

MINISTRY OF COMMERCE AND INDUSTRY**(Department of Commerce)****(DIRECTORATE GENERAL OF TRADE REMEDIES)****NOTIFICATION****FINAL FINDINGS**

New Delhi, the 19th May, 2021

Case No. ADD-OI-11/2020**Subject: Anti-dumping investigation concerning the imports of Phthalic Anhydride (PAN) originating in or exported from China PR, Indonesia, Korea RP and Thailand.****F. No. 6/16/2020-DGTR.—A. BACKGROUND OF THE CASE**

1. IG Petrochemicals Limited, SI Group India Private Limited and Thirumalai Chemicals Limited (hereinafter also referred to as the “applicants”) filed an application before the Designated Authority in accordance with the Customs Tariff Act 1975 as amended from time to time (hereinafter also referred as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred as the “Anti-Dumping Rules” or “Rules”) for initiation of anti-dumping investigation concerning imports of Phthalic Anhydride (hereinafter also referred to as the “product under consideration” or “PUC” or “subject goods”)
2. The Authority, on the basis of prima facie evidence submitted by the applicant, issued a public notice vide Notification No. 13/2020–DGTR dated 21st May 2020, published in the Gazette of India, initiating the subject investigation in accordance with Section 9A of the Act, read with Rule 5 of the Rules, to determine the existence, degree and effect of alleged dumping of the subject goods originating in or exported from subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed with regard to the subject investigation: -
 - a. The Authority notified the Embassies of the subject countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.
 - b. The Authority issued a public notice dated 21st May 2020, published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning the import of subject goods from the subject countries.
 - c. The Authority sent a copy of the initiation notification to the Government of the subject countries, through its Embassies in India, known producers/exporters from the subject countries, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicants and requested them to make their views known in writing within the prescribed time limit.
 - d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject countries, through its Embassies in India in accordance with Rule 6(3) of the Rules supra. A copy of the non-confidential version of the application was also provided to other interested parties, wherever requested.
 - e. The Authority also forwarded copy of the notice to known producers/ exporters from the subject countries, known importers/users in India and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within time limit given in the initiation notification.
 - f. The Embassies of the subject countries in India were also requested to advise the exporters/producers from its countries to respond to the questionnaire within the prescribed time limit. A copy of the

- letter and questionnaire sent to the producers/exporters was also sent to the Embassies along with the names and addresses of the known producers/exporters from the subject countries.
- g. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules: -
- i. Anhui Tongling Chemical Industry Group Co., Limited, China PR
 - ii. Jiangsu Sanmu Group Co., Limited, China PR
 - iii. Shanghai Coking and Chemical Corporation, China PR
 - iv. Sea trade International Inc., China PR
 - v. Zhenjiang Union Chemical Industry Co., Limited, China PR
 - vi. Taizhou Union Chemical Industry Co., Limited, China PR
 - vii. Petrowidada, Indonesia
 - viii. PT Worldwide Resins & Chemicals, Indonesia
 - ix. L.G. Petrochemical Co. Limited, South Korea
 - x. Aekyung Petrochemical Co. Limited, South Korea
 - xi. Humade Corporation, South Korea
 - xii. Raystar Corporation, South Korea
 - xiii. Polmac Co. Limited, South Korea
 - xiv. Asia Chemical Co. Limited, Thailand
 - xv. Methyl Co. Limited, Taiwan
 - xvi. Troy Siam Co. Limited, Thailand
 - xvii. Nan Ya Plastics Corporation, Taiwan
 - xviii. Union Chemical Ind Co Limited, Taiwan
 - xix. UPC Technology Corporation, Taiwan
- h. In response to the above notification, following foreign producers and their related exporters/traders have submitted the exporter questionnaire responses: -
- i. Hanwha Solution Corporation, Producer, Korea RP
 - ii. Everlite Korea Limited, Exporter, Korea RP
 - iii. Minjin Corporation Limited, Exporter, Korea RP
 - iv. Aekyung Petrochemical, Producer, Korea RP
 - v. Canko Marketing Inc, Exporter, Korea RP
 - vi. Humade Corporation, Exporter, Korea RP
 - vii. Hyundai Corporation, Exporter, Korea RP
 - viii. Polychem Asia Co. Ltd., Exporter, Korea RP
 - ix. Raystar Corporation, Exporter, Korea RP
 - x. PT Petrowidada, Producer, Indonesia
 - xi. PT Petronika, Exporter, Indonesia
 - xii. Continental Petrochemicals (Thailand) Co Limited, Producer, Thailand
- i. The Authority sent questionnaires to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules: -
- i. KLJ Plasticizers Limited
 - ii. Mazda Colors Limited
 - iii. PCL Oil & Solvents Limited
 - iv. Lona Industries Limited
 - v. Silvassa Plast
 - vi. Aarti Industries Limited
 - vii. Mechemco Industries Limited
 - viii. Rachna Plasticizers Limited
 - ix. Micro Inks Limited
 - x. Phthalo Colors & Chemicals (I) Limited

- xi. Ramniklal S. Gosala & Co. National Limited
- xii. Heubach Colour Private Limited
- xiii. Sanman Trade Impex Private Limited
- xiv. Pertochem Middle East (India) Private Limited
- xv. Amjeys Chemicals Private Limited
- xvi. A-One Chern Trade Private Limited
- xvii. Sanjay Chemicals (India) Private Limited
- xviii. Hazel Mercantile Limited
- j. In response to the above notification, following importers/users have submitted questionnaire responses:
 - i. KLJ Plasticizers Limited.
 - ii. Payal Polyplast Private Limited.
- k. Further, the following interested parties have filed legal submissions during the course of the investigation: -
 - i. Indonesian Government.
 - ii. Indian Plasticizers Manufacturers Association
 - iii. Sandeep Organics Private Limited.
 - iv. Polyester Resin Manufacturers Association
- l. Exporters, foreigner producers and other interested parties who have not responded to the Authority, or not supplied information relevant to this investigation, have been treated as non-cooperating interested parties.
- m. Information provided by 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.
- n. A list of all interested parties was uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to ongoing global pandemic.
- o. The period of investigation for the purpose of the present investigation has been considered from April, 2019 to March, 2020 (POI). The injury investigation period has been considered as the period from April 2016 to March 2017, April 2017 to March 2018 and April 2018 to March 2019 and POI.
- p. Additional/supplementary information was sought from the applicants and other interested parties to the extent deemed necessary. Desk Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation.
- q. The Non-injurious Price (NIP) is based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD Rules. It has been worked out so as to ascertain whether duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- r. Information obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) on transaction-wise import data for the past three years, and the period of investigation has been adopted for determination of volume and value of imports of product concerned in India.
- s. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in the oral hearing held on 17th March 2021, which was attended by various parties. The oral hearing was held through video conferencing in view of the special

circumstances arising out of the COVID- 19 pandemic. All the parties who attended the oral hearing were advised to file written submissions of the views expressed orally, followed by rejoinders, if any. The arguments made in such written submissions and/or rejoinders received from the interested parties have been considered, to the extent deemed necessary, for the purpose of these final findings.

- t. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these final findings.
- u. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded these final findings on the basis of the facts available.
- v. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 7th May, 2021 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings.
- w. *** in the final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- x. The exchange rate adopted by the Authority during the POI for the subject investigations is 1 US\$= Rs. 71.65

C. **PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

4. At the stage of initiation, the product under consideration was defined as: -

“The product under consideration in the present application is "Phthalic Anhydride" (PAN). Phthalic Anhydride (PAN) is an anhydride of Phthalic Acid and is commercially produced by catalytic oxidation of Ortho-xylene or Naphthalene. It is a colorless solid, variously referred as Phthalic Anhydride flakes, Phthalic Anhydride (98% min.), Phthalic Acid Anhydrous, Phthalic Anhydride (99.8% min), etc. Specifications of Phthalic Anhydride includes its physical appearance, color of solid flakes, color of molten product, solidification point, Phthalic Anhydride content by weight, other anhydrides & organic impurities' content by weight and acidity index.

The product under consideration is classified under chapter 29 of Customs Tariff Act, 1975 and subheading 29173500. The custom classification is indicative only and not binding on the scope of the investigation.”

Submissions made by the domestic industry.

5. Following submissions have been made by the domestic industry with regard to the product under consideration: -
 - a. The product under consideration is Phthalic Anhydride produced by catalytic oxidation of Ortho-xylene or Naphthalene. The product is used to produce Phthalate esters, which function as plasticizers and hence are an important chemical intermediate in plastic industry.
 - b. The product is classified under custom heading 2917 35 00 of the Customs Tariff Act, 1975.
 - c. The goods produced by the domestic industry are like article to the imported goods as they are comparable in terms of physical and chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods, and are technically and commercially substitutable. There is no known significant difference in the technology employed by the domestic industry and the producers in subject countries.

- d. Bio succinic acid is a substitute for succinic acid only. Succinic acid is made from Maleic acid and is no way connected to the product under consideration.
- e. Molten form of product under consideration can be provided by domestic industry.
- f. Production of Phthalic Anhydride from Naphthalene does not occur in India due to the toxicity levels. Domestic industry is producing Phthalic Anhydride using orthoxylene.

Submissions made by other interested parties.

6. Submissions made by other interested parties with regard to product under consideration are as follows: -
 - a. Examination is required if bio succinic acid can be used as a substitute of product under consideration.
 - b. Producers in subject countries can make molten form of product under consideration as well.
 - c. Demand is high for orthoxylene based product under consideration.

