

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

**F.No.6/25/2020 - DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
4<sup>th</sup> Floor, Jeevan Tara Building, Parliament Street, New Delhi-110001**

**FINAL FINDINGS**

**NOTIFICATION**

**Case No: (AD-OI-21/2020)**

Dated: 24<sup>th</sup> September, 2021

**Subject: Anti-Dumping investigation concerning imports of Peroxosulphates (Persulphates) originating in or exported from China PR and USA.**

**F. No. 6/25/2020–DGTR:** Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as “the Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as “the Rules”) thereof.

**A. BACKGROUND OF THE CASE**

2. The Designated Authority (hereinafter also referred to as “the Authority”) received an application (also referred to as “the petition”) from M/s UI VR Pvt. Ltd. and M/s Calibre Chemicals Pvt Ltd. (hereinafter referred to as “the applicants” or “the petitioners” or “the domestic industry”) requesting initiation of an anti-dumping investigation under the Act and the Rules on the imports of Peroxosulphates (Persulphates) (hereinafter also referred to as “the product under consideration” or “the PUC” or “the subject goods”) originating in or exported from China PR and USA (hereinafter also referred to as “the subject countries”).
3. The Authority, on the basis of prima facie evidence submitted by the applicants, issued a public notice vide Notification No. 06/25/2020-DGTR dated 28th September, 2020, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject countries and to recommend the amount of the anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

**B. PROCEDURE**

4. The procedure described below has been followed in the subject investigation:

- a. The Authority notified the Embassies of the subject countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of the Rule 5 supra.
- b. The Authority issued a public notice No. 06/25/2020-DGTR dated 28th September, 2020, published in the Gazette of India Extraordinary, initiating the anti-dumping investigation concerning the imports of the subject goods from the subject countries.
- c. The Authority sent a copy of the initiation notification dated 28<sup>th</sup> September, 2020, to the Embassies of the subject countries in India, the known producers and exporters from the subject countries, known importers, importer/user Associations and other interested parties, as per the addresses made available by the applicants. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.
- d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules.
- e. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent along with the names and addresses of the known producers/exporters from the subject countries.
- f. The Authority sent questionnaires to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules:
  - i. Fulida Industry Co. Ltd., China
  - ii. Hebei Jiheng Group Co. Ltd, China
  - iii. Shanxi Baohua Technologies Co. Ltd. China
  - iv. Dry Chlorine Corp (DCC), China
  - v. Degussa Initiators GmbH & Co. KG, USA
  - vi. Industrial Chemicals Group, USA
  - vii. E.I. Dupont Nemours, USA
  - viii. FMC Corporation, USA
- g. In response to the above notification, none of the exporters/producers responded.
- h. The Authority sent questionnaires to the following known importers and users of the subject goods in India, calling for necessary information in accordance with Rule 6(4) of the Rules.
  - i. Gujarat Themis Biosyn Ltd
  - ii. Nicholas Piramal India Ltd
  - iii. Padma Agencies
  - iv. Aurobindo Pharma Ltd
  - v. Artek Surfin Chemicals Ltd

- vi. Novartis India Ltd
- vii. Zydex Industris
- viii. Venus Insulators Pvt. Ltd.

- i. In response, the following importers or users have responded and submitted importer/user questionnaire responses/legal submissions:
  - i. M/s Jay Chemical Industries Pvt. Ltd.
  - ii. M/s Rashmi Trading Company
  - iii. M/s Sagar Speciality Chemicals Pvt. Ltd.
  - iv. M/s Chem Intel
- j. The Authority made available the non-confidential version of the evidence presented by the various interested parties. A list of all the interested parties was uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all the other interested parties since the public file was not accessible physically due to restrictions on physical movements owing to ongoing global Covid-19 pandemic.
- k. The period of investigation for the purpose of present investigation is 1<sup>st</sup> April, 2019 to 31<sup>st</sup> March, 2020 (12 months). The injury examination period is the period from 1<sup>st</sup> April 2016-31<sup>st</sup> March 2017, 1<sup>st</sup> April 2017 -31<sup>st</sup> March 2018, 1<sup>st</sup> April 2018-31<sup>st</sup> March 2019 and the period of investigation.
- l. The Authority obtained transaction-wise import data from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) for the subject goods for the injury period, including the period of investigation, and analysed the data after due examination of the transactions.
- m. Verification of the data provided by the domestic industry and the responding exporters was concluded to the extent considered necessary for the purpose of the present investigation.
- n. The non-injurious price (hereinafter referred to as 'NIP') based on the cost of production and reasonable profits for the subject goods in India, having regard to the information furnished by the domestic industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules, has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- o. In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity to the interested parties to present their views orally in a public hearing held through video conferencing on 01st June, 2021. The parties which presented their views in the oral hearing were requested to file written submissions of the views expressed orally, followed by rejoinder submissions, if any. The parties shared their non-confidential submissions with other interested parties and were advised to offer their rebuttals.

- p. The submissions made by the interested parties, the arguments raised and the information provided by the various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been considered in this final finding.
- q. The Authority, during the course of the investigation, satisfied itself as to the accuracy of the information supplied by the interested parties which forms the basis of this final findings, to the extent possible, and verified the data/documents submitted by the domestic industry to the extent considered relevant.
- r. The 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, the parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- s. A disclosure statement containing the essential facts in this investigation which would have formed the basis of the final findings was issued to the interested parties on 01.09.2021 and the interested parties were allowed time up to 07.09.2021 to comment on the same. The comments on disclosure statement received from the interested parties have been considered, to the extent found relevant, in this final finding notification.
- t. Wherever an interested party has refused access to or has otherwise not provided the necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such party as non-cooperative and recorded the present final findings on the basis of the facts available.
- u. ‘\*\*\*\*’ in the final findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- v. The exchange rate adopted by the Authority for the subject investigation is 1 US \$= Rs. 71.24.

## **C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **C.1 Submissions made by the other interested parties**

- 5. The following are the submission made by the other interested parties with regard to the product under consideration and the like article:
  - i. When there are no imports of PPS, the requirement of the PUC that the product should originate in or be exported from the subject countries is not met. The product type not imported into India during the POI warrants exclusion from the PUC.
  - ii. The type-wise identification of the product or a PCN methodology is devised only when a significant difference in the cost and the price is demonstrated between inter-se types

and there is no precedence that a product type identified which was not imported was still included in the PUC.

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

6. The following submissions have been made by the domestic industry with regard to the product under consideration and the like article:
  - i. The product under consideration is 'Peroxosulphates', commonly known as 'Persulphates'. Persulphates are a group of closely related compounds. These are produced as Alkali Metal Salts which include Ammonium Persulphates (APS), Potassium Persulphates (PPS) and Sodium Persulphates (SPS).
  - ii. The Chemical formula of the above-mentioned three types of Persulphates is  $(\text{NH}_4)_2\text{S}_2\text{O}_8$ ,  $\text{K}_2\text{S}_2\text{O}_8$ ,  $\text{Na}_2\text{S}_2\text{O}_8$  respectively. The three types of Persulphates have the same end-uses as an initiator and oxidizing agent in the textile and chemical industries. All the three salts are one and the same product which has a 'White Crystalline Powder' appearance, soluble in water, decomposes slowly and liberates oxygen while absorbing moisture.
  - iii. The three types of persulphates serve the same general purpose. The consumers normally do not switch one type with the other type in a short run. There are several applications where all three types of Persulphates can be used interchangeably.
  - iv. The producers in the subject countries can interchangeably produce all the three types of Persulphates and can switch from dumping of one type persulphates to dumping of the other type with ease.
  - v. Persulphates is classified in Chapter 28 of the Customs Tariff Act, 1975 under the subheadings 2833 40 and 283340 00. However, the said customs classifications are only indicative, and the same are not binding on the scope of the investigation.
  - vi. APS, PPS and SPS are part of the subject goods and cannot be seen in isolation for the import purposes. The Authority in previous investigations too has treated all these grades as one product.
  - vii. The contention of the importers/users that there is no import of PPS is without any factual basis. No imports of PPS during the POI should not be misunderstood with no imports of PPS at all and thus cannot be a ground to exclude the product type.

