

F. No. 6/43/2019-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building,
5, Parliament Street, New Delhi -110001

Date: 20th January, 2021

Case No. ADD (O.I.) 34/2019

Subject: Disclosure Statement in Anti-dumping investigation concerning the imports of Toluene Di-Isocyanate from European Union, Saudi Arabia, Chinese Taipei and United Arab Emirates.

In accordance with Rule 16 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended, I am directed by the Designated Authority to disclose the essential facts under consideration before the Designated Authority in the matter relating to anti-dumping investigation concerning imports of Toluene Di-Isocyanate from European Union, Saudi Arabia, Chinese Taipei and United Arab Emirates.

2. This Disclosure Statement is in the following four Sections:
Section 1: General Disclosure
Section 2: Assessment of Dumping – Methodology and Parameters
Section 3: Assessment of Injury and Causal Link
Section 4: Methodology for arriving at non-injurious price
3. The Sections cited above contain essential facts under consideration of the Designated Authority, which would form the basis for the Final Findings. The reproduction of facts does not tantamount to either acceptance or rejection of any fact/argument/submission. Arguments raised/submissions made by the interested parties during the course of the present investigation are reflected in this Disclosure Statement to the extent they are considered relevant to this investigation by the Authority.
4. Notwithstanding the facts given in this Disclosure Statement (including facts given on a confidential basis), the Designated Authority would consider all replies given, on merits, in order to arrive at a final determination.
5. *** in this Disclosure Statement represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

6. Interested parties may offer their comments latest by **11:00 am** on **27th January, 2021** at adg13-dgtr@gov.in, adv11-dgtr@gov.in, dir14-dgtr@gov.in and ddl6-dgtr@gov.in. Since anti-dumping investigations are time-bound, the Designated Authority shall **not** entertain any request for extension of time.
7. This is issued with the approval of Designated Authority.

(Satis Kumar)
Additional DGFT (Foreign Trade)
For Designated Authority
Tel. 011-23408719
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Enclosures: As above

To

All Interested Parties

SECTION-I

GENERAL DISCLOSURE

Subject: Disclosure Statement in the Anti-dumping investigation concerning the imports of Toluene Di- Isocyanate from Chinese Taipei, European Union, Saudi Arabia and United Arab Emirates.

A. BACKGROUND OF THE CASE

1. M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited (hereinafter referred to as the “Applicant”) filed an application before the Designated Authority in accordance with Customs Tariff Act, 1975 (hereinafter also referred to as the “Act”) as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred to as the “Anti-Dumping Rules” or “Rules”) for initiation of anti-dumping investigation concerning the imports of Toluene Di-Isocyanate (hereinafter also referred to as the “product under consideration” or “PUC” or the “subject goods”) from European Union, Saudi Arabia, Chinese Taipei and United Arab Emirates (hereinafter also referred to as the “subject countries”).
2. The Authority on the basis of prima facie evidence submitted by the Applicant, issued a public notice vide Notification No. 6/43/2019-DGTR dated 31st January, 2020 in the Gazette of India Extraordinary initiating the investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject countries and to recommend the amount of anti-dumping duty (ADD), which if levied, would be adequate to remove the alleged injury to the Domestic Industry.
3. The Authority having regard to the Act and the Rules, considered it appropriate to recommend interim duties and issued Preliminary Findings vide Notification No. 6/43/2019-DGTR dated 4th September, 2020, recommending imposition of provisional ADD on the imports of the subject goods, originating in or exported from the subject countries. Accordingly, the Central Government vide Notification No.43/2020-Customs dated 2nd December, 2020 imposed provisional ADD on imports of the Toluene Di-Isocyanate from Chinese Taipei, European Union, Saudi Arabia and United Arab Emirates for a period of 6 months.

B. PROCEDURE

4. The procedure described herein below has been followed with regard to the investigation:
 - a. The Authority notified the Embassies of subject countries/territories 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 31st January, 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 Embassies of the subject countries in India, the known producers and exporters from the subject countries, known importers/users and the Domestic Industry as well, as per the

- information available. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.
- d. The Authority also provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules.
 - e. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their 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 along with the names and addresses of the known producers/exporters from the subject countries.
 - f. The Authority sent exporter's questionnaires to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules: -
 - i. M/s Sadara Chemical Company;
 - ii. M/s BASF SE;
 - iii. M/s BASF Schwarzheide GmbH;
 - iv. M/s Covestro Deutschland AG, Germany, EU;
 - v. M/s BorsodChem Zrt, Hungary, EU;
 - vi. M/s Nan Ya Plastics, Chinese Taipei;
 - vii. M/s Polychem Company, Chinese Taipei.
 - g. In response to the above notification, following exporters/ producers have submitted exporter questionnaire responses:
 - i. M/s BorsodChem Zrt., Hungary, EU;
 - ii. M/s Covestro Deutschland AG, Germany, EU;
 - iii. M/s Covestro (Hong Kong) Limited;
 - iv. M/s Sadara Chemical Company, Saudi Arabia;
 - v. M/s Dow Chemical International Pvt. Ltd. (Dubai Branch);
 - vi. M/s Dow Saudi Arabia Product Marketing B.V., Netherlands;
 - vii. M/s Dow Chemical Pacific (Singapore) Private Limited, Singapore.
 - h. 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. M/s Sheela Foam Limited;
 - ii. M/s Tirupati Foam Limited;
 - iii. M/s Kurlon Limited;
 - iv. M/s Springwell Mattresses Private Limited;
 - v. M/s Sunrise Foam Product Private Limited;
 - vi. M/s M H Polymers Private Limited;
 - vii. M/s Pyarelal Foam (South) Private Limited;
 - viii. M/s Jindal Petro Foam Private Limited;
 - ix. M/s Allied Foam Private Limited;
 - x. M/s Fancy Foam Private Limited;
 - xi. M/s Hindustan Poly Foams Private Limited;
 - xii. M/s Shree Malani Foams Private Limited;
 - xiii. M/s Prime Comforts Product Private Limited;
 - xiv. M/s Aadi Polymers Private Limited;
 - xv. M/s Springfeel Polyurethanes Foams Private Limited;
 - xvi. Indian Polyurethane Association.

- i. In response to the above notification, following importers/users have submitted the questionnaire responses:
 - i. M/s Covestro (India) Private Limited;
 - ii. M/s Dow Chemical International Private Limited;
 - iii. M/s Wanhua International India Private Limited;
 - iv. M/s Sheela Foam Limited.
- j. Further, the following interested parties have filed legal submissions/registered as an interested party: -
 - i. M/s BorsodChem Zrt., Hungary, EU;
 - ii. M/s Covestro (India) Private Limited;
 - iii. M/s Dow Chemical International Pvt. Ltd. (Dubai Branch);
 - iv. M/s. Dow Saudi Arabia Product Marketing B.V.;
 - v. M/s Sadara Chemical Company, Saudi Arabia;
 - vi. Indian Polyurethane Association;
 - vii. BASF SE;
 - viii. M/s Desim International.
- k. Additionally, the General Authority for Foreign Trade from the Kingdom of Saudi Arabia and Taipei Economic & Cultural Centre have filed submissions.
- l. The Authority, upon request made by the interested parties, granted extension to the interested parties for submitting responses. The first extension was granted upto 27th March, 2020, and then upto 10th April, 2020 and thereafter a final extension upto 21st April, 2020.
- m. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of an e-file through e-mails for the interested parties.
- n. A request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which has been received by the Authority. The Authority has relied upon DGCI&S data for computation of the volume of imports and its analysis after due examination of the transactions.
- o. The Non-Injurious Price (hereinafter referred to as 'NIP') has been determined based on the cost of production and reasonable profits of 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 Rules so as to ascertain whether ADD lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- p. Information was sought from the applicant and the other interested parties to the extent deemed necessary. Verification of the data provided by the Domestic Industry and other interested parties was conducted to the extent considered necessary for the purpose of present investigation.
- q. The period of investigation (POI) for the purpose of the present investigation is 1st April, 2019 to 30th September, 2019 (6 months). The injury examination period has, however, been considered as the period from 2016-17, 2017-18, 2018-19 and the POI.
- r. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential

- basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- s. 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 the present disclosure on the basis of the facts available.
 - t. The Authority has considered all the arguments raised and information provided by all the interested parties at this stage, to the extent the same are supported with evidence and considered relevant to the present investigation.
 - u. The Authority issued Preliminary Findings vide Notification No. 6/43/2019-DGTR dated 4th September, 2020. The interested parties were provided an opportunity to submit their comments on the Preliminary Findings.
 - v. In accordance with Rule 6(6) of the Rules, the Authority also provided an opportunity to all the interested parties to present their views orally in a hearing held on 9th November, 2020. All the parties who had attended the oral hearing were advised to file written submissions of their views expressed orally. The parties were directed to share their non-confidential submissions to other parties so as to enable them to offer their rebuttals.
 - w. Further information was sought from the Applicant and the other interested parties to the extent deemed necessary. Verification of the data provided by Domestic Industry and other interested parties was conducted to the extent considered necessary for the purpose of the present investigation.
 - x. ‘****’ in this disclosure statement represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
 - y. The exchange rate adopted by the Authority for the subject investigation is US \$ 1 = Rs. 70.73.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

5. At the stage of initiation, the product under consideration was defined as follows: -
“The product under consideration in the present investigation is “Toluene Di-Isocyanate (TDI) having isomer content in the ratio of 80:20”. Toluene di-isocyanate (TDI) is an organic compound having formula $CH_3C_6H_3(NCO)_2$. Two of the six possible isomers are commercially important: 2,4-TDI (CAS: 584-84-9) and 2,6-TDI (CAS: 91-08-7). 2,4-TDI is produced in the pure state, but TDI is often marketed as 80/20 and 65/35 mixtures of the 2,4 and 2,6 isomers respectively. The product under consideration in the present investigation concerns TDI having isomer content in the ratio of (80:20). All other grades are beyond the scope of product under consideration. The product is classified under the Chapter Heading 29 under the code 2929 10 20. The customs classification is only indicative and is not binding on the scope of the product under consideration.”

C.1. Submissions made by the domestic industry

6. The submissions made by the Domestic Industry in regard to the PUC are as follows: -
- i. The PUC is Toluene di-isocyanate or also called TDI which is an organic compound having the formula $CH_3C_6H_3(NCO)_2$. The present investigation is restricted to TDI having isomer content in the ratio of 80:20.
 - ii. The PUC is used in Flexible Polyurethane foam, Mattresses, Pillows & Quilts, etc.
 - iii. The product is imported under the customs heading 2929 10 20 of the Act.

- iv. There is no difference in the product produced by the Applicant and imported from the subject countries.

C.2 Submissions made by other interested parties

7. No submissions have been made by any other interested party with regard to the scope of the PUC.

C.3 Examination by Authority

8. The submissions made by the Domestic Industry with regard to PUC related issues are examined and addressed hereunder.
9. The product under consideration in the present investigation is Toluene Di-Isocyanate (TDI) having isomer content in the ratio of 80:20. The scope of the PUC in the present investigation is restricted to TDI having isomer content in the ratio of (80:20) and all other grades are beyond the scope of product under consideration. The PUC is used in Flexible Polyurethane foam, Mattresses, Pillows & Quilts, etc.
10. The Authority has considered the PUC as under:-
“The product under consideration in the present investigation is “Toluene Di-Isocyanate (TDI) having isomer content in the ratio of 80:20”. Toluene di-isocyanate (TDI) is an organic compound having formula $CH_3C_6H_3(NCO)_2$. Two of the six possible isomers are commercially important: 2,4-TDI (CAS: 584-84-9) and 2,6-TDI (CAS: 91-08-7). 2,4-TDI is produced in the pure state, but TDI is often marketed as 80/20 and 65/35 mixtures of the 2,4 and 2,6 isomers respectively. The product under consideration in the present investigation concerns TDI having isomer content in the ratio of (80:20). All other grades are beyond the scope of product under consideration.”
11. The PUC is classified under the Chapter Heading 29 under the HS code 2929 10 20. The customs classification is only indicative and is not binding on the scope of the PUC.
12. It is seen from the information on record that the subject goods produced by the Domestic Industry is like article to the PUC imported from the subject countries. Subject goods produced by the Domestic Industry and the PUC imported from the subject countries are comparable in terms of physical & chemical properties, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The end product has comparable specifications and is used interchangeably. It is further noted that the imported and the domestically sold products are technically and commercially substitutable, and the consumers are using the two interchangeably. Thus, the Authority holds that the subject goods produced by the Domestic Industry are like article to the PUC imported from subject countries within the scope and meaning of Rule 2(d) of the Rules.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the domestic industry

13. The Domestic Industry has made the following submissions with regard to the scope of Domestic Industry and standing:

- i. The Applicant is the only producer of the subject goods in India
- ii. The Applicant has not imported the subject goods from subject countries and is not related to any exporter in the subject countries or importer of subject goods in India.
- iii. The Applicant satisfies the requirement of Rule 2(b) and Rule 5(3) of the rules.

