

To be published in Part-I Section I of the Gazette of India Extraordinary

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

NOTIFICATION

NEW DELHI,  
Dated the 5<sup>th</sup> July 2010

**Final Findings  
(Sunset Review)**

**Subject: - Sunset Review Investigation of Anti- dumping duty imposed on imports of Acrylic Fibre originating in or exported from Japan and Belarus.**

**No. 15/34/2008-DGAD**– Whereas having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as ADD Rules), vide Notification Number 15/04/2003-DGAD dated 10.11.2004, the Designated Authority (herein after referred to as the Authority) notified its final findings in the review investigation recommending continuation of antidumping duty on import of Acrylic Fibre (hereinafter referred to as subject goods) originating in or exported from Japan. The original anti dumping investigation was initiated on 7.01.1998 and definitive anti dumping duty was recommended vide final findings Notification No.32/1/97-ADD dated 24.12.1998 on Italy, Spain, Portugal and Japan. However, in the first Sunset review, the continuation of anti dumping duty was recommended only from Japan. On the basis of findings, definitive anti-dumping duties were imposed on the subject goods by the Department of Revenue vide notification No. 114/2004-Cus. dated 21.12.2004.

2. And whereas the Authority vide Notification No. 14/5/2003 dated 7<sup>th</sup> December 2004 notified its final findings in anti-dumping investigation recommending definitive antidumping duty on imports of Acrylic Fibre originating in or exported from Belarus. On the basis of findings, the definitive anti-dumping duties were imposed on the subject goods by the Department of Revenue vide Customs Notification No. 117/2004 dated 30.12.2004.

3. Forum of Acrylic Fibres Manufacturers, New Delhi through the participating companies, viz., M/s. Indian Acrylics Ltd, M/s Pasupati Acrylon Ltd.and M/s. Vardhman Acrylics Ltd., has approached the authority with an application under Section 9A(5) of the Customs Tariff Act, 1975, as amended in 1995 read with Rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 requesting sunset review of anti

dumping duties earlier imposed on imports of Acrylic Fibre from Japan & Belarus. In its application, the applicant substantiated the need for a review of the anti dumping duty imposed on the subject goods originating in or exported from Japan & Belarus. The petitioner claimed with prima facie evidence that cessation of anti dumping duty imposed on subject goods from these countries is likely to lead to continuation or recurrence of dumping and injury and have requested for continuation and enhancement of the anti dumping duty imposed on subject goods from subject countries for a further period of five years.

4. And whereas in view of judgment of Hon'ble Delhi High Court in WP No 16893 of 2006 holding that sunset review is mandatory, the Authority initiated a sunset review dated 6<sup>th</sup> July 2009 in accordance with Section 9 A (5) of the Act, read with Rule 23 of Antidumping Rules, to review the need for continued imposition of duties in force and whether the expiry of the duty is likely to lead to continuation or recurrence of dumping and injury.

**A. PROCEDURE**

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

- i) After initiation of the review investigation, the Authority notified the domestic industry, all known exporters/producers in the subject countries and known importers, calling for questionnaire responses and necessary information in accordance with Rule 6(4);
- ii) The Embassy of the subject countries in New Delhi was intimated about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in their respective countries to respond to the questionnaire within the prescribed time.
- iii) The Authority sent questionnaires, to elicit relevant information, to the following known exporters/producers from Japan and Belarus.

S.N.	Company's Name
1.	M/s. JSC "Polymir",211440, Novopolotsk, Vitebsk Region,Republic Of Belarus
2.	ITOCHU Corporation,5-1, Kita-Aoyama 2-chome Minato-ku, Tokyo 107-8077, Japan,TEL: 03-3497-2121
3.	Asahi Kasei Chemicals,1-105 Kanda Jinbocho, Chiyoda-ku, Tokyo 101-8101 Japan
4.	Mitsui & Co. ,Bldg. 2-1, Ohtemachi 1-chome Chiyoda-ku, Tokyo 100-0004, Japan

- iv) Only one exporter from Belarus, M/s. JSC Polymir, responded to the questionnaire in response to the above notification.

- v) Questionnaires were sent to the following known importers, users and associations of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

S.N.	Company's Name
1.	Rajasthan Spinning & Weaving Mills Ltd. Bhilwara Bhawan,40-41, Community Center,New Delhi – 110 065
2.	Vardhaman Spinning & General Mills Chandigarh Road, Ludhiana – 141 011,Punjab
3.	Deepak Spinners Limited SCO 16, 2nd floor, Sector 26,Chandigarh – 160 019
4.	Malwa Cotton Spinning Mills Ltd. Industrial Area, 'A', Ludhiana – 141 003,Punjab.
5.	Shiwaliya Spg. & Wvg. Mills (P) td. Village Dhandari Khurd, G.T. Road Dhandari khurd,Ludhiana
6.	Deepak Spinners Limited 121, Industrial Area, Distt. Solan Baddi (H.P)
7.	Shiva Fabricator (P) Limited Village IRAQ, Kuhara Machiwara Road, Machiwara, Distt. Ludhiana
8	Supreme Tex Mart Limited 424 Industrial Area –A,Cheema Chowk,Ludhiana
9.	Yogendra Worsted Limited Village Lal Kalan, Near Neelam Bridge,Tehsil Samrala Distt. Ludhiana
10.	Shree Rajasthan Syntex Limited Post Box 5, Simalwara Road ,Village Udaipur Dungarpur,Rajasthan
11.	Banswara Syntex Limited Industrial Area,Dahad Road,Post Box 21,Banswara, Rajasthan
12.	Ganga Acrowools Limited G.T. Road, Village Kot Sekhon ,The. Khanna Ludhiana
13.	Shital Fibres Limited A-17, Focal Point (Extn.),Jalandhar
14.	Arisudana Industries Limited Village Jaspalan (Doraha),Tehsil Khanna,Ludhiana
15.	Sportking India Limited Village Meharban,Rahon Road,Ludhiana
16.	Texas Woollen Mills (P) Limited Machiwara Road, Kohara, Distt. Ludhiana
17.	Jindal Cotex Limited V.P.O. Jugiana, G.T.Road,Ludhiana
18.	Garg Acrylics Limited Kanganwal Road, P.O. Jugiana ,G.T.Road,Ludhiana

