

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

**NOTIFICATION**

**FINAL FINDINGS**

New Delhi, the 8th March, 2021

**Case No. AD-SSR-12/2020**

**Subject: Sunset review investigation concerning imports of 2-Ethyl Hexanol Originating in or exported from European Union, Indonesia, Korea RP, Malaysia, Taiwan and United States of America.**

**F. No. 7/28/2020 – DGTR.**—Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the 'Act') and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as 'the Rules' or 'AD Rules') thereof;

**A BACKGROUND OF THE CASE**

1. M/s The Andhra Petrochemicals Limited (hereinafter also referred to as the “Applicant”) had filed an application before the Designated Authority (hereinafter also referred to as the “Authority”), in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred as the “ Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred as the Rules) for sunset review of anti-dumping investigation concerning the imports of 2-Ethyl Hexanol (hereinafter referred as the “subject goods” or “product under consideration” or “PUC”), originating in or exported from European Union, Indonesia, Korea RP, Malaysia, Taiwan and United States of America (hereinafter referred to as the “subject countries”).
2. The Applicant has alleged likelihood of continuation or recurrence of dumping of subject goods, originating in or exported from the subject countries and consequent injury to the domestic industry and has requested for review and continuation of the anti-dumping duty imposed on the imports of subject goods, originating in or exported from the subject countries.
3. Section 9A(5) of the Act, inter alia, provides that anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
4. Rule 23(1B) of the Rules provides as follows:  
*"...any definitive anti-dumping duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition, unless the Designated Authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry."*
5. Based on the substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated the sunset review investigation vide Notification No. 7/28/2020-DGTR (AD-SSR No. 12/2020) dated 28<sup>th</sup> August, 2020 and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry and whether there is a need for continued imposition of antidumping duty in respect of the subject goods originating in or exported from the subject countries.

6. Earlier, the Authority initiated an antidumping investigation in respect of imports of 2-Ethyl Hexanol from European Union, Indonesia, Korea RP, Malaysia, Taiwan, and United States of America on 20<sup>th</sup> November, 2014 and after conducting the investigation recommended imposition of definite duty vide Final Findings Notification No. 14/24/2014-DGAD dated 18<sup>th</sup> February, 2016. On the basis of recommendations made by the Authority in the final findings, definitive anti-dumping duty was imposed by the Central Government vide Notification No. 10/2016-Customs (ADD) dated 29<sup>th</sup> March 2016.

## **B PROCEDURE**

7. The procedure described below has been followed with regard to the investigation:
- i. The Authority issued a Notification dated 28th August, 2020, published in the Gazette of India Extraordinary, initiating investigation concerning imports of the subject goods from the subject countries.
  - ii. The Authority sent a copy of the initiation notification to the Embassy of the subject countries in India, known producers/exporters from the subject countries, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 30 days of the initiation notification in accordance with Rule 6(2) of the AD Rules. The time limit to file information was extended first upto 18<sup>th</sup> October 2020 and then upto 8<sup>th</sup> November 2020.
  - iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, known importers and to the embassy of the subject countries in India in accordance with Rule 6(3) of the AD Rules.
  - iv. The Embassy of the subject countries in India were also requested to advise the exporters/producers from the subject countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
  - v. The Authority sent exporter's questionnaire to the following known producers/ exporters in the subject countries, whose details were made available by the applicants, to elicit relevant information in accordance with Rule 6(4) of the Rules:
    - a. M/s Oxea GmbH, Germany.
    - b. M/s Grupa Azoty Kędzierzyn, Poland.
    - c. M/s Exxonmobil Chemical Holland BV, Netherlands.
    - d. M/s Oltchim S.A., Romania.
    - e. M/s Perstorp Oxo AB, Sweden.
    - f. M/s Zak S.A UL, Poland.
    - g. M/s BASF Lampertheim GmbH, Germany.
    - h. M/s Celanese Chemicals Europe GmbH, Germany
    - i. M/s Arkema S.A, France
    - j. M/s INEOS Oxide (Oxochemie), Belgium
    - k. M/s PT Petro Oxo Nusantara, Indonesia
    - l. M/s Petro Oxo Nusantara (Pon), Indonesia
    - m. M/s Hyundai Corporation, Korea RP
    - n. M/s LG Chem Ltd, Korea RP
    - o. M/s BASF Petronas Chemicals Sdn Bhd, Malaysia
    - p. M/s Hanwha Chemical

- q. M/s Formosa Plastic Group, Taiwan
  - r. M/s Nan Ya Plastics Corporation, Taiwan
  - s. M/s Eastman Chemical Co. USA
  - t. M/s Dow Chemicals, USA
  - u. M/s Vinmar International Ltd., USA
  - v. M/s ICC Chemical Corporation, USA
- vi. The following producers/exporters from the subject countries have filed exporter's questionnaire response: -
- a. M/s OQ Chemicals Produktion GmbH & Co. KG, Germany
  - b. M/s OQ Chemicals GmbH, Germany
  - c. M/s ICC Chemical Corporation, USA
  - d. M/s Vinmar International Ltd., USA
  - e. M/s Pt. Petro Oxo Nusantara, Indonesia
  - f. M/s BASF PETRONAS Chemicals Sdn. Bhd., Malaysia
- vii. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user associations, whose names and addresses were made available to the authority, of subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):
- a. M/s PCL Oil & Solvents Limited
  - b. M/s Amar Industrial Services
  - c. M/s Payal Polyplast Private Limited
  - d. M/s Deepak Nitrite Limited
  - e. M/s Rachana Plasticizers
  - f. M/s Petchem Products
  - g. M/s. KLJ Plasticizers Limited
  - h. M/s Nicholas Pigments & Inks
  - i. M/s Mody Enterprises Private Limited
  - j. M/s Bansal Trading Company
  - k. M/s Nitin Dye Chem Private Limited
  - l. M/s Premier Enterprises
  - m. M/s R. K. Trading Company
  - n. M/s C & E Limited
  - o. M/s C J Shah & Company
  - p. M/s Agsar Paints Private Limited
  - q. M/s Lalitha Chem Industries Private Limited
  - r. M/s Srivatsa Industries Limited
  - s. M/s Raghunath Dye Chem Private Limited
  - t. M/s Amar Industrial Services

- u. M/s Indian Additives Limited
- v. M/s Jagadamba Chemicals
- w. M/s Petrochem Middle East Private Limited
- x. M/s Merck Limited
- y. M/s Rhino Resins Private Limited
- z. M/s Right Minerals Private Limited
- aa. M/s Amar Industries Limited
- bb. M/s Indocem Private Limited
- cc. M/s Kerox Chemicals Private Limited
- dd. M/s Kasturi Resins and Synthetics
- ee. M/s Annexe Chemicals Private Limited
- ff. M/s Indian Institute of Chemical Technology
- gg. M/s Agarwal Sales Corporation
- hh. M/s C A G Industries
- ii. M/s Galaxy Surfactants Limited
- jj. M/s Jeevika Spakchem Private Limited
- kk. M/s Troix Chemicals Private Limited
- ll. M/s Shalimar Paints Limited
- mm. M/s Naq Global (India)
- nn. M/s Spectra Coats
- oo. M/s Sannidhi Chemical Industries
- pp. M/s Neelam Aqua & Speciality Chem Private Limited
- qq. M/s Associated Dyestuff Private Limited
- rr. M/s Maha Bhawani Chemicals
- ss. M/s Laxminarain Vishambharnath
- tt. M/s Meghaarika International Private Limited
- uu. M/s Pasuparthi Polymers Private Limited
- vv. M/s Meghmani Dyes and Intermediates Limited
- ww. M/s Ushodaya Paints Private Limited
- xx. M/s Salicylates & Chemicals Private Limited
- viii. The following importers or consumers of the product have filed the importer's questionnaire response in the prescribed format:
  - a. M/s Overseas Polymers Private Limited
  - b. M/s Deepak Nitrite Limited
  - c. M/s BASF India Limited
  - d. M/s KLJ Plasticizers Limited
  - e. M/s Payal Polyplast Private Limited
  - f. Indian Plasticizers Manufacturers Association

- ix. Alkyl Amines Limited also filed preliminary submissions in response to the initiation notification.
- x. Taiwan Economic and Cultural Centre, Taiwan, Government of Indonesia and Government of Malaysia have filed their post-hearing submissions.
- xi. Exporters, foreigner producers and other interested parties who have not responded to the Authority, or not supplied information relevant to this investigation, are treated as non-cooperating interested parties.
- xii. The Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xiii. The interested parties were asked to share the non-confidential version of the responses, submissions and evidence presented by them with the other interested parties.
- xiv. The period of investigation for the purpose of the present investigation has been considered from April, 2019 to March, 2020 (POI). The injury investigation period has been considered as the period from April 2016 to March 2017, April 2017 to March 2018 and April 2018 to March 2019 and period of investigation.
- xv. Additional/supplementary information was sought from the applicants and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation.
- xvi. The Non-injurious Price (NIP) is based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD Rules. It has been worked out so as to ascertain whether duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xvii. Information obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) on transaction-wise import data for the past three years, and the period of investigation has been adopted for determination of volume and value of imports of product concerned in India.
- xviii. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in the oral hearing held on 21<sup>st</sup> December 2020 which was attended by various parties. Further, a 2<sup>nd</sup> oral hearing was held on 11<sup>th</sup> February 2021 in view of change in the Designated Authority, in the light of the decision of the Hon'ble Supreme Court in the matter of Automotive Tyres Manufacturer Association vs Designated Authority. The oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID- 19 pandemic. All the parties who presented their views in the oral hearing were requested to file written submissions of these views, in order to enable opposing interested parties to file rejoinders thereafter.
- xix. A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 25.02.2021 and the interested parties were allowed time upto 03.03.2021 to comment on the same. The comments on Disclosure Statement received from the interested parties have been considered, to the extent found relevant, in this Final Findings.
- xx. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded this Final Findings on the basis of the facts available.
- xxi. \*\*\* in this Final Findings Notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxii. The exchange rate adopted by the Authority during the POI for the subject investigations is 1 US\$= Rs. 71.65

**C SCOPE OF PRODUCT UNDER CONSIDERATION (PUC) AND LIKE ARTICLE**

8. The product under consideration in this investigation is 2-Ethyl Hexanol. 2-Ethyl Hexanol (abbreviated as '2-EH') is a basic organic chemical. It is a fatty alcohol, clear, mobile, neutral liquid with a characteristic odour. 2-EH is produced on a massive scale for use in numerous applications such as solvents, flavours, and fragrances and especially as a precursor for production of other chemicals such as emollients and plasticizers. Main application of 2-Ethyl Hexanol is as a feed stock in the manufacture of low volatility esters; the most important of it is Di-(2Ethyl hexyl) Phthalate (DOP or DEHP). The product under consideration is classified under Customs Tariff Heading No. 29051620. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.

**C.1 Submissions of the domestic industry**

9. The domestic industry has submitted as follows with regard to product under consideration and like article:
- Since the present investigation is a sunset review investigation, the scope of product under consideration remains the same as in the original investigation.
  - The domestic industry is producing a like article to product under consideration.