D.2. Submissions made by other interested parties

14. None of the other interested parties have made any submissions with regard to the Domestic Industry.

D.3. Examination by the Authority

15. Rule 2(b) of the Rules defines Domestic Industry as follows:
“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”.
16. It is noted that the application has been filed by M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited. There is no other producer of the subject goods in India. The Applicant has not imported the subject goods from subject countries and is not related to any exporter in the subject countries or importer in India. Accordingly, the Authority holds that the Applicant constitutes Domestic Industry under Rule 2(b) of the Rules and the application meets the requirements of ‘standing’ under Rule 5(3).

E. CONFIDENTIALITY

E.1. Submissions made by domestic Industry

17. The submissions made by the Domestic Industry with regard to confidentiality are as follows:
 - i. Covestro Deutschland AG and Sadara Chemical have not disclosed information in compliance with the requirements of Trade Notice 10/2018 dated 7th September, 2018.
 - ii. The information regarding names of the owner, lists of products produced, specification of product, product brochures and list of affiliates company is available in public domain but has been claimed confidential by Borsod. Further, it has claimed that disclosure of brochure and exchange rates will amount to “irreparable damage” to the business interests of the company. The Applicant is unable to understand what irreparable damages can be caused on the disclosure of a product brochure or even exchange rate.
 - iii. M/s Kędzierzyn-Kozle, related party of Borsod is engaged in the production of the raw material for the subject goods i.e., Toluene and utilities required to produce the subject goods such as power and water are produced captively by it. However, information about inputs produced captively and evidence showing the basis of transfer completely is kept confidential.
 - iv. The Applicant has made detailed submissions on the questionnaire response filed by M/s Brosod Chem Zrt. and M/s Covestro Deutschland AG.

E.2. Submissions made by other interested parties

18. The submissions made by other interested parties with regard to confidentiality are as follows:
 - i. Borsod Exporter's questionnaire response is in the prescribed format and in compliance with applicable Trade Notices including Trade Notice No. 10/2018 dated 7th September, 2018.
 - ii. M/s Covestro Deutschland AG & Covestro (Hong Kong) Limited have filed complete information in the Producer and Exporter Questionnaire in the prescribed format.
 - iii. Sadara Chemical Company, Dow Marketing and Dow Singapore have filed the questionnaire responses.
 - iv. The claims of the Domestic industry regarding confidentiality claimed by Sadara Chemical is misplaced and incorrect.

E.3. Examination by the Authority

19. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidence submitted by various interested parties for inspection as per Rule 6(7).
20. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:
 - (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*
 - (2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*
 - (3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information."*
21. As regards the contentions regarding confidentiality of information, it is noted that information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered 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 made available the non-confidential version of the evidence submitted by various interested parties in the form of public file. The information related to imports, performance parameters and injury parameters of domestic industry has been made available in the public file. Business sensitive information has been kept confidential as per practice.

F. MISCELLANEOUS SUBMISSIONS

F.1 Submissions made by the domestic industry

22. The following miscellaneous submissions have been made by the Domestic Industry:
- i. The present Application was filed on 27th December, 2019. It would be seen that there was no dumping of the product till January, 2019. Therefore, the POI could not have started prior to March, 2019. As far as the period October - December 2019 is concerned, the same could not have been added for the reason that the Application was filed on 27th December, 2019 and the financial results for that period were declared only on 11th February, 2020. Thus, the Applicant has chosen the right period for the present purposes.
 - ii. The interested parties have assumed that annualised data implies that the Applicant has extrapolated the data for the subsequent period. The Applicant has not extrapolated any data for subsequent period. On the contrary, the Applicant has simply considered the data for POI and in order to compare the data with previous periods of different duration, it has been considered appropriate to bring the data of the POI in the same platform before comparison. It is only for the above purpose, the Applicants have “annualised” the figures for the POI and then compared the same with the figures of previous years.
 - iii. Wherever data on annualised basis could be different from six months data, the Applicant has annualised the data. As regards reference to Article 3 of Anti-Dumping Agreement, the fact that one period is of twelve months duration and other period is of six months duration does not in itself imply that an analysis of the data over the period is inappropriate. While analysing the data, due regard must be given to the fact that the data for two periods are not for same length and the same must be appropriately factored while drawing conclusion on whether the parameter deteriorated or improved.
 - iv. Thus, it only implies that analysis is required to consider the fact of different duration of two periods. The Applicant for the sake of convenience has adopted an approach wherein the Applicant has annualized the data and then done the comparison. Even if data is not annualised and considered as it is, while comparing it with preceding years, the Authority will have to give due regard to the fact that the length of two periods are different and therefore, the figures cannot be directly compared.
 - v. The Applicant has no captive sales in the POI and even earlier it was extremely negligible. Therefore, the information with regard to captive sales quantity, value and realization is inconsequential to the present case.
 - vi. The details of normal value disclosed in the non-confidential version of the Application is sufficient as per DGTR practice. Moreover, the Applicant has claimed no expense on R&D account relating to the PUC and has not made any purchase of the PUC, hence the information has not been provided. It would, thus, be seen that the Applicant has provided all such information as is relevant to the present case.
 - vii. The anti-dumping duties which were levied in June, 2017 were only interim duties. The definitive duties were imposed in January, 2018. In any case, whether June, 2017 or January, 2018 is considered as the relevant date for duty, the argument in the Application remains the same.
 - viii. The Applicant had proposed a 6-month POI in the application because the import prices from the subject countries have declined drastically in a short period; as a result of which the performance of the Domestic Industry deteriorated drastically. A 6-month POI is in complete consistency with the past practice of the Authority. The other

interested parties too have so far been unable to substantiate why a 6-month POI is not appropriate.

- ix. There was no dumping of the product till January, 2019. Therefore, the POI could not have started prior to March, 2019.
- x. Information with respect to names of shareholders and associations with other company concerning research and developments of Sadara is available in public domain but has been claimed confidential.
- xi. Both the producers Sadara and Borsod have suppressed information in relation to financial or contractual links and joint ventures with any other company concerning Research and Development.
- xii. Covestro in response to the question about raw material purchased from related party or captively produced, has stated that it is not applicable. However, raw materials required for production of subject goods are being captively produced inside the same plant. Further, it has also failed to provide any evidence to show that the price considered for raw material is reflective of the fair market price.
- xiii. Since Sadara has filed deficient questionnaire response, the Authority should apply facts available.
- xiv. There is no risk on the continuity of business operations of the Applicant and if that would have been the case, the Board of Directors and Auditors must have reported in the Annual Report.
- xv. The Domestic Industry made significant investment for the production of subject goods in the country and is currently operating with losses. ADD will not discourage imports, but it will ensure that imports are at fair prices and are not harming the Indian industry.
- xvi. The Applicant strongly disputes and opposes participation of Indian Polytherane Association at such a belated stage of investigation. The list of interested parties issued by the Authority nowhere discloses the IPUA as an interested party.
- xvii. The Association has not demonstrated its credentials to be considered as an Interested Party in the proceedings before the Authority. It has not established that it is duly authorized by its member/consumers of the PUC to represent themselves in the present investigation.
- xviii. The Association is making loud noises about the users and the importers belonging to the MSME sector, but none of users has participated in the present investigation. Had the user industry participated, it would have provided necessary information to the Authority which could have been helpful in determining the impact of duties.
- xix. Neither the Applicant has claimed an exclusion nor the Authority in the Preliminary Findings has excluded six months of data from each year for the purpose of injury analysis. The allegation that data of 6 months has been excluded by the Domestic Industry thus has no relevance for the purpose of present investigation.
- xx. It seems that the interested party has understood that the mechanism for imposition of duty is a child's play. The applicant domestic industry, in fact, is going through a time-consuming elaborate process. The Domestic Industry suffered injury even before it could seek imposition of appropriate duty.

F.2 Submissions made by other interested parties

23. Miscellaneous submissions made by other interested parties are as follows:
 - i. DGTR has not provided any justification for adopting a 6-month POI, which it was required to provide as per the Manual of Operating Practice. The Authority adopts a 12-month period as the POI in most cases. As per the Manual of Standard Operating Procedures and WTO Anti-dumping Committee recommendation, the POI should

- normally cover a period of twelve months and a shorter period as the POI can be considered only as an exception. POI of six months is insufficient and inappropriate to undertake an objective analysis of dumping, injury, and causal link analysis.
- ii. WTO Panel in Mexico - Definitive Anti-Dumping Measures on Beef and Rice (DS295), held that the investigating authority's injury analysis by exclusion of six months of data from each year of the investigation period is inconsistent with Article 3.1 of the AD Agreement.
 - iii. A 6-month period presents only half the picture and does not consider the time period in which the Domestic Industry could have been doing better.
 - iv. In order to examine most of the factors for injury the Applicant has used annualized data for the POI without providing any justification. Due to annualization of import volumes, volume of exports made by Chinese Taipei to India have been inflated.
 - v. The Applicant has switched between "POI" and "POI-A" in examining different factors of injury in the Application which does not provide an objective examination and sufficient basis for analysis as required by Article 3.1(iv) of the agreement.
 - vi. There is inconsistency in comparison of 6 months POI with other periods of 12 months which does not comply with obligation to conduct objective examination.
 - vii. An inconsistent method in identification of the POI has led to DGTR failing in the examination of accuracy and adequacy of the Application pursuant to Article 5.3 of the agreement.
 - viii. The Applicant has provided actual imports for 6 months and estimated volume of imports for 6 months to introduce annualized POI without providing any justification. The Appellate Body in India-Iron and Steel Products (Safeguard) also held the methodology adopted by the Indian authority of annualizing data to make them comparable with those of previous years warrants an explanation.
 - ix. Normal value, captive sales quantity, captive sales value, captive sales realization, R&D expenses, funds raised, purchase quantity of PUC and NIP calculations have not been provided as per Trade notice no. 10/2018 dated 7th September, 2018 and no justification has been provided. This violates the Articles 5.2, 6.2, 6.5.1, and 6.8 of the Agreement
 - x. The Applicant has provided inaccurate and misleading information about the levy of ADD on the imports from China PR, Korea RP, and Japan. The duties were levied with effect from 5th June, 2017 as against January, 2018 as stated in the Application.
 - xi. The end-user industry cannot pass the duty burden to consumers and is suffering a lot. The levy of duty will lead to closure of a lot of small foaming units. A review mechanism in place is so lengthy and time-consuming and the end-user industry keeps suffering.
 - xii. Importers/users are from MSME sector which employs hundreds/ thousands of workforces and forms a major portion in job creation as far as the organized sector is concerned.
 - xiii. Covestro India has invested around INR 150 Crore in the production plant of Polyisocyanate Crosslinkers at Ankleshwar, the raw material for which is TDI. With ADD imposed on imports of TDI from EU, the production plant will become unviable and downstream industry will suffer irreparable injury.
 - xiv. The sustainability of the company is threatened by Demand Notice of Rs. 15,019.97 crores issued by Department of Telecommunications (DoT).
 - xv. The price of subject goods is cyclic in nature and the price usually increases during the second half of the Indian financial year. Current price is almost double the price during the POI.
 - xvi. The Domestic Industry should be directed to provide transaction-wise import data.

- xvii. The investigation was initiated on 31st January, 2020 and DGCI&S data upto December, 2019 would have been available. The data for October to December could have been added. If data for period only upto September, 2019 was available, the Authority could have considered preceding 12 months as the POI.
- xviii. The Domestic Industry has claimed aggravated injury post-POI. Therefore, it is appropriate to extend the POI by six months.
- xix. Contractual agreement of R&D of Sadara is a business proprietary arrangement and has been furnished in Exhibit A -7.
- xx. Information with respect to shareholders of Sadara is a business proprietary information and cannot be disclosed.
- xxi. Sadara has not incurred R&D expense because it has arrangements for 'technology transfer', 'technology license', and 'technical service' arrangements the details of which have been served to the Authority. Sadara has not made any contribution to JMC.
- xxii. Research and Development collaboration arrangement with the University of Miskolc has nothing to do with the PUC and therefore, Borsod has not shared.
- xxiii. In Guatemala - Definitive Anti-Dumping Measures on Grey Portland Cement from Mexico, Appellate Body allowed extension of the POI on request of interested parties.
- xxiv. International prices of Toluene as published in Platts report has been claimed confidential but is available in the public domain. Further, production and capacity are available in public domain but have been claimed confidential.
- xxv. In European Communities - Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil, it was held that the POI must be long enough to allow the investigating authority to make dumping determination that is less likely to be subject to market fluctuations.
- xxvi. The amendment to the Rules was issued after the initiation of investigation and they will not be applicable to present case.
- xxvii. Wanhua International India Pvt. Ltd has not circulated non-confidential version of submissions filed before the Authority.
- xxviii. The Domestic Industry's production of the subject good has increased by 21% in the POI, without having installed any additional capacity.
- xxix. There has been an unprecedented rise in the wages despite no increase in the number of employees.
- xxx. Imports from Saudi Arabia during POI have not increased either in absolute terms or relative to production and consumption in India.
- xxxi. The Authority is requested to exclude injury to the Applicant on account of other intrinsic factors.
- xxxii. The Authority must segregate and identify injury to the Domestic industry, if any, on account of imports from non-subject countries including Singapore.
- xxxiii. There is an inconsistency in comparing the POI of 6 months to periods covering 12 months in the previous financial years.
- xxxiv. The information provided by the Applicant shows an estimated volume of imports in the last 6 months of (2019–2020), which cast doubt upon the accuracy of information in the Application.
- xxxv. The Applicant cannot claim the increase of imports by comparing 2016-2017 to 2017-2018 because comparing these periods does not reflect, in an objective way, the normal commercial quantities of the Saudi exporter.
- xxxvi. Covid crisis has stressed out the MSME sector. Labour, cash flow and slow down are hurting the industry. Therefore, any additional imposition of penalty will be a huge blow to viability of most foaming units.

xxxvii. Injury is not caused by imports from Chinese Taipei as Chinese Taipei constitutes 6.5% of the total imports of TDI into India, and, therefore, much less in the total demand.

