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F. No. 6/24/2020-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi -110001

Dated: 30th November, 2021

NOTIFICATION
FINAL FINDINGS
(Case No. ADD-OI-20/2020)

Subject: Anti-dumping investigation concerning imports of "Glass Fibre and Article thereof" originating in or exported from Bahrain and Egypt.

Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as "the Act") and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as "the Rules" or "the AD Rules") thereof.

A. BACKGROUND OF THE CASE

1. Owens-Corning India Private Limited and Owens-Corning Industries (India) Private Limited (hereinafter also referred to as "applicants" or the "domestic industry") filed an application before the Designated Authority (hereinafter referred to as "Authority") requesting initiation of anti-dumping investigation under the Act and the Rules on imports of Glass Fibre and articles thereof (hereinafter referred to as "product under consideration" or "subject goods") originating or exported from Bahrain and Egypt (hereinafter referred to as the "subject countries"). The Applicants claimed dumping from the subject countries and consequent injury to the domestic industry.

2. The Authority, in view of the duly substantiated application filed and prima facie evidence submitted by the Applicants, issued a public notice vide Notification No. 6/24/2020-DGTR dated 4th August 2020, published in the Gazette of India, initiating anti-dumping investigation into imports of the product under consideration from the subject countries in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of any alleged dumping of the subject goods and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure defined herein below has been followed with regard to this investigation:

a. The Authority notified the Embassies of Bahrain and Egypt in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Rule 5(5) of the Anti-Dumping Rules.

b. The Authority issued a public notice dated 4th August 2020, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning import of subject goods from the subject countries.

c. The Authority sent a copy of the initiation notification to the Governments of the subject countries through their Embassies in India, known producers and exporters from the subject countries, known importers/users and the domestic industry as well as other interested parties, as per the available information. The interested parties were requested to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.

d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India, in accordance with Rule 6(3) of the Anti-Dumping Rules.

e. The Embassies of the subject countries in India were requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the Embassies along with the list of the known producers/ exporters from the subject countries.

f. The Authority, upon several requests made by the interested parties from time to time, granted multiple extensions of time up to 9th October 2020, to file their responses as well as submissions.

g. Written submissions were received from the Ministry of Trade and Industry, Trade Remedies Sector, Republic of Egypt and The Cooperation Council for the Arab States of the Gulf on behalf of the Kingdom of Bahrain.

h. The Authority sent questionnaire to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules:

   i. CPIC Abahsain Fiberglass W.L.L
   ii. Jushi Egypt for Fiberglass Industry S.A.E

   In response to the initiation notification of the subject investigation, both the producers from the subject countries have responded and submitted questionnaire response.

i. The Authority sent questionnaire to the following known importers / users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.

   i. A G Fibrotech Private Limited
   ii. Aakash Universal Limited
   iii. Aarvi Marketing Private Limited

iv. Advance Cooling Towers Private Limited
v. Advance Textile
vi. Aksh Composites Private Limited
vii. Aksh Optifibre Limited
viii. Allied Marketing Company
ix. Amiantit Fibreglass India Limited
x. Apar Industries Limited
xi. Arc Insulation and Insulators
xii. Associated Polytech Industries (P) Limited
xiii. Autodynamic Technologies and Solutions Private Limited
xiv. Autotech-Sirmax India Private Limited
xv. Badve Auto Comps Private Limited
xvi. Balaji Fiber Reinforce Private Limited
xvii. Balaji Trading Company
xviii. BASF India Limited
xix. Bharat Heavy Electricals Limited
xx. Brakes India Private Limited
xxi. Brakewel Automotive Components India Private Limited
xxii. Calco Poly Technik Private Limited
xxiii. Calstar Steel Limited
xxiv. Chemical Process Equipments Private Lmited
xxv. Chemical Process Piping Private Limited
xxvi. Classic AL Metal Industries
xxvii. Classic Marble Company Private Limited
xxviii. Complete Surveying Technologies Private Limited
xxix. Concrete Solutions
xxx. Danblock Brakes India Private Limited
xxxi. Decimin Control Systems Private Limited
xxxii. Dhingra Plastic &Plastiscisers Private Limited
xxxiii. Dinsons Self Sticks Private Limited
xxxiv. Dr. Plasto Tech Private Limited
xxxv. Ecmas Agencies
xxxvi. Ecmas Resins Private Limited
xxxvii. Emak Glass Fibre & Accessories (P) Limited
xxxviii. EPP Composites Private Limited
xxxix. Ercon Composites
xl. Excellence Organisation Private Limited
xli. Faurecia Emissions Control Technologies India Pvt Ltd
xlii. Fibre Chem Agencies
xliii. Fibro Plast Corporation
xliv. Fibro Plastichem India (P) Limited
xlv. Finolex Cables Limited
xlvi. FMI Automative Components Private Limited
xlvii. Foremost Marbles

xlviii. Future Chem Pro Private Limited
xlix. GKD India Limited
l. Graphite India Limited
li. Grindwell Norton Limited
lii. Grupo Antolin India Private Limited
liii. Gujarat State Fertilizers & Chemicals Limited
liv. Harita Fehrer Limited
lv. Heritage Marble Private Limited
lvi. Himachal Futuristic Communications Limited
lvii. Himgiri Cooling Towers Pvt Ltd
lviii. Hindustan Composites Limited
lix. Hirotec Mark Exhaust System Private Limited
lx. Hitech Fibre Glass Mattings (P) Limited
lxi. HTL Limited
lxii. IAC International Automotive India Private Limited
lxiii. Indore Composite Private Limited
lxiv. Intec FRP Products
lxv. Ion Exchange India Limited
lxvi. Jam Jen Tecno Engineering
lxvii. Jay K. FRP Private Limited
lxviii. JK Building Solutions
lxix. JRD Fibre Composites Private Limited
lxx. Jushi (India) FRP Accessories Private Limited
lxxi. Kemrock Industries and Exports Limited
lxxii. Kineco Limited
lxxiii. Kingfa Science & Technology India Limited
lxxiv. Kishor Auto Ancillary Private Limited
lxxv. Krishna Grupo Antolin Private Limited
lxxvi. Kush Synthetics Private Limited
lxxvii. Leo Sign Composite (SD) Private Limited
lxxviii. Link Composites Private Limited
lxxix. Macedon Vinimay Private Limited
lxxx. Madura Coats Private Limited
lxxxi. Mahan Polymers
lxxxii. Mahindra CIE Automotive Limited
lxxxiii. Makson Enterprises
lxxxiv. Mangalchand Tubes Private Limited
lxxxv. Mecolam Engineering Private Limited
lxxxvi. Megha Fibre Glass Industries Limited
lxxxvii. Montex Glass Fibre Industries Private
lxxxviii. MRG Composites India
lxxxix. Murugan Arul Metals
xc. Muskan Enterprises
xci. Mysore Light & Interiors Private Limited

xcii. National Cooling Towers
xciii. Nelson Global Products India Private Limited
xciv. Newkem products Corporation
xcv. Next Polymers Limited
xcvi. Noble Agencies
xcvii. O.K. Glass Fibre Limited
xcviii. OFR Telecom Private Limited
xcix. Olectra Greentech Limited
c. Om Optel Industries Private Limited
ci. Panik Enterprises
cii. Pentair Water India Private Limited
ciii. Polycab India Limited
civ. Premium Polyalloys Private Limited
cv. Pyrotek India Private Limited
cvi. R.K. Marble Private Limited
cvii. Radha Industries
cviii. Rainbow Petrochem Industries Private Limited
cix. Rajsriya Automotive Industries (P) Limited
cx. Rane Brake Lining Limited
cxi. Reliance Industries Limited
cxii. Revex Plasticisers (Private) Limited
cxiii. Riddhi Enterprises
cxiv. Riviera Overseas Private Limited
cxv. RMC Switch Gears Limited
cxvi. Rukmini Fibre Glass
cxvii. Saertex India Private Limited
cxviii. Samudyam Projects Private Limited
cxix. Sankei Giken India (Private) Limited
cxx. Sanskriti Composites Private Limited
cxxi. SCM Noble Agencies
cxxii. Sharda Motor Industries Limited
cxxiii. Shree Building Solutions Private Limited
cxxiv. Shree Jee Fibreglass Private Limited
cxxv. Shubhada Polymers Products Private Limited
cxxvi. Sika India Private Limited
cxxvii. Sintex-Bapl Limited
cxxviii. Sky Fiberglass Solutions Private Limited
cxxix. SM Exhaust Technology Private Limited
cxxx. Sobha limited
cxxxi. Specialty Composites
cxxxii. Sri Venkateshwara Polythyne
cxxxiii. Starke International Exim Private Limited
cxxxiv. Sterlite Technologies Limited
cxxxv. Strongbonds Polyseal Private Limited

cxxxvi. Sudarsshan Plastiblends Private Limited
cxxxvii. Sundaram Brake Linings Limited
cxxxviii. Sunpure Technologies Limited
cxxxix. Sunrise Industries (India) Limited
cxl. Supreme Nonwovens Industries Private Limited
cxli. Supreme Treon Private Limited
cxlii. Synergy Optic Private Limited
cxliii. Synergy Polymers (India) Private Limited
cxliv. Tata Autocomp Systems Limited
cxlv. Techfab India (Industries) Limited
cxlvi. Technomac Engineering Works
cxlvii. Tenneco Clean Air India Private Limited
cxlviii. Teracom (FRP) Private Limited
cxlix. Teracom Limited
cl. The Supreme Industries Limited
cli. Time Technoplast Limited
clii. Ultratech Cement Limited
cliii. Unekar Polymer Agency
cliv. Up Twiga Fiberglass Limited
clv. Urja Products Private Limited
clvi. V3 Design Build
clvii. Valeo Friction Materials India Private Limited
clviii. Vindhya Telelinks Limited
clix. West Coast Optilinks (A Division of West Coast Paper Mills)
clx. Willett Communications
clxi. Yutaka Autoparts India Private Limited

j. The following importers/users have responded by filing questionnaire response:
   i. Aeron Composites Limited
   ii. Agni Fibreboard Private Limited
   iii. Arvind PD Composites Limited
   iv. EPP Composites Limited
   v. Indore Composites Private Limited
   vi. Saumit International
   vii. Saumit Interglobe
   viii. Sedaxis Advance Material Private Limited
   ix. Sumip Composites Private Limited

k. The Authority sent Questionnaire to the following known Associations of subject goods in India for circulation & calling necessary information in accordance with Rule 6(4) of the Rules:
   i. Associated Chambers of Commerce and Industry of India
   ii. Confederation of Indian Industry
   iii. Federation of Indian Chamber of Commerce and Industry
   iv. Indian Chemical Council (ICC)

l. Legal submissions have been filed by Composites Association, FRP Institute and Telangana and Andhra Composites Manufacturing Association and Composites Association.

m. Authority circulated the non-confidential version of the evidence presented by the various interested parties on in the manner prescribed through Trade Notice No. 01/2020 dated 10th April 2020 (extended till further notice). Submissions made by all the interested parties have been taken into account till the extent found necessary by the Authority.

n. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years and the period of investigation, which has been received by the Authority. The analysis of the DGCI&S data has been done and it has been observed that there is no significant difference in the analysis done by the Authority and the analysis done by the domestic industry.

o. The non-injurious price (NIP) has been determined based on the optimum cost of production and cost to make & sell the subject goods in India as per information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been considered to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

p. In accordance with Rule 6(6), the Authority provided opportunity to all the interested parties to present their views orally in a hearing held through video conference on 19th January 2021, which was attended by all the interested parties.

q. Due to the change in the Designated Authority, a second oral hearing was conducted through video conference on 12th February 2021, which was attended by all the interested parties. The interested parties who presented their views in the oral hearing were requested to file written submissions of their views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and were provided an opportunity to submit their rejoinders thereafter.

r. Verification of the information provided by the domestic industry was carried out by the Authority, to the extent necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of the subject investigation.

s. The period of investigation (POI) for the purpose of present investigation is 1st April 2019 to 31st March 2020 (12 months). The injury analysis period includes 1st April 2016 – 31st March 2017, 1st April 2017 – 31st March 2018, 1st April 2018 – 31st March 2019 and the period of investigation.

t. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this document.

u. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the 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.

v. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views/observations on the basis of the facts available.

w. In accordance with the Rules, the Authority disclosed the essential facts of the case that would form the basis of its findings in the form of a disclosure statement on 30.07.2021 and the interested parties were allowed time up to 16.08.2021 to comment on the same. The comments of the interested parties, to the extent relevant, have been considered by the Authority and have been addressed in this finding.

x. In response to the disclosure statement issued by the Authority, various interested parties raised observations on non-addressal of their issues in the disclosure statement. On request of domestic industry, Authority granted an opportunity of individual hearing to domestic industry and also discussed the price undertaking with the representative of M/s CPIC Bahrain. In order to understand and thereafter address the issues raised by the interested parties comprehensively, the Authority sought extension for completion of the instant investigation from Department of revenue, ministry of Finance. The Ministry of Finance granted extension till 30.11.2021.

y. Keeping in view that such a hearing may have bearing upon other parties as well, a post-disclosure hearing was granted by the Authority on 09.11.2021 so that all the parties would have an equal opportunity to present their views on the issues raised. The parties filed their submissions by 12.11.2021 and further rejoinder submissions were filed on 15.11.2021.

z. A limited disclosure was issued to Jushi Egypt on 27.11. 2021 which submitted its comments on 29-11-2021.

aa. '***' in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

bb. The exchange rate adopted by the Authority for the subject investigation is 1 US$ = Rs. 71.65.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1. Submissions by the domestic industry

4. Following submissions have been made by the domestic industry with regard to the product under consideration and like article:

i. The product under consideration is glass fibre including glass roving (assembled rovings (AR), direct rovings (DR), glass chopped strands (CS), and glass chopped strands mats (CSM).

ii. The PCN methodology proposed by the domestic industry is consistent with the sunset review investigation on imports of subject goods from China PR.

iii. Wet used chopped strands are excluded from the scope of the product under consideration, and there is no relevance of notifying a PCN for the same.

iv. The cost of production of High Modulus rovings and other direct rovings is comparable with only a minor difference, hence, there is no need for consideration of two different PCNs.

v. The other interested parties should substantiate the modification in PCN requested by them using their own data. The cost of products identified by the other interested parties is not significantly different.

vi. Responding to the contention that no duty can be imposed on high modulus glass fibre since it was not introduced into the commerce of India, the domestic industry submitted that Article 2 refers to product being introduced into the commerce of the importing country and not each product type.

vii. Exclusion of HM glass is not warranted as it has not been imported in India, but has been produced by the domestic industry. Same machinery can be used to manufacture HM glass and ECR glass. The only difference is the raw material/ inputs, temperature and glass chemistry.

viii. The submission that the applicant did not disclose that the new furnace was exclusively to manufacture HM glass should be disregarded as both the furnaces can be used to produce HM glass and ECR glass. The domestic industry has designated one for HM glass only due to operational efficiencies.

ix. The submission that as per the guide published by Owens Corning, HM glass has high end uses and features, is misleading as the features and uses referred by the interested parties are of S glass and not HM glass.

x. The demand for HM glass is low in the country due to which the volume of sales and imports of HM glass is low. Thus, the captive consumption of the domestic industry is higher by comparison. A product cannot be excluded merely because it is captively consumed or exported. In any case, the domestic industry has sold HM glass in the market.

xi. HM glass and ECR glass can be used interchangeably. The domestic industry was supplying ECR glass to the users which are now being supplied HM glass.

xii. Only transaction related to product under consideration are included, import segregation methodology has been provided in the petition.

xiii. Domestic industry produces thermoset chopped strands and the same cannot be excluded.

xiv. S-glass and R-glass are not being imported in India and therefore, should not be excluded.

C.2. <u>Submissions by other interested parties</u>

5. The following submissions have been made by other interested parties with regard to the product under consideration and the like article:

i. Since products outside the scope of product under consideration might be imported under the subheading 7019, that relates to "others", a clear and elaborate methodology on import segregation of PUC and NPUC must be provided.

ii. HM/HS/High Performance glass fibre is not manufactured in Bahrain and Egypt and has not been exported from the subject countries. CPIC, the sole producer in Bahrain, does not have the technology, plant and equipment to manufacture the same, as it is patented. Once it is established that the subject goods are not imported into India, imposition of anti-dumping duty on such types does not arise.

iii. A product can form scope of product under consideration only if introduced in the commerce of the other country at less than normal value. A product has to be dumped to be subject to anti-dumping duty.

iv. Rovings being imported from the subject countries cannot be treated as like article to wind grade rovings and HM glass produced by the applicant.

v. The applicant did not disclose that the new furnace was added to exclusively manufacture HM/HS Glass, which is apparent from the financial statements of 2018-19. The furnace required for manufacturing ECR-Glass and furnace required for HM Glass are different.

vi. As per Guide published by Owens Corning itself, HM glass has upto higher strength, higher modulus / stiffness, higher fatigue properties, better impact resistance, better aging and corrosion resistance and better temperature resistance, which makes it suitable for high end applications such as wind-mill blades. It has features such as high-performance reinforcements, high-strength continuous glass filaments, and is used in different applications.

vii. Considering the commercial perception test, the HM glass must be excluded from the product scope.

viii. The difference in chemical and mechanical properties of ECR glass and HM/HS glass is also highlighted by brochure issued by Jushi and CPIC China, which reveal that it has lower expansion coefficient, higher softening point, higher elastic modulus, compared to traditional E-glass.

ix. OCIPL has not sold the HM/HS glass in merchant market, this fact has not been rebutted by the domestic industry in the oral hearing. Since it has been used for downstream business or exported out of India, it should be excluded from the scope of the product under consideration.

x. As per Article 3.10 of the Manual, the product under consideration should preferably include articles produced and sold by the domestic industry in domestic market in commercial quantities.

xi. HM/HS glass has significant higher cost as compared to normal glass as:

   a. The rate of production of HM glass in the same size furnace is lower as compared to ECR glass. This is evident from the fact that the reported capacity for the new furnace of OCIPL is 40,000 MT but the same furnace produced 77,122 MT ECR glass in the previous year.

   b. According to OCIPL's financial statements there was a change in manufacturing operations which led to higher absorption of fixed costs, higher charge of depreciation and higher financial costs, which eventually

increases the cost of production of High Modulus Glass as compared to the ECR-Glass.

c. The per MT energy requirement to produce HM Glass is higher than the ECR Glass.

d. An examination of import data will reveal that the imports of HM glass from third countries are priced 65-70% higher than ECR glass. Even the export price of OCIPL of HM glass is more than the import price of normal glass fibre.

xii. Since the domestic industry has produced identical article, that is E-glass, HM Glass cannot be included in the second leg of the definition of like article.

xiii. Since HM glass is being produced by the applicant entirely for captive consumption, it cannot be covered under the scope of product under consideration.

xiv. The submissions of the applicant that the producers from Bahrain and Egypt can acquire the technology to manufacture High modulus fibre, is unfounded and based on conjectures. The submission that producers are just a Chinese investment is misleading. The domestic industry is a subsidiary of a foreign company.

xv. Since scope of the domestic industry and the product mix imported into country is different than that in the investigation against imports from China PR, the same scope of product under consideration cannot be considered here.

xvi. Thermoset chopped strands are not being produced by the applicant and should be excluded.

xvii. High strength glass fibres, such as S-glass and R-glass, are mostly used in wind energy segment and are not being supplied by OCIPL in the domestic market.

xviii. ECR Roving LFT (Long Fiber Thermoplastic) should be excluded as the applicant is not producing it but is importing it and job work is being done in India.

xix. The product scope has been defined vaguely by including "articles thereof", which includes a number of types and forms of glass fibres which have vary in specifications such as strength, grade, density and usage. Determining a single dumping margin, injury margin and anti-dumping duty is not appropriate.

xx. The PCN methodology is not appropriate and should consider weight and density of rovings and chopped strand mats, and diameter of chopped strands.

xxi. There is a need for modification of PCN methodology, for further segregation of product types, as below. Further, there is a need to recognize the linear density of rovings, fibre diameter of chopped strands, and GSM for mats.

a. Assembled rovings, direct rovings and volumenised or textured rovings

b. Dry-use and wet-use chopped strands

c. Chopped strand mats with emulsion binder and powder binder

d. Continuous filament mats with emulsion binder and powder binder

C.3. Examination by the Authority

6. The product under consideration as stated in the initiation notification is glass fibre including glass roving (assembles rovings (AR), direct rovings (DR)), glass chopped strands (CS), glass chopped strands mats (CSM) but excluding glass wool, fibre glass

wool, fibre glass insulation in wool form, glass yarn, glass woven fabrics, glass fibre fabric, glass woven rovings, chopped strands meant for thermoplastic applications, micro glass fibre with fibre diameter in the range of 0.3 to 2.5 microns, surface mat/surface veil/tissue, wet chopped strands and Cemfil (alkali resistant glass fibre for concrete reinforcement).