- vi) The period of investigation for the purpose of the present review is 1st Jan 2008 to 31st Dec 2008 (12 months). However, injury analysis covered the years 2005-06, 2006-07, 2007-08 and Jan 2008- Dec 2008.
- vii) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, and the period of investigations;
- viii) The following domestic producers of the subject goods have provided their cost and injury information for injury investigation.
  - a. M/s Indian Acrylic Ltd;
  - b. M/s Pasupati Acrylon;
  - c. M/s Vardhaman Acrylic
- ix) The Authority has considered all views expressed and submissions made by various interested parties to the extent they are relevant for the present investigation.
- x) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xi) The Authority verified the information furnished by the domestic industry to the extent possible to examine the injury suffered and to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the applicants so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
- xii) The Authority also carried out on the spot verification of data of the cooperating exporter ie. JSC Naftan Polymir, Belarus, to determine the market economy status, normal value and dumping margin as per the Rules.
- xiii) The Authority held a public hearing on 18th December 2009 to hear the interested parties orally, which was attended by representatives of domestic industry and exporter of the subject goods from Belarus. The parties attending the public hearing were requested to file written submissions of views expressed orally. The written submissions/rejoinders received from interested parties have been considered and incorporated in this findings to the extent they are relevant and substantiated with evidence.
- xiv) Under Rule 16 of the Anti Dumping Rules, a disclosure of essential facts/basis for the present findings was issued on 8<sup>th</sup> June 2010 to known interested parties and the comments received on the same have been appropriately addressed in the final findings.

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

## **B. PRODUCT UNDER CONSIDERATION AND 'LIKE ARTICLE'**

6. The product involved in the original investigation, previous sunset review and this sunset review is Acrylic Fibre. Acrylic Fibre is a long chain of synthetic polymer composed of at least 90% by weight of Acrylonitrile units. Acrylic Fibre can be acrylic staple fibre, acrylic tow or acrylic top. 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 more than 2 meters, it is known as tow and in case of cut lengths, it is known as staple fibre. It is classified under Chapter 55 of the Customs Tariff Act, 1975. It is further classified under the heading 550130 and 550330 of schedule-I of Custom Tariff Act. The classification is, however, indicative only and is in no way binding on the scope of the present investigation.

7. None of the interested parties has filed any submission in regard to this aspect.

### **Examination by Authority**

8. The Authority notes that the present investigation is a sunset review investigation and none of the interested parties has raised any argument on the issue of product under consideration. The Authority therefore holds that the goods produced by the domestic industry are like articles to the subject goods imported from the subject countries.

## **C. Standing and scope of the Domestic Industry**

9. Subsequent to initiation, Forum of Acrylic Fibre Manufacturers consisting of M/s. Indian Acrylics Ltd., M/s. Vardhman Acrylics Ltd and M/s. Pasupati Acrylon Ltd. filed its injury and costing information. The Forum commands 100% of Indian Production and thus satisfies the requirement of 'standing' and constitutes 'domestic industry' within the meaning of the AD Rules.

10. None of the interested parties has filed any submission with regard to domestic industry and its standing.

### **Examination by the Authority**

11. Rule 2(b) under the AD Rules provides as follows:-

*"(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a*

*major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers only”:*

12. The present review petition was filed by Forum of Acrylic Fibre Manufacturers consisting of M/s. Indian Acrylics Ltd., M/s. Vardhman Acrylics Ltd and M/s. Pasupati Acrylon Ltd.. The Authority notes that members of the Forum of Acrylic Fibre Manufacturers account for 100% of total Indian production. Therefore, M/s Indian Acrylics Ltd., M/s. Vardhman Acrylics Ltd and M/s. Pasupati Acrylon Ltd. constitute 'domestic industry' within the meaning of the AD Rules. Further it is noted that none of the interested parties has filed any submission with regard to domestic industry and its standing. Therefore, the Authority holds that the applicants have standing as domestic industry under Rule 2(b) of Anti Dumping Rules.

#### **D.1 DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

##### **Japan**

##### **Normal Value**

13. No exporter from Japan has responded to the Initiation of the present Sunset Review. Therefore, the Authority determines the normal value, export price and dumping margin on the basis of facts and information available with it. Accordingly, normal value is determined for all exporters of subject goods from Japan as US\$<sup>\*\*\*</sup>/MT on the basis of international prices of raw material reported by the domestic industry and all other norms including consumption norms of the efficient domestic industry.