**C.2 Submissions of other interested parties**

10. The other interested parties have not made any submissions with regard to product under consideration and like article.

**C.3 Examination by Authority**

11. The product under consideration in the original investigation as well as in the present sunset review is 2-Ethyl Hexanol. In the previous investigation, the product under consideration was defined as under. The Authority has considered the same scope of the product under consideration for the present purposes:

*The product under consideration in this investigation is "2-Ethyl Hexanol". 2-Ethyl Hexanol (abbreviated as '2-EH') is a basic organic chemical. It is a fatty alcohol, clear, mobile, neutral liquid with a characteristic odour. 2-EH is produced on a massive scale for use in numerous applications such as solvents, flavours, and fragrances and especially as a precursor for production of other chemicals such as emollients and plasticizers. Main application of 2-Ethyl Hexanol is as a feed stock in the manufacture of low volatility esters; the most important of it is Di-(2Ethyl hexyl) Phthalate (DOP or DEHP). The product under consideration is classified under Customs Tariff Heading No. 29051620. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.*

12. The subject goods produced by the domestic industry and that imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. In view of the same, the product under consideration produced by the domestic industry is treated as like article to the product under consideration imported from subject countries.

**D SCOPE OF THE DOMESTIC INDUSTRY AND STANDING**

13. Rule 2(b) of the AD rules defines domestic industry as under:

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

**D.1 Submissions of domestic industry**

14. Following submissions have been made by the domestic industry with regard to standing and scope of the domestic industry:
- i. Applicant is the sole producer in India.
  - ii. Applicant has not imported the subject goods and is not related, either directly or indirectly, to any exporter in the subject countries or any importer of the dumped article.
  - iii. Application satisfies the requirement of the rules.

**D.2 Submissions of other interested parties**

15. The other interested parties have not made any submissions with regard to domestic industry and its standing.

**D.3 Examination by the Authority**

16. The present application has been filed by M/s The Andhra Petrochemicals Limited. Applicant is the sole producer in India and has provided relevant information as per the prescribed format. The applicant is eligible domestic industry within the meaning of Rule 2(b) of the Rules. The application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

**E MISCELLEANOUS SUBMISSION****E.1 Submissions of domestic industry**

17. Following miscellaneous submissions have been made by the domestic industry:
- i. Response filed by participating producers fail to comply with requirements laid down by the Authority with regard to confidentiality. Response to most of the questions in questionnaire have been claimed completely confidential with no meaningful summary provided.
  - ii. Respondents have failed to comply with the requirements of the Trade Notice 10/2018 dated 7<sup>th</sup> September 2018.
  - iii. BASF Petronas Chemicals Sdn. Bhd, has claimed list of products manufactured and list of shareholders as confidential but both are available in public domain.
  - iv. M/s Hyundai Corporation, and M/s LG Chem Ltd, Korea RP had participated in the original investigation but failed to respond in the review investigation and therefore should be treated as non-cooperating.
  - v. BPCL Kochi, Saudi Aramco and Abu Dhabi National Oil Co., Reliance Industries Limited, BASF SE along with Adani and Indian Oil Corporation are all setting up plants in India for the production of subject goods. This will ensure that demand of the subject goods is met by the domestic industry.
  - vi. Information with respect to capacities in the other countries was obtained from a third party and applicant was not authorized to disclose.
  - vii. Mere fact that importers are forced to pay duties is not a sufficient justification to not protect the domestic market from the dumped imports.
  - viii. Domestic industry has provided detailed justification for every information claimed confidential and it is the respondents who have not provided proper justification.
  - ix. All the economic parameters considered by Authority for the purpose of arriving at the determination of injury have been provided in compliance with trade notice 10/2018 dated 7th September 2018. Interested parties should establish prejudice caused on non-disclosure of other parameters.
  - x. Domestic industry has fulfilled the obligation of providing import data in manner stated in Trade Notice 07/2018. The interested parties are free to obtain data from DGCI&S.

- xi. The importers have not provided details of information which are inadequate for the purpose of investigation and has made blatant statements.
- xii. The request of users to demand duty on the basis of quota has no basis.
- xiii. On the request to recommend duty on trigger price basis, prices of propylene and naphtha have fluctuated violently and imposition of duty on trigger price basis will not serve the purpose for both domestic industry and the users.
- xiv. There is no information on record to show that antidumping duty imposed earlier has had any adverse effect on the consumers. None of the users' questionnaire response will show adverse effects. User industry has not established how it has been affected due to imposition of anti-dumping duties.
- xv. Anti-dumping duty is not a protection to the industry, but rather a means of addressing unfair pricing to establish a level playing field.
- xvi. On the submission that price in journals cannot form basis of normal value, the CESTAT decision on the issue is for consideration of them under Rule 6(8) for issuance of final finding. It does not bar domestic industry to rely on them for initiation only. Normal value for participating producers will be anyways be determined based on their data.
- xvii. Reference to sunset review of Dry Cell Batteries investigation by the other interested parties for injury analysis is misstated and the Authority can compare volume of imports and facts between both the investigations.
- xviii. As against alleged that imposition of duties will increase the cost of diesel. Duties have been in force for around 5 years and there is no merit in argument that extension of duties will increase the cost.

## **E.2 Submissions of other interested parties**

18. The other interested parties have made following miscellaneous submissions.

- i. Information with respect to the capacities in subject countries, evidence of capacity expansion in subject countries and Eurostat and Trademap data have been kept confidential by the domestic industry.
- ii. Applicant has claimed excessive confidentiality with respect to production and sales, sales realization in Format H, information in Format L and likelihood of injury.
- iii. A mere statement by the applicant that summarization is not possible cannot fulfil legal requirement under Rule 7(2). It is required to show why such summarization is not possible. Justification table indicating reasons of confidentiality is not as per the requirements of trade notice. In response to Section VI domestic industry has not furnished any information at all.
- iv. Hon'ble Supreme Court in *Sterlite Industries Ltd. vs Designated Authority* held that Authority is required to evaluate the claims of confidentiality. Similar decision was held in case of Hon'ble CESTAT in *HR Johnson* case.
- v. Domestic industry has not provided information with respect to inventory as number of days of production, sales, research and development expense, funds raised, amortization, NIP and average industry norms. Information with respect to capacity, production, demand, sales and market share is available in public sources but claimed confidential. Capacity and demand were disclosed in the original finding but has been yet claimed confidential.
- vi. There is significant demand and supply gap in India and the importers are forced to pay duties despite there being no other option to source.
- vii. Domestic industry has not made available DGCI&S data. As per *Exotic Décor Pvt. Ltd. and Ors. v. Designated Authority*, DGTR has to make available import data in same form and manner in which it was taken on record.
- viii. Application fails to meet standards of accurate and adequate disclosure. Initiation is erroneous and investigation should be terminated. Evidence provided in application are inadequate for fair and accurate analysis of dumping, injury and causal link.

- ix. Duty can be imposed in the form of fixed quota or upto a level of injury margin. Further, affixing duty in form of trigger price or variable basis will ensure that domestic industry does not extract any unfair gain and user industry is not overburdened by cost of duties.
- x. Imposition of anti-dumping duty will support sole Indian producer but will make subject goods uneconomical and burdensome for end users.
- xi. Continued imposition of anti-dumping duty on imports of subject goods will lead to increase in imports of plasticizers and will also adversely impact the end users who are not afforded adequate protection from imports.
- xii. Information provided by domestic industry is insufficient to justify initiation of an investigation. Not all evidence can justify the initiation of an investigation, the evidence presented must be of an adequate quality to constitute “sufficient evidence”.
- xiii. There is no requirement for compulsory initiation of sunset review and the present application fails to show any positive evidence to support initiation and it does not meet the requirements laid down under law.
- xiv. As held by CESTAT in Secretary (Revenue) GOI vs. Dyestuffs Manufacturers Association of India, Authority cannot rely on prices published in trade journals of the purpose of determination of normal value.
- xv. Authority has noted in sunset review of Dry Cell Batteries that it is endeavour of Authority not to continue duty beyond a period of 10 years except in cases where it feels that anti-dumping duty is absolutely necessary.
- xvi. Product is used in producing diesel and extension of duties will lead to increase in cost.

### **E.3 Examination by the Authority**

19. Submissions made by the domestic industry and other interested parties with regard to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. The Authority notes that the information provided by all 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. All interested parties have claimed their business-related sensitive information as confidential.
20. The Authority notes that domestic industry and other interested parties have provided non-confidential version of all the information that is relevant for the purpose of present investigation.
21. On the submission by other interested parties on excel file of transaction wise import listing not shared, the Authority notes that Trade Notice 07/2018 dated 15<sup>th</sup> March 2018 provides that the sorted imports as relied by the domestic industry can be obtained in hard copy. Additionally, interested parties can seek Authorization from Authority to seek raw import data from DGCI&S. The scan version of the import data as relied on by the applicant was made available to the interested parties.
22. On the submission that there is a demand and supply gap in India which is the reason for increase in imports, the Authority notes that the ground for seeking extension of antidumping duty is not import per se, but the price at which import has been made and its effect on the domestic industry in respect of its parameters such as selling price, profits, cash profits and return on investment. Imposition of anti-dumping duty provides a level playing field and does not prevent fair competition in the market.
23. The Authority notes that the current investigation was initiated on the basis of sufficient prima facie evidence submitted by the applicant. Therefore, the claim that the application does not satisfy the requirement of the law is incorrect.
24. The interested parties have claimed that the extension of duties will have an adverse impact on the downstream industry. However, the interested parties have not provided any calculations or evidence to support the submission and show adverse impact.

25. As regards the contention of the parties about the form of duty, the Authority notes that as per the Rules, the mandate of the Authority is to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry. The Authority has determined the form of duty after evaluating all facts relevant for the present investigation.

## **F DETERMINATION OF NORAML VALUE, EXPORT PRICE AND DUMPING MARGIN**

### **F.1 Normal Value**

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

- i. the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting countries or territory as determined in accordance both 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 countries or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exploring countries 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 countries or territory or an appropriate third countries as determined in accordance with the rules made under sub-section (6): or*
  - b. the cost of production of the said article in the countries of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

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

### **F.2 Submissions of domestic industry**

27. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows: -
- i. Prices of producers are confidential information and hence are not available in the public domain.*
  - ii. Significant variation in the export prices from the subject countries to different countries makes the export prices unreliable.*
  - iii. Producers in the subject countries are dumping production in global market and exports are not reliable and may not be a true reflective of the normal value.*
  - iv. Normal value can be derived on the basis of estimates of cost of production.*
  - v. Claims of dumping margin from Korea RP, Taiwan and United States of America are unchallenged as there are no responses.*
  - vi. Continued dumping when duties are imposed shows likelihood of continuation of dumping in event of cessation of anti-dumping duty.*
  - vii. All three participating producers either procure raw material from their related party or produce it captively. Authority may ensure transfer of raw material is recorded at fair market price in determining the cost of production of the product under consideration while conducting the ordinary course of trade test.*
  - viii. Producers in the subject countries are exporting their product to third countries at dumped prices.*

**F.3 Submissions of other interested parties**

28. The submissions made by the other interested parties with regard to normal value, export price and dumping margin are as follows: -
- i. Contention of domestic industry that exporter should establish there is no likelihood of continued dumping is deprived of merit.
  - ii. It cannot be stated that the subject countries are dumping in other countries unless export price in other countries is compared with normal value in said exporting country.
  - iii. Domestic industry has resorted to zeroing by only relying on exports which are allegedly dumping. Such an approach is contrary to WTO principles as per panel in EC- Bed linen and US-Zeroing (EC) case.

