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**F. No. 6/17/2023-DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi -110001**

**Date: 24.12.2024**

**FINAL FINDINGS**

**Case No. – AD(OI) – 16/2023**

**Subject: Anti-dumping investigation concerning imports of “Poly Vinyl Chloride Paste Resin” originating in or exported from China PR, Korea RP, Malaysia, Norway, Taiwan & Thailand.**

**F. No. 6/17/2023-DGTR:** - Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereafter 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 thereof, as amended from time to time (hereinafter referred to as “AD Rules”);

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## **A. BACKGROUND OF THE CASE**

1. Chemplast Sanmar Limited (“hereinafter referred to as the ‘applicant’ or the ‘domestic industry’) had filed an application before the Designated Authority (hereinafter referred to as the ‘Authority’) in accordance with the Customs Tariff Act, 1975 (hereinafter referred to as

the ‘Act’) as amended from time to time and the Anti-dumping Rules, 1995 (hereinafter referred to as the “Rules”), for the initiation of an anti-dumping investigation concerning imports of ‘Poly Vinyl Chloride Paste Resin’ (hereinafter also referred to as the ‘product under consideration’ or the ‘subject goods’ or the ‘PUC’) from China PR, Korea RP, Malaysia, Norway, Taiwan and Thailand (hereinafter also referred to as the ‘subject countries’).

2. The Authority, on the basis of sufficient *prima facie* evidence submitted by the domestic industry, issued a public notice vide Notification No. 06/17/2023-DGTR dated 30<sup>th</sup> September 2023, published in the Gazette of India – Extraordinary, initiating the subject investigation in accordance with the Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic injury.
3. In response to the initiation notification, the following producers/exporters from the subject countries registered themselves as interested parties. However, questionnaire responses were not filed by all producers. The position is noted below.

<b>SN</b>	<b>Subject country</b>	<b>Producer/Exporter</b>	<b>Response</b>
1	China PR	CNSIG Jilantai Chlor-Alkali Chemical Co., Ltd	Not filed
		China Salt Chemical Trading Co., Ltd	Not filed
		CNSIG Inner Mongolia Sodium Industry Co., Ltd.	Not filed
		CNSG Jilantai Polymer Materials Co., Ltd.	Not filed
		Tianwei Chemical Co. Ltd.	Not filed
		Grand Dignity Industrial Co. Ltd	Filed
		Formosa Industries (Ningbo) Co., Ltd	Filed
		Ordos Junzheng Energy & Chemical Industry Co. Ltd	Not filed
		Linkland Enterprise Shanghai Co., Ltd	Filed
		Shenyang Chemical Co. Ltd	Filed
2	Korea RP	LG Chem Ltd	Not filed
		Hanwha Solutions Corporation	Filed
3	Malaysia	Kaneka Paste Polymers Sdn. Bhd.	Filed
4	Norway	Inovyn Europe Ltd	Filed
5	Taiwan	Formosa Plastics Corporation	Filed
6	Thailand	TPC Paste Resin Co., Ltd	Filed
		Thai Polyethylene Co., Ltd	Filed

4. The following importers/users in India have registered themselves as interested parties. However, questionnaire responses were not filed by all users. The position is mentioned below.

<b>SN</b>	<b>Registered importers/users</b>	<b>Response</b>
1	AC Polycoaters Private Limited	Filed
2	Aritas Vinyl Private Limited	Not filed
3	Arora Vinyl Private Limited	Filed
4	AV Unicoaters Private Limited	Not filed
5	Beeta Poly Coats Private Limited	Not filed
6	Delite Collections Private Limited	Not filed
7	Jasch Industries Limited	Not filed
8	Klassik Lamitex Private Limited	Filed
9	Marvel Vinyls Limited	Not filed
10	Mayur Uniquoters Limited	Filed
11	Polynova Industries Limited	Filed
12	Premier Poly film Limited	Not filed
13	Prerna Rex Private Limited	Not filed
14	RMG Polyvinyl India Limited	Not filed
15	Shiv Polymers	Not filed

5. Pursuant to initiation of the investigation, sufficient opportunity was given to the interested parties to provide relevant information and defend their interests, and on the basis of information and evidence on record and having regard to the act and the rules, the Authority issued preliminary findings on 26<sup>th</sup> April 2024, provisionally concluding that product under consideration has been exported from the subject countries at prices below respective normal values, thus resulting in dumping of the goods. The domestic industry has suffered material injury and the injury to the domestic industry has been caused by the dumped imports. The Authority recommended imposition of provisional anti-dumping duty on all imports of the product under consideration from the subject countries.
6. The Authority notified the interested parties about the following procedure that was to be followed subsequent to issuance of preliminary findings.
- i. Comments were invited by all interested parties on the preliminary findings within 30 days of issuance of such findings.
  - ii. It was notified that an oral hearing will be conducted in terms of Rule 6(6) of the Anti-Dumping Rules.
  - iii. Further verification deemed necessary will be conducted.
  - iv. Essential facts would be disclosed prior to issuance of the final findings.

7. A copy of the preliminary findings was sent to Central Government for their consideration of the same for imposition of interim anti-dumping duty.
8. The preliminary recommendations were accepted by the Ministry of Finance and vide notification 09/2024 dated 13<sup>th</sup> June 2024 interim measures were imposed for a period of 6 months.

## **B. PROCEDURE**

9. Post issuance of the preliminary finding, the following procedure has been adopted:
  - a. The Authority received comments on the preliminary findings by various interested parties, which have been adequately considered in the present final findings.
  - b. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 13<sup>th</sup> August 2024. Subsequently, in view of the change of the Designated Authority, another public hearing was held on 13<sup>th</sup> September 2024. All the interested parties who had attended the oral hearing were provided an opportunity to file written submissions, followed by rejoinders, if any.
  - c. A disclosure statement containing the essential facts of the investigation which have formed the basis of the final findings was issued to the interested parties on 30<sup>th</sup> November, 2024 and the interested parties were allowed time up to 6<sup>th</sup> December, 2024 to comment on the same. The submissions made by the interested parties, arguments raised, and information provided post issuance of the preliminary findings, the comments to disclosure statement received from the interested parties have been considered, to the extent found relevant, non-repetitive and supported with evidence in this final findings notification.
  - d. The preliminary findings form an integral part of these final findings. It is clarified that for the sake of brevity, procedural details, arguments presented by the interested parties, and the preliminary determinations arrived at whether directly or by necessary implication in the preliminary findings and which have not been contested by any party, are not reiterated in these final findings. Accordingly, the preliminary findings should be regarded as a complementary component of these final findings, forming a cohesive part of the factual and procedural record and should be read in conjunction with the present final findings.
  - e. The Authority satisfied itself with the accuracy of the information supplied by the interested parties which form the basis of these final findings to the extent possible. The Authority has verified the data / documents submitted by the interested parties to the extent considered relevant and necessary.

- f. On the spot verification were carried out at the premises of the applicant, where various claims made by the applicant were verified and supporting information, to the extent considered relevant, was collected.
- g. Verification of the exporters was also conducted and claims made were verified and supporting information, to the extent considered relevant, was collected. Physical verification was conducted at the premises of the participating producers from Korea RP and Thailand. For other participating producers, desk verification was carried out.
- h. '\*\*\*' in this document represents information furnished by an interested party on a confidential basis and so considered by the Authority under Rules 7 of Rules.
- i. The exchange rate for the period of investigation (April 2022 – March 2023) adopted by the Authority is 1 US\$=Rs 81.06

### C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

10. The Authority, in its preliminary findings, defined the product under consideration as follows:

*“3. The product under consideration for the present investigation is 'Poly Vinyl Chloride Paste Resin', also known as Emulsion PVC Resin.*

*4. PVC Paste Resin is produced using vinyl chloride monomer and is usually sold in the form of white/off-white powder. The PUC is primarily used for manufacturing artificial leather and the other uses of the product are in the manufacturing of rexene, coated fabrics, tarpaulins, conveyer beltings, toys, automotive sealant, adhesives, and gloves.*

*5. The following products are excluded from the scope of the PUC:*

- a) Production under consideration with a K value below 60K*
- b) PVC Blending Resin*
- c) Co-polymers of PVC Paste Resin*
- d) Battery separator resins*

*6. The product under consideration is classified under Chapter 39 of the Customs Tariff Act, 1975 under subheading 390410 of the Tariff classification and has a dedicated classification under ITC HS Code 39041010. The customs classification is indicative only and not binding on the scope of the product under consideration for the proposed investigation.*

#### **C.1 Submissions made on behalf of the opposing interested parties.**

11. The opposing interested parties have made the following submissions with respect to the product under consideration and like article:

- a. Inovyn Europe Ltd requested exclusion of a special type of eco-friendly PVC paste resin with the proprietary name 'Biovyn,' which is made entirely from renewable carbon feedstock and is certified by an external auditor as complying to RSB (Roundtable on Sustainable Biomaterials) standards.
- b. PVC-1510 and PVC-16 should be excluded from the product scope as the equivalent grades supplied by the domestic industry allegedly do not meet the necessary requirements.
- c. Existence of several specialty grades of the product can be identified by special functional properties, such as low-fogging, anti-gelation, high filler acceptance, air release etc. PCNs be formulated for these alleged specialty grades.
- d. Submissions regarding product scope and PCN were not addressed in the preliminary findings. The delay in filing of the submissions on scope of the product under consideration may be condoned and for the submissions to be accepted.
- e. Reliance must be placed on BIS standards for PCN. BIS has established eight standards for eight different grades of PVC paste, and that this establishes the existence of materially different grades of PVC paste.
- f. BIS standards classify the product into 8 grades based on K value, inherent viscosity, apparent viscosity under specified conditions and volatile matter content in line with the relevant internationally recognized test methods. This establishes the insufficiency of the present PCN methodology, which is based only on K value.
- g. The grades manufactured by the domestic industry are not comparable with the imported product on many important counts and there is no substitutability between the two on many core parameters.
- h. The only concern of the applicant behind inclusion of speciality grades is the potential risk of circumvention. Mere apprehension of the applicant regarding possible circumvention cannot justify overlooking the legal obligation that the scope must encompass like products only.
- i. Considering BIS' statutory mandate, technical expertise and the judicial deference accorded to it, it is clear that the recommendations of the BIS cannot be disregarded or overlooked by any regulatory authority.
- j. Applicant is certified to manufacture only 4 out of the 8 grades enlisted under the BIS Standard. Applicant's production for Grade 2 exceeds 90% of its total production.
- k. Users mostly import the product with K-values higher than 75 which are the high K-value specialty grades specifically designed for specialized applications/ end-use. The applicant cannot manufacture the product with a K-value greater than 85.
- l. Polynova Industries Ltd. requested the applicant to provide the requisite product with pseudoplastic and thixotropic behaviour to meet the specific demands of their automotive customers. However, one month after this request was made, the applicant suggested use of Grade 120. Grade 120 failed to meet the necessary viscosity parameters

- m. There is lack of substantial commercial production of grades 121, 120 and 128 of the applicant.
- n. Applicant's product is manufactured using the old technology of 1960s and does not possess the requisite technology to meet the stringent low fogging standards.
- o. Imported speciality grade, specifically designed for low fogging to be used in automotive applications, commands a higher price in the market.
- p. IIT Delhi did not possess a fogging machine or the requisite technical equipment for such testing and in the absence of the same, any report for testing samples cannot be relied upon.
- q. India is not self-sufficient in producing these products, the mandatory BIS certification and anti-dumping duties will negatively impact imports and the downstream industry, leading to a significant demand-supply gap.
- r. Chemplast has suppressed the existence of IS 17658:2021- Polyvinyl Chloride (PVC) Homopolymers — Specification concerning subject goods.
- s. Automobile OEMs adhere to the international standard ISO 6452 for testing the fogging requirements and have prescribed a specification of a minimum Fog Number as per SAEJ1756 by Photometric method. The product supplied by the applicant does not meet the required viscosity.
- t. The applicant has claimed that specialty grades of PVC paste resin can substitute general-purpose grades which is not correct. Specialty-grade products with higher costs and prices are not even a technical substitute for general-purpose grades.
- u. In order to qualify as a 'like product' or a 'like article', the product must either exhibit complete similarity to the product under consideration or possess characteristics closely resembling those of the product under consideration. The product supplied by the applicant is not a like article to the imported product.
- v. The applicant has claimed that its grade CP 120 is substitutable for PVC 370 HD, INOVYN PVC P 1412, INOVYN PVC P 11, INOVYN PVC P 15, PVC 367 NK and INOVYN PVC P 1510. All the six grades identified by the applicant are not substitute with each other and not used in same application.
- w. PSH 25 and EH60 are critical for the automotive industry and are not produced by Chemplast or any other domestic producer.

## **C.2 Submissions made by the domestic industry.**

- 12. The domestic industry made the following submissions with regard to the scope of the product under consideration and the like article:
  - a. The sole basis for excluding Biovyn from the product scope is its non-substitutability with the domestic like article on account of the significantly higher price of Biovyn. Therefore, the exclusion should be made subject to a price benchmark.
  - b. The domestic industry is supplying goods equivalent to grades PVC-1510 and PVC-16 of Inovyn, the properties of which are compliant with the relevant Indian standard IS



- 17658 and the fogging values have been tested and found comparable in the technical evaluation conducted by the panel at IIT Delhi.
- c. PVC-16 has only been imported in sample quantities during the period of investigation. As regards exclusion of PVC-1510, only miniscule quantities of PVC-1510 have been imported in the period of investigation, at prices marginally higher than those of the 'normal' grades supplied by the domestic industry at the time. This rebuts the notion that it is a speciality grade.
  - d. The issue of special properties such as low fogging, anti-gelation etc and whether they constitute distinct grades has been raised several times in previous investigations concerning the product. It was ultimately referred for technical evaluation to a panel at IIT Delhi. The conclusion of the evaluation was that properties such as 'low fogging' do not constitute a separate product or grade, and that the goods supplied by the domestic industry are capable of meeting these requirements.
  - e. Demarcation of PCNs or exclusion from product scope of the so-called specialty grades has not been sought by the participating producers and exporters from the subject countries, which shows that producers worldwide do not recognize them to be distinct grades.
  - f. Special properties can be achieved by simple additives and modification of process control parameters without the need for any special equipment, additional investment or any significant difference in cost and price.
  - g. BIS standards identify eight grades of the product and do not identify any specialty grades. Out of the eight grades identified by the BIS standard, Chemplast manufactures seven of them, with the eighth grade not being produced due to lack of demand.
  - h. Mere existence of different grades does not call for formulation of separate PCNs unless there are differences in cost and price.
  - i. The import volume for the so-called specialty grades is very low and these grades represent a small share of the total imports of the product into the country.
  - j. The goods manufactured by the domestic industry are technically and functionally substitutable with the subject imports. Therefore, all imports, including the so-called specialty grades, are capable of replacing the goods produced by the domestic industry and it is highly likely that exclusion of these grades will lead to importers shifting to the grades so excluded to evade duties, rendering the duties ineffective.
  - k. The so-called speciality grades are fully capable of substituting the other grades, if the relative price difference of these so-called specialty grades becomes lower than the price of normal grades. Imposition of anti-dumping duty on normal grades and possible exclusion of these specialty grades would lead to redundant & futile exercise, as consumers would merrily switch over to these so-called specialty grades for their normal applications.
  - l. There is hardly any grade which is imported and like article of which is not offered by the domestic industry.

- m. Even when BIS is a technical specification of the product, the BIS does not specify any specialty grade. BIS identifies only 8 grades for the product.
- n. Out of 8 grades specified in BIS, the domestic industry is already producing 7 grades. Even the 8th grade not produced by the domestic industry is only because of limited demand for the product in the country.
- o. None of the participating foreign producers have demanded a separate PCN for any specialty grade. The participating foreign producers have not identified the product with clear technical specifications & attributes and hence the Authority is requested to not consider any need for exclusion or PCN for the same.
- p. A perusal of transactions-wise import data shows that there is nothing in the descriptions which allow identification of specialty grade. Interested parties should be called upon to establish the import volume of these so-called specialty PVC.
- q. No technical property of these products has been identified in such a manner that the same can be recognized, identified and verified by customs.
- r. As recognized by DGTR in mid-term review concerning “Welded Stainless Steel Pipes and Tubes” from China PR and Vietnam, if the product itself is not clearly identifiable, its exclusion cannot be considered.