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

7. The product under consideration in this investigation is "Peroxosulphates", commonly known as "Persulphates". Persulphates are a group of closely related compounds. These are produced as Alkali Metal Salts which include Ammonium Persulphates (APS), Potassium Persulphates (PPS), and Sodium Persulphates (SPS). The Chemical Formulae of these Persulphates are  $(\text{NH}_4)_2\text{S}_2\text{O}_8$ ,  $\text{K}_2\text{S}_2\text{O}_8$ ,  $\text{Na}_2\text{S}_2\text{O}_8$  respectively. The three types of persulphates have the same end-uses as an initiator and oxidizing agent in the textile and chemical industries and one can be substituted for another. All the three salts are nothing but different forms of the same product.

8. The domestic industry has requested to include all the three forms of the subject goods in the scope of the product under investigation and has also relied on the investigations undertaken by USA and EU against imports of persulphates from China, wherein all the three forms of Persulphates have been considered as one “product under consideration”. It is noted that the Authority has in all the previous investigations considered all types of persulphates as one product under consideration. Further, separate dumping margin and injury margin has been determined having regard to the difference in cost and price of the subject goods. It has also been contended by the other interested parties that PPS has not been imported in the POI and thus should not be included in the PUC. In this regard, it is noted that since there is documentary evidence that there are imports of PPS during the injury period and further that the domestic industry is producing PPS, the Authority finds it appropriate to include PPS in the scope of the product under consideration.
9. After considering the information on record, the Authority holds that there is no known difference in the product under consideration exported from the subject countries and the subject goods produced by the Indian industry. The interested parties have also not claimed any difference in the goods produced by the domestic industry and the imported product. The subject goods produced by the domestic industry are comparable to the subject goods exported from the subject countries in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
10. The Authority holds that the goods produced by the applicant domestic industry are “like article” to the goods exported from the subject countries in terms of the AD Rules.

#### **D. DOMESTIC INDUSTRY AND STANDING**

##### **D.1 Submissions made by the other interested parties**

11. The following submissions have been made by the other interested parties with regard to the scope and the standing of the domestic industry:
  - i. The details available show that the applicant VR Persulphates Pvt Ltd is now UI VR Private Ltd. The inconsistency needs clarification.
  - ii. UI VR Private Ltd is now a joint venture with United Initiators GmbH (UI). Relation of the Company with UI necessitates examination of relation of UI VR with producers/exporters of the subject goods in China PR and USA since UI has related producers/exporters in China PR and USA.
  - iii. The Petitioner did not disclose the fact that UI VR Private Ltd became a joint venture in 2018 with a German major, United Initiators GmbH (UI), and was making misleading claims that the entities are MSME etc.
  - iv. The Authority is urged to seek information from the Customs authorities to examine whether any of the imports of subject goods was from a related party. Further, UI VR Pvt. Ltd. should be directed to provide clarity on its relationship with such parties including details of any export of subject goods from any of such related entities of UI VR.

- v. The failure of the company to disclose its relationship with UI shows that the declaration is not trustworthy, and a thorough examination of such relations is essential. To that extent, the standing of the petitioner entity concerned here as constituent of DI is disputed.

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

12. The following submissions have been made by the domestic industry with regard to the scope and the standing of the domestic industry:

- i. The application has been filed by M/s UI VR Pvt. Ltd. and M/s Calibre Chemicals Pvt. Ltd. The applicants have neither imported the subject goods from the subject countries nor are they related to any importer in India or producer/exporter from the subject countries.
- ii. The applicants constitute “a major proportion” of the total Indian production and are thus eligible domestic industry within the meaning of Rule 2(b) and the application satisfies the requirement of standing under the Rules.
- iii. VR Persulphates Pvt. Ltd. formed a joint venture with a German Company named United Initiators (UI), having 50% stake and consequently, the name of the company got changed from VR Persulphates Pvt Ltd to UI-VR Private Limited. The changed name was mentioned in the letterhead of the company and the information was available in the public domain as well.
- iv. The effect of Joint Venture did not change the legal position of the applicant company for the purposes of this investigation, as the company is still no way related to the exporter or nor an importer of the subject goods in India. The company remains the same as in the earlier investigation and is still one of the leading manufacturers of persulphates in India.
- v. The statement by the user/importer that the letterhead of the applicant company cannot be believed completely lacks logic. The letterhead contains the changed name of the applicant company which importers/users also alleged and acknowledged. Just because the initiation notification mentions the earlier name of the company does not mean that the applicant suppressed any facts.
- vi. There was an error due to oversight when the applicant copied part of the contents from the previous petition. However, this in no way vitiates the present proceedings.
- vii. The applicant has not suppressed or concealed any facts from the Authority. This is evident from the letterhead having the applicant’s name as UI-VR Private Limited, which was used by the applicant on various occasions before the investigation to reply to the queries raised by the officers through emails. The Authority has already verified various information filed by the applicant.
- viii. The applicants never concealed any fact from the Authority and the Authority may issue any notification/corrigendum it deems fit. However, the domestic industry considers that no corrigendum is necessary.
- ix. The joint venture does not have any impact on the relationship criteria of UI VR. Thus, it does not impact the eligibility of the applicant company. Post the joint venture, the

applicant company is not related to the German company. None of the parties mentioned by the importer/user are related to UI VR and the applicant company is not related to any exporter. Thus, UI VR qualifies all the criteria of the Rules and is an eligible domestic industry.

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

13. The application has been filed by M/s UI VR Pvt. Ltd. and M/s Calibre Chemicals Pvt. Ltd. There are two other producers of the subject goods in India apart from the applicants, namely, M/s Gujarat Persalts Pvt. Ltd and Yoyo Chemicals. The applicants account for 96% of the domestic production of the like article in India. The applicants have not imported the subject goods from the subject countries and are not related to any exporter or importer in India.
14. Other interested parties have contended that the domestic industry has concealed the fact of merger of VR Persulphate and a German major, namely, United Initiators GmbH (UI) and now the name of the company has changed to UI VR Pvt Ltd. The domestic industry has replied stating that this fact was available in public domain and there was an inadvertent error on their part that they did not change the name of the applicant in the application and carried on with the old name. However, the authorisation letter filed on behalf of UI VR Pvt Ltd contained the new name of the company and the same was shared with all the interested parties.
15. It is noted that V R Persulphate entered into a 50% joint venture with a German company United Initiators GmbH (UI). Post-merger, United Initiator holds 50% shares of V R Persulphate. The companies related to UI in China or USA have not exported the subject goods to India during the POI. Thus, the joint venture does not vitiate the eligibility of the applicant company to be treated as the domestic industry under Rule 2 (b).
16. As per the evidence available on record, the production of the applicant companies accounts for a major proportion in the gross domestic production of the like article. The Authority, therefore, determines that the applicant companies constitute eligible domestic industry within the meaning of Rule 2(b) of the Rules and the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules supra.

## **E. ISSUES OF CONFIDENTIALITY**

### **E.1 Submissions made by other interested parties**

17. No submissions were made by the other interested parties with regard to confidentiality.

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

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



- i. The questionnaire responses filed by the importers/users are grossly deficient and violate the norms of confidentiality.
- ii. None of the importers have filed the non-confidential version of the response in the prescribed manner and all the responses are in complete disregard to the trade notice 10/2018 dated 07.09.2020, thereby handicapping the domestic industry to provide any meaningful comments to the information filed by them.

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

19. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:

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

*(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarisation 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 authorize its disclosure in a generalized or summary form, it may disregard such information.”*

20. The information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered confidential and not disclosed to 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. The Authority made available the non-confidential version of the evidence submitted by the various interested parties through circulation of email.

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

#### **Normal Value**

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

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

#### **F.1 Submissions made by other interested parties**

22. Various submissions made by the interested parties with regard to the normal value, the export price and the dumping margin and considered relevant by the Authority are examined and addressed as follows:
- i. The claims of the petitioners with respect to the dumping margin in case of USA should be subject to strict scrutiny as the whole claim is made without disclosing the fact that UI VR has made substantial exports of subject goods to its related party in USA and the normal value considered clearly covers related party transactions which is not disclosed to the Authority till date.