##### **Export Price**

14. Post-disclosure comments of the domestic industry:-

- (i) The export price for Japan has been adopted on the basis of Japan Customs data and the dumping margin is negative. Indian producers submit that since imports as per DGCI&S is available, the same should have preference over all other data. This is the practice adopted by the Authority;
- (ii) Product under consideration in this case is Acrylic Staple Fibre, Acrylic Tow and Acrylic Top. However, the customs classification includes Modacrylic also. Modacrylic is not in the scope of the product under consideration. Since customs classification includes Modacrylic, summary customs data cannot be relied upon for determining import price. Further, Modacrylic price is significantly higher than Acrylic Fibre price. Indian producers are enclosing complete import statement (as per IBIS) which also includes Modacrylic (Annexure-1). Since Modacrylic price is

significantly higher than Acrylic Fibre price, summary import data shows much higher prices.

- (iii) Acrylic Fibre is classified into two customs classifications i.e. 55013000 and 55033000. It appears that the disclosure statement is based only on 55013000. If the imports reported under other classification is also included, the average import price even after including Modacrylic is much lower than the price adopted in the disclosure statement.
- (iv) In view of the fact that (a) modacrylic is also been included in the import data; (b) exports reported by Japan under 55033000 has not been included, the Indian producers submit that the dumping margin may be reviewed. It would be seen that the dumping margin is negative, even if Japan Customs data including Modacrylic is considered. The dumping margin however is significantly positive if Modacrylic is excluded.

### **Examination by the Authority**

15. The Authority has considered the data from World Trade Atlas as the basis for export price of Japan as the same reports higher volume of exports from Japan compared to DGCI&S. Further, the weighted average FoB price of the subject goods has been computed on the basis of both the customs classifications, namely, 55013000 and 55033000 As regards Modacrylic (HS Code No. 550130 and 550330), the same is covered under PUC being a fibre as per the description under the broad chapter head 55 titled 'man made staple fibres'. Modacrylic is also covered in the PUC as per the petition itself filed by the domestic industry. Therefore, the Authority treats Modacrylic as included in the PUC and accordingly export price in respect of Japan is determined.

16. Therefore, as regards export price, the FoB price of exports from Japan has been sourced from World Trade Atlas which reports highest volume of exports from Japan compared to DGCI&S (the official foreign trade data agency) and IBIS and is determined as US\$ \*\*\*/MT. The Authority allows adjustments on commission (\*\*%), bank charges (\*\*%), inland freight (\*\*%) and port expense (\*\*%), as considered reasonable by the authority, to arrive at Net Export Price (NEP). Accordingly, NEP for all exporters from Japan is determined as US\$ \*\*\* /MT.

### **Belarus**

17. Only one exporter/manufacturer, M/s JSC Naftan, Plant Polymir has filed its response to exporter's questionnaire. No response has been filed by JSC Naftan to Market Economy Treatment (MET) questionnaire. The information submitted by the exporter was verified by the Authority at the premises of the exporter as per the procedure prescribed. In the absence of response to MET questionnaire, the Authority notes that the said exporter has not claimed market economy status. Therefore, the Authority accords non-market economy treatment to JSC Naftan and other exporters

from Belarus, if any. Accordingly, normal value is determined on the basis of para 7 of Annexure-1 to the Anti Dumping Rules.

### Normal Value

18. As the Authority accords non-market economy status to JSC Naftan, the normal value is constructed based upon constructed cost of production along with reasonable profit of 5%. Thus the constructed normal value for JSC Naftan is determined as US\$<sup>\*\*\*</sup>/MT. The Authority adopts the same normal value for other exporters as well from Belarus, if any.

### Export Price

19. As regards export sales to India, during verification of exporter's data, documents namely, sales contracts and related invoices, were submitted by the exporter. These documents did not indicate any direct export sales to India during the POI. These only indicated supplies to third parties in third countries, but no information in respect of exports by these third countries to India was provided. Since JSC Naftan did not have any direct export sales to India during POI, Authority considers export price of Belarus (the country as a whole) to India during the POI, as sourced from International Business Information Services (IBIS) which reports the highest volume of exports for Belarus vis-à-vis DGCI&S and World Trade Atlas, for arriving at net export price. Thus net export price for both JSC Naftan and other exporters from Belarus, if any, is determined as US\$<sup>\*\*\*</sup>/MT, after considering reasonable adjustments on account of ocean freight (US\$<sup>\*\*\*</sup>/MT), marine insurance (US\$<sup>\*\*\*</sup>/MT), commission (<sup>\*\*\*</sup>%), bank charges (<sup>\*\*\*</sup>%), inland freight (<sup>\*\*\*</sup>%) and port expense (<sup>\*\*\*</sup>%).

