

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

**Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)**

Notification

Dated 19th June, 2014

Preliminary Findings

Subject: Anti-dumping investigation concerning imports of 'Purified Terephthalic Acid' (PTA), originating in or exported from China PR, European Union, Korea RP and Thailand.

No.14/7/2013-DGAD: - Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as the Rules) thereof;

1. Whereas M/s MCC PTA India Corp. Pvt. Ltd (MCPI), and M/s Reliance Industries Limited (RIL) (hereinafter also referred to as the applicants) have jointly filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and Rules, for initiation of anti-dumping investigation concerning imports of Purified Terephthalic Acid (hereinafter also referred to as the subject goods or PTA), originating in or exported from China PR, European Union, Korea RP and Thailand (hereinafter also referred to as the subject countries), alleging dumping and consequent injury and requested for levy of anti-dumping duties on the subject goods.
2. And whereas, the Authority on the basis of sufficient evidence, submitted by the applicant issued a public notice vide Notification No. 14/7/2013-DGAD dated 8th October, 2013, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the sub Rule 5 of the Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

A. PROCEDURE

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
 - i. The Authority notified the Embassies/Representatives of China PR, European Union, Korea RP and Thailand in India about the receipt of the anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
 - ii. In addition to the provisions of Sub-Rule (5) of Rule 5 supra, the Government of Korea RP was informed through its Embassy in India about the receipt of the subject application as per provisions of Article 2.14 of Comprehensive Economic Partnership Agreement (CEPA) between India and Korea RP.
 - iii. The Authority sent a copy of the initiation notification dated 8th October, 2013 to the Embassies of China PR, European Union, Korea RP and Thailand in India, known producers/exporters from China PR, European Union, Korea RP and Thailand, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
 - iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies/Representatives of the subject countries in India in accordance with Rule 6(3) of the Rules supra.
 - v. The Embassies/Representatives of China PR, European Union, Korea RP and Thailand in India were informed about the initiation of the investigation in accordance with Rule 6(2) of the Rules with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from China PR, European Union, Korea RP and Thailand.
 - vi. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in China PR, European Union, Korea RP and Thailand in accordance with Rule 6(4) of the Rules:
 - a. BP Zhuhai Chemical Co. Ltd, China PR
 - b. Xianglu Petrochemicals Co., Ltd, China PR
 - c. Jiaxing Petrochemical Co., Ltd., China PR
 - d. Zhejiang Yisheng Petrochemical Co., Ltd., China PR

- e. Zhejiang Yuandong Petrochemical, China PR
 - f. Yisheng Dahua Petrochemical Co., Ltd. , China PR
 - g. Hengli Petrochemical, China PR
 - h. Jinan Shijitongda Chemical Co., Ltd., China PR
 - i. Samsung Total Petrochemical Company Ltd., Korea RP
 - j. Samsung Petrochemical Company Ltd., Korea RP
 - k. Hyosung Petrochemical, Korea RP
 - l. Hyosung Corporation, Korea RP
 - m. Taekwang Industrial Co., Ltd., Korea RP
 - n. Honam Petrochemical Corporation, Korea RP
 - o. Samyang Corporation, Korea RP
 - p. Samnam Petrochemical Co.,Ltd, Korea RP
 - q. SK Petrochemical, Korea RP
 - r. Lotte Chemical, Korea RP.
 - s. Indorama Petrochem Limited, Thailand
 - t. TPT Petrochemicals PCL.,Thailand
 - u. Siam Mitsui PTA Co., Ltd., Thailand
 - v. BP Chembel N.V., Belgium
 - w. Cepsa Quimica S.A, Spain
 - x. Lotte Chemical UK Ltd, United Kingdom
 - y. BP Chemicals Limited, United Kingdom
 - z. Artlant PTA, Portugal
 - aa.PKN Orlen SA, Poland
- vii. The following producers/exporters from the subject countries filed exporters questionnaire response in the prescribed format:
- a. Indorama Petrochem Ltd, Thailand
 - b. TPT Petrochemicals Public Limited, Thailand
 - c. Samsung C&T Corporation, Korea RP
 - d. Samsung Petrochemical Co. Ltd., Korea RP now known as Samsung General Chemicals Co Ltd.
 - e. SK Petrochemical Inc, Korea RP (producer) along with Mitsubishi Corporation, Japan (exporter)
 - f. Taekwang Industrial Co Ltd, Korea RP

- g. Hyosung Corporation, Korea RP
 - h. Zhejiang Yisheng Petrochemical Co., Ltd, China PR
 - i. Ningbo Hengyi Trading Co Limited, China PR
- viii. The following producers/exporters from China filed Market Economy Treatment questionnaire response:
 - a. Zhejiang Yisheng Petrochemical Co. Ltd.
 - b. Ningbo Hengyi Trading Co. Ltd.
 - c. Yisheng Dahua Petrochemical Co. Ltd.
 - d. Hainan Yeshing Petrochemical Co. Ltd.
- ix. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
 - a. Wellknown Polyster Ltd., Mumbai
 - b. JBF Industries Ltd., Mumbai
 - c. Alok Industries Ltd., Mumbai
 - d. Indo Rama Synthetics (India) Ltd., Gurgaon, Haryana
 - e. The Bombay Dyeing & Mfg. Compnay Ltd., Mumbai
 - f. Dhunseri Petrochem & Tea Ltd., Kolkata
 - g. Garden Silk Mills Ltd., Mumbai
 - h. Filatex India Ltd., New Delhi
 - i. Jindal Poly Films Ltd., New Delhi
 - j. Nakoda Ltd., Mumbai
 - k. Sumeet Industries Ltd., Surat
 - l. Raj Rayon Industries Ltd, Mumbai
 - m. Association of Synthetic Fiber Industry (ASFI), New Delhi.
 - n. PTA Users Association of India, New Delhi.
- x. Importer's questionnaire response in the prescribed format were received from the following importer/user of the subject goods in India:
 - a. Dhunseri Petrochem & Tea Ltd.,
 - b. Alok Industries Ltd.
 - c. The Bombay Dyeing & Manufacturing Co. LTd

- d. Jindal Poly Films Ltd.
 - e. JBF Industries Ltd.
 - f. Wellknown Polyesters Ltd
 - g. Indo-Rama Synethetics (India) Ltd.
 - h. Sumeet Industries Ltd..
- xi. Post-initiation, submissions have also been made by the domestic industry and the following interested parties:
- a) Dhunseri Petrochem & Tea Limited
 - b) Polyester Film industries Association
 - c) PTA Users Association
 - d) The Southern India Mill's Association (SIMA)
 - e) Association of Synthetic Fibre Industry.
 - f) Samsung Petrochemical Co., Ltd.
 - g) Hyosung Corporation
 - h) SK Petrochemical Co., Ltd.
 - i) Taekwang Industrial Co., Ltd.
 - j) Indorama Petrochem Ltd
 - k) TPT Petrochemicals Public Limited Company.
 - l) BP Chembel NV, EU
 - m) BP Aromatics, EU.
 - n) BP Zuhai Chemical Co Ltd, China PR
- xii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xiii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide details of imports of subject goods for the past three years, including the period of investigation. The Authority has relied upon DGCI&S data in this finding.
- xiv. The Non-injurious Price based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to

remove injury to the Domestic Industry.

- xv. Verification of the information provided by the petitioner companies, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of present preliminary findings.
- xvi. The Period of Investigation for the purpose of the present investigation is from 1st April 2012 to 31st March 2013 (12 Months). The injury investigation period has however, been considered as the period from 1st April 2009 to the end of the POI, i.e., 2009-10, 2010-11, 2011-12 and POI.
- xvii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded these preliminary findings on the basis of the facts available.
- xviii. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis and the same were kept in the public file maintained by the Authority as per the Rules.
- xix. *** in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xx. The exchange rate adopted by the Authority for the subject investigation is 1 US \$ = Rs 54.65.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 4. The Product under Consideration (PUC) in the present investigation is Purified Terephthalic Acid (PTA), including its variants - Medium Quality Terephthalic Acid (MTA) and Qualified Terephthalic Acid (QTA). Purified Terephthalic Acid (PTA) is a white, free flowing crystalline powder, free from any visual contamination. Terephthalic Acid is an organic compound whose chemical formula is $C_6H_4(COOH)_2$. It sublimes at 402°C and is poorly soluble in water and alcohol. PTA is the primary raw material for the manufacturing of polyester chips which in turn is used in a number of applications in textiles, packaging, furnishings, consumer goods, resins and coatings. Since QTA, MTA and PTA are chemically the same product and further since they are interchangeably used, the scope of the product

under consideration covers QTA and MTA as well. As claimed by the applicants, Di-Methyl Terephthalate (DMT) is chemically a different product and therefore not covered in the scope of the product under consideration. The product under consideration is classified under subheading 29173600 of the Customs Tariff Act. However, the customs classification is indicative only and in no way it is binding on the scope of the present investigation.

Submissions made by the Domestic industry

5. The submissions made by the domestic industry and considered relevant by the Authority with regard to product under consideration and like articles are as follows:

- i) The product under consideration in the present petition is Purified Terephthalic Acid, including its variants Medium Quality Terephthalic Acid (MTA) and Qualified Terephthalic Acid (QTA) (hereinafter referred to as “the product under consideration” or “PTA”). PTA is a white, free-flowing crystalline powder free from any visual contamination. It is classified under subheading 2917 36 00 of the Customs Tariff Act. Terephthalic acid is an organic compound whose chemical formula is $C_6H_4(COOH)_2$. It sublimes at $402^\circ C$ and is poorly soluble in water and alcohols. PTA is a primary raw material in the manufacture of polyester chips which in turn has number of applications in textiles, packaging, furnishings, consumer goods, resins and coatings. MTA and QTA are chemically the same as PTA. The only difference between PTA, MTA and QTA is in the level of impurities present in the QTA and MTA. PTA, MTA & QTA are produced using the same production technology, plant & equipment, manufacturing process, raw materials. The three perform the same function. These fall under same customs classifications. The only difference in the three products is in the level of impurities. In fact, producer such as SK Chemical produces MTA, but literature states PTA.
- ii) Di-Methyl Terephthalate (DMT) is chemically different product than PTA. The production technology, manufacturing process, plant & equipment, raw materials, technical specifications of DMT and PTA are different. However, DMT and PTA are interchangeably used in some applications. However, DMT cannot replace/substitute PTA in all the applications. There is no production of DMT in India, nor there import of DMT in India. The present petition is for anti dumping duty on PTA (including its variants, MTA and QTA) and the petition has been filed by producers of PTA in India. DMT is in fact a product being phased out and PTA has substituted DMT. The product scope does not cover DMT, there being no imports into India and no

production in India. Since QTA, MTA and PTA are chemically the same product and further since they are interchangeably used, the scope of the product under consideration covers QTA and MTA as well.