**F.4 Examination by Authority**

29. The Authority sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters from the subject countries have filed exporter's questionnaire response: -
- a. M/s OQ Chemicals Produktion GmbH & Co. KG, Germany
  - b. M/s OQ Chemicals GmbH, Germany
  - c. M/s ICC Chemical Corporation, USA
  - d. M/s Vinmar International Ltd., USA
  - e. M/s Pt. Petro Oxo Nusantara, Indonesia
  - f. M/s BASF PETRONAS Chemicals Sdn. Bhd., Malaysia

**F.4.1 Normal value and export price determination for European Union****M/s OQ Chemicals GmbH, Germany****Normal Value**

30. Two companies have participated from the European Union, i.e., and OQ Chemicals Produktion GmbH & Co. KG ("OQCP") and OQ Chemicals GmbH ("OQC"). During the POI, OQC and OQCP operated pursuant to a tolling arrangement between the two companies, pursuant to which OQCP produced the goods as a toller for OQC. OQC remained the owner of the goods produced, while OQCP performed the activity of production in exchange for a tolling fee. OQC sold PUC directly in the domestic market and the domestic sales are in sufficient volumes when compared with exports to India.
31. The Authority notes that OQC participated in the original investigation as Oxea GmbH. OQC changed its name to OQ Chemicals GmbH i.e. OQC on 11 May 2020 on account of rebranding of the former Oxea Group Companies under the OQ Group name and logo. Also, OQCP was previously known as Oxea Produktion GmbH & Co and its name change came into effect on 8 May 2020.
32. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of the subject goods. The Authority has considered profitable sales made in the domestic market for the determination of the normal value.
33. OQC has claimed adjustments on account of credit note, debit note, handling charges, LC discounting charges, bank charges, credit cost and inland freight. The Authority has accepted all the adjustments claimed. The normal value at ex-factory level for OQ Chemicals GmbH has been determined accordingly, and the same is shown in the Dumping Margin Table below.

**Export price**

34. The Authority notes that OQC has exported to Indian customers during the POI a quantity of \*\*\* MT through its traders, ICC Chemical Corporation, Vinmar International Limited and Tauber Petrochemical Co. ICC Chemical Corporation and Tauber Petrochemical Co sold the PUC purchased from OQC to unaffiliated customers in India, whereas Vinmar International Limited sold the PUC purchased from OQC to unaffiliated customers in India as well as an affiliated importer, Overseas Polymers Ltd, who in turn sold the PUC to unaffiliated customers in India.
35. OQC along with its exporters / traders, ICC Chemical Corporation, Vinmar International Limited and Overseas Polymers Private Ltd have filed their questionnaire responses. The PUC exported to India by OQC through cooperating exporters / traders constitutes more than 90 % of the total sales made to India.
36. Accordingly, the total quantity reported by OQC and its traders has been adopted by the Authority for determining the dumping and injury margin.
37. The Authority, while calculating the export price for the producer has considered verified actual data of OQC as well as cooperating traders shipped to India. OQC has claimed adjustment on account of surveyor cost, handling charge, demurrage and detention charges, inland freight, storage cost, bank charge and credit cost and the same have been allowed.
38. Accordingly, the export price for OQC has been determined based on the weighted average export price of all exports' channels to India for which information has been provided.

**i. Other producers**

39. The normal values and export price for all other non-cooperating producers and exporters of European Union is determined as per facts available considering the data provided by cooperating producer and is same is mentioned in the dumping margin table below.

**F.4.2 Normal value and export price determination for Indonesia****i. PT. Petro Oxo Nusantara, Indonesia**

40. M/s P. T. Petro Oxo Nusantara (PT PON), a public sector joint venture in Indonesia and sole producer of the subject goods in Indonesia. The respondent has a related importer in India, M/s BASF India Limited, which has filed importer questionnaire response.

**Normal value**

41. During the POI, PT Petro Oxo Nusantara, Indonesia has sold \*\*\* MT of the subject goods for \*\*\* US\$ in the domestic market to related and unrelated parties. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods. The Authority noted that if profit making transactions are more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. With regard to PT Petro Oxo Nusantara, Indonesia, since the profit-making sales are below 80%, the Authority has considered only profit-making sales to determine the normal value. PT Petro Oxo Nusantara, Indonesia, has claimed no adjustment as goods are sold in domestic market on ex-work. Accordingly, normal value at ex-factory level for PT Petro Oxo Nusantara, Indonesia, has been determined and the same is shown in the Dumping Margin Table below.

**Export price**

42. PT Petro Oxo Nusantara, who is a producer and exporter of the subject goods in Indonesia, has filed questionnaire response. During the POI, PT Petro Oxo Nusantara exported \*\*\* MT of the subject goods for \*\*\* US\$ to India directly. PT Petro Oxo Nusantara, Indonesia, has claimed adjustment on accounts of ocean freight, insurance, port and other related expenses, credit cost, bank charges and the same have been allowed by the authority. Accordingly, the ex-factory export price for PT Petro Oxo Nusantara, Indonesia, has been determined and the same is shown in the Dumping Margin Table below.

**ii. Other producers**

43. The normal values and export price for all other non-cooperating producers and exporters of Indonesia is determined as per facts available considering the data provided by cooperating producer and same is mentioned in the dumping margin table below.

**F.4.3 Normal value and export price determination for Malaysia****i. BASF Petronas Chemicals Sdn Bhd, Malaysia**

44. BASF Petronas Chemicals Sdn Bhd, Malaysia (BPC) is a Malaysian based joint venture between BASF SE, Germany and Petroliam National Berhad (Petronas), Malaysia, under its subsidiary Petronas Chemicals Group (PCG). The producer is the sole producer of subject goods in Malaysia.

**Normal value**

45. Based on the information furnished in the EQ responses, the Authority notes that BASF PETRONAS Chemicals Sdn. Bhd. (hereinafter referred to as “BASF / Exporter”) is a producer of the subject goods. The exporter has directly sold the subject goods in the domestic market as well as Indian market. The exporter has exported the subject goods in the Indian market to its related company namely BASF India Ltd, which has also filed the questionnaire response.
46. BASF has sold \*\*\* MT of the subject goods in the domestic market during the POI whereas, it has exported \*\*\* MT of the subject goods to India. The Authority has examined whether their sales are under ordinary course of trade in terms of the Annexure I to the Anti-dumping Rules. The exporter has provided transaction wise details of sales made in home market. The same has been accepted by the Authority after examination and relied upon to determine the selling price of the subject goods sold in the home market. For the determination of the ordinary course of trade test, the cost of production of the product concerned was examined with reference to the records maintained by the producer/exporter.
47. Further, all domestic sales transactions were examined with reference to the cost of production determined by the Authority of the subject goods to determine whether the domestic sales were in the ordinary course of trade or not. In order to determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods. In case profit-making transactions are more than 80% then the Authority considers all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, all domestic sales have been taken into account for determination of normal value, since all sales were profitable. The producer has claimed insurance, inland freight, packing cost, credit cost and bank charges as post factory expenses, and the same has been accepted by the Authority. The normal value determined as above is mentioned in the dumping margin table.

**Export price**

48. It is noted that BASF exported \*\*\* MT of the subject goods to India during the POI. The Authority has verified the responses of exporter and BASF India Ltd. The same are found to be in order.
49. For arriving at the ex-factory export price, the Authority has considered the expenses incurred by the exporter. Accordingly, adjustments on account of bank charges, ocean freight, packing, insurance and credit cost have been adjusted from the invoice price. Accordingly, the ex-factory export price is calculated and mentioned in the dumping margin table.

**ii. Other producers**

50. The normal value and export price for all other non-cooperating producers and exporters of Malaysia is determined as per facts available considering the data provided by cooperating producer and same is mentioned in the dumping margin table below.

**F.4.4 Normal value and export price determination for Korea RP**

51. None of the producers / exporters from Korea RP have participated in the investigation. Accordingly, the normal value has been determined on the basis of facts available in terms of Rule 6(8) of the Rules. The Authority proposes to determine normal value on the basis of best estimates of cost of production of the subject goods, duly adjusted for selling, general & administrative expenses, with the addition of reasonable profit margin @ 5%. The normal value so determined is mentioned in the dumping margin table.
52. Export price has been determined on the basis of facts available. For the purpose, information provided by the DGCIS is considered. Further, price adjustments have been carried out on account of ocean freight, marine insurance, inland freight, bank charges, port expenses and commission on the basis of facts available. The ex-factory export price so determined is mentioned in the dumping margin table.

**F.4.5 Normal value and export price determination for Taiwan**

53. None of the producers / exporters from Taiwan have participated in the investigation. Accordingly, the normal value is determined on the basis of facts available in terms of Rule 6(8) of the Rules. The Authority proposes to determine normal value on the basis of best estimates of cost of production of the subject goods, duly adjusted for selling, general & administrative expenses, with the addition of reasonable profit margin @ 5%. The normal value so determined is mentioned in the dumping margin table.
54. Export price has been determined on the basis of facts available. For the purpose, information provided by the DGCIS is considered. Further, price adjustments have been carried out on account of ocean freight, marine insurance, inland freight, bank charges, port expenses and commission on the basis of facts available. The ex-factory export price so determined is mentioned in the dumping margin table.

**F.4.6 Normal value and export price for United States of America**

55. None of the producers / exporters from United States of America have participated in the investigation. Accordingly, the normal value is determined on the basis of facts available in terms of Rule 6(8) of the Rules. The Authority has determined normal value on the basis of best estimates of cost of production of the subject goods, duly adjusted for selling, general & administrative expenses, with the addition of reasonable profit margin @ 5%. The normal value so determined is mentioned in the dumping margin table.
56. Export price has been determined on the basis of facts available. For the purpose, information provided by the DGCIS is considered. Further, price adjustments have been carried out on account of ocean freight, marine insurance, inland freight, bank charges, port expenses and commission on the basis of facts available. The ex-factory export price so determined is mentioned in the dumping margin table.