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

23. Various general submissions made by the domestic industry are as follows:
- i. Sufficient evidence and details are provided by the applicants regarding the consumption price in USA. Since imports into the country are intended for consumption within the subject country, the price thereof can invariably serve as best available information with regard to the price of goods destined for consumption in the country.
  - ii. Normal value based on the consumption price of the subject goods in the subject country should always be on the higher footing than the constructed normal value.
  - iii. Reliance was placed on past investigations, wherein the Authority considered normal value on the basis of import price into the subject countries at the stage of preliminary findings as well as final findings and also in the anti-dumping

investigation concerning imports of “Chlorinated Polyvinyl Chloride (CPVC) – Whether or not processed into compound originating in or exported from China PR and Korea RP [F.No.6/3/2019-DGTR].

- iv. The result of ordinary course of trade (OCT) test is not to reduce the normal value but to enhance the normal value. Hence, in any case, the importer (or exporter) cannot have a grievance on this account and cannot plead inappropriateness of the methodology. The domestic industry itself has contended adoption of normal value on this basis and, therefore, the fact that the Authority may not be able to apply OCT test is entirely irrelevant for the purpose.
- v. The Authority is required to determine ex-factory price of the producer in US and not ex-factory price of the producer in India. The methodology applied for determining injury margin is relevant in this regard. If Authority considers landed price of imports at port as synonym to ex-factory Non-Injurious Price, by corollary, it should be considered that price at US port is synonym with ex-factory price of the US producer.
- vi. The contention that the price proposed by the domestic industry is to a related party and is unreliable has no basis. The US party has sold the product at a price 10% higher than the price at which it has procured the material. Thus, if the actual selling price of the US producer is to be considered, it would be seen that it will further enhance the normal value.
- vii. The applicants have submitted the calculation of landed price of the affiliate company in USA. The normal value in the USA will be considered as the price at which the subject goods are being sold in the US market. The price for the normal value will be taken as consumption price, not the price at which it was sold by the applicant company to its affiliate company. The affiliate company will not sell the subject goods in the USA market as it is, but will also add its margin.
- viii. The domestic industry has not made any admission that they are undercutting the price in the USA market. The submission of the domestic industry is that the exports from India are at a price lower than the price at which the US producer is selling the product in their domestic prices. Hence, the normal value should be considered as the import price (after all adjustments) and the margin by which the US producer is selling the product at a higher price in its domestic market.
- ix. The selling price at which UI VR Pvt. Ltd. sells to the affiliate party is at arms-length, and the transactions between the exporter and importer are unaffected by the relationship.
- x. According to the facts, the actual invoice price reported by the petitioner is of higher degree of evidence than the Constructed Normal Value for two reasons – (a) the rule provides a clear hierarchy between selling price and cost of production, (b) while the selling price is surrogate for the US producer’s price, the cost of production is surrogate for the US producer’s cost. Thus, in any way, this information cannot be disregarded.
- xi. The Authority has routinely adopted trade journal prices for the purpose of determination of normal value. In the present case the petitioner has provided information with regard to actual purchase price and that information pertains to

significant volume of exports which is quite significant considering the imports into India.

- xii. The applicants have submitted the calculation of landed price of the affiliate company in USA. Normal value in USA will be considered as the price at which the subject goods are being sold in the US market. The price for normal value will be taken as consumption price, not the price at which it was sold by the applicant company to its affiliate company. The affiliate company will not sell the subject goods in USA market as it is, they will also add their margin.
- xiii. None of the exporters has participated in the investigation and thus not disputed that the subject goods are being dumped and the same was also not disputed by the limited participation of importers.

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

#### **Market Economy Status for Chinese producers**

24. Article 15 of China's Accession Protocol in WTO provides as follows:

*"Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:*

*(a) In determining price comparability under Article VI of the GATT 1994 and the Anti Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*

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

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

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

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

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

25. It is noted that while the provisions contained in Article 15(a)(ii) have expired on 11.12.2016, the provisions under Article 2.2.1.1 of the WTO read with obligation under 15 (a) (i) of the Accession Protocol require criterion stipulated in para 8 of the Annexure I of the India's Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status.
26. It is noted that none of the producers/exporters from China has participated in the investigation and filed the exporter questionnaire. Therefore, the normal value computation is required to be done as per the provision of para 7 of Annexure I of the Rules.

## **I. China PR**

### **a. Determination of the Normal Value for China PR**

27. The Authority notes that the normal value for a country considered as a non-market economy is required to be computed in accordance with para 7 and 8 of Annexure 1 of AD rules. In the instant case none of the producers and exporters from China PR has filed any market economy treatment (MET) questionnaire and, therefore, the Authority notes that options under para 7 of Annexure 1 to AD rules need to be explored. Para 7 lays down hierarchy for determination of normal value and provides that the normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other country, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin. Thus, the Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Annexure 7. It is noted that the domestic sales price of the subject goods in a market economy third country was not available. However, there are exports of the subject goods from Turkey to the world, including India and the applicants have provided information regarding that. The applicants have also submitted that the European Commission in a recently concluded sunset review investigation against imports of persulphates from China, dated 16th January, 2020, has considered Turkey as an appropriate surrogate country for China PR. After consideration

of the volume and the value of exports from Turkey to the third countries including India, it has been found that this methodology can be considered as the basis for determination of the normal value. The Authority has thus considered Turkey as an appropriate third country and the average export price of Turkey to the world, including India, has been considered as the normal value. The normal value so determined is shown in the dumping margin table below.

## **II. USA**

### **b. Determination of the Normal Value for USA**

28. According to Section 9A (1)(c), the following can form the basis for the determination of normal value in the exporting country.

- a. The price of the like article in the domestic market of the exporting country in the ordinary course of trade,
- b. Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country,
- c. The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling & general costs and for profits.

29. As provided under the law, the Authority is required to consider the selling price of the product when meant for consumption in the domestic market of USA for determining the normal value in USA. The applicants have also made available the re-sale price of the subject goods, along with the documentary evidence, by such related company in USA to which the exports of the subject goods were made. The Authority notes the re-sale price of the subject goods is comparable with the average import price of the subject goods into USA as seen from the World Trade Data. The USA has a dedicated HS code at 10 digit level for all the three types of the subject goods. After examining the submissions of the domestic industry and various interested parties, the normal value in USA has been determined using the price prevailing of the subject goods in USA, after making due adjustments, and such price has been considered as the normal value for the USA. The normal value so determined is shown in the dumping margin table below.

### **c. Determination of Export Price for China and USA**

30. The Authority notes that none of the exporters have furnished information to the Authority in the form and manner prescribed which could be used for determination of the export price and the individual dumping margin. Therefore, the Authority has determined the export price for the producers/exporters in the subject countries on the basis of the DGCI&S transaction wise data. The export price has been adjusted on account of ocean freight, marine insurance, commission, bank charges, port expenses and inland freight charges to arrive at the net export price at ex-factory level. Separate weighted average export price to India has been determined for each type of persulphates which is provided in the dumping margin table below. Accordingly, the net export price at ex-factory level for exports from the subject countries so determined is as shown in the dumping margin table below.

#### **F.4 Dumping Margin**

31. Considering the normal values and the export prices determined as above, the dumping margin for the producers/exporters from the subject countries has been determined by the Authority and the same is provided in the table below. Since there is no export of PPS in the POI, the dumping margin has not been calculated for the same. The dumping margin of the imports from the subject countries is not only above de minimis level, but also substantial.

#### **Dumping Margin Table**

##### **In case of USA**

Particulars	APS	SPS	Weighted Average
	USD/MT		USD/MT
Normal Value	***	***	***
Net Export Price	***	***	***
Dumping Margin	***	***	***
Dumping Margin %	***	***	***
Dumping Margin % (Range)	130-140	60-70	80-90
Import Volume (MT)	429	578	1,007

##### **In case of China PR**

Particulars	APS	SPS	Weighted Average
	USD/MT		USD/MT
Normal Value	***	***	***
Net Export Price	***	***	***
Dumping Margin	***	***	***
Dumping Margin %	***	***	***
Dumping Margin % (Range)	60-70	10-20	60-70
Import Volume (MT)	1,649	60	1,709

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

##### **Methodology for Injury Determination and Examination of Causal Link**

32. Rule 11 of the Rules read with Annexure II provides that an injury determination shall involve examination of the 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.

