. may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
46. For the purpose of current injury analysis, the Authority has examined the volume

and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s Indian Acrylics Limited, M/s Vardhman Acrylics Limited and M/s Pasupati Acrylon Ltd., constituting domestic industry under the Rules.

47. The Authority has considered the views of all the interested parties to the extent found relevant to the present investigation and addressed the same appropriately. The Authority has analyzed injury parameters in accordance with the Rules. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted and such information has been treated confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. Accordingly, the volume and price effect of dumped imports have been examined as follows:

Volume Effect of dumped imports and Impact on domestic Industry

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

Demand and Market Share

49. The Authority has considered the transaction-wise import data procured from DGCI&S for the assessment of total volume and value of imports from the subject countries and other countries. The position with regard to demand and market share is as follows –

Particulars	Unit	2009-10	2010-11	2011-12	POI
Assessed Demand	MT	84,541	79,505	79,019	92,684
Sales of Domestic Industry	MT	74,020	58,995	60,561	64,425
Imports – Thailand	MT	5,124	4,811	6,146	10,427
Imports – Korea RP	MT	-	46	-	101
Imports – Subject Countries	MT	5,124	4,857	6,146	10,528
Imports - Countries attracting ADD	MT	2,775	5,822	3,841	5,689
Imports – Other Countries	MT	2,622	9,830	8,471	12,042
Market share in Demand					
Domestic Industry	%	87.56%	74.20%	76.64%	69.51%
Imports – Thailand	%	6.06%	6.05%	7.78%	11.25%
Imports – Korea RP	%	0.00%	0.06%	0.00%	0.11%
Subject Countries	%	6.06%	6.11%	7.78%	11.36%

Particulars	Unit	2009-10	2010-11	2011-12	POI
Countries attracting ADD	%	3.28%	7.32%	4.86%	6.14%
Other Countries	%	3.10%	12.36%	10.72%	12.99%

50. The above data shows that the domestic demand declined in 2010-11 and 2011-12 and then increased significantly in the POI. Whereas imports from Thailand have increased significantly during the POI as compared to the base year; imports from Korea RP are low in volume in 2010-11 and the POI. Imports from other countries attracting anti dumping duties (Belarus and Japan) have also increased over the injury period. Further, the domestic industry has contended that imports from a fresh source, Egypt, have also increased significantly over the injury period. Market share of domestic industry has declined in the POI as compared to the base year as well as 2011-12. However, the market share of imports from Thailand shows an increase.

Import volumes and share of subject countries:

51. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. Annexure II (ii) of the anti dumping rules provides as under:

“While examining the volume of dumped imports, the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”

52. The import volumes for the injury period, considering the data provided by DGCI&S are as under:

Particulars of Imports	Units	2009-10	2010-11	2011-12	2012-13
Imports-Thailand	MT	5,124	4,811	6,146	10,427
Imports-Korea RP	MT	-	46	-	101
<i>Subject Countries</i>	MT	5,124	4,857	6,146	10,528
<i>Countries attracting ADD</i>	MT	1,228	4,018	1,827	3,425
Belarus	MT	1,547	1,805	2,014	2,264
Japan	MT	2,775	5,822	3,841	5,689
Other Countries	MT	2,622	9,830	8,471	12,042
Total imports	MT	10,521	20,509	18,458	28,259
Subject countries imports in relation to					
<input type="checkbox"/> Total Imports	%	49%	23%	33%	37%
<input type="checkbox"/> Consumption	%	6%	6%	8%	11%
<input type="checkbox"/> Production	%	6%	7%	8%	15%

53. The Authority notes that imports from Thailand increased significantly in the POI as compared to the base year. Whereas imports from Thailand have increased, imports from Korea are low in volume.

54. Imports from other countries attracting anti dumping duties (Belarus and Japan) have also increased in 2010-11 and afterwards in comparison to the base year. Further, the domestic industry has contended that imports from a fresh source, Egypt, have also increased significantly over the injury period. Fresh investigations on imports from Egypt had also been initiated by the Authority. However, the Authority has terminated investigations against Egypt on 15th January, 2015 in view of a letter from the domestic industry for withdrawal of its application stating that the sole producer in Egypt has stopped production.
55. The Authority holds that the volume of imports from Thailand was significant throughout the injury period in spite of the anti dumping duty being in place.

Price Effect of the Dumped imports on the Domestic Industry

56. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product 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."

57. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, 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.

Price Undercutting and Price Underselling effects

58. With regard to the effect of the dumped imports on prices, it has been examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
59. 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 countries. 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.
60. For the purpose of price underselling determination, the weighted average landed price from the subject countries has been compared with the non-injurious price of the domestic industry determined for the POI and cost of production for the injury period.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Cost of Sales	Rs./MT	***	***	***	***
Net Sales Realization	Rs./MT	***	***	***	***
Landed Price-Thailand	Rs./MT	***	***	***	***
Landed Price-Korea RP	Rs./MT	***	***	***	***
Price Undercutting – Thailand	Rs./MT	***	***	***	***
Price Undercutting – Korea RP	Rs./MT	***	***	***	***
Price Undercutting – Thailand	%	***	***	***	***
Price Undercutting - Korea	%	-	***	-	***
Price Undercutting – Thailand	% Range				0-10
Price Undercutting – Korea RP	% Range				5-15
Non-injurious Price	Rs./MT				***
Price Underselling – Thailand	Rs./MT				***
Price Underselling – Korea RP	Rs./MT				***
Price Underselling – Thailand	%				***
Price Underselling – Korea RP	%				***
Price Underselling – Thailand	%Range				0-10
Price Underselling – Korea RP	%Range				5-15

61. In this regard, the Authority notes as under:

- a. The landed value of imports from each of the subject countries is below the net selling prices of domestic industry signifying positive price undercutting.
- b. A comparison has also been made between the landed price of imports and cost of sales and the Non Injurious Price. It is noted that landed price of imports from the subject countries is far lower than the cost of sales and the non injurious price in the POI.