Examination by the Authority

7. The submissions made by the domestic industry and other interested parties with regard to product under consideration have been examined and addressed hereunder. The product under consideration in the present investigation is Phthalic Anhydride which is an intermediate chemical for the plastic industry.
8. The Authority has considered the product under consideration as under:

"The product under consideration in the present application is "Phthalic Anhydride" (PAN). Phthalic Anhydride (PAN) is an anhydride of Phthalic Acid and is commercially produced by catalytic oxidation of Ortho-xylene or Naphthalene. It is a colorless solid, variously referred as Phthalic Anhydride flakes, Phthalic Anhydride (98% min.), Phthalic Acid Anhydrous, Phthalic Anhydride (99.8% min), etc. Specifications of Phthalic Anhydride includes its physical appearance, color of solid flakes, color of molten product, solidification point, Phthalic Anhydride content by weight, other anhydrides & organic impurities' content by weight and acidity index."

The product under consideration is classified under Customs tariff heading 29173500 of chapter 29 of Customs Tariff Act, 1975. The custom classification is indicative only and not binding on the scope of the investigation."

9. It has been noted from the information available on record that the product produced by the domestic industry is like article to product under consideration imported from subject countries. The product produced by the domestic industry, and subject goods imported from subject countries are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. The Authority therefore notes that the subject goods produced by the domestic industry are like article to the product imported from subject countries in terms of Rule 2(d) of the AD Rules.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

Submissions made by the domestic industry.

10. The domestic industry has made the following submissions with regard to the scope of domestic industry and standing: -
 - a. The production of the applicants account for entire production in India.
 - b. There was one more producer of the subject goods in India, Asian Paints India Limited, who have permanently shut down their plant in July 2017.

- c. The applicants have not imported the subject goods from the subject countries and are not related to any exporter in the subject countries or importer of subject goods in India.
- d. The applicants satisfy the requirements of Rule 2(b) and Rule 5(3) of the Rules.

Submissions made by other interested parties.

- 11. The other interested parties have not made any submission with regard to domestic industry.

Examination by the Authority

- 12. Rule 2(b) of the Rules defines domestic industry as under:

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

- 13. The application has been filed by IG Petrochemicals Limited, SI Group India Private Limited, and Thirumalai Chemicals Limited. Asian Paints limited have shut down their plant in 2017 and there are no other existing producers of the subject goods in India. The applicants have not imported the subject goods from subject country and are not related to any exporter in the subject country or importer of subject goods in India.
- 14. Accordingly, the Authority holds that the applicants constitute domestic industry within the meaning of Rule 2(b) of the Rules and that the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. MISCELLANEOUS SUBMISSIONS

Submissions made by the domestic industry.

- 15. Following miscellaneous submissions have been made by the domestic industry: -
 - a. All responding exporters have claimed excessive confidentiality. Producers have claimed complete answers to some of the questions as confidential and have not provided any meaningful summary for it.
 - b. Respondents have failed to provide the desired information in the prescribed formats. Aekyung Petrochemical Co. Ltd. has not provided the trend of data for last three years with respect to cost of sales, selling price and PBIT per unit.
 - c. PT Petrowidada, PT PETRONIKA and Continental Petrochemicals Company Limited have provided the data for the period of investigation and the three years of 2016, 2017 and 2018 but the data for the period January 2019 to March 2019 is missing from the response.
 - d. Data should have been filed by the respondents on April-March basis but has been provided on Jan.-Dec. basis. Designated Authority should not have accepted such data from the domestic industry.
 - e. Minjin Corporation and Everlite Korea Co. Ltd. have claimed the majority of the information in Appendix 1 as confidential.
 - f. Thirumalai Chemicals Limited is expanding capacity with 120,000 MT, out of which a plant for around 24,000 MT has commenced commercial production. IG Petrochemicals Limited has expanded capacity by 53,000 MT commercial production has begun. M/s KLJ Plasticizers Limited is also setting up a new plant of 200 KT.
 - g. Once the capacity expansion in India is complete, the capacity in India will be much more than the projected demand in India for at least next few years and will provide a boost towards making India self-reliant.

- h. Applicants are not demanding any form of duty which will lead to dual remedy under the law. If injury margin is higher than bilateral measures, anti-dumping duties may be imposed only for the margin equal to difference. In case, injury margin determined is lower than bilateral measures, Authority may consider suspension of application of anti-dumping duties on the imports from Korea RPtill bilateral measures are in place.
- i. Rule does not require the authority to use injury margin for the purpose of determining the amount of anti-dumping duty. Authority can recommend duty between dumping margin and injury margin. Even Annexure III does not state that anti-dumping duty shall be the difference between NIP and landed price of imports. Authority is requested to examine whether present rule prohibits consideration of duties for the month having highest injury margin.
- j. Share of representation of users should be considered before examining any arguments on the impact of duties. Only two users have filed questionnaire response in the present investigation. The fact that only two users have participated shows the minimal impact of duties on the end users.
- k. Unless users establish adverse impact of duties, Authority is requested to kindly not consider any submission on adverse impact of duties.
- l. There are 3 producers of the subject goods in India and therefore the domestic industry will anyways be required to compete inter se as well as with the imports from all sources. Therefore, the possibility of monopoly of the domestic industry can be ruled out.
- m. There have been multiple trade remedial investigations on the product under consideration in the past where duties have been levied. However, the user industry has never been able to substantiate that imposition of duties have adversely affected the consumer industry.
- n. Even after imposition of duties on the subject goods, demand has increased and users have remained unaffected. Users have not been able substantiate any adverse effect of the duties, if any, suffered by them.
- o. The term public interest does not limit itself to the consumer industry alone and is in fact a much wider term which covers in its ambit the domestic industry of product under consideration as well.
- p. Indian industry has made huge capital investments for the subject goods and if the duty is not imposed and dumping continues to take place, it will cause huge losses on all the investments made in the industry.
- q. On the submission of blockage of imports, it is submitted that anti-dumping duty or safeguard duties are imposed after a complete quasi-judicial investigation after considering submissions by all the parties.
- r. Any form of measure is not intended to block imports but to just ensure that imports are entering at prices which are not injurious to the domestic industry.
- s. BIS is a quality standard applicable to all. It is highly improper on the part of the users to say that BIS is being used to monopolize the market when they will be the actual beneficiary of the quality of subject goods.
- t. On the issue of imports happening due to demand and supply gap, it is stated that though applicants can cater around 80% of the demand, yet their share have been left restricted to only 57%. Further, demand and supply gap cannot justify dumping.
- u. On the issue of confidentiality, it is submitted that complete information that is relied on by the Authority for injury examination has been provided. Respondent should first establish what prejudice has been caused by non-disclosure of purchase and sales policy.
- v. As regards public interest, it is submitted that imposition of anti-dumping duties will definitely be in interests of domestic industry, as dumping prevents the domestic industry from selling the goods at remunerative prices. Low priced imports of Phthalic Anhydride have led to different measures in different countries over the last 20 years. However, the users have remained unimpacted due to these measures as they have passed on the duties to their buyers.

- w. On the contention that the anti-dumping duties will make the Phthalate industry unviable, users should provide information with regard to number of users who have shut down their plants in past 20 years.
- x. Imports were taking place due to demand supply issues in India and the Indian users have already shifted to Indian producers as highlighted by TCL in their annual report.

Submissions made by other interested parties.

16. Other interested parties have made following miscellaneous submissions: -
 - a. PAN manufacturers are forming a cartel and blocking imports either by anti- dumping duty or by safeguard duty for last 20 years. Domestic industry has got PUC covered under mandatory BIS specification to block imports.
 - b. PAN manufacturers stop responding to customer inquiries or start quoting arbitrarily high prices, compelling users to imports and later use this for seeking protective duties.
 - c. User industry competes with imports with nil rate of duty. Imposition of anti- dumping duty will make the Phthalate industry unviable. Producers of Phthalic Anhydride enjoy advantage of 2.5% due to low import duty on input.
 - d. Supreme Court in case Bihar V Kameshwar Singh has noted that expression “public interest” is not capable of any precise definition and does not have a rigid meaning.
 - e. Supreme Court of India in Haridas Exports Vs. All India Float Glass Mfrs. Association opined that availability of goods outside India at prices lower than those which are indigenously produced would encourage competition amongst the Indian industry and would not per se result in eliminating the competition.
 - f. Domestic industry cannot seek dual remedy on same injury as imports of Phthalic Anhydride from Korea RP already attract bilateral safeguard measures.
 - g. Serious injury to the domestic industry has already been addressed by way of safeguard duty.
 - h. Non-confidential version of the application fails to meet the standards laid down in Rule 7 and Trade Notice no. 1/2013.
 - i. Response to Section VI of the application has been claimed completely confidential.
 - j. Applicants are unable to fulfil the demand in the country and the imports are due to demand and supply gap.
 - k. Domestic industries have applied for BIS certification in imports but has not declared in their NCV.
 - l. Detailed expansion plans, cost etc are not provided by domestic industries in their NCV.
 - m. Minjin Corporation and Everlite have provided requisite details as per Trade Notice and provided the necessary information in indexed form to the extent applicable to these companies as traders.
 - n. Domestic Industry has failed to identify exact information for which Hanwha has claimed excess confidentiality and simply enclosed non-confidential response.
 - o. Hanwha International India and Hanwha Q CELLS Corp are not involved in the marketing and sales of product under consideration in India market.
 - p. Rules have not put any thresholds of locus if users have to raise their issues. The view of users has same weightage under the Rule. Association participating here represent interests of many users.

