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F. No. 7/41/2020-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001

Dated: 30th July, 2021

NOTIFICATION

FINAL FINDINGS

Case No. (SSR) 22/2020

Subject: Sunset Review (SSR) of Anti-Dumping Duty imposed on Imports of Phenol originating in or exported from European Union and Singapore.

F. No. 7/41/2020-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

1. The Designated Authority (hereinafter referred to as “Authority”) received an application from M/s. Deepak Phenolics Limited (DPL) and M/s. Hindustan Organics Chemical Limited (HOCL) (hereinafter also referred to as “Applicants”) requesting initiation of sunset review of anti-dumping duty imposed on imports of ‘Phenol’ (hereinafter referred to as “subject goods” or “product under consideration” or “PUC”) originating in or exported from European Union and Singapore (“subject countries”). The Applicants provided the prescribed information in the Application.
2. The Authority had initiated the original investigation concerning imports of Phenol originating in or exported from European Union, Korea RP and Singapore vide Notification No. 14/13/2014-DGAD dated 15th October, 2014. The Final Findings Notification was issued by the Authority vide Notification No. 14/13/2014-DGAD dated 12th January 2016 recommending imposition of definitive Anti-Dumping Duty (ADD) on the imports of the subject goods, originating in or exported from European Union, Korea RP and Singapore. Definitive anti-dumping duties were imposed by the Department of Revenue vide Notification No. 6/2016 – Customs (ADD) dated 8th March, 2016.
3. In terms of Section 9A (5) of the Act, ADD imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is

required to review, whether the expiry of ADD is likely to lead to continuation or recurrence of dumping and injury. Further, Rule 23 (1B) of the Rules provides as follows:

“any definitive antidumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.”

4. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of ADD is likely to lead to continuation or recurrence of dumping and injury.
5. The Applicants jointly filed an application dated 8th September, 2020 requesting initiation of SSR of ADD imposed earlier and seeking continuation of ADD against imports of Phenol from European Union and Singapore. The request was based on the grounds that the expiry of the measure was likely to result in continuation of dumping of the subject goods and consequent injury to the Domestic Industry.
6. In view of the duly substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the Domestic Industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated the SSR investigation vide Notification no. 7/41/2020-DGTR dated 31st December, 2020 to review the need for continued imposition of ADD in respect of the subject goods, originating in or exported from the subject countries and to examine whether the expiry of the said ADD is likely to lead to continuation or recurrence of dumping and injury to the Domestic Industry.
7. Pending conclusion of the investigation, the anti-dumping duties were extended upto and inclusive of 7th June, 2021 vide Notification No. 11/2021-Customs (ADD) dated 3rd March, 2021. Further, anti-dumping duties were extended upto and inclusive of 31st October, 2021 vide Notification No 33/2021 -Customs (ADD) dated 3rd June, 2021.
8. The scope of the present review covers all aspects of the Final Findings Notification No.14/13/2014-DGAD dated 12th January, 2016 which had recommended the imposition of ADD on imports of subject goods originating in or exported from the subject countries.

B. PROCEDURE

9. The procedure described below has been followed with regard to the subject investigation:
 - a. The Authority notified to the Government of the subject countries through its Embassies in India about receipt of the anti-dumping application before proceeding to initiate the present investigation, in accordance with rule 5(5) of the Rules.
 - b. The Authority vide Notification No.7/41/2020-DGTR dated 31st December, 2020 issued a public notice in the Gazette of India Extraordinary, initiating sunset review

investigation concerning anti-dumping duty imposed on imports of subject goods from the subject countries.

- c. In accordance with rule 6(2) of the AD Rules, the Authority forwarded a copy of the initiation notification dated 31st December, 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 to 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 country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
- f. The Authority, upon request made by the interested parties, granted extension of time to the interested parties to file their Questionnaire Responses. Vide communication dated 9th February, 2021, the time was extended up to 27th February, 2021.
- g. The Authority sent questionnaires to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules:
 - i. M/s. DOMO Caproleuna GmbH
 - ii. M/s. INEOS Phenol
 - iii. M/s. CepsaQuimica S.A.
 - iv. M/s. Versalis S.p.A
 - v. M/s. Seqens
 - vi. M/s. Borealis Polymers Oy
 - vii. M/s. DOW Europe GmbH
 - viii. M/s Rutgers Germany GmbH
 - ix. M/s. Chemical Point UG
 - x. M/s. PKN Orlen
 - xi. M/s. DEZA a.s.
 - xii. M/s. TOTAL Petrochemicals
 - xiii. M/s. Mitsui Phenol Singapore Pte. Ltd.
 - xiv. M/s. Sky Petro-Chem Pte. Ltd.
 - xv. M/s. Petrochem Asia Pte. Ltd.
 - xvi. M/s. Hareh Petrochem Singapore Pte. Ltd.
 - xvii. M/s. DinowicPte. Ltd.
 - xviii. M/s. Kempar Energy Pte. Ltd.

- xix. M/s. Integra Petrochemicals Pte. Ltd.
- h. In response to the above notification, the following producers/exporters and their related exporters/traders have responded and submitted/filed exporters' questionnaire responses and/or legal submissions:
- i. M/s. Mitsui Phenols Singapore Pte. Limited (MPS)
 - ii. M/s. Mitsui & Co. (Asia Pacific) Pte. Ltd. (MAP)
- i. 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. M/s. C.J. Shah and Company
 - ii. M/s. Haresh Kumar & Co.
 - iii. M/s. PCL Oil & Industries
 - iv. M/s. Kantilal Manilal & Co. Pvt. Ltd.
 - v. M/s. Sonkamal Enterprises
 - vi. M/s. Khetan Brothers
 - vii. M/s. Shubham Dyes & Chemicals Limited
 - viii. M/s. Acron Enterprises
 - ix. M/s. Naiknavare Chemicals Limited
 - x. M/s. Paras Dyes & Chemicals
 - xi. M/s. Torrent Pharmaceuticals Limited
 - xii. M/s. United Phosphorus Limited
 - xiii. M/s. Resins & Plastic Limited
 - xiv. M/s. Kailash Polymers
 - xv. M/s. Centrum Metalics Private Limited
 - xvi. M/s. Wonder Laminates Private Limited
 - xvii. M/s. Meghdev Enterprises
 - xviii. M/s. Satguru International
 - xix. M/s. High Polymer labs Limited
 - xx. M/s. Rainbow colours & Chemicals
 - xxi. M/s. Bleach Marketing Private Limited
 - xxii. M/s. Karmen International (P) Limited
 - xxiii. M/s. Krishna Antioxidants Private Limited
 - xxiv. M/s. NGP Industries Limited
 - xxv. M/s. Farmson Pharmaceutical Gujrat Limited
 - xxvi. M/s. India Glycols Limited
 - xxvii. M/s. Singh Plasticisers and Resins (I) Pvt. Limited
 - xxviii. M/s. national Plywood Industries Limited
 - xxix. M/s. Kundan Rice Mills Limited
- j. In response to the above notification, the following importers or users have responded and submitted importer/user questionnaire responses/legal submissions and/or registered as interested parties:
- i. M/s. AICA Laminates India Private Limited
 - ii. M/s. Eximcorp India Private Limited

iii. M/s. Century Ply

- k. In response to the initiation notification, M/s. Federation of India Plywood and Panel Industry has made legal submissions.
- l. 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 7th April, 2021. The parties, that 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.
- m. A list of all 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 other interested parties since the public file was not accessible physically due to the ongoing global pandemic.
- n. The period of investigation (POI) for the purpose of the present investigation is 1st July, 2019 to 30th June, 2020 (12 months). The injury examination period has been considered as the period from 2016-17, 2017-18 and April 2018 – June 2019, and the POI.
- o. The Authority obtained transaction-wise import data from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and Directorate General of Systems & Data Management (DGS) for the subject goods for the injury period, including the POI, and analysed the data after due examination of the transactions.
- p. Further information was sought from the applicant to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of present investigation.
- q. The non-injurious price (hereinafter referred to as "NIP") based on the cost of production and reasonable profits of 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 Rules, has been worked out so as to ascertain whether ADD lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- r. The submissions made by the interested parties, arguments raised and information provided by various interested parties during the course of investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been considered in this final finding.
- s. The Authority, during the course of investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this final finding, to the extent possible, and verified the data/documents submitted by the domestic industry to the extent considered relevant and possible.

- t. The information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- u. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 20th July 2021, and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these final findings.
- v. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded this final findings on the basis of the facts available.
- w. ‘****’ in these final findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- x. The exchange rate adopted by the Authority for the subject investigation is US \$1= 73.26.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1.Submissions of the domestic industry

- 10. The submissions made by the domestic industry with regard to the product under consideration and like article are as follows:
 - a. The product manufactured by the domestic industry is like article to the product imported from the subject countries.
 - b. Consumers use the product manufactured by the domestic industry and the producers in the subject countries interchangeably.

C.2.Submissions of other interested parties

- 11. No submissions were made by other interested parties with regard to the product under consideration and like article.

C.3.Examination by the Authority

12. The Product Under Consideration is “Phenol” which was defined in the original investigation as follows:

“Phenol is a basic organic chemical normally classified under Chapter 29 of the Customs Tariff Act. The product is marketed in two forms- bulk and packed. Bulk sales are normally in loose form, whereas packed consignments can be of much smaller container loads and generally packed in drums. Phenol is used in Phenol Formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol-A, Alkyl Phenols, Pharmaceuticals, Diphenyl oxide etc. The product is classified under Customs Tariff heading no. 29071110. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.”

13. Since the present investigation being a sunset review investigation, product under consideration remains the same as defined in the previously conducted investigation. Phenol is classified under Chapter 29 of the Customs Tariff Act under subheading 2907.11. However, the customs classification is only indicative and is not binding on the scope of the product under consideration.
14. The Authority notes from the information available on record that the product produced by the domestic industry is like article to the product under consideration imported from the subject countries. The product produced by the domestic industry is comparable to the goods imported from subject countries in terms of physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, pricing, distribution & marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. The Authority, therefore, holds that the subject goods produced by the domestic industry are like article to the product imported from subject countries in terms of Rule 2(d) of the AD Rules.

D. SCOPE OF THE DOMESTIC INDUSTRY AND STANDING

D.1.Submissions by the domestic industry

15. The domestic industry has made the following submissions with regard to the scope of domestic industry and standing:
- The Applicants, namely M/s. Deepak Phenolics Limited and M/s. Hindustan Organics Chemicals Limited constitute major proportion of total Indian production for the subject goods in India.
 - The Applicants are neither related to any exporters in the subject countries nor importers of the subject goods in India.

D.2.Submissions by other interested parties

16. The other interested parties have made the following submissions with regard to the scope of domestic industry and standing.
 - a. The domestic industry should provide strict proof and standing must be examined as per Rules.
 - b. The Authority should ensure that the non-participation of SI Group is not an attempt to pick and choose companies favourable for injury parameters and NIP.