62. The Authority thus concludes that the landed value of imports from the subject countries caused significant price undercutting as well as price underselling.

Price Suppression and Price Depression effects of the dumped imports:

63. The price suppression effects of the dumped imports have also been examined with reference to the cost of sales, net sales realization and the landed values from the subject countries. It is noted that the landed price of imports is substantially below the cost and selling price of the Domestic Industry in the POI. Further, whereas both cost of sales and selling prices increased over the period, the increase in the selling price is less than the increase in the cost of sales in the POI. Also, the landed price has not increased to

the extent the cost has increased. The imports are, thus, suppressing the prices in the market. Further, between 2011-12 and the POI, whereas both costs and prices have declined, the decline in the selling prices is more than the decline in cost of production in the POI.

64. The petitioners have claimed that in the event of cessation of current anti-dumping duty and if Domestic Industry chooses to sell at import prices, the Domestic Industry would suffer significant financial losses. The return on investment and cash profit would also be significantly negative. It is concluded that cessation of anti-dumping duty would have significant adverse effect on the prices in the market.

Examination of Economic Parameters relating to the Domestic Industry

65. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. However, the present investigation being a sunset review investigation, injury to the domestic industry is required to be assessed on mutates mutandis basis. Further, the Authority has examined whether existing measure has been sufficient to counteract the dumping which is causing injury. The various injury parameters relating to the domestic industry are discussed below.

Production, Capacity and Capacity Utilization, Sales of the Domestic Industry

66. Based on the verified data, the information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Installed Capacity	MT	92,000	92,000	92,000	92,000
Production	MT	85,936	74,406	72,590	70,066
Capacity Utilization	%	93%	81%	79%	76%
Sales Volume	MT	74,020	58,995	60,561	64,425
Demand	MT	84,541	79,505	79,019	92,684

67. Based upon above data, the Authority notes that-
- a) The sales volume of the domestic industry has declined over the injury period in spite of healthy demand over the injury period and increase in the POI.
 - b) Consequently, the production of the domestic industry has declined over the injury period.
 - c) The capacity has remained unchanged over the injury period. Capacity utilization of the domestic industry has declined over the injury period.

Profitability, return on investment and cash profits

68. The profits, return on investment and cash flow of the domestic industry have been examined as under:

Period	UOM	2009-10	2010-11	2011-12	POI
Cost of Sales	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>151</i>	<i>152</i>	<i>150</i>
Selling Price	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>137</i>	<i>132</i>	<i>130</i>
Profit/loss	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>57</i>	<i>25</i>	<i>24</i>
Profit/loss	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>46</i>	<i>20</i>	<i>21</i>
Cash Profit	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>64</i>	<i>28</i>	<i>30</i>
Return on Investment	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>52</i>	<i>34</i>	<i>41</i>

69. The Authority notes that:
- The profitability of the domestic industry declined significantly over the injury period.
 - The impact of decline in profitability is reflected in declining profits, cash profit and return on investment. Profits, cash profit and return on investment declined significantly over the injury period.

Inventories

70. The Authority has examined the inventory level of the domestic industry, which is given in the following table:-

Particulars	Unit	2009-10	2010-11	2011-12	POI
Stock (Volume) Average	MT	***	***	***	***

71. It is seen from the above information that inventories with the domestic industry increased till 2011-12 and then declined in the POI. However, the level of inventory was higher in the POI as compared to the base year.

Employment and wages

72. The Authority notes that the number of employees has increased up to 2011-12 and then marginally declined in the POI. It is noted that wages paid by the domestic industry

have also increased.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Employment	Nos.	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>102</i>	<i>106</i>	<i>105</i>
Wages	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>118</i>	<i>128</i>	<i>147</i>

Productivity

73. Productivity of the domestic industry has been measured in terms of its labour productivity and per day productivity of the output and the Authority concludes that the productivity has declined in line with decline in production.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Productivity Per Employee	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>85</i>	<i>79</i>	<i>77</i>
Productivity Per Day	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>87</i>	<i>84</i>	<i>82</i>

Factors affecting domestic prices

74. Consideration of the import prices from the subject countries and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market would show that the landed value of imported material from the subject countries is significantly below the selling price of the domestic industry, causing severe price undercutting in the Indian market. The benchmark for the Indian producers' prices is the import prices from various sources, including the subject countries. There is no viable substitute to this product. It is also noted that demand for the subject goods has shown significant increase and this could not have been a factor affecting domestic prices. Thus, the major factors responsible for the domestic industry prices are the landed prices of imports and the cost of production of the domestic industry.

Magnitude of Dumping Margin

75. The Authority notes that the dumping margin of the imports of the subject goods from the subject countries is positive and substantial.

Growth

76. On examination of various economic parameters of the domestic industry, the Authority notes that on a year by year basis, the domestic industry has suffered adverse growth in terms of production, sales, capacity utilization and market share. Parameters such as profits, cash profits and return on investments have also shown decline. Considering the prices at which the exporters in the subject countries are dumping the

subject goods in the Indian market; cessation of anti dumping duty would only lead to surge in the volume of dumped imports causing further retardation of growth.