## D.2 Dumping Margin

20. Comparing the normal value and export price at ex-factory level as determined above, dumping margin in respect of exporters from Japan and Belarus is determined as under:-

Country	Exporter	Normal Value US\$/ MT	Export Price US\$/ MT	Dumping Margin US\$/ MT	Dumping Margin %
Japan	All exporters	***	***	Negative	Negative
Belarus	M/s JSC Naftan Polymir, Belarus	***	***	***	9.78
	Other exporters from Belarus	***	***	***	9.78

## **E. INJURY AND CAUSAL LINK DETERMINATION**

### **Views of the Domestic Industry**

21. The domestic industry, in its submissions has inter alia argued as follows
- a) The imports from subject countries increased in absolute terms.
  - b) Selling price in the domestic market is directly linked to import prices. The domestic industry has to respond to lowest import price from various sources.
  - c) Revocation of anti dumping duty shall imply prices of acrylic fibre from these countries declining in the market. Consequently, the domestic industry would be forced to reduce the selling prices.
  - d) Any decline in selling price would have its adverse impact on profitability, return on investment and cash profit situation of the domestic industry.
  - e) Two other companies – IPCL and Consolidated Fibre have been forced to suspend their operations relating to acrylic fibre in view of persistent dumping of the product in the Country. IPCL was suffering negative value addition in acrylic fibre. Considering the prices of captively produced acrylonitrile, the company was rather faced with negative value addition. Further, Consolidated Fibre was producing only acrylic fibre and has been forced to suspend their production. Injury to these two companies was due to persistent dumping of the product in the Country.
  - f) The domestic industry has suffered injury from persistent dumping of the product in the Country. A number of these sources are either attracting anti dumping duties or duties has been recently revoked. Thus, the injury to the domestic industry in this sunset review investigation is required to be seen in the light of existing duties.
  - g) The demand for acrylic fibre in India declined. However, while the acrylic fibre capacity in the world is far beyond the demand, Producers in subject countries have been expanding capacities without proportionate increase in their domestic demand, obviously considering export markets. Such capacity expansions are naturally at the peril of other producers.
  - h) The imports are still continuing at dumping prices and extent of dumped imports has remained at significant levels in the present investigations. The circumstances, which were prevalent at the time of original investigations, are very much in existence even till date. There has been no change in the circumstances, which only reflects that the dumping would recur at higher levels.
  - i) The capacity created by producers in Japan and Belarus is significantly higher than demand in their local market. It would be seen from the table below that the domestic demand in these countries are practically negligible as compared to the capacities established in these countries. In fact, in

- respect of Japan, it would not be inappropriate to say that the Japanese producers practically have no option but to look for export market. As against 2000 MT domestic demand, the Japanese producers are holding 2,93,000 MT capacities. Similarly, in respect of Belarus, as against 70,000 mt. capacities, the domestic demand in Belarus is hardly 20,000 mt.
- (j) Production, capacity utilization, sales volume, productivity increased upto 2006-07 and then started declining. Further, the decline in POI is significant as compare to preceding year.
  - (k) The profitability of the domestic industry has shown improvement from the base year even the losses started turning out in profits but once again declined in POI.
  - (l) The domestic industry is facing continuous dumping of subject goods from the subject countries and other countries. There is no reason or justification to believe that revocation of the duty would not lead to increased or continued dumping at large scale with consequent injury to the domestic industry.
  - (m) The imports from subject countries increased in absolute terms, resulting in increase in market share of imports.
  - (n) The profitability started declining when the dumped import prices led to a situation of price undercutting and price underselling.

#### **Views of the M/s. JSC Polymir, Belarus**

22. M/s JSC Polymir has made the following arguments on the issue of injury to the domestic industry:

- (a) Anti-dumping duty is not a remedy to the domestic industry.
- (b) The injury to the domestic industry is from factors other than dumped imports.
- (c) The anti dumping duty continued on imports from many countries for more than a decade. Even then, the situation of domestic industry not improved.
- (d) The major factor of injury is increase in raw material prices. This leads to increase in selling prices.
- (e) The increase in prices will force the user industries to shift to other alternatives. The very same fact mentioned by Indian Acrylics in its Directors' Report.
- (f) Decline in the domestic demand of acrylic fibre is the cause of injury to the domestic industry.
- (g) There is no justification for claim of injury from imports from Belarus
- (h) The price suppression is the result of availability of substitutes not the import prices.
- (i) Imports from Belarus are only 421 MT over the entire period.
- (j) India is not the target country for exporters.
- (k) The injury is caused by low price imports from Thailand.
- (l) Positive growth has been seen in physical parameters of domestic industry.
- (m) Japan has surplus capacity not Belarus.
- (n) Export price of Belarus is higher than Japan and Thailand.

- (o) No causal link between imports and closure of some Domestic Producers
- (p) The closure of Consolidated Fibre is due to inefficiencies and other intrinsic factors.
- (q) Decline in domestic demand, threat from substitutes, high volume of low priced imports are some reasons of closures.
- (r) Decline in capacity utilization is mere manipulation of data.
- (s) No decline in capacity utilization during the POI from base year.
- (t) The domestic industry has shown installed capacity as 85000 MT in 2005 06, which is actually 88500 MT.
- (u) Except Indian Acrylics, other two producers are operating at more than 100% capacity utilization.
- (v) The decline in sales volume of domestic industry is less than the decline in demand.
- (w) Absence of price suppression/depression due to imports.
- (x) In 2005-06, the cost of production is less, anti-dumping duty is in place even then Domestic industry could not earn any profit.

### **Examination by the Authority**

23. 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. The Authority notes that the current dumping margin from Belarus is above de minimis level. The Authority therefore proceeds to examine the current injury to the domestic industry before proceeding to examine the likelihood of dumping and injury on account of imports from the subject countries.