D.3.Examination by the Authority

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

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

18. The Application has been jointly filed by M/s. Deepak Phenolics Limited and M/s. Hindustan Organics Chemicals Limited. The Applicants account for 88.95% of total Indian production. The Authority notes that there is one another manufacturer of the product under consideration namely, M/s. SIG Group India Limited who also manufacture the like article in India. The Applicants account for a major proportion in Indian production of the subject goods. The Applicants have certified that neither they are related to any exporters or producers of product under consideration in the subject countries or any importer of the product under consideration in India.
19. The Authority holds that the Applicants constitute domestic industry under rule 2(b) of the Rules and considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1.Submissions by the domestic industry

20. The domestic industry has made the following submissions with regard to confidentiality:
 - a. The exporter and producer have claimed excessive confidentiality of information in the non-confidential version of the questionnaire responses filed.
 - b. Information has been claimed confidential without even providing a reasonable summary of the same.
 - c. The exporter and producer have not provided several critical information as required in Part II of the questionnaire response, thereby depriving the domestic industry of its rights of defence and therefore in violation of the principles of natural justice.
 - d. The questionnaire response filed by the exporter and the producer is liable to be rejected in view of incomplete or misleading information and excessive confidentiality claims.

- e. The non-confidential version of the petition filed by the domestic industry is as per Trade Notice 10/2018.

E.2. Submissions by other interested parties

21. The other interested parties have made the following submissions with regard to confidentiality:
 - a. The petitioners have claimed excessive confidentiality and have not adhered to Trade Notice 10/2018 which was highlighted by MPS and MAP vide communication dated 5th April, 2021, and in the event the petitioner fails to rectify the petition the investigation should be terminated.
 - b. The entire initiation is vitiated by the shield of confidentiality which is inconsistent with the Custom Code on Show Cause notice, and therefore applicable to any proceeding under Section 9A of the Customs Tariff Act by virtue of subsection 8 to section 9A.
 - c. Excessive confidentiality has been claimed for capacity, production and capacity utilization while in previous anti-dumping investigations, the same was provided. Even the purchase policy, sales policy, accounting policy, cost accounting policy, quality control procedure and tests have been treated as confidential even though there is nothing confidential in giving the general policies adopted by the companies. No indexed information has been provided for Section VI of the petition.
 - d. The data of MAP cannot match with the data of MPS.
 - e. The information of exports to India, domestic sales and third country are confidential in nature, and if the domestic industry has access to such information, it should disclose the same to DGTR.
 - f. Trade Notice 10/2018 does not require exporters to provide information on channels of marketing and distribution, sales negotiation process and details of shareholders. Domestic industry has itself not provided information on production process.
 - g. The information on future plans, market strategy, raw material costs and impact thereof, as well as other such parameter is extremely sensitive in nature.
 - h. Confidentiality applies only to the external content, which has been clarified by the WTO. Data received under confidentiality is an escape route to circumvent the Supreme Court Rule of Law in Meghmani.

E.3. Examination by the Authority

22. 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 rule12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing

such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

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

23. The Authority examined the confidentiality claims of the interested parties and on being satisfied allowed the claim on confidentiality. The Authority considers that any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, should be treated as such by the authority. Such information cannot be disclosed without specific permission of the party submitting it.
24. The Authority has considered the claims of confidentiality made by the Applicants and the opposing interested parties and on being satisfied about the same, the Authority has allowed the claim on confidentiality. The Authority made available to all interested parties the public file containing non-confidential version of evidences submitted by various interested parties for inspection, upon request as per Rule 6(7).

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by the domestic industry

25. The following miscellaneous submissions have been made by the domestic industry:
 - a. AICA Laminates Private Limited cannot be considered as an interested party as they have not filed the non-confidential version of the questionnaire response, if any, or provided any information or submissions and did not participate in the oral hearing.
 - b. Federation of India Plywood and Panel Industry (FIPPI) should be considered as non-cooperative as no information or submissions have been filed and none of the members filed questionnaire responses.
 - c. The response filed by the producer and its related trader is grossly deficient and should not be accepted. The responses are inconsistent with each other as the period for which information have been given are different from the period defined in the initiation notification. The producer has not provided data for the base year and provided the information from 2017-18. The trader has provided data for 2016-17, 2017-18, 2018-19 and the period of investigation.
 - d. There are several inconsistencies in the data provided by the exporter, the producer and import data as per DGCI&S, thereby questioning the credibility of the information provided by the producer and exporter.
 - e. The domestic industry has not been given adequate access to the exact volumes of imports from Singapore, thereby violating principles of natural justice. Therefore, DG

- Systems data should be called for, in order to verify the authenticity of the data provided.
- f. The producer has provided the data on installed capacity, production, shipments, and inventories of PUC only for the last 3 years despite the Questionnaire asking for the information for the last 5 years.
 - g. Related importer in India, namely Mitsui & Co. India Private Limited has not filed non-confidential version of Part IV of the questionnaire response, if any. The exporter has claimed such excessive levels of confidentiality that it is even impossible to decipher whether exports are being made directly to India or through the importer.
 - h. The dumping margin must be determined by comparing normal value with the export price in respect of sales made at as nearly as possible the same time in view of significant changes in the prices with time period, and absence and presence of imports in different months during the investigation period.
 - i. The Authority has adopted weighted average basis only in 2003 and 2008 while in a large number of investigations from 2010 to 2016, the Authority conducted month-wise analysis of dumping margin and injury margin. A month-wise analysis of dumping margin and injury margin is only appropriate in the present case.
 - j. The trading company i.e., Mitsui & Co. (Asia Pacific) Pte. Ltd. has an option to either sell Thai products or products originating from Singapore. The company is at present suffering duty in the combination stated in the duty table. Further, while MAP has reduced its production and overall sales, the Thai producer has increased exports to India significantly, which is a strategic decision of the Group to export Thai products to India. Therefore, their business behaviour should be examined.
 - k. The injury margin for Korea is negative and therefore it was excluded while filing the petition.
 - l. As regards DGCI&S data, it is third party information procured with an obligation of not disclosing the same. However, as per trade notices, any interested parties can procure such data. Reference was made to a recent finding of the Authority concerning imports of PET Resin wherein it was stated that such data can be independently obtained from DGCI&S by any interested party.
 - m. The related importer in India is bound to participate in the investigation even if no imports of the PUC has been made during the POI in reference to Paragraph 9(iii) of the Antidumping questionnaire for producers/exporters exporting to india and their related importers' in India.
 - n. Post POI information is not a requirement in a sunset review investigation. There are several cases in the past where the Authority has established likelihood of dumping and consequent injury to the domestic industry without considering post-POI information.
 - o. The Authority has already examined the accuracy and adequacy of the prima facie evidence submitted by the domestic industry and initiated the present investigation only after being satisfied with the same.
 - p. As regards BIS certification, the issue is irrelevant to the present investigation.
 - q. The domestic industry has already provided data on a monthly basis.
 - r. As regards misuse of trade remedial measures, there is no excessive protection to the domestic industry and anti-dumping duty is to only address unfair pricing. The Authority recommends continuation of duty only when all legal requirements are met. The exporters are habitually exporting at unfair prices.

- s. As regards Century Ply, the Authority issued a public notice of initiation, list of interested parties as well as conducted an oral hearing in which the company participated. The company has not given any relevant information to enable the Authority to come to a fair decision.
- t. The present investigation is initiated under the framework of the law. The initiation notification provides sufficient information to the interested parties.
- u. The dumping margin and injury margin is calculated for the period of investigation and therefore the exchange rate cannot be considered for a different period.
- v. The members of FIPPI are not MSME companies. The interested parties have not provided any evidence of adverse effect of antidumping duty on the consumers.
- w. NIP is calculated in INR. However, when comparing the same with the landed price of the product under consideration, it is required to be converted into US\$. The NIP of the domestic industry is directly impacted by exchange movements in view of the high share of raw materials and the fact that the input prices are international prices driven.
- x. MPS is subject to Anti-dumping duty of 219.58 USD/MT if they sell the PUC to India through a different exporter which was not named in serial number of the duty table.
- y. The legal mandate for the sunset review investigation is to determine likelihood of dumping and injury in the event of cessation of Anti-dumping duty. The Authority in various jurisdictions including India has imposed Anti-dumping duty even without current Anti-dumping duty.
- z. On the argument that Applicants are fixing its prices in the market, it was submitted that if the domestic industry would have fixed its prices, then it would have not suffered decline in profits.
- aa. DPL (Deepak Phenolics Limited) is an established company and therefore it is not a material retardation case.

F.2. Submissions by other interested parties

26. The following miscellaneous submissions have been made by other interested parties:
- a. As per serial number 9 of the duty table, MPS could only utilize its NIL duty rate if it sold through one of the exporters named under the duty table i.e., MAP. If MPS chose to sell the PUC to India through a different exporter which was not named in serial number 9 then duty of 219.58 USD/MT will be imposed.
 - b. DGTR has done away with the practice of providing list of exporters in the duty table but maintains the same practice and procedure for cooperation requirements. Despite having no ADD during the POI the export from MPS and MAP has continuously declined.
 - c. DGTR discriminated between the source of imports, acting in complete disregard of MFN principles by initiating an investigation without recording any reasons, against EU and Singapore while excluding the imports from Korea, despite the imports being in larger volumes than imports from Singapore and EU combined and 11% lower prices when compared to Singapore.
 - d. The failure on part of the DGTR, even after the exporter filed a request through email communication dated April 6, 2021, to provide import data to all interested parties in the same form and manner in which it was taken on record is contrary to the decision of the Hon'ble CESTAT in Exotic Décor Pvt. Ltd. and Ors. v. DGTR, DGAD.

- e. As regards the difference between the trends reported for exports to India, even though MAP and MPS are related, MAP remains an independent business and retains the commercial freedom to export chemical products including the PUC originating from any country. MPS and MAP have reported their export data based on records maintained in their respective books.
- f. As regards non-participation of the related importer in India, namely Mitsui & Co. India Pvt. Ltd., no import of PUC from MPS during the POI was done by the said importer. The petitioner has not provided sufficient post POI data which is necessary for interested parties and DGTR to determine the likelihood of continuing or reoccurring of injury to the DI.
- g. The petitioners' claim that the initiation of sunset review investigation is compulsory is incorrect. Reference has been made to *Kesoram Rayon vs. DGTR and Ors.*, wherein it was held that the decision whether the request for initiation of SSR has been duly substantiated or not, has to be made prior to the initiation of the review investigation.
- h. The mandatory BIS certification requirement would lead to a further decline in the imports due to strict certification requirements and associated costs.
- i. No compelling reasons have been provided by the petitioner to conduct a monthly analysis. Reference cited at para 11.7.21 of DGTR Manual of SOP specifies that monthly or quarterly analysis may be undertaken only when there is wide variation in periodic cost of production due to fluctuation in price of raw material. Petitioners have also acknowledged that there was insignificant decline in cost on account of raw material. Monthly data has not been provided in Format B and E.
- j. No monthly comparison in an anti-dumping investigation can take place without a monthly assessment of undercutting, injury margin and dumping assessments. For a monthly dumping assessment, the DGTR would, in turn, need to conduct a monthly test of domestic sales being made in the ordinary course of trade, for which it would need to call for monthly cost data.
- k. Petitioners have been protected by trade remedies for over a decade. Continuation of ADD to an inefficient domestic industry has proven to be a deterrent to both the user industry and domestic industry so such ADD should be discontinued.
- l. Century Ply was neither provided any copy regarding the SSR directly or through mail nor they were informed about the oral hearing.
- m. The present investigation does not show any co-relation and validation of data filed by the applicants & its published data and also states that such use of third party certification to avoid scrutiny of real facts is a punishable offence.
- n. The applicants do not have any automatic legal right against the consumer industry and there is no legal obligation on the part of the consumer industries binding it to incur extra cost in addition to normal sale price of the applicants.
- o. The standard procedure and past practices are not law but merely a light on ways forward so section 9A (8) of Customs Act or measures contrary to prohibition in Anti Dumping Agreement (ADA) cannot substitute treaty and municipal laws. DGTR's determination including the past practices and efficacy in skewing the burden of ADD is on mere conjecture and surmise so it is not consistent.
- p. Converting the currency on POI exchange rate is deceit and a trick as the Agreement on Custom Valuation states that the conversion will happen on the date of transaction. Nothing prevents the applicants to seek Mid Term Review (MTR).