Submissions made by Exporters, Importers, Users and other Interested Parties

6. No submissions have been made by the interested parties with regard to product under consideration and like article.

Examination of the Authority

7. The submissions made by the interested parties with regard to the scope of product under consideration and considered relevant by the Authority are examined and addressed as follows:

- i. The product under consideration in the present investigation, as defined by the Authority in the initiation notification is Purified Terephthalic Acid (PTA), including its variants - Medium Quality Terephthalic Acid (MTA) and Qualified Terephthalic Acid (QTA). The PUC is a white, free flowing crystalline powder, free from any visual contamination. Terephthalic Acid is an organic compound whose chemical formula is $C_6H_4(COOH)_2$. It sublimes at $402^\circ C$ and is poorly soluble in water and alcohol. PTA is primary raw material in the manufacture of polyester chips which in turn is used in a number of applications in textile, packaging, furnishings, consumer goods, resins and coatings. Since QTA, MTA and PTA are chemically the same product and further since they are interchangeably used, the scope of the product under consideration covers QTA and MTA as well. The product under consideration is classified under subheading 29173600 of the Customs Tariff Act. However, the customs classification is indicative only and in no way it is binding on the scope of the present investigation.
- ii. As claimed by the applicants, Di-Methyl Terephthalate (DMT) is chemically a different product and therefore not covered in the scope of the product under consideration.
- iii. With regard to like article, Rule 2(d) of the AD Rules provides as under: -

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

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

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

Submissions made by Exporters, Importers, Users and other Interested Parties

8. The submissions made by the producers/exporters/importers/other interested parties during the course of the investigation with regard to scope of domestic industry & standing and considered relevant by the Authority are as follows:
 - i. IOCL, one of the domestic producers of the subject goods has not supported the petition.
 - ii. MCC PTA India Corp. Private Limited (MCPI) is not qualified to be treated as part of the domestic industry under Rule 2(b) as, by virtue of their share holdings, they are related to Mitsubishi Corporation, Japan, Mitsubishi Corporation India Pvt. Ltd., Marubeni Corporation, Japan, Samyang Corporation, Korea RP and Sam Nam Petrochemical Co. Ltd. Korea RP.
 - iii. MCC PTA India Corp. Private Limited (MCPI) is a 100% subsidiary of Mitsubishi Corporation, Japan. Mitsubishi Corporation is engaged in exporting subject goods to India by procuring from the subject countries in the injury period. Mitsubishi Corporation India Pvt. Ltd. (MCPIL) imported these and sold them in India. Mitsubishi Corporation India Pvt. Ltd. (MCPIL) was also acting as a sales agent of MCC PTA India Corp. Private Limited (MCPI) in India.
 - iv. Exporter (Mitsubishi Corporation-MC), importer (Mitsubishi Corporation India Pvt Ltd-MCPIL) and petitioner (MCC PTA India Corp. Private Limited-MCPI) are controlled by the Mitsubishi group and so MCPI is related to an exporter and importer of the subject goods.

- v. MC is a significant shareholder of MCC PTA India Corp. Private Limited (MCPI) and is forcing MCPI to appoint its wholly owned subsidiary, MCPIL, as its sales agent in order to earn profits.
- vi. Marubeni Corporation is a sale agent of MCPIL, shareholder of MCPIL and an importer of subject goods. A substantial quantity of the goods was imported/exported by Marubeni and MC. Therefore, MCPI is to be disqualified.
- vii. Sam Nam Petrochemical Co. Ltd., Korea is controlled by MCC and Samyang Corporation, Korea as they together hold 80% of the shares of Sam Nam. Therefore, MCC PTA India Corp. Private Limited (MCPI) and Samyang are related.
- viii. MCC Japan is the largest shareholder (40%) in Sam Nam Petrochemical Co. Ltd. and so has control over Sam Nam. MCC Japan has referred to it as a subsidiary.
- ix. Exporters related to MCC PTA India Corp. Private Limited intentionally export at low price to its related importers and the importers book the profits on such imports.
- x. MCC PTA India Corp. Private Limited did not disclose its affiliation or explain why MC exported substantially on a regular basis.
- xi. Mitsubishi Chemical Corporation held 66% shares in MCC PTA and 40% shares in Sam Nam Petrochemicals, Korea. The share held by MCC also signifies a significant control over MCC PTA and Sam Nam Petrochemical's operations and its executive decisions. Sam Nam Petrochemical's is one of the named exporters in the investigation, therefore, as per sub-clause (i)(b) of explanation to rule 2(b), the relationship between MCC PTA, MCC and Sam Nam Petrochemicals, Korea would clearly exclude MCC PTA from the definition of domestic industry.
- xii. Imports from Malaysia have increased over the injury period. Reliance industries have acquired 100% stake in BP Chemicals (Malaysia) SdnBhd (BPCM) the inference is that the raw material of PTA was sent to Malaysia converted to PTA and re-imported and sold in India. PTA from this plant was sold in India during Dec 12-Jul13 to the extent of 19228MT.

Submissions made by the Domestic industry

9. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & standing and considered relevant by the Authority are as follows:

- i. With respect to IOCL, the fact that it has not supported the present petition does not prevent the Authority from proceeding with the investigation. The Designated Authority is only to examine whether (a) domestic producers expressly supporting the application account for more than twenty five percent of the total production of the like article by the domestic industry; and (b) the application is supported by those domestic producers whose collective output constitute more than fifty percent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition to the application.
- ii. The shareholding pattern of MCC PTA Corp. India Pvt. Ltd (MCPI) is as given below:

SN	Shareholder	Shareholding
1	Mitsubishi Chemical Corpn., Japan	66%
2	Mitsubishi Corporation	10%
3	Sojitz Corporation	8%
4	Marubeni Corporation	6%
5	Toyota Tsusho	5%
6	West Bengal Industrial Development Corp.	5%

- iii. One of the producers in Korea namely M/s. Sam Nam Petrochemical Co. Ltd. is a joint venture company in Korea whose shareholding is given below

SN	Shareholder	Shareholding
1	Samyang Corpn, Korea	40%
2	G S Caltex, Korea	20%
3	Mitsubishi Chemical Corpn., Japan	40%

- iv. Mitsubishi Chemical Corporation, Japan holds 66% share in MCC PTA Corp. Pvt. Ltd. India and 40% share in M/s.Sam Nam Petrochemical Co. Ltd.,Korea. Thus, MCC PTA Corp. Pvt. Ltd. India has no direct or indirect relationship with Samyang or GS Caltex. These are Korean companies.

- v. Sam Nam Petrochemical Co. Ltd. has *** Directors, out of whom *** each are nominated by *** and ***. One director is nominated by ***. Mitsubishi Chemical Corporation, Japan does not control Sam Nam Petrochemical Co. Ltd, Korea. The company, however, controls MCC PTA Corp. Pvt. Ltd. India. Mitsubishi Chemical Corporation is not in a position to give direction or otherwise control Sam Nam Petrochemical Co. Ltd., as it lacks majority shareholding.
- vi. Sam Nam Petrochemical Co. Ltd. has sold *** MT PTA to one of the consumers in India during the period of investigation. Barring this, there is no export made by Sam Nam Petrochemical Co. Ltd. to India over the injury period. Sam Nam Petrochemical Co. Ltd. has given this material to *** as a trial product. M/s. *** is setting up a plant for production of ***MT per year *** (***streams) in *** which is due for commercial production shortly. *** explored possibility of buying PTA from Sam Nam Petrochemical Co. Ltd. for this new plant. Therefore, the company purchased this material for testing the product produced by Sam Nam Petrochemical Co. Ltd. Thus, this export by Sam Nam Petrochemical Co. Ltd. was an exceptional transaction for technical consideration and not in the nature of regular exports by Sam Nam Petrochemical Co. Ltd.
- vii. It is settled legal position that the Designated Authority has discretion under Rule 2(b) of the Anti-dumping Rules. In any case, facts of the case clearly establish that both the petitioner companies should be considered eligible domestic industry within the meaning of Rule 2(b).
- viii. There is no legal entity as Mitsubishi Group. Therefore, there is no question of any of the companies listed above being controlled by Mitsubishi Group. Further, MCPI is not controlled by Mitsubishi Corporation, nor MCPI controls Mitsubishi Corporation, nor MCPI and Mitsubishi Corporation are controlled by a third party. It cannot be said that MCPI and Mitsubishi Corporation are related party under the rules
- ix. As regards the arguments of opposing interested parties that Marubeni Corporation is a sale agent of MCPIL, shareholder of MCPIL and an importer of subject goods, the following Shareholding pattern of Marubeni is relevant for consideration:

Shareholding Pattern	
Financial Institutions	***%
Individual	***%
Domestic Entities	***%
Non-Domestic Entities	***%

Others	***%
Major Shareholders	
The Master Trust Bank of Japan Ltd.	***%
Japan Trustee Services Bank Ltd.	***%
Sompo Japan Insurance Inc.	***%
JP Morgan Chase Bank	***%
Japan Trustee Services Bank	***%
Meiji Yasuda Life Insurance Company	***%
Tokio Marine & Nichido Fire Ins. Co. Ltd.	***%
Mizuho Bank	***%
Barclays Securities Japan Ltd.	***%
Nippon Life Insurance Company	***%

- x. Thus, MCPI is not controlled by Marubeni Corporation, nor MCPI controls Marubeni Corporation, nor MCPI and Marubeni Corporation are controlled by a third party. It cannot be said that MCPI and Marubeni Corporation are related party under the rules.
- xi. MCPI is not related to any importer or exporter of the product under consideration within the meaning of the antidumping Rules as none of them directly or indirectly controls the other; neither MCPI nor exporters/importers are directly or indirectly controlled by a third person; nor MCPI & exporters/importers together directly or indirectly control a third person. Further, there are no grounds for believing or suspecting that the effect of the relationship is such as to cause the producers to behave differently from non-related producers.
- xii. With respect to the argument that Mitsubishi Corporation and Samsung entered into a contract on 1st November, 2012 to purchase/sell 4000-5000 MT of PTA every month, all of which was destined to the Indian market, Mitsubishi Corporation is not related to the MCPI and therefore none of the petitioners have any control over decisions of Mitsubishi Corporation to dump the product in India.
- xiii. With respect to the argument that MCPI did not disclose its affiliation or explain why Mitsubishi Corporation exported substantially on a regular basis, MCPI is not related to the Mitsubishi Corporation and therefore it is not in a position to prevent Mitsubishi Corporation from selling the product in India.
- xiv. Imports from Malaysia are de-minimus and therefore, the issue of possible relationship of one of the petitioner company with one of the Malaysian producer becomes entirely irrelevant.

Examination of the Authority

10. The various submissions made by the interested parties with regard to the scope of domestic industry & standing and considered relevant by the Authority are examined and addressed as follows:

- i) The Application has been filed by M/s MCC PTA India Corp. Pvt. Ltd and M/s Reliance Industries Limited on behalf of the domestic industry. Apart from these two domestic producers, there is one more producer of PTA in India, namely Indian Oil Corporation Limited. However, the said domestic producer of PTA has neither supported nor opposed the application. As per the information furnished in the application, the production of M/s MCC PTA India Corp. Pvt. Ltd and M/s Reliance Industries Limited accounts for more than 50% of Indian production of the like article. The applicants have declared that they have neither imported the product under consideration, nor any of their related parties in India have imported the product. It has been further declared that the applicants are not related to any of the importers of the subject goods in India or exporters of the subject goods from the subject countries.

- i) As regards the submission of the interested parties that MCPI is not qualified to be treated as part of the domestic industry due to their relationship with exporters and/or importers, Authority notes that Rule 2(b) provides as follows

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

- ii) On the basis of information available in the Wikipedia, the Authority notes that the Mitsubishi Group is a group of autonomous Japanese multinational companies covering a range of businesses which share the Mitsubishi brand, trademark, and legacy. Thus, question of relationship of MCPI with “Mitsubishi Group” directly or indirectly does not arise.