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

- 13. The submissions made by the opposing interested parties and the domestic industry regarding the product under consideration and the like article have been examined and addressed hereunder.
  - a. PCN methodology.
- 14. The Authority invited comments on the scope of the PUC and PCN methodology from the interested parties within the stipulated deadline. Based on submissions made by opposing parties, a meeting was held regarding the scope of the product under consideration and the need for PCNs on 1st December 2023. The interested parties which filed comments prior to the meeting were given an opportunity to make submissions justifying the PCN methodology proposed by them. The interested parties were informed that the Authority will not seek any further comments after the meeting and the decision on the PCN methodology will be based on the information on record. Wherever clarifications were required, the Authority asked the interested parties to provide relevant information.
- 15. The Authority has already examined the submissions made by the exporters/producers with regards to the PCN methodology in the preliminary findings.
- 16. As far as certain users are concerned, the Authority notes that despite widespread awareness through a gazette notification and direct communication on October 20, 2023, outlining

procedures and deadlines, including the November 4, 2023 deadline for PCN comments, the users' failed to register as an interested party or submit comments within the stipulated timeframe. Even after the Authority published a notice on November 29, 2023, scheduling a meeting on PUC/PCNs for December 1, 2023, the user industry only made a request for registration late in the evening of November 30, 2023. This request, submitted well beyond the deadline and following the announcement of the PCN meeting, was justified merely by an assertion of having 'inadvertently missed' the registration deadline. Hence, the comments on the PUC/PCNs by these users were not considered in formulation of the PCN methodology since these users did not adhere to the timelines prescribed by the Authority.

17. The Authority, in view of the comments received within the stipulated timelines adopted the PCN methodology as given below for the preliminary findings. It was notified to the interested parties vide communication dated 18<sup>th</sup> January 2024 which was published on DGTR's website.

S. No.	PCN Parameter	Range	Code
1	K-value	60-70	MEDIUM
2		Above 70	HIGH

18. The Authority notes that the users subsequently filed comments on PUC/PCNs post the meeting. The same have been examined by the Authority while recording the present final findings.
19. The user industry has claimed that the PCN methodology was accepted at the behest of the applicant. The users have submitted that the PCN methodology should include parameters like viscosity, gelation, air release, high filler adaptability, etc.
20. The Authority notes that in the present investigation, the applicant did not propose any PCN methodology. The proposal for the PCN methodology was given by the participating producers. Therefore, the contention that the PCN methodology was accepted as per the domestic industry's inputs is incorrect.
21. The users suggested PCN methodology based on technical literatures of the leading manufactures which show that aforementioned parameters are very important for choosing appropriate PVC paste resin. The users have, in their written submissions, submitted that the rationale behind PCN request was to demonstrate that the domestic industry did not produce certain grades and therefore, these can be excluded.
22. The Authority notes that none of the participating producers/exporters from the subject countries have requested for PCN methodology based on parameters suggested by the user

industry. Also, no information has been brought forward to show that cost differs on these factors. PCNs are framed on factors which lead to difference in cost of the product.

23. The Authority further notes that certain interested parties have conflated the issue of BIS standards with PCN methodology. BIS has been referred to show that product under consideration is categorised into 8 grades with different K-values, inherent viscosity, apparent viscosity, and volatile matter and therefore, there is a need for detailed PCNs. They have claimed that the applicant is certified to manufacture only 4 out of the 8 grades listed under the BIS Standard and that the information on BIS was not provided in the application and has been deliberately concealed from the Authority.
24. The Authority notes that the primary objective of adopting PCN methodology in trade remedy investigations is to accurately account for variations in cost and price across different grades within the PUC. This approach ensures a fair and an apple-to-apple comparison between the subject goods and the domestic like product, enabling a proper reflection of price differences in the determination of the dumping margin and injury margin. BIS standards serve purposes which are distinct from the objectives of trade remedial investigations.
25. The Authority accordingly holds that the PCN methodology framed in the present investigation and notified on 18<sup>th</sup> January 2024 is appropriate.
- b. Whether exclusion of the Biovyn produced by Inovyn Europe Ltd. can be subjected to a benchmark price?
26. In the preliminary findings, it was held that the brand “Biovyn” produced by Inovyn Europe Ltd. was outside the scope of the product under consideration and the anti-dumping duties were not required to be collected on such imports.
27. The domestic industry disputed the exclusion of brand “Biovyn” produced by Inovyn Europe Ltd. without price benchmark. The domestic industry has placed reliance on the anti-dumping investigation concerning imports of nylon filament yarn.
28. Inovyn has placed reliance on the anti-dumping investigation concerning imports of “Elastomeric Filament Yarn” originating in or exported from Singapore wherein brand ‘Lycra’ was excluded from the scope of the product under consideration, as it is specialised and fine quality product manufactured under process control conditions and price was higher than other competing brands of elastomeric filament yarns.
29. The Authority has examined the submissions made by Inovyn and the domestic industry. None of the parties have disputed that BIOVYN is a high price grade. Based on the

information on record, it is seen that the price of BIOVYN is at least [ \*\*\* ] times higher than the price of the domestic industry and the import price of other grades.

30. It is further noted that BIOVYN is a low-carbon product made from 100% renewable carbon feedstock and its production process is specialised. Admittedly, there has been no production of BIOVYN by the domestic industry in the POI. Also, as per the import data it is noted that there have been no imports of BIOVYN in the POI.
  31. Inovyn has further submitted that the production of BIOVYN by INOVYN is duly certified by third-party auditors, in accordance with the “RSB Global” (Roundtable on Sustainable Biomaterials) certification system.
  32. On account of the above mentioned differences, the Authority is of the view that the BIOVYN is not a like product within the meaning of Anti-Dumping Rules.
  33. The Authority therefore notes that brand *Biovyn™ produced from renewable/bio feedstock and accompanied by an acceptable proof of sustainability* is excluded from the scope of the investigation.
- c. Whether applicant produces a small subset of wide range of PVC paste resins?
34. It has been contended by the other interested parties that the applicant is not undertaking significant production of PVC paste of K value more than 75 and the users mostly import the product under consideration with K-values higher than 75.
  35. The Authority in this regard notes that in the total demand of PVC paste resin, the share of imports of products more than 75 K-is not significant and stands at [\*\*\*%]. The Authority notes that the applicant has also supplied more than 75 K-value product in the domestic market. Therefore, the contention of the user industry that they are forced to import because of the lack of production of the applicant does not hold to be true.
- d. Whether applicant’s product have required viscosity, anti-gelation and anti-fogging property and whether the product with these properties is imported at high prices?
36. It has been contended by the other interested parties that the product supplied by the applicant does not possess anti-gelation, anti-fogging and other properties. The issue was examined in the sunset review investigation concerning imports of the same product originating in or exported from Korea RP, Taiwan, China PR, Malaysia, Thailand, Russia and European Union wherein the Authority had held as follows: -

31. As regards the contention that the Fogging and K-Value of PVC paste resin is an indicator of quality of resin, the Authority notes that the domestic industry has disputed this claim. It has been submitted by the domestic industry that K-Value essentially represents the molecular chain of the product and is not reflective of the quality of the product per se. A perusal of the emails filed by the members of the LCPMA and the response thereto by M/s. Chemplast Sanmar Ltd. has not shown any refusal by the domestic industry to produce and sell the low fog PVC paste resin. In fact, the domestic industry has contended that no order of any commercial quantity to supply low fog PVC paste resin has been placed with them by any user in the past. It has been further submitted that they have the capability to manufacture low fog PVC paste resin, should any order of commercial significance be placed with them. **The domestic industry has provided relevant documents showing that the company was provided relevant technology to produce different kinds of paste resin by its technology supplier and that its technology supplier is undisputedly producing and selling low fogging resin. It has been further submitted by the domestic industry that members of the LCPMA are using anti-fogging agents/additives while manufacturing the leather cloth to meet specific end-use applications.**

34. With regard to the persistent contention of LCPMA that the Designated Authority could order a test report from an independent authority, the matter was examined and after taking into account the contention of the various interested parties comprising of domestic industry and LCPMA, it was decided to examine their samples by IIT Delhi especially about the fact whether the domestic industry makes products belonging to K value higher than 78 and also if their products have low fogging characteristics. It is mentioned that both the parties were asked to send the samples and based on sample results which was duly conveyed to both the parties, it was noted after examination of samples reports (including the conclusions given by the above institution) that domestic industry samples of subject goods included PVC paste resin carrying higher K value (of more than 78) while none of the samples of the LCPMA had K values higher than 78, and all the samples (from both parties) had low fogging characteristics. In view of the above, the Authority holds that the contention of LCPMA that the domestic industry does not produce those grades of PVC paste resin having K value above 78 and low fogging characteristics is not correct. **On the contrary, the test results provided by IIT, Delhi have confirmed that the domestic industry has produced those grades of PVC paste resin having low fogging characteristics and K value above 78.**

37. It was found by IIT Delhi that the product supplied by the applicant has the required anti-fogging properties. The domestic industry has submitted that product under consideration of same K Value can yield different viscosities in different plastisols by using different types/quantum of plasticisers and/or applying different shear while mixing. This process of

making plastisol is undertaken by the paste resin consumers, and not by the paste resin producers.

38. Based on similar lines, Inovyn has requested exclusion of PVC-1510 and PVC-16 from the scope of the investigation. The Authority has examined the transaction wise data. It is seen that there are only two transactions of PVC-1510 which has been imported by one importer. The import price of PVC-1510 is significantly low. Likewise, it is seen that there is only one transaction of PVC-16 and the import is miniscule.
39. The Authority has also examined the transaction wise import data to see the price trend of various grades over the period of investigation. It is seen that there is no material difference in the price of various grades over the period of investigation. If the contention of the other interested parties is to be accepted, the import price would have shown variation between different grades. Therefore, the contention of the users does not hold merit.
40. In view of the aforementioned, the Authority concludes the following scope of the product under consideration:

*“The product under consideration for the present investigation is 'Poly Vinyl Chloride Paste Resin', also known as Emulsion PVC Resin.*

*PVC Paste Resin is produced using vinyl chloride monomer and is usually sold in the form of white/off-white powder. The PUC is primarily used for manufacturing artificial leather and the other uses of the product are in the manufacturing of rexene, coated fabrics, tarpaulins, conveyer beltings, toys, automotive sealant, adhesives, and gloves.*

*The following products are excluded from the scope of the PUC:*

- a) Production under consideration with a K value below 60K*
- b) PVC Blending Resin*
- c) Co-polymers of PVC Paste Resin*
- d) Battery separator resins*
- e) Biovyn™ produced from renewable/bio feedstock and accompanied by an acceptable proof of sustainability*

41. As per the information available on record, the Authority notes that the product produced by the domestic industry is like article to the product under consideration imported from the subject countries. The product produced by the domestic industry is comparable to the goods imported from the subject countries in terms of physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, pricing, distribution & marketing, and tariff classification of the goods. The two are technically and

commercially substitutable. The consumers have used and are using the two interchangeably. Thus, the Authority concludes that the product manufactured by the domestic industry constitutes the like article to the subject goods being imported into India from the subject countries in the terms of Rule 2(d).

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

### **D.1 Submissions made on behalf of the opposing interested parties.**

42. The opposing interested parties have made the following submissions on the issue of the domestic industry and standing of the domestic industry.
- a. As per Trade Notices 13/2018 and 14/2018, any producer supporting an investigation is required to submit a complete response in the prescribed formats. It was argued that since Finolex Industries Limited has not filed a response in the present investigation, it cannot be considered as a 'supporter'.

### **D.2 Submissions made on behalf of the domestic industry.**

43. The applicant has made the submissions regarding the scope of domestic industry and standing post the issuance of the preliminary finding. :
- a. The Authority vide Trade Notice 04/2021 dated 16th June 2021 allowed supporters to express support after giving information on capacity, production and sales.

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

44. In the preliminary finding, the Authority had noted as follows:

*19. The Authority notes that the applicant, M/s Chemplast Sanmar Limited, together with the supporter, M/s Finolex Industries Limited, constitute 100% of the total Indian production.*

*20. It is also seen that the applicant has not imported the product under consideration. Further, it is not related to any producer/exporter from the subject countries and is not related to any importer of the subject goods in India.*

*21. Therefore, the Authority preliminarily concludes that the applicant, M/s Chemplast Sanmar Limited, constitutes the 'domestic industry' within the meaning of Rule 2(b) of the Rules and considers that the application satisfies the criteria of standing in terms of Rule 5(3).*

45. The Authority notes that on a reading of the Rules along with Trade Notices 13/2018, 14/2018 and 4/2021, a producer can submit limited information in order to qualify as an



eligible supporter, as provided in Trade Notice 4/2021. Finolex Industries Limited has complied with this requirement.

46. Chemplast Sanmar Limited alone accounts for a major proportion of Indian production, even without the support of Finolex Industries Limited. Therefore, the Authority holds that the applicant satisfies the requirement of standing under Rule 5 and constitutes domestic industry within the meaning of Rule 2(b).

## **E. CONFIDENTIALITY AND MISCELLANEOUS ISSUES**

### **E.1 Submissions made on behalf of the opposing interested parties.**

47. The opposing interested parties have made the following submissions on confidentiality.
- a. Certain information that has been disclosed in indexed form in the application, such as the applicant's cost of sales and net sales realization but has been completely redacted in the preliminary finding.
  - b. The non-confidential version of the application does not give a 'reasonable understanding' of the allegations made therein, as required by Rule 7 of the ADD Rules. Specifically, it was alleged that the non-confidential version of the application does not contain any information in Section VI.
  - c. There are discrepancies between the data in the preliminary findings and the original petition, raising concerns over the accuracy of the investigation. Any updated data should have been shared in a non-confidential version per Rule 7 of the AD Rules, allowing interested parties to comment.
  - d. The confidential calculation of dumping margin for the participating producers was not disclosed by the Authority despite methodological or data-level changes made in the application.

### **E.2 Submissions made on behalf of the domestic industry.**

48. The domestic industry made the following submissions on confidentiality.
- a. Disclosure of information such as normal value and export price is made under Rule 16 whereas the preliminary finding is issued under Rule 12. There is no requirement of disclosure of information under Rule 12.

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

49. With regard to the non-disclosure of dumping margin, it is noted that the Authority is under obligation to disclose all essential facts under consideration in terms of Rule 16 of AD Rules, 1995. Accordingly, the confidential calculation pertaining to individual participating producers/exporters is being disclosed to respective producers/exporters.

50. With regard to the disclosure of information and allegations of excessive confidentiality in the application, it is the established practice of the Authority to treat costing information of the domestic industry as confidential. Trade Notice 10/2018 does not require disclosure of costing information of the domestic industry.
51. As regards discrepancies in the data, the Authority notes that the applicant had relied on the 'DGCI&S published data' in its application. However, the Authority has considered the imports as per the DGCI&S transaction wise data. Therefore, the volume of imports and demand in India have undergone change and the same were accordingly recorded in the preliminary findings. Similarly, it is noted that while the applicant in its application had reported the selling price trends based on gross sales values, the preliminary findings as well as the disclosure statement have recorded the same based on net sales realizations (NSR).

## **F. NORMAL VALUE, EXPORT PRICE & DUMPING MARGIN**

### **F.1 Submissions made on behalf of the opposing interested parties.**

52. The opposing interested parties have submitted as follows with regard to normal value and export price:
- a. FPC Ningbo has requested for reconsideration of its request for market economy treatment.
  - b. FPC Ningbo does not have any restrictions on its operations of foreign exchange.
  - c. FPC Ningbo produces steam mainly by itself for the production of product under consideration.
  - d. Water and electricity and some of the steam, are purchased from the affiliated group company at arm's length prices, i.e., market prices.
  - e. FPC Ningbo acquires the key raw material, VCM (Vinyl Chloride Monomer), from other countries at international prices.
  - f. FPC Ningbo is a limited liability company with 100% foreign investment.
  - g. The 15-year period provided in the Accession Protocol of China to WTO has expired and therefore Chinese firms are now entitled to market economy treatment.
  - h. Taiwan may be considered as the appropriate surrogate country based on the data of Formosa Plastics Company of Taiwan which has participated in the present investigation.
  - i. Para 7 of Annex I to the ADD Rules prescribes a hierarchy, pursuant to which the most appropriate option for constructing normal value is in a market economy in a third country.
  - j. The domestic selling price reported by Hanwha is supported by Hanwha's actual invoices, its accounting system and is reconciled with the audited financial statement.
  - k. The applicant has referred to the anti-dumping investigation concerning imports of Rubber Chemical in support of its submission to reject the normal value of Hanwha.

According to Hanwha the reference is flawed as in that investigation, Kumho was procuring raw material "6PPD" from China which is a non-market economy and therefore, the normal value was rejected. However, in the present investigation, Hanwha has not purchased raw material from China PR.