7. The subject goods are classifiable under Chapter 70 of the Customs Tariff Act, 1975 under the subheading no. 7019. The Customs classification is indicative only and not binding on the scope of the product under consideration.

8. The interested parties have contended that the PCN methodology needs to include parameters such as weight, diameter, density and GSM of product type. However, it is noted that the cost of the product type does not vary substantially due to change in the parameters stated by the interested parties. As regards the consideration of H-glass as different PCN, the domestic industry has supplied only 1,289 MT of H-glass in the market. Therefore, even if the two were considered as separate PCN, it would not have a material impact on the PCN-wise analysis. The Authority has considered the following PCN for the purpose of the present investigation:

i. Direct glass rovings
ii. Assembled glass rovings
iii. Glass chopped strands
iv. Glass chopped strand mats

9. The interested parties have contended that High Modulus Glass Fibre (H-glass) should be excluded from the scope of the product under consideration as the subject countries do not have the technology to manufacture the same and there were no imports of H-glass from the subject countries during the injury period. The interested parties have also submitted that the domestic industry has not sold H-glass in the merchant market and has only consumed the same captively. However, it is the settled position of the Authority that only those product types which have been imported during the period of investigation and the domestic industry has not supplied like article thereof, can be excluded from the scope of product under consideration. The evidence supplied by the domestic industry shows that it has supplied H-glass during the period of investigation. Therefore, such H-glass cannot be excluded from the scope of product under consideration.

10. Further, the Authority has also taken note of the manufacturing process provided by the domestic industry, which shows that H-glass and ECR glass are similar in terms of manufacturing process. While the other interested parties have claimed that production of H-glass requires a different plant, the domestic industry has emphasized that both can be produced at the same plant. The two can be produced using the same machines, with difference in raw materials used, and minor modifications to the processing thereof. Further, the domestic industry has claimed that ECR glass and H-glass can be used interchangeably, as is evident from the fact that H-glass is being supplied to the same

customers, which were earlier using ECR glass. The Authority does not find any merit in the requests for exclusion thereof.

11. The other interested parties have contended that thermoset chopped strands, high strength glass fibres, such as S-glass and R-glass and ECR roving LFT (long fiber thermoplastic) should be excluded from the scope of product under consideration. The Authority notes that the domestic industry has produced thermoset chopped strands and thus, it is not excluded from the scope of product under consideration. Further, there are no imports of S-glass and R-glass. However, the domestic industry has not produced ECR roving LFT (long fiber thermoplastic) and hence, the same is excluded from the scope of the product under consideration. The product under consideration determined for the present investigation will be as follows:

> *"Glass fibre including glass roving (assembles rovings (AR), direct rovings (DR)), glass chopped strands (CS), glass chopped strands mats (CSM) but excluding glass wool, fibre glass wool, fibre glass insulation in wool form, glass yarn, glass woven fabrics, glass fibre fabric, glass woven rovings, chopped strands meant for thermoplastic applications, micro glass fibre with fibre diameter in the range of 0.3 to 2.5 microns, surface mat/surface veil/tissue, wet chopped strands, Cemfil (alkali resistant glass fibre for concrete reinforcement) and ECR roving LFT (long fiber thermoplastic)."*

12. Subject to the above, the Authority notes that the domestic industry has claimed that it has produced like article to the imported goods and the interested parties have also not claimed any difference in the goods produced by the domestic industry and the imported product. The Authority notes that the subject goods produced by the domestic industry and that imported from subject country are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. In view of the same, Authority finds that the subject goods produced by the domestic industry are like article to the product under consideration imported from subject countries.

D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING

D.1. Submissions by the domestic industry

13. Following submissions have been made by the Applicants with regard to the domestic industry and standing:

    i. The Applicants account for a major proportion of the domestic production in India. Apart from the Applicants there is one more producer of the subject goods in India, namely, Goa Glass Fibre Limited.

ii. OCIIPL is included as an applicant, even though it ceased production, as it is a related party to OCIPL, and related parties have been considered as a common unit. Its data is relevant for injury assessment, as it was producing the subject goods in the injury period. Even related producers and exporters are treated as a single entity.

iii. Regarding the submission that inclusion of OCIIPL means convoluted injury analysis, it was submitted that the data of OCIPL alone shows injury. Nevertheless, domestic industry relates to whole injury period and not just the period of investigation. Since OCIIPL was part of the domestic industry in the preceding periods, it should be included in the definition of the domestic industry.

iv. Standing has not been determined based on OCIIPL as it did not produce in the period of investigation.

v. The domestic industry has not imported the subject goods from the subject countries during the injury period.

vi. The imports by the domestic industry were to meet the demand-supply gap caused by closure of OCIIPL and temporary shutdown of OCIPL, were not from subject countries and were higher priced than dumped imports. The imports were in insignificant quantity. The focus of the domestic industry is on production as the volume of imports in the period of investigation was insignificant.

D.2. <u>Submissions by other interested parties</u>

14. The following submissions have been made by the other interested parties with regards to the domestic industry and standing:

i. Since OCIIPL ceased production of goods in December 2017, it cannot be considered as part of the domestic industry. As noted in Manual of DGTR, the applicant should be an actual producer in the period of investigation. The investigation should be terminated as it is void-ab-initio.

ii. The fact that OCIIPL is related to OCIPL is not relevant for determining standing, when the said entity is not engaged in manufacture of the subject goods.

iii. The inclusion of OCIIPL indicates a convoluted injury analysis wherein data of two companies is included for the beginning of the injury period, and for one company during the remaining period.

iv. As per the provisions of Rule 2(b), Rule 4, Rule 5(3) and Rule 11, only a producer engaged in production of subject goods can be considered as part of the domestic industry, and no injury analysis can be done for a producer not in operation.

v. Goa Glass Fibre chose to refrain from participation in the investigation, whereas its production and sales were at par with the subject imports.

vi. In accordance with Manual of SOP, Authority should require Goa Glass to provide information with respect to its parameters during the period of investigation in the larger interest of the investigation.

vii. The Applicants have been importing regularly, including in the period of investigation.

viii. Contrary to the submissions made by the Applicants in the second oral hearing, the domestic industry has imported the subject goods from the subject countries in the previous years.

ix. The Applicants are a part of the global conglomerate, which determines as to what grade has to be produced in which country. Thus, it is constrained to import goods to meet the demand, supplement its product lines and for captive production, which it is not able to produce due to global policies. Thus, OCIPL cannot be considered eligible to file the application.

x. Since one of the furnaces is used to produce HM glass for captive consumption, only the production and capacity of the second furnace should be considered to determine the standing and for injury determination.

xi. According to the initiation notification, the Indian Authority was unable to determine the standing of the domestic industry before initiation and simply stated that Applicants constitute domestic industry as per Rule 2(b) and 5(3).

D.3. Examination by the Authority

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

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

16. The Application has been filed by two related producers of the product under consideration, that is, Owens-Corning India Private Limited (OCIPL) and Owens-Corning (Industries) India Private Limited (OCIIPL). The Authority notes that OCIIPL has ceased operations in the injury period. The Authority notes that OCIIPL was operating in the injury period. Since it is a related entity of OCIPL, its data is relevant for the present investigation. This is because related producers are treated as a single entity for the purpose of the investigation.

17. In this regard, the Authority refers to the findings in the case of the original investigation in Final Findings F. No. 14/28/2009-DGAD dated 6th January 2011 relating to the product under consideration, wherein the Authority determined a single dumping margin for related producers or exporters, considering them as belonging to the same group as one single entity.

> *"53. It is noted that in the subject investigations many cooperating producers and exporters are related to each other and form a group of related companies. It has been a consistent practice of the Authority to consider* ***related exporting producers***

or exporting producers belonging to the same group as one single entity *for the determination of a dumping margin and thus to establish one single dumping margin for them. This is in particular because calculating individual dumping margins might encourage circumvention of antidumping measures, thus rendering them ineffective, by enabling related exporting producers to channel their exports to India through the company with the lowest individual dumping margin."*

Similar view has been taken by the Authority in anti-dumping duty investigations concerning imports of Elastomeric Filament Yarn from China PR, South Korea, Taiwan and Vietnam, Aluminium and Zinc coated flat products" originating in or exported from China PR, Vietnam and Korea RP and Polystyrene from Iran, Malaysia, Singapore, Chinese Taipei, UAE and USA.

18. The Authority finds that the same principles would be applicable in the present case as well. Related parties would be considered as a single economic entity and therefore, OCIIPL cannot be excluded from the scope of product under consideration. However, since the normal value and non-injurious price is determined only for the period of investigation, the inclusion of OCIIPL would not have any impact on the dumping margin or injury margin.

19. The Authority notes that OCIPL has not imported the subject goods from the subject countries during the injury period. However, imports have been made during the injury period from other countries. Thus, the Authority finds that the Applicants are eligible to constitute domestic industry in terms of Rule 2(b) of the Anti-Dumping Rules.

20. During the period of investigation, OCIPL has imported the subject goods from non-subject countries. However, only imports from subject country can disentitle a producer from being considered within the scope of domestic industry. This is because Rule 2(b) specifically refers to eligibility of such producers who *"are related to the exporters or importers of the* ***alleged dumped article*** *or are themselves importers thereof"*. Since the imports from other countries are not dumped imports, there is no exclusion for such imports. This is also consistent with the view taken by the Tribunal in the case of Birla Ericsson Limited v. Designated Authority, wherein it was held as under.

"4. The above argument of Counsel representing the appellants is solely based on the exclusion contained in Rule (b) of the Rules, which defines domestic industry. After stating that domestic industyry means domestic producers whose collective output of the article constitutes a major portion of the total domestic production, certain categories are excluded therefrom. The categories excluded are those domestic producers who are related to exporters of the alleged dumped article, those who are related to importers of the alleged dumped article or those who themselves are importers thereof. What is the scope of the words "importers thereof?" This group of domestic producers who are importers thereof are to be grouped along with domestic producers related to exporters of the alleged dumped

article and domestic producers related to importers of the alleged dumped article. So taken, the domestic producers who are themselves importers should mean domestic producers who are themselves importers of alleged dumped article. In other words, domestic producers who are not importers of alleged dumped article from the subject country are not to be excluded from the definition of "domestic industry."

5. What is meant by "alleged dumped article?" Alleged dumped article in the instant case can only be Optical Fibre imported from Korea Republic. Korea Republic is the subject country. The article with which investigation was initiated is Optical Fibre. So, the Optical Fibre originating in or exported from Korea Republic alone can be treated "alleged dumped article." Optical Fibre imported to India from other country cannot be taken as "alleged dumped article." Optical Fibre imported to India from other countries are not articles dumped into India. Therefore, domestic producers, who and related to exporters or importers of Optical Fibre from Korea as also those domestic producers who import Optical Fibre from South Korea alone should be excluded from the category of domestic industry. If the argument of learned Counsel representing the appellants is to be accepted, we will have to rewrite the definition by reading the words "are themselves importers of like article."

6. Domestic producers, who are related to exporters or importers of like article from other countries are not taken out of the scope of the definition of domestic industry. A domestic producer may be related to exporter or importer of like article manufactured in another country. Likewise, a domestic producer can be an importer of like article from a third country. Like articles manufactured in third countries are not dumped articles. M/s. Sterlite Industries Ltd. got Optical Fibre imported from Malaysia. Goods imported from Malaysia are not dumped articles. Therefore, M/s. Sterlite Industries Ltd. is not debarred from being a domestic industry. In this view of the matter, we overrule the contention raised by the Counsel representing the appellants before us. The result, therefore, is that M/s. Sterlite Industries Ltd. represented the domestic industry and their output of Optical Fibre constituted major portion of the total domestic product. As a consequence, their application to the Designated Authority was proper and we do not find any illegality in the action of the Designated Authority in initiating the proceedings."

Therefore, in view of the decision of the Tribunal and the settled position of the Authority in this regard, the imports from other countries do not prevent OCIPL from being considered within the scope of domestic industry.

21. Goa Glass Fibre Limited is another producer of subject goods in the country. However, it has not participated in the present investigation. The Authority notes that the investigation has been initiated on the basis of the application filed by the domestic

producers accounting for major proportion in the Indian production. Accordingly, the Authority has evaluated the parameters of the domestic industry in order to compute injury to the domestic industry.

22. The other interested parties have also contended that the production of furnace used for producing goods for captive consumption should not be considered for determination of share of Applicants in total production. However, the Authority does not find any basis for such an exclusion. The provisions of Rule 2(b) refer to production in India, which implies total production, and not production excluding that meant for captive consumption. Further, the interested parties have not adduced any evidence to show that exceptional circumstances as envisaged under proviso to Rule 2(b) exist in the present case, which would allow plant for captive production and plant for merchant sales to be considered as operating in two separate competitive markets. Therefore, the total production of OCIPL has been considered in examining whether it constitutes major proportion.

23. The Applicants account for a major proportion of the domestic production, as can be seen from the table below:

Producer	Production (MT)	Share in production (%)	Share in production (range)
Owens-Corning India Private Limited	***	***	80-90
Owens-Corning (Industries) India Private Limited	-	-	-
Applicants	***	***	80-90
Goa Glass Fibre Limited	***	***	10-20
Total Indian production	1,14,490	100%	100%

Thus, the Authority notes that Owens-Corning India Private Limited and Owens-Corning (Industries) India Private Limited constitute domestic industry under Rule 2(b) of the Anti-Dumping Rules and the application meets the requirements of Rule 5(3).

E. CONFIDENTIALITY

E.1. Submissions by the domestic industry

24. The following submissions have been made by the domestic industry with regard to confidentiality:

i. The producers/exporters have claimed excessive confidentiality as they have claimed even the information available in public domain, such as world-wide corporate structure and names of products produced, confidential.

ii. The producers/exporters have violated the provisions of Trade Notice 10/2018. They have not disclosed their production process, raw material and related party information.

iii. Good cause for excessive confidentiality has not been given and the format of table prescribed by the Authority under Trade Notice 1/2013 has not been followed.

iv. The domestic industry is unable to defend its claims due to such excessive confidentiality.

v. Normal value is based on data of domestic industry, the disclosure of which would be prejudicial to the interest of the domestic industry.

vi. Dumping depends on the selling price of the foreign producers and not of domestic industry, thus, the disclosure of selling price of the domestic industry is not relevant for determining dumping.

vii. The domestic industry has provided indexed information on share of domestic industry, other producer and subject imports in demand.

viii. The domestic industry has used CBIC exchange rate as per the practice in India.

ix. The period of shutdown was disclosed by the domestic industry in the petition.

x. Each expense forming the non-injurious price has been disclosed. Non-injurious price is business sensitive information and cannot be disclosed.

xi. The domestic industry has fulfilled its obligation of providing import data in PDF form. The CESTAT order was passes at the time when the Authority did not authorise the interested parties to obtain DGCI&S data. No prejudice has been caused to the interested parties as they can obtain DGCI&S data themselves.

xii. The domestic industry has not claimed excessive confidentiality as:

   a. While the other interested parties have asked the domestic industry to provide all information in indexed form, they have themselves not provided the same.

   b. The policies of the applicant contain business proprietary information which cannot be disclosed.

   c. All information has been disclosed in accordance with the Trade Notice.

   d. The financial statements provided to the Authority are more detailed and not as per the format provided to MCA.

E.2. <u>Submissions by other interested parties</u>

25. The following submissions have been made by the other interested parties with regard to confidentiality:

i. The applicant has not provided meaningful non-confidential information, which has led to a breach of the right of defense of TSAIP. The applicant has also claimed excessive confidentiality with regard to constructed normal value.

ii. The applicants have claimed excessive confidentiality with regard to (a) Formats A to L, wherein at least trend could have been provided; (b) purchase policy, sales policy, accounting policy, cost accounting policy, quality control procedure and tests; (c) actual figures for production, capacity, capacity utilization, sales and demand, whereas capacity was disclosed in earlier investigation against China; (d)

financial statements, which are available through the website of MCA at a nominal fee.

iii. If producers / exporters from other countries are treated as non-cooperative for not providing relevant information, a different standard cannot be set for the domestic industry.

iv. The applicant has claimed excessive confidentiality with regard to transaction-wise import data, in violation of Exotic Décor vs. Designated Authority.

v. Non-injurious price of the domestic industry have been claimed confidential. Since the applicant has misrepresented information with regard to product under consideration and domestic industry, the various elements for determination of non-injurious price must be disclosed.

vi. Information on normal value and export price and the adjustments claimed were kept confidential. Summaries provided thereof do not enable Egypt to verify the methodology used to calculate dumping margin.

vii. Source of exchange rate for conversion of normal value from Rupees to USD has not been enclosed.

viii. The applicants did not disclose the selling price of subject goods and thus, Egypt is not able to analyse whether subject imports were actually dumped in India.

ix. Applicants have not shared the total demand in the Indian market and the share of domestic industry, other producers and subject imports in demand. Any fall in market share is due to shutdown of OCIPL in 2018-19.

x. The applicants did not disclose the selling price of subject goods and thus, Egypt is not able to analyse whether subject imports were actually dumped in India.

E.3. Examination by the Authority

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

> *"Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7)of rule 6, sub-rule(2) of rule12,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."

27. Non-confidential version of the information provided by various interested parties were made available to all interested parties as per Rule 6(7) and Trade Notice No. 10/2018 dated 7th September 2018 read with Trade Notice 01/2020 (as extended by the Authority till further notice)

28. With regard to confidentiality of information, the Authority notes that the information provided by the domestic industry and the other interested parties on confidential bases was examined with regard to sufficiency of the confidentiality claims in accordance with Rule 7 of the Rules. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential.

F. MISCELLANEOUS

F.1. Submissions by the domestic industry

29. The following miscellaneous submissions have been made by the domestic industry:

i. Contrary to the claims of the interested parties, only prima facie evidence is required at the stage of initiation as was held by High Court in Rajasthan Textile Mills Association vs. Dir. General of Anti-Dumping and by Tribunal in Huawei Technologies Co. Ltd. Vs. Designated Authority and Automotive Tyre Manufacturer's Association Vs. Designated Authority.

ii. With regard to not filing the written submission in the first oral hearing, no infirmity arises by not filing the written submissions for the first oral hearing. According to Rule 6, oral submissions shall not be taken into account unless reproduced in writing. Since the oral arguments raised in the first hearing could not be considered anyway, no infirmity arises due to the domestic industry not filing written submissions.

iii. A party can be treated non-cooperative only when it refuses to provide information to the Authority and not merely because it opted to not file a submission. Termination of the investigation is not warranted as the interested parties have not proved that failure to file written submissions falls under Rule 14. Timelines for filing rejoinder is only for submissions made pursuant to second oral hearing.

iv. Contrary to claims in this regard, the petition was complete in all aspects at the stage of initiation.

v. Cost of capacity expansion is not included in the cost of production but capitalized.

vi. The domestic industry sold goods throughout 2018-19 even when its plant was shutdown, which is evident from the month wise sales submitted.

vii. The investigation was initiated after due examination of the evidence. The initiation notification states that the Authority satisfied itself as the accuracy and adequacy of the evidence.

viii. The contention that OCIPL maintained a monopoly position in the past is without merit, as each user was free to import the subject goods.

ix. There are two producers in the market, hence, monopoly cannot arise. Anti-dumping duty does not prevent imports but only ensures them at fair prices. The users are also free to import from other countries.

x. The investigation was initiated on 4th August 2020 while the period of investigation is upto March 2020, the lag between the two is less than 6 months.