#### **G.1. Submissions made by the other interested parties**

33. The following submissions were made by the other interested parties with regard to injury and causal link:

- i. The rebuttal of the petitioners that injury formats were provided on cumulative basis which implies demand for cumulative assessment is frivolous, because a claim for cumulative assessment should be justified by citing proper grounds and merely providing a combined proforma of injury will not satisfy the requirements.
- ii. The petitioners did not make any express claims to justify cumulative assessment in the petition.
- iii. Import data shows that the price of PUC from USA was higher by 50.88% compared to China PR and the volume of imports from China PR was higher by 69.71% compared to USA. The difference in price and volume from China PR and USA is substantial. Import price and volume from China PR shows that claimed injury could be on account of such imports and the same should not be attributed to fair and high-priced import from USA.
- iv. The comparison of volume and landed price from China PR and USA clearly show that the two moved in different directions and cumulating the two thereafter is illogical.
- v. APS import from USA was at negative undercutting level, there is a huge difference between undercutting in SPS from USA and China PR. There is even a significant difference is undercutting at PUC level from USA and China PR.
- vi. Importers preferred USA material over China PR and the Indian product due to quality issues at the end-user level and price was not the concern. The conditions of competition of imports from subject countries and domestic sales were not the same for imports from USA and other products.
- vii. The imports from China PR increased considerably after expiry of the duty with sharp reduction in price during the current POI, whereas imports from USA declined by about 307 MT in the POI over the 2018-19 period and the price during the POI was clearly comparable to previous years. Thus, exporters from USA and China PR should not be placed on the same pedestal.
- viii. The examination of dumping and injury separately for subject countries shall not affect the legitimate interest of the petitioners in any manner.
- ix. The admission of the petitioners that they are undercutting the price in USA market by exporting the subject goods to USA at a price lower than prevailing price in USA as a retaliatory measure shows that the DI wants the duty in Indian market to engage in such practices to expand in foreign markets, which is not the purpose of ADD investigation. The fact that the petitioners can afford to engage



in such trade practices in USA, shows that the claim of dumping and injury made by the petitioners is merely intended to use the ADD for other expansionist purposes.

- x. The facts clearly show that the domestic industry did not suffer any material injury on account of import of subject goods from USA.
- xi. The imports after expiry of duty increased substantially from China PR and imports from USA declined significantly which demolishes the claim of the petitioner that expiry of duty on USA has been a cause of continued imports from USA.
- xii. The decline in profits and ROCE during the POI is attributable to significant increase in interest and depreciation costs of the petitioners and the fall in profit cannot be linked to imports from USA. Such increase in cost is on account of the fresh capacity additions during POI and also during the immediate previous years.
- xiii. The cash profits of the company increased from 100 to 106 points in the POI indicating the healthy situation of the DI which also shows that the claimed decline in profits have been on account of increase in cost only.
- xiv. Production, sales, capacity utilization even after multiple capacity additions etc. were at the highest level during the POI.
- xv. The domestic industry is expanding its business on all fronts which is evident from the increase in capacity and also exports coincided with very robust performance on profitability parameters.
- xvi. There is no causal link between the injury claimed and the alleged dumped imports from USA.
- xvii. All 3 materials (APS, SPS & PPS) manufactured by UI VR Persulphates have really short life span, subjecting it to drastic quality changes while stocking.
- xviii. Due to the superior quality, the importers prefer USA imports over locally manufactured goods as their customers need to use less amount of imported material than locally manufactured material in their processing.
- xix. Petitioners are trying to implicate USA as it is apparent that UI has significant production facilities in China PR and the company wants to get ADD on USA also in India to block imports from USA into India.
- xx. 22% ROCE on fresh investments should not be considered while determining NIP, and a reasonable alternative should be considered in case of such fresh investments to avoid unreasonable NIP and return levels.

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

34. The following submissions were made by the domestic industry with regard to the injury and the causal link:

- i. All the parameters and factors of the data presented in the application were explained cumulatively implying that the imports from the subject countries and their impact have been addressed cumulatively.
- ii. The application does not require to contain analysis of the data being presented, and merely providing data in support of application is sufficient. This view was

discussed by the Panel in Mexico – Corn Syrup and Thailand – H-beams. Further, there is no such rule that the domestic industry ought to make every claim in writing.

- iii. The argument of the other interested parties that this case is not fit for cumulative assessment as import volume of China is higher than USA and the import price of China is lower than USA, is misleading since the same is based on weighted average price comparison.
- iv. There is insignificant price difference between Chinese and US SPS, while there is a significant price difference in APS. The import volumes increased significantly from China as compared to USA only because the Chinese prices are lower than the US prices.
- v. The interested parties confirmed that they were concerned only with SPS and, therefore, cannot assist the Authority on the inter-se competition between the Chinese and US product in APS. The price difference between US and China has significantly declined in the recent period, thus pointing towards inter-se competition.
- vi. The claim of the other interested parties that volume and landed price from China PR and USA have not moved in different directions is factually incorrect. USA manufacturer Peroxychem is exporting SPS at a CIF price of \*\*\*/pmt whereas the Chinese manufacturer is exporting the same grade at a CIF price \$\*\*\*/pmt. The freight cost of USA is thrice than China, i.e., \*\*\*/pmt whereas the freight cost from China is \$\*\*\*. Thus, effectively, the ex-factory price from USA is much lower than China, while the landed price is quite comparable. The same could be verified from the importers also.
- vii. The domestic industry had little or no deterioration in their performance of PPS as there were no imports of PPS but due to the significant imports of APS and SPS, there was significant deterioration in the performance of the domestic industry in APS and SPS. Resultantly, the profitability of APS declined significantly and profitability of SPS went into negative.
- viii. Publicly available information confirms the availability of significant capacities with the subject countries, and they are exporting the subject goods to India at much dumped price.
- ix. Even when the domestic industry has been offering sub-optimal prices, its market share is stagnant and in fact has slightly declined in the POI, whereas demand for the subject goods has increased significantly.
- x. Imports from the subject countries increased till 2017-18 and declined slightly in 2018-19, probably because the exporters knew about the initiation of Sunset Review investigation. It again increased significantly in the POI which shows the effect of cessation of anti-dumping duty.
- xi. Demand for the subject goods increased till 2017-18 and declined in 2018-19 and increased thereafter in the POI. The applicants increased capacity in line with increase in demand. However, the increase in imports were way higher than increase in demand.

- xii. Increase in cost of sale is more than increase in selling price. Thus, imports have suppressing effect on the domestic price in the POI.
- xiii. Subject imports are undercutting the prices of the domestic industry. The price undercutting for subject goods as a whole as well as for APS and SPS from each subject country is positive and significant.
- xiv. Imports from both the subject countries increased significantly post cessation of anti-dumping duty, and imports from USA were always significant, even when the duty was in place. With such mammoth capacity, much higher domestic prices and availability of electricity at a very cheap rate, USA was able to absorb the anti-dumping duty and continued exporting the subject goods during the injury period as well as the POI.
- xv. USA was able to export the subject goods constantly because they were always and constantly undercutting the domestic price, even after payment of antidumping duty. Thus, the bragging of the importers that USA imports are preferred because of quality is a hoax.
- xvi. USA has restrained Chinese products to enter US market at unfair price but that does not change the fact that USA too has significant capacities like China, and both countries are exporting subject countries to India at dumped prices.
- xvii. The market share of the domestic industry declined in 2017-18 and increased thereafter in 2018-19 and declined slightly in the POI, while the share of other Indian producers declined significantly in the POI.
- xviii. The domestic industry has not been able to increase its market share due to the presence of significant volume of dumped imports in the market, despite compromising on selling prices.
- xix. Market share of the subject countries increased significantly throughout the injury period. It can be concluded from the market share of other countries that the subject countries have eliminated all the other fair priced imports from the market and now Indian customers are at the mercy of dumped imports from the subject countries.
- xx. The inventories of the domestic industry increased significantly in 2018-19 and then in the POI, thus showing the vulnerability of the domestic industry.
- xxi. The profits of both APS and SPS declined drastically in the POI, and the profits of PPS declined in 2017-18 and thereafter increased because there were no imports of PPS in the POI. This shows a direct link between increase in imports and declined in profitability of the domestic industry.
- xxii. The domestic industry has not been able to increase its prices despite the increase in cost and it was forced to align its prices with the import prices, which decline in the present POI.
- xxiii. The import prices from the subject countries have declined significantly in the POI which forced the domestic industry not to increase their selling price.
- xxiv. Increase in interest and depreciation cost does not break the causal link between the dumped imports and consequent injury to the domestic industry.
- xxv. Growth in price parameters such as profit, cash profit, PBIT and return on capital employed shows negative trend.