F.3 Examination by the Authority

24. Regarding the submission of other interested parties on the selection of the POI of 6 months, the Authority notes that adoption of 6 months as the POI is not inconsistent with the Rules. The Domestic Industry substantiated the need for considering April, 2019 to September, 2019 as the POI. The Authority accepted the same, being satisfied with the reasons given by the Domestic Industry. The Authority considers that 6 months POI in the present case is appropriate as the decline in import prices from subject countries is steep in April- September, 2019. The Application in the present case was filed on 27th December, 2019 and, therefore, data for the period after September, 2019 was not available at the stage of initiation.
25. The purpose of an antidumping investigation is to examine whether the product has been dumped and whether such dumping has caused material injury to the Domestic Industry. Thus, the Authority notes that the POI chosen for the case is consistent with the legal position at the time of initiation and the practice being followed by the Authority. It is further noted that the Rules have been amended vide Customs Notification no. 9/2020-customs dated 2nd February, 2020 wherein Rule 2(da) and Explanation to Rule 22 have been inserted, incorporating the following provisions:
“The POI shall: -
(i) not be more than six months old as on the date of initiation of investigation.
(ii) be for a period of twelve months and for the reasons to be recorded in writing the designated authority may consider a minimum of six months or maximum of eighteen months.”
26. It is noted that the above amendment has been carried out after the initiation of the present investigation. Nevertheless, the Authority had duly considered the justification provided by the Applicant for selection of April to September, 2019 as POI, as mentioned above.
27. In regard to the contention that the Domestic Industry has annualized the data for the purpose of injury examination and has switched between POI and POI–A for examination, it is seen that the data has been annualized to bring it to same level in order to compare it with previous period of 1 year duration. Further, it is seen that the Applicant has annualized the data only in cases where annualized basis could be different from six months data. The methodology followed by the Applicant is in accordance with the practice followed by the Authority.
28. It is noted that the preliminary ADD were imposed on the imports of subject goods from China PR, Japan and Korea RP on 5th June, 2017 and final duties were imposed on 23rd January, 2018.
29. The Authority has already addressed in the Preliminary Finding that a 6-month POI is appropriate for the present investigation. As regards the considering data for the period prior to April 2019, the Applicant had provided the data for the period. It is seen that there was no dumping of the subject goods in India and therefore the POI could not have started prior to April, 2019. Further, at the time of initiation of investigation, DGCI&S data upto period December, 2019 was not available as DGCI&S releases the transaction-

wise import data after a lapse of 2 months. Even the domestic industry's performance parameters for period upto December 2020 would have been available after at least 2 months. The Authority, therefore, could not have added another quarter to the period of investigation. There is sufficient justification for a 6-month POI. However, the other interested parties have not brought forward any new justification/ evidence to show that a 6-month POI is not adequate in the present investigation.

30. It has been submitted that the prices of the goods are cyclic in nature and the prices increase in the second half of the year. From the data provided by the applicant, it is seen that the prices of the subject goods continued to decline in the post-POI as well. No evidence has been provided by the interested parties to show that the price movements are cyclic. Further, the Authority has already examined in the Preliminary Findings that the subject goods from the subject countries are at dumped prices.
31. As against the submission that levy of duties will be against the public interest and will affect the users who are from MSME sector, it is noted that the purpose of ADD is not to restrict the entry of imports. The Domestic Industry in the present investigation is suffering due to dumped imports. The duties will only ensure that the dumped goods are at fair and non-injurious prices. Imports from China PR, Japan and Korea RP attract ADD, yet there have been imports from all the three countries. Users are free to import from any other source. The users can seek review of the present ADD under Rule 23 in case there is no justification for continued imposition of the same.
32. The Domestic industry had filed the transaction-wise data with the Authority at the time of initiation of the investigation. The interested parties were free to obtain it in accordance with trade notice 07/2018 dated 15th March, 2018.
33. As regards the participation of Indian Polytherane Association in the investigation, the Authority notes from its submissions that Indian Polytherane Association represents the interest of a section of users of the PUC in India and to that extent, the contentions of the Association and its members are considered and addressed.

Section-II

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

G.1 Submissions made by Domestic industry

34. The submissions made by the Domestic Industry with regard to normal value, export price and dumping margin are as follows:
- i. Exports from Germany and Hungary to other EU countries reflect the domestic selling price for the producers in EU and hence can be considered for the purpose of normal value.
 - ii. Dow Chemical International Private Limited is a company affiliated to Sadara Chemical Company, the sole producer of TDI in Saudi Arabia. Therefore, the price at which the company has exported is unreliable due to association of compensatory arrangements. The export price should, therefore, be constructed considering the price at which the goods have been imported into India and the resale price offered for sale of the product in India. The dumping margin for all the four countries is positive and significant.
 - iii. The dumping Margin for all the three participating producers is positive. Dumping margin for other two countries as per constructed normal value is also significant and positive.
 - iv. Covestro has claimed normal value based on domestic market sales and it can be seen that as compared to 2018, sales realization per unit for the external EU sales in the period of investigation have reduced to 60% but for internal EU sales have fallen only 20%. The Authority is, therefore, requested to investigate the reasons for such a significant price variation of the subject goods.
 - v. Sales of Sadara in its domestic market during the POI are at losses.
 - vi. Sadara has not claimed any expense on account of research and development. However, Sadara is a new entrant and should have incurred significant expenditure on R&D. Further, it had associations with research centers. The same should be accounted for in the cost of production for determining normal value.
 - vii. Sadara has claimed adjustment in cost due to high fixed costs incurred due to outage. Similar outage was also planned by the Sadara in the year 2016 which shows that it is regularly undertaken by Sadara. Power outages are part of ordinary business operations and does not warrant any treatment as extraordinary expense requiring adjustments in the calculation of cost of production
 - viii. Adjustments made in landed price and net export price of Sadara for the loss incurred by the related importer on sale of the subject goods imported from the parent company is in conformity with the provisions of the Custom Tariff Act.
 - ix. The fact that purchase price of the related importer is higher than the sale price itself shows that there exists a compensatory arrangement between the exporter and the importer warranting an adjustment, considering the nature of the product and the relationship involved. Neither the exporter nor importer has given any reason for the losses suffered by the related importer.
 - x. The low cost of production does not justify dumping of the subject goods in the Indian market. Further, dumping is price discrimination in two markets and not cost difference in two markets.
 - xi. It has been admitted that the price fall is due to global oversupply in the market which is an admission of dumping.

G.2 Submissions made by other interested parties

35. The submissions made by the interested parties with regard to normal value, export price and dumping margin are as follows:
- i. The Applicant has determined normal value by constructing it leading to artificial high value. The approach is inconsistent with Article 5.2 of the Agreement.
 - ii. The Applicant could have claimed normal value using Saudi's exports to third countries, like it did in case of European Union.
 - iii. The exports of Covestro to its related importer do not compete with the Domestic Industry, therefore, exports to unrelated customers should be considered for determining injury margin.
 - iv. There is no compensatory arrangement between the exporter and the importer in case of Sadara. Computation of export price should be re-visited and dumping margin should be computed, without any adjustment in the Export price.
 - v. Questionnaire responses shall be relied on by the Authority for the purpose of determining dumping margin and injury margin in case of Covestro and Borsod.
 - vi. WTO Agreement on Anti-dumping and the Rules acknowledge that business entity may be forced to sell goods to unrelated customer at loss (on account of various factors such as high fluctuation in price, condition of competition, demand, and supply, etc.)
 - vii. The price of TDI imported by DCIPL has been evaluated and confirmed by the Customs Special Valuation Branch ('SVB') as per Customs Valuation Rules. The Authority is under an obligation to accept this data.
 - viii. Computation of Landed Value by adjusting loss of respondent is contrary to the Office Memorandum No. 4/15/2018-DGTR (Part III) and customs laws of India.
 - ix. Power outage falls under extraordinary expense, adjustment on account of the same should be allowed by Authority to Sadara. Adjusted cost of production claimed by Sadara is as per questionnaire template and no information has been concealed.
 - x. M/s Kedzierzyn-Kozle was one of the Borsod subsidiaries but it was spun-off at the end of 2017 and has been unaffiliated to it. Purchases of any inputs used for production of the PUC from related parties during the POI were made by Borsod at market prices and documentary evidence has been furnished for it.
 - xi. The Applicant has failed to provide credible document to validate any compensatory arrangement between exporter and importer of Sadara or to show the export price is unreliable. The Authority has not undertaken an analysis to validate the existence.

G.3 Examination by the Authority

G.3.1 Determination of normal value and export price

36. Under section 9A (1) (c), normal value in relation to an article means:
- i) *The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*
 - ii) *When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:*

- a. *comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
- b. *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*

G.4 Determination of Normal value and Export Price for Subject countries

37. The Authority notes that the following producers of the subject goods have filed exporter's questionnaire response: -
- a. M/s BorsodChem Zrt, Hungary, European Union
 - b. M/s Covestro Deutschland AG, Germany, European Union
 - c. M/s Sadara Chemical Company, Saudi Arabia.

G.4.1 European Union

i. M/s. Covestro Deutschland AG

38. M/s. Covestro Deutschland AG ("Covestro Germany"), is a stock corporation company registered and established under German Company Laws. It is noted from the Exporter's Questionnaire response that Covestro Germany has sold the subject goods directly to unrelated customers in the domestic market and also through its related parties, namely, Covestro International SA (Switzerland), Covestro S.R.L. (Italy) and Covestro, S.L (Spain). It is also noted that Covestro Germany has exported the subject goods to India through its related trading company, M/s. Covestro (Hong Kong) Limited ("Covestro HK"). Covestro HK has sold the subject goods to unrelated Indian Customers, and also to a related importer, M/s. Covestro India Pvt. Ltd, who has in turn resold the subject goods to unrelated customers in India. Covestro Germany, Covestro International SA (Switzerland), Covestro S.R.L. (Italy), Covestro, S.L (Spain), Covestro HK and Covestro India Pvt. Ltd have provided all the relevant information in the prescribed questionnaire formats.

Normal Value

39. M/s. Covestro Deutschland AG ("Covestro Germany") has submitted Exporter's Questionnaire response furnishing details of domestic sales and cost of sales of subject goods during the POI. The Authority has conducted desk verification of the data submitted by the exporter. During the POI, Covestro Germany has sold the subject goods directly to unrelated customers in the domestic market and also through its related parties, namely, Covestro International SA (Switzerland), Covestro S.R.L. (Italy) and Covestro, S.L (Spain). Covestro Germany has provided details of sales made in the domestic market to unrelated customers, details of sales made in the domestic market to related parties and details of resale price of these related parties to independent customers. It is noted from the response that during the POI, Covestro Germany, has sold *** MT of subject goods having an invoice value of Euros *** in the domestic market directly to unrelated customers and also to its related parties. The cost of sales claimed by Covestro Germany has been verified and accepted for the purpose of findings subject to detailed verification. On the basis of cost of sales calculated the Authority has carried out ordinary course of trade ("OCT") test, which indicates that more than 80% of

domestic sales made during the POI were profitable. Accordingly, all domestic sales have been considered for determination of normal value.

40. Covestro Germany has claimed adjustments on account of freight, insurance and credit cost. The Authority has allowed the adjustments as claimed after verification and has accordingly determined the normal value at ex-factory level. The ex-factory normal value so determined has been mentioned in the dumping margin table below.