F.2. Submissions by other interested parties

30. The following miscellaneous submissions have been made by the other interested parties:

i. More clarification is required from DGTR regarding the methodology for calculating annualized figures of imports in the period of investigation.

ii. The domestic industry did not file written submissions in the last oral hearing without taking prior approval of the Authority. The interested parties filed their written submissions which gave more time to the domestic industry to defend its interests by rebutting the same in the second oral hearing. The other interested parties were denied the same opportunity. The domestic industry should be treated as non-cooperating interested party and the investigation should be terminated.

iii. The investigation has been initiated without a proper evaluation of the relevant factors and (a) imports have been referred as 'dumped' and in an illegal manner and (b) no prior examination of other factors such as slow-down in automotive and wind-energy sector, wherein HS glass fibre is used and for which the applicants recently set up a new furnace has been done (c) product mix includes products not being exported to India (d) imports from other countries constitute 50% of the total imports

iv. The Authority could not have satisfied itself as to the accuracy and adequacy of the evidence presented in the petition and accordingly, the initiation has been rendered void-ab-initio warranting termination of investigation.

v. There is a time lag of 8 months between the initiation and the proposed period of investigation.

vi. The claim of the domestic industry that it has invested in capacity to reduce unnecessary reliance on imports shows an intention to create a monopoly.

vii. The applicant increased its prices by 30% post period of investigation, taking advantage of the trade chilling effect anti-dumping investigations cause.

viii. Since the claims of the domestic industry regarding dumping and injury are not tenable, no case is made out for provisional measures.

F.3. Examination by the Authority

31. The Authority notes that the period of investigation in the present investigation is 1st April 2019 – 31st March 2020 which is a full year. Hence, there is no relevance of annualized data in the present investigation. Data submitted by the domestic industry and the injury period pertain to a full year. Further, the Authority initiated the present investigation on 4th August 2020, implying a time lag of 4 months between the initiation of investigation and the end of the period of investigation, and not 8 months as claimed by the interested parties.

32. The other interested parties have contended that the domestic industry had not filed submissions pursuant to the first oral hearing. The Authority notes that Rule 6(6) of the Anti-Dumping Rules provides as under:

> *"(6) The designated authority may allow an interested party or its representative to present the information relevant to the investigation orally but such oral information shall be taken into consideration by the designated authority only when it is subsequently reproduced in writing."*

Rule 6(6) provides that the arguments made orally shall not be taken into account unless reproduced in writing. The arguments made in the first hearing could not have been considered due to the appointment of a new Director General during the course of the investigation and before the final findings were released. Since a second hearing was conducted and the arguments made therein have been reproduced in writing by the domestic industry, the same have been considered by the Authority.

33. The Authority notes that the Applicants have provided a duly substantiated application based on which the present investigation was initiated. The present investigation was initiated based on the data/information provided by the domestic industry and by prima facie satisfying itself that there is sufficient evidence of dumping, injury and causal link. The application contained all information relevant for the purpose of initiation of investigation.

34. The interested parties have contended that imposition of duties would result in a monopoly situation in the market. However, the Authority does not find any merit in the same as the anti-dumping duty does not prevent imports, but merely ensures that the imports enter the market at undumped prices. Further, there is one more producer of the subject goods in India, which would ensure inter-se competition between the domestic producers, as well as competition with imports from other countries.

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

G.1. Submissions by the domestic industry

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

i. The Applicants were not able to obtain the price of like product in the subject countries and did not have access to any market agency reports for determination of the normal value. Since other products are also imported under the same HS codes the price of imports and exports from the subject countries could not be used for determination of normal value. Thus, the normal value has been determined based on price payable in India which is based on the cost of production of the domestic industry along with selling, general and administrative cost and reasonable additions of profits.

ii. There is a need to examine the source of investment, related party inputs, services, financing, technology or support received by CPIC Abahsain Fiberglass W.L.L (CPIC Bahrain) and Jushi Egypt for Fiberglass Industry S.A.E as both the entities were set up pursuant to support of Government of China PR with cooperation from the Governments of the subject countries.

iii. CPIC Bahrain has been set up in Bahrain International Investment Park (BIIP) and enjoys all of the benefits of a free zone without any barriers normally applicable to free zones.

iv. Jushi Egypt has been established in the China-Egypt Suez Economic and Trade Cooperation Zone (SETC-Zone), pursuant to a Memorandum of Understanding between the two companies. In the SETC-Zone, Jushi Egypt benefits from the pooled resources of the Government of Egypt and the Government of China.

v. If any input or service is received by the exporters from China PR, an adjustment should be made for fair market value and price actually paid by the producers. In anti-dumping investigation on Rubber Chemicals viz. MBT, TDQ, PVI and TMT from China PR and PX-13(6PPD) from China PR and Korea RP, the Authority held that since the raw material was sourced from a non-market economy (China PR), the cost cannot be relied upon. This was ratified by CESTAT in Kumho Petrochemicals Company Limited V. Designated Authority.

vi. The European Commission issued anti-subsidy findings on imports of subject goods from Egypt and held that Jushi Egypt had benefitted from the subsidies received directly and indirectly from Government of Egypt and China PR. Jushi China had itself financed these intercompany loans via external financing from Chinese financial institutions. Jushi Egypt benefitted from grants from CNBM, a Chinese state-controlled entity, through equity injections, and also supply of land at less than adequate remuneration, VAT exemption, import tariff waivers on imported raw materials used for exported goods.

vii. Since the price lists of the producers in subject countries were not publicly available, the domestic industry was constrained to rely on constructed normal value in the absence of other information. In Automotive Tyre Manufacturers' Association V. Designated Authority, the Tribunal held that the domestic industry cannot be faulted for furnishing normal value on the basis of constructed cost of production.

viii. The adjustments claimed for export price are as per the consistent practice of the Authority and cannot be considered excessive.

ix. Contrary to allegation in this regard, Domestic industry has not added commission in determination of normal value.

x. The domestic industry has shared the calculation for the export price in the non-confidential version. The normal value has been verified by the Authority.

xi. No adjustments have been claimed by the domestic industry for level of trade. Normal value and export price have been adjusted to arrive at ex-factory level.

G.2. Submissions by other interested parties

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

i. While the applicant has claimed that the exporters are owned by producers in China PR, it itself is a multinational company with its own production facilities in China.

ii. Constructed normal value on data related to the cost of production led to an ambiguous and biased constructed value that lacks any valid evidence.

iii. Constructed normal value can be used only in case when there are no sales in ordinary course of trade in the domestic market. The economic positions in India differs from that in Egypt in terms of employment, wages, GDP, interest rate and total area of the State, thus, even if constructed normal value has to be determined, it should be based on records of Egyptian producers.

iv. The export price is distorted since the HS Code of the product under investigation covers other products classified under "others". Further, the applicant has used many adjustments to deflate the export price.

v. Sourcing raw materials and other inputs from China is not a reason to disregard information concerning normal value of a producer.

G.3. Examination by the Authority

37. Under Section 9A(1)(c), normal value in relation to an article means:

i. The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or

ii. *When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:*

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

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

38. The Authority sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have co-operated in the investigation by filing the prescribed questionnaire responses:
    i. CPIC Abahsain Fiberglass W.L.L
    ii. Jushi Egypt for Fiberglass Industry S.A.E

39. The responses of the cooperating producers/exporters have been examined for determining normal value, export price and dumping margin.

Determination of Normal Value and Export Price for Bahrain

Determination of Normal Value and Export Price for cooperating producers and exporters

CPIC Abahsain Fiberglass W.L.L

a. Normal value

40. Based on the information furnished in the exporter's questionnaire response, the Authority notes that CPIC Abahsain Fiberglass W.L.L is a producer of the subject goods and has exported the subject goods to India directly to unrelated customers during the period of investigation. It is noted that the producer/exporter has not sold sufficient subject goods in the domestic home market during the POI when compared with exports to India. The producer/exporter has claimed normal value based on its cost of production. The Authority notes that in a situation where there are no/insufficient sales of the like article in the ordinary course of trade in the domestic market of the exporting country, the normal value shall be either comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country or the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits. The Authority has therefore considered it appropriate to determine normal value in the present case on the basis of cost of production data for each PCN furnished by the exporter plus a reasonable profit margin and the same is shown in the Dumping Margin Table below.

b. Export Price

41. During the period of investigation, the producer/exporter has exported *** MT of subject goods to India. The exporter has claimed adjustments on account of freight and other related expenses, bank charges, credit cost in order to arrive at the net export price at ex-

factory level. These adjustments have been accepted by the Authority. Accordingly, the net export price at ex-factory level for CPIC Abahsain Fiberglass W.L.L has been determined, which is indicated in the Dumping Margin Table below.

Determination of Normal Value and Export Price for non-cooperating producers and exporters

42. The normal value and the export price for other non-cooperating exporters from Bahrain has been determined as per facts available taking into account the data examined for the co-operating exporters and the same is mentioned in the dumping margin table.

Determination of Normal Value and Export Price for Egypt

Determination of Normal Value and Export Price for cooperating producers and exporters

Jushi Egypt for Fiberglass Industry S.A.E.

a. Normal value

43. Based on the verified information furnished in the exporter's questionnaire response, the Authority notes that Jushi Egypt for Fiberglass Industry S.A.E is a producer of the subject goods and has exported the subject goods to India during the period of investigation to unrelated customers directly as well as though related importer namely, Jushi India Fiberglass Private Limited. The producer sells the subject goods in the domestic market as well as export markets including India. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for each PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. The producer has claimed adjustment on account of inland transportation, credit cost and the same have been allowed by the Authority. The normal value determined is mentioned in the dumping margin table.

b. Export price

44. During the period of investigation, the producers/exporters have exported 9840 MT of subject goods to India. The exporter has claimed adjustments on account of ocean freight, inland transportation, insurance, expenses, bank charges, credit cost in order to arrive at the net export price at ex-factory level. These adjustments have been accepted by the

Authority. Accordingly, the net export price at ex-factory level for Jushi Egypt for Fiberglass Industry S.A.E has been determined, which is indicated in the Dumping Margin Table below.

Determination of Normal Value and Export Price for non-cooperating producers and exporters

45. The normal value and the export price for other non-cooperating exporters from Egypt has been determined as per facts available taking into account the data examined for the co-operating exporters and the same is mentioned in the dumping margin table.

Determination of dumping margin

46. Considering the normal value and export price, the dumping margin for the subject goods from the subject country has been determined as follows: -

SN	Name of Producer	Normal Value (USD/MT)	Export Price (USD/MT)	Dumping Margin (USD/MT)	Dumping Margin (%)	Dumping Margin (Range)
1	CPIC Abahsain Fiberglass W.L.L	***	***	***	***	30-40
2	Jushi Egypt for Fiberglass Industry S.A.E	***	***	***	***	0-10
3	Non-cooperative / residual exporters from Bahrain	***	***	***	***	35-45
4	Non-cooperative / residual exporters from Egypt	***	***	***	***	0-10

H. DETERMINATION OF INJURY AND CAUSAL LINK

H.1. Submissions by the domestic industry

47. Following submissions have been made by the domestic industry with regard to the Injury and causal link are as follows:

i. Since the conditions of cumulative assessment of injury are satisfied, hence, the trend of imports cannot be examined only for Bahrain.

ii. Conditions of competition between the imports inter-se justify cumulation of injury. While the price of imports from Egypt is higher than the price from Bahrain, the two have moved in tandem.

iii. Volume of imports from each of the subject countries is more than 3% and hence, significant.

iv. The domestic industry has not filed an application against Brazil and USA as the volume of imports from these countries is low.

v. The plant of the domestic industry was shut down as the Applicant upgraded its furnace and enhanced its capacity. Such shutdown was abnormal in nature and the effect of the same has been adjusted in the data provided. Even if the effect of such shutdown is segregated, the domestic industry has suffered injury.

vi. The domestic industry has invested in capacity so that the product under consideration is available domestically and there is no unnecessary reliance on imports. However, the users will not be precluded from importing the goods by the imposition of duties.

vii. It is costly to curtail production. Had the domestic industry not exported the subject goods, it would have suffered from even more inventories. Inventories have been built up due to inability of the domestic industry to sell the subject goods in the domestic market owing to the price undercutting.

viii. Employment, production and wages depend upon a number of factors. Increase in manpower is due to increase in installed capacity.

ix. The domestic industry has exported the subject goods under compulsion, at losses.

x. While the merchant demand has declined, the total demand has increase and the subject imports have increased more than the increase in demand.

xi. The production of the domestic industry has increased due to increase in utilization in downstream products.

xii. The production efficiency of the domestic industry was not low during the period of investigation which is evident from the month-wise data submitted by the domestic industry.

xiii. The imports have increased in absolute and relative terms.

xiv. The price undercutting is positive and significant even though the domestic industry is selling at unremunerative prices and incurring losses.

xv. The imports have entered the market below the cost of sales of the domestic industry.

xvi. The imports are suppressing and depressing the prices of the domestic industry.

xvii. The submission that there was no price depression in 2018-19 should not be considered as 2018-19 was affected by the shutdown of domestic industry. The domestic industry has claimed injury based on performance during the period of investigation and not in 2018-19.

xviii. Contrary to claims of the interested parties, the price of every PCN has declined during the period of investigation.

xix. Despite ample demand in the country, the capacity utilisation and domestic sales have declined.

xx. The domestic industry has lost its potential market share to the subject imports. The Indian industry as a whole had the capacity to cater to approximately entire Indian demand, however, the market share held by it is much lower.

xxi. The domestic industry incurred losses in the period of investigation.

xxii. The cash profits of the domestic industry declined over the injury period and the domestic industry has recorded a negative return on capital employed in the period of investigation.

xxiii. Segregated data for OCIPL shows the same trends except for sales and market share.

xxiv. Exclusion of OCIIPL does not impact the dumping margin, injury margin or standing.

xxv. Regarding the contention that the domestic industry has suffered due to poor quality, it was submitted that the domestic industry has been selling the subject goods for years and the claim that it is not able to sell due to quality is unwarranted.

xxvi. Regarding the submission that the domestic industry acknowledged a slowdown in demand in its financial statements, it was submitted that there is a slowdown in growth of demand, but no decline. Further, the market share of the domestic industry has been taken away by the subject imports as the sales of domestic industry have declined more than the decline in merchant demand while the subject imports have increased.

xxvii. The submission of interested parties that there was a decline in the wind energy market leading to lower offtake the HM Glass, contradicts the submission made by the other interested parties that domestic industry is captively consuming the HM glass and not selling the same in the market. Captive consumption of the domestic industry has increased.

xxviii. Submission that inclusion of Goa Glass Fibre would have shown that the injury is due to some other factor is incorrect as its performance showed deterioration and it suffered losses in the period of investigation.

xxix. No other factor has caused injury to the domestic industry, and the injury to the domestic industry is caused due to dumping.

xxx. The cost of capacity expansion is not included in the cost of production, but capitalised. The domestic industry has furnished data after segregating the loss due to loss of production.

xxxi. The price of subject imports being lower or higher than the price of imports from China PR is not relevant for injury or dumping.

xxxii. Injury analysis only relates to domestic operations. Reference to export price and cost of sales has no relevance.

xxxiii. The injury suffered cannot be attributed to inter-se competition as Goa Glass Fibre is the only other producer in the market and its production is very less.

xxxiv. Regarding the submission that the domestic industry has suffered injury due to rebuilding of furnace, it was submitted that the same is inherent to the industry. OCIPL is allowing depreciation on its new furnace on straight-line basis, hence, the depreciation will be uniform over the entire life of the furnace and no abnormal depreciation has been charged in the first year. Even after excluding the depreciation of the new furnace, EBIDTA of the domestic industry shows a decline.

xxxv. Contrary to contentions of the interested parties, new furnace does not lead to a new product and no approvals of the customers are required by the domestic industry.

xxxvi. The furnace was stabilized prior to period of investigation as it takes only one to two months to stabilize, this is evident from the month wise production submitted by the domestic industry. Second grade material produced during the stabilization period was exported by the domestic industry in the period of investigation as a buyer was not found earlier.

xxxvii. All transactions with the related parties are at arm's length prices which is evident from the fact that OCIPL is required to submit Transfer Pricing Audit Report to the income tax authorities every year. The Authorities have not made any adjustment to the arm's length prices in such reports. In any case, whether exports at arm's length prices or not are not relevant for the current investigation.

xxxviii. The domestic industry has not suffered injury due to captive consumption as the underutilised capacity and inventories with the domestic industry were sufficient to cater to higher share in demand.

xxxix. There is no significant impact of change in accounting policy. The increase in expenses due to such change is much less than the losses incurred by the domestic industry. Even if such impact is removed the data will show injury. The expenses on lease cannot be disregarded for determination of non-injurious price as it is required to be determined as per the records of the company.

xl. The OCIPL borrowed in foreign currency because it had related parties who were willing to lend money. OCIPL borrowed by the way of ECB. The interest paid is comparable to normal borrowing rates for ECB and is much lower than the domestic interest rate.

xli. The equipment purchased by Owens Corning are from specific vendors who have designed them to meet the stringent quality standards. However, shipment of capital goods is made to the entity using the equipment and the billing is done by Owens-Corning to such entity on a cost-to-cost basis.

xlii. The submission that any injury suffered by the domestic industry prior to 2018-19 was due to expired furnace is not relevant as the domestic industry has not claimed injury prior to 2018-19.

xliii. Only transaction related to product under consideration are included and import segregation methodology has been provided in the petition.