Examination by the Authority

17. The Authority has considered the views of all the interested parties as under: -
 - a. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. The Authority notes that the information provided by the interested parties on confidential basis was duly examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-

confidential version of the information filed on confidential basis. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.

- b. Demand supply gap in the country does not bar domestic industry from seeking redressal from dumped imports. Demand-supply gap does not justify dumping. The information on record shows that the domestic industry has expanded capacity. Further, documentary evidence has been provided showing that KLJ Plasticizers Limited is in the process of setting up capacity of around 200 KT. Foreign producers can always meet the Indian demand by selling the product at undumped prices. Even after the imposition of antidumping duty, the imports are not restricted in the country. Imposition of anti-dumping duty provides level playing field and does not prevent fair competition in the market.

F. NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN

18. Under Section 9A(1)(c) of the Act, normal value in relation to an article means:

- (i) *the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
- (ii) *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*

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

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

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

Submissions of the Domestic industry

19. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:

- a. Normal value of Chinese producers cannot be accepted unless the producers show that their accounts reasonably reflect the costs associated with the production and sale of the product under consideration, having regard to the provisions of Rule 7 and 8 of the Rules, provisions of Accession Protocol of China, and the practice being followed by the Designated Authority.
- b. Due to involvement of third countries into dumping practices, it is difficult to choose a market economy country for the purpose of normal value in the present investigation. Normal value for China, can be considered on the basis of price actually paid or payable in India, duly adjusted to include a reasonable profit margin.
- c. Prices of producers in the subject countries are confidential information and hence are not available in the public domain.
- d. As per customs data, imports of subject goods in Indonesia and Korea RP were not reported. With respect to imports of subject goods in Thailand, they are from China and India and cannot be relied on.

- e. Exports to third countries from Indonesia are not significant and cannot be considered for normal value.
- f. Significant variation in the export prices from the subject countries to different countries makes the export prices unreliable.
- g. Dumping margin in some of the months is significantly higher than the average dumping margin.
- h. Korean companies, particularly Aekyung Petrochemical Company Limited, have been buying their raw materials from one source only since years and have entered into some kind of arrangements with the raw material suppliers. Due to this, Korean producers' raw material prices are not comparable to international price. The arrangement has resulted in a particular market situation in Korea.
- i. Raw material purchase prices of PAN producers corroborate very well with prices published in leading journal. However, for Korean producers, the prices are not aligned to the international prices. Instead, the prices are different and lower than international prices.
- j. Korean producers gave no evidence in the previous investigations to establish that their prices are fully aligned to the prevailing prices. Even at the time of hearing, the argument of the Korean producers was that the domestic industry has no evidence. However, when the evidence concerns the purchase-sale price between the Korean OX-PA producers, it is natural that the document is not with the domestic industry.
- k. Reference is drawn to the decision of Hon'ble Court in case Haldor Topose, Though the observation of this Court was with reference to a proceeding in a court of law, it is equally applicable to the investigation conducted by the Authority which has duty of appreciating evidence placed before it and has statutory authority of drawing adverse inference in the circumstances enumerated in Rule 6(8).
- l. Price trend of the Korean producers should be compared with the import and export price of raw material.
- m. Producers have claimed that their raw material suppliers are unrelated parties. The applicants in this regard submit that relationship is limited not only to legal relationships but also extends to commercial relationship.
- n. As per Trade Notice: 09/2018 dated 10th May 2018 it is clear that the all the parties, transactions with which can affect the pricing behavior of the producers, are covered within the scope of related party.
- o. If the producers are exporting their product at prices below the prices in their own country, they cannot rely on ICIS prices or global market prices for dumping Either there is some kind of arrangement between producers and their raw material suppliers or books of accounts of the producers do not reflect the true value of the transaction.
- p. In previous anti-dumping investigation, Aekyung had filed response along with 5 related exporters. Out of the 5 exporters in the previous investigation, Woori P&C Corporation and Ubesco Corporation have not participated in the current investigation. If it is found that there have been exports to India through the related entity as well, the response filed is deficient making it liable to be rejected.
- q. Hanwha Solution Corporation has three related entities in India, Hanwha Chemical India Private Limited, Hanwha International India Private Limited and Hanwha Q CELLS Corp. but has only disclosed name of Hanwha Chemical India Private Limited in their response. All three companies are involved in operations of marketing and sales and, therefore, there was a need for them to file response.
- r. If the producers are exporting their product at prices below the prices in their own country, they cannot rely on ICIS prices or global market prices for dumping. Relevant criteria is if producers are exporting their product at dumped prices. There is a significant fall in price of imports from the subject countries and the response of the producers will show dumping.

Submissions made by other interested parties.

20. The submissions made by the interested parties with regard to normal value, export price and dumping margin are as follows:
 - a. In all previous investigations, Aekyung and its traders have never been found to be dumping the

- goods in the Indian market. Authority is requested to terminate the investigation against the imports of Aekyung.
- b. Domestic industry has made unverified allegations against Aekyung but has not provided any evidence for it. Similar allegations were made in the earlier investigations as well, which were outrightly rejected by Authority.
 - c. Foreign manufactures / producers offer prices for PUC as per ICIS report.
 - d. Hanwha purchases raw material from domestic producers on monthly formula basis decided on the basis of weekly CFR price negotiated based on the market conditions.
 - e. Domestic Industry's argument regarding related parties does not apply as Hanwha purchased raw materials only from unrelated parties at arm's length price during the period of investigation.
 - f. Domestic industry's reliance on the Designated Authority v. Haldor Topsoe judgement is incorrect as judgment makes it clear that the obligation applies only if a party has evidence in its possession. Hanwha has provided all the necessary documents.
 - g. Aekyung buys the raw material at fair prices, comparable to international prices. Since the location of Aekyung is near to these suppliers, Aekyung has a little benefit of low transportation cost and the same is reflected in its pricing.
 - h. Aekyung is mainly purchasing raw material from SK Global Chemical and Lotte Chemical in Korea and from JX Nippon Oil & Energy in Japan. Since supply is limited, it is not possible to purchase raw material from one supplier alone.
 - i. Price of PLATTS OX from China PR during the period of April, 2019 to March, 2020 remain within the range of purchase of Hanwha from SK, Lotte and Nippon Oil & Energy.
 - j. Aekyung does not fall in the definition as cited by the applicants as both seller and buyer are not having any exclusive arrangement and the suppliers are free to sell their products to whosoever they want.
 - k. On the submission of the domestic industry that Woori, P&C Corporation and Ubesco Corporation have not participated in the present investigation, it is submitted that Aekyung has not exported through them to India.

Examination by the Authority

21. The Authority notes that the following producers of the subject goods have filed exporter's questionnaire response: -
 - a. Hanwha Solution Corporation, Korea RP along with its exporters Everlite Korea Limited and Minjin Corporation Limited.
 - b. Aekyung Petrochemical, Producer, Korea RP along with its exporters CankoMarketing Inc, Humade Corporation, Hyundai Corporation, Polychem Asia Co. Ltd.
 - c. PT Petrowidada, Indonesia along with its exporter PT Petronika.
 - d. Continental Petrochemicals (Thailand) Co Limited, Thailand.
22. Raystar Corporation, Korea RP has filed an incomplete response. The Authority has therefore, rejected the response filed by it.

Determination of normal value

I. Normal Value determination in China PR. Market Economy Status for Chinese Producers

23. Article 15 of China's Accession Protocol in WTO provides as follows: "Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

"(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under

investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector."

24. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producers/ exporters from China PR have not submitted response to questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules.

25. As none of the producers from China PR have claimed determination of normal value on the basis of their own data/information, the normal value has been determined in accordance with para 7 of Annexure I of the Rules which reads as under:

In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.

26. The Authority holds to determine normal value on the basis of price paid or payable in India, duly adjusted to include profit, which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits. The normal value so determined is given below in dumping margin table.

II. Normal Value determination for Indonesia.

PT Petrowidada

27. PT Petrowidada is engaged in the production of subject goods in Indonesia and has sold the subject goods directly in the domestic market. During the POI, PT. Petrowidada, Indonesia, has sold *** MT of the subject goods for *** US\$ in the domestic market to unrelated and related parties. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions of unrelated parties with reference to the cost of production of subject goods. The Authority noted that if profit making transactions are more than 80%, all transactions in the domestic sales are to be considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are to be taken into consideration for the determination of the normal value. With regard to PT. Petrowidada, Indonesia, since the profit-making sales are more 80%, the Authority has considered all domestic sales to determine the normal value. PT. Petrowidada, Indonesia, has claimed adjustment on account of inland transportation, credit cost, packing expenses and the same have been allowed by the Authority. Accordingly, normal value at ex-factory level for PT. Petrowidada, Indonesia, has been determined and the same is shown in the Dumping Margin Table below.

All other non-cooperating producers/exporters in Indonesia

28. The normal value for all other non-cooperating producers and exporters of Indonesia has been determined on the basis of facts available and the same is mentioned in the Dumping Margin Table below.

III. Normal Value determination for Korea RP.

Aekyungpetrochemical Co. Ltd.