Export Price

41. During the POI, Covestro Germany has exported the subject goods to India through a related trader, namely, M/s. Covestro (Hong Kong) Limited (“Covestro HK”). It is noted from the response that during the POI, Covestro Germany has exported *** MT of subject goods to India having an invoice value of Euros *** through Covestro HK. Covestro HK has sold the subject goods to unrelated Indian Customers and also to a related importer, M/s. Covestro India Pvt. Ltd, who has in turn resold the subject goods to unrelated customers in India. The Authority has examined the sale price of Covestro HK to independent customers and notes that the sale price of Covestro HK covers all the expenses incurred by Covestro HK. For the exports made to M/s. Covestro India Pvt. Ltd, the Authority has examined the export price on the basis of price at which the imported subject goods were first resold to an independent buyer. It is noted from the response filed by the related Indian importer that it has earned sufficient amount of profits on resale of the imported subject goods during the POI.
42. Covestro Germany has claimed adjustments on account of freight, insurance and credit cost and the same have been allowed by the Authority after verification. Accordingly, the ex-factory export price so determined has been mentioned in the dumping margin table below.

ii. M/s Borsod Chem Zrt

43. M/s BorsodChem Zrt, Hungary is a private limited company limited by shares. It is a limited liability company established under Hungarian law. The company has filed Exporter’s Questionnaire response. It is noted from the response that M/s BorsodChem Zrt has sold the subject goods directly to unrelated customers in the domestic market and also through its subsidiary M/s Wanhua BorsodChem Italia S.R.L., Italy. It is also noted that M/s BorsodChem Zrt has exported the subject goods to its Indian subsidiary, M/s Wanhua International (India) Pvt Ltd, who has in turn resold the subject goods to unrelated customers in India. M/s BorsodChem Zrt, M/s Wanhua BorsodChem Italia S.R.L., Italy and M/s Wanhua International (India) Pvt Ltd have provided all the relevant information in the prescribed questionnaire formats.

Normal Value

44. M/s Borsod Chem Zrt has submitted Exporter’s Questionnaire response furnishing details of domestic sales and cost of sales of subject goods during the POI. During the POI, M/s BorsodChem Zrt, has sold the subject goods directly to unrelated customers in the domestic market and also through its subsidiary, M/s Wanhua BorsodChem Italia S.R.L., Italy. M/s BorsodChem Zrt has provided details of sales made in the domestic market to unrelated customers, details of sales made in the domestic market its related party and details of resale price of the related party to independent customers. The cost of sales as claimed by M/s BorsodChem Zrt has been verified and the Authority has

carried out ordinary course of trade (“OCT”) test, which indicates that more than 80% of domestic sales made during the POI were profitable. Accordingly, all domestic sales have been considered for determination of normal value. It is noted from the response that during the POI, M/s BorsodChem Zrt, has sold *** MT of subject goods at an average invoice price of Euro *** per MT in the domestic market directly to unrelated customers and also to its subsidiary M/s Wanhua BorsodChem Italia S.R.L.

45. M/s BorsodChem Zrt has claimed adjustments on account of insurance, inland transportation, credit cost, packing cost and other related expenses. The Authority has allowed the adjustments as claimed as verified and accordingly determined the normal value at ex-factory level. The ex-factory normal value so determined has been mentioned in the dumping margin table below.

Export Price

46. During the POI, M/s BorsodChem Zrt has exported the subject goods to its Indian subsidiary, M/s Wanhua International (India) Pvt Ltd, which has in turn resold the subject goods to unrelated customers in India. M/s BorsodChem Zrt and M/s Wanhua International (India) Pvt Ltd have provided the relevant information in the requisite formats. It is noted from the response that during the POI, M/s BorsodChem Zrt, has exported *** MT of subject goods at an average invoice price of Euro *** per MT to its Indian subsidiary, M/s Wanhua International (India) Pvt Ltd.
47. It is noted from the response filed by the related Indian importer that it has earned sufficient amount of profits on resale of the imported subject goods during the POI. M/s BorsodChem Zrt has claimed adjustments on account of ocean freight, inland transportation, port related expenses, and insurance, credit cost and packing expenses and the same have been allowed by the Authority after desk subject to verification. The ex-factory export price as determined is given in the dumping margin table below.

iii. Non-cooperating producers/exporters

Normal value for all other non-cooperating producers/exporters in EU

48. The normal values for all other non-cooperating producers and exporters of European Union has been determined as per facts available considering the data provided by the co-operating exporters and the same is mentioned in the dumping margin table below.

Export Price for all other non-cooperating producers/exporters in EU

49. The export price for all other producers and exporters who have not participated in the present investigation has been determined as per facts available considering after allowing due adjustments of expenses and the same has been mentioned in the dumping margin table below.

G.4.2 Saudi Arabia

50. In response to the initiation of the subject investigation, following producers/exporters from Saudi Arabia have responded by filing questionnaire response:-
- a) M/s Sadara Chemical Company, Kingdom of Saudi Arabia (Producer)
 - b) M/s. Dow Saudi Arabia Product Marketing B.V. (Exporter)
 - c) M/s. Dow Chemical Pacific (Singapore) Private Limited (Exporter)

d) Dow Chemical International Private Limited, Dubai Branch (Exporter)

51. In addition to the Sadara and Dow trading entities, related importer of subject goods in India namely Dow Chemical International Private Limited ('DCIPL') has also filed the importer's questionnaire response.
52. Accordingly, the Authority has determined the normal value, export price and dumping margin in respect of various producers/exporters of the subject country as follows:-

i. **Sadara Chemical Company ("Sadara"), Dow Saudi Arabia Product Marketing B.V. ('Dow Marketing'), Dow Chemical Pacific (Singapore) Private Limited ('Dow Singapore'), Dow Chemical International Private Limited – Dubai Branch ('DCIPL- Dubai Branch')**

53. It is noted Sadara is the producer of subject goods from Saudi Arabia engaged in domestic sales of subject goods as well as exports to India through related entities namely Dow Marketing, Dow Singapore and DCIPL Dubai Branch. Sadara is a limited liability company existing under the laws of the Kingdom of Saudi Arabia having a commercial registration number (***). The head office of the company is located at Eastern Province at Jubail, Kingdom of Saudi Arabia.

Normal value

54. The subject goods produced by Sadara are first sold to Dow Marketing, and Dow Marketing invoices the subject goods to Dow Singapore and DCIPL Dubai Branch. Dow Singapore is the trader of subject goods and they have sold the subject goods to DCIPL (related entity in India) as well as directly to unrelated entities/importers. DCIPL Dubai Branch has sold the subject goods directly to unrelated Indian importers.
55. Based on the response filed by Sadara, it is noted that their domestic sales are in sufficient quantity in the domestic market. The cost of sales claimed by M/s Sadara has been accepted for the purpose of findings after desk verification. On the basis of cost of sales claimed, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. Upon examination, the Authority noted that all sales of subject goods in domestic markets during the POI are at loss. Therefore, the Authority constructed the normal value based on cost of production, SGA and profit, and the same is mentioned in the dumping margin table below.

Export Price

56. It is noted from exports to India, M/s Sadara sells the entire quantity of the subject goods to Dow Marketing. For exports to India, Dow Marketing raises invoice on Dow Singapore for resale to unrelated and related Indian importers. Similarly, Dow Marketing has sold subject goods to unrelated importers through DCIPL Dubai Branch. On an overall basis, *** MT of subject goods is sold to unrelated importers and ***MT of the subject goods is exported to DCIPL (related importer). All these related parties have also filed questionnaire responses.

57. During the POI, Dow Singapore has sold *** MT of subject goods to DCIPL (Indian importer) and *** MT of subject goods to unrelated importer. DCIPL Dubai Branch has sold *** MT of subject goods to unrelated Indian importers.
58. It is noted from the response filed by above mentioned subsidiaries that together, they have incurred a loss during the sale of the subject goods imported from their parent company i.e. M/s Sadara through different trading channels as mentioned above. As their sales price of subject goods are lower than their purchase price which includes import prices and SGA of the subsidiaries, suitable adjustment has been made from their landed price and net export price. Further for arriving at the ex-factory export price, the Authority has considered adjustments on account of freight, credit cost and other post factory expenses from the invoice price of the producer (Sadara). Accordingly, the ex-factory export price is calculated and mentioned in the dumping margin table below.

ii. **Non-cooperating producers/exporters**

Normal value for all other non-cooperating producers/exporters in Saudi Arabia

59. The normal value for all other non-cooperating producer of Saudi Arabia has been determined as per facts available considering the data provided by the co-operating producer and the same is mentioned in the dumping margin table below.

Export Price for all other non-cooperating producers/exporters in Saudi Arabia

60. The export price for all other producers and exporters who have not participated in the present investigation has been determined as per facts available considering after allowing due adjustments of expenses and the same has been mentioned in the dumping margin table below.

G.4.3 Chinese Taipei

Normal value for all producers/exporters in Chinese Taipei

61. None of the producers/exporters from Chinese Taipei have responded, therefore, normal value has been determined based on the facts available in terms of Rule 6(8) of the AD Rules. In view of absence of publicly available information with regard to selling price of the product in the domestic market in Chinese Taipei, normal value in respect for Chinese Taipei producers has been determined by constructing cost of production for the Chinese Taipei producers, as per best estimates, duly adjusted with regard to SGA and profit. Based on this, the dumping margin is indicated in the dumping margin table below.

Export Price for all producers/exporters in Chinese Taipei

62. The export price for all producers and exporters has been determined as per facts available after allowing due adjustments of expenses and the same has been mentioned in the dumping margin table below.

G.4.4 UAE

Normal value for all producers/exporters in UAE

63. None of the producers/exporters from UAE have responded, therefore, normal value has been determined based on the facts available in terms of Rule 6(8) of the AD Rules. In

view of the absence of publicly available information with regard to selling price of the product in the domestic market in UAE, normal value in respect of UAE producers has been determined by constructing cost of production for the UAE producers, as per best estimates, duly adjusted with regard to SGA and profit. Based on this, the dumping margin is indicated in the dumping margin table below.

Export Price for all other producers/exporters in UAE

64. The export price for all producers and exporters has been determined as per facts available after allowing due adjustments of expenses and the same has been mentioned in the dumping margin table below.

G.5 Dumping margin

65. Considering the normal value and export price for subject goods, the final dumping margins for the subject goods from subject countries have been proposed as follows:

Dumping Margin

| Producer | Normal value | Export Price | Dumping Margin | Dumping Margin | Dumping Margin |
|-----------------------------|--------------|--------------|----------------|----------------|----------------|
| | (USD/MT) | (USD/MT) | (USD/MT) | % | Range |
| European Union | | | | | |
| BorsodChem Zrt | *** | *** | *** | *** | 0-10 |
| Covestro Deutschland AG | *** | *** | *** | *** | 10-20 |
| Any other producer | *** | *** | *** | *** | 20-30 |
| Saudi Arabia | | | | | |
| Sadara Chemical Company | *** | *** | *** | *** | 10-20 |
| Any other producer | *** | *** | *** | *** | 20-30 |
| Chinese Taipei | | | | | |
| All producers/exporters | *** | *** | *** | *** | 10-20 |
| United Arab Emirates | | | | | |
| All producers/exporters | *** | *** | *** | *** | 20-30 |

SECTION-III

H. ASSESSMENT OF INJURY AND CAUSAL LINK

H.1 Submissions made by the Domestic Industry

66. The following submissions have been made by the Domestic Industry with regard to injury and causal link:
- i. Since the conditions of Annexure II (iii) are satisfied, the Authority may consider undertaking cumulative assessment of the imports from the subject countries.
 - ii. The imports from subject countries have increased in absolute terms as well as in relation to gross imports, production and consumption over the injury period.
 - iii. The prices of imports from subject countries have declined steeply in the POI.
 - iv. The subject imports are undercutting the prices of the Domestic Industry. The price undercutting in case of Saudi Arabia should be determined after considering the price adjustment, as the related Indian importer has imported from related Saudi exporter at high price and has suffered financial losses while selling to the unrelated independent buyer.
 - v. The fall in prices of subject goods have led to fall in prices of Domestic Industry. Thus, the imports are depressing the prices of Domestic Industry.
 - vi. The production of the Domestic Industry has increased over the injury period however, there are significant idle capacities with the Domestic Industry.
 - vii. While the production has increased, the Domestic Industry has been forced to export as the domestic sales have reduced.
 - viii. The profitability of the Domestic Industry has been severely impacted. The industry made significant profits in 2017-18 and thereafter the profits have significantly reduced to an extent that the domestic industry is now suffering losses in the POI.
 - ix. The cash profits and the return on capital employed of the Domestic Industry have turned negative in the POI.
 - x. The market share of the domestic industry is still below the level which it could have achieved. Dumping from subject countries has prevented it from increasing its market share.
 - xi. The average inventory with the Domestic Industry has increased significantly in the POI.
 - xii. The imports from subject countries have increased by more than 300 times over the injury period.
 - xiii. There are significant capacities in the subject countries.
 - xiv. The imports from the subject countries have a depressing effect on the domestic prices and would likely to increase demand for more imports.
 - xv. The fall in the prices of subject imports is higher than the fall in prices of Toluene.
 - xvi. The sales volumes of the Domestic Industry increased between 2016-17 and 2018-19 with imposition of ADD. Sales volumes of the Domestic Industry, however, fell once again in the POI because of dumping in the country. In a situation where inventories with the Domestic Industry are rising and sales volumes are falling, a possible fact that export volumes of the Applicant have declined is of little consequence. In any case, export volume of the Applicant has increased over the period. In fact, in period of investigation as compared to preceding year, whereas export volumes increased by 70%, the domestic sales fell by 7%. Since exports of