H.2. Submissions by other interested parties

48. Following submissions have been made by the other interested parties with regard to the injury and causal link are as follows:

i. The application is targeted against producers that are not related to the OCV group, as evident from the fact that USA has not been included despite low prices and Brazil despite significant quantities.

ii. Since there is no dumping and the applicants have not examined the conditions of competition between imports inter-se, the conditions of cumulation have not been satisfied.

iii. Since the imports from Bahrain declined, while that from Egypt increased, the imports from the two cannot be cumulated.

iv. Existence of alleged injury in the period of investigation is likely to be caused by imports from Egypt and China rather than Bahrain as.

   a. Volume of imports from Bahrain are low when compared to China and Egypt, and it accounts for only 9% of total imports.

   b. The imports from Bahrain have declined by 40% as compared to previous year while the imports from Egypt have increased by 29.1%.

   c. The volume of imports from China has increased over the injury period and commands an almost 50% share of imports despite them being subject to anti-dumping duty.

v. It is incorrect to suggest that injury is not caused by imports from China PR as the applicants have recently requested for a sunset review against China PR.

vi. The CIF price of subject imports is higher than the price of imports attracting anti-dumping duties.

vii. Imports from other countries are 81% while subject imports are only 19.2%.

viii. If the submission of the applicants is to be accepted, then all lost sales, piling up of inventories and losses would be attributable to subject imports, which account a mere one-fourth of the total imports into India, which is an absurd proposition.

ix. The deterioration in profitability of the domestic industry is likely due to its wrong decision to expand capacity, rather than subject imports.

x. The injury is due to expansion of existing furnace to manufacture Advantex E-Glass, and rebuilding of High Modulus furnace, which led to higher absorption fixed costs, higher charge of depreciation, and higher financial costs towards borrowed funds, leading to a spurt in cost of sales. The same has also been acknowledged in the financial statement of OCIPL of 2018-19.

xi. The cost of production of the applicant is high as the production efficiency of the furnaces is low and generation of rejects is high during the initial years of new furnaces.

xii. OCIPL has exported second quality goods at very cheap prices during this period, because its production had not stabilized.

xiii. The new furnace was set up in 2019 and accordingly, the applicants must file its project report and feasibility report, which would show that the product was meant to cater to a specialized and niche market.

xiv. The applicants have failed to disclose that the new product at the new furnace is yet to be approved by any customer and the approval normally takes one or two years. Since the product was not approved, the applicants had to necessarily export the product to its related entities at lower prices.

xv. During the period of investigation, the economic parameters of the domestic industry may not be reliable. For wind-grade applications the approval time extends upto 2 years before the orders may be placed.

xvi. The capacity utilization of the applicant is low as it cannot reach full utilization in the very next year after expansion, and it has already achieved 85% utilization.

xvii. Capacity expansion has led to 19.9% increase in the average stock volume during period of investigation, while the imports dropped by 10% in the period of investigation.

xviii. The expense cost incurred on capacity expansion has not been segregated by the Authority.

xix. As per the annual report of the applicant, it suffered due to higher absorption of fixed costs, depreciation and financial costs.

xx. The loss of production and cost over-run on account of capital cost are being attributed to the imports.

xxi. The production of the domestic industry increased during the injury period and the imports in relation to production declined. Increase of imports in relation to consumption is due to complete shutdown of the domestic industry.

xxii. The imports increased in 2017-18 and 2018-19 to fill the demand-supply gap due to closure of OCIIPL and shutdown of plant of OCIPL respectively. Imports declined thereafter. The 500-600 users could not have survived had they waited for the domestic industry to re-establish itself. The imports have come back to a normal level.

xxiii. After resumption of domestic industry in 2018-19, the price of imports increased.

xxiv. The domestic industry has suffered due to shutdown in June-August 2018, due to which it had to resort to importation and stocking up of inventories.

xxv. The period of shutdown of OCIPL in 2018 was not determined by the applicant. Performance analysis of the domestic industry should not be made during this period. Any decline in parameters was due to the closure of OCIIPL and shutdown of OCIPL.

xxvi. The reasons for imports must be examined, as the applicants have claimed injury on one hand and are themselves responsible for loss of market shares by indulging in importation. Further, if the applicants were struggling to sell the goods in the market, explanation should be sought as to what prompted them to import the said goods.

xxvii. The domestic industry has been increasing its capacities, instead of getting rid of its increasing inventory, which has caused injury to it.

xxviii. It must be considered why such inventories have not been fully realized even in export sales especially when the domestic industry stated that the material should not be stocked for long period.

xxix. Market share of domestic industry has been decreasing over the injury period while that of other producers has been increasing, which implies that the domestic industry is suffering from inter se competition between the domestic producers.

xxx. The decline in the merchant market share of the domestic industry might be due to high cost of sales or low quality of subject goods, which is evident from the fact that Chinese imports represents majority of imports in India even after imposition of anti-dumping duty.

xxxi. Performance of domestic industry is dependent on the general market conditions of the product. The injury is not due to subject imports.

xxxii. OCIPL has acknowledged in its financial statement for the year 2018-19 that the business was negatively impacted due to continued issues in wind energy market resulting in low demand and slowdown in automotive sector.

xxxiii. The applicant has also suffered due to its inability to produce glass fibres required for special applications in wind sector, such as wind mill blade.

xxxiv. As per the financial statements of the applicant, it was earning profits in the period of investigation.

xxxv. Goa Glass, which does not manufacture HM Glass, has been able to increase its terms of production, sales, profits and cash profits as reported in its financial statements. Inclusion of Goa Glass would have shown that the injury, if any, to the applicants is due to other factors as the performance of the applicants has declined, while that of Goa Glass has improved.

xxxvi. The comparison of cost of sales and selling price of the applicant with price of imports is not appropriate, as the data of applicant includes wind grade fibres and H-glass.

xxxvii. The increase in exports was not a necessary consequence of dumping as the exports have increased significantly. Further, contrary to the statement of the applicants, it is possible for a producer to curtail production in the plant.

xxxviii. While the cost of exports has increased by 32%, the selling price has dropped by 2% indicating higher attribution of costs to domestic product.

xxxix. While domestic selling price has dropped by 6%, export selling price of applicant has dropped by 32%, showing that second grade material produced during stabilization process is being exported.

xl. Applicants have given priority to exports over domestic sales, as even though the domestic sales decreased, the exports of the domestic industry increased.

xli. The applicants have exported to related parties, which may not be at arms-length prices and can have a bearing on the injury analysis. Rather, the matter should be referred to Special Valuation Branch.

xlii. The applicant has purchased fixed assets at higher cost from affiliates, and taken ECBs from affiliates with interest rate of up to 3.5% to charge higher cost on Indian products.

xliii. There was no price depression as the price of imports increase in 2018-19 but the selling price of domestic industry decreased.

xliv. The import price has shown a decline only because average prices have been reported rather than for each PCN.

xlv. As against a demand of 1,60,000 MT to 1,70,000 MT, the domestic producers have a capacity of only 90,000 MT and the remaining demand has to be met by imports.

xlvi. While the applicants have claimed that the demand for the product has increased, the merchant demand as per data shows a decline.

xlvii. The increase in total demand while merchant demand has declined shows that the captive consumption of the applicant is increasing at the cost of the merchant demand.

xlviii. The capacity, production, sales (inc. captive), employment and productivity of the domestic industry have increased, and thus, there is no injury on this account.

xlix. Inability to sell could be due to other factors such as quality, competition among domestic producers or high cost of sales.

l. The low domestic sales were due to high captive consumption, which increased by 360% during period of investigation.

li. Increasing trends of employment, production and wages indicate that the injury suffered is due to other causes and not due to subject imports.

lii. The closure of OCIIPL was a business decision taken by parent company in US as part of its cost reduction actions, and should not be attributed to imports.

liii. MCA notified Ind AS 116, which replaced the existing lease standard, Ind AS 17. OCIPL has adopted the same during 2019-20. Under the new Ind AS, lessees will charge interest expense on the lease liability and depreciation on the right-of-use asset. Expense charged in the initial years of the lease term will be significantly higher. The significant increase in depreciation cost as well as the finance cost may be due to this. It is likely that OCIPL has shown a higher non-injurious price and inflated injury margin.

liv. Petition does not contain any evidence of material injury as it includes data relating to HM/HS Glass fibre, which is beyond the product scope.

lv. While the cost of sales and non-injurious price reported includes both HM Glass and E-glass, the selling price and landed price relates only to E-glass. Thus, separate calculation in respect of E-glass and HM glass is required.

lvi. There was improvement in the parameters in 2018-19 and the period of investigation, after OCIPL resumed production even though the subject imports increased at the same time, and thus, there is no causal link.

lvii. Return on investment, cash flows and growth declined due to closure of OCIIPL.

lviii. Any injury suffered before 2018-19 was due to expired furnaces which needed to be upgraded.

H.3. Examination by the Authority

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

50. Rule 11 of Anti-Dumping 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, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-Dumping Rules.

51. The interested parties have argued that the domestic industry has suffered injury on account of transactions with related parties not being at arm's length prices. However, the Authority has duly verified the data provided by the domestic industry. The same has been considered for the purpose of present findings.

a) Shutdown of Applicant's Plant

52. It is noted that the plant of the Applicant was closed from 15th June 2018 to 5th September 2018. The Applicant has submitted that the plant shutdown was of abnormal nature as the same was done for upgrading its furnace and enhancing its capacities. To segregate the injury caused to the domestic industry due to such closure, the Authority has considered the adjusted information as submitted by the Applicants after due verification. Accordingly, the Authority has analysed both the actual and adjusted figures in order to evaluate the effect of subject imports on the performance of the domestic industry.

b) Assessment of demand / apparent consumption

53. The Authority has taken into consideration, for the purpose of the present investigation, demand or apparent consumption of the product under consideration in India as the sum of domestic sales of the domestic industry and other Indian producer and imports from all sources. Further, as the Applicants have consumed substantial portion of their production captively, the demand has been assessed including and excluding captive consumption. The demand so assessed is given in the table below.

Particulars	Unit	2016-17	2017-18	2018-19	2018-19 Adj.	POI
Excluding captive						
Sales of domestic industry	MT	***	***	***	***	***
Trend	Indexed	100	92	78	106	77
Sales of other producer	MT	***	***	***	***	***
Trend	Indexed	100	126	144	144	127
Subject imports	MT	7,166	16,453	20,440	16,762	18,936
Other imports	MT	74,927	56,965	73,015	59,879	53,290
Total Demand	MT	***	***	***	***	***
Trend	Indexed	100	93	102	102	87
Including captive						

Sales of domestic industry	MT	***	***	***	***	***
Trend	Indexed	100	89	84	114	119
Sales of other producer	MT	***	***	***	***	***
Trend	Indexed	100	126	144	144	127
Subject imports	MT	7,166	16,453	20,440	16,077	18,936
Other imports	MT	74,927	56,965	73,015	57,429	53,290
Total demand	MT	***	***	***	***	***
Trend	Indexed	100	92	104	104	104

54. It is seen that the demand for the subject goods decreased in 2017-18 and thereafter increased in 2018-19. Demand including captive consumption increased in the period of investigation. However, the merchant demand has declined.

H.3.1 Volume effect of the dumped imports on domestic industry

a) Import volumes from the subject countries

55. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. The import volumes of the subject goods from the subject countries and share of the dumped import during the injury investigation period are as follows:

Particulars	Unit	2016-17	2017-18	2018-19	2018-19 Adj.	POI
Subject imports	MT	7,166	16,453	20,440	16,762	18,936
Other imports	MT	74,927	56,965	73,015	59,879	53,290
Total	MT	82,093	73,418	93,455	76,641	72,226
Subject imports in relation to						
Domestic production	%	***	***	***	***	***
Trend		100	236	298	193	203
Consumption	%	***	***	***	***	***
Trend		100	250	275	217	255
Total Imports	%	9%	22%	22%	22%	26%

56. It is seen that:

a. The volume of subject imports has increased significantly over the injury period.
b. Similarly, the subject imports in relation to consumption and production have increased over the injury period.
c. The share of subject imports in total imports has increased over the injury period.

H.3.2 Price effect of the dumped imports on the domestic industry

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

a) Price undercutting

58. For the purpose of price undercutting analysis, the net selling price of the domestic industry has been compared with the landed value of imports from the subject countries. While computing the net selling price of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level has been determined for comparison with the landed value of the dumped imports. In order to ensure a fair comparison, the Authority has calculated the PCN-wise price undercutting.

Particulars	Units	Bahrain	Egypt
Net sales realization	Rs./MT	***	***
Landed price	Rs./MT	54,217	65,763
Price undercutting	Rs./MT	***	***
Price undercutting	%	***	***
Price undercutting	Range	30-40%	20-30%

59. It is noted that the subject goods are entering the market at price significantly below the selling price of the domestic industry. The imports are undercutting the prices of the domestic industry in the market.

b) Price suppression/depression

60. In order to determine whether the dumped imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or

prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, were compared as below:

Particulars	Unit	2016-17	2017-18	2018-19	2018-19 Adj.	POI
Cost of sales	Rs./MT	***	***	***	***	***
Trend	Indexed	100	111	134	122	145
Selling price	Rs./MT	***	***	***	***	***
Trend	Indexed	100	100	97	97	92
Landed price	Rs./MT	69,760	62,248	65,355	65,355	60,633
Trend	Indexed	100	89	94	94	87

61. It is seen that cost has increased throughout the injury period, whereas the selling price has declined over the injury period. The landed price of imports has also declined over the injury period. Thus, the imports are suppressing and depressing the prices of the domestic industry.

H.3.3 Economic parameters of the domestic industry

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

63. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

a) Production, capacity, capacity utilization and sales

64. Capacity, production, sales and capacity utilization of the domestic industry over the injury period were as below:

Particulars	Unit	2016-17	2017-18	2018-19	2018-19 Adj.	POI
Capacity	MT	***	***	***	***	***
Trend	Indexed	100	94	91	121	153

Production	MT	***	***	***	***	***
Trend	Indexed	100	93	88	117	131
Capacity utilization	%	***	***	***	***	***
Trend	Indexed	100	100	96	96	85
Domestic sales	MT	***	***	***	***	***
Trend	Indexed	100	92	78	106	77
Export sales	MT	***	***	***	***	***
Trend	Indexed	100	39	69	94	340
Captive consumption	MT	***	***	***	***	***
Trend	Indexed	100	66	138	183	485

65. The Authority notes that:
    i. The capacity of the domestic industry has increased over the injury period.
    ii. The production declined in 2017-18 but increased thereafter in the period of investigation.
    iii. The capacity utilization of the domestic industry declined during the period of investigation.
    iv. The domestic sales have also declined over the injury period.

b) Market share

66. Market share of the domestic industry including and excluding captive consumption and that of imports was as shown in table below:

Particulars	Unit	2016-17	2017-18	2018-19	2018-19 Adj.	POI
Including Captive						
Subject imports	%	***	***	***	***	***
Trend	Indexed	100	250	275	217	255
Other imports	%	***	***	***	***	***
Trend	Indexed	100	83	94	74	69
Domestic industry	%	***	***	***	***	***
Trend	Indexed	100	97	81	110	115
Other producers	%	***	***	***	***	***
Trend	Indexed	100	137	139	139	122
Total	%	100%	100%	100%	100%	100%
Excluding Captive						
Subject imports	%	***	***	***	***	***
Trend	Indexed	100	246	279	229	305
Other imports	%	***	***	***	***	***
Trend	Indexed	100	82	95	78	82

Domestic industry	%	***	***	***	***	***
Trend	Indexed	100	99	76	104	89
Other producers	%	***	***	***	***	***
Trend	Indexed	100	135	141	141	146
Total	%	100%	100%	100%	100%	100%

67. It is seen that the market share of the domestic industry in total demand has increased over the injury period, but the market share in merchant demand has declined. This indicates that the domestic industry has been able to increase its market share in total demand only because of higher captive consumption. By comparison, the market share of imports has increased over the period.

c) Inventories

68. Inventory position of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	2018-19 Adj.	POI
Opening inventory	MT	***	***	***	***	***
Closing inventory	MT	***	***	***	***	***
Average inventory	MT	***	***	***	***	***
Trend	Indexed	100	148	201	201	208

69. It is seen that the average inventories with the domestic industry increased over the injury period, indicating accumulation of inventories. The average level of inventories has shown an increase of 108% in the period of investigation as compared to the base year.

d) Profitability, cash profits and return on capital employed

70. Profitability, return on investment and cash profits of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	2018-19 Adj.	POI
Cost of sales	Rs./MT	***	***	***	***	***
Trend	Indexed	100	111	134	122	145
Selling price	Rs./MT	***	***	***	***	***
Trend	Indexed	100	100	97	97	92
Profit/(loss)	Rs./MT	***	***	***	***	***
Trend	Indexed	100	79	30	51	-4

Profit/(loss)	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	73	23	54	-3
Cash profits	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	78	43	79	22
Return on capital employed	%	***	***	***	***	***
Trend	Indexed	100	73	21	30	7

71. The Authority notes that:
    a. The profitability of the domestic industry has declined continuously throughout the injury period. The domestic industry has incurred losses in the period of investigation.
    b. The cash profits have also declined throughout the injury period.
    c. The return on capital employed has declined throughout the injury period.

72. Some interested parties have submitted that the domestic industry has suffered injury on account of capacity expansion, entailing higher finance and depreciation costs. To examine the same, the Authority has considered the EBIDTA of the domestic industry. It is noted that the EBIDTA of the domestic industry also shows a decline. Therefore, the injury suffered by the domestic industry is not on account of high finance and depreciation costs.

Particulars	Unit	2016-17	2017-18	2018-19	2018-19 Adj.	POI
EBIDTA	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	78	51	87	34

e) Employment, wages and productivity

73. The Authority has examined the information relating to employment, wages and productivity, as given below.

Particulars	Unit	2016-17	2017-18	2018-19	2018-19 Adj.	POI
No of employees	Nos	***	***	***	***	***
Trend	Indexed	100	112	103	103	109
Productivity per day	MT/Day	***	***	***	***	***
Trend	Indexed	100	93	117	117	174
Productivity per employee	MT/Nos	***	***	***	***	***
Trend	Indexed	100	83	85	113	120
Wages	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	102	104	104	97

Wages per unit	Rs./MT	6,581	7,237	7,772	5,829	4,879
Trend	Indexed	100	110	118	89	74

74. It is seen that number of employees of the domestic industry has increased over the injury period. The productivity of the domestic industry has also increased over the injury period. Wages and wages per unit have declined over the injury period.

f) Magnitude of dumping

75. It is noted that the subject goods are being dumped into India and the dumping margin is positive and significant.

g) Growth

Particulars	Unit	2016-17	2017-18	2017-18 Adj.	2018-19	POI
Production	%	-	-7	-6	25	49
Domestic sales	%	-	-8	-16	15	-1
Profit/(loss) per unit	%	-	-21	-62	-35	-115
Cash profit	%	-	-22	-45	1	-48
Return on capital employed	%	-	-27	-72	-59	-67

76. It is noted that while the domestic industry was able to achieve a positive growth in respect of production, its position deteriorated with regard to domestic sales, profits/loss, cash profits and return on capital employed.

h) Ability to raise capital investment

77. It is noted that the domestic industry has recorded a negative growth in profitability parameters. The domestic industry is incurring losses. This shows that the dumped imports have impacted the ability of the domestic industry to raise capital investment for the product under consideration.

i) Factors affecting prices

78. The Authority notes that the landed price of imports declined over the injury period, and is undercutting the prices of the domestic industry, which has created a strain on the prices of the domestic industry. As a result, while the selling price of the domestic industry declined over the injury period, even though the cost of sales increased. Thus, the imports have affected the prices of the domestic industry.

H.3.4 Overall assessment of injury

79. The examination of the imports of the product under consideration and performance of domestic industry clearly shows that:

i. The volume of imports has increased both in absolute terms as well as in relation to production and consumption in India.
ii. The imports are undercutting the prices of the domestic industry.
iii. The imports have suppressed and depressed the prices of the domestic industry.
iv. The capacity and production of the domestic industry have increased over the injury period. However, the capacity utilisation and domestic sales of the domestic industry have declined over the injury period.
v. The merchant market share of the domestic industry has declined while that of the subject imports has increased over the injury period.
vi. The average level of inventories of the domestic industry has increased over the injury period.
vii. The domestic industry has incurred losses in the period of investigation.
viii. The cash profits of the domestic industry have declined significantly over the injury period.
ix. Return on capital employed of the domestic industry has declined significantly over the injury period and the domestic industry has recorded a negative return on capital employed.
x. The number of employees, wages and productivity of the domestic industry has improved.
xi. While the production of the domestic industry has shown growth, the profitability parameters and sales have shown negative growth.
xii. The imports have impacted the ability of the domestic industry to raise capital investments of the product under consideration.
xiii. The dumping margin is positive and significant.