Growth percent (year by year)	Unit	2009-10	2010-11	2011-12	POI
Production	%	-	-13%	-2%	-3%
Sales Volume	%	-	-20%	3%	6%
Selling Price	%	-	37%	-3%	-1%
Profit per unit	%	-	-43%	-57%	-4%
Return on Investment	%	-	-18%	-7%	3%
Capacity Utilization	%	-	-13%	-2%	-3%
Market share of DI	%	-	-13%	2%	-7%

Ability to raise capital investment

77. The Authority notes that the petitioners are single product companies. Dumping from the subject countries and other sources has compelled the petitioners to curtail production. The petitioners have claimed that any fresh investment in such a situation is infeasible.

Overall assessment of Injury

78. On the basis of the above examination, the Authority concludes that the dumping of the product has continued and the dumping margin is significant; the imports of the product have shown increase from Thailand both in absolute terms and in relation to production and consumption in India; imports are undercutting the prices of the domestic industry in the market; the price underselling is significant & positive; imports have suppressed the prices of the domestic industry in the market. The investigation has thus shown that there has been a significant increase in the dumped imports, both in absolute terms and in relative to production and consumption in India. With regard to the effect of the dumped imports on prices, there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, and the effect of such imports was to depress prices to a significant degree and prevent price increases which otherwise would have occurred, to a significant degree. With regard to consequent impact of the dumped imports on the domestic industry, the investigation has shown that performance of the domestic industry has deteriorated significantly in terms of volume parameters such as market share, production, capacity utilization and sales, as well as price parameters such as profits, cash profits and return on investment. The investigation has thus shown that the domestic industry has suffered continued injury.

Causal Link

79. As per the AD Rules, the Designated Authority is, inter alia, required to examine any known factors other than dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or

changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It was examined whether these other parameters listed under the Rules could have contributed to injury to the domestic industry.

a) **Imports from other countries and other known factors**

80. During the POI, other than the subject countries, imports have taken place from Japan and Belarus against which antidumping duty is in force. Further, imports from Egypt were also entering at low prices and the volume of imports from this source was above de-minimis. On being prime facie satisfied, the Authority had initiated investigations for imposition of anti dumping duties on imports from Egypt. However, the Authority has terminated investigations against Egypt on 15th January, 2015 in view of a letter from the domestic industry for withdrawal of its application stating that the sole producer in Egypt has stopped production. Imports from all other countries, other than these, are either negligible or the prices are high.

b) **Contraction in demand**

81. The data shows demand of the product under consideration had declined up to 2011-12 and then increased significantly in the POI. Therefore, decline in demand cannot be considered as the factor that could have impacted the performance of the domestic industry.

c) **Change in pattern of consumption**

82. Interested parties have contended that other textile fibres have caused injury to the domestic industry. The authority however notes that the demand for the product has increased over the injury period. Further, various textile fibres were competing in the same Indian market not only over the injury period, but also for quite sometime. It is thus not a case where the consumption pattern with regard to the product under consideration has undergone a change.

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

83. The subject goods are freely importable. No trade restrictive practices in the domestic market have been brought to the knowledge of the Authority. The domestic producers compete with each other and at the same time with the subject goods being imported. The price of the domestic industry is influenced by the landed price of subject goods. The landed price of imports from subject countries are below the selling price of the domestic industry. There is no evidence on record that the inter-se competition between the domestic producers increased/changed to such a significant extent that the injury to the domestic industry is on account of this inter-se competition.

e) **Development of technology**

84. The investigation has not shown any significant development in technology which could have caused injury to the domestic industry.

f) **Exports by the domestic industry**

85. The petitioners export the product under consideration. However, information relating to domestic sales only has been taken into consideration for assessment of injury to the extent possible.

g) **Productivity**

86. The Authority notes that productivity of the domestic industry has declined in tandem with the production of the domestic industry. However, changes in the productivity have not been so significant as to have resulted in so significant changes in the profitability of the domestic industry. Changes in the productivity of the domestic industry could not be a cause of injury to the domestic industry.

87. The Authority, therefore, concludes that the other listed and known parameters have not caused injury to the domestic industry. Interested parties have contended that a number of other factors have caused injury to the domestic industry. The Authority has examined these contentions of the interested parties and has found that the deterioration in performance of the domestic industry is not on account of these other factors brought out by the interested parties.

H. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

Submissions by the Domestic Industry

88. The domestic industry submitted as under in support of its claim of likelihood of continuation or recurrence of dumping and injury in case the existing duties were allowed to be ceased.

- (a) The imports have continued to enter at dumped prices.
- (b) The volume of imports from Thailand has increased over the injury period.
- (c) The volume of imports from the subject countries are likely to increase in the event of revocation of ADD for the following reasons –
 - i) The producers in the subject countries are exporting nearly 70-80% of the total production.
 - ii) The volume of exports from Thailand to third countries has increased over the injury period.
 - iii) The volume of exports from Korea to third countries has remained significant over the injury period.
 - iv) Considering the export volumes from the subject countries to third countries, exports to Indian market would increase in the event of revocation of anti dumping duty.
- (d) Exporters in the subject countries have capacities far in excess of domestic demand in home market and Indian demand.
- (e) Dumping margin in the previous sunset review investigation is illustrative of the fact that dumping has continued in spite of antidumping duty in force.
- (f) The volume of imports from the subject countries is significant and continuously increasing and the dumping margin is also significantly high.

- (g) Landed value of imports are at a price which is lower than the selling price of Domestic Industry. The producers in the subject countries would, therefore, aggressively target Indian market in the event of cessation of anti dumping duty.
- (h) The domestic industry is suffering injury in terms of volume as well as price parameters. Further, aggravated injury cannot be ruled out if dumping continues and occurs in increased volumes in case present duties are not extended.