- the Domestic Industry have increased, it is factually without any basis to contend that increase in inventory is attributed to fall in exports.
- xvii. The fact that the Authority has in none of its previous findings on the subject goods allowed adjustment owing to time lag, does not imply that there is no merit in the argument raised by the Domestic Industry. As far as the disadvantageous position of importer is concerned, it is for the importer to contend and not for the exporter to argue. At the same time, it is indicative of possible fact that imported product has been sold at a loss. If so, the Applicant requests the Authority to kindly adopt constructed export price for the purpose of determining dumping margin and injury margin in the present case. The price at which material has been sold becomes unreliable because of the fact that the related importer has resold the product at a loss. These prices are no longer in the ordinary course of trade.
 - xviii. Imports from subject countries increased substantially in the POI and the Domestic Industry could not increase its domestic sales in proportion to the increase in production. Faced with threat of significant piling up of inventories and blockage of working capital, it was forced to undertake exports at un-remunerative prices. Even if exports are to be excluded, it could have produced more as it was operating with an idle capacity.
 - xix. The Applicant was under no long-term contractual obligations with any foreign consumer to undertake exports. Exports undertaken are only because it is facing difficulties in selling its product in the domestic market at remunerative prices. Losses in export in spite of significant demand in the country is a sign of injury suffered by the Domestic Industry.
 - xx. The fall in landed price had no nexus with the fall in the price of basic raw material i.e. Toluene as fall in the landed price was significantly higher than the marginal fluctuation in the price of toluene. The downward trend of decline in import price has continued in the post-POI as well, as the average landed price of imports have further declined.
 - xxi. Depression refers to a situation when the domestic producer is not able to recover the cost because it is forced to keep the prices down in order to compete with the imported goods. The low price of imports may be due to dumping or subsidization or any other factor such as a global fall in prices. In the present case, the import price has declined due to dumping of the subject goods in the domestic market.
 - xxii. There is no global price as such and price in every market is different. Prices are always between two parties in the same or in two different countries. Further, prices vary with country, region, etc. and such being the case, there is nothing called “global price” of the product.
 - xxiii. If any adjustment is to be made in normal value determination due to time lag in imports, the same adjustment should be made for determining the price undercutting as well.
 - xxiv. Difference in technology is not relevant under the law. Only developments in technology are relevant. The respondents have not shown how technology has changed.
 - xxv. The related importer is selling the subject goods in Indian market at a loss, what the domestic industry is competing with is the price at which related importer is selling to the unrelated party in the Indian market and not the imported price of the subject goods by the related importer/trader. It is therefore appropriate that the price undercutting is computed by comparing the net selling price of the related importer with that of the domestic industry.

- xxvi. Performance of the applicant company has no relevance for the present investigation. The applicant being a multi-product company has provided segregated data on its performance relating to the product under consideration.
- xxvii. The other known factors listed under the Rules do not show that the Domestic Industry could have suffered injury due to them.
- xxviii. Injury, if any, on account of exports is the result of dumping caused in the Indian and the global market.
- xxix. As regards the submission that the injury is due to high price of raw material and fall in the selling price of subject goods, the very fact that the Applicant was unable to align its selling prices with the increase in raw material prices due to presence of dumped imports, itself shows that the injury has been suffered by the Domestic Industry.
- xxx. Plant shut down was a regular maintenance shutdown which is undertaken by all producers. While plant shutdown would result in decline in production and not decline in prices of subject goods.
- xxxi. Regarding the operation of TDI Plant at Dahej, the plant is now streamlined and consistently operational for years.
- xxxii. The Applicant has not claimed decline in production as a factor of injury and therefore, gas leakage incident could not be considered as the factor for the injury suffered by Domestic Industry. Even otherwise, the Applicant has claimed injury in the POI. The incident reported pertain to a period prior to the POI.
- xxxiii. Captive consumption undertaken by the applicant is insignificant as no downstream product is manufactured by the applicant.
- xxxiv. The volume of imports from China and Korea RP are significantly below the volume of imports from the subject countries. Further, the landed price of imports from the two countries after adding ADD is higher. As regards imports from Japan, they are insignificant.
- xxxv. Claims of the respondents on causal link are based on annual report pertaining to the period 2018-19 and do not pertain to the POI.
- xxxvi. The Domestic Industry was forced to reduce the prices in order to sell the subject goods in domestic market. Had the Domestic Industry retained its prices, there would have been a significantly positive undercutting albeit losing significant sales volume.
- xxxvii. The argument that the price undercutting is based on import price, without accounting any profit/loss incurred by the related importer, is without legal basis.
- xxxviii. Calculation of price underselling is as per consistent practice of the Authority. Further, calculation of price underselling is also prescribed under Para 11.7.17 of the Manual of OP for Trade Remedy Investigations.
- xxxix. The Domestic Industry has already filed DGCI&S transaction wise import data vide letter dated 4th February, 2020 in accordance with trade notice no. 7 dated 15th March, 2015.
- xl. In investigations wherein the Domestic Industry's capacity is below the demand, other interested parties seek redressal on the grounds of demand and supply gap and imports will continue because of insufficient capacities. In the current investigation when the Domestic Industry is operating with a capacity higher than the demand, other interested parties have alleged that it is export orientated.
- xli. The production of the Domestic Industry is at par with the demand in the country and it has the capacity to cater the entire demand in the country. Entire dumped imports into India are unwarranted and unnecessary.

H.2 Submissions made by other interested parties

67. The submissions made by the interested parties with regard to injury are as follows:
- i. Format IV-I shows a very slight decrease in the imports from countries attracting duty in the year 2017-18 as compared to 2016-17. Therefore, the claim of Domestic Industry that it could not increase its sales because of subject country imports during 2017-18 is not found correct.
 - ii. Despite ADD imposed which lead to increase in the prices, the Domestic Industry's sales could not substantially increase to replace the market share of those imports.
 - iii. The single producer in Saudi Arabia started production in 2017 and hence the quantities from Saudi will increase year by year and therefore comparison of imports with year 2016-17 or 2017-18 is not proper.
 - iv. The import prices into India have fallen from all the sources and not only from the subject countries. The Applicant should have adjusted its prices to the fall in prices globally as done by all the countries. Further, prices of imports from other countries is lower than prices of imports from Saudi Arabia.
 - v. Contrary to the claimed price suppression, the prices of the subject goods reduced drastically around the globe which is the underlying cause of injury.
 - vi. The Applicant was making huge profits in the year 2017-18 when the prices of subject goods were highest globally and as the prices decreased globally, the Applicant made losses. This also shows absence of causal link between Applicant's losses and prices of targeted countries.
 - vii. The Authority in none of its previous findings on subject goods allowed adjustment owing to time lag. Further, the time lag puts the importer in disadvantageous position when the applicants has reduced prices due to reduction in cost.
 - viii. As against the claims of the Applicant, the production and sales have shown an increase whereas the exports have reduced by 12%. The increase in inventory by 544% is also attributable to fall in exports and not due to increasing imports
 - ix. The Applicant's losses are attributable to the global prices of subject goods and Toluene as the Applicant had insufficient reaction to the change.
 - x. The production and capacity utilization have shown an improvement. There is no justification to demonstrate "sufficient unutilized capacities".
 - xi. The Applicant had the largest market share which has increased through-out the period. The share is more than double to that of subject country imports.
 - xii. The other known factors that may have caused injury to the Domestic Industry such as the global subject goods market behavior, global prices decline of subject goods, imports from sources other than subject countries. The Applicant's behavior and reaction in response to subject goods global developments and effect of Indian law on employment, wages, and productivity
 - xiii. During the POI, the Domestic Industry made profit before tax of Rs. 154.36 crores on the sale of Rs. 2542.29 crores (6.06%). In the second half of the year the company made a profit before tax of Rs. 270.42 crores on a sale of Rs. 2620.14 cr. (10.3%).
 - xiv. The Applicant exported from India at low prices owing to the strategic decision of the company. Since its production capacity is above the total demand in India, it is apparent that the main focus of the Applicant is to cater to the export market as against the Indian market.
 - xv. Determination of Price Undercutting based on the resale price of the importer is not only contrary to law but also impractical and illogical.

- xvi. As per ICIS journal, the prices of TDI in India follow the global trend. During the POI, there was a consistent fall in the global prices of TDI.
- xvii. There is time lag of 50-60 days between placement of the order and arrival of cargo from EU. Considering prices were continuously declining during the POI, sale price of subject imports from EU were lower than market prices at the time of delivery of such goods into India.
- xviii. Economic parameters like production, capacity utilization and domestic sales have all increased. The market share and profits of the Domestic Industry has also increased. PBIT of the company witnessed a steep increase during the year 2017-18 and company reaped super-normal profits in 2017-18. On stabilization of costs and sales realization in 2018-19, the profits further stabilized.
- xix. The Authority is only permitted to evaluate the price undercutting based on the import price, without accounting for any profit/loss incurred by the related importer.
- xx. The Authority has erred in the Preliminary Findings by including price underselling as a criterion for injury evaluation. Annexure II of the Rules do not call for evaluation of price underselling for determination of injury.
- xxi. The Authority is requested to assess the impact of the loss in export sales on the performance of the Domestic Industry.
- xxii. A mere increase in imports is not sufficient; there must be material injury caused to the Domestic Industry to due to imports.
- xxiii. Injury is due to other factors such as high prices of raw materials and fall in sales price, annual plant shutdown of 27 days and concerns regarding the operation of 50,000 MTPA TDI Plant at Dahej.
- xxiv. As per the Rating Rationale published by CRISIL in 2018, it is clear that the production stability and overall operations of the Domestic Industry were impacted due to gas leakage incidents of 2017 and 2018.
- xxv. The increase in inventory is attributable to the discontinuation of the captive consumption of TDI.
- xxvi. If imports were responsible for decline in profits and losses, there would be some degree of correlation between trend in import price/price undercutting and profitability situation of the Domestic Industry. Price of the Domestic Industry is not being undercut by the import prices.
- xxvii. Imports from Korea RP and China PR are high in volume and injury is attributable to them.
- xxviii. A decrease in import prices in the POI is a result of seasonal change as price has witnessed sharp fall worldwide. Import prices into India have fallen from all sources and not only from subject countries.
- xxix. The Annual Report of the company makes it amply clear that it is suffering because of substantial increase in price of raw materials as well as annual plant shut down for 27 days and not solely on account of the claim made by it in the Application.
- xxx. Subject goods are classic global commodity and prices depends on market forces of supply demand and prices of raw materials.
- xxxi. The current demand of the country is approximately over 100000 metric tons against which the Domestic Industry is producing hardly about 35000 tons, imports are unavoidable.
- xxxii. Panel in China – Cellulose Pulp held that identification of parallel pricing in domestic price and declining prices of the dumped imports cannot alone show that decline in price of the Domestic Industry is effect of imports. Mere claim by the Domestic Industry that its injury is caused by import prices is not sufficient.