## **F.2 Submissions made on behalf of the domestic industry.**

53. The domestic industry has submitted as follows with regard to normal value and export price:
- a. Even though the provisions of Article 15(a)(ii) have expired, WTO members are required to consider domestic prices or costs in China PR only if the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product as per Article 15(a)(i), which the Chinese producers in the present case have not shown.
  - b. No verifiable evidence of the actual selling price or cost in a market economy third country is available for determining normal value for China PR.
  - c. Even when the producer from Norway has participated in the present investigation, it has refrained from filing a questionnaire response. This was because the producer was aware that the actual dumping resorted by the producer was higher than the claims of the applicant.
  - d. Dumping is an admitted fact in the present investigation, and it is incontrovertible that the product is being dumped into the Indian market. The normal value and net export price have been determined for each exporter based on the response filed by that exporter.
  - e. Hanwha has a history of suppressing facts from the Authority as the Authority has in original and sunset review investigation concerning imports of CPVC found large number of concerns.
  - f. If the dumping margin of Hanwha is negative, it implies that Hanwha has claimed a normal value that is in the same range or lower than the export price. The product under consideration has been imported in the Korean market at a price of at least 40% higher than the price reported by Hanwha and hence the price in the Korean market are higher than the normal value claimed by Hanwha.
  - g. Hanwha has a capacity of around 90,000 MT and the domestic sales are only about 30% of the capacity. Hanwha would be willing to sell as much volume as possible in Korean market.
  - h. No consumer would import so significant volumes of material into Korean market if Hanwha Solutions Corporation itself has been holding significant capacities and has been selling significant volumes.
  - i. The normal value is defined as the comparable price in the ordinary course of trade of the like article in the market of the exporting country when meant for consumption where each word has a definite meaning.

- j. 'Normal value' must be determined with reference to a comparable price. In this context, "comparable price" refers to the price of similar articles sold under similar circumstances, regardless of the manufacturer of the product.
- k. The manual also provides that 'sales at a loss' is not the only factor for deciding whether sales are in the ordinary course of trade or not.
- l. In cases where the selling price of the product is artificially low or is at abnormal (aberrational) level, the selling price of the producer cannot be considered to be in ordinary course of trade.
- m. Appellate Body in US – Hot-Rolled Steel considered that a sales transaction may not be in ordinary course of trade even in absence of any common ownership.
- n. Appellate body in US – Hot Rolled Steel also opined that whether the sales price is higher or lower than the 'ordinary course' price, and irrespective of the reason why the transaction is not 'in the ordinary course of trade', investigating authorities must exclude, from the calculation of normal value, all sales which are not made 'in the ordinary course of trade'.
- o. The Authority has the discretion to rely on any available material that reflects the comparable value of the articles in question, meaning that it is not obligated to consider the material submitted by the interested party.
- p. Hon'ble Supreme Court in the matter of Designated Authority Versus Haldor Topsoe A/S held that the statute has nowhere put a restriction on the investigating authority. On the contrary, a perusal of the said provisions clearly show that the 'normal value' will have to be determined with reference to comparable price, the word 'comparable price' in the context can only be with reference to the price of similar articles sold under similar circumstances irrespective of the manufacturer.
- q. The Authority had in the case of anti-dumping investigation concerning import of Rubber Chemicals viz. MBT, CBS, TDQ, PVI and TMT originating in or exported from China and PX 13 (6PPD) from China and Korea RP had found that the domestic price of a producer from Korea RP was materially lower than the import price into Korea RP. The Authority had then considered normal value based on the weighted average basis.
- r. The raw material value reported by Hanwha should be examined to ascertain whether the value of Ethylene and VCM reported by the producer reasonably and appropriately reflects market values.
- s. Export and import price of ethylene in Korea RP are USD/MT 963 and USD/MT 1,049 respectively. Export and import price of EDC in Korea RP are USD/MT 775 and USD/MT 899 respectively.
- t. In case the Authority finds that there is a difference in the cost claimed by Hanwha and the price of the raw materials prevailing in the Korean market, the producer should be called upon to demonstrate how its cost is significantly lower.

- u. Hanwha has claimed that accounting system is designed to collect all costs incurred at the manufacturing facilities and recognize the costs as part of the cost of manufacturing. The cost of primary raw material is already reflective of the fair market value as well.
- v. Hanwha Solutions Corporation and Formosa Plastics Corporation have claimed packing cost as adjustment in even the domestic market selling price. The producers should be called upon to demonstrate how their products are packed in the domestic market and the export market. Unless it is demonstrated that additional packing is undertaken for the domestic market, adjustment in the domestic selling price should not be allowed.
- w. Formosa Industries (Ningbo) has claimed adjustment in the export price for country of origin and bank charges. However, no such adjustment has been claimed by Shenyang or its exporters. If Shenyang has not reported adjustment of charges for country-of-origin certificate and bank charges, it is clear suppression of facts by the producer which requires the complete response to be rejected.
- x. TPC Paste Resin Co., Ltd has claimed tax refund as adjustment in the calculation of export price. The details of the tax refund have been claimed completely confidential which has prevented the applicant from offering meaningful submissions. The exporter has claimed a negative price adjustment on export price. There is however no basis for making claim for price adjustments on account of tax refunds.
- y. FPC has claimed that water, electricity and steam have been purchased at market prices. Steam and electricity forms more than 20% of the total cost of the product under consideration. The market prices in China PR are itself impacted by the non-market economy conditions. This in itself is sufficient to show that the producer's cost is impacted.
- z. FPC has claimed that has been claimed that raw material has been imported at international prices. However, it has not been shown how import price of VCM is not impacted by the non-market economy conditions.
- aa. FPC producer has also not shown how its land and building prices are not impacted by the non-market economy conditions. It has also not been shown if the plant was completely set up by the entity or purchased from a Chinese entity.

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

54. Under section 9A(1)(c), the normal value in relation to an article means:

- i) The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*
- ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market*

*situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:*  
*(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*  
*the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling, and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*  
*(b) Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.*

55. The Authority notes that the following exporters of the subject goods have filed exporter's questionnaire responses: -
- a. Formosa Industries (Ningbo) Co., Ltd, China PR.
  - b. Grand Dignity Industrial Co. Ltd, China PR
  - c. Shenyang Chemical Co. Ltd., China PR.
  - d. Linkland Enterprise Shanghai Co., Ltd, China PR.
  - e. M/S Hanwha Solution Corporation, Korea RP.
  - f. Kaneka Paste Polymers SDN BHD, Malaysia.
  - g. Formosa Plastics Corporation, Taiwan.
  - h. Thai Polyethylene Co., Ltd, Thailand.
  - i. TPC Paste Resin Co., Ltd, Thailand.

### **F.3.1 Sales pattern of participating producers from the subject countries.**

56. The domestic industry has submitted that China PR was earlier a net importer of the product under consideration. The Covid outbreak had led to increase in the demand for the PVC based gloves which resulted into significant capacity expansion in China. However, as the demand of gloves eased down, the domestic demand of PVC paste resin declined significantly in China.
57. It has also been claimed that the demand supply situation has been further aggravated due to the decline in the demand of textile/apparel in China (zero Covid policy) and other European countries (due to inflation issues).

58. In order to examine the submission made by the domestic industry, the Authority has examined the response filed by the participating producers. The table below shows the domestic sales of all the participating producers based on the response filed by them.

SN	Particular	UOM	2019	2020	2021	POI
1	Formosa Industries (Ningbo) Co. Ltd.	MT	***	***	***	***
		Trend	100	105	113	113
2	Shenyang Chemical Co. Ltd.	MT	***	***	***	***
		Trend	100	79	77	72
3	M/S Hanwha Solution Corporation	MT	***	***	***	***
		Trend	100	112	97	91
4	Kaneka Paste Polymers SDN BHD	MT	***	***	***	***
		Trend	100	365	86	96
5	Formosa Plastics Corporation	MT	***	***	***	***
		Trend	100	86	62	55
6	TPC Paste Resin, Ltd	MT	***	***	***	***
		Trend	100	102	94	94

59. It is seen that the domestic sales of all the producers have declined over the injury period. The decline in the domestic sales correlates with the submission of the domestic industry.

### **F.3.2 Normal value and export price for China PR.**

#### **F.3.2.a Normal value for China PR**

#### **Market Economy Status for Chinese Producers**

a. Formosa Industries (Ningbo) Co., Ltd, China PR.

60. Formosa Industrial Co. Ltd, China PR. has filed a questionnaire response and has claimed MET treatment.

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

*(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese*

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

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

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

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

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

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

62. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO, read with obligation under 15 (a) (i) of the Accession Protocol require the criterion stipulated in Para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming the market economy status.
63. At the stage of the preliminary findings, the Authority did not accept the market economy treatment claimed by the producer. Formosa Industries (Ningbo) Co., Ltd, China PR (also



referred to as Formosa Ningbo) has claimed that it has provided all the information in the form of Questionnaire Response and supplementary response in the form of MET Response as required by the Authority. Formosa Ningbo claimed that MET should be granted primarily for the following reasons:

- a. Formosa Ningbo does not have any restrictions on its operations of foreign exchange
  - b. Formosa Ningbo produces steam mainly by itself for the production of product under consideration.
  - c. Water and electricity and some of the steam, are purchased from the affiliated group company at arm's length prices, i.e., market prices.
  - d. Formosa Ningbo acquires the key raw material, VCM (Vinyl Chloride Monomer), from other countries at international prices.
  - e. Formosa Ningbo is a limited liability company with 100% foreign investment
64. The Authority notes that the market economy treatment cannot be granted solely based on the factors claimed by the producer. In this regard, the Authority notes that in order to grant a market economy treatment, it is also required to be seen if the entity has procured land, financing, capital goods, raw material and utilities at market price and without any interference from the government.
65. The Authority notes that the constitution of China permits engagement with the non-public sector. As per Article 11 of the Constitution, the State is assigned the role of an interventionist that goes beyond protecting the rights and interests of the non-public sector and the State shall 'encourage, support, and guide' their development. Article 15 of the Constitution directly states that the country practices socialist market economy and makes it clear that the same is done by variety of different instruments such as incentivizing and restricting to guide the economy. Therefore, merely because an entity is not controlled by the Chinese government, it does not imply that it is free from any government intervention being located in China.
66. The Authority notes that Formosa Ningbo in its questionnaire response has claimed that it procures electricity, steam and water from unrelated entities. It is seen that steam, electricity and water form around [\*\*\*%] of the total cost of the product under consideration of the Chinese producer. No evidence has been provided to show that the prices of these inputs are free from any government interference.
67. The cost of sales claimed by Formosa Ningbo has been compared with the cost of sales claimed by the other Chinese producer - Shenyang Chemical Co. Ltd. The cost of sales claimed by Formosa Ningbo is lower than the cost of sales claimed by Shenyang Chemical Co. Ltd. which has not filed any MET claim.

68. The authority considers that Formosa Ningbo has not conclusively established that the prices of inputs relating to utilities are reflective of market price. Further, it is noted that the exporter has provided no information to establish that the investment made by the company in acquiring land, plant & machineries was not distorted due to possible state interference in this regard. The Authority considers that these parameters have direct bearing on the eventual cost of production.
69. It is also seen that the company has borrowed some loan from within China. The exporter has not provided any information to demonstrate that the cost incurred on this account are reflective of market rates.
70. It is thus noted that the information provided by the exporter does not conclusively establish that the decisions of the company regarding prices, costs and inputs, including cost of output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard.
71. The Authority has therefore decided not to grant market economy treatment to FPC.
- b. Shenyang Chemical Co. Ltd., China PR.
72. Shenyang Chemical Co. Ltd., China PR has filed a complete questionnaire response. The producer has exported directly as well as through exporter Linkland Enterprise Shanghai Co., Ltd. The producer has not claimed market economy treatment and therefore, its cost and selling price are not relevant.
73. The following producers from China had registered as interested parties in the investigation but have not filed any response. Therefore, these producers have been treated as non-cooperative.
- a. CNSIG Jilantai Chlor-Alkali Chemical Co., Ltd
  - b. China Salt Chemical Trading Co., Ltd
  - c. CNSIG Inner Mongolia Sodium Industry Co., Ltd.
  - d. CNSG Jilantai Polymer Materials Co., Ltd.
  - e. Tianwei Chemical Co. Ltd.
  - f. Ordos Junzheng Energy & Chemical Industry Co., Ltd
74. Under Annexure-I, Para 7 of the Rules, the normal value for non-market economy would be determined as:

*“7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third*

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

75. The applicant has claimed that China PR should be treated as a non-market economy and the normal value should be determined in terms of paragraph 7 of Annexure-I of the Rules and claimed normal value based on its own cost of production.
76. Formosa Ningbo has claimed that the normal value can be determined based on the price of its related producer from Taiwan - Formosa Plastics Corporation. The Authority notes that while Formosa Ningbo has suggested consideration of Taiwan as a surrogate market economy country, it has not provided any information how Taiwan is an appropriate market economy country, particularly when Taiwan is also subject to investigation. An appropriate market economy third country can only be selected keeping in view the level of development of the country and the product. Since none of the interested party has provided information in this regard, and further since Taiwan is subject to investigations, the normal value cannot be determined on this basis.

### **F.3.2b Export price for China PR.**

- a. Export price for Formosa Industries (Ningbo) Co., Ltd.
77. The producer has reported \*\*\* MT of value \*\*\* USD as exports of the product under consideration to India during the period of investigation. The producer has claimed that it has directly exported the product to India and no other related/ unrelated party is involved in the export of the product under consideration.
78. The producer/exporter has claimed various adjustments to the export price. The Authority conducted a desk verification of the information provided by the producer. Additional/supplementary information was sought to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon

for the purpose of these final findings. The net export price so determined is shown in the table below.

b. Export price for Shenyang Chemical Co. Ltd

79. The producer has reported \*\*\* MT of value \*\*\* USD as exports of the product under consideration to India during the period of investigation. The producer has claimed that it has directly exported the product to India as well as through another unrelated exporter. The unrelated exporter has filed questionnaire response.

80. The producer/exporter have claimed various adjustments to the export price. The Authority conducted a desk verification of the information provided by the Chinese producer. Additional/supplementary information and clarifications were sought to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings. The net export price so determined is shown in the table below.

c. Export price for non-cooperative exporters/producers

81. The export price for non-cooperative producers/exporters from China PR has been determined based on facts available in terms of Rule 6(8) of the Rules. The net export price so determined is mentioned in the dumping margin table below.

**F.3.3. Normal value and export price for Korea RP.**

82. Hanwha Solution Corporation, Korea RP has filed a questionnaire response from Korea. It has been reported that there is no other producer in Korea RP which produces the product under consideration.

83. The Authority notes the submissions of the applicant regarding rejection of the claims of the normal value by Hanwha.

84. The Authority in this regard notes as under:

Section 9A (6A) states as under:

*“The margin of dumping in relation to an article, exported by an exporter or producer, under inquiry under sub-section (6) shall be determined on the basis of records concerning normal value and export price maintained, and information provided, by such exporter or producer.*

*(emphasis added)*

*Provided that where an exporter or producer fails to provide such records or information, the margin of dumping for such exporter or producer shall be determined on the basis of facts available”.*

85. The provision above makes it clear that the Authority has to determine the dumping margin based on the records maintained by the producer/exporter unless such a producer/exporter fails to provide the information as sought by the Authority.
86. In the facts of the present case, M/s Hanwha Solutions Corporation has participated in the investigation, filed its exporters questionnaire response, fully cooperated with the Authority in the verifications and has supplied all the relevant documents to establish the claims of normal value.
87. In such a scenario, where a producer/exporter has maintained its records and corroborated the information filed with the records maintained by it, the Authority has no occasion to doubt the veracity of the records maintained by such producer/exporter.
88. It is further noted that domestic industry has placed reliance on Halder Topsoe vs DA. However, the primary issue in the above-mentioned case due to which the prices reported by the concerned exporter/producer was not accepted was because of the reason that the concerned producer/exporter did not supply the information with regard to export price to third country as solicited by the Authority to establish its claim and the Authority proceeded under Rule 6 (8) of the Anti-dumping Rules,1995.
89. In the circumstances of the present case, no such situation has arisen that would warrant the application of the principle established in Halder Topsoe. Consequently, invoking the precedent set in that case would neither be justified nor hold merit in this context.
90. It is pertinent to mention that Annexure-1 to the Anti-dumping Rules, 1995 also prescribes for:

*“The designated authority while determining the normal value, export price and margin of dumping shall take into account inter alia, the following principles –*

*1. The elements of costs referred to in the context of determination of normal value shall normally be determined on the basis of records kept by the exporter or producer under investigation, provided such records are in accordance with the generally accepted accounting principles of the exporting country, and such records reasonably reflect the cost associated with production and sale of the article under consideration”*

91. The above provision also emphasizes that the Authority can only reject the information filed by the producer/exporter with regard to normal value and export price in a situation where

either the records maintained by the producer/exporter are not as per GAAP or such records do not reasonably reflect the cost associated with production and sale of the PUC.