80. In view of the foregoing, the Authority concludes that the domestic industry has suffered material injury.

H.3.5Non-attribution analysis and casual link

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

a) **Volume and value of imports from third countries**

It is seen that other that subject imports, major imports are from China PR and Thailand. However, imports from China PR attract anti-dumping duty. Imports from Thailand are priced much more than the price of the subject imports. Other than these, imports from other countries are negligible in volume. Thus, it cannot be said that imports from other countries are causing injury.

b) **Contraction in demand**

The Authority notes that there is no contraction in demand

c) **Changes in the pattern of consumption**

There is no material change in the pattern consumption of the product under consideration.

d) **Trade restrictive practices**

The Authority notes that there are no trade restrictive practices.

e) **Change in technology**

The Authority notes that technology for production of subject goods has not undergone a change.

f) **Productivity**

The Authority notes that the productivity of the domestic industry has increased over the injury period.

g) **Export performance of the domestic industry**

The Authority has considered the data for domestic operations only.

h) **Performance of other products**

The Authority has only considered data relating to the performance of the subject goods.

I. MAGNITUDE OF INJURY MARGIN

82. The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in Anti-Dumping Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The non-injurious price of the domestic industry has been worked out and it has been compared with the landed price from each of the producers/exporters from the subject countries for calculating injury margin. The injury margin for the non-cooperative exporters has been determined based on the facts available with the Authority.

SN	Name of producers	Non-injurious price	Landed price	Injury margin	Injury margin	Injury margin
		(USD/MT)	(USD/MT)	(USD/MT)	(%)	(Range in %)
1.	CPIC Abahsain Fiberglass W.L.L	***	***	***	***	40-50
2.	Jushi Egypt for Fiberglass Industry S.A.E	***	***	***	***	25-35
3.	Non-cooperative / residual exporters from Bahrain	***	***	***	***	40-50
4.	Non-cooperative / residual exporters from Egypt	***	***	***	***	30-40

J. POST DISCLOSURE COMMENTS

83. The Authority notes that most of the submissions made by the interested parties in response to the disclosure statement are repetitive in nature and the interested parties have largely reiterated their earlier submissions, which have already been examined and addressed by the Authority. Following are the additional submissions made by the domestic industry and other interested parties on the disclosure statement.

J.1. Submissions by other interested parties

84. The other interested parties reiterated their submissions with regards to scope of product under consideration, like article, domestic industry, injury and causal link. Additionally, the other interested parties have submitted as follows post disclosure:

i. The Authority did not notify the Government of Bahrain after receipt of a properly documented application and before initiation. This is in violation to Article 5 of the Anti-Dumping Agreement.

ii. The Authority granted insufficient time to the interested parties to furnish comments on the Disclosure Statement, which is in violation of principles of natural justice.

iii. Since H-glass is not imported from the subject countries, it should be excluded from the scope of product. The production of H-Glass has a much higher capital cost than the production of ECR Glass. Merely because the customers who were buying ECR glass have started buying H-glass does not ipso facto mean that the H-glass is being bought as substitution of ECR glass.

iv. The PCN methodology has been notified belatedly and for the first time in the disclosure statement. In such a situation, time provided is not sufficient to make detailed submissions on the issue. As per the Manual of SOP, the Authority may only notify PCNs within 60 days from the date of initiation.

v. Since PCNs were not notified by the Authority, the exporter submitted data according to its internal control number. The Authority has disregarded such data and has adopted PCN wise analysis at the time of Disclosure which has inflated the dumping margin for the exporter.

vi. PCNs made by the Authority aggregates the products into four broad categories which is inconsistent with provisions of Article 2 of the Anti-Dumping Agreement. PCN wise comparison is not appropriate if density of the product is not considered as the difference in per-unit cost for the same product form, but of different surface weight, varies by almost 65%. CPIC has proposed a PCN which takes into account product form and linear density, fibre, diameter and surface weight.

vii. In the anti-subsidy investigation concerning imports of glass fibre products from Egypt, the European Commission adopted a PCN methodology which is similar that proposed by CPIC.

viii. The Government of India did not accept the DGTR's recommendation to impose anti-dumping duty against China PR in a SSR investigation. The period of investigation as well as the product under consideration were same as in the instant investigation. The decision to impose duties in the instant case would be violation of Art. 9.2 of the WTO Anti-dumping Agreement which obliges members to impose duties on a non-discriminatory basis.

ix. The production for captive consumption should be excluded from total production of the domestic industry, as done in the case of Pig Iron Mfrs. Assen. Vs. Designated Authority.

x. Related exporters and producers are clubbed together as one group in order to avoid any circumvention of duty. However, clubbing should not be done for determination of standing.

xi. The petitioner has imported subject goods from various countries, and is related to Owens Corning Composites (China) Company.

xii. The Authority has not disclosed the calculation for dumping margin and the methodology for calculation of constructed normal value.

xiii. As per SEZ law of Egypt, upon clearance of finished goods from SEZ to domestic tariff area, customs duties which were saved on imported inputs must be paid to the Government, which is included in cost of production.

xiv. The price at which Jushi Egypt has procured raw material from its related parties is in line with the international prices, and at arm's length.

xv. Reliance on the anti-dumping investigations of European Union and Turkey against Egypt is not appropriate, as those were terminated.

xvi. Normal value determined for Jushi Egypt is correct and the reference to the final findings in the anti-dumping investigation on Rubber Chemical PX-13 (6PPD) is misplaced.

xvii. Judgment passed by CESTAT in the case of Kumho Petrochemical Co. Ltd. is not applicable in the present case as Kumho was procuring raw material from unrelated entity with which it had a special relationship while Jushi Egypt is procuring from a related entity. While the Authority has not prescribed a format wherein a foreign producer can report that its special relationship with an unrelated raw material supplier were at arm's length, the Authority has prescribed Appendix 11 wherein Jushi has established that its transactions with related parties are at arm's length.

xviii. In all investigations, the Authority has always accepted the raw material prices as reflected in the books of the foreign producer, such as in the case of Textured Tempered Coated and Uncoated Glass from Malaysia, where the Malaysian producer procured raw material from China PR.

xix. The actual purchase price of raw material procured by Jushi Egypt from China PR should be considered, in accordance with Article 2.2.1.1 of the WTO Anti-Dumping Agreement.

xx. Alleged loans, supply of land at less than adequate remuneration, tariff waivers on imported raw material have no bearing on the anti-dumping investigation.

xxi. Since Jushi Egypt has been given a negative dumping margin, all imports from Egypt should be treated as undumped. The imports from Egypt should be decumulated and injury should be reassessed in terms of imports only from Bahrain.

xxii. The import data does not represent the correct import value and volume since products other than product under consideration may also be imported under the same HS Codes.

xxiii. The petitioner is not able to cater the entire market demand and has taken a conscious decision to increase its share in export and non-PUC markets. The petitioner did not increase its domestic sales even when there was a reduction in the volume of subject imports during the period of investigation.

xxiv. The landed price has remained constant in the POI considering the price prevailing during 2017-18.

xxv. Due to unavailability of the price-undercutting data for injury period, the same cannot be compared with the profitability of the petitioners to offer any meaningful comments.

xxvi. Ideally during the brief shutdown, the capacity should not have reflected any change and such additional capacity should have reflected in the next year. However, 2018-19 and 2018-19 adjusted figure indicates an increase in capacity. Similar significant differences appear in respect of production, sales, capacity utilization, etc

xxvii. The domestic industry was able to fully utilize its capacities prior to revamping the furnaces.

xxviii. As Goa Glass Fibre has not suffered injury, thus, the alleged injury is not due to the subject imports.

xxix. Captive consumption of the petitioner should be examined. Since there are no merchant sales of H-glass, it is incorrect to suggest that accumulation of inventories is solely due to subject imports.

xxx. Economic parameters for the years 2016-17 and 2017-18 are not comparable with the period of investigation due to inclusion of OCIIPL data in the referred years.

xxxi. The Authority has not taken into account any of the submissions made by CPIC with regard to causal link in the disclosure statement.

xxxii. The domestic industry did not suffer injury due to imports from Bahrain but due to other factors. Any injury is due to refurbishing of old furnace and capital expenditure incurred for building a new furnace and all operational and financial factors related to it.

xxxiii. Domestic industry increased its capacity and production over the injury period, without properly assessing the need of the domestic market. It led to decrease in sales volume, increase in inventories, increase in cost of sales, losses and decline in the return on investment.

xxxiv. The Authority did not address the concern raised by the other interested parties regarding the imports made by the applicant via its affiliates and its attempt to block imports from all other sources.

xxxv. As the petitioner accounts for 80-90% of the Indian production, it has the capability to set and dictate the price in the Indian market. The production and sales of Goa Glass Fibre are equivalent to total imports of subject goods from Bahrain and Egypt.

xxxvi. Anti-dumping duty has been in force from China PR since the last decade which has been extended to Thailand. The petitioner has requested to impose duties on majority of the sources of imports. This will help the petitioner in unilaterally increasing the prices of subject goods. It has already increased the prices of its products by 40-50%, since the initiation of the present investigation.

xxxvii. Restrictions on imports of glass fibre are leading to a demand-supply gap in the country. Imposition of duty will enable the applicant to dominate the market and create monopoly situation by importing from its affiliates.

xxxviii. Imposition of anti-dumping duty would not be in public interest as the domestic industry lacks the technology and capacity to produce all types of glass fibre.

xxxix. Imposition of anti-dumping duty will negatively affect the whole market including downstream industry and final consumers.

xl. Imposition of anti-dumping duty will risk creating impediment to bilateral trade and commercial relations of India and Bahrain.

xli. In case anti-dumping duty is imposed, it should be reference price duty which will protect the interests of both the parties. According to the Operating Manual of Trade Remedies issued by the Authority, reference price duty is appropriate when there is a need to protect the interests of the downstream industry.

xlii. In case the Authority revises the dumping margin in accordance with the PCNs proposed by CPIC, the exporter is willing to provide a price undertaking.

xliii. Petitioner has filed the comments almost after one month of due date of filing comments on disclosure statement. Such belated comments should be rejected outrightly.

xliv. The petitioners have not brought any new additional facts in their latest submissions.

J.2. Submissions by the domestic industry

85. The domestic industry has submitted the following post disclosure:

i. There is a need for consideration of procurement of raw material and other inputs by Jushi Egypt from its parent company situated in China PR, at international market prices.

ii. Such approach has been considered by the Authority in the past, such as in anti-dumping investigation on imports of Rubber Chemical PX-13 from China PR, Korea RP and USA [F.No. 6/20/2020-DGTR]. While in PX-13, there was only a special relationship between the exporter and Chinese entity, in the present investigation. Further, Jushi China did not claim market economy treatment in the sunset review concerning China PR. This is similar to the situation in the PX-13 investigation wherein the Chinese entity did not claim market economy treatment.

iii. The principles laid down in the Tribunal decision and the decision by Supreme Court in Kumho Petrochemical Company Limited V. Designated Authority are applicable to the present investigation.

iv. Exporters have not responded to the issues raised by the petitioners on need to examine the source of investment, related party inputs, services, financing, technology and support received by the exporters as both of the exporters have been set up by cooperation of Government of China PR and Governments of the subject countries.

v. Jushi Egypt has been established in the China-Egypt Suez Economic and Trade Cooperation Zone, pursuant to Memorandum of Understanding between the two companies. It benefits from the pooled resources of both the countries.

vi. As per findings of the European Commission, Jushi Egypt has benefitted from the subsidies by Government of Egypt and China PR. Jushi China had financed intercompany loans via external financing from Chinese financial institution. Jushi Egypt also benefitted from grants by CNBM, a Chinese state-owned entity and supply of land at less than adequate remuneration, VAT exemption, import tariff waivers on imported raw material used for exporter goods.

vii. Since Jushi Egypt is situated in the SETC Zone, it is exempt from payment of import duties on procurement of raw material. It is also exempt from payment of sales taxes, stamp duty tax and state resources development tax, which has impacted both cost and price in the Egyptian market.

viii. Jushi Egypt has procured technology for production of product under consideration from its parent company but does not pay a royalty or license fee. Thus, its cost and price is not in ordinary course of trade.

ix. As a part of SETC Zone, Jushi obtains utilities at price below price prevailing in Egypt.

x. Jushi Egypt has sold the subject goods to its affiliated customers in the domestic market. If such sales are not at arm's length basis, they cannot be used to determine the normal value. In the findings of the European Commission vide Regulation 2020/492, it was noted that Jushi Egypt has sold glass fibre to Hengshi Egypt at price less than the price to related parties.

xi. There is a particular market situation in Egypt since Jushi Egypt has very low volume of domestic sales considering its overall production and sale. Since it is set up in the SETC Zone, it has exported 90% of its capacity.

xii. Sales by Jushi in Egypt are treated as imports and subject to customs duty. Therefore, such sales cannot be treated to be in ordinary course of trade.

xiii. Due to existing particular market situation in Egypt, domestic sales of Jushi Egypt should not be considered for determination of normal value.

xiv. Jushi Egypt has exported the subject goods to its related party in India, namely, Jushi India Fiberglass Private Limited, which has further sold these at losses. As per the financial statements of Jushi India, it is involved wholly in trading, and is incurring losses. Since the price of purchase from Egypt is higher than that from China PR, it implies a higher degree of loss in respect of imports from Egypt.

xv. The financial statements of Jushi India states that it has earned a commission, which should be adjusted in order to determine the net export price.

K. SUBMISSIONS POST THIRD ORAL HEARING

86. Considering the arguments raised by the interested parties post issuance of the Disclosure Statement, the Authority provided another opportunity to all the interested parties to be heard. Accordingly, a third oral hearing was conducted on 9th November 2021.

K.1. Submissions by other interested parties

87. Some of the interested parties had reiterated their past submissions concerning inclusion of H-glass, public interest, alleged lack of standing and absence of material to the domestic industry. For sake of brevity, such submissions are not reproduced again in the succeeding paragraphs. The following additional submissions have been made by the other interested parties post third oral hearing:

i. The domestic industry has made submissions post comments on disclosure and the Authority has accepted it. The Authority has diverged from its usual practice of issuing final findings with 7 to 10 days of comments on disclosure. The contention that the domestic industry has not raised new issues is incorrect as if it was the case that there was no need to re-hear and re-anaylze the case.

ii. The time period for completing the investigation has been extended thrice. The third extension vide notification dated November 5, 2021 has been issued after the date of expiry of the extended period. The Supreme Court, in Union of India and another vs. Kumho Petrochemicals Company Limited held that, an order or notification which has an express expiry date cannot be revived after its expiration. Continuation of proceedings after 31st October, 2021 is void and illegal.

iii. The Authority upon the request of domestic industry held third hearing at the end of the investigation, while the similar request of the other interested parties for a public hearing in the initial stage of investigation was denied. There was no gross error or omission of law, necessitating a third hearing.

iv. An anti-dumping investigation is time bound as held by the Appellate Body in the US – Oil Country Tubular Goods.

v. The PCN were intimated to the interested parties only at the time of disclosure statement and the initiation notification did not state that the Authority has accepted the PCN methodology of petitioner. Suggestion of PCN in their Petition is of no relevance unless Authority accepts it and explicitly notifies the same.

vi. While the Authority was required to notify the PCNs within sixty days from the date of initiation, no notification was issued. The PCNs adopted at the stage of disclosure disregards the internal control numbers which has artificially inflated the dumping margin of the exporter from Bahrain.

vii. No PCN was suggested during the initiation or till filing of questionnaire. The interested parties submitted appropriate PCN conforming to ASTM D 578 which captures essential characteristics that affect price comparison. Cost varies significantly for fibres with different densities/thicknesses and accordingly, it should be considered as a parameter.

viii. The Authority has taken extensions to complete the investgations and was granted the same after the expiry of the extended period i.e. 31st October 2021. The continuation of the proceedings after 31st October 2021, is illegal and null and void and must be terminated ab initio.

ix. The exporters could not follow the PCN formulated in sunset review investigation as the same was notified after the questionnaire responses was submitted in present investigation.

x. Assembled rovings, direct rovings, glass chopped strands, and glass chopped strands mats are types of product and not PCN. It is essential that the PCNs capture the essential characteristics of the product under consideration, and accordingly, at least the density/thickness of glass fibre must be included.

xi. Under ASTM D578, rovings are designated by two-segment coding or three-segment coding both of which include the linear density of the product. The PCN suggested by the exporters does not take into account such linear density without which no viable comparison can be made.

xii. Density or thickness for rovings (both direct and assembled), may be captured by including weight in terms of grams/km, for Chopped strands, diameter in micrometres (μm) may be captured and for chopped strand mats, weight in terms of grams/metre^2 may be captured.

xiii. The EC, in its anti-subsidy investigation concerning imports of glass fibre from Egypt, adopted a PCN methodology similar to that suggested by the CPIC. The PCN adopted by EC took into account product form, linear density (for rovings), fibre diameter (for chopped strands) and surface weight (for mats).

xiv. There are significant differences existing within each grade both in terms of physical characteristics as well as in terms of cost which should be taken into account.

xv. Domestic industry has accepted that there exists fundamental difference in the physical characteristics of the products, and accordingly, due allowances for such differences should have been made in accordance with Article 2.4 of the Anti-Dumping Agreement. The other interested parties have submitted various reports

published by domestic industry which highlight the difference in product quality and characteristics. Therefore, a separate PCN is required for these products.

xvi. The analysis undertaken by the domestic industry is concerned with only 2400 and 4800 tex products, whereas full range of the production is from 100 tex to 9600 tex. Without admitting to price difference being only 4%, under Rule 14 of the AD Rules, dumping margin of less than 2% is considered de minimis which is a ground for termination of the investigation.

xvii. While exports from Bahrain to India may be majorly of rovings between 2400 and 4800 tex, it may not ensure fair comparison since the domestic sales in Bahrain and of domestic industry in India may include other PCNs.

xviii. With regards to contention of the domestic industry that there is a wide difference in prices of exports under same PCN, such analysis is based on import prices shown in DGCI&S data which are not at ex-factory price, and may vary based on terms of delivery and payment.

xix. As opposed to the contention of the domestic industry, CPIC has provided its data which clearly demonstrates significant price differences. Difference in per-unit cost for same product form, but of different surface weight, varies by almost 65%.

xx. The domestic industry should provide certified data regarding the sample list of transactions submitted to show there are no factors are significantly affecting cost of production.

xxi. Any change in PCN methodology, at this belated stage, will put extraordinary burden on Jushi Egypt.

xxii. It cannot be assumed that since the petitioners had raised issues on subsidies in Egypt, it can be equated with raising an issue of particular market situation. Such a ground must be specifically taken in the affidavit or show cause notice and in this case, in the petition or in the initiation notice. However, the petitioners took this specific ground only in their comments on the disclosure statement.

xxiii. None of the countries which conducted investigation against Egypt on the subject goods and against the same exporter has established the existence of a particular market situation or that Egypt operates as a non-market economy. There is nothing on record to prove that Jushi Egypt operates in circumstances which distorts the price compatibility between the export price and normal value.

xxiv. Establishment of SEZs are not unique to Egypt laws like customs and sales tax. The sales of products from these units are put to strict surveillance over these units.

xxv. A particular market situation does not exist in Egypt or in the SETC Zone. The Panel, in Australia –A4 Copy Paper, held that particular market situation must be distinct, individual, single and specific. Such a situation must render the domestic sales and export sales non-comparable.

xxvi. The Egyptian SEZ is governed by the Egyptian SEZ law and laws or policies of any other country is not applicable to the SETC Zone. Any tax or duty payable on the input materials used to manufacture the final goods are paid before they are cleared for the domestic tariff area.

xxvii. The contention that SETC Zone is an extension of Chinese non-market economy and therefore, there is a particular market situation in the SETC zone is completely

misplaced. There are several industrial zones and industrial corridors under development in India where many foreign governments such as Japan and United Kingdom are giving financial aid to the Government of India. Mere financing of an industrial corridor by a foreign government does not imply the existence of a particular market situation.