- xxxiii. If there was price depression or suppression due to dumped imports, there is no rationale to explain the drop in export prices.
- xxxiv. TDI being a commodity product in global market, prices are decided by cost and demand-supply gap. When demand is more than supply, price will be pushed up and in case of oversupply in market, caused by overcapacity, it will lead to harsh drop in market price.
- xxxv. The Domestic Industry uses common liquid phase phosgenation (LPP) as opposed to gas phase phosgenation (GPP). Compared with processes based on liquids, GPP requires up to 60 percent less energy and 80 percent less solvent. The technology is used in the manufacture of isocyanates, which is a key component of TDI. The two chemicals toluene diamine (TDA) and phosgene react as early as the gaseous state phase, and not in the last process step as liquids, thereby saving costs and making the process more energy efficient.
- xxxvi. The Domestic Industry's manufacturing costs are estimated to be 25-35% higher due to the procedure adopted by it and the lack of backward integration and technology factors.
- xxxvii. The injury margin cannot be so high when cost of the Domestic Industry witnessed a fall during period of investigation.
- xxxviii. The market share of the Domestic Industry has increased during the POI. Potential to have done better is not a relevant injury parameters.
- xxxix. It is incorrect to state that subject imports have impacted its ability of sell subject goods in the Indian market. Imports from subject countries have replaced imports from other countries to India.
- xl. The Domestic Industry is consistently engaged in export of subject goods. No explanation has been provided by the Domestic Industry to justify its exports at a price below NIP or domestic selling price.
- xli. The cost of production of the Domestic Industry has plunged in the POI, while the selling price of the Domestic Industry was higher than the landed price. The Authority is requested to examine how the domestic industry is suffering losses.
- xlii. Injury is due to high prices of raw material and fall in sales price, plant shut down, teething issues in 2015, gas leakages etc.
- xliii. The Domestic Industry could have increased its prices upto landed price but it chose to export and adopted an aggressive pricing strategy in the international market.
- xliv. Domestic Industry is offering at price substantially below import price and has failed to increase its price to the extent of landed value for subject countries.
- xlv. As per Annual Report of 2018-19, the Domestic Industry achieved almost 95 % of capacity utilization for subject goods.
- xlvi. As per Annual Report of the Domestic Industry, the Domestic Industry has entered into an Annual Rate Contract (ARC) with various parties so that inputs are available on sustainable basis which is the reason for high cost of domestic industry.
- xlvii. TDI is a commodity product in global market whose prices are decided by cost and demand/supply factors. Fall in prices of TDI is a global phenomenon and not only the EU market, but also Asian market and more specifically Indian market, are affected by it.
- xlviii. The Domestic Industry sells goods to affiliated companies at lower price which resell goods at a higher price.

- xliv. Plant-II was underutilized even when there was no alleged dumping of goods from subject countries and appropriate ADD was in place on subject goods from China, Japan, and Korea. Capacity utilization of the plant has always been sub-optimal.
- 1. Both import price as well as resale price of DCIPL is above net sales realization of the Domestic Industry and there is negative price undercutting. The Authority's examination in the Preliminary Findings is incorrect.
 - li. The data on price and profitability parameters depict no logical trend and appears to be misrepresented.
 - lii. The market share of Applicant's market has not had any adverse impact since Domestic industry is currently operating at optimum production capacity and there is no scope for enhancement of production.
 - liii. Price injury to Domestic Injury cannot be attributed to imports from Saudi Arabia.
 - liv. The NIP computed for the subject good is not based on the actual price of input material.
 - lv. The landed value of subject goods from UAE and Saudi Arabia is approximately INR 124.5/kg which cannot be a cause of injury to the Applicant.
 - lvi. The production of the Domestic Industry is only capable of catering to merely 10-20% of the Domestic Demand, even at 100% capacity utilization. It is insufficient to meet the increasing and substantial demand in the country.
 - lvii. There is no causal link between the decline in domestic selling price and subject imports. The prices of the TDI have fallen globally and not only in India
 - lviii. We request the Authority to investigate the effect of global price decline of TDI as well as the volume of other sources for the PUC, when examining the existence of the alleged injury.
 - lix. There is a substantial increase in the volume of inventory, which does not reflect the positive performance of production and sales.
 - lx. The information provided by the Applicant shows no negative effect on the Application due to the noticeable increase of trends of the production and capacity utilization during the POI.
 - lxi. The market share of Applicant shows no decline during the POI.
 - lxii. The Domestic Industry is not suffering material injury due to subject imports.
 - lxiii. The Authority is requested to re-examine the price effects of imports of the subject goods on the Domestic Industry.
 - lxiv. There is no excess capacity in the European Union.
 - lxv. There is no price suppression or depression caused by the subject imports.
 - lxvi. There is no threat of material injury to the Domestic Industry with regard to inventory. Any injury caused due to an increasing inventory cannot be attributed to the subject imports rather the same is due to the discontinuation of captive consumption.
 - lxvii. There is marginal decline in domestic sales of the Domestic Industry due to decline in demand of the subject goods during the POI.
 - lxviii. The Domestic Industry has not reduced its prices under the pressure of low import prices since the overall price undercutting due to the subject imports is negative.
 - lxix. The Authority is requested to evaluate the injury on account of imports from subject countries as well as other countries during post-POI.

H.3 Examination by the Authority

- 68. The Authority has taken note of various submissions made by the interested parties including 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

69. 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, only when it determines that:
- i. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (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
 - ii. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
70. The Authority notes that:
- i. 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.
 - ii. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
 - iii. 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.
71. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from European Union, Saudi Arabia, Chinese Taipei and United Arab Emirates on the domestic industry.
72. 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.

H.3.1. Volume Effect of Dumped Imports on Domestic Industry

73. Since the POI is not of 12 months, in order to ensure that the actual/indexed figures are directly comparable with preceding years, the actual/indexed data has been “annualised” and mentioned in this Disclosure Statement. Since the POI in the present case is six months, the figures have been multiplied by 2 to make them comparable to the previous years. For this reason, the indexed figures for the POI actual and annualised show the same figures.

a. Assessment of Demand / Apparent Consumption

74. For the purpose of the present investigation, demand or apparent consumption of the product in India has been defined as the sum of domestic sales of the applicant being the single producer in India and imports from all sources. The demand so assessed is given in the table below:

| Particulars | Unit | 2016-17 | 2017-18 | 2018-19 | POI | |
|----------------------------------|-----------|------------|------------|------------|------------|------------|
| | | | | | Actual | Annualised |
| Sales of Domestic Industry | MT | *** | *** | *** | *** | *** |
| Subject countries-Imports | MT | 49 | 1,190 | 7,235 | 8,248 | 16,496 |
| Countries attracting ADD-Imports | MT | 32,568 | 30,484 | 24,038 | 6,861 | 13,722 |
| Other countries-Imports | MT | 288 | 1,473 | 1,346 | 333 | 665 |
| Total demand/Consumption | MT | *** | *** | *** | *** | *** |

75. It is seen that the demand for the PUC has increased consistently over the first three years of the injury period with a marginal decline in the POI, as compared to the immediately preceding period. On the whole, the demand has increased during the injury period.

76. The domestic sales of the applicant have increased consistently over the first three years of the injury period with a marginal decline in the POI, as compared to the immediately preceding period, whereas imports from subject countries have increased significantly over the injury period.

b. Import Volumes from the subject countries

77. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. The same is analyzed as follows:

| Particulars | Unit | 2016-17 | 2017-18 | 2018-19 | POI | |
|--|-----------|---------------|---------------|---------------|---------------|---------------|
| | | | | | Actual | Annualised |
| Imports from subject Countries | MT | 49 | 1,190 | 7,235 | 8,248 | 16,496 |
| Saudi Arabia | MT | - | 240 | 2,660 | 2,348 | 4,696 |
| UAE | MT | 9 | 860 | 3,168 | 2,460 | 4,920 |
| European Union | MT | - | 90 | 685 | 1,680 | 3,360 |
| Chinese Taipei | MT | 40 | - | 722 | 1,760 | 3,520 |
| Imports from countries attracting ADD | MT | 32,568 | 30,484 | 24,038 | 6,861 | 13,722 |
| Import from Other Countries | MT | 288 | 1,473 | 1,346 | 333 | 665 |
| Total imports | MT | 32,905 | 33,147 | 32,619 | 15,442 | 30,883 |
| Subject countries import in relation to | | | | | | |

| | | | | | | |
|---------------|---|-------|-------|--------|--------|--------|
| Total imports | % | 0.15% | 3.59% | 22.18% | 53.41% | 53.41% |
| Production | % | 0.10% | 2.00% | 11.82% | 22.32% | 22.32% |
| Demand | % | 0.08% | 1.77% | 9.84% | 23.90% | 23.90% |

78. It is seen that: -

- The volume of imports from subject countries have increased consistently and significantly in absolute term over the injury period and more sharply in the POI as compared to the increases in previous years.
- The imports from subject countries have increased consistently and significantly over the injury period in relation to total imports in India, demand in India and production in India.

H.3.2 Price Effect of the Dumped Imports on the Domestic Industry

79. With regard to the effect of the dumped imports 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 countries has been examined through price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the Domestic Industry have been compared with landed price of imports of the subject goods from the subject countries.

a. Price Undercutting

80. For the purpose of price undercutting analysis, the net sales realization of the Domestic Industry has been compared with the landed value of imports from each of the subject countries. Accordingly, the undercutting effects of the dumped imports from the subject countries work out as follows:

| Particulars | Unit | 2016-17 | 2017-18 | 2018-19 | POI | |
|--------------------------|---------|----------|----------|----------|----------|------------|
| | | | | | Actual | Annualised |
| Net Sales Realisation | ₹/MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 142 | 105 | 67 | 67 |
| Subject Countries | | | | | | |
| Landed Price | ₹/MT | 1,75,853 | 2,59,934 | 2,30,132 | 1,33,871 | 1,33,871 |
| Trend | Indexed | 100 | 148 | 131 | 76 | 76 |
| Price undercutting | ₹/MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 87 | (118) | (8) | (8) |
| Price undercutting | % | *** | *** | *** | *** | *** |
| Price undercutting | Range | 10-20% | 0-10% | (5-15)% | (0-10)% | (0-10)% |
| Saudi Arabia | | | | | | |
| Landed Price | ₹/MT | - | 2,94,889 | 2,28,515 | 1,54,893 | 1,54,893 |
| Trend | Indexed | - | 100 | 77 | 53 | 53 |
| Price undercutting | ₹/MT | - | *** | *** | *** | *** |
| Trend | Indexed | - | 100 | 131 | 132 | 132 |
| Price undercutting | % | - | *** | *** | *** | *** |
| Price undercutting | Range | - | (0-10)% | (5-15)% | (10-20)% | (10-20)% |
| UAE | | | | | | |

| | | | | | | |
|-----------------------|---------|----------|----------|----------|----------|----------|
| Landed Price | ₹/MT | 2,15,495 | 2,54,276 | 2,33,833 | 1,28,473 | 1,28,473 |
| Trend | Indexed | 100 | 118 | 109 | 60 | 60 |
| Price undercutting | ₹/MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | (122) | 145 | (20) | (20) |
| Price undercutting | % | *** | *** | *** | *** | *** |
| Price undercutting | Range | (0-10)% | 0-10% | (5-15)% | 0-10% | 0-10% |
| European Union | | | | | | |
| Landed Price | ₹/MT | 0 | 2,20,780 | 2,50,611 | 1,11,096 | 1,11,096 |
| Trend | Indexed | - | 100 | 114 | 50 | 50 |
| Price undercutting | ₹/MT | - | *** | *** | *** | *** |
| Trend | Indexed | - | 100 | (78) | 37 | 37 |
| Price undercutting | % | - | *** | *** | *** | *** |
| Price undercutting | Range | - | 20-30% | (10-20)% | 15-25% | 15-25% |
| Chinese Taipei | | | | | | |
| Landed Price | ₹/MT | 1,66,934 | - | 2,00,408 | 1,35,108 | 1,35,108 |
| Trend | Indexed | 100 | - | 120 | 81 | 81 |
| Price undercutting | ₹/MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | - | 19 | (10) | (10) |
| Price undercutting | % | *** | *** | *** | *** | *** |
| Price undercutting | Range | 15-25% | | 0-10% | (0-10)% | (0-10)% |

81. The imports from the subject countries have increased sharply in the POI with a steep fall in the prices. Consequently, the Domestic Industry has been forced to reduce its prices with the decline in landed price. While the price undercutting is marginally negative during the POI on an average basis, it is seen that there is a steep decline in the prices. The domestic industry further contended that in case of Saudi Arabia, being a purchase by an affiliated party in India, the import prices are unduly high and therefore, the price for the Saudi producer/ exporter should be constructed. The issue has been examined. The Authority further notes that the price undercutting is negative from Saudi Arabia due to the fact that exporters from Saudi Arabia export the subject goods to India at a high price and their related party resells the subject goods at a loss to the independent buyer in India. Therefore, the import price recorded in DGCI&S import data is not showcasing the actual prevailing price of Saudi Arabia exporters in the Indian market.

b. Price Suppression and Depression

82. In order to determine whether the dumped imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, were compared as below:

| Particulars | Unit | 2016-17 | 2017-18 | 2018-19 | POI | |
|--|---------|----------|----------|----------|----------|------------|
| | | | | | Actual | Annualized |
| Cost of Sales | ₹/MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 87 | 101 | 89 | 89 |
| Selling price | ₹/MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 142 | 105 | 67 | 67 |
| Landed Value of subject countries as a whole | ₹/MT | 1,75,853 | 2,59,934 | 2,30,132 | 1,33,871 | 1,33,871 |
| Trend | Indexed | 100 | 148 | 131 | 76 | 76 |