- q. The preamble of GATT gives equal rights even to MSMEs, better rights than the applicants and it is a legitimate right to procure raw material at international prices in ordinary course of trade.
- r. For survival of the consumer industry import is important as demand in the country is more than the production capacity of DI. If AD measure is to be applied, the sales price should be fixed by the applicants, in excess of which DI would not sell its products.
- s. Continuation of ADD will have a negative impact on the MSMEs, which constitutes the major user industry for Phenol and would be counterproductive towards the goal of the Government to provide and nurture an ecosystem for MSMEs, free from predatory and monopolistic behaviour of large industries.
- t. The after effect of COVID-19 may continue to affect MSMEs in India for next 3 to 5 years, so it is not appropriate to burden MSMEs with additional cost in the form of ADD.
- u. The NIP of the domestic industry must be calculated in INR and not USD.
- v. Arguments in Para 85-88 in the petition are factually incorrect as there were no duties applicable on MSP and MAP in the original investigation on the account of de-minimis dumping margin.
- w. Article 11 of ADD includes the term ‘dumping injuring the domestic industry’ is precise enough to point that only such dumping which cause injury to the DI can be condemned.
- x. Initiation notice does not amount to Show Cause Notice. The initiation notice lacks full details and information so no reply could be made.
- y. Consumer industry gives preferential treatment to domestic producer and the Applicant is trying to fix prices in the market.
- z. The final analysis of the margin of dumping will be based on the verified data of the cooperating exporters from the subject countries.
- aa. The list of FIPPI members referred to by the petitioners is outdated and not complete. Since 80% of production is in the MSME sector, FIPPI as a responsible federation, has an obligation to the overall interests of the industry even if there are members who are not MSME.
- bb. The questionnaire is restricted only to certain information and does not allow the stakeholder to put across their submissions, and therefore, cannot count as non-cooperation.
- cc. A presentation was filed by FIPPI containing details of the industry in 2019 in the safeguard investigation initiated on the basis of bogus data filed by Applicants.
- dd. Not filing questionnaire response will only disqualify the party from a determination specific to it but does not extinguish its right as interested party to participate in the investigation.
- ee. Since the ability to provide information has been affected due to COVID-19, exporters from EU who are willing to provide information should be allowed at this stage also. In case of non-participation, best facts should be applied and not adverse facts.
- ff. Users and importers who are also purchasing from domestic industry did not file responses due to the fear of retaliation from the domestic industry, and hence user associations come into play.
- gg. There is no time limit for filing submissions, and the time limit mentioned in the initiation notification pertains only to the information sought by the Authority.

- hh. Considering entire period of investigation, instead of a month-wise analysis, nullifies the fluctuations in the cost of production of the domestic industry and provides a reasonable average.
- ii. A monthly analysis in the present investigation would mean that the weighted average analysis conducted in the Thailand investigation is incorrect. The Authority must adopt a consistent approach as adopted in most recent investigations.
- jj. Failure to make submissions or provide evidence on the part of domestic industry to refute claims of de-minimis dumping margin in the original investigation for MPS and MAP is an admission that there are no duties.
- kk. The questionnaire format does not require co-operative exporter to provide information on PBIT of domestic sales or exports to third countries.
- ll. There is no producer of PUC in Thailand who is related to MAP. Mitsui Thailand only performs trading and selling activities and materials produced by an unrelated producer in Thailand were exported to India.
- mm. MPS has no related company in India. MAP has a related company in India which was not involved in imports of PUC from MPS in the period of investigation.

F.3. Examination by the Authority

- 27. The Authority has considered the views of interested parties.
- 28. As regards disclosure of DGCI&S data, the Authority's Trade Notice No. 7/2018 dated 15th March, 2018, prescribes the procedure for collecting DGCI&S data for domestic industry as well as for other interested parties. The interested parties, thus, had access to procure DGCI&S data by following the procedure prescribed as per the Trade Notice and defend their interests. The Authority, thus, notes that the procedure now being applied is consistent, uniform across parties and investigations, equitable and provides adequate opportunity to the interested parties to defend their interests.
- 29. As regards non-participation of related importer in India, the Authority notes that after due verification it was found that the related importer has not imported the product under consideration from MAP and MPS.
- 30. As regards post-POI data, it is noted that examination of Post-POI data is not mandatory in a sunset review investigation.
- 31. With regard to submissions on eligibility of Federation of Indian Plywood and Panel Industry as an interested party, the Authority has, on the basis of facts and circumstances of the case, and the practice of the Authority, acknowledged and examined the submissions made by the interested parties including the FIPPI.
- 32. As regards the submission for determination of dumping margin and injury margin on a monthly basis, the Authority notes that the relevant data has been analyzed on a monthly basis in view of significant changes in prices and volume of imports within the same time period. Thereafter, the weighted average injury margin, dumping margin and price undercutting for the POI has been worked out by taking weight of monthly import volumes for respective subject countries.

33. As regards excessive protection, the Authority notes that there is no bar on the number of times a sunset review can be conducted, and antidumping duty extended. The Rules require the Authority to determine whether cessation of ADD is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. It is further noted that the recommendation for extension of anti-dumping duty is made only when the requisite legal requirements are met.
34. As regards BIS certification, it is noted that the issue is irrelevant to the present investigation.
35. As regards the calculation of NIP, the Authority notes that the determination has been made as per the Rules laid down and the prevailing practice of the Authority. A confidential copy of disclosure of workings for determination of NIP is being provided to the domestic industry. Similarly, the confidential copy of the Net Export Price and the Normal Value for the cooperating producer is also being provided on confidential basis to the cooperating producer and exporter.
36. The Authority notes that claims made by the user associations have not been substantiated with sufficient concrete evidence so as to quantify the impact of the duties on their members. The Authority notes that the purpose of imposition of ADD is not to prevent imports into the country, but to address trade distortion caused by unfair practices and remedy the injury caused to the Domestic Industry due to these imports. Therefore, imposition of ADD will in no way prejudice the imports in any manner nor will it affect the availability of the product to consumers. Rather, ADD only re-establishes fair and open competition in the country.
37. As regards inaccuracy of data in the petition filed by the domestic industry, the Authority notes that the present investigation has been initiated only after examining the accuracy and adequacy of the evidence provided by the domestic industry and being satisfied with the same.

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

G.1. Submissions of the domestic industry

38. The following submissions have been made by the domestic industry with regards to the normal value, export price and dumping margin:
 - a. Normal value in subject countries is based on prices reported in ICIS reports.
 - b. The producer and exporter have not fully cooperated with the Authority and therefore an adverse inference should be drawn.
 - c. The export price is in US\$ and therefore the normal value is calculated in US\$.

- d. As regards European Union, the domestic industry has provided price prevailing in Europe as per Eurostat data which is a verifiable information. Same is the case with Singapore.
- e. ICIS report is an “acceptable material” and reliable for normal value. The interested parties have referred to a CESTAT order without even showing how that is applicable to the facts of the present case.
- f. The Authority has repeatedly relied on prices published in international journals for calculation of normal value. The domestic industry has relied upon ICIS-LOR prices for determination of normal value for the purpose of prima facie establishing the existence of continued dumping.
- g. Price adjustments have been made as per experience, conservative estimates and established practice of the Authority. The domestic industry has provided best available information.

G.2. Submissions of other interested parties

39. The following submissions have been made by other interested parties with regards to the normal value, export price and dumping margin:
- i. MPS and MAP should be accorded individual margin of dumping and injury based on the data filed.
 - ii. There would have been no reference to duty if the Normal value (NV) calculated for the same producer is stated and export below such NV was subjected to duty.
 - iii. Recommendations must contain three indicators namely, NV, Dumping margin (DM) & Non Injurious Price (NIP) without any conversion.
 - iv. The normal value for an exporter cannot be in any other currency than the currency in his home market. Accordingly, the dumping margin also must be quantified in the same currency.
 - v. Prices of South Asia have been adopted for Singapore which is unsustainable as the normal value is country specific. Normal value for EU cannot be determined by relying upon the Eurostat data.
 - vi. Normal values based on trade journals cannot be relied upon in an anti-dumping investigation.
 - vii. Applicants failed to provide evidence for adjustments made in export price and hence dumping shown is frivolous. The Petitioners have inflated the normal value and deflated the export price to arrive at a dumping margin.
 - viii. No evidence has been furnished with respect to normal value and export price. Therefore, it cannot be assumed that the magnitude of margin of dumping is a factor impacting the performance of the domestic industry.

G.3. Examination by the Authority

40. Under section 9A (1) (c), normal value in relation to an article means:
- i) The comparable price, in the ordinary course of trade, for the like article, where meant for consumption in the exporting country or territory as determined in accordance with the Rules made under sub-section (6), or*

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

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

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

(b) Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely trans shipped 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.

41. At the time of initiation, the Authority determined the normal value by taking the facts which were considered sufficient to initiate the investigation, However, after initiation the determination of normal value has been made after taking into account the responses received from the interested parties.

42. The Authority sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have co-operated in this investigation by filing the prescribed questionnaire responses:

- i. Mitsui Phenols Singapore Pte. Ltd. (MPS)
- ii. Mitsui (Asia Pacific) Pte. Ltd. (MAP)

43. Keeping in view the submissions of domestic industry, and also taking into account the significant fluctuations in the price of Phenol, the normal value and export price for all producers/exporters from the subject countries has been determined on a monthly basis.

G.4. Determination of normal value

Singapore

G.4.1 Normal Value for Mitsui Phenols Singapore Pte. Ltd.

44. From the data filed by the cooperating producer and exporter from Singapore i.e., MPS and its related trader namely, i.e., Mitsui (Asia Pacific) Pte. Ltd. it is noted that during the POI, domestic sales have been made to unaffiliated customers, and through MAP. The questionnaire response has been examined and it is noted that the respondent has provided domestic sales price details of the subject goods in respective Appendices with costing data for mandatory tests. The Authority further notes that the price to related customers is higher than that to unrelated customers. The Authority has considered all the domestic sales for the purpose of determining normal value. The Authority notes that *** MT was sold in the

domestic market at a price of US\$ ***. The Authority notes that the domestic sales are in sufficient volumes when compared with volume of exports to India. Therefore, domestic sales have been considered for the purpose of determining the normal value. The Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. In case profitmaking transactions are more than 80% then the Authority considers all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, profitable domestic sales have been taken into account for determination of normal value, since the profitable sales were less than 80% by volume. Further, MPS has claimed adjustments on account of credit costs, and same has been considered by the Authority after remote cross check of information submitted. Normal value for MPS so determined is mentioned in the dumping margin table below.

Normal value for non-cooperative exporters in Singapore

45. The Authority notes that no other exporter/producer from Singapore has responded to the Authority in the present investigation. For all the non-cooperative exporters/producers in Singapore, the Authority determines the normal value on the basis of facts available. The normal value so determined is given in the dumping margin table below.

Normal value for all exporters in European Union

46. The Authority notes that none of the producers/exporters from EU have responded to the Authority in the present investigation. For all the exporters/producers in EU, the Authority determines the normal value on the basis of facts available. The Authority has considered weighted average price of product under consideration, within European Union as per Eurostat data. The normal value so determined is given in the dumping margin table below.

G.5. Determination of Export Price

Mitsui Phenols Singapore Pte. Ltd.