Submissions by other interested parties

89. The views of other interested parties on likelihood of dumping and injury are as follows:
- a) Any claim of likelihood of continuation or recurrence of injury as a consequence of cessation of the anti-dumping duties in force has to be evaluated in the prospective context and market scenario that is likely to happen upon expiration of the anti-dumping duty rather than harping back to what had transpired in the past.
 - b) Domestic industry has not complied with likelihood requirements.
 - c) The two claims of the petitioners are contradictory as there cannot be both continuation and recurrence of injury at the same time from the same sources, for the reason that in case they continued to suffer injury, axiomatically there would not be any case for its recurrence.
 - d) Mere assertions by the Applicants as regards 'consequent injury' claims must not be accepted by the Authority unless clear and cogent proof regarding the same are placed on record.
 - e) Thai Acrylic Fibre has been operating at full capacity throughout the injury analysis period and has no plans to augment additional capacity. It is further argued that they have a strong presence in other countries and there is no likelihood of shifting supplies from these markets into India if the antidumping duty were terminated and are unlikely to reduce the export prices to India if the duty were revoked.

Examination by the Authority

90. In order to determine whether dumping is likely to continue or recur in the future if the duties are revoked; the trend in volume of sales of the exporter and its prices in the home market and third country export markets have been examined by the Authority. The submissions made by the domestic industry have also been considered.
91. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from Thailand and Korea RP. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires examination whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In the present investigation, as there are continued dumped imports, the Authority is not required to examine whether revocation of duty is likely to lead to continued dumping of the product. However, considering the fact that the dumping margin in the previous investigations as well as the present investigation is significant and that there are favorable market conditions in the Indian market as far as demand and price for the subject goods are concerned, the Authority has reason to believe that dumping may intensify if the duty is revoked. It is a matter of fact that despite the anti-dumping measures in force, the subject countries were still dumping the subject goods in the Indian market.

92. The volume of dumped imports from Thailand has increased over the injury period in spite of the fact that anti dumping duty on the subject goods is in force. The current volume of imports from Thailand itself is significant enough to show the likelihood of dumping and consequent injury to the domestic industry in the event of cessation of anti dumping duty.
93. With regard to the contention that evaluation of likelihood of continuation or recurrence of injury should be in prospective context, the Authority notes that it is a well established practice of the Designated Authority to define an injury period and consider the same for the purpose of deciding the likelihood of continuation or recurrence of dumping and injury. The evaluation has to be based on the past data even if it is with regard to the likelihood in the event of cessation of anti dumping duty in future. Further, the Authority has been considering six months post-POI data in those situations where the volume of imports in the POI is not significant enough or does not establish dumping causing injury to the domestic industry.
94. With regard to the contention that Domestic industry has not complied with likelihood requirements; the Authority has examined the various injury parameters and notes that dumping has continued and has caused injury to the domestic industry in spite of anti dumping duty being in force.
95. With regard to the contention that the two claims of the petitioners are contradictory as there cannot be both continuation and recurrence of injury at the same time from the same sources, for the reason that in case they continued to suffer injury, axiomatically there would not be any case for its recurrence; it is noted that both dumping and injury have continued in this case.
96. With regard to the contention of the exporter that mere assertions by the Applicants as regards 'consequent injury' claims must not be accepted by the Authority unless clear and cogent proof regarding the same are placed on record; the Authority has examined the various injury parameters and notes that dumping has continued and caused injury to the domestic industry in the POI.
97. With regard to the argument by the exporter from Thailand that they have a strong presence in other countries and there is no likelihood of shifting supplies from these markets into India if the antidumping duty were terminated and they are unlikely to reduce the export prices to India if the duty were revoked; the Authority notes that examination of dumping and injury and likelihood of continuation or recurrence of dumping and injury is conducted on the basis of a pre-determined injury period. The Authority has examined the relevant parameters on the basis of information available for the specified injury period and notes that there has been continued dumping and injury and there is likelihood of dumping and injury also. Further, the current volume of exports from Thailand is significant enough to conclude likelihood of dumping and injury. This clearly shows likelihood of increased importation in the event of cessation of anti dumping duty.
98. With regard to the argument of Thai exporter that it is already operating at full capacity, the Authority notes that the present volume of exports from Thailand to India

itself is significant enough to conclude with regard to likelihood of dumping and injury to the domestic industry in the event of cessation of anti dumping duty.

99. Further, the Authority has examined the aspect of likelihood of dumping and injury as well and holds that dumping and consequent injury to the domestic industry is likely in the absence of anti dumping duty. The following analysis further shows the likelihood of continuation/intensification of dumping and injury to the domestic industry in the event of revocation of anti dumping duty:

(i) **Level of current and past dumping margin**

100. The level of dumping margin in the original, mid-term and sunset reviews as well as present investigation is significant. Despite the domestic industry holding the capacity to meet the entire demand, imports of the subject goods from the subject countries still continue at dumped prices. Given the level of price undercutting and price underselling, the volume of dumped imports is likely to increase further in the event of revocation of anti-dumping duty.

(ii) **Price attractiveness of Indian market**

101. The price at which the subject goods are being exported by Thailand and Korea RP to India is an indicator of the likelihood of continuation/intensification of dumping. At the current landed price in India, there is positive price undercutting. Thus, with the revocation of anti dumping duty, the Indian prices would be too attractive for the foreign producers to intensify their exports to India at dumped prices and there is strong likelihood that Indian consumers would resort to large scale imports of the subject goods from the subject countries.