xxviii. In many companies established by foreign investors, including Owens Corning, managers from overseas are stationed and hold positions as directors. If the petitioners' argument is accepted then OCIPL would come under suspicion of intervention by their parent company or affiliate companies that are based in the United States and China PR.

xxix. Contentions as to establishment of exporters in special economic zone and exemptions to Jushi Egypt due to trade co-operation between Government of Egypt and Government of China should be dealt in separate countervailing duty investigation. Subsidies cannot be a ground for determination of a particular market situation. Such an exercise would be in violation of WTO obligations as the affected country was not provided an opportunity to be heard during the course of proceedings.

xxx. EC only investigated subsidies in the countervailing investigations and a fair opportunity was provided to the Government of Egypt as well as the Government of China to respond on the subsidies and participate in the countervailing investigations.

xxxi. While, the EC carried out separate anti-dumping and countervailing investigations on Glass Fibre products and Glass Fibre Fabrics, the petitioners have relied on only selective portions of the EC's orders in the countervailing duty investigations.

xxxii. Further, alleged subsidies cannot be a ground for determination of a PMS and such a determination would be contrary to Art. 2 of the Anti-dumping Agreement. The discovery of a subsidy does not entail a legal requirement to compare domestic sales and export sales. An anti-dumping investigation cannot be used as a guise to mitigate the effect of alleged subsidies. Such an exercise would be a grave violation of WTO obligations as the affected country was not even provided an opportunity to be heard during the course of proceedings as legally mandated under Art. 13 of the SCM Agreement.

xxxiii. Mere existence of particular market situation is not enough, as the Authority is also obligated to establish that because of the particular market situation, the domestic selling price of Jushi Egypt is not comparable with its ex-factory export price to India.

xxxiv. The Authority should determine normal value based on sales of Jushi Egypt as it has made sales of like article which were destined for consumption in Egypt and the prices of such sales were in the ordinary course of trade.

xxxv. Jushi Egypt has paid customs duty on the imported components in products directed to the local market.

xxxvi. As per Article 42 of the SEZ Law, products of entities based in a SEZ are subject to customs duties, sales tax and other taxes once such products are sold in the domestic tariff area.

xxxvii. Costs recorded by the exporter can only be rejected if the records were not kept in accordance with the GAAP of the exporting country or they did not reasonably reflect the costs associated with the production and sale of the product under consideration. Rejection of actual cost of raw material merely on the ground of it being sourced from a non-market economy is inconsistent with Article 2.2.1.1 of the Anti-dumping Agreement.

xxxviii. Domestic industry has not provided evidence that the raw material required were either dumped in Egypt or there was any under invoicing. Egypt has not levied any anti-dumping duty on the raw materials imported by Jushi Egypt from China. Therefore, as per the rationale applied in Textured Tempered Coated and Uncoated Glass, Jushi Egypt should not be considered as an extension of its parent company in China.

xxxix. Reliance on anti-dumping investigation on Rubber Chemical PX-13 (6PPD) and CESTAT's order in Kumho Petrochemicals v. Designated Authority, is misplaced as in PX 13, the exporter failed to establish that the prices of inputs procured from China were at arms' length or comparable to international prices. In the present investigation, Jushi Egypt has established that it had procured inputs from its affiliate at arms' length prices which are also comparable to international prices.

xl. The inputs imported by Jushi Egypt from its affiliate in China are at arm's length prices equivalent to international prices. The CESTAT order in the case of PX-13 does not apply in the present facts. The petitioners are incorrectly contending that there is a Supreme Court decision/judgment on this issue. The Supreme Court only passed a short order dismissing the SLP and thus, the underlying issues of law remain open as they have not been settled. The Supreme Court in State of U.P. v. Synthetics and Chemicals Ltd. and Ors and Municipal Corporation of Delhi v. Gurnam Kaur, has held that the decisions passed in sub-silentio have no binding effect under Article 141 of the Constitution of India.

xli. As per the SCM Agreement, the term input consumed in the production process means inputs physically incorporated in the production process such as raw materials, energy, fuel, oil and catalysts. This definition is exhaustive and cannot be expanded as was held by the WTO Panel in India – Export Related Measures (DS541).

xlii. In A4-Copy Paper, the Australian Anti-dumping Authority had found on facts with evidence that there was intervention by the Government of Indonesia on pulp prices, based on which existence of particular market situation in Indonesia was concluded. However, there is no evidence in the present investigation on intervention of Government of Egypt in distorting either the cost of production or selling prices of Jushi Egypt.

xliii. The SEZ law and regulations are applicable to all special economic zones in Egypt, and the legal regime predates the establishment of the SETC Zone in which Jushi Egypt is based. Chinese law is not applicable in the SETC Zone and the Government of China has not influenced the SEZ Law.

xliv. As opposed to the contentions of the domestic industry, Jushi Egypt employs more than 2000 local people in Egypt that account for more than 90% of the total

manpower. All the utilities are purchased locally in Egypt and there is no evidence to establish any distortion in utility costs.

xlv. Contrary to the contention that non-market economy factors prevail in the SETC Zone or that Jushi Egypt is an extension of the Chinese parent company is incorrect as no investigating authority in the world has held that there is a particular market situation in Egypt and Egypt has never been treated as a non-market economy.

xlvi. There is no distortion in cost of raw material, utilities, depreciation, finance costs, SGA expenses, royalty fee, etc. which have been examined by the Authority during the verification. Royalty is part of cost of production.

xlvii. There is no monopoly of trade in Egypt nor are all prices fixed by the Government of Egypt. It cannot be held that Egypt or the SETC Zone are operating under non-market economy conditions or particular market situation exists in Egypt or in the SETC Zone.

xlviii. Since the Authority exercises quasi-judicial function, the parties who relied upon certain state of facts in their favour have to adduce evidence in proof thereof. The petitioners have claimed that distortion and particular market situation in Egypt but have not provided any evidence that establishes the costs in Egypt is either controlled by the Government or distorted.

xlix. Both Turkey and European Commission determined normal value for Jushi Egypt based on its clearances to the domestic tariff area, and did not find a particular market situation. Turkey and European Union terminated anti-dumping investigation against imports of product under consideration from Egypt.

l. Further, USDOC, in investigation on imports of new pneumatic off-the road tires from India, determined normal value for units operating in SEZs based on their clearances to the domestic tariff area.

li. No further adjustments are warranted as the Authority has already made adjustment in respect of Jushi India's losses.

lii. Dumping margin determined considering weighted average normal value and prices of individual export transactions is meant specifically to address the issue of targeted dumping. The domestic industry is first required to find a pattern of export prices which differ significantly among different purchasers, regions or time periods. Weighted average to transaction method can be adopted only when such pattern is identified. Such pattern excludes merely random price variation. No explanation has been provided by the domestic industry as to why differing export transactions cannot be taken into consideration using regular method comparison applied by Authority in all anti-dumping investigations.

liii. Imposition of anti-dumping duty on glass fibre would be against public interest as it has wide application for industrial as well as non-industrial purposes. The domestic industry lacks the technology as well as the capacity to manufacture the different types of glass fibre required by the user industry.

liv. Goa Glass Fibre has 15-25% share in production but it has been acquired by Ultratech and its future is now uncertain. If the anti-dumping duty is imposed, OCIPL would be able to increase its prices arbitrarily since it will have a monopoly

on the Indian market. OCIPL has been steadily increasing its prices every quarter since October 2020 which will put burden on the user industry.

lv. The domestic industry has increased its prices post initiation of this investigation, which has affected the performance of the users. The prices have been increased 5 times in 2021.

lvi. Central Government has not extended the anti-dumping duty on imports from China PR keeping in mind the larger public interest despite a positive recommendation by the Authority. The Authority should consider the larger public interest involved in the present investigation as well.

lvii. Acceptance of price undertaking cannot be treated as a separate issue to determination of PCN as price undertaking must be based on dumping margin determined upon fair comparison.

lviii. The contention of the domestic industry that since GCC-TSAIP refused to undertake price undertaking offered by Indian tiles exporters, the Indian Authority should also refuse to consider price undertaking is against the rules of natural justice.

lix. Since no duties were imposed against the imports of the subject goods from China PR, despite the period of investigation being the same as that in present investigation; imposition of duties against imports from Bahrain would be discriminatory and against Article 9 of the Anti-Dumping Agreement

K1A. Limited Post –Disclosure issued to Jushi Egypt

88. The following comments were received from Jushi Egypt in response to the limited post-disclosure statement issued to Jushi Egypt after the post-disclosure hearing was held on 09.11.2021.

i. The Authority has adopted the correct approach by adjusting only the loss of Jushi India for arriving at the net ex-factory export price.

ii. The Authority has given an observation in the disclosure statement that the WTO provisions and Indian regulations provide for adjustment for profits *as well*. This observation is not correct. Article 2.4 of Anti-dumping Agreement provides for adjustment of profit. However, the WTO Panel in US-Stainless Steel (DS 179) has held that Article 2.4 does not contemplate mandatory adjustment of profit as the term used is 'should', which is non-mandatory. Article 2.4 per se does not say that both loss as well as profit should be adjusted in the ex-factory export price. While constructing the ex-factory export price, the Ld. Authority has the discretion to either implement Article 2.4 or it may decide to deviate from the provision and make adjustment for any other allowance such as adjust "loss".

iii. To adjust profit, the Ld. Authority must also need to know factually and with positive evidence what profit was earned by an unrelated reseller of the subject goods during the POI in India. In the present case, the Ld. Authority has duly examined/verified the loss from the audited financial statements of Jushi India and accordingly, the Ld. Authority has made the loss adjustment on an objective basis.

iv. The Authority has given an observation in the Disclosure Statement that no evidence has been provided to support the claim that packaging cost for domestic and export market is same. The query was raised by the Authority on Friday 26 November 2021 post business hours. The disclosure statement was issued next day on Saturday afternoon (both non-working days in Egypt) containing the said observation. We have placed on record detailed explanation and evidence vide email dated 29 November 2021 at 1:16am. As explained in the said e-mail, to maintain the properties of the glass fibre i.e. 'abrasiveness and the size coated on the product', the Glass fibre packaging has been standardised across all the products by Jushi Egypt and thus, there is no difference in packaging for domestic sales and export sales. The domestic shipments are made in trucks. For exports, the products are shipped in 20 feet or 40 feet containers duly fumigated. The container cost is built into shipping / freight cost as was explained during verification discussion. Therefore, the packaging for both sales in the domestic market and exports to India is same, and Jushi Egypt's claim of same packaging cost for domestic sales and export sales is justified. This can be verified over a virtual verification or an on-site verification.

v. It is stated in the disclosure statement that the packaging expense as claimed by Jushi Egypt has been reduced from both the domestic sales as well as export sales. However, it appears that different packaging expense has been reduced from domestic selling price and ex-factory export price, which has led to a positive dumping margin for Jushi Egypt. However, Jushi Egypt has claimed same packaging expense for both domestic sales and export sales. We request the Ld. Authority to take on record our submissions in this regard and give a finding on whether same or different packaging expense has been reduced from domestic selling price and ex-factory export price.

vi. During multiple verification discussions and written submissions, it has already been established with evidence that customs duty is part of the raw material cost booked by Jushi Egypt, which forms part of the cost of production. Since Jushi Egypt has sold its goods in the domestic market at good profit during the POI, it is evident that Jushi Egypt has recovered its entire cost of production (which includes the raw material cost, which is inclusive of customs duty). SEZ law of Egypt is also very clear on the payment of customs duty by the units located in SETC zone.

vii. The Petitioners have raised the issues regarding PMS at much belated stage. No evidence was also placed on record to support PMS claim. The Petitioners are relying upon the orders passed by European Commission in the anti-subsidy matters, which are not relevant for the present anti-dumping investigation.

viii. The findings given by other investigating authorities are not accepted by DGTR on face value, as the DGTR is legally obligated to reach its own conclusions after examining facts and evidence on record in terms of the provisions of the AD Rules. Merely copying the findings of other investigating authorities is not enough, as factual evidence must be brought on record to substantiate a PMS claim. The Authority has taken this position in the recently issued sunset review final findings in Uncoated Copier Paper from Indonesia and Singapore in respect of PMS claim in Indonesia. In the present case, the Petitioners have not placed on record any factual evidence to support their PMS claim regarding Egypt. Mere presence of Jushi Egypt in an SEZ in itself is not sufficient to establish PMS in the domestic market of the subject goods. Further, the Petitioners have also failed to establish how existence of the alleged PMS has made normal value not comparable with the ex-factory export price of Jushi Egypt under Section 9A(1)(c)(ii) of the Customs Tariff Act, 1975.

ix. The Authority is requested to clarify in the Final Findings that only in respect of Assembled Rovings, the domestic sales to unrelated party have been considered for determining normal value. And in respect of other PCNs such as DR, CS and CSM, all domestic sales (to related and unrelated parties) have been considered for determining normal value.

x. All sales made by Jushi Egypt to related parties were at arm's length which is evident from the detailed verification of sales and the documents submitted by Jushi Egypt in the course of verification. Further, Assembled Rovings (AR) were sold in four grades namely, A, B, C and D and prices of grade A must be compared with grade A; grade B with grade B and so on which would establish that sales of AR to related parties were at comparable prices to sales made to unrelated parties during the POI. This is duly reported in Appendices 3A & 3B and Appendices 4A & 4B. Further, the consideration of only unrelated party sales while ignoring the related party sales of AR is arbitrary and has no basis in the AD Rules.

xi. Without prejudice, as per Jushi Egypt's calculations, the dumping margin of Jushi Egypt is still de-minimis even if the Authority's methodology explained in the disclosure statement is applied. We, therefore, request the Ld. Authority to share with us the MS Excel working of the dumping margin calculation so that we can review the calculations and make appropriate comments.

xii. Jushi Egypt has placed on record evidence on deductions claimed by Jushi Egypt to substantiate that payments have indeed been made by Jushi Egypt in respect of ocean freight, insurance, inland transportation and port handling.

K.2. Submissions by the domestic industry

89. The following submissions have been made by the domestic industry post third oral hearing:

i. The users have been afforded due opportunity of being heard, and no decision was taken by the Authority before hearing them. The users cannot expect a hearing the very second they demand it. By comparison, a third hearing was conducted as the Authority wanted to consider and examine submissions made by the domestic industry and CPIC Bahrain before arriving at a final conclusion.

ii. Contrary to the baseless allegation of the users, the hearing was not conducted as the "behest of" domestic industry. Rather, the scope of hearing covered three major issues, of which two related to the exporter. The purpose of hearing was only to allow the Authority to reach a well-informed conclusion regarding the factors relevant to the present case.

iii. There are several cases where the investigation has been extended after the expiry of the period allowed, such as in IPA. The decision in case of Kumho Petrochemicals being based on facts of the cases which are relied on by the respondent are irrelevant.

iv. In a number of investigations, hearing has been conducted post issuance of disclosure statement as well.

v. It is the responsibility of the exporter to bring all facts before the Authority. The domestic industry will not be held responsible for raising the issue if the exporters fail to disclose the facts before the Authority.

vi. The very purpose of a Disclosure Statement is to allow interested parties to defend their interests. As held by the High Court in the case of Nirma Limited, the Disclosure Statement is not in the nature of draft order. Therefore, contrary to the contention of the users, changes post Disclosure Statement are not limited to correction of gross errors or omissions.

vii. The issue concerning inclusion of H-glass is already settled in the sunset review concerning China PR, and a different view cannot be taken in the present case.

viii. Conditional price undertaking based on the PCN proposed by CPIC Bahrain is not appropriate. While the domestic industry has no objection to accepting an unconditional price undertaking, the Government of Bahrain refused price undertaking of offered by Indian tiles producers.

ix. Contrary to the claims of the other interested parties, petition itself revealed the PCN methodology proposed. It cannot be claimed that the Authority accepted the petition but rejected the PCN.

x. There is no merit in the contention of the respondent that the product scope if generic, as similar product scopes have been defined in a number of investigations.

xi. Direct rovings, assembled rovings, chopped strands and chopped strand mats are types of glass fibre, which have significant differences in their price and cost.

xii. On one hand, the exporter has contended that the Authority cannot use the PCN methodology adopted by it for the Disclosure Statement as it was not notified within 60 days. On the other hand, the exporter wishes for the Authority to adopt a different PCN methodology at this stage.

xiii. While there is a difference in the physical characteristics of the product types highlighted by the exporter, but there is not a significant difference in the price and cost thereof.

xiv. CPIC failed to demonstrate that the difference in the physical characteristics are affecting price comparability. The Panel in US-Softwood Lumber V held that there is no requirement to adjust for all difference but only those differences which affect the price comparability.

xv. 89% imports from Bahrain are of direct rovings out of which 46% is RODI48 and 22% are RODI24. The comparison of 61% of imports of rovings shows only a difference of 4%.

xvi. The price of other product types as per the PCN methodology proposed by CPIC may have differences but the volume of such product type is low.

xvii. As regards differences in cost of production, the domestic industry has largely produced RODI06, RODI12, RODI24, and RODI48. The difference in the cost of production of these PCNs is less than 5%.

xviii. In case a difference of less than 5% justifies a different PCN, the exporter has not justified the wide difference in the prices of an individual PCN exported by

it. CPIC has exported RODI24 at price ranging from Rs. 32,835 per MT to Rs. 68,808 per MT and RODI48 at price ranging from Rs. 32,901 per MT to Rs. 56,643 per MT despite volumes being comparable. Thus, there is no need for any modification in the PCN.

xix. Contrary to the assertion of the interested parties, the domestic industry has raised the issue of finance cost at the application stage, but nothing has been observed by the Authority in this regard.

xx. The domestic industry has only relied on the findings of the European Commission to establish certain facts. However, the domestic industry has not sought that the Authority take the same approach as taken by the European Commission. The domestic industry requests the Designated Authority to consider relevant facts and arrive at its own determination.

xxi. The domestic industry relied upon the findings concerning fabrics only concerning the sale of its raw materials that is the product under consideration here, by Jushi Egypt to its related parties.

xxii. The contention of Jushi Egypt that the anti-dumping investigation concerning imports of glass fibre for withdrawn by domestic industry in European Union due to negative dumping margin has no merit, as it is unsubstantiated.

xxiii. Regarding request of Jushi to issue CVD questionnaire to Government of Egypt, it was emphasized that the domestic industry requested the Authority to examine the countervailability and quantum of subsidies provided, but has highlighted that there exists a particular market situation, which prevents proper comparison.

xxiv. Jushi has relied on the findings of European Commission in the anti-dumping investigation concerning imports of glass fabrics, but failed to highlight that the domestic industry in that case had also alleged significant distortions in Egypt, which could not be examined by European Commission as the law prevented them from considering such submissions post the application. While the exporter has claimed that similar position exists in India, they have failed to explain how the Indian law prevents submissions from being considered at a later stage.

xxv. Reliance on the findings of European Union, USA and Turkey is not appropriate as the practice in these countries would be different that the practice in India that the production of an SEZ unit is not considered as part of domestic production.

xxvi. Regarding participation of Governments of China, it was submitted that as per the provisions of Rule 6 of the Anti-Dumping Rules, the Designated Authority is bound to notify only the producers in the subject country and the government of the subject country. Government of Egypt was notified in the present case. Further, Jushi and Government of Egypt cannot claim to be ignorant of facts concerning SETC Zone.

xxvii. The normal value for Jushi Egypt should be determined based on facts available as it had misrepresented the facts in the response filed. While, it claimed that no import duties were paid for importing raw material, it later stated that it is

required to pay customs duty on imported raw material, when the finished goods were sold in the domestic market.

xxviii. The simplistic argument that SEZ law was introduced prior to establishment of SETC Zone cannot be accepted, as the evidence relied upon by the domestic industry refers not only to the SEZ law, but also Co-operation Agreement between India and China.