**F.4.7 Calculation of dumping margin**

57. The normal value, ex-factory export price and dumping margin determined in the present investigation for all the subject countries are as follows: -

SN	Particulars	Normal Value (USD/MT)	Export price (USD/MT)	Dumping margin (USD/MT)	Dumping margin - %	Dumping margin - range
<b>1</b>	<b>European Union</b>					
a	OQ Chemicals Produktion GmbH & Co. KG ("OQCP") and OQ Chemicals GmbH ("OQC")	***	***	***	***	20-30
b	Any other	***	***	***	***	30-40

<b>2</b>	<b>Indonesia</b>					
a	PT. Petro Oxo Nusantara	***	***	***	***	10-20
b	Any other	***	***	***	***	10-20
<b>3</b>	<b>Malaysia</b>					
a	BASF Petronas Chemicals Sdn Bhd,	***	***	***	***	0-10
b	Any other	***	***	***	***	10-20
<b>4</b>	<b>Korea RP</b>	***	***	***	***	0-10
<b>5</b>	<b>Taiwan</b>	***	***	***	***	10-20
<b>6</b>	<b>United States of America</b>	***	***	***	***	20-30

58. It is seen that the dumping margin is positive in respect of all the three participating producers. Further, dumping margin is positive in respect of other subject countries as well.

#### **G METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK**

59. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles... ". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

60. Rule 23 of the Rules provides that the provisions of Rule 6,7,8,9,10,11,16,18, 19 and 20 shall apply mutatis mutandis in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and has also examined as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

#### **G.1 Submissions of domestic industry**

61. The submissions of the domestic industry with regard to injury and causal link are reproduced herein below:

- i. Demand has constantly increased over the injury period with marginal decline in 2018-19.
- ii. Imports have increased significantly in absolute terms as well as in relation to production and consumption in the period of investigation.
- iii. Negative price undercutting. Authority noted in original investigation that negative price undercutting is not relevant if there is price suppression or depression. Price undercutting is positive in some months and negative in others.
- iv. Imports have depressed the prices of the domestic industry.
- v. Fall in domestic sales due to sharp fall in the landed price of the imports and as a result, the production and consequently capacity utilization has also declined.
- vi. Market share has decreased sharply in the proposed period of investigation whereas with the increase in the volume of the imports from the subject countries, their share has increased significantly.
- vii. Profitability of domestic industry improved till 2018-19, declined significantly in the period of investigation.

- viii. Cash profits and return on capital employed have reduced significantly.
- ix. Inventory with the domestic industry has more than doubled in the period of investigation as compared to the 2018-19.
- x. Negative growth in all the parameters in period of investigation.
- xi. It was held by CESTAT tribunal in Kothari Sugars & Chemicals Limited v. Designated Authority that if the volume of imports at a particular price level is sufficient enough to have adverse impact on domestic selling prices, the same should only be taken into account and given due weightage in the analysis. Decision of CESTAT was challenged by authority before Supreme Court and was not reversed.
- xii. In a situation of demand and supply gap at present imports are bound to happen, but it is imports at unfairly low price which are preventing domestic industry from charging adequate remunerative prices and earn a reasonable return.
- xiii. Information with respect to low production on account of shortage of raw material was not at all concealed as it has been mentioned in the Annual report of the company which is part of application.
- xiv. Plant was shut down only for 24 days in period of investigation because of non-supply of propylene.
- xv. In spite of the demand and supply gap, domestic industry was operating with idle capacity for the majority of the period. Further return earned was also low for the majority of the period upto the year 2017-18. Considering the performance, no producer would expand its capacity.
- xvi. Negative price undercutting with inadequate profits shows that prices are suppressed or depressed. The selling price of domestic industry is dependent on the import price prevalent in market.
- xvii. Domestic industry has claiming injury from the low-priced imports only. There are significant exports from the countries which are priced below the fair selling price and net selling price of domestic industry.
- xviii. Claimed methodology of considering low priced imports has been approved by Hon'ble Supreme Court of India and WTO in matter of European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil.
- xix. Respondents have not been able to substantiate why performance in the period 2018-19 was abnormal and therefore there is no reason to exclude 2018-19 from injury analysis. There was an increase in import prices and decline in volume in 2018-19 and domestic industry was able to increase its prices.
- xx. Merely because importers are forced to pay duties is not sufficient justification to not protect domestic market from the dumped imports. Importers are free to import from other sources.
- xxi. On the submission that applicant has not disclosed captive sales and export sales, application makes it clear that domestic industry has not made exports. 2 EH does not find consumption in products produced and sold by domestic industry.
- xxii. Imports happened across the period of investigation and there is no merit in argument that the imports happened in the last quarter of period of investigation when domestic industry's plant was under shutdown.
- xxiii. Imports made during different period does not justify no intense competition between imports. As against alleged argument, around 75% imports from European Union took place in the 1st half of the period of investigation.
- xxiv. Domestic industry was able to sell at adequate remunerative prices prior to the period of investigation and is now selling at suboptimal prices. It cannot be contended that it sells at losses in order to sell its inventory and increase its sales and market share.

- xxv. The statements made in the Annual Reports and other research reports do not pertain to product specific information. Rather, they are made for the company as whole.
- xxvi. Neither the domestic industry is into export operations nor is sourcing its raw material from the foreign supplier. Therefore, foreign exchange fluctuations would not have any significant impact on the performance of the product under consideration.
- xxvii. On issue of weak global demand, applicant is sole producer in India operating with demand and supply gap and is not into exports. It should not have suffered due to weak global demand. Producers globally facing the heat of weak demand does show element of dumping.
- xxviii. Domestic industry has already in its application highlighted that imports from Singapore are above de-minimis limits. However, since the present application is a sunset review application, the scope of countries could not be expanded.
- xxix. On the submission that capital employed has increased but there is no change in capacity, plant for the production of subject goods is not the only factor in change in capital employed.
- xxx. As domestic industry was recovering from the past ill effects of dumping, it was able to increase its prices till 2018-19.
- xxxi. Performance of domestic industry has been impacted by dumped imports from various sources for majority over the last 10 years. Therefore, considering a return lower than 22% would not be appropriate.
- xxxii. CESTAT in plethora of cases held that considering a return of 22% for determination on non-injurious price would be appropriate.
- xxxiii. Return earned by domestic industry in the year 2018-19 may be considered for calculating NIP. Imports in 2018-19 were lowest over the injury period and domestic industry operated at its full capacity which rules out element of price effect of imports.
- xxxiv. The provision of de-cumulation does not apply for sunset review investigation.
- xxxv. The applicant has submitted that there are significant imports entering below the price of domestic industry due to which it has not been able to sell at optimum level. The applicant has relied on the CESTAT Decision in case of Kothari Sugars & Chemicals Limited vs. Designated Authority and submitted that the price undercutting should be determined on the basis of imports below the price of the domestic industry. According to the applicant, there are around 40% of imports from subject countries which are below the prices of the domestic industry.

## G.2 Submissions of other interested parties

62. The submissions of the other interested parties with regard to injury and causal link are reproduced herein below:
- i. There is negative price undercutting which shows absence of price effect. Month wise price undercutting is negative after considering anti-dumping duty.
  - ii. Domestic industry did not expand its capacity inspite of anti-dumping duties in force and increasing demand.
  - iii. There is no suppressing or depressing effect of imports as there is negative price undercutting.
  - iv. Domestic industry has concealed information that there has been a shortage of raw material supply which led to decline in production.
  - v. Domestic Industry has used zeroing methodology to advance contention which is contrary to the WTO principles as per US-Zeroing (EC) case.
  - vi. No information has been provided if domestic industry has made export sales and captive consumption.

- vii. HPCL underwent significant works for maintenance and capacity expansions in Quarter 3 and Quarter 4 of 2019-20. There was shortage of raw material supply to domestic industry.
- viii. Domestic industry's plant was shut down in Quarter 4, imports were necessary to meet the increasing demand.
- ix. If the drop in production and sales was due to increasing imports at dropping prices, it would still have had leverage to lower prices further to fight for its market share.
- x. Decrease in prices of subject goods in the period of investigation was driven by a significant drop in 2-EH feedstock prices of propylene (and naphthalene).
- xi. Request made by domestic industry to consider only injurious transactions to determine price undercutting and injury margin is contrary to past practice of the DGTR and should be rejected.
- xii. ICRA reports and Annual Report states that domestic industry's performance has been impacted because of dependence on a single supplier for key raw material, subdued product-feedstock price spreads due to weak global demand, import duty differentials and foreign exchange rates.
- xiii. EU producers have a destock advantage as compared to Asia and America regions. Propylene is pre-dominantly produced as a by-product in the operations of crackers and refiners. Prices for propylene in EU were significantly higher during review investigation period than in America or Asia.
- xiv. There is no impact of landed price on selling price of domestic industry as the trend in both is virtually identical. Negative price undercutting exemplifies that there is no adverse price effect.
- xv. Domestic industry has in the annual report identified increased imports from non-subject countries as major risks and causes for threat of injury.
- xvi. Capacity of domestic industry remained unchanged during the injury period of investigation but there is an increase in capital employed.
- xvii. Profits of domestic industry show a tremendous increase in 2017-18 and 2018-19 due to higher increase in selling price than increase in cost of sales.
- xviii. Injury can be due to deterioration in the export performance of domestic industry.
- xix. Increase in average stock cannot be taken in isolation for the purpose of determining the injury caused to domestic industry.
- xx. There has been a consistent increase in fixed asset and depreciation of domestic industry without any increase in the capacity.
- xxi. WTO Panel in Argentina Footwear case held that injury analysis is required to be conducted for both end-to-end comparison and of intervening periods
- xxii. During 2018-19, the prices of Naptha and Propylene were highest during the injury period which normalized in the period of investigation. Domestic industry also corrected its prices with a decline in raw material prices and global market scenario.
- xxiii. Imports from Taiwan are merely 0.2% of total imports and cannot be cumulated with imports from other countries.
- xxiv. DGTR should adopt ROCE earned by the industry when there was no allegation of dumping as reasonable profit margin and not 22% ROCE.
- xxv. Capital employed comprises of net worth and debt of company. Calculation of return by adopting 22% uniformly on both components of capital employed is totally incorrect and needs to be reviewed.
- xxvi. European Union arrives at NIP by relying on profit margin obtained by union industry during the part of the injury investigation period in which the dumped and/or subsidized imports did not have any negative effect on the situation of the union industry.

- xxvii. Applicant's claim of considering only injurious transaction to determine undercutting and injury margin is akin to zeroing which is violation of the WTO Agreement and past practice of the DGTR.
- xxviii. The zeroing methodology proposed by the domestic industry inflates the dumping and injury margin.
- xxix. In the WTO Panel Report relied on by the applicant, it was clarified that undercutting determined by excluding non-injurious imports was also 'one of the methodologies' to assess the effect of price undercutting and was not an 'end in itself' like determination of dumping.
- xxx. In CESTAT decision of Kothari Sugars. Domestic industry had opposed average analysis as there was non-cooperation from producers / exporters and in case of non-cooperation, DGTR should consider low priced exports. The tribunal judgements relied on by the applicant were concerned with completely different.
- xxxi. If imports were segregated on the basis of prices, it would mean that the applicant is not suffering any volume injury.
- xxxii. There are no injurious imports at all from Korea, Indonesia and Malaysia as delta between the NSR and NIP is negative.
- xxxiii. Between 2016-17 and 2018-19, the economic parameters of the domestic industry would show significant improvement.
- xxxiv. Decrease in prices of period of investigation was driven by a significant drop in 2-EH feedstock prices of propylene and naphthalene.
- xxxv. There are other factors such as dependence on a single supplier for key raw material, subdued product- feedstock price spreads due to weak global demand, import duty differentials and foreign exchange rates which are cause of injury.
- xxxvi. Prices for each country and market are different and fixed after taking into account market conditions. It is illogical to compare prices fixed for third countries with the prices of domestic industry.
- xxxvii. As per domestic industry's own submissions, they are not getting injured by 70% imports from EU, 100% imports from Indonesia and Korea, 50% imports from Malaysia and around 11% imports from USA.
- xxxviii. Domestic industry is selling at price lower than import price and any loss to domestic industry is due to the fact that it is undercutting the import prices and not the opposite.