(iii) **Export orientation of producers in the subject countries**

102. The domestic industry has contended that the foreign producers/ exporters are very much export oriented. In case of Korea RP, there was no cooperation from the Korean producers/exporters and available information shows that whereas the demand in the domestic market is quite low, the capacities with the Korean producer were 1 lac MT. Korean customs data shows exports from Korea in the region of 35,000 MT during the injury period. It is also noted that whereas the Korean customs data shows consistent and significant exports from Korea RP, the Indian customs data shows quite low volume of imports from Korea. If the Korean customs data is considered, the volume of imports in India is significant. Further, it is noted that exports from Korea RP to China as per Korean customs data shows significant decline from about 28,000 MT in 2010 to about 14,500 MT in 2012. Even though exports have increased to some other countries such as Iran, Indonesia, the volume of exports in 2012 were lower than the volume of exports in 2010. In any case, the volume of exports from Korea RP is significantly lower than the capacities in Korea RP. Considering the high demand and favorable market conditions for the subject goods in India and the high production capacity and export orientation of these producers, the Authority holds that in the event of revocation of anti dumping duties, these exporters in the subject countries are likely to increase their exports to India at dumped prices.

(iv) **Huge production capacity in the subject countries**

103. The domestic industry has submitted that the producers of the subject goods in the subject countries have huge production capacity. In the event of revocation of anti-dumping duty and considering the export orientation, the producers in the subject countries are capable of completely overtaking the Indian manufacturing sector engaged in subject goods.

(v) **Significant increase in volume of imports between original investigation period and subsequent investigations periods**

104. An analysis of the volume of imports reported in the previous cases as well as in the current period shows that volume of imports in case of Thailand has remained significant despite existing anti dumping duties. When the imports from Thailand remained significant even in the presence of anti dumping duty, there are all the probabilities that the volume would at the least increase in the event of cessation of anti dumping duty. There is no reason to believe that the volume will decline in the event of cessation of anti dumping duty.

(vi) **Market Share held by the subject countries in the Indian market**

105. The market share of dumped imports from Thailand is quite significant in spite of the existing anti dumping duties. In the event of revocation of anti dumping duty, the volumes are bound to surge.

106. On the basis of the above analysis, the Authority holds that revocation of duty is likely to lead to continued dumping of the product from the subject countries and consequent injury to the domestic industry.

I. MAGNITUDE OF INJURY AND INJURY MARGIN

107. The non-injurious price of the subject goods, determined by the Authority, 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 countries for determination of the injury margin, which works out as follows:

Injury Margin Table

Injury Margins	UOM	M/s Thai Acrylic Co Ltd, Thailand	Other exporters from Thailand	Korea RP
NIP	Rs./MT	***	***	***
Landed Value	Rs./MT	***	***	***
Injury Margin	Rs./MT	***	***	***
Injury Margin	US\$/MT	***	***	***
Injury Margin	%	***	***	***
Injury Margin Range	%	0-10	15-25	5-15

108. The injury margins from the subject countries are significantly above de-minimis.

J. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:

109. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.
110. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping 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 in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

K. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

K.1 Post Disclosure Statement submissions by the opposing Interested Parties

111. The Authority notes that most of the post disclosure statement submissions made by the opposing interested parties are repetitive in nature and have already been dealt with in the Disclosure Statement. The opposite interested parties have, in brief, filed the following post Disclosure Statement submissions:
- a. Merely 3 days' time has been provided to comment on the Disclosure statement in the present proceedings which has too many issues that have simply not been appropriately addressed. We thus reiterate and rely on all our earlier submissions made during the course of this investigation proceeding and the same are not repeated herein for the sake of brevity. Further, the same may be treated as part of our submissions to the Disclosure statement.
 - b. The proposition that because the imports of the subject goods from Thailand have been significant despite the imposition of anti-dumping and hence the duty ought to be continued is grossly fallacious. This is because the Authority has squarely failed to consider the fact that bulk of these imports have been effected under the Duty free schemes of the Foreign Trade Policy wherein the anti-dumping duty remains inconsequential.
 - c. Further, it is a fact that the imports of acrylic fibre into India from Thailand have increased insignificantly over the period of 2009 to 2013.

- d. The Authority has erroneously noted that the scope of the product has already been decided by the Authority in the past investigations wherein the Authority has held that no specialty fibre is required to be excluded from the scope of the product. It is submitted that in each investigation it needs to be appreciated by the Authority whether the PUC is a homogenous product or not. And if there are different variety of the PUC and some of which are not been produced by the domestic industry then such varieties have been excluded from the ambit and scope of the investigation by the Authority. It has been proved beyond doubt in the present proceedings that the domestic industry neither has been producing these specialty fibres nor has the capability to do so. The domestic producers are not manufacturing certain specialty types of Acrylic Fibres that are required by the Indian user industry. For instance, 2.0 d and 1.5 d bright and semi dull Anti-pilling tow / fibre; 3.0 d Bi-component Conjugate tow; 3.0 d Super high shrinkable fibre, Gel Dyed fiber and tow are not being manufactured by Indian Acrylic Fibres producers; whereas there is significant demand of the same from the user industry in India.
- e. It further needs to be noted that there is shortage of Exlan technology fibre in India. It is further reiterated that anti-pilling fibre/tow is a special fibre which imparts anti-pilling characteristics to the final garment by virtue of which pill formation is prevented over repeated uses and washing of garment. The above-mentioned Specialty Acrylic Fibres are not manufactured by any of the domestic Acrylic fibre manufacturers. Attention of the Authority is drawn to similar decisions taken by the Hon'ble Authority in the recent past. For instance, Cold Rolled Steel Flat of Stainless Steel products originating in or exported from China PR, Japan, Korea, European Union, South Africa, Taiwan, Thailand and USA: anti-dumping Investigation concerning import of Glass Fibre and articles thereof originating in or exported from China PR. Given the above facts and precedents, the inclusion of the Specialty Acrylic fibres mentioned above by us in the scope of the Anti-dumping duty is unreasonable and untenable.
- f. The Disclosure statement has paid a lip service to our claim that period of investigation (hereinafter the "POI") in the present SSR investigation is April 2012 to March 2013. It is important to note that the legal provisions enjoin that the POI in SSR proceedings must end with the period that is as close as possible to the date of expiry of the anti-dumping duty. This is primarily because in an SSR matter, the Authority is obligated by law to ascertain the likelihood of any continuation or recurrence of dumping and injury in the event of expiration of the antidumping duty.
- g. It is submitted that the Applicant in its NCV of the application has kept substantial information as confidential for which no reasonable justification exists. Only proforma justification has been provided, which clearly is not a proper or adequate justification to claim confidentiality.
- h. While undertaking determination of Dumping in respect of Thai Acrylic Fibre Co, , the Authority in its analysis has held back from us the Normal value arrived by it and the detailed working thereof. Instead of disclosing the complete working of its determination of dumping in respect of Thai Acrylic Fibre Co., the Authority has merely disclosed only the percentage of profitable sales. It needs to be appreciated that in the absence of the exact details of Normal value along with its detailed