47. In their questionnaire response, MPS has declared that MPS has exported *** MT of subject goods to India during period of investigation through MAP. The Authority has allowed the adjustment as claimed by the exporter on account of credit costs, and bank charges. It is noted that MPS and MAP exported the subject goods to India in only one month of the POI. Taking into accounts facts of the case, the Authority has compared the export price of the cooperating producer and exporter from Singapore with the normal value of the subject goods for the same month. The Net Export Price determined for MPS is shown in the table below.

Export price for non-cooperative exporters in Singapore

48. Since there is only one producer of the PUC from Singapore, the Authority proposes to consider same export price and normal value for the residual category.

Export price for all exporters in European Union

49. None of the exporter/producer from the European Union has filed questionnaire response. Therefore, the Authority considers that the producers/exporters from European Union have preferred non-cooperation. Export price for all the exporters from the European Union has been determined based on the imports reported in the DGCIS, after due adjustments. Accordingly, the export price determined is provided in the dumping margin Table below.

G.6. Determination of dumping margin

50. Considering the month wise normal value and export price for subject goods, the weighted average dumping margins for the subject goods from subject countries have been determined after considering monthly import volumes for respective subject countries:

Country	Name of Producers/Exporters	Normal Value/ CNV (US\$/MT)	Export Price (US\$/MT)	Dumping Margin US\$/MT	Dumping Margin %	Dumping Margin Range
Singapore	Mitsui Phenols Singapore Pte. Ltd.	***	***	***	***	10-20
Singapore	Other exporters from Singapore	***	***	***	***	10-20
European Union	All Producers and Exporters	***	***	***	***	30-40

H. INJURY AND CAUSAL LINK

H.1. Submissions of the domestic industry

51. The following submissions have been made by the domestic industry with regard to injury and causal link:

- a. Domestic industry suffered injury due to the presence of dumped imports in the Country from various sources.
- b. While the cause of this injury is primarily imports from other countries and the Designated Authority has now recommended antidumping duty, it is evident that the position of domestic industry is fragile and the domestic industry is likely to suffer

- injury from dumping that is likely to intensify from Singapore and EU in the event of cessation of antidumping duty.
- c. Deepak Phenolics, expanded its capacity in November 2018 by establishing a new large-scale facility and resultantly, reduced the demand-supply gap in the country which in turn resulted in some fall in imports. However, despite this, there were significant imports into the country.
 - d. Imports from Singapore, though may appear low, were reported in just a single month during POI. The volume considering demand during such short period is quite high.
 - e. Imports from Singapore should be considered along with imports from Thailand as parties are related and the Authority has recommended duties on imports from Thailand.
 - f. Domestic industry is compelled to align its prices with the import prices, thereby suffering losses. There is a significant decline in selling price of the domestic industry as compared to the previous year. Imports are undercutting and depressing the prices of the domestic industry. Injury margin is positive and substantial.
 - g. The capacity, sales and production of the domestic industry increased during the injury period since DPL commenced its production during 2018-19. The capacity utilization increased till April 2019-June 2020 but decline during the period of investigation. The decline in capacity utilization of the domestic industry is due to dumping in the country.
 - h. The profitability, cash profits and return on investment improved in April 2018- June 2019 but declined significantly in the period of investigation. The reduction in import price and consequent price depression suffered by the domestic industry adversely impacted the profitability of the domestic industry.
 - i. The market share of the domestic industry increased during the injury period which can be attributed to new production capacities, sufficient demand in the country and the nature of production process. However, in the absence of antidumping duty, the imports from the subject countries are likely to rapidly take over the market share of the domestic industry.
 - j. The inventories with the domestic industry has increased substantially during the period of investigation. The dumping margin is more than de-minimis and significant.
 - k. Increase in interest and depreciation cost is due to newly set up plant of DPL but does not mean that the domestic industry did not suffer injury and is not entitled to recover its interest cost. Profits of the domestic industry increased upto preceding year and declined in the POI. This decline after increase is not due to interest and depreciation costs.
 - l. The domestic industry is unable to earn reasonable return on investment despite anti-dumping duty in existence. Even after excluding DPL, the other Indian producers are not earning reasonable return on investments.
 - m. There is no requirement of causal link in a sunset review investigation.
 - n. As regards COVID 19 situation, the position of the domestic industry must be considered not in the context of ideal conditions but in the specific circumstances of the domestic industry. In fact, the companies are globally affected by Covid 19.
 - o. Dumping need not be the only cause of injury to the domestic industry. In fact dumping need not be the primary cause of injury.
 - p. The Rules require the Authority to segregate injury suffered by the domestic industry due to factors other than dumped imports, for which unit cost of production, profit/loss, cash flow and return on investment of HOCL in 2016-17 and 2017-18 was provided by considering the capacity utilization at 80%.

- q. Deepak Phenolics is a multi-product company and the performance of the company as a whole is irrelevant in the present investigation.
- r. India follows LDR and therefore duties imposed are always lower.
- s. The DA has a practice to allow 22% return in all situations and, therefore, principles of equity demand that the same is applied to all situations.
- t. There is no requirement of cumulative assessment in a sunset review case. Reference has been made on United States – Sunset Review of Anti-Dumping Measures on oil country tubular goods from Argentina wherein it was stated that that Article 11.3 though does not preclude Authority from conducting cumulative assessment. However, the conditions of Article 3.3 of the Anti- Dumping Agreement do not apply in the context of sunset reviews.
- u. The sales of the domestic industry have increased over the injury period since Deepak Phenolics commenced its production during 2018-19.
- v. The domestic industry has not claimed injury due to imports from subject countries. The domestic industry is suffering injury due to dumping from other sources. However, there is likelihood of dumping and consequent injury to the domestic industry in the event of cessation of anti-dumping duty on subject countries.
- w. The domestic industry has not claimed injury on the basis of employment, wages or productivity.
- x. The import from Singapore only entered into India in the month of April 2020 and at a higher price. However, the imports from Singapore were significantly undercutting the prices of the domestic industry during the initial years of the injury period despite Anti-dumping duty in force.

H.2. Submissions of other interested parties

52. The following submissions have been made by other interested parties with regard to injury and causal link:
- a. There is no injury to the DI due to the imports from Singapore which was also agreed to by the DI during the oral hearing as only 999 MT was imported from Singapore during the POI even though there were no ADD on MPS and MAP.
 - b. Proforma IVA-I shows that there has been a steady decline in import from Singapore. Demand has remained stable while domestic sales and market share of DI has increased substantially when the market shares of Singapore and the subject countries have declined. There is no volume injury from Singapore during the POI.
 - c. Paragraph 69 of the petition is factually incorrect, as Annexure B specifies that price undercutting is negative in the POI for Singapore. Further, the petitioners noted that imports from Singapore were only during the month of April, that too at a higher price.
 - d. The landed price from Singapore increased whereas DI's cost declined by almost 50% while price declined by only 15% over the injury period which clearly shows no price suppression or depression.
 - e. Petitioners are not suffering any injury in light of the various economic factors as per Annexure II (IV) as the economic parameters from the petition themselves shows a positive trend in the injury period as well as the POI.
 - f. Information available in public domain concerning the petitioners' companies shows that the petitioners have been performing well during 2018-19 and POI.

- g. Injury, if any, is partly on account of higher interest cost and depreciation, which might have led to overall lower profits.
- h. There should have been an analysis of material retardation for Deepak Phenolics Ltd, and not material injury.
- i. The injury to the Petitioners during the POI, if any, could have been exuberated by the country wide lockdown due to COVID 19 pandemic as stated in DPL's annual report.
- j. Injury suffered by HOCL is on account of its own inefficiencies. The alleged injury suffered by HOCL is on account of shortage of raw materials and lack of working capital, as acknowledged in the annual report.
- k. The duties should be discontinued because the Petitioners have not established a causal link between the alleged injury and the subject imports.
- l. Method considered by the petitioners for determination of HOCL's capacity utilization at 80% for unit cost of production, profit/loss, cash flow and return on investment is non-transparent and deliberately obfuscated.
- m. Aberration or distortion in POI data should not be the sole basis as market outlooks are dynamic and unpredictable. Applicants have reported jump in profitability to other statutory authorities which does not support their claims of injury.
- n. The term 'injured' refers to past event which is why the established dumping margin in Article 9.3 is the upper limit in excess of which ADD cannot be imposed.
- o. Fall in price of Phenol was because of the recession set in last year October due to the fall in crude prices. These recessionary trends are factors other than the dumping.
- p. The 22% ROCE has its origin in the Price Control Order of 1976-77. The rate was adopted at a time when the bank rate of interest (PLR) was 18% but it is substantially lower now (7-10%). The 22% predetermined and fixed rate is no more "reasonable" as per the ADA.
- q. Cumulative assessment of injury with respect to EU and Singapore is not appropriate as the conditions of competition between EU and Singapore are not similar and comparable.
- r. There has been steep decline in volume of imports. Further, the domestic industry's sales increased up to 2456% which catered to the increase in demand, while also capturing the market from all imports.
- s. Injury due to the import from Singapore does not arise as there has been no price undercutting during POI. The Applicants should explain as to why prices continue to suppress and depress prices of the domestic industry when price undercutting is negative.
- t. The Domestic industry has omitted to perform a price effect analysis of the imports of the PUC from other countries which are also attracting anti-dumping duty. the Domestic industry has also omitted to perform a trend analysis of the movement in prices of imports from Singapore vis-à-vis the selling price of the Domestic Industry to determine the correlation between them, if any.
- u. The import had no negative impact on the DI's ability to produce and sell the subject goods.
- v. Both manpower as well as the wages paid to them by DI has increased. Furthermore, productivity per day has increased by 2504%.

- w. Even though there was a marginal decline in PBIT, cash profits and ROCE compared to 2018-19, the situation of the domestic industry is still healthy. The domestic industry has witnessed a healthy growth in all parameters.
- x. Imports remained significant due to the massive demand-supply gap that existed before the commencement of production by Deepak Phenolics there continues to be a sizeable gap thereafter also. However, imports from subject countries have reduced considerably in the POI.
- y. DGTR should evaluate injury from imports by traders and distributors by adding 22% return on landed cost of Phenol by traders in the same way as allowed for Applicants to arrive at any reasonable or logical injury from imports by traders.
- z. The landed cost of traders needs to be re-evaluated by adding ‘reasonable profit’ in order to arrive at price that competes with the domestic producers.
- aa. Indian producers of Phenol have never suffered injury due to imports as imports are made for deficiencies in domestic availability.
- bb. Applicants are resorting to price fixation and creation of artificial shortages. Phenol ought to be kept out of the AD measure regime as it is a cyclic industry with large range of fluctuations in crude and raw material prices.
- cc. Anti-dumping duty will result in retardation of consumer industries. Non-imposition will increase consumption of Phenol in India and result in many more new applications for the product.
- dd. If anti-dumping duty is imposed, there should be a legal framework to recover sales realizations in excess of non-injurious price from the beneficiary as unjust enrichment.
- ee. The apportionment of costs should be reflected in financial reporting to SEBI and anti-dumping petition.
- ff. The domestic industry’s performance with respect to market share has been overwhelmingly positive. Inventories as number of days of production and sales have also reduced substantially.
- gg. The domestic industry has not provided the source of information that forms the basis of the tables and charts depicting decline in import prices.
- hh. There is no compelling reason provided by the domestic industry as to why the imports from Singapore should be considered along with imports from Thailand, and in which case, a separate investigation should be filed by the domestic industry to assess imports from Thailand and Singapore cumulatively after duties on Singapore expire.
- ii. The domestic industry cannot expect the global prices to not affect Indian prices and isolate the Indian market.
- jj. Imports of the PUC from Singapore are by far the lowest in terms of volume and the highest in terms of prices. On the other hand, imports from other sources are made in much larger volumes and at much lower prices.
- kk. Pattern of decline in imports from Singapore is similar to the trend recognized by DGTR in the Thailand investigation.