### **G.3 Examination by Authority**

63. The Authority has taken note of the submissions made by the interested parties. Annexure-II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products.
64. According to Section 9(A)(5) of the Customs Tariff Act, 1975, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time-to-time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of the order of such extension.
65. In consideration of the various submissions made by the interested parties in this regard, the Authority has examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.
66. The Authority notes that it is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority has considered all injury parameters and, thereafter, concludes whether injury to the domestic industry continues, or recur, in case the antidumping duty is ceased. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and other interested parties.

67. The Authority has taken note of various submissions made by the Domestic Industry and other Interested parties on injury and causal link and analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority in the succeeding preceding paras ipso facto addresses submissions made by the domestic industry and other interested parties.

### F.3.1 Assessment of demand

68. The Authority has determined demand or apparent consumption of the product in India, as the sum of domestic sales of the domestic industry and imports from all sources.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Imports from subject countries	MT	35,665	31,641	30,807	52,761
2	Imports from other countries	MT	31,201	26,458	23,279	28,874
3	Domestic sales of applicant	MT	***	***	***	***
	Trend	Indexed	100	127	131	106
4	Total demand/ consumption	MT	***	***	***	***
	Trend	Indexed	100	103	101	116

69. It is seen that the demand of the subject goods increased in 2017-18, declined marginally in 2018-19 and then has again increased in the period of investigation. Demand of the subject goods has increased over the injury period.

### F.3.2 Volume effect of dumped imports.

#### i. Import volume and share of subject countries.

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

SN	Particulars of imports	Unit	2016-17	2017-18	2018-19	POI
1	<b>Subject countries</b>	<b>MT</b>	<b>35,665</b>	<b>31,641</b>	<b>30,807</b>	<b>52,761</b>
a	EU	MT	17,465	14,049	6,701	13,187
b	Indonesia	MT	-	-	3,209	3,343
c	Korea Rp	MT	-	-	95	4,249
d	Malaysia	MT	17,220	8,676	10,108	14,611
e	Taiwan	MT	-	-	20	20
f	U S A	MT	980	8,916	10,674	17,350
2	Other countries	MT	31,201	26,458	23,279	28,874
3	Total Countries	MT	66,866	58,099	54,086	81,636
4	<b>Subject countries import in relation to -</b>					
a	Indian production	%	***	***	***	***
	Trend	Indexed	100	71	67	138
b	Demand	%	***	***	***	***
	Trend	Indexed	100	86	86	128
c	Total imports	%	53%	54%	57%	65%

71. It is seen that the volume of dumped imports of subject goods declined till 2018-19, but increased in the period of investigation. Imports from the subject countries have increased in the period of investigation in absolute terms as well as in relation to production, consumption and total imports. The Authority notes that there was a curtailment of production by the domestic industry due to short supply of key raw material.

**F.3.3 Price effect of dumped imports.**

72. In terms of Annexure II (ii) of the Rules, the Authority is required to consider the effect of the dumped imports on domestic prices in terms of price undercutting, price underselling, price suppression and price depression, if any.

**a. Price undercutting**

73. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product from the subject countries and the average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at ex-factory level.

S.No.	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	<b>Net Sales Realisation</b>	Rs/MT	***	***	***	***
2	<b>Subject countries as a whole</b>					
a	Landed Price	Rs/MT	57,366	70,884	85,213	71,652
b	Price Undercutting	Rs/MT	***	(***)	(***)	(***)
c	Price Undercutting	%	***	(***)	(***)	(***)
d	Price Undercutting	Range	0-10%	(0-10) %	(0-10) %	(0-10) %
3	<b>European Union</b>					
a	Landed Price	₹/MT	58,160	73,474	90,297	77,850
b	Price Undercutting	₹/MT	***	(***)	(***)	(***)
c	Price Undercutting	%	***	(***)	(***)	(***)
d	Price Undercutting	Range	0-10%	(0-10) %	(0-10) %	(0-10) %
4	<b>Indonesia</b>					
a	Landed Price	₹/MT	-	-	80,327	70,987
b	Price Undercutting	₹/MT	-	-	2,670	487
c	Price Undercutting	%			***	***
d	Price Undercutting	Range	0.00%	0.00%	0-10%	0-10%
5	<b>Korea RP</b>					
a	Landed Price	₹/MT	-	-	89,856	75,917
b	Price Undercutting	₹/MT	-	-	(***)	(***)
c	Price Undercutting	%			(***)	(***)
d	Price Undercutting	Range	0.00%	0.00%	(0-10) %	(0-10) %
6	<b>Malaysia</b>					
a	Landed Price	₹/MT	56,495	71,120	81,120	70,195

b	Price Undercutting	₹/MT	***	(***)	(***)	***
c	Price Undercutting	%	***	(***)	(***)	***
d	Price Undercutting	Range	0-10%	(0-10) %	0-10%	0-10%
7	Taiwan					
a	Landed Price	₹/MT	-	-	94,735	74,747
b	Price Undercutting	₹/MT	-	-	(***)	(***)
c	Price Undercutting	%	-	-	(***)	(***)
d	Price Undercutting	Range	0.00%	0.00%	(0-10) %	(0-10) %
8	USA					
a	Landed Price	₹/MT	58,527	66,572	87,307	67,249
b	Price Undercutting	₹/MT	(***)	***	(***)	***
c	Price Undercutting	%	(***)	***	(***)	***
d	Price Undercutting	Range	(0-10) %	0-10 %	(0-10) %	0-10 %

74. It is seen that price undercutting in respect of all the subject countries as a whole is slightly negative, and individually, in the case of Indonesia, Malaysia and the USA it is positive.

#### b. Price Suppression/Depression

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

S.No.	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of Sales	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>103</i>	<i>119</i>	<i>111</i>
2	Selling Price	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>117</i>	<i>142</i>	<i>122</i>
3	Landed price of imports	₹/MT	57,366	70,884	85,213	71,652
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>124</i>	<i>149</i>	<i>125</i>

76. It is seen that the cost of sales and selling price of domestic industry and landed price of imports increased till 2018-19. The quantum of increase in landed price of imports and selling price of the domestic industry was higher than the quantum of increase in cost of the domestic industry. Further, the increase in landed price of imports in 2017-18 and 2018-19 was higher than the increase in cost of sales of the domestic industry. However, in the POI, cost of sales and selling price of the domestic industry and landed price of imports declined. But, decline in landed price of imports is far higher than decline in selling price and cost of sales of the domestic industry. It is thus seen that the domestic industry is keeping its prices in accordance with the import price and in that sense the imports from subject countries have depressed the prices of the domestic industry in the POI.

**c. Price underselling**

77. The Authority further examined the selling price and landed price of imports during the POI.

Country	NIP	Landed Value	Underselling	Underselling	Underselling
	Rs./MT	Rs./MT	Rs./MT	%	Range
European Union	***	77,850	(***)	(***)	(0-10)
Indonesia	***	70,987	***	***	0-10
Korea Rp	***	75,917	(***)	(***)	(0-10)
Malaysia	***	70,195	***	***	0-10
Taiwan	***	74,747	(***)	(***)	(0-10)
USA	***	67,249	***	***	0-10

78. It is seen that price underselling is positive in case of Indonesia, Malaysia and the USA and negative in other subject countries.

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

79. Annexure - II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. The Anti-Dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity: factors affecting domestic prices, the magnitude of the margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Accordingly, various injury parameters relating to the domestic industry are discussed herein below.

**a. Capacity, Production, Capacity Utilization and Sales**

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Capacity	MT	***	***	***	***
	Trend	Indexed	100	101	101	101
2	Production	MT	***	***	***	***
	Trend	Indexed	100	124	129	107
3	Capacity Utilisation	%	***	***	***	***
	Trend	Indexed	100	123	128	106
4	Domestic sales	MT	***	***	***	***
	Trend	Indexed	100	127	131	106

81. It is seen that:

- a. The applicant has claimed capacity as reported in the cost audit report. However, Authority has considered capacity as reported in the Pollution Control Board Certificate as it is seen that the domestic industry has installed capacities to the extent it has reported capacity to the pollution control authority. It is seen that there is a marginal increase in its capacity.

- b. The production, sales and capacity utilization of the domestic industry has increased till 2018-19 but declined in the period of investigation. The Authority notes that this decline is due to short supply of propylene. The Authority has also duly considered the effect of raw material supply while optimising the capacity for determining the non-injurious price for the PUC.

**b. Market share of the domestic industry in demand.**

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Domestic industry	%	***	***	***	***
	Trend	Indexed	100	123	129	92
2	Subject Countries	%	***	***	***	***
	Trend	Indexed	100	86	86	128
3	Other Countries	%	***	***	***	***
	Trend	Indexed	100	82	74	80

83. It is seen that market share of the domestic industry increased till 2018-19, but declined in the period of investigation. Share of imports from subject countries declined till 2018-19, but increased in the period of investigation. The Authority notes that the decline in the market share of the domestic industry is due to lower production on account of short supply of key raw material.

**c. Inventories**

84. Average inventory with the domestic industry has been examined.

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Average inventory	MT	***	***	***	***
	Trend	Indexed	100	99	44	123

85. It is seen that the average inventory level of the domestic industry has shown declining trend till 2018-19 and increased substantially thereafter in the period of investigation.