working, we are hampered to offer comments on the same as to whether it has been correctly determined or not.

- i. It is submitted that the Authority should have ascertained the reasons pertaining to significant profits made by one constituent of the domestic industry and the losses by the other. Such an analysis would have led the Hon'ble Authority to true reasons relating to injury, if any, to the domestic industry.
- j. The statements as reflected in the Director's reports and Annual reports squarely pertain to Acrylic Fibre business alone. Therefore, the Authority's conclusion that operations of the product under consideration in the domestic market have only been impacted by the alleged dumped imports is grossly incorrect.
- k. The claim of the domestic industry that the producers of the subject goods in the subject countries have huge production capacity is strongly contested as TAF is already operating at full capacity.
- l. There are innumerable references in the Annual reports pointing out that the cost of production of the domestic producers is significantly higher due to imports of major raw materials such as ACN.
- m. The Applicants have acknowledged that change in the cost structure, competition in the domestic market, factors other than dumped imports might be affecting the prices of the domestic industry in the domestic market.
- n. The profitability of Vardhman, which produces Exlan type of Fibre, is the highest in the world amongst Acrylic Fibre manufacturers.
- o. It has been acknowledged that the domestic industry's poor performance, if any, was due to the slowing global economy weighed down by Euro Zone crises, uncertainty about fiscal policy in USA and lower consumer spending that adversely affected the growth of Industry.
- p. The Authority must note the fact that the period of 2009-10 was an exceptionally bright year for the Acrylic Fibre industry and therefore most Acrylic Fibres producers did well. Besides, kindly note that the antidumping duty was levied on 20.11.2008 and therefore the correct year of reference should have been 2008-09. Hence, if the Authority uses the 2009-10 data for undertaking the 'injury analysis' in the present proceedings, then naturally the performance of all Acrylic Fibres producers, including the Indian domestic producers over the following years will look low.
- q. The real reasons for the poor performance of the domestic industry has been grim global economic environment, particularly in the Euro zone and the USA; losses on account of significant volatility in the prices of Acrylonitrile (ACN- the principal raw material) and the rise of USD vis a vis the INR etc. Significantly these losses have not been attributed to any continued dumping of the subject goods.

K.2 Post Disclosure Statement submissions by the Domestic Industry

112. The Authority notes that most of the post disclosure statement submissions made by the domestic industry are repetitive in nature and have already been dealt with in the

Disclosure Statement. Following are, in brief, the post Disclosure Statement submissions made by the domestic industry:

- a. In spite of the anti-dumping duty in force, the volume of imports from Thailand has increased in the present injury period. However, the volume of imports from Korea RP has declined.
- b. The imports of the subject goods from the subject countries continued to enter at dumped prices in spite of existing anti dumping duties.
- c. The landed value of imports from the subject countries caused significant price undercutting as well as price underselling.
- d. The imports were suppressing the prices of the domestic industry in the market.
- e. Price suppression led to a situation wherein the domestic industry suffered significant deterioration in its performance in respect of profits, return on investment and cash flow.
- f. Price suppression indicates the likely adverse price effect of dumped imports on domestic industry in the event of cessation of anti dumping duties in force.
- g. Since the product under consideration is reported under different customs classifications, the Designated Authority may kindly specify in duty table that the product under consideration should attract duty regardless of these customs classifications under which goods are being cleared by the importers.
- h. The Designated Authority may consider following pertinent submissions of the domestic industry with regard to determination of NIP, which have direct bearing on dumping margin and injury margin.
- i. Interest bearing creditors-The established practice of the Authority is to exclude interest bearing loans included in current liabilities for determining working capital. The interest bearing credits for raw material purchases are akin to short-term loans and in fact attracts interest cost. In the present case, both Indian Acrylics and Pasupati Acrylon have bought major raw materials by utilizing interest bearing credits. Such amount of current liabilities should therefore not part form of current liabilities and should not be reduced from net fixed assets.
- j. Fixed deposit under bank lien- Petitioners submit that fixed deposits in bank which are in the nature of deposits not linked to manufacturing operations are different from fixed deposits in the bank which are required to be made to meet statutory obligations for production and sale of the product under consideration. Therefore, fixed deposits for production activities may kindly be permitted.
- k. Though the volume of imports as reported by Indian Customs data shows a decline; the volume of exports reported by Korean Customs data shows significant volume of exports of Acrylic Fibre to India. The petitioners request the Authority to consider the volumes as reported by Korean Customs to assess the volume of dumped imports from Korea to India for the purpose of injury analysis.
- l. The cost of production of the product has undergone significant changes with changes in the cost of inputs. Therefore, the only appropriate forms of measures is fixed quantum.
- m. The anti dumping duty is required to be continued in fixed form and the duty expressed in US\$ terms.