H.3. Examination by the Authority

The submissions made by the domestic industry with regard to the injury and causal link related issues have been examined. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.

53. Rule 11 of the Rules read with its Annexure-II thereto 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."
54. Rule 23 of the Rules provides that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall apply mutatis mutandis in case of a review. In case the performance of the domestic industry shows that it has not suffered injury during the current injury period, the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.
55. The Authority has examined current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries. It has been examined as to whether there is an increase in imports, in absolute terms or in relation to production or consumption. 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 Rules. The Authority has taken note of various submissions of the domestic industry and other interested parties, and has analysed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the parties.
56. The Authority notes that M/s. Hindustan Organics Chemicals Ltd. had very low production in 2016-17 and 2017-18. The company admitted that this was due to working capital problems faced by the company. The Authority considers that the reasons for low production by the company during this period were not attributable to dumping in the country and were due to "other factors". The Authority has, therefore, evaluated the performance of Hindustan Organics Chemicals Ltd. in respect of profits, cash profits and return on investments, considering the capacity utilization achieved in the POI.
57. As regards the argument that NIP is required to be calculated in INR, it is noted that it is a consistent practice of the Authority to calculate the NIP in INR. However, while comparing the same with the landed price, NIP is converted in USD. This is consistent with the Hon'ble CESTAT order in the matter of *Pig Iron Mfrs. Asscn. Versus Designated Authority, Min. of Commerce*, wherein CESTAT held that antidumping duty should be fixed in dollar terms so that erosion of the quantum of protection does not take place on account of changes in the exchange rate.

58. As regards the submission of the interested parties that 22% returns on capital employed is not acceptable, the Authority notes that this is the consistent practice of the Authority in all previous investigations conducted.
59. As regards the contention that Deepak Phenolics Limited is affected by material retardation, the Authority notes that M/s. Deepak Phenolics Ltd. had commenced its commercial production in November, 2018 and has already achieved 96% capacity utilisation and, therefore, established itself as a leading producer of subject goods in India. The Authority also holds that the scope of the domestic industry is required to be established with regard to (a) the investigation period, and (b) production of like article by eligible domestic producers during such period. The Authority, therefore, holds that M/s. Deepak Phenolics Ltd. is one of the constituents of the domestic industry.
60. With respect to the issue raised that the data furnished by the Applicants is not validated with the actuals on the published final accounts in the terms of the balance sheet, and the same should not validate the claim on NIP, injury and alleged dumping, it is noted that the Authority has examined the information furnished by the domestic Industry which has been verified and accepted, and the information submitted by the producers and exporters for normal values and export price have also been verified and accepted. It may be added that desk verifications of information submitted by interested parties have been made due to the present COVID-19 situation.
61. As regards the argument that Covid-19 is impacting the global matrix, it is noted that the same cannot justify dumping of the product in India.
62. All other submissions of all interested parties with regard to injury analysis have been addressed in the following paragraphs.

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

a. Assessment of demand/apparent consumption

63. The Authority has taken into consideration, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of Indian producers and imports from all sources.

Particulars	Unit	2016-17	2017-18	Apr'18-Jun'19		POI
				Actual	Annualised	
Subject Countries	MT	28,355	34,080	17,470	13,976	9,823
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>120</i>	<i>49</i>	<i>49</i>	<i>35</i>
EU	MT	4,235	15,825	4,410	3,528	8,824
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>374</i>	<i>83</i>	<i>83</i>	<i>208</i>
Singapore	MT	24,120	18,254	13,060	10,448	999

Particulars	Unit	2016-17	2017-18	Apr'18-Jun'19		POI
				Actual	Annualised	
<i>Trend</i>	<i>Indexed</i>	100	76	43	43	4
Others	MT	253,519	254,007	254,336	203,469	116,689
<i>Trend</i>	<i>Indexed</i>	100	100	80	80	46
<i>Grand Total</i>	<i>MT</i>	281,874	288,087	271,806	217,445	126,512
<i>Trend</i>	<i>Indexed</i>	100	102	77	77	45
DI Domestic Sales – Excluding captive	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	236	1,745	1,745	2,670
Other Domestic Industry – SIG – Excluding captive	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	93	73	73	62
DI Domestic Sales – Including captive	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	236	1,745	1,745	2,670
Other Domestic Industry – SIG – including captive	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	103	92	92	72
Total Demand Excluding Captive	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	105	114	114	105
Total Demand Including Captive	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	105	115	115	104

64. It is seen that the demand for the subject goods increased from base year to the period “April 2018 to June 2019”. However, the same declined in the period of investigation. It is noted that the demand has increased in the period of investigation as compared to base year.

b. Import Volumes from subject countries.

65. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. The factual position is as follows:

Particulars	Unit	2016-17	2017-18	Apr'18-Jun'19		POI
				Actual	Annualised	
Subject Countries	MT	28,355	34,080	17,470	13,976	9,823
<i>Trend</i>	<i>Indexed</i>	100	120	49	49	35

Particulars	Unit	2016-17	2017-18	Apr'18-Jun'19		POI
				Actual	Annualised	
EU	MT	4,235	15,825	4,410	3,528	8,824
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>374</i>	<i>83</i>	<i>83</i>	<i>208</i>
Singapore	MT	24,120	18,254	13,060	10,448	999
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>76</i>	<i>43</i>	<i>43</i>	<i>4</i>
Others	MT	253,519	254,007	254,336	203,469	116,689
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>80</i>	<i>80</i>	<i>46</i>
Grand Total	MT	281,874	288,087	271,806	217,445	126,512
Subject Country Imports in relation to						
Total Imports	%	10.06	11.83	6.43	6.43	7.76
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>118</i>	<i>64</i>	<i>64</i>	<i>77</i>
Consumption excluding Captive	%	9.13	10.49	3.93	3.93	3.01
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>115</i>	<i>43</i>	<i>43</i>	<i>33</i>
Consumption including Captive	%	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>114</i>	<i>43</i>	<i>43</i>	<i>33</i>
Production	%	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>98</i>	<i>14</i>	<i>14</i>	<i>6</i>

66. It is seen that the volume of imports from subject countries have increased in 2017-18 but declined thereafter. The Domestic Industry submitted that this decline in imports was a natural consequence of addition of capacity to the extent of 59% of Indian demand. The Authority considers that the decline in overall imports was a natural consequence of such an increase in capacities in the country in a situation where there was a demand-supply gap in the country.

H.3.2. Price effect of the dumped imports

67. 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 alleged 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. The impact on the prices of the domestic industry on account of the dumped imports from subject countries has been examined with reference to price undercutting, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, non-injurious price (NIP) and net sales realization (NSR) of the domestic industry have been compared with the landed price of imports of the subject goods from the subject countries.

a. Price undercutting

68. For the purpose of price undercutting analysis, the selling price of the domestic industry has been compared with the month wise import price from the subject countries. The selling price for this analysis for the POI has been worked out by taking weight of monthly import volumes for respective subject countries. Accordingly, the undercutting effects of the dumped imports from the subject countries work out as follows-

Particulars	Unit	2016-17	2017-18	Apr18-Jun'19		POI
				Actual	Annualized	
Subject countries						
Domestic Sales Realization (NSR)	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	110	114	114	80
Landed Value of imports	Rs/MT	68,627	75,429	1,01,937	1,01,937	60,676
		100	110	149	149	88
Price undercutting	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	***	***	***	***	***
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	10-20	10-20	(10-20)	(10-20)	0-10
European Union						
Domestic Sales Realization (NSR)	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	110	114	114	80
Landed Value of imports	Rs/MT	61,874	74,554	1,11,346	1,11,346	59,221
<i>Trend</i>	<i>Indexed</i>	100	120	180	180	96
Price undercutting	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	***	***	***	***	***
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	20-30	10-20	(10-20)	(10-20)	0-10
Singapore						
Domestic Sales Realization (NSR)	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	110	114	114	80

Particulars	Unit	2016-17	2017-18	Apr18-Jun'19		POI
				Actual	Annualized	
Landed Value of imports	Rs/MT	69,813	76,188	99,272	99,272	73,527
<i>Trend</i>	<i>Indexed</i>	100	109	142	142	105
Price undercutting	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	***	***	***	***	***
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	10-20	10-20	(0-10)	(0-10)	(10-20)

69. It is seen that the imports from subject countries as a whole are entering at a price below the domestic selling price of the domestic industry resulting in positive undercutting. The price undercutting is negative in case of imports from Singapore.

b. Price suppression and depression

70. 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. Table below shows factual position:

Particulars	Unit	2016-17	2017-18	Apr18-Jun'19		POI
				Actual	Annualized	
Cost of sales	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	107	101	101	83
Average Selling Price	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	110	114	114	85
Landed Price	Rs/MT	68,627	75,429	1,01,937	1,01,937	60,676
<i>Trend</i>	<i>Indexed</i>	100	110	149	149	88

71. It is seen that the landed price of imports is significantly below the cost of sales and average selling price of the domestic industry in the period of investigation. While the cost and selling price of the domestic industry has declined in the period of investigation as compared to previous year, the decline in selling price is more than decline in cost resulting in price suppression. It is also noted that the subject imports are depressing the prices of the domestic industry in the market. It is also noted that landed price from Singapore are higher than cost of sales, and selling price of domestic industry.

H.3.3. Economic parameters of the Domestic industry

72. Annexure II to the Rules provides 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 various injury parameters relating to the domestic industry are discussed below.
73. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

i. Production, capacity, capacity utilization and sales

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

Particulars	Unit	2016-17	2017-18	Apr18-Jun'19		POI
				Actual	Annualized	
Capacity (Per Annum)	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>600</i>	<i>600</i>	<i>600</i>
Equivalent Capacity	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>458</i>	<i>367</i>	<i>600</i>
Production	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>220</i>	<i>2061</i>	<i>1649</i>	<i>2642</i>
Capacity Utilization	%	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>220</i>	<i>450</i>	<i>450</i>	<i>440</i>
Domestic Sales	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>236</i>	<i>2181</i>	<i>1745</i>	<i>2670</i>

75. It is seen that:
- i. The installed capacity with the domestic industry increased over the injury period. This is due to the setting up of a new plant by Deepak Phenolics. The plant commenced commercial production in November 2018.
 - ii. Due to the setting up of fresh capacity by Deepak Phenolics, the production and domestic sales of the domestic industry has increased over the injury period.
 - iii. The capacity utilization increased in April 2018-June 2019 but marginally declined in the period of investigation.