- iii) Further, the Authority on the basis of information available in the website mitsubishi.com notes that "Mitsubishi" is a community that consists of a multitude of independent companies. The names of most - but not all - of those companies contain the word "Mitsubishi." And many of the companies use the three-diamond Mitsubishi mark. But none calls itself simply "Mitsubishi." Further, the same web based information states that such companies conduct their business activities independently and even compete with each other in many fields. But as they share the same founding management philosophy, they cooperate in areas of common interest, such as sporting, cultural events and public-interest activities. The companies established a Mitsubishi portal on the Internet, "mitsubishi.com", to provide a broad perspective on "Mitsubishi." But, as the said web based information conveys, such companies do not have a decision-making body that determines overall policy for the companies.
- iv) On the basis of the information furnished by the interested parties including domestic industry, Authority notes that the shareholding pattern of various parties with whom relationship of MCPI has been alleged are as follows –

(i) Shareholding pattern of MCC PTA India Pvt. Ltd (MCPI)

Name	Shareholding %
Mitsubishi Chemical Corporation	66
Mitsubishi Corporation	10
Sojitz Corporation	8
Marubeni Corporation	6
Toyota Tsusho Corporation	5
West Bengal Industrial Development Corporation	5

(ii) Shareholding pattern of Mitsubishi Corporation India Pvt. Ltd

Name	Shareholding (%)
Mitsubishi Corporation	100%

(iii) Shareholding pattern of Mitsubishi Chemical Corporation

Name	Shareholding %
The Master Trust Bank of Japan, Ltd. (Trust account)	***
Meiji Yasuda Life Insurance Company	***
Japan Trustee Services Bank, Ltd. (Trust account)	***
Nippon Life Insurance Company	***
The Bank of Tokyo-Mitsubishi UFJ, Ltd.	***
Takeda Pharmaceutical Company Limited	***
Tokio Marine & Nichido Fire Insurance Co., Ltd.	***
The Bank of New York, Treaty JASDEC Account	***
Taiyo Life Insurance Company	***
Japan Trustee Services Bank, Ltd. (Trust account)	***

(iv) Shareholding pattern of Mitsubishi Corporation

Name	Shareholding (%)
Financial Institutions	***
Foreign Companies	***
Individuals	***
Other Companies	***

(v) Shareholding pattern of Marubeni Corporation

Shareholding Pattern	%
Financial Institutions	***
Individual	***
Domestic Entities	***

Non domestic entities	***
Others	***
Major Shareholders	
Name	Shareholding %
The Master Trust Bank of Japan, Ltd. (Trust Account)	***
Japan Trustee Services Bank, Ltd. (Trust Account)	***
Sompo Japan Insurance Inc.	***
JP Morgan Chase Bank 380055	***
Japan Trustee Services Bank, Ltd. (Trust Account 9)	***
Meiji Yasuda Life Insurance Company	***
Tokio Marine and Nichido Fire Insurance Co., Ltd	***
Mizuho Bank, Ltd.	***
Barclays Securities Japan Ltd.	***
Nippon Life Insurance Company	***

(vi) Shareholding pattern of Sam Nam Petrochemical Co. Ltd.

SN	Shareholder	Shareholding %
1	Samyang Corpn, Korea	40
2	G S Caltex, Korea	20
3	Mitsubishi Chemical Corpn., Japan	40

v) Authority further notes that related party under the Rules has been defined as follows –

(i) producers shall be deemed to be related to exporters or importers only if,-
a) one of them directly or indirectly controls the other; or

- b) both of them are directly or indirectly controlled by a third person; or*
- c) together they directly or indirectly control a third person subject to the condition that are grounds for believing or suspecting that the effect of the relationship is such as to cause the producers to behave differently from non-related producers.*

(ii) a producer shall be deemed to control another producer when the former is legally or operationally in a position to exercise restraint or direction over the latter.

- vi) Authority thus notes that two entities can be treated as related entities only if one of the above conditions is satisfied.
- vii) The Authority notes that MCPI is related to Mitsubishi Chemical Corporation, Japan by virtue of the later company holding majority share. However, Japan not being a subject country in the present investigation, such relationship has no relevance.
- viii) The Authority further notes that it is an acknowledged fact that Sam Nam Petrochemical Co. Ltd, Korea, in which Mitsubishi Chemical Corporation, Japan is having significant share, has exported some quantity of subject goods to India during the POI. However, as submitted by the applicant, Sam Nam's export of subject goods to India during the POI is an exception and not a regular trading activity. Moreover, as stated by the applicant, the shareholding of Mitsubishi Chemical Corporation, Japan in Sam Nam Korea, cannot be considered as having controlling effect on the commercial activities of Sam Nam Korea without having majority representation in the board of directors.
- ix) The Authority notes that the exports made by SamNam Korea RP to India during the relevant period constitute merely ***% of the total imports from the subject countries and ***% of the total imports from Korea RP during the POI. Moreover, Korea RP is a subject country in the present investigation and the exports that may be made by Sam Nam Korea, despite being related party to the MCPI, will also be subjected to the anti-dumping measures, if imposed. Therefore no undue benefit will accrue to MCPI out of such relationship in case anti-dumping measures are imposed.
- x) The Authority notes that Marubeni Corporation has insignificant shareholding in MCPI. Marubeni Corporation has a wholly owned subsidiary in India namely Marubeni India Pvt Ltd who has imported the product under consideration to India. However, the insignificant shareholding held by

Marubeni Corporation in MCPI cannot be construed as having any material effect in the decision making process of MCPI.

- xi) In view of the above position, the Authority notes that there is no justification for treating MCPI as an ineligible domestic industry. There are no grounds for believing or suspecting that the effect of the relationship of MCPI with an exporter or importer was such as to cause the company to behave differently from non-related producers. Principal business of MCPI is production and not import/trading. Moreover, had there been any undue benefit accruing to MCIP out of any such relationship then Reliance Industry Ltd, who is the joint applicant, would not have opted to collaborate with MCPI in present the investigation. In view of the above, the Authority considers M/s MCC PTA India Corp. Pvt. Ltd as an eligible domestic producer constituting domestic industry in terms of Rule 2(b) of the Anti-dumping Rules.
- xii) As regards the contention that Reliance is engaged in converting raw material in its acquired Malaysian plant and re-importing the same to India, the Authority notes that Malaysia is not a subject country in the present investigation and therefore such imports have no relevance.
- xiii) After detailed examination the Authority determines that M/s MCC PTA India Corp. Pvt. Ltd and M/s Reliance Industries Ltd account for a major proportion of the total domestic production of the subject goods during the POI and constitute domestic industry within the meaning of the Rule 2 (b) and satisfies the criteria of standing in terms of Rule 5 (3) of the Anti- dumping Rules.

D. CONFIDENTIALITY

Submissions made by Exporters, Importers, Users and other Interested Parties

11. The submissions made by the producers/exporters/importers/other interested parties with regard to confidentiality during the course of the investigation and considered relevant by the Authority are as follows:

- i. The claim of confidentiality by the applicants for the directors of Sam Nam Petrochemical Co. Ltd. is excessive.

Submissions made by the Domestic industry

12. The submissions made by the domestic industry with regard to confidentiality during the course of the investigation and considered relevant by the Authority are as follows:

- i. The petitioner has claimed only such information as confidential, confidentiality of which has been permitted under the rules and as per consistent practice of the Authority.
- ii. The petitioner has provided sufficient non confidential version of the application. No interested party has been able to point out any specific instance of information which has been claimed confidential and confidentiality of which is not justified under the rules.
- iii. With respect to the claim of confidentiality for the directors of Sam Nam, the fact that there is no control does not mean that the relevant information can be disclosed
- iv. Information such as gross volume of exports to India, gross volume of sales in domestic market, production, sales, average price for exports to India have been claimed confidential. Indeed nothing is commercially sensitive in this information.
- v. Most of the exporters have not even provided indexed information even when information is capable of being summarized in an indexed form

EXAMINATION BY THE AUTHORITY

13. Submissions made by the interested parties with regard to confidentiality and considered relevant by the Authority are examined and addressed as follows:

- i. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:-

Confidential information: (1) Notwithstanding anything contained in sub-rules and (7) of rule 6, sub-rule (2), (3) (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing

information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

- ii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

E. MISCELLANEOUS SUBMISSIONS

Submissions made by Exporters, Importers, Users and other Interested Parties

14. The submissions made by the producers/exporters/importers/other interested parties with regard to miscellaneous issues during the course of the investigation and considered relevant by the Authority are as follows:

- i. Imposition of Anti Dumping Duty on imports of PTA will lead to increase in the prices of PTA in the domestic market and also have adverse effect on the cost of production of downstream industries such as BOPET Films industry, PSF (Polyester Staple Fiber) and Synthetic Textile Industry.
- ii. There is also a huge demand supply gap in India. Thus, when imports are essential due to demand supply gap, imposition of anti dumping duty would adversely affect the user sector.

- iii. The imposition of anti-dumping duty would disadvantage other PET manufacturers and not RIL which has a captive PTA manufacturing facility.

Submissions made by the Domestic industry

15. The miscellaneous submissions made by the domestic industry during the course of the investigation and considered relevant by the Authority are as follows:

- i. None of the responding exporters have fully replied to the question with regard to valuation of Paraxylene. Further, only Samsung Petrochemicals and SK Petrochemicals have affiliated companies who are producing Paraxylene and supplying to these companies.
- ii. Questionnaire responses are grossly deficient; the authority should reject the same at least for the purpose of preliminary findings.
- iii. Questionnaire responses by the exporters does not make it clear how the producer concerned has produced and supplied the goods to a trading company who has eventually supplied the goods to India.
- iv. With respect to the argument that PX supply shortage and low capacity utilisation of its downstream industry will give RIL an advantage, the purpose of anti-dumping duties is to allow healthy competition.

EXAMINATION BY THE AUTHORITY

16. Various submissions made by the interested parties with regard to miscellaneous issues and considered relevant by the Authority are examined and addressed as follows:

- i. As regards the submission that imposition of Anti Dumping Duty on imports of PTA will lead to increase in the prices of PTA in the domestic market and affect the downstream producers, the Authority notes that the object of imposing anti-dumping measure is to rectify unfair trade practices and to redress its injurious effect by providing level playing field to domestic industry. Moreover imposition of anti-dumping measures does not prevent imports.

- ii. As regards to submission that domestic industry is not capable of meeting the entire demand in the country and import is imminent to meet the demand supply gap, the Authority notes that there is no legal provision mandating the domestic industry to meet the entire demand in the country. Further, given a situation of fair play, the domestic industry would be in position to meet the entire demand in the country within its capacity.
- iii. The Authority notes that the argument that imposition of anti-dumping duty on the imports of the subject goods would accrue undue advantage to domestic Industry is presumptuous and pre-mature. Anti-dumping investigations are based on facts and law to analyze and assess the magnitude of dumping and consequent injurious effect on the domestic industry and to recommend imposition of suitable and adequate anti-dumping measure to provide a fair and level playing field to the domestic industry vis-à-vis dumping.

F. MARKET ECONOMY TREATMENT, NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Submissions made by Exporters, Importers, Users and other Interested Parties

17. Various submissions made by the interested parties with regard to Normal value, export price and dumping margin and considered relevant by the Authority are examined and addressed as follows:

- i. Due to fluctuation of raw material and PTA prices, the ordinary course of trade (viability/COP) test (80:20) and dumping margin/injury margin, if applied based on average cost for the POI, would be totally erroneous and illogical. For proper comparison between cost and price, viability test is to be applied on a monthly basis and dumping margin calculated for every month. Adopting one cost based on average for the POI for applying viability test (80:20) will lead to skewed results.
- ii. PTA is traded and sold to different categories of customers (end users and distributors). If sales are made to distributor, exporter incurs less distribution cost.
- iii. The subject goods are exported as packed and as bulk. Cost of different types of packing should be neutralized both in cost of production and domestic sales while applying the viability test.

- iv. Since market prices of crude oil, naphtha, PX and PTA are determined based on international market price, global economy and demand/supply condition are the main factors for price fluctuation. Since almost all global PTA producers meet the international standards, PTA prices are determined by international market prices which are announced by chemical market price information websites. RIL has the predominant market share and determines its sales price according to international market price plus import duty and import related expenses. MCPI and IOC follow RIL's prices. Korean producers also determine export price on the basis of international price. Since ICIS announces prices on a weekly basis, monthly average weekly price can be calculated only after month-end closing of the shipment. Therefore, Korean producers apply tentative price and make a settlement on a monthly basis. Import price from Korea is almost the same as average monthly price issued by ICIS, PLATTS and PCI after considering ocean freight and payment term differentials. Domestic market price in Korea is also determined based on international market price. Therefore, dumping by Korea is incorrect.

Submissions made by the Domestic industry

18. Submissions made by the domestic industry with regard to Normal value, export price and dumping margin during the course of the investigation and considered relevant by the Authority are as follows:
 - i. With respect to the claim that market prices of crude oil, naphtha, PX and PTA are determined based on international market price and global economy and demand/supply condition are the main factors for price fluctuation, it is submitted that the present investigation is against imports of PTA and therefore the price fluctuations of Paraxylene, being the major raw material and PTA itself are relevant for the present investigation and not other cited factors.
 - ii. With respect to the claim that RIL has the predominant market share and the other producers follow its price, in fact sales volumes of RIL do not constitute predominant position. The responding party concedes that MCPI prices are linked to import prices and not RIL prices. Even RIL prices are linked to import prices.