### **Cumulative assessment**

24. Annexure II (iii) of the Anti Dumping Rules requires that in case imports of a product from more than one country are being simultaneously subject to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such dumped imports, in case it determines that: -

- (i) The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;
- (ii) Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

25. Following are relevant in this regard: -

- (a) The margin of dumping from Belarus is more than the limit prescribed above;
- (b) Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market, as would be seen from the following information: -
  - i) The product manufactured by the producers from the subject countries inter-se and in comparison to the product manufactured by domestic industry has comparable properties. In other words, goods supplied by various subject countries and by the domestic industry are inter-se like articles.
  - ii) There are common parties who are resorting to use of imported material and domestic material. Imported and domestic materials are, therefore, being used interchangeably and there is direct competition between the domestic product and imported product.
  - iii) The landed values of such imported material from subject countries are below the selling price of domestic industry. This clearly establishes competition amongst Foreign Producers inter-se as also with Indian Producers.
  - iv) The exporters from the subject countries and domestic industry have sold the same product in the same periods to same customer. The petitioner has been selling the product directly as also through their agent and exporters from subject countries are exporting directly as also through their agent. The sales channels are comparable.
  - v) Volume of imports from each of the subject countries is significant.
  - vi) Domestic producer and exporters from the subject countries sell the like product to the same category of customers and both are competing in the same market. Both are being used by the consumers interchangeably.

26. In view of the above, the Authority notes that it is appropriate to cumulatively assess the effects of imports of the subject goods from Japan and Belarus on the domestically produced like article, in the light of conditions of competition between the imported products and the like domestic product.

27. Annexure-II of the AD Rules provide for an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the

Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

28. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the AD Rules states as follows.

*“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments.”*

### **Volume effects of the dumped imports**

29. With regard to the volume of the dumped imports, the Designated 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. The position in this regard is as under:-

Particulars	Units	2005-06	2006-07	2007-08	Jan'08 to Dec'08
<b>Import volumes</b>					
Belarus	MT	2330	260	402	803
Japan	MT	770	1475	877	2342
Subject Countries	MT	3099	1736	1279	3145
Other countries	MT	7375	8708	6227	10143
Total Imports	MT	10475	10444	7505	13288
<b>Market Share in Imports</b>					
Belarus	%	22.24	2.49	3.84	6.04
Japan	%	7.35	14.08	8.37	17.62
Subject Countries	%	29.59	16.57	12.21	23.66
Other countries	%	70.41	83.38	82.96	76.33
Production of DI	MT	75378	83868	77513	76840
Import from subject countries	MT	3099	1736	1279	3145
Import from subject countries as a percentage of production of domestic industry	%	4.11	2.07	1.65	4.09

30. From the above, the Authority notes that:
- The volume of imports from Japan increased significantly in the period of investigation vis-à-vis base year. Japan's share in total imports has increased from 7.35% during base year to 17.62% during POI despite anti dumping duty in place. The volume of imports from Belarus though declined during POI vis-à-vis base year, shows an increase vis-a-vis previous year.
  - Cumulative imports from subject countries have increased marginally in POI as compared to base year in absolute terms and in relation to imports in India. However, the volume of imports has more than doubled as compared to previous year in POI.

### **Demand, Output and Market Share**

31. Demand and market share reflect trends as shown in table below:-

Particulars	Unit	2005-06	2006-07	2007-08	Jan'08 to Dec'08
Sales of domestic Industry	MT	68249	75197	73098	69453
Other Producers	MT	32661	6186	0	0
Total Imports	MT	10475	10444	7505	13288
Total Demand	MT	111385	91827	80603	82741
Trend	Indexed	100	82	72	74
<b>Market share in demand</b>					
Domestic Industry	%	61.27	67.51	65.63	62.35
Other Producers	%	29.32	6.74	0.00	0.00
Subject Countries	%	2.78	1.89	1.59	3.68
Import from Other countries	%	6.62	9.48	7.73	12.27

32. It is evident from the above table that:
- Demand of subject goods has been determined by addition of domestic sales and all imports from all countries. The Authority notes that demand for the subject goods declined from base year to POI.
  - The share of other domestic producers, which has come down from 29.32% during the base year to nil during the POI, appears to have been taken over by imports from other countries which is quite substantial during the POI. Given this fact and given the fact that there is a marginal increase in the market share of imports from subject countries and marginal increase in the share of domestic industry as well, the adverse volume effect of imports from subject countries on the domestic industry is not established.

**Price effects of dumped imports- price undercutting, suppression and depression:**

33. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider 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.

**Price undercutting**

34. The table below indicates the extent of price undercutting caused by dumped imports from subject countries:-

Particulars	Unit	2005-06	2006-07	2007-08	Jan'08 to Dec'08
Net Sales Realisation	Rs./Kg	***	***	***	***
Trend	Indexed	100.00	117.34	126.82	133.52
Landed Price					
Belarus	Rs./Kg	84.88	79.94	79.29	115.27
Japan	Rs./Kg	114.16	120.82	111.66	123.36
Subject Countries	Rs./Kg	92.16	114.68	101.49	119.31
Price undercutting					
Belarus	Rs./Kg	***	***	***	***
Japan	Rs./Kg	***	***	***	***
Subject Countries	Rs./Kg	***	***	***	***
Price undercutting (%)					
Belarus	%	***	***	***	***
Japan	%	***	***	***	***
Subject Countries	%	***	***	***	***

35. The Authority notes that the dumped imports from Belarus is undercutting the prices of the domestic industry in the market while there is negative price undercutting from Japan.