ii. Market Share in demand

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

Particulars	Unit	2016-17	2017-18	Apr'18-Jun'19		POI
				Actual	Annualised	
Market Share Excluding Captive						
Subject Countries	MT	9.13	10.49	3.93	3.93	3.01
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>115</i>	<i>43</i>	<i>43</i>	<i>33</i>
European Union	MT	1.36	4.87	0.99	0.99	2.70
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>357</i>	<i>73</i>	<i>73</i>	<i>198</i>
Singapore	MT	7.76	5.62	2.94	2.94	0.31
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>72</i>	<i>38</i>	<i>38</i>	<i>4</i>
Others	MT	81.60	78.19	57.23	57.23	35.70
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>96</i>	<i>70</i>	<i>70</i>	<i>44</i>
<i>Grand Total</i>	<i>MT</i>	<i>90.73</i>	<i>88.68</i>	<i>61.16</i>	<i>61.16</i>	<i>38.70</i>
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>98</i>	<i>67</i>	<i>67</i>	<i>43</i>
DI Domestic Sales – Excluding captive	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>226</i>	<i>1,525</i>	<i>1,525</i>	<i>2,538</i>
Other Domestic Industry – SIG – Excluding captive	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>89</i>	<i>64</i>	<i>64</i>	<i>59</i>
Total Demand Excluding Captive	MT	100.00	100.00	100.00	100.00	100.00
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>
Market Share Including Captive						
Subject Countries	MT	8.74	9.99	3.75	3.75	2.90
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>114</i>	<i>43</i>	<i>43</i>	<i>33</i>
European Union	MT	1.31	4.64	0.95	0.95	2.60
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>355</i>	<i>73</i>	<i>73</i>	<i>199</i>
Singapore	MT	7.43	5.35	2.81	2.81	0.29
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>72</i>	<i>38</i>	<i>38</i>	<i>4</i>
Others	MT	78.13	74.44	54.64	54.64	34.42
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>95</i>	<i>70</i>	<i>70</i>	<i>44</i>
<i>Grand Total</i>	<i>MT</i>	<i>86.87</i>	<i>84.43</i>	<i>58.39</i>	<i>58.39</i>	<i>37.32</i>
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>97</i>	<i>67</i>	<i>67</i>	<i>43</i>
DI Domestic Sales – Including captive	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>225</i>	<i>1,521</i>	<i>1,521</i>	<i>2,556</i>

Other Domestic Industry – SIG – Including captive	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>98</i>	<i>80</i>	<i>80</i>	<i>69</i>
Total Demand Including Captive	MT	100.00	100.00	100.00	100.00	100.00
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>

77. It is seen that:

- i. The Domestic Industry had a meagre market share earlier. The same was due to the absence of production capacities in the country and curtailment of production by Hindustan Organics Chemicals Ltd. due to working capital shortage.
- ii. With Hindustan Organics Chemicals Ltd.'s production resuming to reasonable levels and Deepak Phenolics Ltd. commencing production in its new plant, the sales of the Domestic Industry increased. Consequently, the market share of the Domestic Industry increased over the injury period.
- iii. The domestic industry submitted that the market share of the domestic industry increased during the injury period which can be attributed to new production capacities, sufficient demand in the country and the nature of production process.

iii. Inventories

78. Inventory position with the domestic industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	Apr18-Jun'19		POI
				Actual	Annualized	
Opening	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>179</i>	<i>164</i>	<i>164</i>	<i>1152</i>
Closing	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>92</i>	<i>644</i>	<i>644</i>	<i>617</i>
Average	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>123</i>	<i>472</i>	<i>472</i>	<i>809</i>
Inventory as No. of days of Production	Days	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>41</i>	<i>22</i>	<i>22</i>	<i>24</i>
Inventory as No. of days of Sales	Days	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>53</i>	<i>32</i>	<i>27</i>	<i>27</i>

79. It is seen that the average inventories with the domestic industry have increased substantially in the period of investigation.

iv. Profitability, cash profits and return on capital employed

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

Particulars	Unit	2016-17	2017-18	Apr18-Jun'19		POI
				Actual	Annualized	
Cost of sales - Domestic	₹ / MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	107	101	101	83
Average Selling price – Domestic	₹ / MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	110	114	114	85
Profit/(Loss) – Domestic	₹ / MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	(100)	25	492	492	37
Total Profit/(Loss)	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	(100)	59	8,592	8,592	994
Profit before Interest and Tax	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	107	589	589	363
Cash Profit	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	(100)	611	61,686	61,686	24,483
Return on Capital Employed	%	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	62	19	19	13

81. It is seen that:

- i. The domestic industry was suffering losses during the base year of injury period. Thereafter profitability increased in 2017-18 and further in Apr-18 to June 2019. The profitability of the domestic industry declined significantly during period of investigation. The profitability of the domestic industry has declined significantly in the period of investigation when compared to the previous year.
- ii. Cash profits and return on capital employed has followed the same trend as profitability.

v. Employment, wages and productivity

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

Particulars	Unit	2016-17	2017-18	Apr18-Jun'19		POI
				Actual	Annualized	
Wages	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	115	195	195	221

No of Employees	Nos	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	97	189	189	215
Productivity per Day	MT/Day	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	218	1627	1627	2605

83. It is seen that the wages, number of employees and productivity per day has increased throughout the injury period and in the period of investigation. The domestic industry has submitted that these parameters are not reflective of the impact of dumped imports on the domestic industry.

vi.Growth

84. The growth of the domestic industry in terms of production, capacity utilization, domestic sales volume, inventories, profits, cash profits and return on investment is as per given in the table below-

Particulars	Unit	2016-17	2017-18	Apr'18 - Jun'19 (A)	POI
Production	Y/Y	-	120	649	60
Capacity Utilisation	Y/Y	-	120	104	(2)
Domestic Sales	Y/Y	-	136	638	53
Profit/Loss Per unit	Y/Y	-	125	(1,871)	92
Cash Profit	Y/Y	-	711	9,989	(60)
Return on Capital Employed	Y/Y	-	(38)	(70)	(30)
Inventories	Y/Y	-	23	284	71

85. It is seen that the growth of the domestic industry is positive with respect to volume parameters such as production and domestic sales, but negative with respect to capacity utilization. Growth is negative in respect of price parameters i.e., profits, cash profits and return on capital employed.

vii.Magnitude of dumping margin

86. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India. The investigation has shown that dumping margin is positive in the period of investigation.

viii.Ability to raise capital investment

87. Significant investment was recently made in the PUC. The profitability of the domestic industry has declined in the POI. With the competition being faced by the domestic industry because of dumped imports, the operations of the industry have been impacted which has affected its ability to raise capital investment. The domestic industry is a multi-product company and, therefore, the ability to raise capital investment is not governed based on the performance of the product alone.

ix. Factors affecting domestic prices

88. It is seen that the import prices are directly affecting the prices of the domestic industry in the market. The landed value of the subject goods from the subject countries are below the cost and selling price of the domestic industry. Further, the domestic industry is unable to retain its prices in the market due to presence of dumped imports in the country. The prices of imports have depressed the prices of the domestic industry to a significant degree. The dumped imports are impacting the prices of the domestic industry. Hence, it is concluded that the principal factor affecting the domestic prices is the dumped imports of subject goods.

x. Magnitude of price underselling/injury margin

89. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in Anti-Dumping Rules read with Annexure III, as amended. The NIP of the PUC has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing cost accountant for the period of investigation. The NIP has been considered for comparing the landed price from the subject countries for calculating the injury margin. For determining the non-injurious price, the best utilisation of the raw materials of 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. 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 PUC was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.

90. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.

91. For the purpose of price underselling or injury margin, the month wise non injurious price of the domestic industry has been compared with the month wise landed price from the subject countries. For the purpose of weighted average NIP, the non-injurious price has been worked out by taking weight of monthly import volumes from respective foreign producer or subject country. Based on the landed price and weighted average NIP determined as above, the injury margin for producers/exporters from subject countries has been determined by the Authority and the same is provided in the table below. It is noted that injury margin is positive against both countries.

Country	Name of Producers/Exporters	Non-Injurious Price (US\$/MT)	Landed Value (US\$/MT)	Injury Margin US\$/MT	Injury Margin (%)	Injury Margin % (Range)
Singapore	Mitsui Phenols Singapore Pte. Ltd.	****	****	****	****	0-10
Singapore	Other exporters from Singapore	****	****	****	****	0-10
European Union	All Producers and Exporters	****	****	****	****	0-10

I. Examination on Injury

92. The examination of the imports of the subject product and the performance of the domestic industry shows that the volume of dumped imports from subject countries have declined apparently due to increase in capacities in India. The imports from the subject countries except Singapore are undercutting the prices of the domestic industry. Though the production, sales, capacity utilization and market share of the domestic industry have increased in the period of investigation, the performance of the domestic industry has significantly deteriorated in respect of profits, cash profits and return on capital employed during the POI. Average inventories with the domestic industry have increased substantially in the period of investigation. In view of the foregoing, the Authority concludes that the Domestic Industry has suffered material injury.

J. CAUSAL LINK & NON-ATTRIBUTION ANALYSIS

93. Under Section 9A (5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties irrespective of whether there have been any imports of the PUC during the review investigation period or not. It has been examined below whether factors other than dumped imports could have contributed to the injury to the domestic industry:

i. Volume and prices of imports from third countries

94. It is seen that imports from other countries other than dumped imports are either de minimus or at higher prices thus, third country imports could not have been a cause of injury to the domestic industry.

ii. Contraction in Demand

95. It is seen that the demand for the product under consideration has increased in the period of investigation as compared to the base year. Therefore, contraction in demand cannot be considered as a reason for injury to the domestic industry.

iii. Changes in Pattern of consumption

96. No evidence has been brought by any interested parties about any material change(s) in the pattern of consumption of the product under consideration. Therefore, possible changes in the pattern of consumption are not the cause of injury considered by the Authority.

iv. Conditions of competition and trade restrictive practices

97. The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for injury considered by the Authority.

v. Developments in technology

98. No evidence has been brought by any interested parties about existence of significant changes in the technology that could have caused injury to the domestic industry.

vi. Export Performance of the Domestic industry

99. Exports made by the domestic industry constitutes small portion of its production. 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.

vii. Performance of other products

100. The domestic industry has provided the injury data of PUC performance and the same has been adopted by the Authority for the purpose of injury analysis. Performance of other products produced and sold by the Applicants is not a possible cause of the injury to the domestic industry.

101. Thus, the Authority concludes that the domestic industry has not suffered injury in the POI due to other factors.

Analysis of Continuation of Injury and Causal Link

Likelihood of Injury to the domestic industry

102. The Authority observes that this is a sunset review investigation and the focus of the investigation is to examine the likely scenario of continued dumping and consequent injury if ADD were to be allowed to expire, even if there is no current dumping or injury.

J.1. Submissions by the domestic industry

103. The following submissions have been made by the domestic industry with regard to likelihood:

- a. The production and capacity utilization of the exporter has declined by 20% over the period. There is an increase in unutilized capacities of the producer. The domestic sales, exports to India and exports to third countries have declined which shows increase in freely disposable capacities with the exporter. The producer is selling the product at losses.
- b. For the responding exporter, whereas the sales realization in domestic sales and exports to third countries have increased, exports to India has declined. This clearly shows discriminatory pricing and dumping to India.
- c. The trader from Singapore, namely Mitsui (Asia Pacific) Pte. Ltd. is sourcing the subject goods from different sources and exporting to India, as, while the producer had 0 exports to India, the related trader had significant volume of exports to India.
- d. The volume of imports from EU has increased significantly during the period of investigation as compared to base year despite existence of anti-dumping duties.
- e. The exporters are exporting the product under consideration at dumped prices despite the existence of anti-dumping duty and in the event of cessation, the injury will only intensify.
- f. India, being an attractive market for producers in subject countries and other countries, the imports have remained significant though they remained arrested to some extent by the imposition of duties. The exporters are continuously in search of surplus markets to dispose off their capacities.
- g. The producers in the subject countries maintain huge capacities to produce subject goods and are having significant unutilized capacities which are likely to be utilized in the event of cessation of anti-dumping duty. The producers are also expanding their Phenol capacities.
- h. The producers are also facing anti-dumping duties imposed by China on the subject goods. Further, China is in the process of self-sufficiency due to which India is likely to become the next desirable market.
- i. The imposition of anti-dumping duty on one set of countries has led to shift of dumped imports to other sources. Also, whenever the anti-dumping duty is revoked from any of the country, the dumped imports have resumed at significant volume in subsequent years.
- j. While there was a 20% drop in production of the producer, the exporter was still exporting significant volume of the subject goods. Therefore, this shows a clear likelihood of continued dumping into the country in the event of cessation of the existing anti-dumping duty.
- k. India will become the most lucrative market for the exporters of the subject countries in the event of cessation of anti-dumping duty.
- l. MPS has itself stated in the written submissions that it achieved a capacity utilization of more than 87% even during COVID affected POI, which in itself indicates that, in the absence of the ongoing pandemic, the capacity utilization for the producer is only likely to increase, thereby establishing likelihood.
- m. The domestic industry has provided sufficient evidence of likelihood of injury to the domestic industry in the event of cessation of the existing anti-dumping duty. Further,

the performance indicators of the producer and exporter themselves show enough likelihood of injury to the domestic industry.