- iii. The claim that import price from Korea is almost the same as average monthly price issued by ICIS, PLATTS and PCI, after considering ocean freight and payment term differentials, shows that the Korean producers have followed international prices in exports to India and have not considered their domestic prices and cost of production. Thus if domestic prices are higher and such domestic prices are profitable, it establishes dumping by the Korean producers/exporters.
- iv. The claim that the domestic market price in Korea is also determined based on international market price does not prove that the exporters are not selling the product in India at dumped prices. If domestic market price in Korea is also the same as the international market price, it implies that the Korean producers are suffering financial losses, considering the prevailing PX prices during the relevant period.

Examination of the Authority

19. The submissions made by the interested parties with regard to normal value, export price and dumping margin are addressed by the Authority as follows:

- i. As regards the contention that due to fluctuation of raw material and PTA prices, the ordinary course of trade (viability/COP) test (80:20) and dumping margin/injury margin should be made on a monthly basis, the Authority has done monthwise analysis.
- ii. As regards the contention that when sales are made to distributors, exporter incurs less distribution cost and the same should be taken in to account while determining export price, the Authority notes that the data/information furnished by the exporters are yet to be verified and therefore it would be premature to address such claims at this preliminary finding stage.
- iii. As regards the contention that the subject goods are exported in packed and bulk forms and therefore cost of different types of packing should be neutralized both in cost of production and domestic sales while applying the viability test, the Authority notes that the normal value and the non-injurious price are determined in terms of the laid down rules and as per prevailing practice in the DGAD.
- iv. As regards the contention that since market prices of crude oil, naphtha, PX and PTA are determined based on international market price, global economy and demand/supply condition are the main factors for price fluctuation, the

Authority notes that the present investigation is against imports of PTA and therefore the price fluctuations of Paraxylene, being the major raw material and PTA itself are relevant for the present investigation and not other cited factors.

- v. The opposite interested parties have contended that dumping by Korea is factually incorrect as Korean producers determine sales price on the basis of international prices so as RIL as well as MCPI and IOC, the Authority notes that as per the Anti-dumping Law, actual dumping margin is calculated as the differential between the Normal Value of the subject goods and the actual export prices of the subject goods. If the normal value is more than the export price, dumping margin is positive. Thus, international price is not relevant since the dumping margin will be calculated on the basis of the net export price of the respondent cooperative exporters of the subject countries vis-a-vis their normal value.

20. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the Rules.

21. As per Paragraph 8 of Annexure I of the Anti-dumping Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:

- a. the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy

- system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - d. the exchange rate conversions are carried out at the market rate.

22. The Authority notes that consequent upon issue of the initiation notification, the following Chinese producers/exporters submitted the market economy questionnaire responses and sought to rebut the non-market economy presumption, which are examined as below:

- a. Zhejiang Yisheng Petrochemical Co. Ltd.
- b. Ningbo Hengyi Trading Co. Ltd.
- c. Yisheng Dahua Petrochemical Co. Ltd.
- d. Hainan Yeshing Petrochemical Co. Ltd.

23. As per the information available in questionnaire responses, the Authority notes that all the above stated respondent companies are related to each other and are involved in the subject goods. While Zhejiang Yisheng Petrochemical Co. Ltd is a producer and exporter of PTA, the others are stated to be either involved in production/domestic sale/export sale of the subject goods. In the MET response it has been claimed that the Company is a foreign (co-operative or equity) joint venture and a fully limited liability company. Further, the MET response stated that the other respondent companies in the present investigation namely Yisheng Dahua Petrochemical Co Ltd, Hainan Yisheng Petrochemical Co., Ltd and Ningbo Hengyi Trading Co., Ltd are related companies and involved in the product concerned. Zhejiang Yisheng is a subsidiary of Zhejiang Hengyi, which is wholly owned by Hengyi Petrochemical Co., Ltd. It has been further stated that Mr. Qiu Jianlin is the ultimate owner and actual controller of the stated companies. As stated by the respondent company, the share holders of the company are Zhejiang Hengyi Petrochemical Co., Ltd (***)%, Rongsheng Petrochemical Co., Ltd (***)%, Best Partner International Investment Limited(***)% and Hongkong Sheng Hui Limited(***)%. As stated in the response the major raw materials and the utilities are being procured with long term contracts from the State owned Chinese entities. As per the auditor's report furnished by the Company, Zhejiang Yisheng Petrochemical Co., Ltd. was set up in 2003 as a Chinese-foreign joint venture funded by Zhejiang Hengyi Group Co., Ltd. China PR, Rongsheng Chemical Fiber Group Co., Ltd. China PR, and Hong Kong Development Investment Co., Ltd. as per the approval of

Ningbo Municipal People's Government. It has been stated that the ultimate parent company of the entire group is Zhejiang Hengyi Group Co., Ltd.

24. The Authority notes that the companies have gone through several ownership changes over the years, the details of which have not been furnished by the respondent companies. Further, the ultimate parent company of the entire group is stated to be Zhejiang Hengyi Group Co., Ltd, which has not filed MET response. As per the web based information, the Authority notes that Zhejiang Hengyi Group Co. Ltd was founded on October 18, 1994. Hengyi's core businesses are PTA (Purified Terephthalic Acid) manufacturing, polyester spinning and chemical fiber elasticizing. Further, Zhejiang Rongsheng Holding Group, which is also a share holder, was established in 1989 and is involved in the subject goods through its subsidiaries has over 10 subsidiaries, including PTA production bases in Ningbo, Dalian and Hainan. Further, as per the web based information, Yisheng Dahua Petrochemical Co. Ltd, one of the related respondent group companies in the present investigation was set up by Hengyi Group, Rongsheng Group and the State owned enterprise Dahua Group.
25. The Authority has taken cognizance of the information provided by the respondent Chinese companies who have filed MET response with which they sought to rebut the presumptions as mentioned in para 8 of Annexure 1 of the Anti-dumping Rules and Non Market Economy questionnaire sent to them regarding grant of market economy status to their company. However, the responding companies have failed to provide sufficient evidence to establish their market economy claim. Pending examination of the issues regarding ownership and control, its impact on the cost and prices and business decisions of the company, transformation of ownership from time to time, evaluation of assets, land use rights, the Authority is of the view that all these producers- exporters from China PR cannot be granted market economy status for the preliminary determination of its Normal Value. The Authority further notes that the responding companies have not provided sufficient details in their response in respect of their Holding/group companies and other relevant information to establish their market economy claim. In view of the above position, the Authority does not grant market economy treatment to the above stated respondent Chinese companies for the purpose of preliminary findings pending verification.

G. Determination of Normal Value

Determination of Normal Value for producers and exporters in China PR

26. The Authority notes that none of the producers/exporters from China PR have been found to be operating under market economy condition for determination of normal value in China in terms of Para-6 of Annexure-1 to the Rules. Under the circumstances, the Authority is not in a position to apply Para 8 of Annexure 1 to the Rules to the above named Chinese companies and the Authority has to proceed in accordance with Para 7 of Annexure - I to the Rules.

27. Paragraph-7 of the Annexure-1 to the Anti-dumping Rules provides as follows:

“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”.

28. According to these Rules, the normal value in China PR can be determined on any of the following basis:

- a) On the basis of the price in a market economy third country, or
- b) The constructed value in a market economy third country, or
- c) The price from such a third country to other countries, including India.
- d) If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

29. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required. No such information with regard to prices and costs prevalent in these markets have been provided either by the applicant or by the responding exporters, nor any publicly available information could be accessed, nor the responding Chinese companies have made any claim with regard to an appropriate market economy third country at this stage. Pending further examination of the issues, for the purpose of preliminary determination, the Authority proceeds to construct the normal value based on any other reasonable basis.

30. The Authority proceeds to provisionally determine the Normal value for China PR on available facts basis in terms of second proviso of Para 7 of Annexure 1 to the Anti-dumping Rules. Accordingly, the ex-works Normal Value of the product under consideration has been determined based on constructed costs of production, duly adjusted to include selling, general & administrative costs and profits. The normal value so determined provisionally is *** US\$/MT.

Determination of Normal Value for producers and exporters in Korea RP, Thailand and European Union (EU)

Determination of Normal Value for producers and exporters in Korea RP

31. 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

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

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of exporter 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.

Korea RP

32. The following producers/exporters from Korea RP have filed exporter's questionnaire response.

- a. Samsung Petrochemical Co. Ltd., Korea RP now known as Samsung General Chemicals Co Ltd (producer) and Samsung C&T Corporation, Korea RP (exporter).
- b. SK Petrochemical Inc, Korea RP (producer) along with Mitsubishi Corporation, Japan (exporter)
- c. Hyosung Corporation, Korea RP
- d. Taekwang Industrial Co Ltd, Korea RP

Samsung Petrochemical Co. Ltd., Korea RP now known as Samsung General Chemicals Co Ltd

33. Vide letter dated 20th May, 2014 it has been informed on behalf of M/s Samsung Petrochemical Co. Ltd., Korea RP that the said company has been merged with Samsung General Chemical Co Ltd, Korea RP and consequent upon the merger, Samsung General Chemical Co Ltd Korea RP will now become a producer of the subject goods. It has been further requested that to replace the name of Samsung Petrochemical Co. Ltd with Samsung General Chemical Co Ltd in the records of the Authority. In the exporters questionnaire response the Company declared that they have only one channel of domestic sale and sold the subject goods in the domestic market directly to the customers in the POI. The Authority has provisionally accepted the profit making domestic sales after the adjustments claimed by the exporter pending verification, as the basis for determining normal value in terms of the relevant provisions under the Rules. The normal value so determined for the Company works out to US\$ *** per MT.

Taekwang Industrial Co Ltd, Korea RP

34. In the exporters questionnaire response the Company declared that during the POI they had three channels of sales in domestic market viz; direct sales to unrelated end user, direct sales to related end user and indirect sales through unrelated domestic trader. As regards export sales to India during the POI, the Company declared that they have made exports directly and a small volume (***) through unrelated foreign traders. The Authority notes that there is wide variation in the profit making domestic selling prices reported by Taekwang Industrial Co Ltd., with the profit making domestic selling prices reported by other co-operative exporter from Korea. In view of the above, the Authority has provisionally determined the normal

value based on facts available pending verification of the data submitted by the exporter. Accordingly, the normal value determined works out to US\$ *** per MT.

SK Petrochemical Inc, Korea RP.

35. In the exporters questionnaire response the Company declared that they have only one channel of domestic sale and sold the subject goods in the domestic market directly to the customers in the POI. It has been further declared that the Company sold the product concerned in the domestic market to both end-users and distributors; however, there is no difference in sales process depending on the class of the customer. From the exporters questionnaire response the Authority notes that the Company has exported substantial volume of the subject goods to India during the POI through two other companies namely Mitsubishi Corporation, Japan and Hyosung Corporation, Korea RP and its related trading Company namely Hyosung Trading PG, Korea RP. While Mitsubishi Corporation, Japan has filed exporters questionnaire response through whom only *** MT of subject goods were exported, Hyosung Trading PG, Korea RP through whom *** MT of subject goods were exported have not cooperated with the Authority and did not file exporters questionnaire response in the present investigation. Consequently, in the absence of the complete value chain in respect of substantial volume of exports of subject goods made by SK Petrochemical Inc. Korea RP to India during the POI, the Authority is not in a position to determine and grant individual margins to Company. Under the above stated circumstances, determination of normal value concerning SK Petrochemical Inc. Korea RP is not considered to be relevant. In view of this position, for the purpose of this preliminary finding the Authority does not determine individual normal value for M/s. SK Petrochemical Inc. Korea RP based on the information provided by the Company. Further, post-POI, SK Petrochemical Inc. Korea RP informed that they have stopped production of the subject goods and expressed to opt out of the present investigation.