92. In the facts of the present case, the Authority could not find such reasons as mentioned in the above paragraph.
93. In view thereof, the Authority has accepted the records maintained by the producer/exporter and has determine the margin of dumping as mentioned below.

### **F.3.3a Normal value for Korea RP.**

- a. Normal value for responding producer - Hanwha Solution Corporation, Korea RP
94. The producer has reported domestic sales of \*\*\* MT having a value of \*\*\* KRW in the period of investigation. The producer has claimed that all domestic sales are to unrelated parties.
95. The Authority notes that the domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducts the ordinary course of trade test to determine profit-making domestic sales transactions with reference to the cost of production of the subject goods, on a PCN-wise basis. If profit-making transactions are more than 80% of the total sales, then all the transactions in the domestic sales are considered for the determination of the normal value and in cases, where profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of the normal value.
96. The producer has claimed various adjustments to normal value. The Authority conducted on the spot as well as desk verification of the information provided by Hanwha. Additional/supplementary information and clarifications were sought to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings.
97. For the above producer/ exporter in the present case, \*\*\* % domestic sales are profitable in case of high grade and \*\*\* % domestic sales are profitable in case of medium grade. Hence only the profitable domestic sales have been considered to determine normal value. The normal value so determined is given below.
  - a. Normal value for non-cooperating producers.
98. The normal value for non-cooperative producers/exporters from the Korea RP has been determined based on facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

### **F.3.3b Export price for Korea RP.**

#### a. Export price for responding producer – M/S Hanwha Solution Corporation

99. The producer has reported \*\*\* MT having a value of \*\*\* USD as exports of the product under consideration to India during the period of investigation. The producer has claimed that it has directly exported the product to India and no other related/unrelated party is involved in the export of the product under consideration.
100. The producer/exporter has claimed various adjustments to the export price. The Authority conducted on the spot as well as desk verification of the information provided by Hanwha. Additional/supplementary information and clarifications were sought to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings. The net export price so determined is shown in the table below.

#### b. Export price for non-co-operative exporters/producers.

101. The export price for non-cooperative producers/exporters from Korea RP has been determined based on facts available in terms of Rule 6(8) of the Rules. The net export price so determined is mentioned in the dumping margin table below.

### **F.3.4 Normal value and export price for Malaysia.**

102. Kaneka Paste Polymers SDN BHD from Malaysia has filed the questionnaire response with the Authority.
103. The Authority notes that subsequently Kaneka, Malaysia has extended a price undertaking to the Authority. As part of this undertaking, the producer has agreed to revise its export prices to India and to provide all reasonable and relevant information that the Designated Authority may consider necessary to monitor compliance with the terms of the undertaking.
104. In accordance with Rule 15 of the Rules (Suspension or Termination of Investigation Pursuant to Price Undertaking), the Designated Authority may suspend or terminate an anti-dumping investigation if the exporter of the article under investigation furnishes a written undertaking to revise the prices of the product under consideration so as to eliminate the injurious effects of dumping.
105. The price undertaking offered by Kaneka, Malaysia was shared with the domestic industry for its comments and acceptance in terms of the parameters stipulated in the undertaking. Upon acceptance of the said price undertaking by the domestic industry, it was further examined by the Authority, and the price undertaking has been accepted in terms of Rule 15 of the Rules. Consequently, the Authority has not determined definitive dumping and injury margins for

Kaneka, Malaysia. No anti-dumping duties shall apply to exports of the product under consideration made by Kaneka, Malaysia while the undertaking remains in effect and is adhered to.

106. In the event of any violation of the undertaking by Kaneka, Malaysia, the Authority reserves the right to recommend to the Central Government the levy of appropriate anti-dumping duties. Such recommendations may be based on the information available during the present investigation or any additional information brought to the notice of the Authority from appropriate sources. Anti-dumping duties recommended in the event of a violation shall be applied retrospectively from the date of such violation or withdrawal of the undertaking.
107. Furthermore, the Designated Authority may, *suo motu* or upon a request from the exporter, the domestic industry, importers, or any other interested party, periodically review the need for the continuation of the undertaking. The terms of the price undertaking shall remain co-terminus with the duration of any anti-dumping duties imposed by the Central Government through the applicable notification and shall be subject to review as provided under the relevant provisions of the Anti-Dumping Rules.
108. In the event that the Central Government does not accept the price undertaking, the Designated Authority shall separately intimate the Central Government regarding the quantum of anti-dumping duty to be imposed and the effective date of its levy.
109. Subject to the conditions of this undertaking, the preliminary findings earlier notified by the Authority with regard to the imposition of provisional duties on Kaneka, Malaysia are hereby confirmed.

#### **F.3.4a Normal value for Malaysia.**

b. Normal value for responding producer - Kaneka Paste Polymers SDN BHD

110. Owing to the acceptance of the price undertaking extended by Kaneka Paste Polymers SDN BHD and acceptance of the same by the Authority in terms of the Rule 15 of the Rules, the normal value for the said producer/exporter has not been determined.

c. Normal value for non-cooperating producers.

111. The normal value for non-cooperative producers/exporters from the Malaysia has been determined based on facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.



### **F.3.4b Export price for Malaysia**

- a. Export price for responding producer - Kaneka Paste Polymers SDN BHD
112. Owing to the acceptance of the price undertaking extended by Kaneka Paste Polymers SDN BHD and acceptance of the same by the Authority in terms of the Rule 15 of the Rules, the export price for the said producer/exporter has not been determined.
- b. Export price for non-co-operative exporters/producers.
113. The export price for non-cooperative producers/exporters from Malaysia has been determined based on facts available in terms of Rule 6(8) of the Rules. The net export price so determined is mentioned in the dumping margin table below.

### **F.3.5 Normal value and export price for Taiwan.**

114. Formosa Plastics Corporation has filed a questionnaire response from Taiwan.

#### **F.3.5a Normal value for Taiwan.**

- a. Normal value for responding producer - Formosa Plastics Corporation
115. The producer has reported domestic sales of \*\*\* MT having a value of \*\*\* NTD in the period of investigation. The producer has claimed that all domestic sales are to unrelated parties.
116. The Authority notes that the domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducts the ordinary course of trade test to determine profit-making domestic sales transactions with reference to the cost of production of the subject goods, on a PCN-wise basis. If profit-making transactions are more than 80% of the total sales, then all the transactions in the domestic sales are considered for the determination of the normal value and in cases, where profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of the normal value.
117. The producer has claimed various adjustments to the normal value. The Authority conducted a desk verification of the information provided by Formosa. Additional/supplementary information and clarifications were sought to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings.
118. For the above producer/ exporter in the present case, \*\*\* % domestic sales are profitable in case of high grade and \*\*\* % domestic sales are profitable in case of medium grade. Hence only the profitable domestic sales have been considered to determine normal value. The normal value so determined is given below.

b. Normal value for non-cooperating producers.

119. The normal value for non-cooperative producers/exporters from Taiwan has been determined based on facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

**F.3.5b Export price for Taiwan.**

a. Export price for responding producer Formosa Plastics Corporation

120. The producer has reported \*\*\* MT having a value of \*\*\* USD as exports of the product under consideration to India during the period of investigation. The producer has claimed that it has exported the product through unrelated exporter. The unrelated exporter has filed the questionnaire response.

121. The producer/exporter have claimed various adjustments to the export price. The Authority conducted a desk verification of the information provided by Formosa. Additional/supplementary information and clarifications were sought to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings. The net export price so determined is shown in the table below.

b. Export price for non-co-operative exporters/producers.

122. The export price for non-cooperative producers/exporters from Taiwan has been determined based on facts available in terms of Rule 6(8) of the Rules. The net export price so determined is mentioned in the dumping margin table below.

**F.3.6 Normal value and export price for Thailand.**

123. TPC Paste Resin Co., Ltd has filed the questionnaire response from Thailand.

**F.3.6a Normal value for Thailand.**

a. Normal value for responding producer - TPC Paste Resin Co., Ltd

124. The producer has reported domestic sales of \*\*\* MT having a value of \*\*\* THB in the period of investigation. The producer has sold the product in the domestic market to a related party which has further sold the goods in the domestic market. The related trader has participated and filed the questionnaire response.

125. The Authority notes that the domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducts the ordinary course of trade test to determine profit-making domestic sales transactions with reference to the cost

of production of the subject goods, on a PCN-wise basis. If profit-making transactions are more than 80% of the total sales, then all the transactions in the domestic sales are considered for the determination of the normal value and in cases, where profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of the normal value.

126. The Authority conducted on the spot as well as desk verification of the information provided by TPC. Additional/supplementary information and clarifications were sought to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings. The producer has claimed various adjustments to the normal value. The Authority has, however, only allowed those adjustments as it has deemed fit as per its consistent practice.
127. For the above producer/ exporter in the present case, \*\*\* % domestic sales are profitable in case of high grade and \*\*\* % domestic sales are profitable in case of medium grade. Hence only the profitable domestic sales have been considered to determine normal value. The normal value so determined is given below.

b. Normal value for non-cooperating producers.

128. The normal value for non-cooperative producers/exporters from Thailand has been determined based on facts available in terms of Rule 6(8) of the Rules. The net normal value so determined is mentioned in the dumping margin table below.

**F.3.6b Export price for Thailand.**

a. Export price for responding producer - TPC Paste Resin Co., Ltd

129. The producer has reported \*\*\* MT having a value of \*\*\* USD as exports of the product under consideration to India during the period of investigation. The producer has exported through the related trader which has filed a response to questionnaire.
130. The producer/exporter has claimed various adjustments to the export price. The Authority conducted on the spot as well as desk verification of the information provided by TPC. Additional/supplementary information and clarifications were sought to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings. The net export price so determined is mentioned in the dumping margin table below.

b. Export price for non-co-operative exporters/producers.

131. The export price for non-cooperative producers/exporters from Thailand has been determined based on facts available in terms of Rule 6(8) of the Rules. The net export price so determined is mentioned in the dumping margin table below.

**F.3.7 Normal value and export price for Norway.**

132. M/s. Inovyn Norge AS and M/s Inovyn Europe Limited from Norway had registered as interested party. However, the producer and exporter did not file any questionnaire response. The producer has only requested for exclusion of BIOVYN grade from the scope of the product under consideration. Since the producer has not filed any questionnaire response claiming an individual dumping and injury margin, therefore, the producer has been treated as non-cooperative to that extent.

**F.3.7.a Normal value for Norway.**

133. The normal value for Norway has been determined based on facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

**F.3.7.b Export price for Norway**

134. The net export price for Norway has been determined based on facts available in terms of Rule 6(8) of the Rules. The net export price so determined is mentioned in the dumping margin table below.

**F.3.8 Dumping margin.**

135. Based on the normal value and export price determined above, the dumping margin for the participating and non-participating producers is determined as below: -

SN	Particular	Normal value	Net export price	Dumping margin	Dumping margin	Dumping margin
		USD/MT	USD/MT	USD/MT	%	Range (%)
1	<b>China PR</b>					
A	Formosa Industries (Ningbo) Co., Ltd	***	***	***	***	60-70
B	Shenyang Chemical Co. Ltd.	***	***	***	***	20-30
C	Any other	***	***	***	***	80-90
2	<b>Korea RP</b>					

A	M/S Hanwha Solutions Corporation	***	***	***	***	<i>De-minimis</i>
B	Any other	***	***	***	***	0-10
3	<b>Malaysia</b>					
a	Any other	***	***	***	***	60-70
4	<b>Taiwan</b>					
a	Formosa Plastics Corporation	***	***	***	***	20-30
b	Any other	***	***	***	***	30-40
5	<b>Thailand</b>					
a	TPC Paste Resin Co., Ltd	***	***	***	***	30-40
b	Any other	***	***	***	***	40-50
6	<b>Norway</b>					
a	All	***	***	***	***	40-50

## **G. INJURY AND CAUSAL LINK**

### **G.1 Submissions made on behalf of the opposing interested parties.**

136. The opposing interested parties have submitted as follows on the issue of injury and causal link:

- a. The imports are happening due to the huge demand-supply gap in India.
- b. The exporters have been able to increase their prices from Rs 75,047/MT in 2019-20 to Rs 1,00,872/MT in the period of investigation. The domestic industry cannot reasonably claim injury when prices of imports have increased.
- c. Various parameters of the domestic industry, such as installed capacity, capacity utilization, domestic sales, number of employees, productivity per day and average capital employed show that the domestic industry is not suffering any injury.
- d. Price undercutting was only examined for the period of investigation and not for the entire injury period. Further, they contended that the application simply alleges the existence of 'positive and significant' price undercutting, without disclosing country-wise undercutting even as ranged figures.
- e. Any injury being caused to the domestic industry is attributable to Chinese imports and not to imports from Thailand.
- f. The domestic industry's cost of sales increased significantly in the period of investigation despite a global decline in cost of raw materials.

- g. The applicant has in its annual reports and quarterly earnings have claimed that the real cause for the decline in profits is the increase in energy costs due to the conflict in Ukraine.
- h. The dumping margin determined for Hanwha Solutions Corporation in the preliminary findings was negative. Therefore, these exports were at un-dumped prices. Injury analysis is carried out for only dumped imports. Therefore, exports made by Hanwha should have been excluded from the injury analysis.
- i. While the costs of key raw materials like ethylene, ethylene dichloride and vinyl chloride monomer have seen a substantial reduction, the corresponding selling prices of the product under consideration have only experienced a slight decrease.
- j. Chemplast has high costs related to legacy issues and it is aiming to earn super profit it earned in 2021-22 by making a false case of financial injury. ROI must be compared to what it earned on 19-20 and it is applicant's inability to earn more than this and cannot be remedied by DGTR.
- k. The applicant earned abnormal profits in past and the profits have normalized now. Even after normalization, the net profits during the POI were Rs. 145 crore which was much higher than the profits in the year 2019-20.
- l. Exporters increased their prices so significantly on account of demand and supply gap in the country and the users have been at the receiving end of such increasing prices.
- m. Cause of injury is on account of inefficiencies, adoption of old technology and purchase of raw material at long terms contract basis.
- n. While the applicant has claimed increase in the cost of production, the raw material price has declined by around 425\$/ MT over the injury period. The decline in the raw material price has also been admitted by the applicant.
- o. The applicant has performed very well at the company level and any losses on other counts should not be attributed to subject goods. Even at the company level, the cost of Chemplast is high and the reason for such high cost must be investigated.
- p. There are significant differences in the data recorded in the preliminary findings and the data previously placed on record by the applicant. The revised data of the applicant must be circulated.
- q. The price undercutting of the subject goods on account of the imports must be looked at for the entire injury period.
- r. The decline in the performance is attributable to rising energy costs due to the Russia-Ukraine war and overall inflationary pressures.
- s. The alleged injury can be attributed to the high interest cost on loan taken by the applicant for capacity expansion.
- t. The applicant suffered decline in profits in 2021-22 as well and there was no dumping in 2021-22, the negative growth price and/or profit parameters should be attributed to the internal inefficiencies.
- u. The applicant has in annual reports quoted that the raw material prices have declined.

- v. The applicant has projected a very healthy narrative of growth and profitability in its prospectus.
- w. The price increase in 2020-21 and 2021-22 was attributed to covid pandemic and the prices have restored to a normal level.
- x. A comparison between the imported raw material price of the applicant and the selling price of the applicant shows that the raw material price has declined at a much higher rate as compared to the selling price of the applicant to users.
- y. The applicant has claimed that there is no injury due to imports from European Union and Japan. If the injury margin for these countries is negative, the price of some of the subject countries is higher than the price from European Union and therefore these countries cannot be a cause of injury.
- z. Despite a portion of period of investigation falling in the COVID lockdown period, the applicant has performed extremely well on all the injury parameters.