- xxvi. The domestic industry is suffering material injury due to the dumped imports from the subject countries.
- xxvii. In addition to a technical examination of all the listed factors and any other relevant factors, it is essential that the overall position of the domestic industry is evaluated in light of all the relevant factors having a bearing on the situation of that industry. This was also underlined by the Panel in EC – Bed Linen, which stated that there is no requirement that each injury factor, individually must be indicative of injury. Thus, increase in certain parameters should not be seen in isolation.
- xxviii. The exports of the subject goods from China PR have been subject to anti-dumping duties in the US and EU since 1997 and 2007 respectively. USITC in its 4th expedited review issued final determination in August, 2019 issued continuing duty of 119% on subject goods from China PR. The European Commission also in its recently concluded expiry review dated 16th January, 2020 extended the anti-dumping duty against Chinese imports ranging from 24%–71.8%. Further, the European Commission also initiated an anti-circumvention investigation against a Chinese exporter.
- xxix. The prices prevailing in US and EU markets are 50%-100% higher than the prices prevailing in India. It is a mere bogey that the consumers will suffer because of the anti-dumping duty.
- xxx. Indian industry is still recovering from the ill-effect of Covid, whereas the Chinese industry has already recovered and is running in full capacity, apart from the significant excess capacity that China holds for persulphates.
- xxxi. Since there are existing trade barriers imposed in major markets like EU and USA, and increasing demand for subject goods in India, it is imminent that China will divert its exports to India in an intensified manner.
- xxxii. The capacity utilization rate of persulphate producers in China is about 45.5 percent and that the excess capacity is 221,052 metric tons.
- xxxiii. Non-participation by the exporters/producers indicate that they do not consider significant adverse impact on them as a result of the present investigation.
- xxxiv. The subject countries are taking undue advantage of the increasing demand in India by exporting the subject goods at dumped price to capture the entire Indian market and eliminate the domestic industry from the list of limited producers available across the globe.
- xxxv. The Indian electronics market is expected to reach USD 400 billion by 2025. India is expected to become the fifth-largest consumer electronics and appliances industry in the world by 2025. The polymer and electronics industry are likely to prove to be the major revenue generator for persulfates market during the review period 2018-2023 owing to the growing preference for polymers over metals and the rising consumer appliances demand across the globe.
- xxxvi. The consumer industry is not concerned about imposition of anti-dumping duty, and they are well aware that imposition of ADD will not impact them adversely

as is evident from the fact that only one user has opposed the imposition of anti-dumping duty.

- xxxvii. The responses filed by M/s Jay Chemical industries Pvt Ltd, M/s Rashmi Trading Company, M/s Sagar Speciality Chemicals Pvt Ltd do not mention the impact of imposition of anti-dumping duty.
- xxxviii. The contention that the imposition of anti-dumping duties would lead to increase in prices in the domestic industry and will have adverse effect on the users should be outrightly rejected as it is tantamount to saying that the parties should be allowed to continue access to unfairly priced product and the user industry cannot survive without access to unfairly priced raw materials.
- xxxix. Since Chem Intel did not file importer questionnaire response, authorization and intent to participate, and no justification was given for the non-filing of the response by this importer, any submission made on their behalf should be rejected.

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

35. The Authority has taken note of the submissions made by the interested parties and examined various parameters in accordance with the relevant Rules and Annexure III.

#### **i. Cumulative Assessment**

36. Article 3.3 of WTO agreement and Annexure II para (iii) of the Anti-dumping Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:

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

37. The Authority notes that:

- a. The subject goods are being dumped into India from the subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
- b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
- c. Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market.

38. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from exports of the subject goods from the subject countries.
39. Rule 11 of AD 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....”
40. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude, and margin of dumping, etc., have been considered in accordance with Annexure II of the AD Rules.
41. In consideration of the various submissions made by the interested parties with regard to injury and causal link, the Authority proceeds to examine the injury to the domestic industry. The Authority has examined the injury parameters objectively taking into account the facts and arguments submitted by the domestic industry and the other interested parties in accordance with the relevant Anti-Dumping Rules and Annexure II. The submissions made by interested parties with regard to injury and causal link, which have been considered relevant by the Authority are examined and addressed as under.

**ii. Volume effect of dumped imports on the domestic industry**

**a. Assessment of demand/ apparent consumption**

42. The demand of subject goods has been determined by adding the domestic sales of the Indian producers of like product with the imports of the subject goods from all the countries. For the purpose of the present injury analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. The Authority notes that demand of subject goods increased over the injury period as can be shown in the table below:

<b>Demand</b>	<b>MT</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>POI</b>
Sales of Domestic Industry	MT	***	***	***	***
Trend	Indexed	100	116	110	145
Sales of Other Indian Industry	MT	***	***	***	***
Trend	Indexed	100	88	104	58
Subject country-Imports	MT	1,424	1,956	1,699	2,716

Trend	Indexed	100	137	119	191
Other Countries-Imports	MT	230	469	47	90
Trend	Indexed	100	204	20	39
Total demand/consumption	MT	***	***	***	***
Trend	Indexed	100	122	108	144

43. It is seen that demand for the subject goods increased in 2017-18 and declined in 2018-19 and increased again in the POI.

**b. Import Volumes and Share of the Subject Countries**

44. With regard to the volume of 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. The volume of imports of the subject goods and the share of the dumped imports during injury investigation period are as follows:

Particulars	Unit	2016-17	2017-18	2018-19	2019-20
<b>Import Volume</b>					
China	MT	477	872	385	1,709
Trend	Indexed	100	183	81	358
USA	MT	947	1,084	1,314	1,007
Trend	Indexed	100	114	139	106
Subject Countries	MT	1,424	1,956	1,699	2,716
Trend	Indexed	100	137	119	191
Other countries	MT	230	469	47	90
Trend	Indexed	100	204	20	39
Total Imports	MT	1,654	2,425	1,746	2,806
Trend	Indexed	100	147	106	170

45. It is seen that imports of the subject goods from the subject countries have increased by 91% since the base year and 61% in the POI as compared to the previous year. It is noted that the antidumping duties were in place on the subject countries till May, 2019. Thus, even when the anti-dumping duties were in place, the imports from the subject countries in the POI had increased as compared to the base year.

**c. Subject Countries imports in Relative terms**

46. Imports in relative terms show as follows:

Subject imports in relation to	Unit	2016-17	2017-18	2018-19	POI
Production	%	***	***	***	***
Trend	Indexed	100	119	114	152
Demand	%	***	***	***	***
Trend	Indexed	100	113	113	133

47. It is seen that the imports in relation to production increased till 2017-18 and slightly declined in 2018-19 and increased significantly in the POI. Whereas imports in relation to

consumption have increased throughout the injury period. Thus, imports have increased in both absolute and relative terms.

### iii. Price Effect of the dumped imports on the domestic industry

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

#### a. Price undercutting

49. With regard to the effect of the dumped imports on prices, it is required to be analysed whether there has been a significant price undercutting by the dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course.

<b>Product: Persulphates- China PR</b>					
<b>Year</b>	<b>Unit</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>
Import volume	MT	477	872	385	1,709
Import value	Rs.Laks	291	528	234	875
Assessable value	Rs./Kg	61	61	61	51
Custom duty	%	7.5%	7.5%	7.5%	7.5%
Custom duty amount	Rs./Kg	5	5	5	4
Cess/SWC	%	3%	3%	10%	10%
Cess/SWC amount	Rs./Kg	0	0	0	0
Landed value	Rs./Kg	66	65	66	55.42
Trend	Indexed	100	98	100	84
Selling price	Rs./Kg	***	***	***	***
Trend	Indexed	100	98	97	98
Price undercutting	Rs./Kg	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	% Range	30-40	30-40	30-40	40-50



**Product: Persulphates- USA**

Year	Unit	2016-17	2017-18	2018-19	2019-20
Import volume	MT	947	1,084	1,314	1,007
Import value	Rs.Laks	765	877	1,145	804
Assessable value	Rs. /Kg	81	81	87	80
Custom duty	%	7.5%	7.5%	7.5%	7.5%
Custom duty amount	Rs. /Kg	6	6	7	6
Cess/SWC	%	3%	3%	10%	10%
Cess/SWC amount	Rs. /Kg	0	0	1	1
Landed value	Rs. /Kg	87	87	94	86
Trend	Indexed	100	100	108	99
Selling price	Rs. /Kg	***	***	***	***
Trend	Indexed	100	98	97	98
Price undercutting	Rs. /Kg	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	20-30	10-20	0-10	20-30

50. It is seen that the landed values from the subject countries, cumulatively and individually, have been below the selling price of the domestic industry, thus undercutting the domestic prices. The domestic industry has contended that imports from USA were significant during the injury period as well because they were able to absorb the existing anti-dumping duties. It was contended that the imports from USA were undercutting the domestic industry prices even after paying anti-dumping duty.