M/s Hyosung Corporation, Korea RP

36. In the exporters questionnaire response the Company declared that during the POI they had two channels of sales in domestic market viz; sales made directly to unrelated domestic end-users and sales made to distributors. From the exporters questionnaire response the Authority notes that the Company has made exports to India during the POI through three channels -:

- a. Direct exports of self produced subject goods,
- b. Exports of self produced subject goods through unrelated traders namely Mitsui & Co, Korea RP,

- c. Exports of subject goods produced by other producers namely SK Petrochemical, Lotte Chemical and Samnam Petrochemical through its related trading company namely Hyosung Trading PG.

37. While exporters questionnaire response has been filed by Hyosung Corporation, Korea RP for exports of self produced subject goods directly made by them, exporters questionnaire response has not been filed by its related trading company namely Hyosung Trading PG through which channel substantial volume of the subject goods produced by other producers have been exported to India during the POI. Further, Mitsui & Co, Korea RP through whom Hyosung Corporation, Korea RP has also exported the subject goods to India during the POI has not filed exporters questionnaire response. Consequently, in the absence of the complete value chain in respect of substantial volume of exports of subject goods made by Hyosung Corporation, Korea RP and its related trading arm M/s Hyosung Trading PG and other involved producers/traders to India during the POI, the Authority is not in a position to determine and grant individual margins to the respondent Company. Under the above stated circumstances, determination of normal value concerning Hyosung Corporation, Korea RP is not considered to be relevant. In view of this position, for the purpose of this preliminary finding the Authority does not determine individual normal value for Hyosung Corporation, Korea RP based on the information provided by the Company.

Normal Value for Non Cooperative exporters

38. The Authority notes that no other exporter/producer from Korea RP has responded to the Authority in present investigation. For all the non-cooperative exporters/producers in Korea RP, the Authority determines the normal value provisionally on the basis of best available information as *** US\$/MT.

Determination of Normal Value for producers and exporters in Thailand

39. The following related producers/exporters from Thailand have filed exporter's questionnaire response.

- a. Indorama Petrochem Ltd, Thailand
- b. TPT Petrochemicals Public Limited, Thailand

Indorama Petrochem Ltd, Thailand

40. In the exporters questionnaire response the Company declared that during the POI they had only direct sales in domestic market sold on contract basis and on spot basis. The Authority has provisionally accepted the profit making domestic sales

after the adjustments claimed by the exporter as the basis for determining normal value in terms of the relevant provisions under the Rules and provisionally determined the normal value for the Company as US\$ *** per MT.

TPT Petrochemicals Public Limited, Thailand

41. In the exporters questionnaire response the Company declared that during the POI they had only direct sales in domestic market sold on contract basis and on spot basis. The Authority has provisionally accepted the profit making domestic sales after the adjustments claimed by the exporter as the basis for determining normal value in terms of the relevant provisions under the Rules and provisionally determined the normal value for the Company as US\$ *** per MT.

Normal Value for Non Cooperative exporters

42. The Authority notes that no other exporter/producer from Thailand has responded to the Authority in present investigation. For all the non-cooperative exporters/producers in Thailand, the Authority provisionally determines the normal value on the basis of best available information as US\$ *** per MT.

Determination of Normal Value for producers and exporters in European Union (EU)

43. The Authority notes that no exporter/producer from European Union has responded to the Authority in the present investigation. Therefore, for all the exporters/producers in European Union, the Authority provisionally determines the normal value on the basis of best available information as US\$ *** MT.

EXPORT PRICE

China PR

Determination of Export Price for Exporters in China PR

44. M/s Zhejiang Yisheng Petrochemical Co., Ltd, China PR and its related trading company M/s Ningbo Hengyi Trading Co Limited, China PR have filed exporter questionnaire response. While Zhejiang Yisheng Petrochemical Co., Ltd, China PR is a producer of subject goods which has exported subject goods to India during the POI, the related trading Company M/s Ningbo Hengyi Trading Co Limited, China PR is stated to be involved only in domestic sales of the subject goods.

45. From the exporters questionnaire response filed by Zhejiang Yisheng Petrochemical Co., Ltd, the Authority notes that the Company is a major producer having about ***

Million Ton annual capacity for the production of the subject goods. But, despite having such huge capacity, the Company has claimed to have made only *** transactions constituting *** MT of exports of subject goods to India during the POI and that too only in one month in the entire POI at an average FOB price of US\$ *** per MT. From the above position, the Authority notes that the export made by the Company is too insignificant to be considered for grant of individual margins. The Authority therefore does not consider the exports made by Zhejiang Yisheng Petrochemical Co., Ltd, China PR for determination of net export price as well as individual margins.

46. Therefore, the Authority has provisionally determined the net export price for all the exporters from China PR as per facts available in terms of Rule 6(8) of the Rules as US\$ ***per MT.

Korea RP

Samsung Petrochemical Co. Ltd., Korea RP now known as Samsung General Chemicals Co Ltd (producer) and Samsung C&T, Korea RP (exporter)

47. In the exporters' questionnaire response, M/s Samsung Petrochemical Co. Ltd., Korea RP (now known as Samsung General Chemical Co Ltd) has claimed to have exported subject goods to India through its related Company namely M/s Samsung C&T, Korea RP and Mitsubishi Corporation, Japan. From the information provided in the exporters questionnaire response, the Authority notes that Samsung Petrochemical Co. Ltd, Korea RP exported ***MT of subject goods to India during the POI through Samsung C&T, Korea RP at an average price of US\$ ***per Mt and *** MT through Mitsubishi Corporation, Japan. While M/s Samsung C&T, Korea RP has filed exporters' questionnaire response, Mitsubishi Corporation, Japan has not filed exporters' questionnaire response. The Authority notes that the exports made through Mitsubishi Corporation, Japan is insignificant and therefore determined the net export price for Samsung Petrochemical Co. Ltd., Korea RP (now known as Samsung General Chemicals Co Ltd) (producer) and Samsung C&T, Korea RP (exporter) excluding the exports made through Mitsubishi Corporation, Japan. The Authority has made adjustments as claimed by the producer and the exporter in their questionnaire responses with the exception of duty drawback pending verification in order to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for Samsung Petrochemical Co. Ltd., Korea RP (now known as Samsung General Chemicals Co Ltd) (producer) and Samsung C&T, Korea RP (exporter) has been provisionally determined as US\$ ***per MT.

Taekwang Industrial Co Ltd, Korea RP

48. In the exporters questionnaire response the Company declared that during the POI they made exports to India directly as well as a small volume (***) through unrelated foreign traders. Considering the said exports as insignificant, the Authority determined the net export price for the Company by excluding the same exports. In the exporters' questionnaire response, Taekwang Industrial Co Ltd, Korea RP has claimed to have exported *** MT of subject goods directly to India during POI at an average CIF price of US\$ *** per MT. The Authority made adjustments as claimed by the exporter in their response to the questionnaire with the exception of duty drawback pending verification in order to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for Taekwang Industrial Co Ltd, Korea RP has been provisionally determined as US\$ *** per MT.

SK Petrochemical Inc, Korea RP.

49. From the exporters questionnaire response the Authority notes that the Company has exported substantial volume of the subject goods to India during the POI through two other companies namely Mitsubishi Corporation, Japan and Hyosung Corporation, Korea RP and its related trading Company namely Hyosung Trading PG, Korea RP. While Mitsubishi Corporation, Japan has filed exporters questionnaire response through whom only *** MT of subject goods were exported, Hyosung Trading PG, Korea RP through whom *** MT of subject goods were exported have not cooperated with the Authority and did not file exporters questionnaire response in the present investigation. Consequently, in the absence of the complete value chain in respect of substantial volume of exports of subject goods made by SK Petrochemical Inc. Korea RP to India during the POI, the Authority does not determine net export price and does not grant individual margins to SK Petrochemical Inc, Korea RP. Further, post-POI, SK Petrochemical Inc. Korea RP informed that they have stopped production of the subject goods and expressed to opt out of the present investigation.

M/s Hyosung Corporation, Korea RP

50. From the exporters questionnaire response the Authority notes that the Company has made exports to India during the POI through three channels -:

- a. Direct exports of self produced subject goods,
- b. Exports of self produced subject goods through unrelated traders namely Mitsui & Co, Korea RP,
- c. Exports of subject goods produced by other producers namely SK Petrochemical, Lotte Chemical and Samnam Petrochemical through its related trading company namely Hyosung Trading PG.

51. While exporters questionnaire response has been filed by Hysoung Corporation, Korea RP for exports of self produced subject goods directly made by them, exporters questionnaire response has not been filed by its related trading company namely Hyosung Trading PG through which channel substantial volume of the subject goods produced by other producers have been exported to India during the POI. Further, Mitsui & Co, Korea RP through whom Hysoung Corporation, Korea RP has also exported the subject goods to India during the POI has not filed exporters questionnaire response. Consequently, in the absence of the complete value chain in respect of substantial volume of exports of subject goods made by Hysoung Corporation, Korea RP and its related trading arm M/s Hyosung Trading PG and other involved producers/traders to India during the POI, the Authority does not determine net export price and does not grant individual margins to Hysoung Corporation, Korea RP.

Non-cooperative Exporters From Korea RP

52. In respect of all other exporters from Korea RP who are treated to be non-cooperative, the Authority provisionally determined their net export price as per facts available in terms of Rule 6(8) of the Rules as US\$ *** per MT.

Thailand

53. The following related producers/exporters from Thailand have filed exporter's questionnaire response.

- c. Indorama Petrochem Ltd, Thailand
- d. TPT Petrochemicals Public Limited, Thailand

Indorama Petrochem Ltd, Thailand

54. In the exporters questionnaire response the Company declared that during the POI they had made only direct exports to India to their related Indian Company namely M/s Indo Rama Synthetics (I) Ltd. The Company has reported total exports of *** MT of subject goods to India during POI at an average price of US\$ *** per Mt. The Authority made adjustments as claimed by the exporter with the exception of export incentive pending verification in order to arrive at the net export price at ex-factory level and determined the same at *** US\$ per Mt.

TPT Petrochemicals Public Limited, Thailand

55. In the exporters questionnaire response the Company declared that during the POI they had made only direct exports to India to their related Indian Company namely

M/s Indo Rama Synthetics (I) Ltd. The Company has reported total exports of *** MT of subject goods to India during POI at an average price of *** US\$ per Mt. The Authority made adjustments as claimed by the exporter with the exception of export incentive pending verification in order to arrive at the net export price at ex-factory level and determined the same at *** US\$ per Mt.

Non-cooperative Exporters From Thailand

56. In respect of all other exporters from Thailand who are treated to be non-cooperative, the Authority provisionally determined their net export price as per facts available in terms of Rule 6(8) of the Rules as US\$ *** per MT.

Determination of Export Price for Exporters in European Union (EU)

57. The Authority notes that no exporter/producer from European Union has filed exporter’s questionnaire response in the present investigation. Therefore, for all the exporters from European Union, the Authority provisionally determined their net export price as per facts available in terms of Rule 6(8) of the Rules as US\$ 990.75 per MT.