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

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of sales	₹/MT	***	***	***	***
	Trend	Indexed	100	103	119	111
2	Selling price	₹/MT	***	***	***	***
	Trend	Indexed	100	117	142	122
3	Profit / Loss (PBT)	₹/MT	(***)	***	***	***
	Trend	Indexed	-100	411	707	274
4	Profit / Loss (PBT)	₹ Lacs	(***)	***	***	***
	Trend	Indexed	-100	521	923	292
5	Cash profits	₹ Lacs	(***)	***	***	***
	Trend	Indexed	-100	3,319	5,546	2,161

6	Profit before Interest & Tax (PBIT)	₹ Lacs	***	***	***	***
	Trend	Indexed	100	1,381	2,166	667
7	Profit before Depreciation, Interest & Tax (PBDIT)	₹ Lacs	***	***	***	***
	Trend	Indexed	100	552	830	314
8	Return on capital employed	%	***	***	***	***
	Trend	Indexed	100	1,509	2,511	850

87. Authority has examined the profitability of the domestic industry over the injury period. It is seen that:

- Domestic Industry was in losses in the base year and its profitability increased thereafter. The profits increased till 2018-19. However, the profits have declined in the period of investigation.
- Whereas the import prices were below the cost of sales in the base year, the same were higher than the cost of sales in the subsequent years. The applicant claims that since the domestic industry is pricing its product in comparison to import price, it was facing financial losses in 2016-17 and was able to earn and thereafter improve its profits in 2017-18 and 2018-19. Decline in the import price in POI far beyond the decline in cost of sales in the POI has led to decline in the profits in the POI.
- Cash profits show the same trend as that of profits. Domestic industry was in cash losses in the base year but its cash profits increased thereafter. The cash profits increased till 2018-19 and declined sharply in the period of investigation.
- Domestic industry had positive ROI throughout the injury period but the same declined in the period of investigation.
- The Authority examined the impact of curtailed production on profits, cash profits and ROI. For the purpose, the Authority considered these parameters adjusting the production to the extent it was impacted due to short supply of raw materials. It is seen that profits, cash profits and ROI of the domestic industry would have shown significant decline in the POI, had it produced and sold to the extent of production loss also. Thus, the decline in these parameters are largely due to decline in import price.
- The interested parties have submitted that the profits of the domestic industry have increased significantly in 2018-19. It is however seen that the selling price of the domestic industry shows the pattern as is seen in the imports. The import price increased significantly in 2017-18 and 2018-19, far beyond the increase in cost of sales. It is also seen that profits of the domestic industry have declined sharply in POI as compared to 2018-19 and 2017-18.

**e. Employment, wages and productivity**

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	No of employees	Nos	***	***	***	***
	Trend	Indexed	100	98	95	97
2	Salary & wages	₹ Lacs	***	***	***	***
	Trend	Indexed	100	101	105	187
3	Productivity per day	MT/Day	***	***	***	***
	Trend	Indexed	100	124	129	107
4	Productivity per employee	MT/Nos	***	***	***	***
	Trend	Indexed	100	126	135	110

89. It is seen that employment levels of domestic industry have declined over the injury period, but the wages of the domestic industry have increased. The productivity of the domestic industry increased till the preceding year but declined in the period of investigation.

**f. Growth**

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

SN	Particulars	UOM	2017-18	2018-19	POI
1	Production	Y/Y	24%	4%	-17%
2	Capacity Utilization	Y/Y	23%	4%	-17%
3	Domestic Sales	Y/Y	27%	3%	-19%
4	Profit/(Loss) per unit	Y/Y	511%	72%	-61%
5	Inventory	Y/Y	-1%	-56%	181%
6	Market Share	Y/Y	23%	5%	-29%
7	Profit/(Loss) in Rs Lakhs	Y/Y	621%	77%	-68%
8	Cash Profit in Rs Lakhs	Y/Y	3419%	67%	-61%
9	PBIT in Rs Lakhs	Y/Y	1281%	57%	-69%
10	ROI %	Y/Y	1409%	66%	-66%

91. It is seen that while the growth of the domestic industry was positive in 2017-18 and 2018-19, the domestic industry has recorded a negative growth in the period of investigation.

**g. Magnitude of dumping**

92. It is seen that the dumping margin in the imports from the subject countries is positive.

**h. Ability to raise fresh investment**

93. The applicant has submitted that the profitability of the domestic industry has been impacted by dumped imports in past and considering the significant capital investment being undertaken in the country by various producers, protection against the dumped imports is necessary.

**i. Factors affecting domestic prices.**

94. It is seen that there is significant percentage of the dumped imports that are preventing the domestic industry from increasing its prices.

**j. Observations on injury**

95. Considering various parameters relating to material injury, it is seen overall performance of the domestic industry improved significantly till 2018-19 and deteriorated in POI. The volume of subject imports increased significantly in absolute terms and in relation to production & consumption in India. The domestic industry was able produce and sell more in the domestic market till 2018-19; and imports declined over this period. However, in the POI, the domestic industry faced some raw material supply constraints from HPCL, leading to curtailed production. The Authority has thus considered that the deterioration in production, capacity utilization, sales and market share in the POI is not fully due to imports, and is substantially due to curtailed production as a result of input availability. However, the imports were at a price above the domestic industry prices during 2017-18, 2018-19 and POI. The import prices and consequently selling price of the domestic industry increased more than increase in the cost of sales, the import prices and consequently selling price of the domestic industry declined far disproportionately when compared with the costs. Resultantly, profits, cash profits and ROI of the domestic industry improved till 2018-19 and the same declined sharply in the POI.

**k. Magnitude of Injury margin**

96. The Authority has determined the 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 provided by the domestic industry and duly certified by the practising accountant for the POI. The NIP has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the NIP, the best utilisation of the raw materials and utilities has been considered over the injury period. Best utilisation of production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the PUC was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure III of the Rules and being followed.

97. Based on the landed price and NIP determined as above, the injury margin for

Producers/exporters as determined by the Authority is provided in the table below:

SN	Particulars	NIP (USD/MT)	Landed price (USD/MT)	Injury margin (USD/MT)	Injury margin - %	Injury margin - range
<b>1</b>	<b>European Union</b>					
A	OQ Chemicals Produktion GmbH & Co. KG (“OQCP”) and OQ Chemicals GmbH (“OQC”)	***	***	(***)	Negative	-
B	Any other	***	***	***	11%	10-20
<b>2</b>	<b>Indonesia</b>					
A	PT. Petro Oxo Nusantara	***	***	***	3%	0-10
B	Any other	***	***	***	5%	0-10
<b>3</b>	<b>Malaysia</b>					
A	BASF Petronas Chemicals Sdn Bhd,	***	***	***	6%	0-10
B	Any other	***	***	***	22%	20-30
<b>4</b>	<b>Korea RP</b>	***	***	(***)	Negative	-
<b>5</b>	<b>Taiwan</b>	***	***	(***)	Negative	-
<b>6</b>	<b>United States of America</b>	***	***	***	***	0-10

**H CAUSAL LINK**

98. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than dumped imports which are injuring or are likely to cause injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. While the present investigation is a sunset review investigation and causal link has already been examined in original investigation, the Authority examined whether other known listed factors have caused or are likely to cause injury to the domestic industry. It was examined whether other factors listed under the AD Rules could have contributed or are likely to contribute to the injury suffered by the domestic industry.

**a. Volume and price of imports from third country**

99. The volume of imports from Singapore are above di-minimis limits.

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

100. Demand of the subject goods has increased as compared to base year. The demand declined marginally in the year 2018-19 but increased again in the period of investigation. However, the capacity of the domestic industry is significantly below the demand in India. Therefore, changes in demand could not have contributed to the injury to the domestic industry.

**c. Development of Technology**

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

**d. Trade restrictive practices**

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

**e. Export performance**

103. The domestic industry is not into export operations and therefore it cannot be a cause of injury.

**f. Performance of other products**

104. Performance of other products produced and sold by the applicant is not a possible cause of the injury to the domestic industry in this investigation.

**I LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY**

105. In a review investigation, the Authority has to determine whether the subject goods are continuing to enter or likely to enter the Indian market at dumped prices and whether injury to the domestic industry is likely to continue or recur due to these dumped imports if the duty is removed.

**I.1. Submissions by domestic industry**

106. The submissions of the domestic industry with regard to likelihood of injury are reproduced herein below:
- i. Imports from subject countries have increased inspite anti-dumping duties, there is every likelihood that they will increase at a much faster rate once the duties lapse.
  - ii. Significant exports to other countries are at prices lower than prices prevailing in the Indian market. Expiry of anti-dumping duties will provide foreign producers an opportunity to divert their third countries exports to India.
  - iii. Significant exports from subject countries to rest of the world are at a price below the non-injurious price for the domestic industry.
  - iv. Producers in the subject countries have significant excessive capacities and are undertaking significant global exports.
  - v. M/s Oxea Corporation and M/s BASF have expanded their production capacities of the subject goods in the past 4 years.
  - vi. Imports from the subject countries have held a significant share in the demand of the subject goods in India and act as price setters in the domestic market.
  - vii. Malaysian Investment Development Authority has listed BASF Petronas Chemicals Sdn. Bhd as an export-oriented entity.
  - viii. As per ICIS report, India is one of the major exporting countries for M/s Petro Oxo Nusantara.
  - ix. Average exports of last 10 years were more than 50% of the production capacity of PT Petro Oxo Nusantara and BASF Petronas Chemicals Sdn Bhd which shows that the capacities set up in these countries are far more than their domestic demand.
  - x. Capacity utilization of BASF Petronas Chemicals Sdn. Bhd has declined and inventory has increased. Cessation of duties will provide it an opportunity to ship its surplus inventory and utilize the idle capacity.

- xi. Inventory with Pt. Petro Oxo Nusantara has increased. Cessation of duties will provide it with an opportunity to utilize the surplus inventory to ship in the Indian market.
- xii. Trend of profitability in the export sales to India in case of OQ Chemicals GmbH shows a negative trend and it seems that the producer has incurred losses in the sales to India which highlights the importance of Indian market.
- xiii. Capacity utilization of OQ Chemicals GmbH also shows a decline and will always encourage the producers to hunt global markets.
- xiv. Significant exports from the subject countries are priced below the NIP and NSR of the domestic industry and the normal value of the subject goods.

## I.2 Submissions by other interested parties

107. The submissions of the other interested parties with regard to likelihood of injury are reproduced herein below:

- i. Threat parameters listed in Annexure II are mandatorily required to be examined as per Gujarat High Court Decision in case of Nirma Limited vs Union of India. Authority has examined the same in the sunset review investigation of Certain Rubber Chemicals and Sodium Nitrite.
- ii. Domestic industry is required to establish that there are freely disposable capacities that can be diverted into India.
- iii. Incorrect information has been furnished that BASF is expanding its capacity.
- iv. Presence of continued dumped imports in itself is not an indicator of likelihood of injury.
- v. Around 70% of the production of the producer in Malaysia is used domestically.
- vi. Domestic industry is required to prove that there is likelihood of continuation or recurrence of dumping and injury in event of cessation of duty which cannot be shifted to exporters. Contention that exporter should establish no likelihood of continued dumping, is deprived of merit.
- vii. Date for the post period investigation is required to be examined. In sunset review of Viscose Filament Yarn from China PR, Authority noted that likelihood of injury cannot be established as post period of investigation data was not provided.
- viii. There is no need to examine existence of dumping in previous investigation, dumping to third countries and imports to other countries at injurious prices in determination of likelihood of recurrence or continuation of dumping and injury.
- ix. Based on domestic industry's own data, European Union's exports at low prices constitute only 19 % of its total exports.
- x. Domestic industry has failed to prove information with respect to freely disposable capacities in the subject countries that will be diverted in the event of cessation of existing duties.
- xi. Facts of the case are similar to Sunset Review of Anti-Dumping Duty imposed on imports of Digital Offset Printing Plates from China PR where the Authority recommended discontinuation of anti-dumping duty levied on product under consideration.
- xii. Economic parameters of domestic industry during the post period of investigation are not appropriate parameters to apply likelihood test due to impact of Covid-19.
- xiii. Anticipated increase in capacity has no relevance to the present investigation. Increase in capacities will lead to a decline in imports as opposed to increase.