K.3 Examination by the Authority

113. The Authority notes that most of the post disclosure statement submissions made by the domestic industry and the opposing interested parties are repetitive in nature and have already been dealt with in the Disclosure Statement and again have been addressed in this Final Findings Notification under the appropriate headings. Nonetheless, the Authority has addressed these issues to the extent considered relevant as under:
- a. As regards the contention that the time available for offering comments to disclosure statement, the Authority notes that Thai Acrylic Fibre Co has in fact filed elaborate comments to Disclosure Statement issued by the Authority, nor there is no prescribed minimum time under the Rules for offering comments to Disclosure Statement.
 - b. As regards the contention that the imports of the product are under duty free scheme category and, therefore, the volume of imports is irrelevant to determine likelihood, the Authority considers that the price at which duty free imports have been made during the POI and the volume of imports during the POI clearly show the price at which the goods are likely to be imported in the event of cessation of anti dumping duty. The questionnaire response filed by Thai Acrylic Fibre shows significant dumping margin which in fact is much higher than the dumping margin determined by the Authority in the past in respect of exports made by the company. Volume of exports from Thailand to India clearly shows a significant increase over the period. It is also noted that the Authority has been consistently considering the fact that the imports have been made under duty free category does not imply that the same do not cause injury to the domestic industry. The Authority has not compared CIF import price with the selling price of domestic industry. The Authority has added customs duty notionally to determine whether the imports are likely to undercut the prices of the domestic industry and whether the effect of cessation of anti dumping duty shall be to suppress or depress the prices in the market.
 - c. As regards the contention that the imports of acrylic fibre into India from Thailand have increased insignificantly over the period of 2009 to 2013, the Authority notes that the imports from Thailand remained in the region of 5000-6000 MT during 2009-10 and 2011-12. The same, however, increased to 10427 MT during the POI. It is thus seen that the imports have in fact increased significantly during the POI.
 - d. As regards the submissions concerning the period that should be considered for determination, the Authority notes that the POI considered in the present case is appropriate. There is no statutory requirement that the POI in SSR proceedings must end with the period that is as close as possible to the date of expiry of the anti-dumping duty. The investigation in the instant case was initiated vide notification dated 24th Sept., 2013 and the present duty was to expire on 20th Nov., 2013 and, therefore, the investigation period has been rightly considered as 2012-13. Further, post POI period of 6 months has been adopted by the Authority in the past also in numerous sunset review investigations.
 - e. As regards the contention that some speciality varieties of the product are not being produced by the domestic industry and therefore, these should be excluded from the scope of the product, the Authority notes that the domestic industry has produced and

sold like article to the imported product. Further, as per the evidence on record, all the three petitioners put together produce speciality grade Acrylic fibre. Further, to the contention that there is shortage of Exlan technology in India and Acrylic Top is a value added product which is not produced by the domestic industry and, thus, should be treated outside the scope of the product under consideration, it is noted that the CESTAT in the matter of Thai Acrylic Fibre Co Ltd vs. Designated Authority Final Order No AD/5/2010(PB), dated 30.04.2010 in appeal no. AD/4/2009 has held, inter-alia, that in fact Chapter 55 covers (man made staple) fibres and Acrylic Fibre being one of them. Acrylic Tow, Acrylic staple Fibre and Acrylic Top are all acrylic fibres falling under Chapter 55, and hence, coverage of all these products under the anti-dumping notification which Acrylic Fibres of Chapter 55 cannot be denied. The Authority thus rightly considers that it would not be appropriate to exclude speciality fibre from the ambit of anti dumping duty.

- f. As regards the argument on confidentiality of information in the petition, it is noted that the Authority has granted confidentiality wherever warranted and such information has been considered confidential and not disclosed to other interested parties.
- g. As regards disclosure of dumping margin calculations to Thai Acrylic Fibre, it is clarified that all relevant information has been disclosed to the exporter. Regarding the claim that the Authority in its analysis has held back from the exporter from Thailand the Normal value arrived by it and the detailed working thereof, the Authority notes that for computation of Normal Value, the domestic sales of the subject goods were considered based on the verified data in Appendix -1. It was disclosed to the exporter as to what percentage of verified profitable domestic sales were considered for the purpose of determining the Normal Value. Adjustments as claimed were allowed by the Authority.
- h. As regards difference in inter-se profitability of the domestic industry, the Authority notes that the Rules require the Authority to determine injury to the domestic industry by considering domestic industry as a whole. Injury to the domestic industry cannot be determined by selectively considering one or more constituents of the domestic industry. As regards inter-se difference between the domestic industry, the Authority notes that all the three constituents of the domestic industry were present in the market throughout the injury period. There was no significant increase in capacities with any of domestic producers. Therefore, there was no material change in the conditions of competition amongst domestic producers. It is, however, noted that there was significant decline in profitability of the domestic industry over the injury period. Thus, with no material change in conditions of competition amongst domestic producers and increase in demand over the period, decline in profits over the injury period could not be due to inter-se competition amongst domestic producers.
- i. As regards the argument that the calculations of landed price of imports is erroneous, as it includes transactions under advance licence, the Authority notes that it has been consistent practice of the Authority to add customs duty to the imports whether or not the imports were made after payment of customs duty in order to determine likely effect of dumped imports on the domestic industry and injury margin in the event of cessation of anti dumping duty.