29. Aekyung Petrochemical Co. Ltd. is engaged in the production of subject goods in Korea RP. During the POI, Aekyung Petrochemical Co., Ltd., Korea RP, has sold *** MT of the subject goods for *** KRW in the domestic market to unrelated and related parties. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods. The Authority noted that if profit making transactions are more than 80%, all transactions in the domestic sales are to be considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are to be taken into consideration for the determination of the normal value. With regard to Aekyung Petrochemical Co., Ltd., Korea RP, since the profit-making sales are less than 80%, the Authority has considered only profit-making domestic sales to determine the normal value. Aekyung Petrochemical Co., Ltd., Korea RP, has claimed adjustment on account of inland transportation, credit cost, packing expenses etc. and the same have been allowed by the Authority. Accordingly, normal value at ex-factory level for Aekyung Petrochemical Co., Ltd., Korea RP, has been determined and the same is shown in the Dumping Margin Table below.

Hanwha Solutions Corporation

30. Hanwha Solutions Corporation ("HSC"), cooperating producer and exporter from Korea RP, is engaged in the production of subject goods in Korea RP. It is noted that during the POI, HSC has sold the PUC to both related and unrelated domestic customers. The Authority notes that HSC sold *** MT of the PUC to unrelated customers and *** MT of the PUC to related customers in the domestic market. The domestic sales are found to be in sufficient volumes when compared with exports to India. To determine the normal

value, the Authority conducted the ordinary course of trade test to determine the proportion of profit-making domestic sales transactions with reference to the cost of production of the subject goods. The Authority noted that if profit making transactions are more than 80%, all transactions in the domestic sales are to be considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are to be taken into consideration for the determination of the normal value. On conducting ordinary course of trade test, the Authority notes that ***% of the sales transactions in the domestic market is found to be profitable. Therefore, the Authority has considered only the profitable sales made in the domestic market for the determination of the normal value. HSC claimed adjustments on account of inland freight, packing cost and credit cost. The Authority has accepted all the adjustments claimed by HSC. The normal value at ex-factory level for HSC has been determined accordingly, and the same is shown in the Dumping Margin Table below.

All other non-cooperating producers/exporters in Korea RP

31. The normal value for all other non-cooperating producers and exporters of Korea RP has been determined based on facts available and the same is mentioned in the Dumping Margin Table below.

IV. Normal Value determination in Thailand.

Continental Petrochemicals (Thailand) Co Ltd.

32. Continental Petrochemicals (Thailand) Co Ltd has produced and sold the goods directly in the domestic market. During the POI, Continental Petrochemicals (Thailand) Co., Ltd. Thailand, has sold *** MT of the subject goods for *** THB in the domestic market to unrelated and related parties. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject. The Authority noted that if profit making transactions are more than 80%, all transactions in the domestic sales are to be considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are to be taken into consideration for the determination of the normal value. With regard to Continental Petrochemicals (Thailand) Co., Ltd. Thailand, since the profit-making sales are less than 80%, the Authority has considered only profit-making sales to determine the normal value. Continental Petrochemicals (Thailand) Co., Ltd. Thailand, has claimed adjustment on account of inland transportation, credit cost, etc. and the same have been allowed by the Authority. Accordingly, normal value at ex-factory level for Continental Petrochemicals (Thailand) Co., Ltd. Thailand, has been determined and the same is shown in the Dumping Margin Table below.

All other non-cooperating producers/exporters in Thailand

33. The normal value for all other non-cooperating producers and exporters of Thailand has been determined based on facts available and the same is mentioned in the Dumping Margin Table below.

Determination of Export Price

I. Producers/exporters from China PR

34. The Authority notes that none of the producer/exporter from China PR have filed exporter questionnaire PR. The export price for China PR has been determined based on facts available considering due adjustments for ocean freight, marine insurance, credit cost, inland & port charges and the same has been mentioned in the Dumping Margin Table below.

II. Producers/exporters from Indonesia

PT Petrowidada

35. During the period of investigation, PT. Petrowidada, exported *** MT of the subject goods for *** US\$ to India through a related trader namely PT. Petronika, Indonesia. PT Petrowidada has not made any direct sales to the Indian market. PT Petronika has directly sold the goods to unaffiliated

customers in India. The quantity reported by the producer and exporter has been adopted by the Authority as exports to India by PT Petrowidada for determining the export price. The producer and exporter have claimed adjustment on account of credit cost and packing expenses for arriving at the ex-factory price and the same has been allowed by the Authority. Accordingly, the export price of PT Petrowidada has been determined based on the weighted average export price and the same is shown in the Dumping Margin Table below.

All other non-cooperating producers in Indonesia.

36. The export price for all other producers and exporters who have not participated in the present investigation has been determined based on facts available considering due adjustments of expenses and the same has been mentioned in the Dumping Margin Table below.

III. Producers/exporters from Korea RP

Aekyung Petrochemical Co. Ltd.

37. Aekyung Petrochemical Co., Ltd., who is a producer and exporter of the subject goods in Korea RP, has filed questionnaire response. During the POI, Aekyung Petrochemical Co., Ltd., exported *** MT of the subject goods for *** US\$ to India directly and through four unrelated traders namely Canko Marketing Inc., Korea RP, Humade Corporatio, Korea RP, Hyundai Corporation, Korea RP and Polychem Asia Co., Ltd., Korea RP. Aekyung Petrochemical Co., Ltd., Korea RP, Canko Marketing Inc., Korea RP, Humade Corporatio, Korea RP, Hyundai Corporation, Korea RP and Polychem Asia Co., Ltd., Korea RP, have provided all the relevant information in requisite format. Aekyung Petrochemical Co., Ltd., has claimed adjustment on account of ocean freight, insurance, inland freight, port and other related expenses, credit cost, packing expenses, and duty drawback. Accordingly, the net export price at ex-factory level for Aekyung Petrochemical Co., Ltd., Korea RP has been determined after allowing the adjustments claimed, and the same is shown in the Dumping Margin Table below.

Hanwha Solutions Corporation

38. The Authority notes that Hanwha Solutions Corporation "HSC" has exported a quantity of *** MT directly to Indian customers and has exported a quantity of *** MT through multiple traders. The Authority also notes that two of these traders namely Everlite Korea Co., Ltd. ("Everlite"), and Minjin Corporation Ltd ("Minjin") accounting for approximately ***% of the total sales made by HSC to India, have fully cooperated in the present investigation. Therefore, the cooperating channels account for ***% of HSC's total exports to India during the POI. The quantities reported by HSC, Everlite and Minjin have been considered for the purpose of determining export price.

HSC, Minjin and Everlite have made exports to India at CIF terms, and have accordingly claimed adjustments on account of inland freight, ocean freight, handling charges, brokerage, marine insurance, packing cost, credit cost, bank charges, commission, demurrage and detention charges. In addition, the Authority has assessed the profitability of both traders and has found them to be loss-making, and has accordingly made adjustments in the export price. Accordingly, the export price for Hanwha has been determined based on the weighted average export price to India from all the channels, and the same is shown in the Dumping Margin Table below.

All other non-cooperating producers in Korea RP

39. The export price for all other producers and exporters who have not participated in the present investigation has been determined based on facts available and the same has been mentioned in the Dumping Margin Table below.

IV. Producers/exporters from Thailand

Continental petrochemicals (Thailand) Co Ltd.

40. During the period of investigation, Continental Petrochemicals (Thailand) Co Ltd., who is a producer and exporter of the subject goods in Thailand, has exported *** MT of the subject goods for *** USD to India directly to unrelated parties in India. The sales to Indian customers are on CIF and CFR basis. Continental Petrochemicals (Thailand) Co., Ltd., has provided all the relevant information in requisite format. Continental Petrochemicals (Thailand) Co., Ltd., has claimed adjustments on account of ocean freight, insurance, inland transportation and credit cost, which have been allowed by the Authority. Accordingly, the net export price at ex-factory level for Continental Petrochemicals (Thailand) Co., Ltd., has been determined and the same is shown in the Dumping Margin Table below.

All other non-cooperating producers in Thailand

41. The export price for all other producers and exporters who have not participated in the present investigation

has been determined based on facts available and the same has been mentioned in the Dumping Margin Table below.