**b. Price suppression and depression**

51. In order to determine whether the dumped imports are depressing or suppressing 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 is examined. The factual position is as follows:

Particular	Unit	2016-17	2017-18	2018-19	POI
Cost of production	Rs./Kg	***	***	***	***
Trend	Indexed	100	80	105	113
Selling price	Rs./Kg	***	***	***	***
Trend	Indexed	100	98	97	98

52. It is seen that the cost of production has increased over the injury period, whereas the selling price has declined over the injury period. Year on year movement shows that the cost of production declined in 2017-18 when the selling price also declined. Thereafter the cost of production increased by almost 33% in the POI. However, the selling price remained at the same level. It has been contended that the movement of cost of production and selling price type wise shows clear impact of dumped imports as there is no price suppression or depression in the POI for PPS wherein imports are not entering the domestic market. However, price depression is clearly visible for APS and SPS.

## **H. Economic Parameters of the domestic industry**

53. 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 domestic producers of such products. With regard to consequent impact of dumped imports on domestic producers of such products, the Anti-dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The Authority has examined the injury parameters objectively taking into account various facts and submissions made.

### **a. Production, Capacity, Capacity utilization and Sales**

54. The capacity, production, sales and capacity utilisation of the domestic industry over the injury period is given in the table below:

<b>Particulars</b>	<b>Unit</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>POI</b>
Capacity	MT	***	***	***	***
Trend	Indexed	100	109	116	138
Production PUC	MT	***	***	***	***
Trend	Indexed	100	123	127	154
Capacity Utilization	%	***	***	***	***
Trend	Indexed	100	113	109	112
Sales Volume-Domestic	MT	***	***	***	***
Trend	Indexed	100	116	110	145

55. It is seen that

- a. The domestic industry enhanced its capacity throughout the injury period.
- b. Production and capacity utilisation of the domestic industry have increased throughout the injury period.
- c. Sales of the domestic industry increased till 2017-18, and increased thereafter in the POI. The sales of the domestic industry have not increased to the extent of increase in production and demand in view of increase in imports in the POI.

### **b. Profitability, Return on investment and Cash profits**

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

<b>Particular</b>	<b>Unit</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>POI</b>
-------------------	-------------	----------------	----------------	----------------	------------

Profits	Rs./Kg	***	***	***	***
Trend	Indexed	100	139	77	61
Cash Profit	Rs.Lacs	***	***	***	***
Trend	Indexed	100	156	88	106
PBIT	Rs.Lacs	***	***	***	***
Trend	Indexed	100	161	89	116
RoCE	%	***	***	***	***
Trend	Indexed	100	125	44	50

57. It is seen that:

- i. Profitability of the domestic industry increased in 2017-18 and declined thereafter significantly in 2018-19 and the POI.
- ii. Cash profit, PBIT and ROI have increased till 2017-18 and declined in 2018-19 with a marginal increase in the POI. The domestic industry was earning healthy returns in the base year and 2016-17 but the same declined significantly over the injury period.
- iii. The domestic industry contended that profits of both APS and SPS also declined drastically in the POI, and the profits of PPS declined in 2017-18 and thereafter increased because there are no imports of PPS in the POI. This shows a direct link between increase in imports and decline in profitability of the domestic industry. The domestic industry has not been able to increase its prices despite the increase in cost and is forced to align its prices with the import prices, which declined in the present POI.

**c. Market Share in Demand**

58. Market share of the domestic industry is shown in the table below:

Market Share in Demand	Unit	2016-17	2017-18	2018-19	POI
Sales of Domestic Industry	%	***	***	***	***
Trend	Indexed	100	95	102	100
Sales of Other Indian Industry	%	***	***	***	***
Trend	Indexed	100	77	100	44
Subject countries-Imports	%	***	***	***	***
Other Countries-Imports	%	***	***	***	***
Total	%	100	100	100	100

59. It is seen that:

- i. Market share of the domestic industry has remained at similar levels over the injury period with some decline in the POI as compared to the previous year. Market share of other Indian producers have also declined in the POI.

- ii. Market share of the subject countries have increased significantly in the POI. Market share of the other countries has declined.
- iii. It was contended by the domestic industry that despite compromising on selling prices and anti-dumping duty in place, the domestic industry has not been able to increase its market share due to presence of significant volume of dumped imports in the market which have captured the potential market share of the domestic industry and actual market share of the other producers and other countries.

**d. Employment and wages**

60. Employment, productivity and wages of domestic industry over the injury period is given in the table below.

Particular	Unit	2016-17	2017-18	2018-19	POI
No of Employees	Nos	***	***	***	***
Trend	Indexed	100	105	116	129
Wages	Rs.Lacs	***	***	***	***
Trend	Indexed	100	641	779	902

61. It is seen that employment and wages of the domestic industry increased throughout the injury period.

**e. Inventories**

62. Inventory position with the Domestic Industry over the injury period is given in the table below:

Stock (Volume)	Unit	2016-17	2017-18	2018-19	POI
Average	MT	***	***	***	***
Trend	Indexed	100	193	455	509

63. It is seen that inventories with the domestic industry increased significantly in 2018-19 and the POI. The domestic industry has not been able to sell the subject goods even though there was increase in demand, capacity and production.

**f. Ability to raise capital**

64. The domestic industry has recently made an investment. Thus, the ability to raise capital has not been impacted so far. Should the domestic industry be prevented from utilising such expanded capacity, its ability to raise capital may jeopardise.

**g. Factors affecting domestic prices**

65. The examination of the import prices from the subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc. shows that the landed value of imported material from the subject countries is below the selling price of the domestic industry, causing price undercutting. The price undercutting has led to price suppression in the Indian market. The demand for the subject goods increased over the injury period and therefore it could not have been a factor affecting domestic prices.

**I. Magnitude of Injury and Injury margin**

66. Non-Injurious Price for the domestic industry has been determined on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP 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 NIP has been considered for comparing the landed price of each PCN from each of the subject country for calculating injury margin. For determining NIP, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. The production in POI has been calculated considering the best capacity utilisation and the same production has been considered for arriving per unit fixed cost. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., Average Net Fixed Assets plus Average Working Capital) for the product under consideration was allowed as pre-tax profit to arrive at the NIP as per procedure prescribed in Annexure-III. The non-injurious price for each PCN so determined has been compared with the landed prices of imports from the subject countries for comparable PCN to determine the injury margin as follows:

<b>Injury Margin USA</b>	APS	SPS	Average
Import Volume (MT)	429	578	1,007
	USD/MT		USD/MT
NIP	***	***	***
Landed Value	1,001	1,369	1,212
Injury Margin	(***)	***	***
Injury Margin %	(***)	***	***
Injury Margin % (Range)	(20-30)	20-30	0-10
<b>Injury Margin China PR</b>	APS	SPS	Average
Import Volume (MT)	1,649	60	1,709
	USD/MT		USD/MT
NIP	***	***	***

Landed Value	754	1,315	774
Injury Margin	***	***	***
Injury Margin %	***	***	***
Injury Margin % (Range)	0-10	20-30	0-10

## **J. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS**

67. As per the AD 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 price of imports from third countries**

68. Imports from the other countries are either low in volume or are at higher price than the import prices from the subject countries.

### **b. Export Performance**

69. The Authority has considered data for the domestic operations only for the injury analysis. Therefore, export performance is not the cause for the injury to the domestic industry.

### **c. Development of Technology**

70. There are no known material developments in technology over the injury period. Changes in the technology could not have caused claimed injury to the domestic industry.