- j. As regards the existence of huge production capacity in Thailand and the fact that the company in Thailand is operating at full capacity does not imply no likelihood, as the imports from Thailand in fact increased from 5000-6000 MT during 2009-11 to above 10,000 MT during the POI.
- k. As regards the argument that the cost of production is high due to increase in raw material prices, the Authority notes that the Rules in fact require the authority to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of like product 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. Evidently, the rules recognise that the domestic industry might need to increase the prices of the product in the market. Domestic industry would increase the price if cost of production increases due to increase in raw material costs. Thus, if the annual report states that the profits declined due to increase in cost of production or increase in raw material costs, it implies that the domestic industry was not able to increase its prices of the product. The investigation has clearly established significant price undercutting by the dumped imports from Thailand even after adding prevailing customs duty.
- l. It has been contended that the Applicants have acknowledged that change in the cost structure, competition in the domestic market, factors other than dumped imports might be affecting the prices of the domestic industry in the domestic market. On the contrary, the domestic industry has contended that consideration of these factors would show that the landed value of imported material from the subject countries is significantly below the selling price of the domestic industry, causing significant price undercutting in the Indian market and that the benchmark for the Indian producers' prices is the import prices from the subject countries and other countries dumping the product. It is thus noted that the exporter has selectively referred to submissions made by the petitioners.
- m. As regards difference in profitability of the domestic industry, the authority notes that the difference in profitability of the domestic industry is not relevant for the purpose. The authority has considered weighted average profitability of the domestic industry as a whole for the present determination. The authority has not based its conclusion on a company having lowest profitability. Further, it is noted that profitability of all the three companies shows the same trend, i.e., significant decline in profitability.
- n. As regards the argument that the domestic industry has acknowledged that the domestic industry's poor performance was due to the slowing global economy weighed down by Euro Zone crises, uncertainty about fiscal policy in USA and lower consumer spending that adversely affected the growth of Industry, the authority notes that the demand for the product under consideration in the Indian market shows rising trend. Further, these observations of the domestic industry are with regard to global market. Rules require the authority to consider performance of the domestic industry with regard to its domestic operations. In fact, rules require the authority to examine whether injury to the domestic industry is due to its adverse export performance. Thus, adverse situations in global market economies were not the factors that have adversely impacted the domestic industry in the Indian market.

- o. With regard to the contention that the year 2009-10 is not an appropriate base year for the present purpose, the authority notes that it is the POI and injury period is consistent with the practice of the authority. Moreover, it is seen that the profits of the domestic industry in POI were lower not only as compared to 2009-10, but also as compared to 2010-11. In fact profits in POI were 42% of the profits in 2010-11, thus clearly showing that the deterioration in profits is not because of consideration of 2009-10 as the base year.
- p. As regards the argument that real reasons for the poor performance of the domestic industry is grim global economic environment, particularly in the Euro zone and the USA; losses on account of significant volatility in the prices of Acrylonitrile and appreciation of US\$, the authority notes that the global economic situations are not relevant for the injury to the domestic industry assessed for the domestic market. Appreciation of US\$ should have in fact provided better market situation for the domestic industry, as the appreciation of US\$ should have made imported product costlier. As regards raw material prices, as examined above, the domestic industry has legitimate expectation to increase its prices in line with the increase in costs. If the domestic industry has been prevented from increasing its prices in line with the cost increases, it must be concluded that the imports are suppressing the prices of the domestic industry in the market.

L. CONCLUSION

114. After examining the submissions made by the opposing interested parties and the domestic industry and issues raised therein; and considering the facts available on record, the Authority concludes that the product under consideration has been exported to India from the subject country below its associated normal value, thus, resulting in dumping of the product. The domestic industry has suffered material injury in respect of the subject goods. The material injury has been caused by the dumped imports from the subject countries.

M. RECOMMENDATION

115. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and the causal link. Having initiated and conducted investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti dumping duty is required to offset dumping and consequent injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of the subject goods from the subject countries in the form and manner described hereunder.
116. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duties as per the amount

specified in the table below are recommended to be imposed from the date of the Notification to be issued by the Central Government, on all imports of the subject goods originating in or exported from the subject countries.

Duty Table

Sl No	Sub-heading	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
1.	550130, 550330 and 550630	Acrylic Fibre	Thailand	Thailand	Thai Acrylic Fibre Company Ltd., Thailand	Thai Acrylic Fibre Company Ltd., Thailand	162	MT	US\$
2.	550130, 550330 and 550630	Acrylic Fibre	Thailand	Thailand	Any other than the combination at Sl No 1		493	MT	US\$
3.	550130, 550330 and 550630	Acrylic Fibre	Thailand	Any country other than subject countries	Any	Any	493	MT	
4.	550130, 550330 and 550630	Acrylic Fibre	Any country other than subject countries	Thailand	Any	Any	493	MT	US\$
5.	550130, 550330 and 550630	Acrylic Fibre	Korea RP	Korea RP	Any	Any	270	MT	US\$
6.	550130, 550330 and 550630	Acrylic Fibre	Korea RP	Any country other than subject countries	Any	Any	270	MT	US\$
7.	550130, 550330 and 550630	Acrylic Fibre	Any country other than subject countries	Korea RP	Any	Any	270	MT	US\$

117. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
118. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(J K Dadoo)

Designated Authority