DUMPING MARGIN

58. Considering the Normal Values and Net Export Prices determined above, the Dumping Margins are calculated as below:

N	Channel of Export	Name of producer	Exporter	Normal value US/MT	Net Export price US\$/MT	Dumping margin US\$/MT	Dumping margin %	Dumping margin Range%
China PR								
1	Any	All Producers	All Exporters	***	***	***	***	15-25
Korea RP								
2	Korea RP-India	Samsung General Chemical Co Ltd	Samsung C&T	***	***	***	***	0-10
3	Korea RP-India	Taekwang Industrial Co Ltd	Taekwang Industrial Co Ltd,	***	***	***	***	5-15

4	Any	All Other Producers	All Other Exporters	***	***	***	***	10-20
Thailand								
5	Thailand - India	Indorama Petrochem Ltd	Indorama Petrochem Ltd	***	***	***	***	0-10
6	Thailand - India	TPT Petrochemicals Public Limited	TPT Petrochemicals Public Limited	***	***	***	***	0-10
7	Any	All Other producers	All Other Exporters	***	***	***	***	20-30
European Union								
8	Any	All Producers	All Exporters	***	***	***	***	10-20

H. INJURY AND CAUSAL LINK

Submissions made by Exporters, Importers, Users and other Interested Parties

59. The following submissions with regard to injury and causal link have been made by the opposite interested parties and considered relevant by the Authority:

- a. The price of IOCL, one of the domestic producers of the subject goods which have not supported the petition, is lower than the other domestic producers by 4-10%. But, IOCL has not claimed decline in profits due to imports in its annual report.
- b. The domestic industry has not established potential decline in various factors.
- c. The allegation that there is an absolute increase in volume of imports as compared to 2009-10 is erroneous. 2009-10 was a time of global recession and any analysis with the same as base year, is inaccurate.
- d. The volume of imports has decreased over 2010-11, 2011-12 and the POI. The percentage of imports in relation to production as well as consumption has undergone a sharp decline over the years.

- e. The domestic industry cannot claim injury due to volume effect because it is inevitable that there will be imports when the domestic industry is operating at maximum capacity but still cannot fulfill the demands of the market.
- f. The landed value of imports has exhibited a consistent and substantial increase.
- g. The sales and production of the domestic industry have undergone a substantial increase.
- h. MCPI has claimed technical problems in their plant in the letter to the Ministry of Environment, as a result of which, the plant couldn't operate properly. Because of this, they got benefit of reduced export obligation. The applicant cannot make different claims before different statutory authorities to reap benefits. RIL and IOC operated PTA facility at full capacity but MCPI could not normalize its production because of technology problem.
- i. The other domestic producers' plants are operating at more than 100% capacity. Therefore, the claim of low capacity utilization due to imports is incorrect.
- j. From 2010-11 onwards, the market share of imports has declined substantially.
- k. Increase in sales from 2011-12 to POI is more than the increase in production for the same period. In which case, the fact that inventories have increased is contradictory to the same.
- l. There is no adverse impact on productivity. Employment has undergone an increase. The slight decrease is due to the MCPI plant having technical problems. Wages paid have also increased.
- m. Substantially high capacity expansions by the domestic industry are inconsistent in light of injury claims.
- n. Fixation of prices by domestic producers of PTA is based on reference price which is CFR CMP reported by ICIS or CFR China reported by Platts and is independent of imports.

- o. Applicants, though not subject to customs duty, are charging the same at 5.583% of the reference price. Further as prices are at USD, they are getting unjustified benefit of steep depreciation of rupee.
- p. MPCL is suffering due to shortage of PX. And that cannot be attributed to imports. Price of PX has increased but that of Naphtha did not increase at the same rate. However, the increase in price of Naphtha was commensurate with increase in price of PTA. Two of the three domestic producers produce PX from Naphtha and consume it to produce PTA. Therefore actual cost of production should be taken for PX and not any notional price for determination of cost of production, NIP, profits/loss, and return.
- q. There is absolute decline in imports from Thailand and marginal increase in imports from Korea. Therefore Imposition of ADD by China has not affected the behavior of the exporters.
- r. The depressed increase in demand is due to the fact that certain users have shifted to use of recycled material such as PET bottles which is a substitute of fresh PTA.
- s. Exchange rate considered by Domestic industry is 54 whereas as per RBI current exchange rate is 62.88. If prevailing exchange rate is considered, the level of price undercutting and price underselling would be eliminated.
- t. Annex II (iv) of Anti-dumping Rules requires 'separate identification' of specific injury related data since there are only three domestic producers and each producer has a different production process.
- u. 66% of RIL's PTA production is captively consumed and does not compete with imports.
- v. All economic parameters (including price undercutting, underselling, depression and suppression) should be examined on monthly basis due to wide fluctuation in price and cost.
- w. In the context of price suppression/depression, there is a significant difference between the costs of RIL and MCPI and simple cumulation of COP will distort the analysis.
- x. Due to the PX PTA delta decreasing, MCPI incurred losses but RIL and IOC achieved profits. The petitioners claim that the PX-PTA delta should

be at least \$150/MT for foreign producers to survive. However, MCPI's PX-PTA delta (unit PTA production cost-unit PX cost) is 253-279 \$/MT. This shows MCPI cannot compete with foreign producers unless it reduces its costs.

- y. RIL made significant profit in PX division but losses in PTA division. RIL treats PX production as a separate profit centre and transfers cost of PX to PTA at cost plus or market price basis. This results in inflating the actual cost of PTA.
- z. None of the economic parameters show injury except facility utilization, profitability and inventory build-up.
 - aa. MCPI increased actual production by more than 100% during the POI as compared with the base year.
 - bb. RIL and IOC have achieved best capacity utilizations in the POI. Therefore, claims of decline in capacity utilization on the basis of the average of the three producers are misleading.
 - cc. RIL in Annual Report admitted the petrochemical sector realized 11.2% and 8.2% of operating profit which were significantly above company-wide profit.
 - dd. According to Annex I (1) of the Rules, elements of cost shall be determined based on records kept by RIL, such records should be kept according to Indian GAAP and reasonably reflect the cost of production and sales. Costs should be reconciled to the audited financial statements of RIL.
 - ee. IOC's Annual Report shows profitability of the petrochemical sector improved from loss to profit in the POI. IOC realized profits since it produces and uses PX.
 - ff. RIL has provided complete volume information with regard to captive consumption. RIL has not provided information for each market segment – merchant and captive.
 - gg. Mitsubishi Corporation and Samsung Korea entered into a contract on 1st November, 2012 to purchase/sell 4000-5000 MT of PTA every month. The entire quantity of PTA under this contract was destined to the Indian market.

hh. Paraxylene (PX) is the main feedstock for manufacture of PTA, there has been significant addition in PTA capacity. During the period 2009-10 to 2012-13, the capacity addition in PX production has trailed. The lack of capacity addition and supply of PX has driven the prices of PX which in turn have raised the cost of production of PTA. The pressure on the sales price of PTA is on account of oversupply of PTA, therefore, creating pressures on margin of the manufacturers.

Submissions made by domestic industry

60. The following submissions with regard to injury and causal link have been made by the domestic industry and considered relevant by the Authority:

- a. With respect to the argument that the domestic industry has not established potential decline in various factors, the Authority is examining the actual position of the domestic industry and it is only if this shows no injury then the potential factor becomes relevant.
- b. The fact that the base year was during the recession is irrelevant as the claim of injury is based on price and not volume parameters. Further, imports in 2009-10 were in fact significantly higher as compared to preceding year.
- c. The import volume has declined after 2010-11 because of commencement of production at the new capacities installed by MCPI. However, the performance of the domestic industry materially deteriorated in respect of profits, cash flow and return on investment after 2010-11.
- d. With respect to the domestic industry not being able to meet demand even while operating at full capacity, the domestic industry has claimed adverse price effect of dumping.
- e. While import prices have increased, as claimed by the responding party, the increase in the CIF and landed price of import is far lower than the increase in raw material cost and there is price suppression.
- f. With respect to the argument that the sales and production of the domestic industry have undergone a substantial increase, the domestic industry has claimed price and not volume injury.
- g. With respect to the argument that MCPI has claimed technical problems in their plant in the letter to the Ministry of Environment, the domestic industry has claimed price and not volume injury.

- h. With respect to the argument that the other domestic producers' plants are operating at more than 100% capacity and so low capacity utilization cannot be claimed, the domestic industry has claimed price and not volume injury.
- i. With respect to the argument that from 2010-11 onwards, the market share of imports has declined substantially, the domestic industry has claimed price and not volume injury.
- j. The responding party claimed that increase in sales from 2011-12 to POI is more than the increase in production for the same period and so inventories cannot have increased. The domestic industry has claimed price and not volume injury. Further, increase in sales of the domestic industry was lower than increase in production, which led to increase in inventories.
- k. With respect to productivity, employment and wages, the petitioners have not claimed injury on account of these. Further, the rules don't specify that injury be in respect of all parameters.
- l. With respect to capacity expansions by the domestic industry, these were made with a long term outlook.
- m. The responding party argued that the applicants, though not subject to customs duty, are charging the same at 5.583% of the reference price and that, as prices are at USD, they are getting unjustified benefit of steep depreciation of rupee. This shows that the pricing mechanism followed by the domestic industry is based on import parity. Further the depreciation of the rupee would also have impacted the cost of production. It is established practice of the authority to proceed with determination based on exchange rate prevailing during period of investigation.
- n. Since imports from Malaysia were below prescribed limits during the investigation period, the issue of a relationship between one of the petitioners and a Malaysian exporter becomes irrelevant.
- o. MPCL is not suffering due to shortage of PX, as claimed by the responding party. This would have caused adverse volume effects, which have not been claimed by the domestic industry.
- p. With respect to the issue of absolute decline in imports from Thailand and marginal increase in imports from Korea, the domestic industry requested that a

cumulative assessment be made of the effect of all subject country imports on the domestic industry. Decline in imports from Thailand is due to increase in imports from Korea.

- q. With respect to the argument that there has been a depressed increase in demand due to a shift to recycled material such as PET bottles, there has been no contraction of demand or change in the pattern of consumption that has affected the domestic industry.
- r. With respect to the claim that as per RBI current exchange rate is 62.88, the exchange rate during the POI was 55.67, which was what was adopted by the domestic industry.
- s. With respect to the Designated Authority seeking information from Central Excise Commissionerate regarding reporting of losses, this is not required of the Authority under the Anti-dumping Rules.
- t. The responding party has incorrectly interpreted the Annex II (iv) of Anti-dumping Rules requirement of 'separate identification'. Annexure II (iv) provides for a situation where information concerning the production of the like product, such as producers' profits and sales, cannot be separately identified. Annexure II(iv) allows the authority to consider information concerning production of a broader product group than the like product produced by the domestic industry, which includes the like product, in evaluating the effect of imports. It does not deal with the separate injury analysis of different producers.
- u. The claim that 66% of RIL's PTA production is captively consumed and does not compete with imports does not justify a separate analysis. RIL has already provided information including and excluding captive production.
- v. With respect to the argument that due to the PX PTA delta decreasing, MCPI incurred losses but RIL and IOC achieved profits, decline in profits is also considered injury.
- w. The argument that because the domestic industry's market share is more than 80%, Korea producers cannot lead market price in India contradicts the previous argument that international prices were followed.
- x. The argument that cumulating cost of production of RIL and MCPI cannot be done as it will distort analysis cannot be accepted since the performance of the domestic industry as a whole has to be considered.

- y. The claim that MCPI's PX-PTA delta is 253-279 \$/MT which shows MCPI cannot compete with foreign producers unless it reduces its costs is factually incorrect.
- z. The claim that RIL made significant profit in PX division but losses in PTA division contradicts the previous claim that RIL's costs are low and MCPI is suffering injury. The Authority should consider captive inputs at their market prices.
- aa. With respect to some parameters not showing injury, adverse effect of dumping on the domestic industry is in respect of parameters such as price undercutting, price suppression/depression, inventories, profit, cash flow and return on investment.
- bb. With respect to inventories, the domestic industry was faced with rising inventories despite significant demand-supply gap.
- cc. With respect to the argument that RIL and IOC operated PTA facility at full capacity but MCPI could not normalize its production because of technology problem, volume injury has not been claimed in the present case.
- dd. With respect to the argument that MCPI increased actual production by more than 100% during the POI as compared with the base year, volume injury has not been claimed in the present case. Despite such increase in production, profits of the domestic industry steeply declined.
- ee. The responding party has argued that RIL and IOC have achieved best capacity utilizations in the POI so averaging capacity utilization of the three producers is misleading. Volume injury has not been claimed in any case.
- ff. The responding party has claimed that RIL in Annual Report admitted the petrochemical sector realized 11.2% and 8.2% of operating profit which were significantly above company-wide profit. The injury to the domestic industry is claimed for the product concern and not for the sector as a whole.
- gg. With respect to the information provided by RIL, the company has provided information as per the records kept by the company.
- hh. The responding party claimed IOC's Annual Report shows profitability of the petrochemical sector improved from loss to profit in the POI and the realized profits since it produces and uses PX. The injury to the domestic industry is claimed for the product concern and not for the sector as a whole. Further, such injury is required to be seen for domestic industry and not for IOCL.