- n. Self Sufficiency of China coupled with China imposing Anti-dumping duty on EU including other countries will result in diversion of export to India in the event of cessation of Anti-dumping duty.
- o. The producers in the subject countries maintain huge capacities to produce subject goods. In the event of cessation of anti-dumping duty, India will become an attractive market for exporters world-wide, who are faced with surplus capacities. The information as provided by the applicants is tabulated below –

Sr. No.	Exporter	Country	Capacity in MT
1	CEPSA Quimica	Spain	600,000
2	Borealis	Finland	195,000
3	PKN Orlen	Poland	55,000
4	Domo Caproleuna	Germany	150,000
5	Versalis	Italy	300,000
6	Seqens	France	175,000
7	INEOS Phenol	Germany	650,000
8	INEOS phenol	Belgium	680,000
9	Mitsui Phenol	Singapore	300,000

Source: ICIS report Dated: 05-Jun-2020

- p. Producers/exporters in subject country are having significant unutilized capacities. Summarized position is tabulated below. In the event of cessation of anti-dumping duty, the exporters are likely to utilize these capacities by exporting to India.

Particulars	Singapore (MT)	EU (MT)
Capacity	3,00,000	28,05,000
capacity utilization %	80	83
Production	2,40,000	23,28,150

J.2.Submissions by other interested parties

104.The following submissions have been made by other interested parties with regard to likelihood:

- a. There is no credible or substantial source for rate of increase in dumped imports, excess capacities, inventory levels in the subject countries, sufficient freely disposable or imminent substantial increase in exporters capacities and price attractiveness of the Indian market.
- b. In a stable demand scenario where MPS and MAP imports decreased substantially due to lower capacity utilization in the POI due to the impact of COVID-19, MPS and MAP did not dump the PUC in India even though there was no duties imposed and there was ample scope to do so shows that there is no likelihood of dumping from Singapore.
- c. At Para 87 the Petitioners state that, “While the imports have remained arrested

to some extent by the imposition of duties, the imports have remained significant within the present injury period” is contradicting to the fact that despite NIL duties import during POI contributes to 0.8% of total imports. Further, if India was an attractive market to MPS and MAP, they would already be exporting the product in increased quantities to India.

- d. The Petitioners, at paragraphs 88 through 90 of the Petition, have averred that the foreign producers from Subject Countries are holding huge production capacities. Allegations from Para 88-90 are mere conjecture and do not show facts. Petitioners have provided total capacities instead of surplus capacities. Chinese government has not applied duties on the subject goods from Singapore, therefore petitioners’ claims are completely irrelevant.
- e. The petitioner must establish that likelihood of continuation or reoccurrence of injury due to the dumped goods and such burden of proof cannot be shifted. The inventories of the PUC with MPS have declined by 50% during the POI.
- f. In a situation where the petitioners are already assured of being able to sell all that they produce, continuation of anti-dumping duties would be an unnecessary burden on user industries.
- g. Injury to the petitioners due to imports from the subject countries has not continued and this fact has been admitted to by the Applicants during the oral hearing wherein it has been stated that injury to the domestic industry has continued due to other reasons. There is no threat of recurrence of injury either.
- h. Import from Singapore is less than 1% of total imports but the import from Korea and other countries are significant and at much lower price.
- i. The imports have declined continuously. Since the domestic industry is not suffering any current injury, there is no likelihood as well as the user industry prefers to source subject goods from the domestic industry.
- j. There is no price undercutting due to imports from Singapore or consequent price suppression or depression and hence there is no likelihood of recurrence of injury.
- k. Evidence regarding significant excess capacity or freely disposable capacity with the producers from the subject countries has been claimed confidential.
- l. Export orientation is not a relevant criterion as per Annexure II Para VII.
- m. Self-sufficiency of Chinese industry does not ipso facto lead to a conclusion that exports from subject countries would be diverted to India, without demonstrating that no other country can absorb such imports.
- n. Evidence regarding expansion of PKN Orlen is based on a news article and hence not admissible evidence. Claim of oversupply of Phenol has not been substantiated either.
- o. In order to establish that India is a lucrative market, the Applicants are required to demonstrate that the prices fetched from exports by EU to India were higher than that to any other country. However, no such data has been furnished.
- p. The existence or threat of recurrence of dumping simpliciter is not sufficient for the continuation of anti-dumping duties pursuant to a sunset review. Rather, the likelihood of continuation or recurrence of both ‘dumping’ and ‘injury’ are factors that are required to be satisfied before the Designated Authority can recommend the extension of the antidumping duty for a further period of 5 years.
- q. There is no likelihood of continuation or recurrence of injury as performance of the domestic industry has improved, except in the case of inventories. The factors listed by

the domestic industry to allege recurrence of injury to the Domestic Industry are irrelevant and based on judicially inadmissible facts.

J.3.Examination by the Authority

105.All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping or injury in the event of cessation of the duty. The Authority has considered various information, as made available by the domestic industry and other interested parties, in order to evaluate the likelihood of continuation or recurrence of dumping or injury.

106.The Authority has examined the likelihood of continuation or recurrence of injury considering the requirement laid down under Section 9A(5), Rule 23 and parameters relating to the threat of material injury in terms of Annexure – II (vii) of the Rules, and other relevant factors brought on record by the interested parties. The present investigation is a sunset review of ADD earlier imposed on the imports of subject goods from European Union and Singapore. Under the Rules, the Authority is required to determine whether continued imposition of ADD is warranted. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. There are no specific methodologies available to conduct such a likelihood analysis. However, clause (vii) of Annexure II of the Rules provides, inter alia for factors which are required to be taken into consideration viz.:

- i. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation
- ii.Sufficiently freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
- iii. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
- iv. Inventories of the article being investigated.

i. Continued & existing dumping and injury

107.The Authority notes that the imports of product under consideration in the current period of investigation, are at dumped prices despite anti-dumping duty in existence. Further, dumping margin and injury margin is positive for both the subject countries. It is also noted that the performance of the domestic industry has significantly deteriorated in respect of profits, cash profits and return on capital employed. It is also seen that these imports from EU are undercutting the prices of the domestic industry, while price undercutting on account of imports from Singapore is negative.

108.As regards European Union, it is noted that the volume of imports has increased significantly during the period of investigation despite the existence of an anti-dumping duty.

109.The Authority has examined the evidence placed on record concerning likelihood of imports from Singapore. Since the sole producer from Singapore, i.e. MPS, has cooperated in the present investigation and information filed by them has also been remote cross checked, the data filed by MPS has been taken into consideration while determining likelihood, along with the documents and facts placed on record by the domestic industry.

110.It is noted that imports from Singapore declined significantly over the course of the injury period, and imports of subject goods from Singapore constituted less than 1% of the total imports of subject goods during the POI. This is despite the fact that there was no ADD in force on cooperating producer and exporter.

ii. Surplus capacities in subject countries

111.As per the information on record, the producers/exporters in subject countries are having significant unutilized capacities which are likely to be utilized to export to India in the event of cessation of existing duties.

iii. Price undercutting and Attractiveness of India as a Market

112.It is also seen that imports from EU are undercutting the prices of the domestic industry during the POI, and the undercutting margin is significant, which suggests that the cessation of ADD currently in place is likely to lead to intensified dumping causing injury to the domestic industry.

113.Further India is the second largest export destination for European producers despite anti-dumping duty in existence. In the event of cessation of anti-dumping duty, the exports from European Union to India is likely to increase.

114.The domestic industry has claimed that the exports from EU to other countries are at dumped and injurious price and India is a lucrative market for EU exporters. In this regard, the Authority has examined the information filed by domestic industry based on Eurostat data. The Authority examined the price at which the goods were exported to India and rest of the world. It is noted from the examination that India is the second largest export destination for EU, and the exporters in EU have significant volume of exports to other countries at a price lower than export price to India, which are likely to be diverted to India in the event of cessation of ADD.

115.With regards to imports from Singapore, it is noted that price undercutting from Singapore is negative.

116. With regard to price attractiveness from Singapore, it is noted that export prices of subject goods from MPS to other countries are lower than export prices to India. However, it is also noted that export volumes of subject goods to India remain very low during the injury investigation period despite the fact that there was no ADD on the cooperating producer and exporter.

iv. Inventories of the article being investigated.

117. From the information submitted by the cooperating producer and exporter from Singapore, it is noted that inventories of subject goods with cooperating producer M/s MPS has declined during the injury investigating period.

Conclusion on Likelihood of Dumping and Injury

118. The evidence on record shows that the volume of imports from the European Union has increased significantly during the period of investigation despite the existence of an anti-dumping duty. The imports from the subject countries except Singapore are undercutting the prices of the domestic industry. The performance of the domestic industry has significantly deteriorated during the POI. The Domestic Industry has suffered continued injury during the present period. The evidence on record also shows India is the second largest export destination for European union producers despite anti-dumping duty in existence. Further, the Authority also notes the exporters in EU have significant volume of exports to other countries at a price below export price to India, which are likely to be diverted to India in the event of cessation of ADD. As per the information on record, it is noted that the producers of the subject goods in European Union who also exporting to China are facing anti-dumping duties imposed by the Chinese Government. Thus, all these parameters indicate that, in the event of cessation of the existing ADD, the exporters in the EU are likely to intensify exports of the dumped products in India at dumped prices, leading to continuation and intensified injury to the domestic industry. As regards the likely hood of continuation of recurrence of dumping and injury on account of imports from Singapore, it is noted that no anti-dumping duty was imposed in the original investigations on the sole and cooperating producer and exporter from Singapore. Despite no anti-dumping duty of subject goods from cooperating producer and exporter from Singapore, the volume of imports from Singapore are very low, and account for less than 1% of the total imports of subject goods into India. It is also noted that though the capacity utilisation of the cooperating producer and exporter has slightly declined during the POI, these remain very high, and this has not translated into increased dumped imports of subject goods to India. Further, the inventories in Singapore have declined significantly in recent periods. In view of the above, it is concluded that there is no likely hood of continuation or recurrence of dumping and injury on account of imports of subject goods from Singapore.