42. Considering the normal value and export price for subject goods, the dumping margins have been determined as follows:

S.No.	Particulars	Normal Value (\$/MT)	Ex-factory export price (\$/MT)	Dumping Margin (\$/MT)	Dumping Margin (%)	Dumping Margin (%Range)
1	China PR					
	Any	***	***	***	***	20-30
2	Indonesia					
a	PT. Petrowidada	***	***	***	***	0-10
b	Any other	***	***	***	***	10-20
3	Korea RP					
a	Aekyung Petrochemical	***	***	***	***	0-10
b	Hanwha Solution Corporation	***	***	***	***	0-10
c	Any other	***	***	***	***	20-30
4	Thailand					
a	Continental Petrochemicals Co Limited	***	***	***	***	10-20
b	Any other	***	***	***	***	20-30

G. INJURY AND CAUSAL LINK

G.1 Submissions made by the domestic industry

43. Following submissions have been made by the domestic industry with regard to injury and causal link:
- Demand has increased over the injury period by around 19%.
 - Imports from subject countries have increased from 49,579 MT in the year 2016- 17 to 1,35,564 MT in the period of investigation.
 - Imports in relation to production and consumption were 17% and 15% respectively in the year 2016-17 but have increased to 50% and 34% in the period of investigation.
 - Import prices from the subject countries are below selling prices of the domestic industry, thus resulting in positive and significant price undercutting.
 - The imports are suppressing the prices of the domestic industry in the market.
 - Production and capacity utilization increased in 2017-18 but declined thereafter significantly.
 - Domestic sales increased till 2018-19 but declined thereafter significantly.
 - The increase in subject imports is significantly higher as compared to increase in demand in the period of investigation and have taken up the market share of the domestic industry.
 - The domestic industry is faced with significant inventory pile up. Decline in market share when inventories increased clearly shows adverse effect of dumped imports on the performance of the domestic industry.
 - Domestic industry was in profits in the year 2016-17, which have drastically declined in period of investigation and has resulted in decline in cash profit, profit before interest and tax and return on investment.
 - Growth of the domestic industry has been negative.
 - Domestic industry is in the process of expanding its plant capacity and will definitely face difficult situation in raising the funds if the operations suffer so significantly.
 - Capacity in China and Korea are significantly higher than demand in countries and producers will always look for market opportunities to utilise the idle capacities.
 - For Indonesia and Thailand, a very high share of production has been used for export which shows

- that producers have set up their capacities for export market.
- o. Faced with the issue of surplus and idle capacities, the producers in the subject countries are keeping their prices in the export market lower than the market prices.
 - p. Ratio of price of finished goods to raw material prices is low for subject countries in comparison to average world level.
 - q. Indian market is a primary market for the producers in the subject countries due to increasing demand in India and search for cheap source of inputs by the users.
 - r. There has been a significant fluctuation in the price of subject goods over the period of investigation. Therefore, it is necessary that the impact of imports is analysed on monthly basis.
 - s. Adverse performance in exports is on account of injury due to dumped imports in country and could be considered as one of factors showing injury to the domestic industry.
 - t. Injury margin may be compared by adding freight as consumers decide their purchases and negotiate the prices with the suppliers on the basis of comparison of landed price of imports in their factory warehouse.
 - u. Catalyst is changed every 27-30 months. The year in which it is changed, witnesses high efficiency in plant in terms of production and utilization of raw material and utilities, which subsequently starts declining. Therefore, considering higher production and lower consumption for such a year for determination of NIP will not be appropriate.
 - v. Examination of post period of investigation data is warranted in case of a sunset review investigation and not in any fresh anti-dumping investigation. Therefore, there is no need to consider post period of investigation data.
 - w. On the submission of producers not responding to customer queries, Authority is requested to demand any verifiable document in support of claim. Domestic industry is operating with idle capacities, high inventories and was constrained to export significant volumes, there is no reason why it would not entertain the customer queries unless prices expected are abysmally low or unreasonable.
 - x. On the submission of injury claimed in bilateral safeguard and anti-dumping investigation, the issue has already been dealt by the Authority's finding in the bilateral safeguard investigation. Reason for low priced imports can be dumping, subsidy or tariff concession and law does not bar applicants from requesting an examination of reason for increase in low priced imports.
 - y. On the submission of statements made in the annual reports, interested parties have cherry picked statements from annual reports. Two of the three applicants have highlighted in their annual reports that the current performance has been impacted due to dumping of goods in the Indian market.
 - z. On the submission of domestic industry enjoying advantages, it is submitted that even when domestic industry has these "advantages", its performance is poor which shows vulnerability to dumped imports.
 - aa. On the submission of additional information, information with respect to capacity revamp, delay in planned capacity expansions etc are provided in the annual report of the companies which are part of the application.

Submissions made by other interested parties.

44. The submissions made by other interested parties with regard to injury are as follows:
 - a. Increase in landed price of imports from Korea RP is higher than increase in selling price of domestic industry and therefore there is no price affect.
 - b. The capacity utilization has remained at a healthy level of 85% and a minor fall in production and profitability in the period of investigation is due to other factors such as flash storms, flood, shrinkage in margins and other raw material.
 - c. The sales of the domestic industry have declined marginally in the period of investigation due to increase in sales return.
 - d. The export performance has deteriorated sharply which could have impacted domestic industry's performance.
 - e. Share of imports from subject countries has increased due to decline in share of countries attracting anti-dumping duty.

- f. Period of injury in the present investigation overlaps with the period in case of Bilateral Safeguard Investigation wherein the cause of injury was elimination of custom duties only.
- g. Post period of investigation performance of the domestic industry shows a tremendous turnaround. Post period of investigation is very relevant in examination of causal link and should not be set aside by saying that it not relevant in fresh investigation.
- h. Discussions in TCL's annual report of 2019-20 shows that all past issues which impacted its performance are non-existent now.
- i. Imports more than essential took place only in the year 2017-18 when the applicants registered return of 50-60%.
- j. In year other than 2017-18, actual imports – essential imports is negative which shows that users prefer to procure domestically and import only the rest.
- k. Current returns of the domestic industry are corrections from past returns in the range of 50-60% earned by domestic industry.
- l. Phthalic Anhydride manufacturers enjoy several advantages in form of nil rate of duty on raw material, abundance supply of raw material, and production process which leads to surplus power generation.
- m. Indian producers have enjoyed protection of duty for past 20 years but have not expanded capacity.
- n. In oral meeting, domestic industries have agreed to export to middle east. It clearly shows their export prices are cheaper than others.
- o. Foreign manufacturers have sufficient export opportunities; the export prices indicate a dynamic market globally; with price realization not dissimilar to that obtained in india.
- p. Domestic industry should provide details with regard to cost for capacity revamp, delays in planned capacity expansion, planned short term shutdown, covid 19 effect etc.
- q. End users import from non-FTA countries such as China & South Korea under advance authorization.
- r. Yield and demand for product made from orthoxylene is better than naphthalene.
- s. Performance of domestic industry in pre period of investigation and post period of investigation shows that performance of domestic industry has been good. Isolated price injury during the period of investigation is not due to dumping or imports but is self-engineered with sole purpose of filing application.
- t. There is turnaround working completely in favor of the PAN producers. There is overall economic improvement, and no duty should be even contemplated.
- u. Performance of the petitioners during the injury period is also very robust and no sign of injury is evident.
- v. Volume parameters remained sluggish due to the internal issues of the applicants as highlighted in their annual report.
- w. To take advantage of good demand of PAN in India, domestic industry is adding new capacities. Had there been any threat to domestic industry they would not have announced new capacity addition.
- x. The claim to examine monthly price movement is only to camouflage the absence of injury and not monthly analysis but post POI analysis of injury is relevant in the facts of the present case.
- y. Applicants are focused on export market much and to grab more export market, such lower prices are offered.
- z. Claim to consider freight in NIP has been rejected in many investigations in the past in line with the Rules and a similar approach needs to be taken here also.

Examination by the authority

45. The Authority has taken note of various submissions made by the domestic industry and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.

Cumulative assessment

46. Article 3 of WTO agreement and Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
 - a. 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 (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and
 - b. 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.
47. The Authority notes that:
 - a. The subject goods are being dumped into India from the subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
 - b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
 - c. Cumulative assessment of the effects of import is appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market.
48. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from China PR, Indonesia, Korea RP and Thailand on the domestic industry.
49. Rule 11 of 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 effects 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 depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude, and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.
50. The Authority has taken note of various submissions made by the domestic industry and other interested parties on injury and causal link and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority in the succeeding paras addresses submissions made by the domestic industry and other interested parties.
51. The Authority notes that it is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority considers all injury parameters and, thereafter, concludes whether the domestic industry has suffered injury or is likely to suffer injury due to dumping. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and other interested parties.
52. Other interested parties have submitted that the injury suffered by the domestic industry has already been addressed by way of bilateral safeguard measures and the applicant cannot further allege injury due to dumping. It is noted that neither the bilateral safeguard rules under trade agreements nor the anti-dumping rules require duty reduction or dumping to be the sole cause of injury.
53. On the issue of examination of post period of investigation data, the Authority notes that post-POI examination is not conducted in original investigations unlike sunset review investigations. Further, post period of investigation in this case is marked by country- wide lockdown in India and globally due to Covid

pandemic and therefore performance during this period will not be representative in nature.

Volume effect of Dumped Imports on Domestic Industry

a. Assessment of Demand / Apparent Consumption

54. The demand or apparent consumption of the product in India is the sum of domestic sales of the Indian Producers and imports from all sources.

S.No.	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Sales of domestic industry	MT	2,23,200	2,35,591	2,37,924	2,28,046
2	Sales of other Indian producer	MT	24,000	6,000	-	-
3	Imports from subject countries	MT	49,579	89,250	91,020	1,35,564
4	Import from other countries	MT	42,472	41,189	53,640	38,891
5	Total Demand/ consumption	MT	3,39,251	3,72,030	3,82,583	4,02,500

55. The demand for the subject goods has increased consistently over the injury period.

b. Volume effect of dumped imports

56. With regard to the volume of the imports, the Authority is required to consider whether there has been a significant increase in the imports, either in absolute terms or relative to production or consumption in India. Factual position is as follows: -

S.No.	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Subject countries	MT	49,579	89,250	91,020	1,35,564
A	China PR	MT	40	2,418	10,628	14,758
B	Indonesia	MT	8,470	25,144	16,492	21,530
C	Korea Rp	MT	33,766	41,664	49,081	86,466
D	Thailand	MT	7,303	20,024	14,819	12,810
2	Subject countries import in relation to					
A	Indian production	MT	2,96,561	2,89,491	2,75,492	2,69,640
B	Indian production	%	16.72%	30.83%	33.04%	50.28%
C	Demand	MT	3,39,251	3,72,030	3,82,583	4,02,500
D	Demand	%	14.61%	23.99%	23.79%	33.68%
E	Total imports	%	53.86%	68.42%	62.92%	77.71%

57. It is seen that the subject imports have increased significantly in absolute terms over the injury period and more sharply in the period of investigation. The imports have increased in relation to total imports, production and consumption in India. Further, imports show increase as compared to both base year and preceding year.