- ii. The responding party has stated that there was no sharp increase in subject imports. Injury to the domestic industry is because of price undercutting, price suppression/depression caused by the imports.

Examination of the Authority

61. The submissions made by the domestic industry and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as below:

- a. As regards the submission that price of IOCL, who have not supported the petition, is lower than the other domestic producers by 4-10%, the Authority notes that IOCL has neither supported nor opposed the applicants in the present investigation and therefore cannot be construed as domestic industry under the Anti-dumping Rules. The applicant domestic producers in the present investigation i.e. MCPI and RIL constitute domestic industry under the Anti-dumping Rules. Therefore, in terms of the provisions laid down under the Anti-dumping Rules, the Authority is required to investigate and determine injury in respect of the domestic industry only.
- b. As regards the submission that MCPI suffered technical problems in their plant which is the real cause of injury, the Authority notes that it is a fact that MCPI suffered technical problems in their plant, but that cannot be interpreted as the only cause of injury. Moreover, the domestic industry has claimed adverse price effect of the imports from the subject countries and not volume effect.
- c. As regards the submission that fixation of prices by domestic producers of PTA is based on reference price which is CFR CMP reported by ICIS or CFR China reported by Platts and is independent of imports, the Authority notes that the prices announced by such sources do act as a benchmark for the domestic producers while determining their domestic selling prices. However, under the Anti-dumping Rules, for establishing injury and causal link, what is relevant is the actual landed price from the subject countries, which compared with the non-injurious price of the domestic industry, forms the basis for determination of injury margin.
- d. As regards the submission that applicants, though not subject to customs duty, are charging the same at 5.583% from the customers while selling the subject goods in the domestic market, the Authority notes that as stated by

the domestic industry, such pricing mechanism followed by the domestic industry is based on import parity.

- e. As regards the submission that unlike other domestic producers MPCL is suffering due to shortage of PX and therefore actual cost of production should be taken for PX from the stage of Naphtha and not any notional price for determination of cost of production, NIP, profits/loss, and return, the Authority notes that claimed injury to the domestic industry is not on account of volume effect. Therefore, shortage of major raw materials impacting production of subject goods by the domestic industry is not relevant. The Authority further notes that PX and not Naphtha is a major raw material for the subject goods.
- f. As regards the submission that certain users of PTA Chips have shifted to use of recycled material such as Poly Ethylene Terephthalate (PET) bottles which is a substitute of fresh PTA, the Authority notes that such argument is baseless as there is no contraction in demand for the subject goods.
- g. As regards the submission that exchange rate considered by Domestic industry is 54 whereas as per RBI current exchange rate is 62.88, the Authority notes that the exchange rate prevailing during the POI is only relevant for the investigation.
- h. As regards the submission that separate injury analysis is required for each domestic producer as they have different production processes, the Authority notes that as per the Anti-dumping Rules injury is required to be determined for the domestic industry as a whole.
- i. As regards the submission that 66% of RIL's PTA production is captively consumed and does not compete with imports, the Authority notes that the injury analysis is required to be done as per the Anti-dumping Rules for both merchant as well as captive markets.
- j. As regards the submission that all economic parameters (including price undercutting, underselling, depression and suppression) should be examined on monthly basis due to wide fluctuation in price and cost, the Authority notes that dumping margin and injury margin are determined on monthly basis.

- k. As regards the submission that due to the PX-PTA delta decreasing, MCPI incurred losses but RIL and IOC achieved profits, the Authority notes that cost of production of subject goods produced through different technologies may differ, but that does not mean that the handicap suffered by MCPI due to manufacturing the subject goods from the stage of PX is the sole cause of injury. Moreover, RIL is also faced with declining profits in the subject goods.
- l. As regards the submission that RIL treats PX production as a separate profit centre and transfers cost of PX to PTA at cost plus or market price basis inflating the actual cost of PTA, it is noted that the Authority has determined NIP for the domestic industry as per Annexure III of the Rules and as per consistent practice in the DGAD.
- m. As regards the submission that the pressure on the sales price of PTA is on account of oversupply of PTA, thereby creating pressures on margin of the manufacturers, the Authority notes that the domestic industry has not claimed injury on account of volume effect of imports.

Cumulative Assessment

62. Annexure II para (iii) of the Anti-dumping Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:

- a. the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account accounts 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.

63. The Authority notes that:

- a) The subject goods are being dumped into India from subject countries. The margins of dumping from each of the subject countries are more than the *de minimis* limits prescribed under the Rules.

- b) The volume of imports from each of the subject countries is individually more than 3% of total volume of imports.
- c) Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market.

64. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from exports of the subject goods from the subject countries.

65. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-dumping Rules.

Volume Effect of the Dumped imports on the Domestic Industry

a) **Demand and market share**

66. Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed is given in the table below:

Particulars	Units	2009-10	2010-11	2011-12	POI
Demand	MT	3,464,251	3,952,359	3,886,084	4,098,329
Indexed	Trend	100	114	112	118
Imports from Subject Countries	MT	320,235	625,770	526,784	595,325
Indexed	Trend	100	195	164	186
Import From Other	MT	161,887	118,818	77,786	54,464

Countries					
Indexed	Trend	100	73	48	34
Sale of Domestic Industry (Including captive consumption)	MT	2,454,129	2,760,771	2,739,514	2,906,540
Indexed	Trend	100	112	112	118
Sale of Other producers	MT	528,000	447,000	542,000	542,000
Indexed	Trend	100	85	103	103

i) Market Share in Demand

67. Considering imports from various sources and sales of the domestic industry, market share of subject imports in demand in India was examined. The Authority notes that share of domestic industry has remained static despite increase in demand, whereas share of dumped imports from subject countries increased substantially during the POI as compared to the base year.

Particulars	Units	2009-10	2010-11	2011-12	POI
Import from Subject Countries	%	9	16	14	15
Import from Other Countries	%	5	3	2	1
Sale of Domestic Industry	%	71	70	70	71
Sale of Other producers	%	15	11	14	13

Import volume and market share

68. The volume of imports of the subject goods from the subject countries is as under:-

Particulars		Unit	2009-10	2010-11	2011-12	POI
Volume	Subject Countries	MT	320,235	625,770	526,784	595,325
	Other countries	MT	161,887	118,818	77,786	54,464
	Total imports	MT	482,122	744,588	604,570	649,789
Market Share in Imports	Subject Countries	%	66	84	87	92
	Other countries	%	34	16	13	8

69. It is observed from the above table that imports from subject countries increased significantly during the POI as compared to the base year.

Share of imports in relation to production

70. Authority notes that the imports from subject countries have increased in relation to the production of the domestic industry, as is evident from the following table:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Imports from Subject Countries	MT	320,235	625,770	526,784	595,325
Production of domestic industry	MT	2,454,835	2,754,659	2,753,708	2,931,680
Imports in relation to production of domestic industry.	%	13	23	19	20

e) **Capacity & capacity utilization**

71. Capacity and capacity utilization of the domestic industry over the injury period is given in the following table:-

Particulars	Unit	2009-10	2010-11	2011-12	POI
Capacity MT	MT	2,595,000	3,420,000	3,420,000	3,420,000
Production	MT	2,454,835	2,754,659	2,753,708	2,931,680
Capacity utilization	%	95	81	81	86

72. It is observed that capacity utilization of the domestic industry declined during POI as compared to the base year, despite increasing demand.

f) **Production**

73. Production data of the domestic industry is given in the following table:-

	Unit	2009-10	2010-11	2011-12	POI
Production	MT	2,454,835	2,754,659	2,753,708	2,931,680
Trend	Indexed	100	112	112	119
Demand	MT	3,464,251	3,952,359	3,886,084	4,098,329
Trend	Indexed	100	114	112	118
Production in relation to Demand	%	71	70	71	72

74. It is observed that production of the domestic industry has increased due to increase in capacity.

g) **Sales volume**

75. Sales volume of the domestic industry is given in the following table:

	Unit	2009-10	2010-11	2011-12	POI
Domestic sales (Including captive consumption)	MT	2454129	2760771	2739514	2906540
Trend	Indexed	100	112	112	118
Demand	MT	3,464,251	3,952,359	3,886,084	4,098,329
Trend	Indexed	100	114	112	118
Market Share of domestic industry in Demand	%	71	70	70	71

76. It is observed from the above table that sales of the domestic industry have increased during the POI as compared to the base year.

I. Price Effect of the Dumped imports on the Domestic Industry

77. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the purpose of this analysis, the weighted average cost of production (COP), weighted average Net Sales Realization (NSR) and the Non-Injurious Price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject countries.

i. Price Undercutting

78. The net sales realization has been arrived after deducting outward freight and taxes. Landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty including applicable cess to the CIF value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry and it was found that the price undercutting from the subject countries is only *** % during the POI.

	Unit	2009-10	2010-11	2011-12	POI
Subject Countries					
Landed price of imports	Rs./MT	46,073	53,950	62,580	64,673
Net Selling Price	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting %	%	***	***	***	***
Price Undercutting Range	Range %	negative	negative	0-10	0-10

	Unit	2009-10	2010-11	2011-12	POI
China					
Landed price of imports	Rs./MT	-	60,567	58,382	63,851
Net Selling Price	Rs./MT	-	***	***	***
Price Undercutting	Rs./MT	-	***	***	***
Price Undercutting %	%	-	***	***	***
Price Undercutting Range	Range %	-	negative	0-10	0-10

	Unit	2009-10	2010-11	2011-12	POI
Korea RP					
Landed price of imports	Rs./MT	45,819	52,878	62,581	64,677
Net Selling Price	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting %	%	***	***	***	***
Price Undercutting Range	Range	negative	negative	0-10	0-10

	Unit	2009-10	2010-11	2011-12	POI
Thailand					
Landed price of imports	Rs./MT	46,570	54,997	63,150	64,865
Net Selling Price	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting %	%	***	***	***	***

Price Undercutting Range	Range	negative	negative	negative	0-10
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	Unit	2009-10	2010-11	2011-12	POI
European Union					
Landed price of imports	Rs./MT	43,312	51,599	63,024	63,824
Net Selling Price	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting %	%	***	***	***	***
Price Undercutting Range	Range	0-10	negative	negative	0-10

ii. Price Underselling

79. Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules. The analysis shows that during the POI the landed value of subject imports were below the non-injurious price of the domestic industry as can be seen from the table below.

Particulars	Unit	China	Korea	Thailand	EU
Non-injurious price*	Rs./MT	***	***	***	***
Landed price (POI)	Rs./MT	63851	64677	64865	63824
Price underselling	Rs./MT	***	***	***	***
Underselling	%	***	***	***	***
Underselling	% Range	0-10	0-10	0-10	0-10

Note: NIP is based on weighted average of month-wise working

iii. Price suppression/depression

80. The Authority examined whether the effect of the dumped imports was to depress the prices of the like article in India, or prevent price increases which would have otherwise occurred.

Particulars	Unit	2009-10	2010-11	2011-12	POI
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Cost of Production	Rs./MT	***	***	***	***
Indexed	Trend	100	114	156	175
Selling Price	Rs./MT	***	***	***	***
Indexed	Trend	100	112	138	145
Landed price of imports (Subject countries as a whole)	Rs./MT	46,073	53,950	62,580	64673
Indexed	Trend	100	117	136	140

It may be seen from the table above that the cost of production has increased from 100 to 175 from 2009-10 to POI, the selling price increased only from 100 to 145 during the same period, thereby the prices were suppressed on account of dumped imports, as the domestic industry was not able to increase its prices in proportion to increase in costs. Even though the landed prices have increased over the years, they are lower than the sales realization of the domestic industry during the POI. The imports were thus suppressing the prices of the domestic industry.