K. Post Disclosure submissions by interested parties

K.1. Submissions by Domestic Industry

119. The submissions made by the domestic industry are as follows:

- i. M/s EximCorp India Private Limited and M/s Century Ply did not register themselves as interested parties within the time limits prescribed by the Authority. Post-hearing submissions filed by M/s. Century Ply should not be considered due to its failure to register within time limits. M/s. EximCorp India Private Limited did not file questionnaire response or submissions.
- ii. The Disclosure Statement does not specify reasons for significant difference in the NIP reported in the application and NIP determined in the disclosure. The applicants are unable to offer any comments as the linked files have not been shared.
- iii. The Authority has considered capacity utilization, fixed overheads and NFA per unit for 3 months i.e., Apr19 – Jun 19 for normation which is already included in Apr18-Jun19. This is inconsistent with the past well established practice of the authority.
- iv. The dumping margin in the present investigation is positive and substantial.
- v. There is likelihood of recurrence of dumping and injury due to imports from Singapore. The dumping margin and injury margin of Singapore is positive and significant thereby establishing habitual dumping. The producers in Singapore have significant unutilized capacities and freely disposable capacities have increased. MAP is sourcing subject goods from different sources and exporting to India. The price undercutting was positive during initial years thereby establishing the ability of the exporters from Singapore to dump the subject goods if the duties expire. India is likely to become the next desirable market due to decline in demand in China.
- vi. There is likelihood of recurrence of dumping and injury due to imports from the European Union.
- vii. Lack of significant opposition of users/importers by providing sufficient relevant and verifiable information, depicts that they do not consider significant adverse impact on them as a result of the present investigation. Imposition of duties will arrest decline in the performance of the industry, redress the injury suffered and enable domestic producer to remain viable and competitive.
- viii. If the current situation continues, the industry will face further injury and eventually be wiped out, giving foreign producers increased leverage, and the consumers will be left at their mercy. A strong, competitive domestic production of the product is in interest of the public at large.
- ix. The domestic industry has increased capacities of the product under consideration to meet the demand-supply gap in the country. The increase in investments by the domestic industry will only lead to more employment, thereby benefitting the Indian economy as a whole. The domestic industry is not only focused on profits but also on environmental sustainability. It is extremely important to encourage the growth of such industries. This is also in line with the Hon'ble Prime Ministers vision of Atma Nirbhar Bharat.

K.2. Submissions by other interested Parties

120. The submissions of other interested parties are as follows:

- i. DGTR has not provided any explanation as to the exclusion of Korea from the scope of subject countries despite significant volume of imports. This is relevant in the context of discriminatory initiation of review against Singapore. Imports from Korea were made at ten times the volume of imports from Singapore at a price which is about 10% lower.
- ii. DGTR has not examined the non-participation of SI Group. In the absence of reasoning, the final findings will be inconsistent with principles of natural justice.
- iii. The DGTR must acknowledge that there is no volume effect of imports from subject countries.
- iv. Since DGTR has found price undercutting for Singapore as negative, DGTR must also find that there is no injury to the domestic industry on account of imports from Singapore and in particular MAP and MPS who are already attracting nil duties.
- v. Indexation of profitability in the disclosure statement appears to be incorrect.
- vi. DGTR has failed to acknowledge that the landed price from Singapore has increased.
- vii. DGTR is required to disclose reasons for rejecting the claim of injury on account of higher interest cost and depreciation which might have led to overall lower profits.
- viii. DGTR must find that there is no likelihood of continuation or recurrence of dumping and injury from Singapore.
- ix. DGTR has observed that MPS has shown an increase in unutilized capacities. MPS has filed its capacity utilization figures as part of its previous submissions and the data provided indicates that normally MPS' capacity utilization is in excess of 90%. Even in the COVID-affected POI and with production shutdown (due to plant maintenance) the utilization of MPS was more than 87%. If the capacity utilization is adjusted for the above-mentioned shutdown, there is no decline, and the capacity is well above 96%. This proves that MPS does not have any excess capacities.
- x. MPS does not have any excess capacities. If DGTR considers that MPS had excess capacities, such excess could have easily been utilized to export the product under consideration as MPS had NIL rate of duties. Instead, quantity of exports by MAP and MPS has significantly declined.

K.3. Examination by the Authority

121. 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 final findings. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below:

- i. As regards exclusion of Korea, the domestic industry filed duly substantiated application/petition only with regard the European Union and Singapore. On the issue of exclusion of Korea from subject review investigation, the domestic industry later submitted that since injury margin of Korea is negative, they do not wish to pursue the case against Korea. Further the domestic industry did not provide any information on likelihood of dumping and consequent injury to the

- domestic industry in case of cessation of anti-dumping duty against Korea. In view of the above, the Authority did not initiate a case against Korea.
- ii. As regards non-participation of SI Group, the Authority notes that the legal requirement under Rule 2(b) is that the collective output of the participating companies constitute major proportion in the total Indian production. The Applicants, in the present investigation account for 88.95% of total Indian production. Applicants constitute 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. Therefore, the participation or non-participation of SI Group becomes immaterial in the present investigation.
 - iii. With regard to argument that the reasons of decline in profitability are due to increase in interest and depreciation costs, it is also seen that the performance of the domestic industry declined in respect of profit before interest (ROI) and profit before depreciation (cash profits).
 - iv. As regards wrong indexation of profitability, the indexation is done as per consistent practice of the Designated Authority.
 - v. With regard to submissions on eligibility of M/s EximCorp India Private Limited, M/s Century Ply and M/s AICA as an interested party, the Authority has on the basis of facts and circumstances of the case, and the practice of the Authority, acknowledged and examined the submissions made by the interested parties.
 - vi. As regards the likely hood of continuation of recurrence of dumping and injury on account of imports from Singapore, it is noted that no anti-dumping duty was imposed in the original investigations on the sole and cooperating producer and exporter from Singapore. Despite no anti-dumping duty of subject goods from cooperating producer and exporter from Singapore, the volume of imports from Singapore are very low, and account for less than 1% of the total imports of subject goods into India. It is also noted that though the capacity utilisation of the cooperating producer and exporter has slightly declined during the POI, these remain very high, and this has not translated into increased dumped imports of subject goods to India. Further, the inventories in Singapore have declined significantly in recent periods. In view of the above, it is concluded that there is no likely hood of continuation or recurrence of dumping and injury on account of imports of subject goods from Singapore.
 - vii. With regards to arguments concerning NIP, it is noted that NIP has been determined as prescribed in Annexure III of the Rules.

L. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

122. 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.

123. The Authority considered whether imposition of 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 information on record and interests of various parties, including domestic industry, importers and consumers of the product.

124. The Authority issued gazette notification inviting views from all interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to present investigations, including possible effect of ADD on their operations. The Authority sought information on, inter-alia, interchange ability 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.

125. Three importer/user responded, namely, M/s. AICA Laminates India Private Limited, M/s. Eximcorp India Private Limited and M/s. Century Ply. One user Association namely M/s. Federation of India Plywood and Panel registered themselves as an interested parties and filed submissions. However, none of the user/importer or member of the user Association have filed the prescribed user/importer questionnaire response. As already noted in these findings, none of these users or user Association have provided any verifiable information in order to demonstrate the effect of anti-dumping duty on the consumers. Further, in this regard, the Authority re-iterates 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.

126. Even though the Authority has prescribed formats for the users to quantify the impact of ADD and elaborate how imposition of ADD shall adversely impact them, it is noted that none of the users have provided relevant information. It is, thus, noted that the interested parties have not established impact of ADD on the user industry with verifiable information. From the information on record, the Authority is of the view that the imposition of anti-dumping duty will be in public interest.

M. FINAL CONCLUSION & RECOMMENDATIONS

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

- a. The Applicants constitute 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 PUC imported from the subject countries.
- c. The relevant data has been analyzed on a monthly basis in view of significant changes in prices and volume of imports within the same time period. Thereafter, the injury margin, dumping margin and price undercutting have been determined for the POI and for the PUC as a whole
- d. The application contained all information relevant for the purpose of initiation of investigation and the application contained sufficient evidence to justify initiation of the investigation decided to initiate the present investigation.
- e. Considering the normal value and export price for subject goods, the dumping margins for the subject goods from each of the subject countries have been determined, and the margins are significant.
- f. The domestic industry has suffered material injury. The examination of the imports of the subject product and the performance of the domestic industry shows that the volume of dumped imports from subject countries volume of imports from subject countries have increased in 2017-18 but declined thereafter. The decline in overall imports was a natural consequence of an increase in capacities in the country in a situation where there was a demand-supply gap in the country. The imports from the EU are undercutting the prices of the domestic industry. Though the production, sales and market share of the domestic industry has increased in the period of investigation due to the setting up of a new plant by Deepak Phenolics, the capacity utilization of the domestic industry has declined during period of investigation as compared to preceding year. The inventories with the domestic industry have increased significantly during the POI. The performance of the domestic industry has significantly deteriorated in respect of profits, cash profits and return on capital employed during the POI. The profits, PBIT, cash profits, and ROCE have declined by **%, **%, **% and **% respectively as compared to previous year.
- g. With regard to likely hood of continuation or recurrence of dumping and consequent injury to the domestic industry in the event of cessation of anti-dumping duty, it is noted that the volume of imports from EU has increased significantly during the period of investigation despite the existence of an anti-dumping duty. It is also noted that the producers/exporters in EU are having significant unutilized capacities which are likely to be utilized to export to India in the event of cessation of existing duties.
- h. From the examination, it is also noted that imports from EU are undercutting the prices of the domestic industry during the POI, and the undercutting margin is significant, which suggests that the cessation of ADD currently in place is likely to lead to intensified dumping causing injury to the domestic industry. India is the second largest export destination for EU, and the exporters in EU have significant volume of exports at a price below export price to other countries, which are likely to be diverted to India in the event of cessation of ADD.

- i. With regard to Singapore, it is noted that no anti-dumping duty was imposed in the original investigations on the cooperating producer and exporter from Singapore. Despite no anti-dumping duty of subject goods from Singapore, the volume of imports from Singapore are very low, and account for less than 1% of the total imports of subject goods into India. It is also noted that though the capacity utilisation of the cooperating producer and exporter has slightly declined during the POI, these remain very high, and this has not translated into increased imports of subject goods to India. It is also noted from the information on record that the Chinese Government has not applied any duties on the subject goods from Singapore. Further, the inventories in Singapore have declined significantly in recent periods. In view of the above, it is concluded that there is no likely hood of continuation or recurrence of dumping and injury on account of imports of subject goods from Singapore.
- j. Despite providing all formats for users to quantify the impact of ADD and how the imposition of ADD will adversely impact them, none of the users have provided relevant information. The interested parties have not established impact of ADD on the user industry with verifiable information. It is thus noted that non-imposition of anti-dumping duty will adversely impact the indigenous production of the product concerned, and therefore, the Authority is of the view that the imposition of anti-dumping duty will be in public interest.
- k. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Anti-Dumping Rules, the Authority is of the view that continued imposition of anti-dumping duty as modified on all imports of subject goods from EU is required to offset dumping and injury. The Authority considers it necessary and recommends imposition of anti-dumping duty on imports of subject goods from EU. As there is no likely hood of continuation or recurrence of dumping and injury on account of imports of subject goods from Singapore, no anti-dumping duty is recommended against producers and exporters from Singapore.

128. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends continued imposition of antidumping duty on the imports of subject goods, as modified, originating in or exported from EU, from the date of notification to be issued in this regard by the Central Government, equal to the amount mentioned in Col. 7 of the duty table appended below. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

Duty Table

SN	Heading	Description of goods	Country of Origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	29071110	Phenol	European Union	Any country including European Union	Any	66.76	MT	US\$
2.	29071110	Phenol	Any country other than country attracting anti-dumping duty	European Union	Any	66.76	MT	US\$

N. FURTHER PROCEDURE

129. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(Anant Swarup)
Designated Authority