## **G.2 Submissions made on behalf of the domestic industry.**

137. The domestic industry has submitted as follows on the issue of injury and causal link:
- a. Earlier China was a net importer of the product under consideration. However, due to the increased demand for PVC-based gloves during COVID, the Chinese producers expanded their capacity significantly.
  - b. As the pandemic abated, demand for PVC-based gloves also declined. Further, there is a general decline in demand for textile apparel in China (due to the zero-COVID policy) and in Europe (due to the impact of inflation on the demand). The decline in demand has impacted the operations of the exporters.
  - c. The landed price of the subject imports has not moved in step with the variable cost. Till 2021-22, the landed price was above the cost of sales and there was no dumping. However, since then, exporters have resorted to aggressive pricing.
  - d. Imports in 2019-20 and 2020-21 were below the domestic industry's cost of sales. However, there were remedies through the anti-dumping duties that were in force at the time.
  - e. Due to the nature of the production process and costs associated with plant shutdown, keeping capacities idle is not a commercially viable option. Therefore, any producer would prefer lowering prices over suspending production. As a result, the real form of injury being suffered is price injury, not volume injury.
  - f. Imports are undercutting the prices of the domestic industry by a significant margin.
  - g. The domestic industry maintains a price list for its products which is periodically revised based on the prices of imports. In the period of investigation, there was a 40% increase in the number of price revisions as compared to previous years.
  - h. The landed prices are below the cost of sales of the domestic industry, leading to losses.
  - i. The dumped imports are having a depressing effect on the domestic industry's prices.

- j. The contribution earned is negative. The domestic industry is not just sustaining losses on fixed costs, but on every additional unit produced.
- k. The domestic industry has suffered financial losses, cash losses and negative return on capital employed.
- l. The productivity and capacity utilization of the domestic industry have not declined. While employment and wages are not dependent on the performance of the product, the future of employment is dependent on the performance of the product.
- m. The dumped imports have adversely affected the capacity of the domestic industry to raise capital and earn a return on the capital employed.
- n. Considering the growing demand for the product in India, the domestic industry has undertaken capacity expansion of 43,000 MT. These decisions were taken when the market conditions were fair and remunerative with no dumping. However, dumping of the product has impaired the expansion plans of the domestic industry. Planned expansion of further 37,000MT has been shelved.
- o. Suspension of production in itself is a significant cost to the industry because of the continuous nature of the production process involved. Shutting down production not only implies shutting down the plant of PVC Paste, but also adversely impacts the plants of EDC, VCM, power and steam.
- p. Injury suffered by the applicant is restricted to price parameters as suspension of production is an unviable cost for the industry.
- q. There has been a significant decline in the price of imports over the period of investigation and the price undercutting is required to be examined on a monthly basis
- r. Neither the volume of sales of the applicant, nor the export volume of different respondent companies are uniformly spread over the period and therefore average price undercutting will show a distorted picture.
- s. The period of investigation in the present investigation is 2022-23 which does not coincide with any Covid period.
- t. Cost on account of loans taken for capacity expansion have not been included in the costs and profits reported.
- u. There is no obligation for determining price undercutting for the injury period. The price undercutting should be determined only for the period of investigation.

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

138. 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...*'.



139. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been significant price undercutting of the domestic like article by the dumped imports, 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.
140. Further, it is not necessary that all parameters of injury must show decline for there to be a positive determination of injury. Some parameters may show injury while the others may not. The Authority considers all injury parameters and then arrives at a conclusion as to whether the domestic injury has or is likely to be injured by the dumped imports.
141. It has been submitted by the interested parties that the applicant's volume parameters have not shown any decline. The interested parties have also relied on the annual reports of the applicant wherein the applicant has attributed the increasing production and sales to the growing demand for the product. The Authority notes the submission of the applicant that because of the nature of the production process involved, suspension of the production in itself is a significant cost to the industry and any PVC paste producer will prefer to continue to produce and sell at lower prices rather than suspend its production.
142. As regards the submission that the import price has declined in line with the decline in the raw material price, the Authority has compared the global average export price of ethylene with the import price of the PUC.
143. Based on the above comparison, the Authority notes that from 2020-21 to the period of investigation, while ethylene prices showed fluctuations—declining in 2020-21, rising in 2021-22, and marginally declining during the investigation period—the import prices of the PUC exhibited sharper variations, increasing disproportionately in 2021-22 and declining significantly during the investigation period and have not been commensurate with the decline in ethylene prices.
144. The other interested parties have also contended that the price of the product is cyclic in nature and the prices are returning to a normal level. It has been stated that ethylene prices are declining and therefore, decline in the ethylene prices is causing decline in the import price. The Authority notes that it has found positive dumping in the period of investigation in the preliminary findings. Therefore, the contention that the import price decline is merely because of decline in the raw material price cannot be accepted.
145. The interested parties have also contended that the increase in the cost can be due to the capacity expansion undertaken by the applicant as the interest cost for loan would have increased. During the verification, the applicant clarified that the expansion happened in the

post period of investigation and no interest cost for the expansion has been added to the cost of production for the period of investigation. The table below shows the interest cost of the applicant.

Particulars	UOM	2019-20	2020-21	2021-22	2022-23
Interest cost	Rs/MT	***	***	***	***
Trend	Index	100	341	151	32
Interest cost	Rs lakhs	***	***	***	***
Trend	Index	100	331	152	34

146. It is seen that the interest cost of the applicant has declined. Therefore, the claimed injury cannot be attributed to the expansion undertaken by the applicant. The Authority also notes that the profit before interest is negative in the period of investigation.

### Cumulative assessment of imports

147. Article 3.3 of WTO agreement and Para (iii) of Annexure II of the AD provide that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that:

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

148. The Authority notes that:

- a. Imports from China, Korea, Malaysia, Norway, Taiwan and Thailand are at dumped prices.
- b. The margins of dumping from each of the subject countries are more than the *de minimis* limits prescribed under the Rules.
- c. The imports from these countries are above the *de minimis* limits prescribed under the Rules.

149. In order to ascertain whether cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles, the following parameters have been examined:

- a. Products supplied by different parties are like articles and are comparable in properties.

- b. Domestically produced products and the imported products are interchangeable.
- c. There is direct competition between the domestic product and the imported product and inter-se between the imported products.
- d. Consumers are using domestic material and imported material interchangeably and the exporter and the domestic industry have sold the same product to same set of customers.
- e. Import price from the subject countries have moved in tandem.

150. The import price from the subject countries (CIF basis) is given below:

SN	Countries	UOM	2019-20	2020-21	2021-22	2022-23
1	China PR	Rs/MT	69,490	91,909	1,39,949	96,687
2	Taiwan	Rs/MT	75,503	97,081	1,21,759	98,249
3	Thailand	Rs/MT	78,750	97,277	1,43,935	1,01,433
4	Korea Rp	Rs/MT	78,542	82,299	1,48,664	1,02,615
5	Malaysia	Rs/MT	77,243	80,137	1,31,790	1,06,569
6	Norway	Rs/MT	75,247	71,720	1,33,251	92,502

151. It is seen that the import price from the subject countries have moved in tandem with each other. The import price in the period of investigation have increased as compared to the base year. Further, as compared to the immediately preceding year, the import price has declined in the period of investigation.

152. The table below shows the import volumes from the subject countries over the injury period.

SN	Countries	UOM	2019-20	2020-21	2021-22	2022-23
1	China PR	MT	12,182	1,127	15,560	19,359
2	Taiwan	MT	11,402	1,325	11,048	13,060
3	Thailand	MT	8,162	6,168	9,752	10,462
4	Korea Rp	MT	6,380	1,104	5,111	10,143
5	Malaysia	MT	4,904	1,546	6,938	10,135
6	Norway	MT	281	3,062	1,465	4,416

153. It is seen that the import volumes from the individual subject countries has moved in tandem with each other. When the demand declined in 2020-21, the imports from all the subject countries (barring Norway) declined. The import volume from the subject countries have increased in the period of investigation as compared to the immediately preceding year which shows the degree of competition between the imports from various sources.

154. The Authority has examined the transaction wise import data and found that the consumers have imported from the subject countries interchangeably. Furthermore, the domestic industry and the exporters have sold the same product to same set of customers. The domestic producers and exporters from the subject countries sell the like product to the same category of customers and both are competing in the same market. Both products are being used by the consumers interchangeably.
155. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the product under consideration from the subject countries on the domestic industry.

### G.3.1 Assessment of the demand

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

SN	Particulars	UOM	2019-20	2020-21	2021-22	POI
1	Sales of Domestic Industry	MT	***	***	***	***
	Trend	Indexed	100	97	101	107
2	Sales of other Indian Producers	MT	***	***	***	***
	Trend	Indexed	100	92	68	62
3	Imports from Subject Countries	MT	43,310	14,333	49,874	67,575
	Trend	Indexed	100	33	115	156
4	Import from other countries	MT	29,871	28,026	15,041	13,766
	Trend	Indexed	100	94	50	46
5	Total Demand/Consumption	MT	***	***	***	***
	Trend	Indexed	100	78	92	105

157. It is has been submitted by the applicant that the total demand decreased in 2020-21 compared to base year due to the outbreak of COVID-19. The demand has posted a steady increase after 2020-21.

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

158. The effect of the volume of dumped imports from the subject countries has been examined to ascertain whether imports have increased either in absolute terms or in relation to production or consumption in India.
159. The volume of imports from various countries in absolute terms and in relation to production and consumption is as under:

SN	Particulars	UOM	2019-20	2020-21	2021-22	POI
1	The subject countries	MT	43,310	14,333	49,874	67,575
2	Subject imports in relation to:					
a	Indian production	%	***	***	***	***
	Trend	Indexed	100	36	116	149
b	Demand	%	***	***	***	***
	Trend	Indexed	100	43	125	149
c	Total Imports	%	59%	34%	77%	83%

160. It is seen that the imports of the product under consideration declined in 2020-21 compared to the base year as the demand declined. However, with the increase in the demand in 2021-22, the imports also increased. The imports have further increased in the period of investigation. The imports from the subject countries have increased in absolute terms and in relation to production, consumption and total imports. It is also seen that the imports have increased with the increase in demand and supply gap in the country.

### G.3.3 Price effect of dumped imports

161. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been significant price undercutting by the allegedly 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.

#### i. Price undercutting

162. The Authority compared the landed price of imports with the net sales realisation of the domestic industry.

SN	Particulars	Net Sales Realisation Rs/MT	Landed Price Rs/MT	Price Undercutting Rs/MT	Price Undercutting Rs/MT	Price Undercutting Rs/MT
1	China PR	***	1,04,664	***	***	0-10
2	Taiwan	***	1,06,354	***	***	0-10
3	Thailand	***	1,09,802	***	***	0-10
4	Malaysia	***	1,15,361	***	***	Negative
5	Korea RP	***	1,11,075	***	***	Negative
6	Norway	***	1,00,134	***	***	10-20
7	Average	***	1,08,057	***	***	0-10

163. It is seen that barring Malaysia and Korea RP, landed price of imports is below the prices of the domestic industry. However, the landed price of the subject countries as a whole is below the selling price of the applicant. Hence, the subject imports are undercutting the selling price of the domestic industry.
164. Further, since PCNs have been determined by the Authority in the subject investigation, the price undercutting has been examined at PCN level as well which is given below.

SN	Particulars	High	Medium	Total	Range
1	China P RP	***	***	***	10-20%
2	Taiwan	***	***	***	10-20%
3	Thailand	***	***	***	0-10%
4	Malaysia	***	***	***	0-10%
5	Korea RP	***	***	***	0-10%
6	Norway	***	***	***	10-20%
7	Total	***	***	***	0-10%

165. The Authority notes that the price undercutting is positive for all subject countries.

#### ii. Price suppression/depression

166. The table below shows the changes in the cost of sales, selling price and landed price of imports.

SN	Particulars	UOM	2019-20	2020-21	2021-22	POI
1	Cost of sales	₹/MT	***	***	***	***
2	Selling price	₹/MT	***	***	***	***
3	Landed Price	₹/MT	82,027	95,316	1,48,693	1,07,186
	Changes					
4	Cost of sales	₹/MT	-	***	***	***
5	Selling price	₹/MT	-	***	***	***
6	Landed Price	₹/MT	-	***	***	***
	Trend					
7	Cost of sales	Index	100	106	140	148
8	Selling price	Index	100	121	160	113
9	Landed Price	Index	100	116	181	131

167. It is seen that in the year 2019-20, the landed price of imports was below the cost of sales and selling price of the domestic industry. In 2020-21, the cost of sales has increased by around Rs \*\*\* per MT (6 index points). The selling price increased by Rs \*\*\* (21 index points). This was

due to the increase in the landed price of imports. In the year 2021-22, the cost of sales and selling price further increased.

168. In the period of investigation, while the cost of sales has increased by Rs \*\*\* per MT, the selling price has declined. The decline in selling price was due to the decline in the landed price of imports. The imports were undercutting the cost of sales as well as the selling price of the domestic industry.
169. Therefore, the Authority notes that that selling price of the domestic industry has been depressed in the period of investigation.

### G.3.4 Economic parameters related to the domestic industry

i. Capacity, capacity utilisation, production and domestic sales

170. The following table shows capacity, production, capacity utilisation, domestic sales, export sales by the domestic industry over the injury period.

SN	Particulars	UOM	2019-20	2020-21	2021-22	POI
1	Capacity	MT	***	***	***	***
	Trend	Indexed	100	100	100	100
2	Production	MT	***	***	***	***
	Trend	Indexed	100	91	99	105
3	Capacity Utilization	%	***	***	***	***
	Trend	Indexed	100	91	99	105
4	Domestic Sales	MT	***	***	***	***
	Trend	Indexed	100	97	101	107
5	Export sales	MT	***	***	***	***
	Trend	Indexed	100	1,383	423	113

171. It is seen that:
- The capacity with the domestic industry has remained constant throughout the injury period. However, it has been stated that the domestic industry has expanded capacity in the post period of investigation. The domestic industry has increased its capacity by 43,000 MT.
  - The production and domestic sales of the domestic industry declined in 2020-21 due to decline in demand. The production and domestic sales have increased thereafter.
  - The exports of the domestic industry have declined and are insignificant in volume over the injury period.

ii. Inventories

172. The following table shows the opening, closing and average inventory of the domestic industry during the injury period.

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Opening inventory	MT	***	***	***	***
	Trend	Indexed	100	252	17	45
2	Closing inventory	MT	***	***	***	***
	Trend	Indexed	100	7	18	31
3	Average Inventory	MT	***	***	***	***
	Trend	Indexed	100	76	17	35

173. It is seen that the closing inventory was high in the initial years of the investigation due to COVID shutdowns. The closing inventory declined in 2020-21 and has increased thereafter in the POI.

iii. Market share

174. The following table shows market share distribution in the Indian market over the injury period.

SN	Particulars	UOM	2019-20	2020-21	2021-22	POI
1	Share of the domestic industry	%	***	***	***	***
	Trend	Indexed	100	125	110	102
2	Share of other producers	%	***	***	***	***
	Trend	Indexed	100	119	73	59
3	Share of the subject countries	%	***	***	***	***
	Trend	Indexed	100	43	125	149
4	Share of other countries	%	***	***	***	***
	Trend	Indexed	100	121	55	44

175. It is seen that the market share of the domestic industry increased in 2020-21 but has declined in the period of investigation. The market share of the subject countries declined in 2020-21 when the imports declined but has increased thereafter. The increase in the market share of the subject countries could be attributable to the demand and supply gap.

iv. Profit/loss, cash profit and return on capital invested.

176. The information regarding profitability is given below: -



SN	Particulars	UOM	2019-20	2020-21	2021-22	POI
1	Profit/ (loss)	₹/MT	***	***	***	***
	Trend	Indexed	100	227	293	-125
2	Profit/ (loss)	₹ Lacs	***	***	***	***
	Trend	Indexed	100	220	296	-134
3	Cash Profit	₹ Lacs	***	***	***	***
	Trend	Indexed	100	192	254	-102
4	Profit before Interest and Tax (PBIT)	₹ Lacs	***	***	***	***
	Trend	Indexed	100	253	253	-84
5	Return on Capital Employed (ROCE)	%	***	***	***	***
	Trend	Indexed	100	258	217	-77

177. It is seen that:

- a. The profitability of the domestic industry improved till 2021-22 but has declined thereafter. The domestic industry has suffered financial losses in the period of investigation.
- b. The domestic industry has also suffered cash losses and negative return on capital employed.

v. Employment, wages and productivity.

178. The information regarding employment, wages and productivity is given below: -

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	No. of employees	Nos.	***	***	***	***
	Trend	Indexed	100	96	102	105
2	Salaries & Wages	₹ Lacs	***	***	***	***
	Trend	Indexed	100	87	84	94
3	Productivity per day	MT/Days	***	***	***	***
	Trend	Indexed	100	91	99	105
4	Productivity per employee	MT/Nos	***	***	***	***
	Trend	Indexed	100	95	97	100

179. It is seen that the number of employees has increased steadily over the injury period. The wages paid declined in 2020-21 and 2021-22 but increased thereafter. The productivity has moved in line with the production. The domestic industry has stated that third plant will come up if the performance of the product is reasonable enough to justify return.

vi. Growth.