xxix. Jushi Egypt has misrepresented in its response that it was not required to pay duties on import of raw materials, whereas it has later stated that they have paid duties on import of raw material.

xxx. The sales by SEZ units to the DTA area cannot be considered as domestic sales or sales in the ordinary course of trade as SETC Zone is considered a separate customs area. The sales of product manufactured in the SETC zone in Egypt are treated as imports. It is a consistent practice of the Authority to consider SEZ separate from domestic market.

xxxi. There is a particular market situation with regards to Jushi Egypt and the sales made by it are not in ordinary course of trade as the volume of sales by Jushi Egypt are low and cannot be representative of domestic selling price.

xxxii. The SEZ law states that Economic Zones have a special nature and the producers in such a zone may export their products to local market. Any unit in SEZ is not allowed to freely dispose of its production in DTA.

xxxiii. The sales from Egypt to SETC Zone are considered as exports abroad and thus, no local taxes are paid on any inputs purchased from the domestic area and cost of production does not include local taxes or duties. Jushi Egypt would have to pay taxes if it was located in the domestic tariff area.

xxxiv. The purpose of the SEZ law is to set up projects capable of competing with its counterparts overseas.

xxxv. The Government of Egypt has transferred ownership of state lands and building, provided funds and in kind assets to the SEZ Authority. The laws regulating public authorities are not applicable to SEZ Authority.

xxxvi. SEZ is exempt from laws related to sales tax, fiscal stamps and fees to increase State resources, nor to any other duties or direct / indirect taxes.

xxxvii. Since there is no other producer in Egypt and sales from SETC Zone to DTA are subject to restrictions implies that the supply of product in Egypt is restricted, distorting the market conditions.

xxxviii. Jushi Egypt is a surrogate Chinese producer as it is located in SETC Zone which is an extension of China PR and China PR has provided significant support for establishment of entities in the zone. It has received funding from Chinese owned banks at preferential rates. Jushi Egypt is a fully owned subsidiary of Jushi China, in which Government of China holds a stake. Jushi Egypt procured raw material free of customs duty and obtained technology without payment of royalty from Jushi China. It is being managed by Chinese managers and is part of the export credit insurance taken by Jushi China. Jushi Egypt was set up by Jushi China in order to avoid anti-dumping duty imposed on it by various

jurisdictions. Jushi Egypt has received land from Egypt TEDA Investment Company Limited which has 80% shareholding of Chinese state-owned entity.

xxxix. The claim of Jushi that it employs 2000 local people appears to be factually incorrect.

xl. Jushi Egypt has access to utilities at a lower rate because of its location in the SETC zone and the same should be examined by the Authority.

xli. Jushi Egypt has earned good profits because its cost of production is distorted. If the distortion is removed, there would be no profitable sales.

xlii. As regards the procurement of inputs from related parties in China, the domestic industry submitted that inputs includes raw material, finance, services, capital goods, technology and labour. Further, the source of international price relied upon by Jushi is not evidence. The purchase price of the domestic industry may be considered for this purpose.

xliii. Since the findings in the case of Rubber Chemicals were confirmed by the Tribunal as well as Supreme Court, reliance on other investigations is not appropriate.

xliv. In the investigation concerning Australia – A4 Paper, the Panel noted that once the investigating authority has found that the costs are reasonably reflected in the records, and the records are consistent with GAAP, it may nonetheless depart from its obligation to use such records.

xlv. Contrary to the claim of the interested parties, the domestic industry has not sought for Egypt to be treated as a non-market economy.

xlvi. Since China PR has been considered a non-market economy in the anti-dumping investigation for the same product and the same conditions are applicable to Jushi Egypt, it follows that a particular market situation exists.

xlvii. As both the domestic selling price and cost of production of Jushi Egypt are unreliable, the normal value should be evaluated based on export price to third countries.

xlviii. There are significant imports of the subject goods into Egypt, of which majority are from China PR. Imports into Egypt from non-Chinese sources are at much higher prices, as compared to the price of imports from Egypt into India and resultantly, domestic selling price in Egypt.

xlix. Jushi Egypt has not submitted anything on procurement of inputs such as funds, technology, labour, services or capital goods from Jushi China or other related parties. Such procurement should be at arms' length basis. In PX-13 investigation, the Authority adjusted the cost of production of the producer as it received inputs from Chinese entitiy with which the producer had a special relationship. In the present investigation, there is a direct legal relationship between Jushi China and Jushi Egypt.

l. Since Jushi China is operating under non-market conditions, the price of inputs procured from Jushi China cannot be accepted as is and must be compared with international prices. Inputs include raw materials, utilities, investment, technology, manpower, and marketing services.

li. The situation with regards to Jushi Egypt falls within the purview of particular market situation as defined by CBSA, due to government regulations in terms of restrictions on domestic supply, government support programs, distorted input costs and circumstances as a result of government intervention, in which normal market conditions or patterns of supply and demand do not prevail.

lii. Jushi Egypt sold the subject goods to its related entity in Egypt at non-arm's length prices.

liii. Jushi Egypt has supplied to Jushi India, which has traded the goods at losses. Mere deduction of losses is not sufficient and profits based on average profits of an unrelated trader in India must also be deducted as done for the same importer in anti-dumping investigation on imports of Glass Fibre and articles thereof from China PR. According to financial statements of Saumit Interglobe Private Limited, 3.4% profits are made by the traders. The EC in Stainless Steel Cold-rolled Flat Products from India and Indonesia did not consider the actual profits considered by the related importer, but instead considered a reasonable unrelated importers' profit for determining the export price.

liv. Contrary to the submissions of the other interested parties that the factors cited by the petitioner can be addressed in a countervailing investigation, the Panel in Australia A4 Copy Paper, concluded that particular market situation does not exclude situations that arise from circumstances that include government action categorised as subsidy under the ASCM.

lv. Contrary to the submissions of the other interested parties, the petitioners had raised concerns at the stage of petition and written submissions.

lvi. At the stage of petition, it was highlighted that Jushi Egypt is wholly owned by Jushi China, which is a major Chinese producer of the subject goods and is already attracting anti-dumping duty in India, it may have received capital infusion, loans, capital goods or inputs from such related entities. Since China PR is a non-market economy country, there is a need to examine whether financial contribution and inputs have been received at arm's length prices, as examined in the case of Rubber Chemicals. The cost of production and selling price reported by the producers in subject countries should not be accepted, unless the producers demonstrate that any transaction with related parties are conducted on arms' length basis.

lvii. In the written submissions, the petitioner highlighted that Jushi Egypt has been established in the China-Egypt SETC Zone and is regarded as one of the most successful examples of industrial co-operation between the two countries. A MoU was signed between the two countries to develop free trade economic zone in the north of the Gulf of Suez and China launched "Go Global policy" for Chinese companies to invest abroad. The SETC Zone is an approved overseas trade and co-operation zones, Jushi Egypt benefits from pooled resources of Egypt and China, by virtue of being established in the SETC Zone. There is significant support from China in establishment of Jushi Egypt, since the investment flows from its Chinese counterparts. There is a need to examine the source of investments including other inputs, services, financing, technology or

support, if investments or other inputs, services, financing, technology or support are being received from China PR, then there is a need for adjustment of the fair market value thereof. Jushi Egypt has benefitted from subsidies received from Government of Egypt and China as well as preferential lending from the Government of China. Jushi China received preferential financing from Chinese financial institutions, and then allocated the benefit of these loans to manufacturing activities in Egypt. It benefitted from grants by CNBM, a Chinese state-controlled entity, through equity injections and from supply of land at less than adequate remuneration, VAT exemption, import tariff waivers on imported raw materials used for exported goods. Jushi Egypt has been conferred benefits directly and indirectly by Government of Egypt as well as Government of China.

lviii. In the comments to disclosure, the petitioner highlighted that there exists a particular market situation with respect to Jushi Egypt as it is established and operates in the SETC zone and has been set up for the purpose of exports. The sales of the producer are subject to various terms and conditions, by virtue of being in the zone. It has sold a very small volume which cannot be considered for determination of normal value. The exports to European Union would constitute a reasonable basis for the determination of normal value. The cost of production of Jushi Egypt must be adjusted with regards the inputs, including raw materials and loans received from Jushi China. Since Jushi Egypt is a part of Jushi China Group, interest expense must be consolidated at the level of Jushi China. However, since Jushi China is operating under non-market economy conditions, the interest cost must not be considered at actual interest rate, but international interest rates. The sales to related customers in the domestic industry must be examined and excluded if such sales are not at arm's length. Sales of Jushi Egypt to Jushi India must be examined and adjusted appropriately, as Jushi India has further resold the goods at a loss. The financial statements of Jushi India reveal that it received commission from Jushi Egypt.

lix. As regards increase in prices of subject goods, it was submitted that there was an increase in price of all products from raw materials to downstream products. Energy prices have increased by 54%. However, such an increase is only temporary in nature.

lx. The users have not shared price sensitivity analysis with other interested parties, thereby denying the domestic industry an opportunity to offer comments on it.

lxi. The users have merely assumed that the Central Government did not impose duties against China PR due to public interest, as the Office Memorandum does not provide a reason. Further, merely because the Central Government did not impose duties on imports of Glass Fibre from China PR, it does not imply that any recommendations in the present investigation would not be accepted.

lxii. As regards the procurement of inputs from related parties in China, the domestic industry submitted that inputs includes raw material, finance, services, capital goods, technology and labour. Further, the source of international price relied

upon by Jushi is not evidence. The purchase price of the domestic industry may be considered for this purpose.

J.3. Examination by the Authority

90. The Authority notes that most of the submissions by the domestic industry and other interested parties are repetitive in nature. These submissions have already been examined at appropriate places in this Final Findings. At the request of Jushi in response to the limited disclosure to discuss the working of the DM computed, the Authority held discussion with Jushi to explain the workings undertaken to appreciate the correctness of the working. Further, the Authority has examinedall the relevant additional submissions of the interested parties as under:

91. With regard to the contention that the Authority did not notify the Government of Bahrain before initiation of the investigation, it is noted that the Authority vide email dated 24th June 2020 notified the Embassy of the Kingdom of Bahrain in India regarding the receipt of the application for the present anti-dumping investigation.

92. With regards to initiation being based on insufficient and inadequate evidence, the Authority notes that it had sufficient evidence to initiate the present investigation. It is further noted that only prima facie evidence is required at the stage of initiation as held by the High Court in Rajasthan Textile Mills Association V. Dir. General of Anti-Dumping and by Tribunal in Huawaei Technologies Company Limited V. Designated Authority and Automotive Tyre Manufacturer's Association V. Designated Authority.

93. With regards to inadequate time period provided by the Authority for filing comments on disclosure, it is noted that the Authority issued the disclosure statement on 30th July 2021 and notified the 2nd August 2021 as the due date to file comments. However, pursuant to requests by the interested parties, the due date was extended to 16th August 2021. Hence, adequate time was granted to all the parties to file comments on disclosure in order to defend their interests in the present investigation.

94. With regards to exclusion of H-glass in the scope of product under consideration and also not to cover it under one PCN with ECR glass, it is noted that the raw materials consumed for both ECR and H Glass are mostly common, with only a few raw materials (less than 10%) being different. Both the products are produced with similar technical process i.e., with almost similar chemicals, at almost the same furnace temperature, followed with the processes of winding, drying and packaging. The process used for the production of both the product types also remains almost the same. The equipment used for the goods are also overlapping. Therefore, there is no difference between H glass and ECR glass, in terms of the production process, barring a slight difference in raw material and temperature of furnace. The available data shows that the cost difference between the two cited sub-types is not significant i.e., less than 5%. As per the American Society for Testing and Materials (ASTM) D578 standards, H glass does not have a separate nomenclature and this terminology is used in commercial/usage parlance under the broad

category of advanced version of ECR glass. H-glass has been stated to be used for wind blade applications on account of its better technical properties as compared to ECR. The Authority recalls the Mid-Term Review (China PR) dated 3rd October 2020 wherein the glass fibre roving used for production of wind grade fabrics for wind mill blade sought to be excluded by the user industry was not considered.

95. With regards to the request for exclusion of Thermoset Chopped Strands from the scope of the product under consideration, it is noted that the domestic industry has produced the same. Therefore, there is no warrant for exclusion of the same.

96. Since ECR Roving LFT has already been excluded from the scope of product under consideration, the submissions of the interested parties have already been addressed.

97. With regards to the contention that captive consumption should not be considered while evaluating the share in production of the domestic industry, it is noted that even if the captive consumption is not considered in the current investigation, the applicant will still account for major proportion of the domestic production in India.

98. With regards to imports made by the petitioner, it is noted that petitioner has not imported the subject goods from the subject country during the injury period. The interested parties have also contended that the petitioner has imported the subject goods from other countries, from its affiliates, and is seeking duty on all other sources. While the imports from other countries do not bring the eligibility of the domestic industry into question, it is noted that, in any case, the imports by the petitioner even from other countries are low.

Particulars	**Volume (MT)**	**Imports as a %**
Imports by OCIPL during Period of Investigation	***	
Total imports	72,226	<3%
Consumption in India	***	<1%
Production of OCIPL	***	<2%
Sales of OCIPL	***	<4%

99. With regards to the cost of production of Jushi Egypt, it is noted that Jushi Egypt has been set up in the Suez Economic and Trade Cooperation Zone and is receiving benefits in terms of procurement of raw material and inputs at duty free rates. The Authority notes the submissions by domestic industry regarding appropriate adjustment of incidences of custom duties while undertaking domestic sales by Jushi Egypt. It is also contended that Jushi Egypt has procured raw material from its parent company situated in China PR and operating in non-market economy conditions.

100. The Authority notes that Jushi Egypt is based in a special economic zone in Egypt and is complying with the Law of Economic Zones of Special Nature ("SEZ Law"). As per Article 42 of the SEZ Law of Egypt, products of entities based in a SEZ shall be subject to customs duties, sales tax and other taxes once such products are sold in/enter the domestic market. Basically, as per Article 42, upon clearance of finished goods from SEZ to domestic tariff area ("DTA"), customs duties which were saved on imported inputs must be surrendered and paid to the Government of Egypt.

101. Jushi Egypt mentioned that upon sales made to DTA, they determine each month the inputs consumed on such domestic sales and compute the customs duty payable to the Government of Egypt. Such amount of customs duty is then entered/debited in the ledger of cost of raw materials for domestic sales and thus, becomes part of the raw material cost. As claimed by Jushi Egypt, this exercise is undertaken every month. While the duty amount for each month is added to the cost of that month on a recurring basis, the payment of such duty by Jushi Egypt to the Government of Egypt is made in lumpsum. Jushi Egypt produced payment challan copy evidencing payment of customs duties on domestic sales

102. The sales so configured as domestic sales by Jushi Egypt become at par with other normal domestic sales made in Egypt. Hence, the duty amount forgone on the inputs used for domestic sales during the POI have already been captured in the cost of raw materials which forms part of the cost in 80:20 analysis. The Authority notes that sales of product under consideration in domestic market and also exports to India / third country are at profit and therefore the normal value has been computed for sales which are in ordinary course of trade.

103. Additionally, Jushi Egypt also submitted details of customs duties applicable on inputs imported from China. Jushi Egypt also provided international prices of raw materials (viz. exports from India to the world) from UN Comtrade database. The international prices are comparable with the prices at which Jushi Egypt purchased inputs from its related party Jushi China and it was found that the sales to the former are at arm's length prices.

104. With regards to the related party transactions including not only the loss incurred by the related importer i.e., Jushi India and further deduction of profit for arriving at the net export price for Jushi Egypt, the Authority has adjusted the losses incurred by the related importer, Jushi India to sell the product under consideration procured from Jushi Egypt. The Authority notes that it has been following the practice of adjusting only loss in case of determination of NEP, even though it has been argued by the DI that the WTO provisions and the Indian Regulations provide for adjustment for profits as well.The Authority had also adjusted loss in the instant case before the disclosure dated 30.07.2021. However, keeping in view the concerns raised by DI after issuance of the disclosure statement, the quantum of losses of Jushi India considered for adjustments were cross-checked and the same has been rectified based on the consistent practice

applied on the Appendix 18 without including any profit. The loss has been computed at Rs.***/MT.

105. The Authority notes that the exporter has claimed same packaging cost for its domestic sales as well as export sales as they use the export packing for domestic packing as well as such sales are limited. The Authority has, therefore, reduced the packaging expense as claimed for both the domestic as well as export sales and has applied the exchange rate on monthly basis both for export and domestic sales for comparison of ex-factory export price and normal value. The minor revisions have also been made on loading of forgone custom duty on cost of raw material for domestic sales.

106. With regard to the contention that Jushi Egypt has sold the goods to related parties domestically, the Authority has compared the price of sales to related parties with sales to unrelated customers, and found from analysis that only one of the PCNs i.e., Assembled Roving is sold in domestic market to the related party at a significantly lower price in comparison to the unrelated party, and has, therefore, not considered the related party transaction of this PCN in order to compute the normal value. However, all the domestic sales of remaining PCN by the exporter have been considered by the Authority, for computation of the normal value.The Authority notes the submission of the exporter to the limited disclosure that under AR further grades need to be considered which the Authority has not considered, thereby, limiting itself only to the four PCNs . In this regard, the Authority holds that submission by Bahrain exporter on this issue have also not been considered.

107. The Authority notes that exclusion of related party transactions when there exists an appreciable price difference between related and unrelated party transactions has been done previously in Case of Anti-dumping duty on Soda Ash Originating in or Exported from Turkey and USA[1] (Case No. OI – 30/2019). In that Finding, it was observed:
"32… . *The Authority notes the submission of the producer/exporter and re-iterates that since there is quite a difference between the domestic selling price to related and non-related entities and that the exporter has not established that sales to related buyer in home market in the ordinary course of trade. The Authority has considered the normal value, based on the direct sales of ETI to independent customers (*** MT) as adopted on the preliminary finding*. Further, the Ordinary Course of Trade test i.e the OCT test is though common for both related and independent buyers, the test for sales to related parties need to be further evidenced being at Arm's length[2]."

108. The interested parties have submitted that the Authority has not disclosed the calculation of dumping margin, and the methodology for constructed normal value. It is noted that that the normal value and export price determined for each cooperative producer was

[1] Anti-Dumping Duty Investigation Concerning Imports of Soda Ash Originating in or Exported from Turkey and USA, F. No.6/39/2019-DGTR, Date of Finding: 19th January 2021.
[2] The Authority had adopted the same methodology for two other exporters from Turkey in the instant case whose related and unrelated party transactions demonstrated considered price difference.

duly disclosed to it. Further, the dumping margin in range has been disclosed to all interested parties, which would allow interested parties to defend their interests.

109. The Authority even disclosed the changes in the dumping margin to Jushi in the limited disclosure. In relation to the submission of the interested parties that evidence of normal value and export price was not provided by the domestic industry, it is noted that the domestic industry had claimed constructed normal value at the stage of initiation. However, the Authority has determined the normal value and export price based on the responses filed by the producers.

110. Regarding the contention that the import data includes other products imported under the same codes, it is noted that the transaction-wise import data has been sorted to consider only imports of the product under consideration.

111. The interested parties have claimed that the domestic sales of the domestic industry declined, as it increased captive consumption. However, the Authority notes that the domestic industry is holding significant inventories. Had it been able to sell such inventories in the domestic market, its sales would have shown an increase. However, even with significant demand in the market, the domestic industry has witnessed a decline in sales, while its inventories have piled up.

112. With regards to landed price remaining constant in the period of investigation as compared to 2017-18, the Authority notes that the landed price from the subject countries has declined as compared to the base year as well as in comparison to 2017-18.