### **d. Performance of other products of the company**

71. The Authority has considered performance of the domestic industry only in respect of product under consideration. The injury claimed to the domestic industry is only in respect of the subject goods.

### **e. Trade Restrictive Practices and Competition between the Foreign and Domestic producers**

72. There is no known trade restrictive practice which could have contributed to the injury to the domestic industry.

### **f. Contraction in Demand and Changes in pattern of consumption**

73. It is noted that the demand of the subject goods has increased consistently over the entire injury period. Thus, it is the injury to the domestic industry was not due to contraction in demand or changes in pattern of consumption.

## **K. POST-DISCLOSURE COMMENTS**

### **K.1 Submissions made by the other interested parties**

74. Post disclosure comments made by the other interested parties are as follows:

- a) PPS has not been imported into India from any of the subject countries during the POI. There are separate dumping and injury margin determined for SPS and APS, no such determination has been made for PPS in absence of imports. The inclusion of PPS within the product scope means that the duty determined for APS and SPS shall be applied on PPS as well which cannot be a justifiable approach. The Authority may reconsider its proposal to inclusion of PPS in the scope of the PUC.
- b) The significant dumping margin for the USA is a result of unsubstantiated method of normal value and this cannot be considered real.
- c) The current injury margin requires thorough examination as this is in the same range for China and USA. This cannot be true as prices of SPS and APS from USA are higher than the Chinese prices by 36%.
- d) In view of separate import trends from USA and China, imports from these countries are incomparable and should be examined separately.
- e) There are no data to support increase or decrease in profitability trend for the applicants. The overall volume and price parameters of the domestic industry shows robust situation. The minor fall in profits during the POI was on account of very high profits in the previous year.
- f) Owing to difference in prices between APS and SPS, the ADD should also be recommended on product type basis as there is no basis for determining weighted average margins/duty liability. Type wise/PCN wise ADD have been recommended in various cases like Jute products.
- g) There is absence of causal link between imports from the USA and consequent injury to the domestic industry.

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

75. Post disclosure comments made by the domestic industry are as follows:

- a. There is no relationship and no control by the alleged related companies over the applicant company. The alleged related companies have certified that no exports were

made during the POI by these companies. It would be seen from the letters filed earlier that:

- i. United Initiators Hefei Co. Ltd., China, is 100% subsidiary of UI GmbH. They are involved in manufacturing and exporting the subject goods from China.
  - ii. United Initiators Hefei Co. Ltd., China, has not exported the subject goods to India during the period of investigation.
  - iii. None of the other related companies of UI GmbH is involved in manufacturing and exporting the subject goods from China.
- b. United Initiator Inc, USA is not involved in manufacturing the subject goods in USA. It is involved in trading of persulfates in the domestic market of USA. United Initiator Inc, USA has not exported persulfates to India during the period of investigation. There is a threat of material injury in view of increased imports from subject countries in the proposed POI, excess production capacity with producers/exporters in the subject countries, Indian market being attractive for exporters, third country measures on subject goods from subject countries and quick recovery of China from COVID 19 in comparison to the rest of the world.
  - c. The price undercutting and injury margin should be determined only considering those transactions whose landed price of imports is below the selling and non-injurious price of the domestic industry.
  - d. There is no requirement as per Article 3.2 of Anti-Dumping Agreement to establish one single margin of undercutting on the basis of an examination of every transaction involving the product under consideration. The domestic industry has also made reference to CESTAT's decision in *Kothari Sugars & Chemicals Limited versus Designated Authority* which allowed considering transactions below NIP to calculate injury margin.
  - e. The import price has declined significantly within the POI and have declined further after the POI. The adequate duty to protect the domestic industry from unfair trade practice should be based on current prevailing prices. The duty level on the basis of average landed price for the POI will not be sufficient enough to remove the injury to the domestic industry on account of dumped imports.
  - f. Only one user participated in the investigation and has failed to provide any evidence to show adverse impact of dumping. The overall impact of anti-dumping duty, if imposed, on user industry will be miniscule. The subject goods are primarily used in textile and chemical industries. Depending on the formulation consumption pattern for APS is 0.5% to 1.5% of the total costs as its only use is as an oxidizing agent irrespective of the industry. Similarly, the consumption pattern for SPS is around 1.3% to 1.65%. Thus, a batch of 1000kg end product will roughly consume only 0.5% to 1.75%. The ultimate impact will be miniscule.
  - g. The normal value in USA should be considered as the price at which the subject goods are being sold in US market. The price for normal value will be taken as consumption price, not the price at which it was sold by the applicant company to its affiliate company. As noted by the Authority the resale price is comparable to the import price into USA which is also the consumption price of subject goods and the Authority has rightfully considered the same.

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

76. The Authority has examined the post disclosure submissions made by the other interested parties and notes that some of the comments are reiterations which have already been



examined suitably and addressed adequately in the relevant paras of the findings. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below:

- a. As regards the contention that PPS is not being imported but it is still included in the product scope, it is reiterated that SPS, APS and PPS are all forms of one product under consideration. The Authority further notes that the import of each type of the product under consideration within the POI is not a mandatory requirement under the law. So long as a product type falls within the definition and scope of the product under consideration, the same is required to be included within the scope of the product under consideration. In any case, there are imports of the product type over the injury period. There were imports of this type even in the previous investigations. The Authority also notes that the three types of Persulphates serve the same general purpose. The consumers normally do not switch one type with the other type in a short run. However, there are several applications where all three types of Persulphates can be used interchangeably. Also, the producers can produce all the three types interchangeably. Based on the past investigations undertaken by the Authority and the decision by other jurisdiction, APS, PPS and SPS are types of one product under consideration and cannot be seen in isolation for the import purposes. Having regard to the fungibility of the production process and the product within APS, SPS and PPS and the fact that there are imports of PPS during the injury period, the Authority finds it inappropriate to exclude PPS from the scope of the product under consideration.
- b. As regards the argument that the dumping margin for USA is the result of unsubstantiated method of the normal value, it is clarified that the methodology has been adequately explained. It is clarified that since none of the producers from USA has responded, the Authority has examined the evidence before the Authority in the form of (a) the exports made by the applicant industry to USA and (b) the resale price of one of the applicant companies. The information of the resale price of the trader in USA was made available and (c) the imports into USA as the price prevailing in USA, which has information for each type of the product concerned. After examining this evidence, the Authority found it appropriate to consider the resale price of the subject goods in the domestic market of USA which is comparable with the import price of the subject goods in USA.
- c. As regards the argument that the methodology for determining the injury margin appears to be incorrect and weighted average margins should be considered, it is clarified that the weighted average injury margins have been considered for the determination of average injury margin.
- d. As regards the argument that the cumulative assessment cannot be done in the present case and that the imports from USA are not causing injury, it is noted that all the requirements of the cumulative assessment are present and upon satisfaction of such conditions, the Authority has found it appropriate to cumulate injury. Further, as regards the argument that the imports from USA have declined in the POI, it is noted that the imports from USA are significantly high in the POI. Even though the volume shows some decline in the POI from the previous year, the import prices have declined significantly from USA in the POI when the costs of the domestic industry has increased. The imports from USA are significant in absolute and relative terms. The dumping margin, the injury margin and the price undercutting are positive with respect

to the subject goods coming from USA. Thus, the imports from USA along with the imports from China have caused injury to the domestic industry.

- e. The share of APS and SPS imports is materially different in the case of China PR and USA. Whereas the imports of SPS from China PR constitute only \*\*\*% of the total imports of the PUC from China PR, the share of SPS in the case of USA is \*\*\*% (para 65 above). Further, there is significant price difference between the landed price of SPS and APS, as is evident from table at para 65 above. In view of the significant difference in the prices, the Authority has first determined the injury margin separately for APS and SPS; and thereafter has determined the weighted average on the basis of associated import volumes. It is seen that injury margin in the case of China PR are higher than the injury margin in case of USA, both for SPS and APS. It is also seen that the import price of SPS from USA is higher than China PR by only 4%. The interested parties have incorrectly compared the weighted average prices.