**Price suppression/depression**

36. In order to assess whether imports from the subject countries were suppressing/depressing the prices of the domestic industry, the Authority has compared the cost of production and net selling price of the domestic industry with the landed price of imports over the injury period, which is given in the following table:

Particulars	Unit	2005-06	2006-07	2007-08	Jan'08 to Dec'08
Cost of production	Rs./Kg	***	***	***	***

Trend	Indexed	100.00	108.81	116.27	144.78
Net Selling Price	Rs./Kg	***	***	***	***
Trend	Indexed	100.00	117.34	126.82	133.52

37. The Authority notes that whereas both the cost of production and net selling price increased over the injury period, the increase in the net selling price ( i.e. 33% during POI in comparison to base year) is much lower than the increase in the cost of production (i.e. 45% during the POI in comparison to base year). Thus price suppression has taken place as the domestic industry is not able to realize its net selling price commensurate with increased cost of production.

### **Economic Parameters relating to the Domestic Industry**

38. Annexure II to the 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.

39. The analysis of the economic parameters has been carried out based on the data provided by three constituents of domestic industry, namely, M/s Indian Acrylics, M/s Ardman Acrylics and M/s Pasupati Acrylon. These parameters have been analysed as under:-

#### **(a) Production, sales, capacity and capacity utilization**

	Unit	2005-06	2006-07	2007-08	Jan'08 to Dec'08
Installed Capacity	MT	85000	90000	90000	90000
Trend	Indexed	100	106	106	106
Production	MT	75378	83868	77513	76840
Trend	Indexed	100	111	103	102
Capacity Utilization (%)	%	88.68	93.19	86.13	85.38
Trend	Indexed	100	105	97	96
Sales volumes	MT	68249	75197	73098	69453
Trend	Indexed	100	110	107	102

40. The above data shows that:

- (i) The production, capacity utilization and sales of the domestic industry have increased upto 2006-07 but declined thereafter in the 2007-08 and the period of investigation.
- (ii) The domestic industry has not been able to improve its production to the extent of capacity, thereby resulting in decline in capacity utilization.

**(b) Profitability**

41. The profitability, profits and cash flow of the domestic industry are given in the following table:-

	Unit	2005-06	2006-07	2007-08	Jan'08 to Dec'08
Cost of production	Rs./Kg	***	***	***	***
Trend	Indexed	100.00	108.81	116.27	144.78
Net Selling Price	Rs./Kg	***	***	***	***
Trend	Indexed	100.00	117.34	126.82	133.52
Profit/Loss	Rs./Kg	***	***	***	***
Trend	Indexed	(100)	14	35	(307)
Profit/Loss	Rs.Lacs	***	***	***	***
	Indexed	-100	15	38	-312
Interest	Rs.Lacs	***	***	***	***
	Indexed	100	110	99	90
Profit before Interest	Rs./Lacs	***	***	***	***
Trend	Indexed	(100)	442	502	(1,067)
Net Fixed Assets	Rs./Lacs	***	***	***	***
Trend	Indexed	100	98	91	85
Working Capital	Rs./Lacs	***	***	***	***
Trend	Indexed	100	120	91	(30)
Capital Employed - NFA	Rs./Lacs	***	***	***	***
Trend	Indexed	100	101	91	69
Return on Capital Employed (NFA Basis)	%	***	***	***	***
Trend	Indexed	(100)	439	553	(1,551)
Cash Profit	Rs./Lacs	***	***	***	***
Trend	Indexed	(100)	963	1,180	(2,064)

42. From the above, it is observed that the profitability of the domestic industry has improved upto 2007-08 but then declined significantly. During the period of investigation, the domestic industry incurred financial losses. The return on capital

employed and cash profits followed the same declining trend and became negative during POI.

43. It is seen from the above table that on year to year basis, the domestic industry was able to increase the domestic selling prices more than the increase in the cost of sales till 2007-08. However, the trend reversed in the POI and the domestic industry could not increase its sales realization in line with the increase in cost of sales thereafter. The data shows that the average cost of sales as compared to base year increased by 45% in POI as compared to 2005-06. During the same period, the average selling price increased by 33%. The increase in cost of production is much higher than the increase in net selling price of the domestic industry indicating a price suppression effect.

### (c) Employment and Wages

44. Employment & Wages levels of the domestic industry are given in the following table, which indicates that number of employees is reduced during POI compared to base year though wages have increased:-

	2005-06	2006-07	2007-08	Jan'08 to Dec'08
Number of employees	***	***	***	***
Indexed	100	100	100	97
Wages Rs. Lacs	***	***	***	***
Indexed	100	105	114	119

### (d) Productivity

45. The Productivity of the domestic industry, as reflected in terms of production per employee as well as production per day, is given in the following table

	Unit	2005-06	2006-07	2007-08	Jan'08 to Dec'08
Production	MT	75378	83868	77513	76840
Employees	Number	***	***	***	***
Productivity	MT/No.	***	***	***	***
Trend	Indexed	100	111	103	105
Productivity (considering 350 days p.a.)	MT/day	***	***	***	***
Trend	Indexed	100	111	103	102

The productivity of the domestic industry improved during POI compared to the base year.

(e) **Inventory**

	Unit	2005-06	2006-07	2007-08	Jan'08 to Dec'08
Inventory	MT	***	***	***	***
Trend	Indexed	100	119	97	162
Sales in MT	MT	68249	75197	73098	69453
Inventory for no. of days sales	Days	***	***	***	***
Trend	Indexed	100	108	90	159

46. The average inventory in terms of number of days' sales increased over the injury period. In the base year, it was equivalent \*\*\* days whereas in POI it increased to \*\*\*days.