180. The information regarding growth is given below: -

SN	Particulars	UOM	2020-21	2021-22	POI
1	Production	%	(***)	***	***
2	Sales	%	(***)	***	***
3	Profit/(Loss) per unit	%	***	***	(***)
4	Inventory	%	(***)	(***)	***
5	Market Share	%	***	(***)	(***)
6	Profit Before Tax	%	***	***	(***)
7	Cash Profit	%	***	***	(***)
8	Profit Before Interest and Tax	%	***	***	(***)
9	Return on Investment (ROI)	%	***	(***)	(***)

181. It is seen that that volume parameters showed a negative growth in the 2020-21 when the demand declined. The price parameters showed a positive growth in 2020-21. The year 2021-22 has seen a positive growth in almost all the parameters except return on investment and inventory. The period of investigation has seen a negative growth in all the price parameters. The volume parameters have not shown a negative growth.

vii. Ability to raise capital investment.

182. The domestic industry is in losses and operating at negative returns at capital employed. Therefore, the Authority holds that dumping of the product under consideration in the Indian market has impacted the ability to raise capital investment of the domestic industry.

viii. Margin of dumping.

183. The margin of dumping may be an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The dumping margin is positive for all countries,

ix. Factors affecting prices of the domestic industry.

184. It is seen that barring the domestic industry, there is one other producer of the product in India which has supported the application. The capacity of the other producer is quite low considering the demand in the country. Therefore, the other producer cannot be a factor which has affected the prices of the domestic industry.

185. It is also seen that the landed prices are below the cost and selling price of the domestic industry. The landed price imports are depressing the prices of the domestic industry as a result of which the domestic industry has suffered financial losses.

## H. NON-ATTRIBUTION ANALYSIS.

186. As per the Rules, the Authority, *inter-alia*, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. The factors which may be relevant in this respect include, *inter-alia*, the volume and prices of the imports not sold at dumped prices, contraction in the demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury.

### a. Volume and price of imports from third countries.

187. In addition to the subject countries, imports above *de-minimis* limits are from European Union and Japan.

a. It is seen that the imports from Japan have declined in the period of investigation. Furthermore, the import price from Japan is higher than the import price from the subject countries and the selling price of the domestic industry. Therefore, imports from Japan could not have been a cause of injury suffered by the domestic industry.

b. It is seen that the imports from European Union have not shown any particular trend over the injury period. When the imports from the subject countries declined in the year 2020-21, the imports from European Union increased. While the imports from European Union have increased in the period of investigation, they are lower as compared to their level in 2019-20 and 2020-21. Further, it is also seen that the import price from European Union is relatively higher as compared to the import price. Therefore, imports from European Union could not have been a cause of injury suffered by the domestic industry.

### b. Contraction in the demand

188. There has been a constant rise in the demand of the product concerned throughout the injury period. Therefore, decline in the demand is not a possible reason of injury to the domestic industry.

### c. Pattern of consumption

189. No significant change in the pattern of consumption has come to the knowledge of the Authority, nor any interested party has made any submission in this regard.

### d. Conditions of competition

190. There appears to be no such conditions of competition or trade restrictive practices that can be a cause of the claimed injury to the domestic industry.

e. Developments in technology

191. There appears to be no developments in technology, which could have caused injury to the domestic industry.

f. Export performance of the domestic industry

192. The price and profitability in the domestic and export market has been segregated by the Authority for the purpose of present injury assessment. Therefore, the analysis on injury is not misrepresentative due to possible inclusion of export performance.

193. It is seen that there are no other factors which could have caused material injury to the domestic industry.

**I. MAGNITUDE OF INJURY MARGIN.**

194. The Authority has determined the non-injurious price for the applicants on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price has been determined by adopting the information/data relating to the cost of production provided by the applicants. The non-injurious price has been compared with the landed price of the product under consideration from the subject countries for calculating injury margin. For determining the non-injurious price, the best utilization of the raw materials, utilities and production capacity over the injury period including POI has been considered. Extraordinary or non-recurring expenses and/or assets have been excluded from the cost of production and/or NIP. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) deployed for the product under consideration has been allowed for recovery of interest, corporate tax and profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules.

<b>SN</b>	<b>Particular</b>	<b>NIP</b>	<b>Landed price</b>	<b>Injury margin</b>	<b>Injury margin</b>	<b>Injury margin</b>
		<b>USD/MT</b>	<b>USD/MT</b>	<b>USD/MT</b>	<b>%</b>	<b>Range</b>
1	<b>China PR</b>					
a	Formosa Industries (Ningbo) Co., Ltd	***	***	***	***	50-60
b	Shenyang Chemical Co. Ltd.	***	***	***	***	10-20
c	Any other	***	***	***	***	60-70

2	<b>Korea RP</b>					
a	M/S Hanwha Solutions Corporation	***	***	***	***	30-40
b	Any other	***	***	***	***	40-50
3	<b>Malaysia</b>					
a	Any other	***	***	***	***	40-50
4	<b>Taiwan</b>					
a	Formosa Plastics Corporation	***	***	***	***	40-50
b	Any other	***	***	***	***	40-50
5	<b>Thailand</b>					
a	TPC Paste Resin Co., Ltd	***	***	***	***	20-30
b	Any other	***	***	***	***	30-40
6	<b>Norway</b>					
a	All	***	***	***	***	40-50

## **J. ISSUES OF THE INDIAN INDUSTRY**

### **J.1 Submissions made on behalf of the opposing interested parties.**

195. The opposing interested parties have submitted as follows on the issue of Indian industry.
- a. There is a huge demand supply gap, and the users are forced to import the product.
  - b. Anti-dumping duty were imposed on the product in the past as well and the protection by way of such measures were not utilized by the domestic industry to expand their capacity even by this time.
  - c. It is the inability of the domestic industry to supply all the required grades in required quantity that forces the users to import.
  - d. Several thousand end users in India are mostly in MSME category and the imposition of anti-dumping duty will adversely impact them.
  - e. Government of India is in the process of implementing mandatory standard certification requirement on PVC Paste Resin which will create a non-tariff barrier. Anti-dumping duty should be imposed keeping in mind the BIS standard proposed.
  - f. The imposition of anti-dumping duty and BIS will give monopoly to the applicant.
  - g. Impact calculations of the domestic industry are based on flawed suppositions. The domestic industry assumed the average price of a pair of footwear to be INR 1,000, which is significantly higher than average.
  - h. Slippers and shoes are available for doorstep delivery on prominent online retail platforms starting from INR 51 and INR 200 respectively. An anti-dumping duty of 20% will increase the cost of production of footwear by 5-10%.

- i. The goods supplied by the domestic industry are of inferior quality, as evidenced by their near-zero exports. The domestic industry is unable to export to other markets as international customers are not willing to buy their product.
- j. The applicant has never expanded its capacity despite so many years of protection.
- k. While preliminary findings take into consideration footwear price of Rs 1000, these are available at price of Rs 51.
- l. The preliminary findings have referenced the price of Rs. 75,000 for a sofa set, which is beyond the affordability of the average Indian citizen.
- m. This estimation considered for impact calculation does not reflect the economic realities of a nation where the majority of citizens cannot afford such high-priced items.
- n. The applicant cannot provide the quality of the product required by the downstream industry.
- o. The view taken by the Authority in the preliminary finding that the user industry is a pass-through industry is not correct.

## **J.2 Submissions made on behalf of the domestic industry.**

196. The domestic industry has submitted as follows on the issue of Indian industry.
- a. The domestic industry has undertaken capacity addition of 43,000 MT at a cost of Rs 350 Crore and is further undertaking capacity expansion of 35,000 MT. This will significantly bridge the demand and supply gap.
  - b. The impact of 20% increase in the price of PVC Paste on end products will be insignificant. The impact in case of top segment car, footwear and sofa set will be 0.03%, 0.15% and 0.15% only.
  - c. Synthetic leather is used only in high segment cars and not in case of low segment cars. Similarly, a consumer with a smaller pocket to spend on sofa will either buy a sofa with an average quality of synthetic leather wherein the share of the product under consideration is low or buy a sofa made out of fabric material only. Therefore, the impact of anti-dumping duty will not be felt by people with low paying capacity.
  - d. The domestic industry has never taken the complete benefit of anti-dumping duties. Considering the duties in force in the past, the landed price including anti-dumping duty was higher than the selling price of the Indian industry.
  - e. Duties have been imposed on the product in the past. Such imposition did not have any adverse impact at the time. Further, even the expiry of the duties failed to have a positive effect. The demand for the product has grown consistently even when the duties were in force.
  - f. The competitiveness of the downstream industries is unlikely to be impacted as exports of downstream products have remained consistent from the period when duties were in force to when duties expired.

- g. Profits of the downstream industry move independently of the price of PVC paste. The profits earned from sales of artificial leather increased even when the price of PVC paste increased.
- h. The downstream industry is a pass-through industry.
- i. For artificial leather fabrics, the share of the product under consideration in the total cost is only 22%.
- j. The CIF import price from the subject countries was Rs 1,33,427 per MT in 2021-22. Even after considering the anti-dumping measures, the landed price of imports will not increase to that level.
- k. The product supplied by the domestic industry has a lower lead time as compared to the imported product. In fact, the average sea freight time from the subject countries ranges from 10 to 22 days.
- l. The duty will not lead to a supply shortage as the domestic industry is undertaking capacity additions and the product under consideration is also imported from non-the subject countries at non-dumped prices.
- m. The domestic industry has \*\*\* MT plant of ethylene di-chloride and the entire production is consumed in the product. If the plant of the product under consideration is shutdown or production is suspended, it will adversely affect the ethylene di chloride plant as well.
- n. Imposition of duty will create a level playing field and allow the domestic industry to compete in the market on fair terms and salvage their sharply deteriorating financial standing.
- o. The purpose of anti-dumping duties is also recognized by the Hon'ble Supreme Court in Reliance Industries Ltd. v. The Designated Authority [2006 (202) E.L.T. 23 (S.C.)] wherein it was highlighted the role played by the anti-dumping law help in helping achieve India's national aim of creating a modern, highly industrialized, powerful state.
- p. The applicant has been consistently expanding capacities in view of growing demand in the country. From 2008-09, the capacity has increased from 34KT to 109 KT.
- q. 12 users registered as interested parties in the present investigation but only the following 5 users have filed response. No response has been filed by the 7 producers. This is despite 2 of these entities being listed entities.
- r. 5 users have filed economic interest questionnaire. However, none of the users have provided quantified impact of anti-dumping duty.

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

197. The Authority underscores that the primary objective of anti-dumping duties is to rectify the injury inflicted upon the domestic industry by the unjust trade practices of dumping, thereby fostering an environment of open and equitable competition in the Indian market. The recommendation, if any, of anti-dumping measures is not designed to curtail imports from the

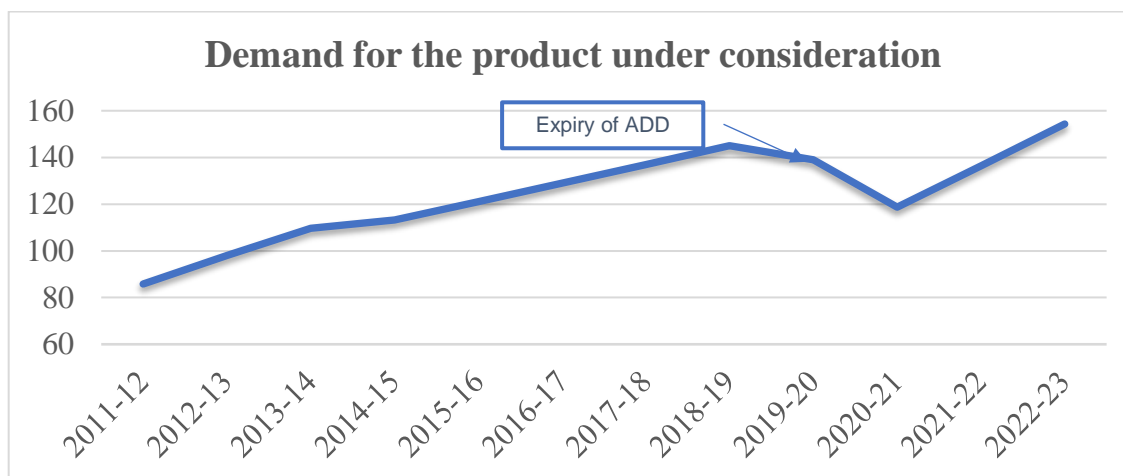
subject countries arbitrarily. Rather, it is based on a detailed analysis regarding dumping, injury and the causal link between the two and is a mechanism to ensure a level playing field. It is crucial to note that the essence of fair competition in the Indian market will remain unscathed by the presence of such measures. Far from diminishing competition, the anti-dumping measures serve to prevent the accrual of unfair advantages through dumping practices. It safeguards the consumers' access to a broad selection of the product under consideration. Thus, anti-dumping duties are not a hindrance but a facilitator of fair-trade practices.

198. The Authority issued initiation notification inviting views from all the interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/ consumers to provide relevant information about the present investigation including any possible effects of anti-dumping duty on their operations. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to the present investigations, including effect of an antidumping duty on their operations. The Authority sought information on interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of anti-dumping duty on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of anti-dumping duty.
199. The following users registered themselves as an interested party in the present investigation.

<b>SN</b>	<b>User/importer of the product under consideration in India</b>
1	AC Polycoaters Private Limited
2	Aritas Vinyl Private Limited
3	Arora Vinyl Private Limited
4	AV Unicoaters Private Limited
5	Beeta Poly Coats Private Limited
6	Delite Collections Private Limited
7	Jasch Industries Limited
8	Klassik Lamitex Private Limited
9	Marvel Vinyls Limited
10	Mayur Uniquoters Limited
11	Polynova Industries Limited
12	Premier Poly film Limited
13	Prerna Rex Private Limited
14	RMG Polyvinyl India Limited
15	Shiv Polymers



200. The Authority has examined the submissions made by all the interested parties.
201. The user industry has contended that the anti-dumping measures will have an adverse impact on them. However, the user industry has not provided any impact of anti-dumping duty on their operations and have also not established that they will not be able to pass on the impact on the cost on to the downstream industry.
202. The Authority notes that though in the event of imposition of anti-dumping duties the price level of product in India may be affected but fair competition in the Indian market will not be reduced by such anti-dumping measures. On the contrary, the anti-dumping measures may mitigate the unfair advantage gained by dumping practices, which would arrest the decline of the domestic industry both material injury and would help maintain availability of wider choice to the consumers of subject goods.
203. As regards the submission on huge the demand and supply gap, the Authority notes that the domestic industry has already undertaken capacity expansion of 43,000 MT at a cost of Rs 350 Crore. The domestic industry has additionally submitted that they have plans to further expand capacity by 35,000 MT but currently the same has been deferred on account of dumping. The domestic industry is currently catering to around \*\*\*% of the demand for the product in India. With the expansion already undertaken, it will be able to cater more than \*\*\*% the demand in the country. It is also seen that there is another producer catering to the demand in India and imports happening from various other sources as well.
204. The Authority also notes that the demand-supply gap in the country does not bar the domestic industry from seeking redressal from dumped imports, nor it justify exports at dumping prices. As held by the CESTAT in the matter of DSM Idemitsu Limited vs. Designated Authority, the demand-supply gap does not justify dumping. The foreign producers can always meet the Indian the demand by selling the product at un-dumped prices. Even after the imposition of anti-dumping duty, the imports are not restricted in the country.
205. It is also seen that the imports of the product under consideration in the past were attracting anti-dumping duty. Based on the information on record, it is seen that despite there being anti-dumping duty, the demand for the product had continued to increase. While the demand decline in 2020-21, it was due to the Covid outbreak.



Source – EIQ filed by the domestic industry.

206. The domestic industry has provided the impact of anti-dumping duty on the eventual end product. The domestic industry has provided the following impact.

SN	Final downstream good	Car (Top model in mid segment car)	Footwear	Sofa set
1	Cost of end product	11,00,000	1,000	75,000
2	Share of leather cloth in total cost	0.68%	3.50%	3.33%
3	Share of PVC paste in total cost	0.15%	0.77%	0.73%
4	Impact of 20% anti-dumping duties	0.03%	0.15%	0.15%

Source – EIQ filed by the domestic industry.