Price Effect of the Dumped Imports on the Domestic Industry

58. With regard to the effect of the dumped on the prices of the domestic industry, it is required to be examined whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject country has been examined with reference to price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, cost of production, net sales realization (NSR) and non-injurious price (NIP) of the domestic industry have been compared with landed price of imports of the subject

goods from the subject country.

a. Price Undercutting

59. For the purpose of price undercutting analysis, net selling price of the domestic industry has been compared with the landed value of imports from the subject countries. Accordingly, the undercutting effects of the imports from the subject countries work out as follows:

S.No.	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Net Sales Realisation	Rs/MT	***	***	***	***
2	Subject countries as a whole					
a	Landed Price	Rs/MT	60,910	67,060	76,017	63,423
b	Price Undercutting	Rs/MT	***	***	***	***
c	Price Undercutting	%	***	***	***	***
d	Price Undercutting	Range	0-10%	0-10%	0-10%	0-10%
3	China PR					
a	Landed Price	Rs/MT	70,677	69,402	79,586	63,306
b	Price Undercutting	Rs/MT	***	***	***	***
c	Price Undercutting	%	***	***	***	***
d	Price Undercutting	Range	(0-10)%	(0-10)%	(0-10)%	0-10%
4	Indonesia					
a	Landed Price	Rs/MT	58,846	67,489	76,718	63,099
b	Price Undercutting	Rs/MT	***	***	***	***
c	Price Undercutting	%	***	***	***	***
d	Price Undercutting	Range	5-15%	0-10%	0-10%	0-10%
5	Korea RP					
a	Landed Price	Rs/MT	61,185	66,989	74,225	63,714
b	Price Undercutting	Rs/MT	***	***	***	***
c	Price Undercutting	%	***	***	***	***
d	Price Undercutting	Range	0-10%	0-10%	0-10%	0-10%
6	Thailand					
a	Landed Price	Rs/MT	61,980	66,388	78,612	62,135
b	Price Undercutting	Rs/MT	***	***	***	***
c	Price Undercutting	%	***	***	***	***
d	Price Undercutting	Range	0-10%	0-10%	(0-10)%	0-10%

60. Post- issuance of the disclosure statement, it was submitted by the domestic industry that the selling price being compared with landed value to determine price undercutting should not be at ex-factory level. It is noted that Authority has been consistently determining price undercutting by considering domestic industry selling prices at ex-factory level, and therefore, the calculations of the price undercutting have been revised by considering selling price at ex-factory levels. It is seen that the imports from subject countries as a whole are entering at a price below the domestic selling price of the domestic industry, resulting in positive price undercutting.

b. Price Suppression and Depression

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

S.No.	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of Sales	Rs/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>94</i>	<i>117</i>	<i>113</i>
2	Selling Price	Rs/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>119</i>	<i>101</i>
3	Landed Price	Rs/MT	60,910	67,060	76,017	63,423
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>110</i>	<i>125</i>	<i>104</i>

62. It is seen that both cost of sales of domestic industry and selling price have declined in the period of investigation. However, the decline in selling price is much higher than decline in the cost of sales. The period of investigation has also seen a decline in the landed price of subject imports. Therefore, the subject imports depressed the selling price of the domestic industry thereby preventing it from charging a reasonable price.

A F.3.3 Impact on economic parameters of the domestic industry

63. Annexure - II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. The Anti-Dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective 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. Accordingly, various injury parameters relating to the domestic industry are analyzed herein below.

a. Capacity, Production, Capacity utilization and sales.

64. The Authority has considered capacity, production, capacity utilization and sales volume of the domestic industry over the injury period.

S.No.	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Capacity	MT	3,17,110	3,17,110	3,17,110	3,17,110
2	Production	MT	2,72,561	2,83,491	2,75,492	2,69,640
3	Capacity Utilisation	%	86%	89%	87%	85%
4	Domestic sales	%	2,23,200	2,35,591	2,37,924	2,28,046

65. It is noted that –
- The capacity of the domestic industry has remained constant throughout the injury period.
 - The production and capacity utilization of the domestic industry has increased till 2017-18 but declined thereafter.
 - Domestic sales of the product under consideration have increased till 2018-19 but declined during the period of investigation.

b. Market share of the domestic industry in demand.

66. The effects of the dumped imports on the market share of the domestic industry have been examined.

S.No.	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Domestic industry	%	66%	63%	62%	57%
2	Other Producers	%	7%	2%	0%	0%
3	Subject Countries	%	15%	24%	24%	34%
4	Other Countries	%	13%	11%	14%	10%

67. It is seen that market share of the domestic industry has declined over the injury period whereas that of subject countries has increased.

c. Inventories

68. The Authority has considered average inventory level of the domestic industry over the injury period.

S.No.	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Average inventory	MT	5,904	3,564	3,429	4,934

69. It is seen that the average inventory level of the domestic industry has shown decreasing trend till 2018-19

and has increased thereafter in the period of investigation.

d. Profit or loss, cash profits and return on investment.

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

S.No.	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of sales	Rs/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>94</i>	<i>117</i>	<i>113</i>
2	Selling price	Rs/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>119</i>	<i>101</i>
3	Profit / Loss	Rs/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>203</i>	<i>138</i>	<i>4</i>
4	Profit / Loss	Rs Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>215</i>	<i>147</i>	<i>4</i>
5	Cash profits	Rs Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>198</i>	<i>143</i>	<i>23</i>
6	Profit before interest & tax	Rs Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>197</i>	<i>139</i>	<i>15</i>
7	Return on capital employed	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>150</i>	<i>106</i>	<i>11</i>

71. It is seen that the domestic industry was earning good profits till the year preceding to POI. However, the profits of the domestic industry have declined sharply in the period of investigation. Resultantly, the cash profits and the return on investment have also been impacted.

e. Employment, wages and productivity

72. The situation of the domestic industry with regard to employment, wages and productivity was examined.

S.No.	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	No of employees	Nos	695	757	783	775
2	Salary & wages	₹ Lacs- Trend	100	121	127	130
3	Productivity per day	MT/Day	779	810	787	770
4	Productivity per employee	MT/Nos	392	374	352	348

73. It is seen that employment levels of domestic industry have fluctuated over the injury period and wages paid have increased over the injury period. The productivity per employee and per day increased in 2017-18 but declined thereafter with a decline in production.

f. Growth

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

S.No.	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Production	Y/Y	-	4%	-3%	-2%
2	Capacity Utilization	Y/Y	-	4%	-3%	-2%
3	Domestic Sales	Y/Y	-	6%	1%	-4%
4	Profit/(Loss) per unit	Y/Y	-	103%	-32%	-97%
5	Inventory	Y/Y	-	-40%	-4%	44%
6	Market Share	Y/Y	-	-4%	-2%	-9%
7	Profit/(Loss) in Rs Lakhs	Y/Y	-	115%	-31%	-98%
8	Cash Profit in Rs Lakhs	Y/Y	-	98%	-28%	-84%
9	PBIT in Rs Lakhs	Y/Y	-	97%	-29%	-89%
10	ROI %	Y/Y	-	50%	-29%	-90%

75. It is seen that most of the performance parameters of the domestic industry show a negative growth in the

period of investigation.

g. Magnitude of dumping

76. It is seen that the dumping margin in the imports from the subject countries is not only positive but also significant,

h. Ability to raise fresh investment,

77. Considering performance of the domestic industry in the period of investigation, it is seen that the ability of the company to raise fresh investments is likely to be impaired.

i. Factors affecting domestic prices.

78. It is seen that the selling price of the domestic industry are affected as it is unable to earn adequate returns. Imports from subject countries is a factor affecting the domestic prices.

j. Observations on injury

79. Considering various parameters relating to material injury, it is seen overall performance of the domestic industry is below par. There is a sharp increase in the volume of dumped imports from the subject countries, in absolute terms and in relation to production and consumption in India. There is presence of depressing effect on the domestic selling prices. The imports are undercutting the prices of the domestic industry. Performance of the domestic industry has deteriorated in respect of production, sales, market share, profits, cash profits and return on investment. The domestic industry has suffered injury.