(f) **Ability to raise capital investment**

47. There have been no capacity additions during the period of investigation. The ability to raise capital investments may be adversely affected with the negative cash profits in the period of investigation.

(g) **Growth**

48. Growth of the domestic industry in terms of parameters like production, sales, capacity utilization, profits and profitability was positive upto 2007-08. The same however became negative in the investigation period.

**Magnitude of Dumping Margin**

49. Dumping margins for Belarus is above de-minims and is substantial. However dumping margin for Japan is negative.

50. It is thus seen that imports of the product under consideration have remained significant in the POI. After showing decline upto 2007-08, the volume has once again increased significantly during the investigation period. Imports were undercutting the prices of the domestic industry. Profits, return on investment, cash profits increased upto 2007-08 and declined in period of investigation. The domestic industry was forced to sell the product at prices below non-injurious price. Dumping margin is positive for Belarus in the period of investigation.

## F. Magnitude of Injury and Injury margin

51. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the imports from subject countries for determination of injury margin during the POI. Thus compared, the injury margin is determined as under:

Injury Margins	UOM	JSC Polymir	Other exporters from Belarus	Japan
CIF Price	USD/MT	***	***	***
Landed Price	USD/MT	***	***	***
NIP	USD/MT	***	***	***
Injury Margin	USD/MT	***	***	***
Injury Margin	%	10-15%	10-15%	3-8%

## G. Other Known factors and Causal Link

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

### i) Volume and prices of imports from other sources

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

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

54. The Authority notes that domestic demand of the product under consideration has shown a decline of about 26% during the POI. It is noted that the decline in demand coincides with suspension of production by Consolidated Fibre and the extent of decline in demand is almost in the range of production of Consolidated Fibre. However, current demand for the product continues to be in the region of current Indian capacities. It is therefore not established that the current injury to the domestic industry occurred due to lack of demand for the product in the Country.

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

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

**iv) Development of technology and export performance**

56. No party has raised any issue with regard to developments in technology as being the cause of injury to the Domestic Industry. Nor there appears to be any significant development in technology that the same could be the principal cause of injury to the domestic industry.

**v) Export Performance**

57. The Authority notes that exports of the product under consideration by the domestic industry have declined substantially from the base year although there is an increase in export sales during 2007-08 as compared to base year. Moreover, injury to the domestic industry has been assessed on the basis of their domestic performance only and injury, if any, caused due to their export performance has not been attributed to the dumped imports.

Particulars	Units	2005-06	2006-07	2007-08	Jan'08 to Dec'08
Export Sales	MT	***	***	***	***
Trend	Indexed	100	118	119	55

**vi) Productivity of the Domestic Industry**

58. Productivity of the domestic industry in terms of labour output and daily output has shown improvement during POI. Therefore, the Authority notes that productivity is not a factor causing injury to the domestic industry. In fact domestic industry has tried to reduce its losses in its domestic operation through improvement in productivity.

**H. Likelihood of Continuance and Recurrence of Dumping and Injury**

59. The following factors have been brought before the Authority for examination of likelihood of continuation or recurrence of injury to the domestic industry.

- a) The domestic industry has pleaded that in a sunset review, the Authority is required to examine the likelihood of continuation or recurrence of dumping

- and injury to arrive at a decision to continue or vary or remove the duty so as to offset dumping.
- b) The producers from subject countries are dumping the material in the Indian market. Though there is a significant increase in the raw material prices, the export price of the exporters has not shown proportionate increase apparently indicating absorption of the cost by the exporters.
  - c) That volume of imports from subject countries has increased significantly in POI in spite of the antidumping duty in existence.
  - d) The level of dumping margin in POI is not only de-minimis but also significantly high.
  - (e) The producers are holding significant surplus capacities and their domestic demand is significantly below the capacities created by them. The capacity created by producers in Japan and Belarus is significantly higher than demand in their local market. As against 2000 MT domestic demand, the Japanese producers are holding 2,93,000 MT capacities. Similarly, in respect of Belarus, as against 70,000 mt. capacities, the domestic demand in Belarus is hardly 20,000 mt.
  - (f) Production of acrylic fibre is showing a decline in the international market in view of decline in demand for the product. Revocation of duty would lead to intensified injury to the domestic industry.
  - (g) Japan & Belarus have set up production capacities far beyond their domestic demand. Resultantly, the producers in these countries are faced with decline in market for their product.
  - (h) Producers in Japan are closing or curtailing operations gradually due to lack of demand in the international market. Revocation of duty will open flood gates for them.
  - (i) Even when there is a significant increase in the raw material prices, the export price of the exporters has not shown proportionate increase apparently indicating absorption of the cost by the exporters.
  - (j) The current level of exports is not to the extent of capacities created by subject countries exporters/producers
  - (k) The exports from subject countries to third countries are very high. Once the duty is revoked the volume of exports will be shifted to Indian market as the Indian market is very lucrative.

60. Barring the responding exporter from Belarus, none of other interested parties have made any submissions with regard to likelihood of injury. Views expressed by the Belarus exporter have been brought out hereinabove.