- xiv. Proposed addition to capacities cannot, in law or economics, be a ground for extension of anti-dumping duties.
- xv. DGTR is not required to assess existence of dumping in previous investigation, dumping to third countries and imports to other countries at injurious prices for determination of likelihood of recurrence or continuation of dumping and injury in a sunset review investigation.
- xvi. OQC Group received the lower duty rate to India but it did not export in large quantities to India.
- xvii. Export orientation in itself does not prove that there is likelihood of continuation or recurrence of dumping and injury.
- xviii. The factors listed down by the applicant are in violation of requirements listed under rules.
- xix. Various projects listed by the applicant for capacity expansion have been put on due to Covid -19 restrictions.
- xx. Excess capacity cannot mean that capacity remaining unutilized after meeting domestic demand but refers to idle capacities left over after meeting domestic and global demand.
- xxi. In the post period of investigation, the domestic Industry has reported profits in the most recent quarter, despite Covid-19 pandemic.
- xxii. Exports sales to India are insignificant as compared to the total sales in the period of investigation and the capacity was also significantly utilized in the period of investigation.

### **I.3. Examination by Authority**

- 108. The Authority has examined the likelihood of continuation or recurrence of injury considering the requirement laid down under Section 9A(5), Rule 23 and parameters relating to the threat of material injury in terms of Annexure - II (vii) of the Anti-dumping rules, and other relevant factors brought on record by the interested parties.
- 109. The present investigation is a sunset review of duties imposed on the imports of subject goods from European Union, Indonesia, Korea RP, Malaysia, Taiwan and the United States of America. Under the Rules, the Authority is required to determine whether cessation of existing duty is likely to lead to continuance or recurrence of injury to the domestic industry. Further, the Authority has also examined other relevant factors which could have a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry.
- 110. In accordance with the practice of the Authority, the third country exports have been examined to see the pricing behaviour of the producers in the subject countries. Further, the Authority has also examined if the exports to other countries are at prices injurious to the domestic industry and prices below the Indian prices to examine the likely increase in imports to India in event of cessation of duties.
- 111. The Authority has not conducted any examination of the post period of investigation data as the same would be impacted by shutdown caused by the Covid-19 situation, and the current volume of imports in itself is sufficient to make determination.

#### **I.3.1 Capacities in subject countries**

- 112. The applicant has provided global figures of demand and capacity and claimed that global capacities are significantly higher than the demand and, therefore, the producers will always look for markets to export in order to utilize their idle capacities. The same applies for the producers in the subject countries as well. In the absence of information with regard to the capacities and demand in the subject countries, the Authority has considered information available on record.

Region	Forecast of demand (MT)		Capacities in MT
	2020	2025	
Asia Pacific	32,55,000	36,69,000	37,03,000
Africa	10,000	10,000	-
Middle East	1,78,000	1,89,000	1,95,000
North America	4,04,000	4,20,000	8,80,000
South America	81,000	91,000	80,000
Central and Eastern Europe	1,92,000	2,12,000	3,30,000
Western Europe	3,95,000	4,08,000	10,40,000
<b>Total</b>	<b>45,14,000</b>	<b>49,97,000</b>	<b>62,28,000</b>

Source: ICIS report, Market Analytics: Oxo Alcohols - 2018, Nexant

### I.3.2 Capacity expansion in subject countries

113. Applicant has submitted that the M/s Oxea Corporation and M/s BASF have expanded their production capacities of the subject goods in the past 4 years and provided a news article as evidence for it. However, from the response filed by the cooperating producers, it is noted that none of them has expanded their production capacities.

### I.3.3 Export orientation

114. Applicant has provided information with respect to capacities in the subject countries and average exports undertaken by them in last 10 years.

SN	Country	Capacity (MT/year)	Average exports in last 10 years	Exports as % of capacity
1	Europe	12,95,000	1,84,723	14%
2	Indonesia	1,40,000	1,12,864	81%
3	Malaysia	80,000	47,104	59%
4	South Korea	3,95,000	74,609	19%
5	Taiwan	2,20,000	28,505	13%
6	USA	8,80,000	91,811	10%

Source: ICIS report, Eurostat (Export of Europe), TradeMap (Export of other countries)

115. It is seen that on for all the subject countries at least 10% of the capacity has been used for the export purposes. The applicant has submitted that there is only one producer each in Indonesia and Malaysia and the exports undertaken by them are very high. It is seen that export as a percentage of capacity is as high as 81% and 59% for Indonesia and Malaysia respectively.

### I.3.4 Third country dumping

116. Table below shows volume of exports to third countries at prices below normal value as submitted by the domestic industry.

SN	Particulars	Unit	Europe	Indonesia	Malaysia	Korea RP	Taiwan	USA
1	Volume of exports below normal value	MT	45687	2802	4269	48,623	34,983	1,10,568
2	Volume of exports above normal value	MT	76828	97129	14907	375	67	2,716

3	Total exports to third countries	MT	122516	99931	19177	48,998	35,050	1,13,284
4	% of exports below normal value	%	59%	3%	29%	98%	100%	98%
5	% of exports in demand in India below normal value	%	30-40%	0-10%	0-10%	30-40%	20-30%	75-85%

Source: Eurostat (Export of Europe), TradeMap (Export of other countries)

117. The table below shows volume of exports by the participating producers to third countries at dumped prices.

SN	Particulars	Unit	BASF Petronas Chemicals Sdn. Bhd.	Pt. Petro Oxo Nusantara	OQ Chemical Produktion GmbH
1	Volume of exports below normal value	MT	***	***	***
2	Volume of exports above normal value	MT	***	***	***
3	Total exports to third countries	MT	***	***	***
4	% of exports below normal value	%	60-70%	90-100%	90-100%
5	% of exports in demand in India below normal value	%	0-10%	60-70%	60-70%

Source: EQR

118. From the above tables it is seen that significant exports from the subject countries to third countries are at dumped prices.

### I.3.5 Continued dumping

119. The table below shows the dumping margin in case of previous investigation and current investigation. It is seen that the dumping of subject goods from the subject countries has continued.

SN	Country	Dumping margin in original investigation	Dumping margin in current investigation
1	European Union	25-35% and 30-40%	20-30% and 30-40%
2	Indonesia	0-10% and 10-20%	10-20%
3	Korea Rp	0-10% and 10-20%	0-10%
4	Malaysia	0-10% and 20-30%	0-10% and 10-20%
5	Taiwan	5-15%	10-20%
6	United States of America	15-25%	20-30%

**I.3.6 Price attractiveness**

120. The table below shows volume of exports by the subject countries to third countries and India.

SN	Particulars	Unit	Europe	Indonesia	Malaysia	Korea RP	Taiwan	USA
1	Volume of exports below price in India	MT	85973	53940	7929	15257	10246	90627
2	Volume of exports above price in India	MT	36542	45991	11247	33740	24804	22656
3	Total exports to third countries	MT	122516	99932	19177	48,998	35,050	1,13,284
4	% of exports below price in India	%	70%	54%	41%	31%	29%	80%
6	% of exports in demand in India below price in India	%	60-70%	40-50%	0-10%	10-20%	0-10%	60-70%

Source: Eurostat (Export of Europe), TradeMap (Export of other countries)

121. The table below shows volume of exports by the participating producers to third countries and India.

SN	Particulars	BASF Petronas Chemicals Sdn. Bhd.	Pt. Petro Oxo Nusantara	OQ Chemical Produktion GmbH
1	Below price in India	***	***	***
2	Above price in India	***	***	***
3	Total exports to third countries	***	***	***
4	% of exports below price in India	65%	54%	54%
6	% of exports in demand in India below price in India	30-40%	40-50%	40-50%

Source: EQR

122. From the above tables it is seen significant exports from the subject countries to third countries are at prices below the export price to India.

**I.3.7 Injurious exports**

123. Table below shows volume of exports in respect of above countries to third countries at prices below NIP.

SN	Particulars	Unit	Europe	Indonesia	Malaysia	Korea RP	Taiwan	USA
1	Volume of exports below NIP	MT	91387	64258	7699	17,793	7,100	30,917
2	Volume of exports above NIP	MT	31129.3	35675	11478	31,205	27,950	82,367
3	Total exports to third countries	MT	122516.3	99932	19177	48,998	35,050	1,13,284
4	% of exports below price in India	%	75%	64%	40%	36%	20%	27%
6	% of exports in demand in India below price in India	%	70-80%	50-60%	0-10%	10-20%	0-10%	20-30%

Source: Eurostat (Export of Europe), TradeMap (Export of other countries)

124. The table below shows volume of exports by the participating producers to third countries at prices below the NIP of the domestic industry.

SN	Particulars	BASF Petronas Chemicals Sdn. Bhd.	Pt. Petro Oxo Nusantara	OQ Chemical Produktion GmbH
1	Below NIP	\\	***	***
2	Above NIP	***	***	***
3	Total exports to third countries	***	***	***
4	% of exports below price in India	96%	91%	79%
6	% of exports in demand in India below price in India	15%	74%	53%

Source: EQR

125. The applicant has submitted that there are significant exports to third countries which are at prices below the non-injurious price of the domestic industry. In an event if the duties are not extended, the producers in the subject countries will try to divert these goods to India since the prices in Indian market are lucrative for them.
126. The applicant has claimed that it has calculated the volume of imports below the non-injurious price of the domestic industry as shown below.

SN	Particulars	Imports below NIP (MT)	Total Imports (MT)	Share of imports below NIP
1	European Union	4,390	13,187	33%
2	Indonesia	-	3,343	0%
3	Korea Rp	-	4,249	0%
4	Malaysia	7,849	14,611	54%
5	Taiwan	20	20	100%
6	USA	15,462	17,350	89%
7	Total	27,721	52,760	53%

Source: DGCIS

### **I.3.8 Imports during the present injury period**

127. It is seen that the imports have increased over the period of investigation inspite the anti-dumping duty in force. Though the increase in imports was imminent due to increasing demand in India and demand and supply gap, the concern is about significant percentage of these imports below the NIP.

### **J POST-DISCLOSURE COMMENTS**

128. The Authority issued a disclosure statement on 25.02.2021 disclosing essential facts of the case and inviting comments from all the interested parties. The post-disclosure submissions have been received from the interested parties. Majority of the issues raised have already been raised earlier and also addressed appropriately. Additional submissions to the extent deemed relevant have been examined as under.