H. CAUSAL LINK

80. As per the Rules, the Authority, inter alia, is required to examine any known factors other than dumped imports which are injuring or are likely to cause injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, the volume and price of imports not sold at dumped prices, trade restrictive prices of and competition between foreign and domestic producers, development in technology, contraction in demand or change in pattern of consumption, export performance and productivity of the domestic industry.

a. Volume and price of imports from third country

81. It is seen that the volume of subject imports account for 78% of total imports in the period of investigation. Other than subject countries, there are significant exports from Taiwan and Russia. Authority has already examined Taiwan imports at stage of initiation and concluded that imports from Taiwan are not injurious. Imports from Russia was already attracting anti-dumping duty at the time the application was filed.

b. Contraction in Demand and / or Change in Pattern of Consumption

82. The demand of the subject goods has increased as compared to base year. The pattern of consumption with regard to product under consideration has not undergone any change. Thus, contraction in demand or change in the pattern of consumption could not have contributed to the injury to the domestic industry.

c. Development of Technology

83. The Authority notes that technology for production of the product has not undergone any change. Developments in technology are, therefore, not a possible factor of injury.

d. Trade restrictive practices

84. The Authority notes that there is no trade restrictive practice, which could have caused injury to the domestic industry.

e. Export performance

85. The applicants have contended that it has been forced to undertake exports due to dumped imports in the domestic market. The applicants contended that the exports made by the domestic industry – both in terms of volume and price – should be considered a result of dumping in the country. It is seen that export sales of the domestic industry have increased sharply in the period of investigation and profitability in exports was far less as compared to domestic sales. The domestic industry has suffered financial losses in exports. While the Authority has relied on segregated data for domestic and export operations, to the extent the same could be,

for the purpose of injury analysis of the domestic industry, the fact that the domestic industry was forced to export at significantly low and unremunerated prices is a reflection of adverse impact of imports on the domestic industry. Further, since export volumes and profits have been segregated, possible decline in export performance is not a cause of the injury suffered by the domestic industry.

f. Performance of other products

86. The Authority has considered the data relating to the performance of the subject goods only. Therefore, performance of other products produced and sold by the applicants are not a possible cause of the injury to the domestic industry.

I. INJURY MARGIN

87. The injury margin has been evaluated by comparing the non-injurious price with the landed price of the subject imports for all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is shown in the table below:

S.No.	Particulars	NIP (USD/MT)	Landed value (USD/MT)	Injury Margin (USD/MT)	Injury Margin (%)	Injury Margin (%Range)
1	China PR					
a	Any	***	***	***	***	0-10
2	Indonesia					
a	Petrowidada	***	***	***	***	0-10
b	Any other	***	***	***	***	10-20
3	Korea RP					
a	Aekyung Petrochemical	***	***	***	***	0-10
b	Hanwha Solution Corporation	***	***	***	***	0-10
c	Any other	***	***	***	***	10-20
4	Thailand					
a	Continental Petrochemicals Co Limited	***	***	***	***	0-10
b	Any other	***	***	***	***	10-20

J. POST DISCLOSURE SUBMISSIONS AND EXAMINATION THEREOF

88. The Authority invited comments from all interested parties on the disclosure statement issued on 7th May, 2021 disclosing essential facts of the case. The post-disclosure submissions have been received from the interested parties. Majority of the issues raised have already been raised earlier and also addressed appropriately. Additional submissions to the extent deemed relevant have been examined as under.

J.1 Submissions by other interested parties

89. The submissions of other interested parties on the disclosure statement are reproduced herein below:
- Imports are essential to meet the Indian demand for subject goods and the users have shifted to Indian PAN.
 - Duty will only lead to profiteering and cartelization by Indian producers who are earning supernormal profits and will lead to closure of Phthalate Plasticizer industry down the line and leading to loss of employment.
 - For protecting few manufacturers of PAN, which is already protected by various other measures, domestic manufactures of Phthalate plasticizers should not be made to suffer. Purpose of duty is not to cause injury to user industry by providing monopoly to producing industry.

- d. The post POI performance of the applicants shows a paradigm shift in their performance which suggests that no duty is warranted in the present case.
- e. The Disclosure fails to reflect on extensive submissions relating to post period of investigation data of the application.
- f. PAN prices have increased in the recent past and prices are destined for further increases in the time to come. Prices from April 2020 to March 2021 have increased by almost 100%. Any further imposition of duty will lead to cascading effect on the downstream industry.
- g. Since safeguard duty is recommended and imposed after examining all the factors which were causing injury to the domestic industry, anti-dumping duty investigation was not warranted.
- h. Inappropriate protection measures not only protect the domestic industry but may damage its long-term and fundamental interest. It may make the domestic industry reluctant to improve the production technology and efficiency.
- i. The domestic industry has already got imports covered under BIS and imposition of anti-dumping duty will block exports from subject countries.
- j. DGTR has allowed 22% return on Capital Employed, which is highly inflated and not in accordance with the Law. European Union determines reasonable return based on ROCE earned by the industry when there was no allegation of dumping or subsidy.
- k. DGTR is giving undue protection to the domestic industry by applying 22% return on capital employed and same is reflected in various rulings of CESTAT such as Bridge Stone Tyre Manufacturing & others vs. Designated Authority, Hyosung Corporation vs. Designated Authority.
- l. PT. Petrowidada, Indonesia, has sold subject goods to India through a related party PT. Petronika. Authority has made adjustment of its own to arrive at losses for PT. Petronika. As per Appedix-5 of PT. Petronika, Indonesia, company has made profits in sale of product under consideration, therefore, no adjustment is required.
- m. Amount of duty recommended by DGTR and imposed by Central Government cannot be greater than what is required to remove the injury to the Domestic Industry.
- n. Domestic industry doesn't produce product under consideration with raw material Naphthalene therefore Naphthalene based PAN should be kept outside the scope of investigation.
- o. There is no evidence of any significant capacity enhancement elsewhere which might evidence an impending influx of imports into India.
- p. Domestic industry has not provided data as per flakes & molten form in their NCV.
- q. Imposition of duty on a fixed basis is unjustified, unfair and unduly burdensome. Duty can be imposed on the basis of either a fixed quota or in the alternative, on the margin of the injury.
- r. Affixing duty on a 'trigger price' or 'variable basis' shall ensure that the domestic industry does not extract any unfair gain.
- s. Majority of the end-users are SME and MSME companies which import for intermediary applications. Main application of subject goods is in manufacture of polyester resins which goes into wide number of industries and hence, the level of impact on the entire economy will be significantly higher and widespread,

J.2 Submissions by domestic industry

90. The submissions of domestic industry on the disclosure statement are as under:
 - a. Scope of product under consideration cannot be restricted on the basis of raw material used unless it leads to a different product and the resultant product is so different that the product produced and supplied cannot be interchanged with this product.
 - b. Phthalic Anhydride made from Naphthalene contains impurities like Naphthoquinones which are suspected as cancer causing compounds and any product which uses Phthalic Anhydride from it will be a potential health hazard.
 - c. Domestic industry is not using Naphthalene as a raw material for production of Phthalic Anhydride due to the toxicity levels involved in the production process. Same is discouraged globally. BIS in India discourages imports of Naphthalene based Phthalic Anhydride.
 - d. Adjustment of packing expense in the normal value calculation of PT Petrowidada, Hanwha Solutions Corporation, and Aekyung Petrochemical Co. Ltd., is inappropriate as no secondary

- packing is required for sale in the domestic market and even in the case of exports also, the packaging is same.
- e. PT Petrowidada has claimed no adjustment for ocean freight, marine insurance, inland freight, inland insurance, bank charges, commission, and port and other handling charges.
 - f. In case of Continental Petrochemicals (Thailand) Co., Ltd., expenses such as bank charges, and port and other handling charges have not been claimed by the respondent. These expenses form important part of an export transaction.
 - g. Purpose of NIP is to determine price of imports at which the domestic industry will not suffer injury. Thus, the relevant comparison is only between NIP and landed price of imports.
 - h. The price undercutting should be determined considering gross selling price, as this is the price at which the domestic industry competes with imports. The price undercutting should not be determined at ex-factory levels. Further, Authority has ignored freight in calculating the injury margin.
 - i. While the comparison is inappropriate, the net selling price realised by the domestic industry is lower than the non-injurious price.
 - j. Only two users have participated in the present investigation for a product which has significant demand in India. If there was any adverse impact of duties, there would have been a higher representation.
 - k. Had there been any adverse impact of duties, there would have been shutdowns in the user industry.
 - l. Domestic industry is making significant capital investments seeing the increasing demand in India. For the producers to be able to run these new capacity expansions, it is necessary that adequate measures are imposed to ensure fair competition.
 - m. User industry has grown in past one decade. Their financial statements will show that their profits have increased in spite of the fact that there has been duty imposed in the past.
 - n. The users have grown over the years, which shows that the duties have not had any adverse impact.
 - o. End use of products manufactured from Phthalic Anhydride find their usage in areas of daily human interaction such as children's toys (including Sucking Toys), Blood bags, Water hose, Car seats, Home paints. It is utmost necessary in larger public interests that dumped imports of goods from Naphthalene is discouraged.
 - p. China is the only producer in the world of Phthalic Anhydride that uses Naphthalene as a raw material. Majority of the production gets exported to countries such as India, Vietnam, Brazil, Myanmar and other South African countries whereas most of the large MNC users established in European and North American countries do not import from China.
 - q. Chinese producers are forced to export it at lowest prices. Import price of Chinese Phthalic Anhydride are usually lowest. Importers are importing from China only due to the distress prices.
 - r. Government has repeatedly found that imposition of antidumping duty or safeguard duty in respect of this product is not against public interest.
 - s. Anti-dumping duty is redressal of unfair price discrimination by the producers in other countries, which is injurious to the industry in India. It is not a protection to the industry, rather a means of addressing unfair pricing.
 - t. There are three producers in India and imports are happening from multiple sources and there is going to be another fresh entrant in the market. There is enough inter-se competition and the domestic industry will have to keep a check on its prices.
 - u. Government of India has been promoting the Make in India campaign and the ideology of AtmaNirbharBhart, but the Indian Phthalic Anhydride industry user industry is heavily resorting to imports.