207. The user industry has submitted that prices considered by the Authority are very high. The user industry submitted that ‘a quick search on online retailer amazon.in shows that footwears in the form of slippers are available for door delivery for a price starting Rs 51 onwards and footwears in the form of shoes are available for door delivery for a price starting Rs 200 onwards inclusive of taxes’ but the Authority considered Rs 1000 as the price. The Authority, in this regard notes that the users have failed to mention about the material of such Rs 51 slippers. The same search would show that slippers at such prices are not made from PVC paste but from rubber. Therefore, the aforementioned submission is misleading. The user industry has not provided any impact of anti-dumping duty on their operations.

208. The Authority notes that 5 users filed questionnaire response. It is seen that the share of the product under consideration forms 20-30% share in the cost of sales of the other interested parties. The anti-dumping duties recommended in the preliminary finding ranged from as low as 41\$/MT in case of Korea RP to as high as 600 \$/MT. Even if 20% anti-dumping duty is considered, the impact in the cost will be around 4-5%. The user industry has not established that it cannot pass on the increase in the cost of product. Further, it has also not been shown how past duties impacted them.

209. The domestic industry has additionally claimed that the price of the product was higher in past, and the prices have declined only in the recent period. Even if anti-dumping duty of 20% is considered, the price including anti-dumping duty will be lower than the price in the past. Therefore, when the past high prices did not have any adverse impact on the users, the measures will also not have any adverse impact.

## **K. POST DISCLOSURE COMMENTS**

### **K.1 Post disclosure submissions made on behalf of the opposing interested parties.**

210. The following comments have been filed on the disclosure statement by the other interested parties: -

- a. There is difference in the data for import volumes, landed price and demand as recorded in the preliminary finding and the disclosure statement.
- b. Customer Category Price Adjustment and Lot Size Adjustment have not been allowed in the normal value calculation for Thai Polyethylene Co. Ltd. and TPC Paste Resin Co. Ltd.
- c. The decline in landed prices during the investigation period is significantly influenced by a normalization of freight costs in 2022-23. Movement of the product under consideration prices will not mirror ethylene prices exactly, as other factors, also significantly influence the final landed price.
- d. QCO will effectively restrict imports of PVC Paste Resin from all countries including China PR. Since these measures are likely to restrict the imports of subject goods in near future, there is no requirement of additional barrier to trade in form of anti-dumping duty on the very same subject goods.
- e. Request have been made by the parties for physical verification of technical capacities/capabilities of the applicant to produce specialty grade PVC paste resin at their premises by the Authority but no details in this regard is provided in the disclosure.
- f. The Authority has noted that the applicant manufactures seven of them, with the eighth grade not being produced due to lack of demand. If the applicant has the capability to manufacture all 8 grades as per BIS, then it should have obtained BIS for all the 8 grades.
- g. The Authority has observed that there are minor import quantities of INOVYN PVC P1510 and INOVYN PVC P16, and that there are no material price differences of various grades of E-PVC imported over the period of investigation. Price difference between products is not the sole basis to assess whether the product under consideration and domestically produced grades are like articles.
- h. Inovyn requests that “TM” may be added to the word Biovyn in the final findings.

- i. Cost of production for Formosa Plastics Corporation requires a revisit as several adjustments have been disallowed. It has been stated that chlorine, a by-product in caustic soda production, incurs negligible or negative costs globally, as confirmed by SCI99 and CMA data. Failure to consider this adjustment has led to inflation of dumping margins unfairly.
- j. FPC Taiwan has stated that the Authority has considered packing cost in calculation of cost of production for undertaking 80:20 test. This has resulted in the comparing the unpacked domestic sales with cost of packed product distorting the cost and price comparisons.
- k. 22% return on capital employed should not be allowed. Consistent practice of 22% continues to ignore the evolving economic realities that impact the profitability and sustainability of the domestic industry.
- l. Taiwan should be considered as a surrogate country for determining the normal value for China PR. FPC Ningbo and FPC Taiwan are comparable with each other in terms of raw material policies, quality control standards, maintenance of accounts etc.
- m. FPC Ningbo should be granted market economy status as all the conditions required for granting non-market economy treatment are fulfilled.
- n. As per Section 9 A, the Authority is required to determine dumping margin based on the records and information provided by the producer or exporter, provided such records are maintained and made available.
- o. If the producer or exporter fails to supply the requested records or information, only then can the Authority rely on the “facts available” approach.
- p. The Authority can only reject information submitted by a producer or exporter regarding normal value and export price if the records are either inconsistent with GAAP or fail to reasonably reflect the costs associated with the production and sale of the product under consideration.
- q. Only 4000 to 5000 MT is imported by Korean users. Hence, Hanwha is not in any pressure to sell more goods in Korean market, when more than 85% of the Korean demand is met by Hanwha itself.
- r. The imported product in Korea RP is of much higher price because this type of product cannot be supplied by Hanwha. The speciality nature, inclusion of ocean freight and other custom clearance expenses in comparison with the Hanwha’s domestic price.
- s. Rising demand for PVC Paste Resin—from 139 KT to 163 KT in FY 2022-23—cannot be met by domestic producers. Planned expansions remain unfulfilled, necessitating imports. Imports are essential for supporting downstream MSMEs and industries. Failure of the applicant to expand capacity undermines claims of injury and confirms the critical role of imports in meeting demand
- t. The disclosure statement is silent on the specific aspects which were verified during the on-the-spot verification.

- u. The BIS were taken after the period of investigation, a post-POI development, and cannot be considered for concluding whether the applicant had the requisite capacity to manufacture these grades during the period of investigation.
- v. The users are only importing the speciality grades which are not produced by the applicant. These grades are imported at a higher price and are not like article to the imported product.
- w. The Authority has noted in the disclosure statement that user industry has not provided any information on account of cost difference on account of viscosity, gelation, air release, etc. The user industry does not have access to specific pricing data. The Authority should have demanded this from the participating producers.
- x. The observation that the applicant has produced and supplied product with K value more than 75 is erroneous. The user industry is unaware about any such sale made by the applicant.
- y. On the reference to the sunset review investigation where it was found that applicant's product had specialised properties, each anti-dumping investigation pertains to a distinct period of investigation and thus, the findings from an earlier investigation are not directly applicable to the present investigation due to differing timeframes and evolving market dynamics.
- z. Authority must disclose applicant's data on grade-wise sales, along with invoices, demonstrating the supply of low-fogging grades for automotive applications during the period of investigation.
- aa. The IS 17658: 2021 standard should serve as the guiding criterion for determining the product characteristics of the product under consideration. The IS 17658: 2021 supersedes the previous finding of the Authority and the IIT Delhi report.
- bb. Authority has not considered the comments of user on the confidentiality claimed by the applicant on the profitability figures. The annual report of the users reflect huge profits whereas the applicant is claiming losses. Detailed segment-wise profit must be examined data to ensure a transparent and accurate injury analysis.
- cc. Duties are projected to escalate raw material costs by 4–5%, reducing competitiveness, increasing downstream imports, and risking job losses in MSMEs. Anti-dumping duties will create monopolistic practice which will favour domestic producers, undermining economic stability and employment.

## **K.2 Post disclosure submissions made on behalf of the applicant.**

211. The following comments have been filed on the disclosure statement by the applicant: -
- a. Merely because a certain grade has not been imported during the period of investigation is not reason enough for that grade to be excluded from the product scope. Duties have been imposed in the past on grades that have not been imported in the period of investigation.

- b. The very fact that the producer has participated in these proceedings and has sought *ex ante* exclusion of the grade indicates that they intend to export the product to India in the future.
- c. In international markets, especially for commodity products, prices may change at any time. Therefore, without the guarantee of a price benchmark, any price differential between Biovyn and the grades manufactured by the applicant is like a line drawn in water.
- d. The request for a price benchmark must be considered on balance of probabilities. There is a clear possibility that Biovyn may cause injury to the applicant in the future.
- e. Hanwha has a related user of the product under consideration \*\*\* which buys the product under consideration from the producer. Hanwha has concealed such a significant information in its questionnaire response shows the *mala fide* intentions of the producer.
- f. Hanwha has suppressed information that its related exporter - Hanwha Chemical Corporation has also exported the product under consideration. \*\*\* and \*\*\* have also exported the product under consideration.
- g. The Authority is requested to disclose (a) the volume of exports exported by suppliers other than Hanwha Solutions Corporation and (b) their treatment in the export price calculation for Hanwha Solutions Corporation.
- h. Since Hanwha Solutions Corporation is the only supplier of the product from Korea RP, it implies that the exported product is produced by Hanwha Solutions Corporation and hence the aforementioned exports by other suppliers are nothing but exports of Hanwha Solutions Corporation.
- i. Since the producer has concealed the information with regard to the exports made by the related entity, adverse facts are required to be applied on the transactions exported through the related entity.
- j. The applicant requested examination of the normal value reported by Hanwha Solution Corporation. This was necessary to examine whether the value of Ethylene and VCM reported by the producer reasonably and appropriately reflects market values. The disclosure statement issued by the Authority is completely silent in this aspect.
- k. Hanwha Solutions Corporation and Formosa Plastics Corporation have claimed packing cost as adjustment in even domestic selling price. The packing in both the markets is very different. For the domestic market, there is only one packing. However, in the export market, there are two forms of packing. Only the secondary packing of pallets was required to be adjusted in the calculation of net export price.
- l. The applicant had requested the Authority to direct exporters to demonstrate how their products are packed in the domestic market and the export market. The disclosure statement issued is silent on this aspect.
- m. Hanwha Solutions Corporation has a related entity in India which is acting as an agency for the producer and was required to file a response.

- n. As per articles of association of the company the Indian entity has listed agency service as one of its key operations. The Indian entity performs the functions such as identifying agents, facilitate sales, taking offers, provision of sales support, provision of logistical services in respect of some of the customers.
- o. In the anti-dumping investigation concerning imports of CPVC from China and Korea, Hanwha had filed response along with its related entity in India. When the producer had shown the Indian entity as a related entity performing marketing operations in that investigation, there is no reason for the Authority to not consider that the entity performs the same function in the present case.
- p. The Indian entity has reported significant amount as receipt against services from its parent company Hanwha Solutions Corporation. The related entity was required to file a response, and the adjustments were required to be made for these selling expenses and reasonable profits for Hanwha Solutions Corporation.
- q. The exporter has misled the Authority in the questionnaire response by suppressing material facts. If the exporter can suppress such vital facts about the Indian market, it is quite possible that the suppressions are far more in respect of information pertaining to the Korean entity.
- r. The requirement for related entity to file a response has been made clear in the Manual of Operating Practice for Trade Remedy Investigations.
- s. Complete responses in respect of related entities involved in the sales process are required for accurately determining the cost of sales. If these entities are involved in the sales process, then the costs incurred by them forms a part of the cost of sales/constructed export price and must be accounted for accordingly.
- t. Related parties were required to file response in (a) Pre-sensitized Positive Offset Printing Plates from Bulgaria, China, Malaysia, Singapore and South Korea and (b) Circular Weaving Machines.
- u. In the anti-dumping investigation concerning imports of Circular Weaving Machines, the adjustment was carried out despite the fact that the company was not engaged in direct sales activities.
- v. In the anti-dumping investigation concerning imports of Non-Woven Fabric from Malaysia, Indonesia, Thailand, Saudi Arabia and China, the Authority had rejected the response filed by one of the producers for, inter alia, failure to disclose existence of marketing office in India.
- w. Related trader and importers are required to file response if they are directly or indirectly involved in exports of product under consideration to India. In the absence of information, the Authority is required to apply adverse facts.
- x. Hanwha Chemical India Pvt. Ltd. performs its agency business only for Hanwha Solutions Corporation. The entire revenue of Hanwha Chemical India Pvt. Ltd. is receipts from Hanwha Solutions Corporation. The expenses incurred by Hanwha Chemical India Pvt. Ltd. charged from Hanwha Solutions Corporation should be

allocated on the product under consideration considering the total exports made by Hanwha Solutions Corporation.

- y. Adjustments should also be made for the profits earned by Hanwha Solutions Corporation.
- z. It is also the practice of other investigating authorities to require related parties involved in the sales process to furnish all information, including expenses incurred towards sales.
- aa. The USDOC asks information for all related parties from the country of export, country of import (US) and even third countries are required to file complete information if they are involved in the sales process. Similarly, in case of European Union, the information is required to be provided in respect of each step in the sales negotiation process, from the first point of contact with the customer up to and including any after-sale price adjustments.
- bb. It has been stated in the undertaking given by Kaneka that the undertaking shall take effect 3 months from the date of acceptance by the Authority. The three month timeline mentioned by Kaneka has no legal basis. It may be notified that that the undertaking shall take effect from the date the recommendations are accepted by the Ministry of Finance.

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

212. The Authority has examined the post-disclosure submissions made by the interested parties. It is observed that the majority of these submissions are reiterations of arguments and contentions that have already been examined and addressed to the extent deemed necessary in the relevant paragraphs of these final findings. For the sake of brevity, the Authority has refrained itself from repeating the responses to such issues in this post-disclosure examination. However, any new issues raised for the first time in the post-disclosure submissions, as well as those previously addressed but deemed by the Authority to require further examination, are examined and addressed hereunder.

213. The Authority has carefully considered the comments filed by various interested parties regarding the product control number (PCN) methodology, the scope of the product under consideration (PUC), and the role of Bureau of Indian Standards (BIS) standards, including assertions relating to the Quality Control Order (QCO), Chemplast's production capabilities, and specialty grades of PVC Paste Resin. The Authority observes the following for these submissions:

#### **On the alleged conflation of BIS Standards with PCN methodology:**

214. The Authority reiterates its pre-disclosure position that the objectives of the PCN methodology and BIS standards are distinct and serve different purposes. The BIS standards,



as stipulated under IS 17658:2021, prescribe technical specifications and quality parameters for PVC Paste Resin. These standards are intended to regulate product quality in the domestic market and ensure compliance for consumer safety and technical use. In contrast, the PCN methodology is a tool adopted in trade remedial investigations to enable fair comparison of prices and costs across different grades of the product under consideration. By adopting PCNs, the Authority ensures a like-to-like comparison between the imported subject goods and the domestic like product, which is critical for determining the dumping margin and injury margin.

215. The fact that products are categorized into eight grades under BIS standards does not automatically necessitate their exclusion from the PUC. The existence of different grades does not alter the fundamental nature of PVC Paste Resin as a single product. The PCN methodology adopted by the Authority ensures a fair comparison across grades, and the scope of the PUC remains appropriately defined to include all grades of PVC Paste Resin that share essential physical and chemical characteristics. The PCN methodology adequately accounts for variations in cost and price, thereby addressing the concerns of fair comparison raised by interested parties. Thus, the reliance on BIS categorization to argue for exclusion of grades is misplaced and irrelevant to the present investigation.

**On QCO implementation and its implications for anti-dumping duties:**

216. The arguments advanced by interested parties regarding the impending Quality Control Order (QCO), effective December 24, 2024, are premature and lack merit. While it is correct that the QCO mandates BIS compliance for all producers, including foreign exporters, the implementation of QCO and its impact on imports are beyond the scope of the present anti-dumping investigation. Trade remedial measures, including anti-dumping duties, are imposed to address unfair trade practices and to remedy injury caused to the domestic industry. The imposition of a QCO does not automatically eliminate the need for anti-dumping duties, as QCO compliance does not address issues of dumping, price undercutting, or injury to the domestic industry.
217. Moreover, QCO compliance is a future regulatory requirement and its implementation cannot form the basis for precluding trade remedial measures under the current investigation. The Authority cannot pre-emptively assume that the dumped imports will cease upon the QCO coming into effect, nor can it disregard evidence of injury caused during the period of investigation. The possibility of future compliance by foreign producers cannot be a basis to deny relief to the domestic industry suffering present injury. Therefore, the assertion that QCO implementation would render anti-dumping duties unnecessary is unfounded.

**On the exclusion of certain grades including speciality grades and production capabilities of domestic industry:**

218. The Authority notes the submissions by interested parties seeking exclusion of grades having K value of more than 75, INOVYN PVC P1510, INOVYN PVC P16 as well as specialty grades of PVC Paste Resin and the contentions regarding production capabilities of the domestic industry. In this regard, the Authority observes the following :
- a) The applicant has provided a list of grades supplied by it that are comparable to the imported products. The fact that the applicant's product is BIS approved further establishes the likeness between the its products and the product imported from subject countries.
  - b) It has been stated that the users are importing only speciality grades which are at high prices. The Authority has examined the transaction wise import data to see the price trend of various grades over the period of investigation. It is seen that there is no material difference in the price of various grades over the period of investigation. If the contention of the other interested parties is to be accepted, the import price would have shown variation between different grades.
  - c) The users have also stated that they primarily import product of K value more than 75 from the subject countries and the same is not supplied by the applicant. The Authority notes that the applicant has sold significant quantities \*\*\* MT of its grades PVC Resin – 121 and PVC Resin – 128 which have K value more than 75 and are BIS approved as well.
  - d) Secondly regarding the specialty grades cited by few interested parties, the Authority notes that these grades have not been demonstrated to constitute a distinct product segment requiring exclusion. The arguments presented lack sufficient evidence to prove that these specialty grades are so unique in nature and use that they fall outside the broader scope of PVC Paste Resin or merit exclusion from the scope of PUC. Hence, the Authority, in the instant investigation, finds no legal or technical basis for narrowing the scope of the PUC.