83. It is seen that while the landed price of imports from subject countries has been above the cost of sales in the period prior to the POI, it has fallen below the cost of sales in the period of investigation. Further, both the cost of sales and the selling price of the Domestic Industry have declined during the POI as compared to 2016-17. However, the decline in domestic selling price is more than the decrease in cost of sales as the Domestic Industry has been forced to reduce prices due to a larger reduction in landed price of imports than the reduction in the selling price of the Domestic Industry. The imports of the product under consideration were thus depressing the prices of the Domestic Industry in the domestic market.

c. Price Underselling

84. The non-injurious price (NIP) of the product under consideration the Domestic Industry, as determined by adopting the information/data relating to the cost of production for the period of investigation and based on the principles mentioned in Annexure III of the Rules, has been compared with the landed value of the subject goods from subject countries to arrive at the extent of Price Underselling. The analysis shows that during the period of investigation, the landed value of subject imports was below the non-injurious price of the Domestic Industry, as can be seen from the table below, demonstrating positive Price Underselling effect:

| Particulars | UOM | Saudi Arabia | UAE | EU | Chinese Taipei |
|---------------------|-------|--------------|----------|----------|----------------|
| Non Injurious Price | ₹/MT | *** | *** | *** | *** |
| Landed Price | ₹/MT | 1,54,893 | 1,28,473 | 1,11,096 | 1,35,108 |
| Price Underselling | ₹/MT | *** | *** | *** | *** |
| Price Underselling | % | *** | *** | *** | *** |
| Price Underselling | Range | (20)-(10)% | 20-30% | 30-40% | 10-20% |

H.3.3. Economic Parameters of the Domestic Industry

85. Annexure II to the Rules provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

a. Production, Capacity, Capacity utilization and Sale

86. Capacity, production, sales and capacity utilization of the Domestic Industry over the injury period is given in the table below: -

| Particulars | Unit | 2016-17 | 2017-18 | 2018-19 | POI | |
|-------------|---------|---------|---------|---------|--------|------------|
| | | | | | Actual | Annualised |
| Capacity | MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 100 | 100 | 100 | 100 |

| | | | | | | |
|----------------------|---------|-----|-----|-----|-----|-----|
| Production | MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 127 | 131 | 158 | 158 |
| Capacity Utilization | % | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 127 | 131 | 158 | 158 |
| Domestic Sales | MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 128 | 153 | 142 | 142 |
| Export Sales | MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 112 | 88 | 149 | 149 |

87. It is seen that-

- a. The capacity of the Domestic Industry has remained constant over the injury period and is more than the demand in India.
- b. The production and capacity utilization increased over the injury period. However, the domestic industry is still left with idle capacity despite having a demand in India.
- c. The domestic sales of the industry increased up to 2018-19 but have marginally declined in the POI.

b. Market Share

88. The market share of the Domestic Industry over the injury period is shown in table below:

| Particulars | Unit | 2016-17 | 2017-18 | 2018-19 | POI | |
|----------------------------------|---------|---------|---------|---------|--------|------------|
| | | | | | Actual | Annualised |
| Domestic Industry | % | 44.85 | 50.81 | 55.65 | 55.25 | 55.25 |
| Trend | Indexed | 100 | 113 | 124 | 123 | 123 |
| Subject countries-Imports | % | 0.08 | 1.76 | 9.83 | 23.89 | 23.89 |
| Trend | Indexed | 100 | 2150 | 11,978 | 29,105 | 29,105 |
| Countries attracting ADD-Imports | % | 54.57 | 45.23 | 32.67 | 19.88 | 19.88 |
| Trend | Indexed | 100 | 83 | 60 | 36 | 36 |
| Other countries-Imports | % | 0.48 | 2.18 | 1.82 | 0.96 | 0.96 |
| Trend | Indexed | 100 | 454 | 380 | 200 | 200 |

89. It is seen that ADD were levied against the imports from China PR, Japan and Korea RP in 2017 as a result of which the market share of the Domestic Industry increased till 2018-19. With the increasing imports from the subject countries, the market share of domestic industry has marginally declined in the POI. On the other hand, the share of subject countries in demand increased significantly during the injury period from 0% in 2016-17 to 24% during the POI.

c. Profitability, return on investment and cash profits

90. Profitability, return on investment and cash profits of the Domestic Industry over the injury period is given in the table below:

| Particulars | Unit | 2016-17 | 2017-18 | 2018-19 | POI | |
|---------------|---------|---------|---------|---------|--------|------------|
| | | | | | Actual | Annualised |
| Cost of sales | ₹/MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 87 | 101 | 89 | 89 |
| Selling price | ₹/MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 142 | 105 | 67 | 67 |

| Particulars | Unit | 2016-17 | 2017-18 | 2018-19 | POI | |
|----------------------------|---------|---------|---------|---------|--------|------------|
| | | | | | Actual | Annualised |
| Profit/(Loss) before tax | ₹/MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 371 | 121 | (24) | (24) |
| Profit/(Loss) before tax | Rs Lacs | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 474 | 185 | (34) | (34) |
| Cash Profit | Rs Lacs | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 420 | 184 | (4) | (7) |
| Profit before interest | Rs Lacs | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 323 | 119 | (22) | (22) |
| Return on capital employed | % | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 278 | 87 | (20) | (20) |

91. It is seen that-

- a. The profit per unit of the Domestic Industry increased in the year 2017-18 with the imposition of ADD against the imports of other countries.
- b. The subsequent year 2018-19 saw a sharp fall in the profits of the Domestic Industry as the prices of the domestic industry fell sharply due to the sharp increase in imports from the subject countries at lower prices. The Domestic Industry faced a sharp fall in prices, in spite of increase in the cost. Resultantly, the cash profits and the return on investment declined.
- c. In the POI, the landed price of the imports from subject countries has fallen below the cost of sales the Domestic Industry. As a result, the Domestic Industry has been forced to sell at a price which could not even cover its cost. Resultantly, the domestic industry has suffered financial losses. Consequently, the Domestic Industry has recorded cash losses and a negative return on investment.

d. Employment, Wages and Productivity

92. Employment, wages, and productivity of the Domestic Industry over the injury period is given in the table below.

| Particulars | Unit | 2016-17 | 2017-18 | 2018-19 | POI | |
|-----------------|---------|---------|---------|---------|--------|------------|
| | | | | | Actual | Annualised |
| No of Employees | Nos | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 98 | 102 | 101 | 101 |
| Wages | Rs Lacs | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 114 | 159 | 155 | 155 |
| Wages per unit | ₹/MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 90 | 121 | 98 | 98 |
| Productivity | MT/day | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 127 | 131 | 158 | 158 |

93. It is seen that number of employees and salary & wages of the Domestic Industry have increased over the injury period with marginal decline in POI as compared to the immediately preceding period. The productivity per day has also improved during POI.

e. Inventories

94. The inventory position with the Domestic Industry over the injury period is given in the table below:

| Particulars | Unit | 2016-17 | 2017-18 | 2018-19 | POI | |
|-------------------|---------|---------|---------|---------|--------|------------|
| | | | | | Actual | Annualised |
| Opening Stock | MT | *** | *** | *** | *** | *** |
| Closing Stock | MT | *** | *** | *** | *** | *** |
| Average Inventory | MT | *** | *** | *** | *** | *** |
| Trend | Indexed | 100 | 110 | 309 | 544 | 544 |

95. It is seen that the average inventories with the Domestic Industry have increased significantly over the injury period. The production of the Domestic Industry increased; but it has not been able to sell in the market.

f. Growth

96. The growth in terms of production, capacity utilization, domestic sales volume, inventories, profits, cash profits and return on investment is as per below table:

| Particulars | Unit | 2017-18 | 2018-19 | POI | |
|--------------------------|------|---------|---------|--------|------------|
| | | | | Actual | Annualized |
| Production | Y/Y | 27% | 3% | 21% | 21% |
| Capacity Utilization | Y/Y | 27% | 3% | 21% | 21% |
| Domestic Sales Volume | Y/Y | 28% | 20% | -7% | -7% |
| Profit/(Loss) per unit | Y/Y | 271% | -67% | -120% | -120% |
| Average Inventory | Y/Y | 10% | 181% | 76% | 76% |
| Market Share | Y/Y | 13% | 10% | -1% | -1% |
| Profit/(Loss) before tax | Y/Y | 374% | -61% | -118% | -118% |
| Cash Profit | Y/Y | 320% | -56% | -104% | -104% |
| PBIT | Y/Y | 223% | -63% | -118% | -118% |
| ROI | Y/Y | 178% | -69% | -123% | -123% |

97. It is seen that the growth of the Domestic Industry in terms of production and capacity utilization was positive whereas growth in domestic sales volume, market share, inventories, profits, cash profits and return on investment was adverse and/or negative in the POI.

g. Ability to Raise Capital Investment

98. The Domestic Industry is suffering financial losses in the period of investigation. With the competition being faced by the domestic industry because of the dumped imports, the operations of the industry have been impacted which has affected the ability to raise capital investment. However, it is seen that the domestic industry is a multi-product company and therefore ability to raise capital investment is not governed based on the performance of the concerned product alone.

h. Factors affecting domestic prices

99. The import prices are directly affecting the prices of the Domestic Industry in the domestic market. It is noted that the landed prices of the subject goods from subject

countries are below the NIP of the Domestic Industry. Further the landed prices of subject imports have depressed the prices of the Domestic Industry leading to financial losses to it. The imports of subject goods from third countries not attracting ADD are negligible in volumes and not injuring to the Domestic Industry. The demand for the PUC is sufficient in the country and the Domestic Industry has enough capacity to meet the demand in the country and cannot be the reason of caused injury to the Domestic Industry. In view thereof, it can be concluded that the principal factor impacting the domestic prices is the dumped imports of subject goods from the subject countries.

100. With regard to the claim that there is only a very slight decline in the imports from other countries and no substantial increase in the domestic sales after the duties were imposed, it is noted that the purpose of the anti-dumping duty is not to restrict the entry of imports but to correct the unfair practice of dumping and bring the prices to a fair level. However, it is seen that the imports from the countries attracting ADD have declined sharply in absolute terms as well as in relation to production and consumption after the imposition of ADD. Further, it is also noted that the sales volume of the domestic industry had in fact increased post the imposition in 2017 of the duties against China, Korea RP and Japan and have declined only in the POI with the increase in imports from subject countries.
101. It has been claimed that the imports from Saudi Arabia have increased as the producer started production in 2017. It is noted that the imports from Saudi Arabia are above the de-minimis limits in POI as prescribed under para (iii) of Annexure II of the Rules. Therefore, the effect of the imports is to be cumulatively assessed by the Authority.
102. It is further seen that the landed price of imports from the subject countries is much below the landed price of imports from other countries after adding the imposed ADD, wherever applicable. Therefore, the contention raised by the interested parties that the import prices into India have reduced from all the sources and not only from subject countries is factually incorrect. Further as regards the prices of Saudi Arabia alone is concerned, the landed prices of Saudi Arabia are lower than the prices of other countries attracting ADD if the high prices through affiliated entities of Saudi Arabia and India are adjusted adequately.
103. With regard to the claim of the interested parties that the Domestic Industry was earlier making profits and is now suffering losses shows absence of causal link, it is noted that the import prices have actually declined in the POI which has depressed the prices of the Domestic Industry. The Domestic Industry was earning profits in the earlier years and because of price depression has gone down into losses.
104. With regard to the issue of adjustment owing to time lag, the Authority as a matter of consistent practice has not allowed any adjustment for such time lag in the import prices.
105. As against the claim that production and sales have increased and exports have declined which has led to increase in the inventories, it is noted that the domestic sales of the applicant have declined and the export sales at unremunerative prices have increased in the POI.
106. With regard to the claim that the Applicant's loss is attributable to the global prices of the subject goods, it has been noted that the fall in the import price has forced the

domestic industry to reduce its prices. The Domestic Industry has been unable to align its prices adequately to the movements in prices of raw materials because of low priced imports from the subject countries which have resulted in losses. Therefore, the claimed injury is attributable to the imports from subject countries in India.