#### **J.1 Submissions of the Domestic Industry**

129. The disclosure statement clearly shows that dumping of the products under investigation did in fact, take place and despite the duty in force, imports increased over time during the period of investigation.
130. The DA has recommended an extension of duties, despite a negative injury margin in a lot of cases earlier, and the same should be done in the present case as well.
131. A lot of new investments are coming up in India to meet the huge demand supply gap in this industry, so the continuation of ADD is essential to protect the interests of present and future investments.
132. The DA has considered information given on a global basis, in the absence of data about demands and capacities in respective subject countries by applicants. It is relevant to note here that, the global capacities are significantly higher than the demand and, producers always look for markets to export, in order to utilize their idle capacities.
133. The ratio of average exports undertaken from the subject countries as a percentage of capacity over the last 10 years is significant.
134. Significant exports have been made to third countries, which are way below the selling price of DI.
135. The exports from other countries make up for a significant hold in demands in the Indian domestic market and thus often serve as price setters, impacting the prices of DI immensely.
136. Users have not been able to substantiate the adversity of the imposed duties.
137. Claims that users and importers suffered due to duties' imposition are baseless, as their financial statements show, making of significant profits even during the year of highest import prices.
138. Imposition of duties does not give undue protection to the industry but only aims at removing trade distortions from the industry.
139. The effect of raw material supply, is not as significant as contemplated by the authority because even if the DI would have procured the desired quantities, its performance would still have shown a similar trend as it would have been forced to sell at inadequate profits.
140. Profits of the domestic industry have continued to remain impacted in the PUC level in the post period of investigation. The DA has rightly noted in this behalf, that performance in the post period of investigation is not likely to be representative due to a nation-wide lockdown on account of Covid-19.
141. The DA has been requested on likelihood grounds, to acknowledge the existence of injury and dumping despite duty imposition and to extend the same for a further period of 5 years.

#### **J.2 Submissions of other interested parties**

142. Share of imports below NIP from Indonesia is 0%, hence the injury margin is negative from Indonesia. Therefore, investigation against Indonesia needs to be terminated.
143. Transaction wise import listing has not been shared by the Authority and the direction of the CESTAT in Exotic Décor Pvt. Ltd. and Ors. v. Designated Authority, Directorate General of Anti-Dumping & Allied Duties, has not been followed, therefore the Authority should provide adequate reasons for its decision.

144. In tolling arrangement, both the entities need to be named as the producer in terms of the dumping margin.
145. OQC is the company in whose name OQCP is conducting the production activities pursuant to the tolling arrangement.
146. Name of OQC i.e., OQ Chemicals GmbH along with OQCP, i.e., OQ Chemicals Produktion GmbH & Co. KG in the producer column of the dumping margin table, injury margin table as well as the final duty table need to be included.
147. The source of data for analysing likelihood parameters for EU in its petition has been changed from EUROSTAT data to TradeMap data in the Disclosure Statement, casting doubt on the veracity of the data filed by the petitioner.
148. Reliance on ICIS reports is against the principles of natural justice, as the report has not been made available to the exporters.
149. To determine freely disposable capacities, comparison of total production to total capacity in each subject country must be done.
150. Capacity figures for plants that produce 2-EH are sometimes substantially higher, as the same capacities are utilized for the production of N-Butanol also.
151. Assessment of exports to third country is irrelevant as the final price to India could be significantly different. In *Nirma Limited v. Union of India* the Hon'ble Gujarat High court did not recommend such an assessment.
152. EU producers could have easily shifted their sales to India considering prices are significantly lower than the price to India for all other destinations.
153. Petitioners could have easily been able to made its sales at a higher price, considering the undercutting from subject imports overall was negative.
154. Based on the information available in the public domain, particularly the “unaudited financial results along with Limited review report for the Quarter & 9 months period ended 31.12.2020” submitted by the petitioner to the Bombay Stock Exchange Ltd., it is evident that the petitioner is not suffering injury in the post-POI period. Therefore, post-POI needs to be analysed.
155. The mere fact that a part of the total sales happens to be for exports, does not imply likelihood of dumping or injury, the share of exports in the capacity of the exporters is much lower from Malaysia.
156. Exports of a country as a whole cannot be lower than the exports made by the exporter. This fact proves to be misleading and incorrect in relation to exports made by the exporter to the third countries.
157. Incorrect methodology has been adopted to carry out third country dumping analysis as comparing a weighted average number with an individual number will always show some transactions below it and some transactions higher than it.
158. It is not clear from the information provided in the disclosure statement that for carrying out the exporter specific analysis whether the actual normal value of the exporter has been considered or not.
159. Methodology to carry out the price attractiveness and injurious export analysis is flawed and misleading.
160. There will be no injury caused by the imported product from Indonesia since none of them were imported below NIP.
161. The ICIS reports considered by the Authority have not been provided to the exporters, and verifiable capacity related data filed by the exporters has also not been considered this may lead to violation of principles of natural justice.
162. The downstream users are required to import the material so as to ensure continuity of their operations, considering the demand and supply gap.
163. Depreciation of exchange rate has made imports no longer attractive for the Indian importers.

164. The landed price of the subject goods from the Subject Countries has not impacted the selling price of the domestic industry over the entire injury period. There is no price injury and the decline in the price of the imports is proportionate with the decline in the prices of cost of sales in India.
165. Adequate protection on the raw material as well as end product of the Domestic Industry due to customs duty protection at 7.5%.

### **J.3 Examination by the Authority**

166. The Authority has examined post disclosure statement comments by the Domestic Industry and other interested parties including re-iterations which have already been examined suitably and addressed adequately in the relevant paragraphs of these final findings. The issues raised for the first time in the post disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below:
- i. The Authority notes the concerns regarding name of OQ Chemicals GmbH in the duty table and have addressed the concerns in the duty tables accordingly.
  - ii. As regards the source of data for analysing likelihood parameters for EU, it is noted that this data has infact been taken from EUROSTAT data for exports from Europe and not TradeMap as mentioned in the disclosure statement. Necessary corrections have been made in these Final Findings
  - iii. The Authority has examined the price attractiveness, third country dumping and injurious exports as per consistent methodology for such analysis.
  - iv. On the likelihood analysis, the Authority holds that it has referenced the transaction wise data provided by the cooperating producers/exporters to evaluate the extent of diversion of exports to India by considering export prices from subject countries to third countries which are lower than export price to India, and which may be injurious in event of cessation of anti-dumping duty.
167. By applying the aforesaid methodology, the following is held:

#### **European Union:**

- i. **OQ Chemicals Produktion GmbH & Co. KG (“OQCP”) and OQ Chemicals GmbH (“OQC”):** The exports from OQ Chemicals Produktion GmbH & Co. KG (“OQCP”) and OQ Chemicals GmbH (“OQC”) during POI are noted to be dumped and non-injurious as depicted in dumping table and injury margin tables in foregoing para. However, exports to third countries other than India are noted to be dumped and their likely diversion to India indicates that they would be at injurious prices.

#### **Malaysia**

- i. **BASF Petronas Chemicals Sdn Bhd:** The exports from BASF Petronas Chemicals Sdn Bhd during POI are noted to be dumped and injurious as depicted in dumping table and injury margin tables in foregoing para. Also, exports to third countries other than India are noted to be dumped and their likely diversion to India indicates that they would be at injurious prices.

#### **Indonesia:**

- i. **PT. Petro Oxo Nusantara:** The exports from PT. Petro Oxo Nusantara during POI are noted to be dumped and injurious as depicted in dumping table and injury margin tables in foregoing para. Also, exports to third countries other than India are noted to be dumped and their likely diversion to India indicates that they would be at injurious prices.

168. The Authority holds that there is likelihood of dumping and injury in the event of cessation of anti-dumping duty in view of the aforesaid analysis.

### **K INDIAN INDUSTRY’S INTEREST & OTHER ISSUES**

169. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The Interested parties have not established that imposition of duties is going to adversely impact the public interest.

170. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

### L CONCLUSION

171. Having regard to the contentions raised, information provided and submissions made and facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the domestic industry, the Authority concludes that:

- i. There is continued dumping of the subject goods from subject country and the imports are likely to enter the Indian market at dumped prices in the event of expiry of duty.
- ii. Though the performance of the domestic industry has improved till 2018-19 from the base year, its performance has suffered deterioration within the POI, and thus, the domestic industry remains vulnerable due to dumping of the subject goods from the subject countries. Thus, there is likelihood of injury in the event of expiry of duty.
- iii. The information on record shows likelihood of continuation/recurrence of dumping and injury in case the Anti-dumping duty in force is allowed to cease at this stage.

### M RECOMMENDATIONS

172. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers/users and other interested parties to provide information on the aspects of dumping, injury and the causal link and likelihood of continuation or recurrence of dumping and injury. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the authority is of the view that continued imposition of Anti-Dumping Duty is required on subject goods from subject countries.

173. Under these circumstances, the Designated Authority considers it appropriate to recommend continuation of existing quantum of anti-dumping duty on the imports of subject goods from subject countries. The Authority, thus, considers it necessary to recommend continuation of existing definitive anti-dumping duty imposed vide Notification no. 10/2016-Cus (ADD) dt. 29-03-2016. Therefore, anti-dumping duty equal to the amount indicated in Col 7 of the duty table given below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods, as detailed in column 3 of the duty table, from subject countries for a further period of five years.

#### DUTY TABLE

SN	Sub Heading or Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Duty Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Ch-29 29051620*	2-Ethyl Hexanol(2-EH) in all forms and grades	Malaysia	Any country including Malaysia	BASF PETRONAS Chemicals Sdn. Bhd., Malaysia	53.63	MT	USD
2.			Malaysia	Any country including Malaysia	Any other than producer at S.No. 1	107.30	MT	USD
3.			Any other than the subject countries	Malaysia	Any	107.30	MT	USD

SN	Sub Heading or Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Duty Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
4.	-Do-	-Do-	Indonesia	Any country including Indonesia	P.T. Petro Oxo Nusantara, Indonesia	45.67	MT	USD
5.	-Do-	-Do-	Indonesia	Any country including Indonesia	Any other than producer at S.No. 4	127.82	MT	USD
6.	-Do-	-Do-	Any other than the subject countries	Indonesia	Any	127.82	MT	USD
7	-Do-	-Do-	European Union	Any country including European Union	(i) OQ Chemicals Produktion GmbH & Co. KG, Germany (ii) OQ Chemicals GmbH, Germany	45.47	MT	USD
8	-Do-	-Do-	European Union	Any country including European Union	Any other than producers at S.No. 7	113.47	MT	USD
9	-Do-	-Do-	Any other than the subject countries	European Union	Any	113.47	MT	USD
10	-Do-	-Do-	Korea RP	Any country including Korea RP	Any	15.55	MT	USD
11	-Do-	-Do-	Any other than the subject countries	Korea RP	Any	15.55	MT	USD
12	-Do-	-Do-	Taiwan	Any country including Taiwan	Any	42.45	MT	USD
13	-Do-	-Do-	Any other than the subject countries	Taiwan	Any	42.45	MT	USD
14	-Do-	-Do-	USA	Any country including USA	Any	29.61	MT	USD

SN	Sub Heading or Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Duty Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
15	-Do-	-Do-	Any other than the subject countries	USA	Any	29.61	MT	USD

174. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 88,9 and 9A of the Customs Tariff Act, 1975, as amended from time to time.

#### **N FURTHER PROCEDURE**

175. An appeal against these findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

ANANT SWARUP, Jt. Secy. and Designated Authority