J. Economic parameters of the domestic industry

i. Profit/Loss

81. The profitability of the domestic industry is given in the following table;

Particulars	Unit	2009-10	2010-11	2011-12	POI
Profits	Rs./Lacs	***	***	***	***
Indexed	Indexed	100	114	(39)	(120)
Cash Profit	Rs./Lacs	***	***	***	***
Indexed	Indexed	100	125	2	(63)
ROCE	%	***	***	***	***
Indexed	Indexed	100	117	(33)	(116)

82. It is seen from the above table that profitability of the domestic industry declined significantly during the POI as compared to the base year. Cash profits as well as return on investment have also declined in the POI compared to base year as well as the previous year.

ii. Cash Flow

83. Authority has examined the trends in cash profits in order to examine the impact of dumping on cash flow situation of the domestic industry. Information regarding cash profit of the domestic industry is given in the following table.

	Unit	2009-10	2010-11	2011-12	POI
Cash profits	Rs./Lacs	***	***	***	***
Trend	Indexed	100	125	2	(63)

It is seen that the cash profits of the domestic industry declined from 2011-12.

iii. Inventories

84. Inventories with the domestic industry moved as follows;

	Units	2009-10	2010-11	2011-12	POI
Average Stock	MT	4,747	3,634	3,554	11,069
Stock as No. of days sale	Days	***	***	***	***

It is noted that inventories with the domestic industry increased in the POI as compared to the base year as well as the previous year.

iv. Productivity

85. Authority notes that productivity of the domestic industry has increased during the POI as compared to base year.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Productivity per Employee	MT	***	***	***	***
Productivity per day	MT	7014	7870	7868	8376

v. Employment and Wages

86. It is seen from the table below that the employment level has increased during the POI marginally as compared to the base year.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Employment	Nos.	***	***	***	***
	Indexed	100	107	105	104
Wages	Rs/Lacs	***	***	***	***
	Indexed	100	152	174	175

vi. Magnitude of Dumping

87. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined in respect of the subject countries are above de-minimis except in respect of imports from Taekwang Industrial Co. Ltd., Korea RP.

vii. Growth

88. The Authority notes from the table below that growth of the domestic industry in respect of production, domestic sales, profit/loss, ROI, etc have declined during the POI as compared to the growth achieved in 2010-11.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Production	%	-	12.21	(0.03)	6.46
Domestic Sales Volume	%	-	12.49	(0.77)	6.10
Cost of Sales	%	-	16.20	41.06	9.84
Selling Price	%	-	12.07	22.92	5.28
Profit/ Loss per unit	%	-	(14.41)	(134.98)	(365.35)
Return on Capital Employed	%	-	16.71	(127.93)	(456.09)

viii. Ability to raise capital investment

89. The Authority notes that one of the constituent of the domestic industry is involved in production of multiple goods and ability to raise capital is not a factor for injury analysis. Further, the other constituent domestic industry has been referred to BIFR.

K. Conclusion on material injury

90. In view of the above, the Authority provisionally concludes that the dumped imports of the subject goods from the subject countries have increased in absolute terms as also in relation to production and consumption of the subject goods in India. However, imports of the subject goods from the subject countries are undercutting the prices of the domestic industry in the market marginally. Further, whereas cost of production kept increasing over the injury period, even though the selling prices also increased, the increase in selling price was not in proportion to the increase in cost of production. The imports were thus suppressing the prices of the domestic industry and preventing the price increase that would have otherwise occurred in the absence of dumped imports. With regard to consequent impact of the dumped imports on the domestic industry, it is found that demand for the product increased significantly, however production and sales of the domestic industry increased, but not in proportion to the increase in demand. Resultantly, the domestic industry did not appreciate its market share despite increase in capacity and demand, which in turn impacted other performance parameters as well. The domestic industry was faced with significant unutilized capacities in a situation where the demand for the product is quite significant in the market. Profitability of the domestic industry declined. Return on capital employed and cash profits followed the same trend as that of profits. Both return on capital employed and cash profits marked negative growths in POI. Growth in respect of most of the parameters such as production, sales, capacity utilization, profits, cash profits, return on capital employed, market share & inventory etc shows an adverse impact on the domestic industry. It is thus provisionally concluded that the domestic industry has suffered material injury.

L. CAUSAL LINK AND OTHER FACTORS

91. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined:-

(a) Volume and prices of imports from third countries

92. During POI, imports of the subject goods from countries other than the subject countries have been insignificant in volume. Therefore, the imports from other countries cannot be considered to have caused injury to the domestic industry.

(b) Trade restrictive practices of and competition between the foreign and domestic producers

93. There is no evidence of trade restrictive practices of and competition between the foreign producers and domestic producers causing injury to the domestic industry.

(c) Contraction of demand or Changes in the pattern of consumption

94. The Authority notes that demand for the product showed significant increase during the injury period and also during POI. The Authority thus provisionally concludes that injury to the domestic industry was not due to contraction in demand.

(d) Development in Technology

95. None of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry.

(e) Export performance of Domestic Industry

96. Performance of the domestic industry has been segregated for domestic and export market. Therefore, any possible decline in export performance is not a cause of any injury.

(f) Productivity of the Domestic Industry

97. Productivity of the domestic industry has increased during the POI. However, profitability of the domestic industry showed decline.

98. From the foregoing, the Authority provisionally concludes that there is no evidence of injury being caused due to any other factor other than the dumped imports of the subject goods originating in or exported from the subject countries.

M. FACTORS ESTABLISHING CAUSAL LINK

99. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated over the injury period. The causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

- i The dumped imports of the subject goods from the subject countries have increased in absolute terms as also in relation to production and consumption of the subject goods in India.
- ii Imports of the subject goods from the subject countries are undercutting the prices of the domestic industry in the market, although marginally.
- iii Whereas cost of production kept increasing over the injury period, even though the selling prices also increased, the increase in selling price was not in proportion to the increase in cost of production.
- iv The imports were suppressing the prices of the domestic industry and preventing the price increase that would have otherwise occurred in the absence of dumped imports.
- v Profitability of the domestic industry declined. Return on capital employed and cash profits followed the same trend as that of profits. Both return on capital employed and cash profits marked negative growths in POI on account of dumped imports.
- vi Growth in POI in respect of most of the parameters such as sales, capacity utilization, profits, cash profits, return on capital employed, market share & inventory etc shows an adverse impact on the domestic industry.
- vii The financial performance of the domestic industry has deteriorated in respect profit, ROI and cash flow, due to dumped imports.

100. Thus the Authority concludes for the purpose of the present preliminary findings that the domestic industry suffered material injury due to dumped imports of the subject goods originating in or exported from the subject countries.

N. MAGNITUDE OF INJURY AND INJURY MARGIN

101. The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in the Rules, as amended. The non-injurious price so determined has been compared with the landed prices of imports from the subject countries.

SN	Channel of Export	Name of producer	Exporter	Non Injurious Price Rs./MT	Landed price Rs./MT	Injury margin Rs./MT	Injury margin US\$./MT	Injury margin %	Injury margin Range%
China PR									
1	Any	All Producers	All Exporters	***	***	***	***	***	0-10
Korea RP									
2	Korea RP-India	Samsung General Chemical Co Ltd	Samsung C&T	***	***	***	***	***	0-10
3	Korea	Taekwang	Taekwang						0-10

	RP-India	Industrial Co Ltd	Industrial Co Ltd,	***	***	***	***	***	
4	Any	All Other Producers	All Other Exporters	***	***	***	***	***	5-15
Thailand									
5	Thailand - India	Indorama Petrochem Ltd	Indorama Petrochem Ltd	***	***	***	***	***	0-10
6	Thailand - India	TPT Petrochemicals Public Limited	TPT Petrochemicals Public Limited	***	***	***	***	***	0-10
7	Any	All other producers	All Other Exporters	***	***	***	***	***	5-15
European Union									
8	Any	All Producers	All Exporters	***	***	***	***	***	0-10

O. CONCLUSIONS:

102. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in this finding, the Authority provisionally concludes that:
- a. The product under consideration has been exported to India from subject countries below its normal value, thus resulting in dumping.
 - b. The domestic industry has suffered material injury due to dumping of the product under consideration from the subject countries.
 - c. The material injury has been caused by the dumped imports from the subject countries.

P. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

103. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.

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

Q. RECOMMENDATIONS

105. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted a preliminary investigation into dumping, injury and causal links in terms of the provisions laid down under the Anti-dumping Rules and having provisionally established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury, pending completion of the investigation. Therefore, Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder;
106. The Authority notes that Indorama Petrochem Ltd, Thailand and TPT Petrochemicals Public Limited, Thailand are related companies operating in Thailand and exported the subject goods to their own related party in India i.e. M/s ***. In view of their relationship, the Authority has recommended the provisional antidumping duty on weighted average basis for both the related exporters so as to avoid circumvention of antidumping duty.
107. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty equal to the amount mentioned in Col 8 of the table below is recommended to be imposed from the

date of notification by the Central Government, in the event of acceptance of these recommendations by the Central Government, on all imports of subject goods originating in or exported from China PR, Korea RP, Thailand and European Union.

DUTY TABLE

S. No	Heading /Subheading	Description of goods	Country of origin	Country of export	Producer	Exporter	Duty amount	Unit MT	Currency US\$
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	29173600	Purified Terephthalic Acid'	China PR	China PR	Any	Any	62.82	MT	US\$
2	-do-	-do-	China PR	Any country other than those subject to Anti-dumping duty	Any	Any	62.82	MT	US\$
3	-do-	-do-	Any country other than those subject to Anti-dumping duty	China PR	Any	Any	62.82	MT	US\$
4	-do-	-do-	Korea RP	Korea RP	Samsung General Chemical Co Ltd	Samsung C&T	29.86	MT	US\$
5	-do-	-do-	Korea RP	Korea RP	Taekwang Industrial Co Ltd	Taekwang Industrial Co Ltd,	19.05	MT	US\$
6	-do-	-do-	Korea RP	Korea RP	Any combination other than mentioned in SI No. 4 to 5 above		117.09	MT	US\$
7	-do-	-do-	Korea RP	Any country other than those subject to Anti-dumping duty	Any	Any	117.09	MT	US\$
8	-do-	-do-	Any country other than those subject to	Korea RP	Any	Any	117.09	MT	US\$

			Anti-dumping duty						
9	-do-	-do-	Thailand	Thailand	Indorama Petrochem Ltd	Indorama Petrochem Ltd	27.49	MT	US\$
10	-do-	-do-	Thailand	Thailand	TPT Petrochemicals Public Limited	TPT Petrochemicals Public Limited	27.49	MT	US\$
11	-do-	-do-	Thailand	Thailand	Any combination other than mentioned in SI No. 9 to 10 above		99.51	MT	US\$
12	-do-	-do-	Thailand	Any country other than those subject to Anti-dumping duty	Any	Any	99.51	MT	US\$
13	-do-	-do-	Any country other than those subject to Anti-dumping duty	Thailand	Any	Any	99.51	MT	US\$
14	-do-	-do-	EU	EU	Any	Any	23.75	MT	US\$
15	-do-	-do-	Any country other than those subject to Anti-dumping duty	EU	Any	Any	23.75	MT	US\$
16	-do-	-do-	EU	Any country other than those subject to Anti-dumping duty	Any	Any	23.75	MT	US\$

R. FURTHER PROCEDURE

108. The following procedure would be followed subsequent to notifying the preliminary findings:-

- a. The Authority invites comments on these provisional findings from all interested parties and the same, considered relevant by the Authority, would be considered in the final findings;
- b. Exporters, importers, the applicant and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of these preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings.
- c. The Authority would conduct further verification to the extent deemed necessary.
- d. The Authority would disclose essential facts as per the Anti-dumping Rules before announcing final findings.

J.K. Dadoo
Designated Authority