107. In regard to the claim that the Applicant has the highest market share, it is noted that the market share of the domestic industry has increased only by 9% in POI as compared to 2017-18, whereas the share of the subject countries imports has increased by 1253% in POI as compared to 2017-18. It is also noted that the domestic industry has the capacity to cater 100% of the demand of the subject goods in India but currently has only 55% share and operating with idle capacities.
108. The Authority has taken a note of the performance of the Domestic Industry in the export market. Due to its inability to sell at remunerative prices in the domestic market, the domestic industry undertook export sales at unremunerative prices. The interested parties have argued that it was a strategy of the domestic industry to export. It is seen that the domestic industry's production capacity is higher than the demand in India. Merely because its capacity is higher than the demand in India, it does not establish that the producer is export-oriented and would strategize to export. Even if the argument is considered, the Domestic Industry could have produced and sold more as it was operating with idle capacities. It is noted that the export performance of the Domestic Industry has no bearing on the performance of the Domestic Industry in the domestic market. On the contrary, the presence of dumped imports forced the Domestic Industry to export at losses.
109. As regards the submission that the Domestic Industry could have increased its prices as there was negative price undercutting, it is seen that the Domestic Industry was forced to export as its prices in the domestic market were depressed. The Domestic Industry was not in a position to increase its domestic sales even at the suboptimal price and it was forced to export the subject goods at a lower price. Had the Domestic Industry ventured to divert all its exports to domestic market, it would have incurred a higher loss as it had to decrease its selling price further in order to sell in the domestic market the additional volume diverted from exports.
110. As regards the imports from Chinese Taipei, Authority has undertaken cumulative analysis as laid down under Annexure II of the Rules. It is noted that imports from Chinese Taipei are above de-minimis level and are at dumped prices. Such being the case, there is no merit in the argument that the imports are not significant in volume.
111. The Authority notes that the Domestic Industry competes with the prices at which the related importer sold the subject goods in the Indian market and not with the price at which the product was imported from the related exporter. Therefore, it will be appropriate to compare the net selling price of the related importer with that of the net selling price of the domestic industry instead of the landed price of imports. The above is in consonance with the practice adopted by the Authority in similarly placed cases.
112. The submissions made by the other interested parties on other factors of injury of the domestic industry pertain to a period which is prior to the POI. Therefore, the reasons given by the interested parties would not have had any impact on the performance of the domestic industry in the POI. The Authority has examined all the relevant factors laid

down in the Rules to examine whether any factor other than dumped imports has impacted the performance of the Domestic Industry.

113. As regards the submission on correlation between trend in import price/price undercutting and profitability situation of Domestic Industry, it is noted that while price undercutting is a function of net selling price of the Domestic Industry and the import price, the profits are a function of net selling price of the domestic industry and cost of sales. In an event where the prices of the domestic industry are either suppressed or depressed, it is not necessary that the price undercutting and profits of the domestic industry would move in same trend. In the present case, the Authority has already examined that the landed price of imports has depressed prices of the Domestic Industry.
114. As regards the submission that the Domestic Industry's costs are higher than the cost of Covestro due to lack of backward integration and technology factors, it is noted that it is a well settled stand of the Authority that the domestic industry is required to be seen as it exists and not operating under ideal conditions (*Nippon Zeon Co. Ltd. v. Designated Authority, 1997(96) ELT 126(Tri)*). It has been stated by the Domestic Industry that its technology is at par with that of other producers globally. In any case, the Authority has found positive dumping margin in respect of exports by Covestro.
115. It has been submitted that the fall in price of subject goods in POI is seasonal and due to global price fall, the Authority has noted that the dumping margins in respect of goods imported from all the subject countries were positive. Global prices have no bearing on whether an exporter has dumped its product or not. If the exporter has exported its product at a price lower than the normal value, as per antidumping law, it will be regarded that the concerned exporter has dumped the goods and thereby liable for imposition of ADD. While the import price may have declined in the global market, there is no justification for dumping the subject goods in the Indian domestic market.
116. As regards the submission on calculation of price underselling being not a parameter under Annexure II to evaluate injury, the Authority notes that calculation of price underselling is undertaken to evaluate if the landed price of imports is below the non-injurious price of the Domestic Industry.
117. It has been contended that market share of the domestic industry has increased and the possibility that the domestic industry could have had a higher share is not a parameter under the Rules. Under the rules, the Authority is required to consider all the factors that have actual or potential effect on the parameters of the domestic industry. It is noted that with the imposition of anti-dumping duty on the imports of China PR, Japan and Korea RP, the market share of the imports declined and that of domestic industry increased. Considering the demand and supply situation in India, the domestic industry has the capacity to cater the entire demand in India. However, with the increase in imports of subject countries, domestic industry was not able to increase the market share in the period of investigation despite holding significant capacities and production. The fact that the domestic industry's market share is low is established considering the consumption in India, and production of the domestic industry in the POI.
118. As regards alleged higher cost of domestic industry due to agreements with technology supplier, the Authority has considered the cost of the domestic industry on the basis of books of account maintained by the company. The other interested party have not brought forward any verifiable evidence to show how the cost claimed by the domestic industry is higher. From the data provided by the domestic industry it is seen that the

global prices of raw material have not changed significantly. Therefore, there is no merit in the argument. Under the AD Rules, Authority is required to consider the domestic industry as it exists and examine whether the performance of the Domestic Industry deteriorated over the injury period.

i. Injury margin for cooperative producers/exporters

119. The Authority has determined Non-Injurious Price (NIP) for the Domestic Industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP of the PUC has been determined by adopting the information/data relating to the cost of production for the POI. The NIP of the Domestic Industry has been worked out and it has been compared with the landed price (LP) from each of the subject countries for calculating injury margin (IM). In line with the determination of dumping margins, the injury margin has also been proposed for the related companies together taking them as one entity.
120. As mentioned in the dumping margin analysis in this Findings, it is noted from the response filed by producer from Saudi Arabia and their related Indian subsidiary that they have incurred a loss during the sale of the subject goods imported from their parent company through different trading channels. As their sales price of subject goods are lower than their cost to the importer which included import prices and SGA of the Indian subsidiary, suitable adjustment has been made from their landed price.

| Country | Producer | NIP (US\$/MT) | Landed price (US\$/MT) | Injury margin (US\$/MT) | Injury margin (%) | Injury margin (Range) |
|----------------|-------------------------------|---------------|------------------------|-------------------------|-------------------|-----------------------|
| European Union | M/s BorsodChem Zrt | *** | *** | *** | *** | 20-30 |
| | M/s Covestro Deutschland AG | *** | *** | *** | *** | 20-30 |
| | All Other producers/exporters | *** | *** | *** | *** | 20-30 |
| Saudi Arabia | M/s. Sadara Chemical Company | *** | *** | *** | *** | 10-20 |
| | All Other producers/exporters | *** | *** | *** | *** | 10-20 |
| Chinese Taipei | All producers/exporters | *** | *** | *** | *** | 10-20 |
| UAE | All producers/exporters | *** | *** | *** | *** | 20-30 |

j. Overall Assessment of Injury

121. On the basis of the above, the following conclusions have been made:
- The subject imports have increased in absolute terms as well as in relation to production and consumption.
 - There is a steep decline in the import prices. The landed prices of the subject imports are below the cost of sales of the domestic industry in the POI. While price undercutting is marginally negative, the Domestic Industry has been forced to reduce prices due to decline in landed price of imports. The Domestic Industry is the sole producer of the product in India.
 - The imports from the subject countries have forced the Domestic Industry to reduce its prices much below the cost of sales. Thus, the imports have had an effect of price depression on the Domestic Industry.
 - While the production and capacity utilization of the Domestic Industry have increased, the domestic sales of the domestic industry have declined.
 - The market share of the domestic industry could have been much higher considering that it has the capacity to cater the entire demand in India.

- f. Despite selling the product at losses, the Domestic Industry is left with significant inventories.
- g. Profitability of the domestic industry has declined significantly, and it has suffered financial losses in the POI. Further, the Domestic Industry is facing cash losses and negative return on investment in the period of investigation.

I. NON-ATTRIBUTION ANALYSIS

122. The Authority is required to examine any known factors other than the dumped imports which at the same time are injuring 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, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether the above said factors other than dumped imports could have contributed to the injury to the domestic industry.

a. Volume and prices of imports from third countries

123. Imports from the subject countries and China, Korea and Japan are above de-minimus limit. The imports from China, Korea RP and Japan are already attracting anti-dumping duty. Thus, it cannot be said that imports from other/ remaining countries accounting for merely 2.15% of the total imports are causing injury.

b. Contraction in Demand

124. It is seen that the demand of the subject goods has increased over the injury period with marginal decline in the POI as compared to the immediately preceding year. However, the volume of imports from the subject countries has increased significantly in the period of investigation as compared to the base year as well as the immediately preceding year. As a result of this, the imports from the subject countries have taken up substantial market share throughout the injury period whereas that of the Domestic Industry has declined slightly during the POI as compared to the immediately preceding year, as the domestic sales of the domestic industry have reduced in the POI as compared to the immediately preceding year. Therefore, the decrease in the domestic sales of the Domestic Industry may be attributed to the increase in the imports from the subject countries and not to a minor fall in demand. Therefore, the decline in demand cannot be the reason of causing injury to the Domestic Industry.

c. Changes in the pattern of consumption

125. No interested party has produced any evidence relating to any known material changes in the pattern of consumption of the product under consideration. Hence, changes in the pattern of consumption have not caused injury to the Domestic Industry.

d. Trade restrictive practices

126. No interested party has produced any evidence relating to any known trade restrictive practice, which could have caused injury to the domestic industry. Hence, trade restrictive practices have not caused injury to the Domestic Industry.

e. Development in technology

127. No evidence has been brought before to the Authority by any interested party concerning any known and material changes in the technology that could have caused injury to the domestic industry. Hence, development in technology has not caused injury to the domestic industry.

f. Export performance of domestic industry

128. The Domestic Industry has claimed that it was unable to sell its production in the market due to the falling import prices from the subject countries and therefore it had to rely on exports to prevent inventory pile up. It has been further claimed by the domestic industry that the fact that the exports were made at prices lower than cost during the POI is in itself a reflection of the effects of injury being caused due to the dumped imports. The Authority notes that the export sales of the domestic industry have increased substantially over the injury period. However, it is noted that the export prices of the domestic industry are much below the prices at which the domestic industry has sold in the domestic market which substantiates its claim of distress sale. 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 unremunerative prices is a reflection of the injury caused to the domestic industry due to the dumped imports. Possible decline in profits on export sales could not have caused impact on the domestic profitability of the domestic industry, as the Authority has considered injury data for the domestic operations separately for the injury analysis.

g. Performance of other products of domestic industry

129. The domestic industry has provided the data for the product under consideration performance and the same has been adopted by the Authority after due verification for the purpose of injury analysis. Therefore, performance of other products produced and sold by the applicants is not a possible cause of the injury to the Domestic Industry.

h. Productivity of the domestic industry

130. The Domestic Industry has provided the data relating to their productivity. It is seen that the productivity per day has consistently and significantly improved over the injury period including the POI. Therefore, productivity of the Domestic Industry is not a possible cause of the injury to the Domestic Industry.

131. The essential facts gathered by the Authority during the course of the present review and as established by the Authority on the basis of information received from various sources are hereby disclosed to the interested parties in order to enable these interested parties to offer their comments on these facts gathered by the Authority. The Authority would make appropriate determination only after considering the views of all the interested parties.

132. The Authority would conclude on the matter and give its final determination and recommendation after receiving comments from the Domestic Industry and other interested parties on this disclosure statement.

SECTION-IV

METHODOLOGY FOR DETERMINATION OF NON-INJURIOUS PRICE

1. The NIP has been determined by adopting the verified information/data relating to the cost of production for the POI for the Domestic Industry. Detailed analysis/examination and reconciliation of the financial and cost records maintained by the companies, wherever applicable, were carried out for this purpose. The NIP for the Domestic Industry has been determined in terms of the principles outlined in Annexure III to the Rules as briefly described below:-
 - a) **RAW MATERIAL COST:** The best utilization of raw materials by the domestic producer, over the POI and preceding three years period, at the POI rates was considered.
 - b) **COST OF UTILITIES:** The best utilization of utilities by the domestic producer, over the POI and preceding three years period, at the POI rates was considered.
 - c) **PRODUCTION:** The best utilization of production capacity over the POI and preceding three years period was considered.
 - d) **SALARY & WAGES:** Propriety of the expenses grouped under this head and charged to the cost of production was examined. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production.
 - e) **DEPRECIATION:** The reasonableness of the amount of depreciation charged to the cost of production was examined to ensure that no charge has been made for facilities not deployed on the production of the subject goods. Further amortisation of goodwill has been disallowed.
 - f) **IDENTIFICATION AND ALLOCATION/APPORTIONMENT OF EXPENSES:** The reasonableness and justification of various expenses claimed for the POI has been examined and scrutinized by comparing with the corresponding amounts in the immediate preceding year and admitted for computing NIP.
 - g) The expenses and incomes that were not considered while determining NIP have been shown in the individual NIP calculation sheet.
 - h) **REASONABLE RETURN ON CAPITAL EMPLOYED:** A reasonable return (pre-tax) @22% on average capital employed (i.e. Average Net Fixed Assets and Average Working Capital) for the product under consideration was allowed for recovery of interest, corporate tax and profit. For the purpose of calculating working capital, certain items which were not considered while determining the NIP, have been shown in the NIP calculation sheet.
 - i) Interest is allowed as an item of cost of sales and after deducting the interest, the balance amount of return has been allowed as pre-tax profit to arrive at the NIP.

NIP FOR THE DOMESTIC INDUSTRY: The weighted average NIP for the subject goods of the domestic industry is proposed to be determined as Rs.***.