J.3 Examination by Authority

91. The purpose of the present investigations is not to ban the imports of the product. The imports can continue to be made, albeit at undumped prices. Therefore, the consumers would be able to source the material even after imposition of antidumping duty. and some demand-supply gap does not imply that the consumers would be deprived of material. it is also noted that the domestic producers can meet 75-85% of Indian demand at full capacity. Further, the domestic industry submitted that the capacities are being enhanced in India to take care of present and potential demand for the product in the country.
92. The Authority notes that the apprehension of other interested parties that duty quantum can exceed

injury margin is misplaced. It is noted that the recommended duty quantum cannot exceed the injury margin determined by the Authority on account of application of lesser-duty-rule, whereby the duty amount is to be restricted to lesser of dumping and injury margin.

93. As regards existence of other measures, it is noted that the product under consideration is not attracting any trade remedy measure on imports from any subject country of this investigation except Korea RP. The Authority notes that while making recommendation to the central government due care will be taken to ensure that any possibility of double jeopardy is ruled out.
94. On the submissions made by other interested parties that for the computation of non-injurious price (NIP), DGTR has allowed 22% return on Capital Employed, which is highly inflated and not in accordance with the law, it is noted that Annexure III of AD Rules refers to reasonable return (pre-tax) on the capital employed and 22% return on capital employed has been allowed by the Authority in all investigations as per the consistent practice followed by the Authority and there is no compelling reason to deviate from the same in this particular investigation.
95. On the submission of the users that the domestic industry is being granted unwarranted protection, it is noted anti-dumping duty is not a protection but just a means to ensure fair competition in the market. The response filed by the producers shows that they have resorted to dumping in the Indian market. The duties are levied to address dumping which has caused injury to the domestic industry.
96. On the methodology adopted by the Authority for computation of normal value and ex-factory price, the Authority notes normal value and export price have been determined in accordance with Rules and consistent practice and even adjustment of loss in respect of Petronika is proper and is as per the consistent practice of the Authority. The adjustment done by the Authority is based on the information provided by the company.
97. With regard to the submission of the domestic industry on comparison between non-injurious price and net sales realization of the domestic industry, it is noted that Authority has been consistently determining price undercutting by considering domestic industry selling prices at ex-factory level, and therefore, the calculations of the price undercutting have been revised by considering selling price at ex-factory levels.
98. On request for exclusion of Naphthalene based subject goods, the Authority notes that the product under consideration is not defined based on the raw material consumed. PAN produced from both the raw materials is within the scope of the product under consideration.
99. On the submission that there have been no capacity expansions in the subject countries, it is seen that the same is not relevant for the purpose of examination of material injury suffered by the domestic industry.
100. On the submission on dual remedy, the Authority has taken note of the submissions of the interested parties and has made recommendations accordingly.
101. Issues raised by other interested parties with regard to examination for post-POI period and redressal of injury through bilateral safeguard measure have already been addressed in the findings above. It is reiterated that the Authority does not examine injury parameters pertaining to post POI in an original investigation. Further, it would not be appropriate to selectively examine post POI data in a particular original investigation. Consideration of facts for the post POI period would amount to undermining the sanctity of the concept of POI in an investigation. However, any interested party can always seek review of proposed duties, in case such changes in the post POI period are found to be of lasting nature.
102. On the submission that duties can be in the form of trigger price or variable basis, the Authority considers that it is appropriate to recommend fixed form of duty in the facts and circumstances of the present case. In any case, the duty is being restricted to the lower of dumping margin and injury margin.

K. INDIAN INDUSTRY'S INTEREST AND PUBLIC INTEREST

103. Authority considered whether imposition of duty will have any adverse impact on the public interest. For this, the Authority has considered information on record and interests of various parties, including domestic industry, importers and users of the product.

104. The Authority notes that the purpose of ADD, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to 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
105. Authority issued initiation notification inviting views from all interested parties, including importers, consumers and others. Authority also prescribed a questionnaire for the users/ consumers to provide relevant information with regard to present investigation, including possible effect of anti-dumping duty on their operations. It is noted that none of the users have provided relevant information. Barring two users, no user has participated in the present investigation. The interested parties have not established impact of ADD on the user industry with verifiable information. The product under consideration was attracting anti-dumping duty earlier from some sources. . No evidence has been provided by the user to show that the duties imposed in past have had any adverse impact on the users or the consumers at large. Domestic industry has also contended that the import of subject goods made from Naphthalene route is not in public interest considering its wider adverse impact on the public at large. The imposition of anti-dumping duties will also discourage the import of low-priced subject goods produced from Naphthalene. The capacities with the domestic producers are sufficient to meet about 79% of Indian demand (including demand being met through duty free imports). It is also seen that product is produced in number of countries and the present application is limited to only few sources. Imports in significant quantities have happened from other countries such as Taiwan, Russia etc on which no duty is proposed to be levied. Even the domestic industry has made significant capital investment and expanded its capacity in the recent period. From the information on record, it is seen that one of the users is also setting up a fresh capacity in India. Therefore, the dependence of users on imports will also get reduced.
106. It is recognized that the imposition of ADD might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly when the levy of the ADD is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the Domestic Industry and help maintain availability of wider choice to the consumers of the subject goods.
107. Imposition of duties will be in interest of the domestic industry which has suffered injury due to dumped imports. The duties will ensure that domestic industry can compete in the market and will ensure wider availability of options to the users which will be in large public interest.
108. The Authority thus concludes that the anti-dumping duties will not be against the public interest at large.

L. CONCLUSION

109. Having regard to the contentions raised, information provided, submissions made and facts available before the Authority as recorded in these findings and on the basis of the determination of dumping and consequent injury to the domestic industry made hereinabove, the Authority concludes that:
 - a. The product under consideration has been exported at a price below normal value, thus resulting in dumping.

- b. The domestic industry has suffered material injury.
 - c. There is causal link between dumping of product under consideration and injury to the domestic industry.
110. Factors such as no quantification of adverse impact of duties by the interested parties, significant capacity expansions in the country which will ensure no demand and supply gap, inter-se competition between Indian producers, and absence of any evidence of adverse impact of anti-dumping duties imposed in the past on the subject goods reasonably demonstrates that imposition of duties will not be against public interest.

M. RECOMMENDATIONS

111. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link thereof in terms of Rules and having established positive dumping margin as well material injury to the domestic industry caused by dumped imports, the Authority is of the view that imposition of anti-dumping duty is necessary to offset dumping and injury.
112. In view of above, the Authority, in terms of provisions contained in Rule 17(1) (b) read with Rule 4(d) of the Rules, recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the Domestic Industry. The Authority accordingly recommends imposition of anti-dumping duty equal to the amount indicated in Column 7 of the table below on all imports of goods described in Column 3 of the duty table originating in or exported from China PR, Indonesia, Korea RP and Thailand from the date of notification to be issued in this regard by the Central Government.
113. In view of above, the Authority, in terms of provisions contained in Rule 17(1) (b) read with Rule 4(d) of the Rules, recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the Domestic Industry. The Authority accordingly recommends imposition of anti-dumping duty equal to the amount indicated in Column 7 of the table below on all imports of goods described in Column 3 of the duty table originating in or exported from China PR, Indonesia and Thailand from the date of notification to be issued in this regard by the Central Government. However, on all imports of goods described in Column 3 of the duty table originating in or exported from Korea RP, the Authority recommends imposition of anti-dumping duty equivalent to the difference between the quantum of antidumping duty indicated in Column 7 of the table below, and duty payable in accordance with notification no. 44/2020-Cus, dated 18th December, 2020, if any, from the date of notification to be issued in this regard by the Central Government.
114. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

DUTY TABLE

S.No.	Heading/ Subheading	Description of subject goods	Country of origin	Country of export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1	29173500	Phthalic Anhydride	China PR	Any country including China PR	Any	40.08	MT	US\$
2	29173500	Phthalic Anhydride	Any country other than Indonesia, Korea RP and Thailand	China PR	Any	40.08	MT	US\$

3	29173500	Phthalic Anhydride	Indonesia	Any country including Indonesia	P.T. Petrowidada	59.83	MT	US\$
4	29173500	Phthalic Anhydride	Indonesia	Any country including Indonesia	Any other	90.11	MT	US\$
5	29173500	Phthalic Anhydride	Any country other than China PR, Korea RP and Thailand	Indonesia	Any	90.11	MT	US\$
6	29173500	Phthalic Anhydride	Korea RP	Any country including Korea RP	Aekyung Petrochemical	41.26	MT	US\$
7	29173500	Phthalic Anhydride	Korea RP	Any country including Korea RP	Hanwha Solution Corporation	41.64	MT	US\$
8	29173500	Phthalic Anhydride	Korea RP	Any country including Korea RP	Any other	140.17	MT	US\$
9	29173500	Phthalic Anhydride	Any country other than China PR, Indonesia and Thailand	Korea RP	Any	140.17	MT	US\$
10	29173500	Phthalic Anhydride	Thailand	Any country including Thailand	Continental Petrochemicals Co Limited	63.06	MT	US\$
11	29173500	Phthalic Anhydride	Thailand	Any country including Thailand	Any other	134.91	MT	US\$
12	29173500	Phthalic Anhydride	Any country other than China PR, Korea RP and Indonesia	Thailand	Any	134.91	MT	US\$

N. **FURTHER PROCEDURE**

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

ANANT SWARUP, Designated Authority