#### **Examination by Authority**

61. The Authority notes that the volume of imports from Japan has moved upwards to 2342 MT during the POI compared to the volume of 877 MT during the previous year, i.e., 2007-08, which is an increase by more than 150%. Further Japan's share in total imports has increased from 7.35% during the base year to 17.62% during POI despite anti dumping duty in place. This indicates likelihood of dumping from Japan and consequential injury to the domestic industry in the case of revocation of duty, though

the dumping margin for Japan in the present proceedings is negative. Therefore, the Authority holds that the current level of anti dumping duty will be continued in respect of Japan. As regards Belarus, there is only one producer/exporter of subject goods, namely, JSC, Naftan (Polymir). It is found that the capacity of M/s JSC, Naftan is 63,200 MT and the production is at 98% of the capacity during 2008 and about 91% during 2009. Further, the total export of JSC, Naftan is about 80% of the total sales and about 45% of the exports is to the Asian countries during the year 2008. In the year 2009, total exports of JSC, Naftan is about 80% of the total sales and exports to Asian countries is about 60%. From this, it is apparent that the production of the subject goods in Belarus mainly caters to the export market, a large chunk of which is constituted by Asian countries. Therefore, in the case of revocation of AD duty on Belarus, the volume is likely to be diverted to India at a dumped price. Dumped imports, in turn, are likely to cause injury to domestic industry in the form of price undercutting and/or price underselling.

62. The Authority on the basis of analysis of injury parameters, non-attribution analysis of other factors and likelihood analysis of dumping and injury, concludes that the domestic industry has suffered injury during POI and the same has been caused by dumped imports. Further, there is a likelihood of dumping from the subject countries and consequential injury to the domestic industry

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

63. 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 countries in any way, and, therefore, would not affect the availability of the products to the consumers.

#### **J. Conclusion**

64. The Authority has, after considering the foregoing, come to the conclusion that:

- (i) The subject goods has been exported to India from Belarus below the normal value. Though the same from Japan is above the normal value during POI, there is a likelihood of dumping from Japan and consequential injury in case of revocation of duty.
- (ii) The domestic industry has suffered material injury;
- (iii) The material injury has been caused by the dumped imports from Belarus and is likely to be caused by dumping of subject goods from Japan in case of revocation of duty.

## **K. Recommendations**

65. The Authority notes that in their post-disclosure submission, the domestic industry has requested for modifying the form of duty from benchmark to fixed form on the ground of significant variation in raw material prices, particularly, the prices of Methyl Methacrylate (MA) and Acrylonitrile (ACN) which are the major raw materials for the subject goods. Further domestic industry has stated that if the modification is not feasible, the Authority may increase the benchmark appropriately to the extent of cost increases to reflect the current raw material prices. Further a request has been made to recommend anti dumping duty in US\$.

66. The Authority has examined the issue and holds that In view of positive determination of likelihood of dumping and injury on account of imports from subject countries, continuation of the measure is required against imports from these countries. However, considering the current level of dumping from Japan and Belarus and performance of the domestic industry, the Authority is of the opinion that the measure in force needs to be appropriately revised. Since the dumping margin from Japan is determined as negative, the authority holds that the current level of anti dumping duty for the exporters from Japan already in force will be continued in view of positive determination of likelihood of dumping and injury. On the other hand, the anti dumping duty on exporters from Belarus is revised in the light of positive and revised dumping margin and revised injury margin. Thus, the Authority considers it necessary to recommend anti-dumping duty on imports of subject goods from Japan and Belarus in the form and manner described hereunder.

67. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the margin of dumping or margin of injury whichever is lesser, so as to remove the injury to the domestic industry. Considering that the duty in the original investigation was imposed on reference price basis, the Authority recommends continuation of definitive antidumping duty, on all imports of subject goods originating in or exported from Japan, as the difference between the landed value of imports in US\$/MT and the reference price as indicated in Col 9 of the table below, if the landed value at the time of importation is below the value indicated at Col.9. In respect of imports of the subject goods originating in or exported from Belarus, considering that the duty in the original investigation was imposed on reference price basis, the Authority recommends definitive anti dumping duty as the difference between the amount mentioned in column 9 of the table below and the landed value of imports of the subject goods in US\$/MT at the time of importation. For this purpose, landed value of imports will be determined as the value of the goods as assessed by Customs plus applicable basic Customs duty.

## Duty Table

S. No	Sub-Heading	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount (US\$/MT)
1	2	3	4	5	6	7	8	9
1.	5501.30 5503.30	Acrylic Fibre	All Denier	Belarus	Belarus	JSC Naftan Polymir	JSC Naftan Polymir	2886
2.	5501.30 5503.30	Acrylic Fibre	All Denier	Belarus	Belarus	Any other combination of exporter and producer		2886
3.	5501.30 5503.30	Acrylic Fibre	All Denier	Belarus	Any other country other than Japan	Any combination of exporter and producer		2886
4.	5501.30 5503.30	Acrylic Fibre	All Denier	Any other country other than Japan	Belarus	Any combination of exporter and producer		2886
5.	5501.30 5503.30	Acrylic Fibre	Ranging from 1.5 Denier to 8 Denier	Japan	Japan	Any combination of exporter and producer		1681
6.	5501.30 5503.30	Acrylic Fibre	Ranging from 1.5 Denier to 8 Denier	Japan	Any other country other than Belarus	Any	Any	1681
7.	5501.30 5503.30	Acrylic Fibre	Ranging from 1.5 Denier to 8 Denier	Any other country other than Belarus	Japan	Any	Any	1681

68. An appeal against this order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

**(P.K. Chaudhery)**  
**The Designated Authority**