#### **L. INDIAN INDUSTRY INTERESTS AND OTHER ISSUES**

77. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers.
78. The Authority considered whether imposition of the ADD shall have adverse public interest. For the same, the Authority examined whether the imposition of the anti-dumping duty on imports of the product under investigation would be against the larger public interest. This determination is based on consideration of the information on record and the interests of the various parties, including domestic industry, the importers and the consumers of the product.
79. The Authority issued the gazette notification inviting views from all interested parties, including the importers, the consumers and the other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to present investigations, including possible effect of ADD on their operations. The Authority sought information on, inter-alia, interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of ADD on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of ADD.

80. Two importers and one user, namely, M/s. Jay Chemical Industries Pvt. Ltd. (User); M/s. Rashmi Trading Company and M/s. Sagar Speciality Chemicals Pvt Ltd have participated and filed questionnaire responses. However, the information or submission relevant to substantiate the adverse impact on users has not been provided. It has been argued that the duties will lead to increase in price of the product leading to adversities on the user. However, even though the Authority has prescribed formats for the users to quantify the impact of the ADD and elaborate how the imposition of the ADD shall adversely impact them, it is noted that none of the interested parties have provided relevant information. It is, thus, noted that the interested parties have not established impact of the ADD on the user industry with verifiable information. Further, the domestic industry has quantified the impact of the recommended anti-dumping duty on the consumer industry and submitted that the impact is meagre.
81. The Authority notes that the product is under free category and, therefore, can be freely imported from the various countries. The imposition of the anti-dumping measures would not restrict the imports from the subject countries in any way and, therefore, would not affect the availability of the product to the consumers. It is noted that there are various global players in the production of the subject goods. The investigations have been conducted in the past by against the imports of the subject goods originating in Japan, Turkey and Taiwan India which show that these are the countries where goods are being produced and from where were being exported to India. The EU and USA are also producers of the subject goods. Thus, there are alternate source of supply of the subject goods. The imposition of the anti-dumping duties, therefore, would neither affect the availability of the product to the consumers nor create monopoly.
82. The EU and USA have also investigated the imports of the product under consideration into USA and EU respectively from China PR. The EU and USA have imposed the duties on the said imports on finding that the imports are causing material injury to their domestic industry. The duties have been in force against China since the 24 years and 14 years respectively. The quantum of duties levied by the US and EU Authorities is 119% by USA and 24.5-71.8% by EU respectively, which indicates the level of dumping that China is resorting to in other countries.
83. It is noted that the interested parties have not demonstrated how the prices of the subject goods have adversely impacted the consumers. On the other hand, the domestic industry has submitted quantified information showing that the impact of the proposed antidumping duty on the user industry would be miniscule. The domestic industry has submitted that the cost of product under consideration in the final product is very minimal and will have almost no effect on the end-users. The subject goods are primarily used in textile and chemical industries. Depending on the formulation, consumption pattern for APS is 0.5% to 1.5% of the total costs as its only use is as an oxidizing agent irrespective of the industry. Similarly, the consumption pattern for SPS is around 1.3% to 1.65%. Thus, a batch of 1000kg end product will roughly consume only 0.5% to 1.75%. The ultimate impact will be miniscule.

84. It is, thus, noted that while the interested parties have not established possible adverse impact of proposed ADD on the user industry with verifiable information, even if it is considered that the imposition of the ADD might affect the price levels of the product manufactured using the subject goods, the impact of the antidumping duty on the eventual product would be grossly insignificant. Further, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the ADD is restricted to an amount necessary to redress the injury to the domestic industry. The objective of the imposition of the anti-dumping measure is to remove the unfair advantages gained by the dumping practices; to prevent the injury to the domestic industry and help maintain the availability of wider choice to the consumers of the subject goods.

#### **M. CONCLUSION & RECOMMENDATIONS**

85. After examining the submissions made by the interested parties and the issues raised therein and considering the facts available on record, the Authority concludes that:

- a. The applicant constitutes the domestic industry under Rule 2(b) of the Rules and the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.
- b. The product produced by the domestic industry is like article to the PUC imported from the subject countries. PPS is a form of product under consideration and should be included in the product scope.
- c. Considering the normal value and the export price for the subject goods, type wise dumping margin for the subject goods from the subject countries has been determined, and the margins are significant.
- d. The domestic industry has suffered material injury. The examination of the imports of the subject goods and the performance of the domestic industry shows that the volume of the dumped imports from the subject countries has increased in both absolute and relative terms. The volume of the subject goods has increased by more than 100% in the POI on absolute terms. The imports from the subject countries are undercutting the prices of the domestic industry, and the margin of price undercutting is around 15-25 percent for USA and around 40-50 percent for China PR. It is also noted that the imports of subject goods from the subject countries are suppressing the prices of the domestic industry. The market share of domestic industry has been in the similar range, despite the capacity increase and increase in the demand. The performance of the domestic industry has deteriorated in respect of the profits and the return on the capital employed. The profitability has declined steeply in the POI. The cash profit, PBIT and ROI have increased till 2017-18 and declined in 2018-19 with a marginal increase in the POI.
- e. The material injury suffered by the domestic industry has been caused by the dumped imports.
- f. Despite providing all formats for users to quantify the impact of the ADD and elaborate on how imposition of the ADD will adversely impact them, none of the users have provided relevant quantified information. The interested parties have not established the impact of the ADD on the user industry with verifiable information. Non-imposition of the anti-dumping duty will adversely impact the indigenous production of the product concerned and the fact that the impact of the antidumping duty is miniscule to the

consumers of the product under consideration, the Authority is of the view that the imposition of anti-dumping duty will be in public interest.

86. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, the exporters, the importers and the other interested parties to provide the information on the aspects of dumping, injury and the causal link. Having initiated and conducted the investigation into the dumping, injury and the causal link in terms of the provisions laid down under the Rules, the Authority is of the view that imposition of the anti-dumping duty is required to offset the dumping and the consequential injury. Therefore, the Authority recommends the imposition of anti-dumping duty on imports of subject goods from the subject countries.

87. Having regard to the lesser duty rule followed by the Authority, the Authority recommends impositions of anti-dumping duty equal to lesser of margin of the dumping and the margin of injury so as to remove the injury to the domestic industry. The Authority, therefore, considers it necessary to recommend the imposition of the definitive anti-dumping duty equal to the amount mentioned in the column (7) on all the imports of the subject goods described at Column (3) of the duty table, originating in or exported from China PR and USA, from the date of notification to be issued in this regard by the Central Government.

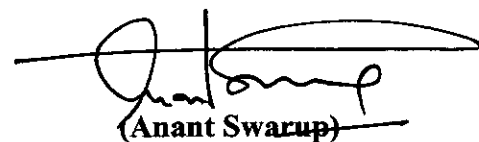
#### **Duty Table**

S. No.	Heading	Description	Country of origin	Country of export	Producer	Amount	Unit	Currency
1.	2833 40 and 283340 00	Ammonium Persulphates (APS)	China PR	Any country including China PR	Any producer	19	MT	USD
2.	2833 40 and 283340 00	Sodium Persulphates (SPS)	China PR	Any country including China PR	Any producer	201	MT	USD
3.	2833 40 and 283340 00	Potassium Persulphates (PPS)	China PR	Any country including China PR	Any producer	32	MT	USD
4.	2833 40 and 283340 00	Ammonium Persulphates (APS)	Any country including China PR	China PR	Any producer	19	MT	USD

5.	2833 40 and 283340 00	Sodium Persulphates (SPS)	Any country including China PR	China PR	Any producer	201	MT	USD
6.	2833 40 and 283340 00	Potassium Persulphates (PPS)	Any country including China PR	China PR	Any producer	32	MT	USD
7.	2833 40 and 283340 00	Ammonium Persulphates (APS)	USA	Any country including USA	Any producer	NIL	MT	USD
8.	2833 40 and 283340 00	Sodium Persulphates (SPS)	USA	Any country including USA	Any producer	344	MT	USD
9.	2833 40 and 283340 00	Potassium Persulphates (PPS)	USA	Any country including USA	Any producer	100	MT	USD
10.	2833 40 and 283340 00	Ammonium Persulphates (APS)	Any country including USA	USA	Any producer	NIL	MT	USD
11.	2833 40 and 283340 00	Sodium Persulphates (SPS)	Any country including USA	USA	Any producer	344	MT	USD
12.	2833 40 and 283340 00	Potassium Persulphates (PPS)	Any country including USA	USA	Any producer	100	MT	USD

**N. FURTHER PROCEDURE**

88. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the appropriate forum.



**Designated Authority**