**On the use of the IIT Delhi report:**

219. The Authority acknowledges the submissions regarding the alleged obsolescence of the 2013 IIT Delhi Report. However, it is important to note that the IIT Delhi report is one piece of evidence among many considered during the investigation. The introduction of BIS standards in 2021 does not invalidate the relevance of earlier technical studies. The Authority's

determination is based on a holistic evaluation of all evidence. The arguments to disregard the IIT Delhi report are therefore without merit.

220. The Authority has carefully considered the post-disclosure comments raised by the domestic industry against Hanwha Solutions Corporation (HSC) and has the following observations and findings based on the facts, records, and submissions made during the investigation process:

**On the allegation of concealment of (i) relationship with domestic user \*\*\*, (ii) export volumes by other suppliers and (iii) and non-disclosure of such export volumes and their treatment in export price calculations for Hanwha**

221. The Authority has examined the above allegations and notes as under:
- a) The domestic industry has not provided any credible evidence to demonstrate a relationship between \*\*\* and HSC or to substantiate the claim of "*mala fide* intent." Therefore, the Authority finds no merit in the allegation.
  - b) For the allegations of exports done through few more entities and concealment of the same, the Authority, based on the data/information submitted by HSC, notes that HSC has directly exported the subject goods during the period of investigation.
  - c) Export price calculations are based solely on verified data provided by HSC and supported by corresponding documents. Therefore, the request for disclosing confidential export volume data cannot be entertained.

**On the alleged concealment of exports made through Hanwha Chemical Corporation Hanwha Corporation**

222. The domestic industry alleges that Hanwha Chemical Corporation exported the product under consideration, and that HSC suppressed this information. The Authority finds as follows:
- a) Hanwha Solutions Corporation was formerly known as Hanwha Chemical Corporation, as evidenced by Gazette Notification No. 3/2021-Customs (ADD) dated 28.01.2021. The change in corporate nomenclature does not constitute suppression or concealment.
  - b) Regarding the exports allegedly made through Hanwha Corporation, HSC has placed on record relevant export documents which clearly demonstrate that all exports during the period of investigation were made directly by HSC and not by any other related or unrelated entity.

### **On the allegation of applying adverse facts due to concealment by related entity:**

223. The domestic industry has urged the Authority to apply adverse facts to transactions made through HSC's related entities. The Authority observes the following in this regard:
- a) As established above, there is no evidence to suggest that exports were routed through any undisclosed related entity.
  - b) Section 9A(6A) of the Customs Tariff Act, 1975, mandates application of adverse facts only when an exporter fails to provide the required records or information. In the present case, HSC has cooperated fully, and its submissions have been verified by the Authority.
  - c) Therefore, the demand for applying adverse facts to HSC's transactions is unjustified and does not hold merit.

### **On examination of normal value and inputs like Ethylene and VCM**

224. The domestic industry contends that the normal value reported by HSC should be examined to verify whether the values of key inputs, such as Ethylene and Vinyl Chloride Monomer (VCM), reasonably reflect market values. The Authority notes:
- a) HSC has provided a detailed breakdown of its production cost, including the costs of key raw materials like Ethylene and VCM. These costs have been examined and verified by the Authority during the verification process.
  - b) The domestic industry has not provided any evidence to demonstrate that the reported input values are inconsistent with prevailing market conditions.
  - c) In the absence of any contrary evidence, the Authority finds no basis to reject the reported normal value or input costs filed by HSC.

### **On adjustments to packing costs for domestic and export markets**

225. The domestic industry argues that secondary pallet packing costs in export markets should be adjusted to ensure a fair comparison. The Authority finds as follows:
- a) As regards the submission of the domestic industry that Hanwha incurs additional costs in exports compared to domestic sales, where simpler packing is used and therefore the Authority should adjust only secondary pallet packing costs in order to ensure fair comparison between domestic and export prices, it is noted that HSC has provided the evidences regarding the adjustments claimed in domestic sales (Appendix-4A) and Exports to India (Appendix-3A) with regard to packing cost. It is further noted that Rule 9A 6A of the Customs Tariff Act, 1975 states as under:

*9A Where any article is exported by an exporter or producer from any country or territory (hereinafter in this section referred to as the exporting country or*

*territory) to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an anti -dumping duty not exceeding the margin of dumping in relation to such article.*

*6A The margin of dumping in relation to an article, exported by an exporter or producer, under inquiry under sub-section (6) shall be determined on the basis of records concerning normal value and export price maintained, and information provided, by such exporter or producer: Provided that where an exporter or producer fails to provide such records or information, the margin of dumping for such exporter or producer shall be determined on the basis of facts available.*

(emphasis added)

- b) Therefore, Section 9A 6A is clear that unless and until the producer or exporter fails to provide any record or information, the Authority cannot arbitrarily apply the facts available. Additionally, the domestic industry has not provided any evidence to support its claim that HSC incurs different packaging costs for domestic and export sale. In the facts and circumstances of the current investigation, the contention of the domestic industry to adjust only secondary packaging cost in order to ensure fair comparison between domestic and export prices by HSC cannot be accepted.

#### **On adjustments related to India office of Hanwha:**

226. The Authority notes that Hanwha, in its questionnaire response, has duly informed about the Hanwha India office and hence the question of suppression of information does not arise. It has been further submitted that all the PUC exported to India during POI was directly sold and shipped by Hanwha to unrelated importers in India. Additionally, Hanwha Korea has already paid brokerage/agency commission on all such exports to India in Korea itself. The adjustment for the same has already been claimed in the response filed by Hanwha and verified by the Authority.
227. The Authority has carefully examined the issue of discrepancies raised by the interested party regarding data in the preliminary findings. In response, the Authority conducted a comprehensive review, addressing both the specific issues raised therein and any other potential anomalies to ensure data accuracy. The disclosure statement and these final findings reflects the updated data regarding import volumes, landed price and demand after due rectifications.

228. As regards MET treatment for FPC Ningbo, the Authority notes that the market economy treatment cannot be granted solely based on the factors claimed by the producer. Formosa Ningbo has not shown how the procurement of land, financing, capital goods, raw material and utilities are at market price and without any interference from the government.
229. As regard considering Taiwan as a surrogate country, the Authority notes that the issue has already been addressed in the disclosure statement. An appropriate market economy third country can only be selected keeping in view the level of development of the country and the product. No information has been provided to establish how Taiwan is an appropriate market economy country, particularly when Taiwan is also subject to investigation.
230. With regard to submission of interested parties for consideration of return of 22% for determination of non-injurious price is not appropriate. The Authority notes that the return of 22% on capital employed is applied in all cases as per the consistent practice of the Authority. While it has been stated that 22% return on capital employed is not appropriate, the other interested parties have failed to provide any other reasonable calculation methodology.
231. As regards the comments on demand and supply gap, the Authority notes that the purpose of anti-dumping duties is not to restrict imports but to ensure that the product is supplied at fair prices. Even after the imposition of anti-dumping duty, the imports are not restricted in the country. CESTAT in the matter of DSM Idemitsu Limited vs. Designated Authority, the demand-supply gap does not justify dumping. The foreign producers can always meet the Indian demand by selling the product at un-dumped prices.
232. The Authority notes that interested parties have made contradictory submissions. While it was earlier contended that the import price declined because of the decline in price of ethylene, it has now been stated that the PVC and ethylene prices will not mirror as there are other factors as well which influence the prices. While the interested parties have claimed the existence of other factors, no corroborative evidence has been brought forward. On the contrary, the Authority has found that the export price from the subject countries is significantly below the respective normal values showing that the decline in the import price is attributable to dumping.
233. As regards profits in the annual report, the applicant is a multi-product company which is engaged in the production of a number of products. The Authority has examined the complete cost of production of the applicant as per the records maintained. The Authority has satisfied itself that such records are in accordance with the generally accepted accounting principles and reasonably reflect the costs associated with the production and sale of the product under consideration.

234. The Authority notes the contention of the interested parties with regard to the increase in their cost of production due to anti-dumping duties. It is recognized that the imposition of anti-dumping duty might affect the prices in the domestic market. However, the anti-dumping measures will provide a level playing field and promote fair competition in the market. The import price of the product has declined significantly in the period of investigation and the landed price of imports after addition of anti-dumping duty will still be lower than the prices in 2021-22.

## **L. CONCLUSION**

235. Having regard to the contentions raised, information provided, and submissions made by the interested parties and facts available before the Authority, as recorded in the above findings, and on the basis of above analysis of the dumping, injury and causal link to the domestic industry, the Authority concludes as follows:

- a. The product under consideration for the present investigation is 'Poly Vinyl Chloride Paste Resin', also known as Emulsion PVC Resin. Product under consideration with a K value below 60K, PVC Blending Resin, Co-polymers of PVC Paste Resin, Battery separator resins, Biovyn™ produced by Inovyn are outside the scope of the product under consideration.
- b. The product supplied by the applicant is a like article to the imported product.
- c. Chemplast Sanmar Limited, constitutes 'the domestic industry' within the meaning of Rule 2(b) of the Rules and the application satisfies the criteria of standing in terms of Rule 5(3).
- d. Considering the normal value and export price for the product under consideration, the dumping margins for the product under consideration from the subject countries have been determined, and the margins are significantly positive.
- e. The dumping margin for Hanwha Solutions Corporation has been found to be *de-minimis*.
- f. The examination of the imports of the product under consideration shows that the volume of dumped imports from the subject countries have increased in the period of investigation. The imports have increased in both absolute terms and in relation to production and consumption.
- g. The import price is below the selling price of the domestic industry resulting in price undercutting.
- h. The import price has not moved in line with the cost of production which has prevented the domestic industry from increasing its prices in line with the increase in the cost of production.

- i. The domestic industry has not suffered injury on volume parameters. The production and sales of the domestic industry have improved. The injurious impact of the dumped imports is felt on the price parameters.
- j. The domestic industry is incurring financial losses, cash losses and a negative return on capital employed.
- k. The dumping of the product under consideration has adversely affected the expansion plans of the domestic industry.
- l. The Authority has examined the submissions made by other parties on any other factors which could have caused injury to the domestic industry. No other factor appears to have caused injury to the domestic industry. The Authority concludes that material injury suffered by the domestic industry has been caused by the dumped imports from the subject countries.
- m. Imposition of anti-dumping duty would not affect the availability of the product to the customers. The imports of the product under consideration will continue to happen at fair prices.
- n. The Authority has quantified the impact of anti-dumping duty on the users. It is seen that the impact of the recommended measures on the eventual end consumers will be insignificant.
- o. The product has been investigated in past and the demand for the product has grown consistently when the measures were in force. No information has been brought forward to show that the imposition of measures had an adverse impact on users.

#### **M. RECOMMENDATIONS**

236. The Authority notes that investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers, and other interested parties to provide positive information on the aspect of dumping, injury, causal link, and impact of recommended measures. Having initiated and conducted the investigation into dumping, injury, and causal link in terms of provisions laid down under the anti-dumping rules, the Authority is in view that imposition of anti-dumping duty is required to offset the dumping and injury. The Authority considers it necessary and recommends imposition of an anti-dumping duty on imports of subject goods from the subject countries.
237. Having regard to the lesser duty rules followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury so determined in these findings for the period under investigation, so as to remove the injurious effects of the dumped imports on the domestic industry. Accordingly, anti-dumping duty as indicated in Column 7 of the duty table given below, is recommended to be imposed on all imports of subject goods originating in or exported from the subject countries, for a period of five years from the date of issue of the notification of imposition of provisional duty



by the Central Government vide Notification No. 09/2024-Customs (ADD) dated 13th June 2024.

238. Kaneka Paste Polymer SDH BHD, Malaysia, has given a price undertaking to the Designated Authority and has agreed not to sell the product under consideration either directly or through intermediaries, to India at prices that have been accepted by the Authority. The Authority considered the price undertaking given by Kaneka. Further, comments were sought from the affected domestic industry. The domestic industry has accepted the price undertaking with certain reservations. The reservations expressed by the domestic industry were addressed by Kaneka. The Authority, therefore, has accepted the price undertaking offered by Kaneka. Accordingly, exports made by Kaneka shall be covered under undertaking and no anti-dumping duties are proposed to be imposed on exports made by Kaneka. The price undertaking shall take effect from the date on which the Central Government decides to implement the present final findings. The validity of the price undertaking would be co-terminus with the duration of the anti-dumping duties imposed by the Central Government and shall be subject to review as per the applicable provisions under the Rules. The said undertaking will not apply to (i) sales to importers holding advance licenses or (ii) sales to export-oriented units. The company shall provide relevant information to the Authority to establish that the said price undertaking is not being violated. Therefore, the imports of Kaneka Paste Polymer SDH BHD will not attract any anti-dumping duties. The Authority shall periodically review the exports made by the company and ascertain that the said price undertaking is being fully complied. Appropriate action, in accordance with the Rules, shall be taken in the event of any violation of the undertaking.

#### Duty Table

<b>SN</b>	<b>Sub Heading or Tariff Item</b>	<b>Description of Goods</b>	<b>Country of origin</b>	<b>Country of Export</b>	<b>Producer</b>	<b>Duty (\$/MT)</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
1	39041010, 39041020, 39041090, 39042100, 39042200, 39043010, 39043090, 39049000, 39044000 and 39049090##	'Poly Vinyl Chloride Paste Resin', also known as Emulsion PVC Resin#	China PR	Any country including China PR	Formosa Industries (Ningbo) Co., Ltd.	595
2	Do	do	China PR	Any country including China PR	Shenyang Chemical Co., Ltd.	248

3	Do	do	China PR	Any country including China PR	Any producer other than SN 1 and SN 2 mentioned above	707
4	Do	do	Any country other than China PR, Korea, Malaysia, Taiwan, Thailand and Norway	China PR	Any producer	707
5	Do	do	Korea RP	Any country including Korea RP	Hanwha Solutions Corporation	NIL
6	Do	do	Korea RP	Any country including Korea RP	Any producer other than SN 5 mentioned above	89
7	Do	do	Any country other than China PR, Korea, Malaysia, Taiwan, Thailand and Norway	Korea RP	Any producer	89
9	Do	do	Malaysia	Any country including Malaysia	Any producer	516
10	Do	do	Any country other than China PR, Korea, Malaysia, Taiwan, Thailand and Norway	Malaysia	Any producer	516

11	Do	Do	Taiwan	Any country including Taiwan	Formosa Plastics Corporation	247
12	Do	do	Taiwan	Any country including Taiwan	Any producer other than SN 11 mentioned above	373
13	do	do	Any country other than China PR, Korea, Malaysia, Taiwan, Thailand and Norway	Taiwan	Any producer	373
14	Do	do	Thailand	Any country including Thailand	TPC Paste Resin Co., Ltd.	343
15	Do	do	Thailand	Any country including Thailand	Any producer other than SN 14 mentioned above	421
16	Do	do	Any country other than China PR, Korea, Malaysia, Taiwan, Thailand and Norway	Thailand	Any producer	421
17	Do	do	Norway	Any country including Norway	Any producer	495
18	Do	do	Any country other than China PR, Korea, Malaysia, Taiwan,	Norway	Any producer	495

			Thailand and Norway			
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*#The following products are excluded from the scope of the product under consideration*

*a) PUC with a K-value below 60K*

*b) PVC Blending Resin*

*c) Co-polymers of PVC Paste Resin*

*d) Battery separator resins*

*e) Biovyn<sup>TM</sup> produced from renewable/bio feedstock and accompanied by an acceptable proof of sustainability*

*## The customs classification is indicative only and not binding on the scope of the product under consideration.*

239. Subject to the above, the preliminary findings recommended by the Authority vide notification no. 6/17/2023-DGTR dated 26th April, 2024 are hereby confirmed.

**N. FURTHER PROCEDURE**

240. An appeal against the determination of the Designated Authority that may arise out of these final findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.



**(Darpan Jain)**

**Designated Authority**