113. The interested parties have claimed that the capacity during 2018-19 and 2018-19 (Adj.) should not have shown an increase. However, the Authority does not find any merit in the submission. The capacity for the domestic industry increased during the year 2018-19. Therefore, the capacity would be considered proportionately, that is, the former capacity would be considered for the period before shutdown, and the increased capacity would be considered for the period after shutdown. As regards adjusted figures, since the effect of shutdown was required to be segregated, the Authority determined the capacity (excluding shutdown) on a proportional basis, having regard to the period of shutdown.

114. With regards to improvement in the parameters of the domestic industry, it is noted that the Authority has conducted a detailed analysis on the effects of volume and price of imports on the economic parameters of the domestic industry and has concluded that the domestic industry has suffered injury as enumerated hereinabove.

115. Regarding the contention that the capacity utilization of the domestic industry was low due to its new furnace, the Authority notes that the domestic industry has submitted that it achieved high capacity utilization during one of the months towards the end of 2018 itself. Further, in one of the months during 2019, the domestic industry achieved full

capacity utilization. Therefore, it cannot be considered that the low capacity utilization during the period of investigation was on account of the furnace being new.

116. Regarding the performance of Goa Glass Fibre, the Authority notes that the producer had participated in the sunset review investigation concerning imports of the product under consideration from China PR. In the final findings [F. No. 7/34/2020-DGTR] dated 24th August 2021, the Authority had noted that the imports had an adverse effect on the economic and financial parameters of Goa Glass Fibre. Accordingly, the Authority concluded that the data of Goa Glass Fibre corroborate similar observations as that of the domestic industry.

117. With regards to improvement in market share of the domestic industry, the Authority notes, that the market share of the domestic industry has improved only due to increase in its captive consumption. Market share of the domestic industry in merchant demand has declined over the injury period. Further, the market share of the subject imports has increased over the injury period.

118. The interested parties have contended that the submissions made on causal link have not been considered. It is noted that the Authority has considered all the submissions made by the domestic industry and the other interested parties, to the extent considered relevant, has examined the same in the present Final Findings.

119. The other interested parties have contended that the domestic industry does not have the capability to manufacture all types of product under consideration. The Authority has examined the requests for exclusion of specific types of product under consideration by the other interested parties. Where the domestic industry had not produced a particular product type, the same has been excluded. Therefore, the concern that the imposition of duty would adversely impact public interest due to inability of the domestic industry to supply certain product types is unfounded.

120. With regards to the contention the petitioner has sought anti-dumping duty against various countries, it is noted that the duties were in force only against China PR until 31.10.2021, and are now being considered for Bahrain and Egypt. In each investigation, the Authority has considered dumping, injury and causal link, and recommended duties only if it positively concludes that all three aspects exist. As regards Thailand, the duties were imposed only due to circumvention by the Chinese producers.

121. With regards to imposition of reference price duty, the Authority notes that reference price duty would not be appropriate as there are various PCNs involved which have major price differences.

122. With regard to the contention of CPIC Bahrain concerning further sub-classification of the PCNs, Authority notes that CPIC has suggested PCN establishment at a much deeper level for conforming to ASTM D 578. The ranges suggested based on linear density, diameter, surface width for 4 broad PCNs (Direct Roving, Assembled Roving, Chopped

Stands, Chopped Stand Mats) do not relate with overall architecture of the ASTM D 578 standard. Therefore, the Authority notes that this suggestion of PCN is not related to ASTM D 578 standard and Authority considers the four broad PCNs i.e., Direct Roving, Assembled Roving, Chopped Stands, Chopped Stand Mats for the present investigation.

123. Further, the Authority after examining the information provided by the exporter finds that there is no significant difference between the cost of production within the sub-grades of broad PCNs. While there is a difference in the physical characteristics of the product types highlighted by the exporter, but there is not a significant difference in the price and cost thereof.

124. Due to COVID pandemic, the Authority has been conducting limited visits, only domestic, wherever it is extremely necessitated. To address this issue on the PCN methodology, DGTR also undertook onsite verification of the domestic industry and held consultations with the concerned interested parties. The Authority has considered the four PCNs on feasible level of categorisation depending on broad applications, availability of data and PCN categorisation undertaken in same product, separate investigation against China.

125. As regards the price undertaking offered by CPIC Bahrain, the Authority notes that the undertaking was conditional upon the Authority accepting the submissions of the exporter with regard to the PCN methodology and dumping margin determined. The Authority has not considered this request appropriate/ reasonable to consider acceptance of price-undertaking. The Authority, therefore, confirms dumping margin for the exporter as mentioned in the disclosure statement.

126. With regard to the extensions taken for completion of the investigation, the Authority holds that as per the AD Rules the investigation needs to be completed within 12 months and in no case more than 18 months of the date of initiation. In the instant case, the Authority sought mited extensions to comprehensively address the various issues raised by the interested parties in the investigations and to abide by the principles of natural justice. The Authority made diligent efforts to complete case as the earliest in each extension sought, however, on account of unavoidable circumstances and cropping of issues, the Authority had to seek an additional extension before the expiry of the last date which were duly granted by the Central Government. . Furthermore, it has been held by the Hon'ble High Court of Delhi in Mahindra & Mahindra Ltd. V. Union of India that the Central Government can grant an ex-post facto extension to complete the investigation provided that such an extension is within the period of six months from one year and does not cross the threshold of eighteen months. In light of this judgment, it cannot be said that the continuation of the proceedings beyond 31.10.2021 is illegal and void

127. The interested parties have contended that since duties were not imposed on imports of the product under consideration from China PR, the duties cannot be imposed on imports from Bahrain and Egypt. In this regard, the interested parties have relied upon the provisions of Article 9.2 of the Anti-Dumping Agreement, which provides that when an anti-dumping duty is imposed in respect of any product, such anti-dumping duty shall be collected in the appropriate amounts in each case, on a non-discriminatory basis on

imports of such product from all sources found to be dumped and causing injury, except as to imports from those sources from which price undertakings under the terms of the Agreement have been accepted. The interested parties have claimed that since the imports from China were also found to be dumped and causing injury, but no duty was imposed, it would be discriminatory to now impose duties on Bahrain and Egypt. The Authority has examined the same and found that the contention of the interested parties is not appropriate. Article 9.2 of the WTO Agreement on Anti-dumping states:

> "9.2 *When an anti-dumping duty is imposed in respect of any product, such anti-dumping duty shall be collected in the appropriate amounts in each case, on a non-discriminatory basis on imports of such product from all sources found to be dumped and causing injury*, except as to imports from those sources from which price undertakings under the terms of this Agreement have been accepted...."

128. The provisions of Arts. 9.1 and 9.2 are identical to Arts. 8.1 and 8.2 of the Tokyo Round Anti-dumping Code which were interpreted by a GATT Panel in *EC - Imposition of Anti-Dumping Duties on Imports of Cotton Yarn from Brazil* (1995). Following are the relevant excerpts from the Panel's analysis:

"555. The Panel noted that Article 8:2 of the Agreement relevantly provides: "When an anti-dumping duty is imposed in respect of any product, such anti-dumping duty shall be collected in the appropriate amounts in each case, on a non-discriminatory basis on imports of such product from all sources found to be dumped and causing injury, except as to imports from those sources, from which price undertakings under the terms of this Code have been accepted."

The Panel then turned to examine the ordinary meaning of Article 8:2. *The Panel considered that the ordinary meaning of Article 8:2 made clear that the provision was concerned with the collection of duty.... The ordinary meaning of Article 8:2, therefore, made clear that the obligation in Article 8:2 applied only after a decision to impose duties had been taken.*

556. This was confirmed by the context of Article 8:2. The Panel noted that Article 8:1 provides

"The decision whether or not to impose an anti-dumping duty in cases where all the requirements for the imposition have been fulfilled and the decision whether the amount of the anti-dumping duty to be imposed shall be the full margin of dumping or less, are decisions to be made by the authorities of the importing country or customs territory. It is desirable that the imposition be permissive in all countries or customs territories Parties to this Agreement, and that the duty be less than the margin, if such lesser duty would be adequate to remove the injury to the domestic industry" (emphasis added).

557. The Panel considered that Article 8:1 was concerned with two kinds of decisions. *The first was the taking of a decision whether to impose an anti-dumping duty after all conditions for the imposition had been fulfilled ("[t]he decision whether or not to impose...").* The second type of decision was at what level the anti-dumping duty should be set (i.e. "... whether the amount of the anti dumping duty shall be the full margin or less

..."). *The ordinary meaning of Article 8:2 in the context of Article 8:1 revealed that after decisions had been taken to impose a duty (per Article 8:1), and to set the level of the duty (per Article 8:1), Article 8:2 came into effect to require that such duties should be collected in a non-discriminatory manner. Therefore, Articles 8:1 and 8:2 were concerned with different types of decisions taken at different points in time. This confirmed that the obligation contained in Article 8:2 not to discriminate only arose at the time of the collection of the anti-dumping duty, the decision whether to impose duty and the correct amount of the duty having been taken in accordance with Article 8:1.*

558. ...The Panel concluded that the obligation of non-discrimination contained in Article 8:2 arose only at the stage of collection of duties."

From the above analysis it becomes clear that the obligation under Art. 9.2 arises only when the Central Government takes a decision to impose an anti-dumping duty under Art. 9.1 of the WTO Anti-dumping Agreement. Further, the non-discriminatory requirement as required under Art. 9.2 is only at the stage of collection of duties. The Authority also notes the discretion granted to member nations under Art. 9.1 regarding the "decision whether or not to impose an anti-dumping duty in cases where all requirements for the imposition have been fulfilled". The Authority notes that in the SSR investigation the Central Government did not impose duties with respect to exporters from China PR. As no duties were imposed nor were any duties collected in terms of Art. 9.1 of the Agreement the question of violation of the non-discrimination obligation under Art. 9.2 of the Agreement does not arise. Furthermore, no straightjacket formula can be adopted for imposition of duties or non-imposition of duties. Each investigation has to be adjudged on its own merits and consequently the decision "whether or not to impose an anti-dumping duty in cases where all requirements for the imposition have been fulfilled" has to be considered on a case-by-case basis.

Moreover, Ministry of Finance's rejection of DGTR's recommendation is pending in an appeal filed by the domestic industry[3] before the CESTAT against the DGTR's recommednations to impose anti-dumping duties in a SSR investigationa on glass fibre products coming from China PR.

129. Particular Market Situation in case of Egypt: It was contended that in case of Jushi Egypt numerous adjustments on account of various advantages such as cheap raw material, tax and utilities benefits have not been fully mitigated and therefore, the cost is not reliable.

Sub – clause (c)(ii) of S.9A of the Customs Tariff Act, 1975 provides the basis for disregarding the normal value when a particular market situation exists in the domestic market of the exporting country. The sub – clause states:

> "(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,

[3] M/s Owens-Corning India Private Ltd. V. Union of India.

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 to 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 transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin."

The Section stipulates that if the Authority determines a particular market situation existing in the domestic market of the exporting country, the Authority can disregard the normal value and choose the alternate methodologies for its construction. It is based on Article 2.2 of the Anti-Dumping Agreement which provides:

"2.2 When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or *when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country, such sales do not permit a proper comparison*, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits."

The Anti-dumping Agreement does not provide any further guidance as to what constitutes a particular market situation. The Authority notes the interpretation by the WTO Panel of 'particular market situation' as developed in its Report in *Australia – Copy Paper*[4]. The Panel explained:

"7.21. *We begin by observing that a "situation" is a "state of affairs" or a "set of circumstances". This term is qualified by the terms "particular" and "market" functioning as adjectives in Article 2.2 of*

[4] Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper (Australia–Copy Paper)*, WT/DS529/R, 4 December 2019.

the Anti-Dumping Agreement. The situation in question must arise in, or relate to the "market", and the market situation must be a "particular" one. It follows from the qualifier "particular" that the market situation must be "distinct, individual, single, specific". Thus, a fact-specific and case-by-case analysis of the particular market situation is necessarily called for. In addition, we agree with the observation of the GATT panel in EEC – Cotton Yarn that a "particular market situation" is only relevant insofar as it has the effect of rendering domestic sales unfit to permit a proper comparison. The phrase "particular market situation" does not lend itself to a definition that foresees all the varied situations that an investigating authority may encounter that would fail to permit a "proper comparison". In our view, the drafters' choice to use such a phrase should be treated as a deliberate one. Consequently, while the expression "particular market situation" is constrained by the qualifiers "particular" and "market", it nevertheless cannot be interpreted in a way that comprehensively identifies the circumstances or affairs constituting the situation that an investigating authority may have to consider.

7.22. There is no dispute between the parties that the underlying circumstances in this case concern or relate to the market for A4 copy paper. However, they disagree as to what makes a situation particular. Indonesia argues that the circumstances must be exceptional and, moreover, affect "the comparability of domestic market prices in such a way as to affect them unilaterally and, thus, prevent them from being compared to export prices". Australia argues that the circumstances must be distinguishable and not general. *In our view, the market situation must be distinct, individual, single, specific but that does not necessarily make it unusual or out of the ordinary — i.e. exceptional."*

Thus, a particular market situation can be understood as those situations, although not exceptional, lead to price distortions in the domestic market rendering the normal value unfit for comparison with the export price. To examine whether a particular market situation exists in the domestic market of an exporting country, the Authority notes that the issues needs to be conclusively established are:

a. Whether the price of the like article in domestic market is fair and reliable and is representative especially when it emanates from a unit situated in SEZ with various tariff, fiscal and logistics concessions and also investments from China?
b. What is the extent of price variation between the transactions occurring between the related and unrelated parties?

130. The Authority notes that the issue of PMS was raised at a belated stage and on the basis of the facts available it is not able to conclusively establish the existence of a PMS in domestic market of Egypt on account of SEZ sales. However, the issues raised by the parties were cross-checked on account of the post-disclsoure comments received and have been addressed.

131. The Authority notes that while the SEZ Law and Regulations of Egypt provide for adjustment of the duty foregone on imported raw material components of products, it is

not clear whether such duty is to be applied on cost or price adjustment. The customs duty paid by the exporter on account of DTA sales which was earlier claimed by the exporter on the entire sales of the company was erroneous and accordingly, has been corrected and applied on the cost of production of domestic sales keeping in view that duty foregone which has been evidenced by the exporter having been paid by them. Accordingly, the cost of production has been increased by ***% for domestic sales. Further, the Authority has considered the domestic sales of the exporter after applying the 80:20 test.

132. As regards the related party and unrelated party issue, the Authority notes that it has already been discussed in the foregoing paragraph 112.

L. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

L.1. Submissions by the domestic industry

133. The following submissions have been made by the domestic industry with regards to Indian industry's interest:

i. The interested parties have not shown an adverse impact of duty on public interest. Anti-dumping duty in force for imports from China PR have not impacted the user industry as all the users have witnessed increase in revenue over the injury period and most users have witnessed increase in profits.

ii. The prices of the domestic industry have remained more or less stable even post the period of investigation. The price increase was necessitated due to the increase in cost of production and mounting losses. Where a seller was selling at losses, it cannot be said that it is setting the price.

iii. Merely because the import of fabrics is allowed at a concessional duty, it does not imply that the domestic industry should be denied lawful remedy against dumping.

L.2. Submissions by other interested parties

134. The following submissions have been made by the other interested parties with regards to Indian industry's interests:

i. The user industry consists of a large number of MSMEs, and the subject goods constitute 30-40% of their cost. The user industry has been suffering from shortage of materials, delayed deliveries and price extortion on the hands of the domestic industry.

ii. Domestic industry is a market leader and can set market price. In October 2020, OCIPL increased the prices of single end rovings and chopped strands. The prices were increased again in January 2021 across all product categories.

iii. Since imports of fabrics are allowed at concessional duties, imposition of anti-dumping duty would severely affect the operations of fabrics and other composites manufacturers.

L.3. Examination by the Authority

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

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

137. With regards to contention made in post disclosure comments that restriction of imports from various sources may create a monopoly situation in India, the Authority notes that the anti-dumping duty on various sources has been recommended by the Authority after detailed examination on dumping, injury and causal link. Since there is more than one producer in the domestic market, the petitioner will not be able to create monopoly situation in the market. Further, imposition of anti-dumping duty does not restrict imports of subject goods in India but only ensures that the same are available at fair price.

138. With regards to the restriction of imports leading to demand-supply gap in the market, the Authority notes that the demand-supply gap does not justify dumping by the exporters in the Indian market.

139. The other interested parties have contended that imposition of anti-dumping duty will have an adverse impact on the downstream industry. The Authority notes that the other interested parties have not substantiated the adverse impact on performance of the downstream industry. Further, there is no evidence to show that the imposition of duty against China PR adversely impacted the users. Therefore, there is no evidence to suggest

that any duties against imports from subject countries would adversely impact users. By comparison, the imposition of anti-dumping duty is necessary to prevent the injury to the domestic industry.

M. CONCLUSION

140. The Authority notes that Glass Fibre is quite a technologically advanced product with a wide range of application including wind blades. These diverse applications require the domestic producer to sustain its capabilities to cater to these applications with different types of glass fibre. Having regard to the contentions raised, submissions made, information provided and facts available before the Authority as recorded above and on the basis of the above analysis of dumping and consequent injury to the domestic industry, the Authority con cludes that:

a. The analysis has been carried out grade-wise which indicates that the imports of glass fibre are dumped and the domestic industry has suffered material injury both in terms of volume and price.

b. With regards to the volume effect, the injury has manifested in reduced production, reduced domestic sales and consequently a reduced domestic market share. The price injury is noted through price suppression, price depression and are leading to a positive injury margin of significant quantum.

c. The material injury suffered by domestic industry is on account of the dumped imports for which causality has been established both through the direct nexus to exports and also through the non-attribution analysis.

N. RECOMMENDATIONS

141. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, Embassy of the subject countries, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and causal link in terms of Rules and having established positive dumping margin as well material injury to the domestic industry caused by such imports, the Authority is of the view that imposition of anti-dumping duty is necessary.

142. Therefore, Authority recommends imposition of anti-dumping measures as an ad valorem duty, to be worked out as a percentage of the CIF value of imports of the subject goods from the subject country. Accordingly, anti-dumping duty equal to the amount arrived at by applying the percentage indicated in Col. 7 of the duty as below is recommended to be imposed on all imports of subject goods originating in or exported from China PR.

DUTY TABLE

S. No.	Heading	Description	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	7019	Glass Fibre as described below*	Bahrain	Bahrain	CPIC Abahsain Fiberglass W.L.L	214.9	MT	USD
2	7019	-do-	Bahrain	Any country including Bahrain	Any other than Sl. No. 1 above	334.5	MT	USD
3.	7019	-do-	Any country other than Bahrain and Egypt	Bahrain	Any	334.5	MT	USD
4.	7019	-do-	Egypt	Egypt	Jushi Egypt for Fiberglass Industry S.A.E.	14.8	MT	USD
5.	7019	-do-	Egypt	Any country including Egypt	Any other than Sl. No. 4 above	27.5	MT	USD
6.	7019	-do-	Any country other than Bahrain and Egypt	Egypt	Any	27.5	MT	USD

**Glass fibre including glass roving (assembles rovings (AR), direct rovings (DR)), glass chopped strands (CS), glass chopped strands mats (CSM) but excluding glass wool, fibre glass wool, fibre glass insulation in wool form, glass yarn, glass woven fabrics, glass fibre fabric, glass woven rovings, chopped strands meant for thermoplastic applications, micro glass fibre with fibre diameter in the range of 0.3 to 2.5 microns, surface mat/surface veil/tissue, wet*

chopped strands, Cemfil (alkali resistant glass fibre for concrete reinforcement) and ECR roving LFT (long fiber thermoplastic)."

O. FURTHER PROCEDURE

143. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the appropriate Forum in accordance with the relevant provisions of the Act.

(Anant Swarup)
Joint Secretary &Designated Authority