

**F.No.6/20/2020-DGTR
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF TRADE REMEDIES)
JEEVAN TARA BUILDING, 4TH FLOOR
5, PARLIAMENT STREET, NEW DELHI-110001**

Dated: 26th July 2021

FINAL FINDINGS

(Case No: OI 17/2020)

Subject: Anti-Dumping Investigation concerning imports of “Rubber Chemical PX-13” from China PR, Korea RP and USA.

A. BACKGROUND OF THE CASE

F. No. 6/20/2020-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.

1. M/s NOCIL Limited (hereinafter referred as “Applicant”) has filed an application, through TPM Consultants, before the Designated Authority in accordance with the Customs Tariff Act 1975 as amended from time to time (hereinafter also referred as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred as the “Anti-Dumping Rules” or “Rules”) for initiation of anti-dumping investigation concerning the imports of Rubber Chemical PX-13 (hereinafter also referred to as the “product under consideration” or the “subject goods”) from China PR, Korea RP and United States of America (hereinafter also referred to as the “subject countries”).
2. The Authority, on the basis of a prima facie evidence submitted by the Applicant, issued a public notice vide Notification No. 06/20/2020-DGTR dated 27th May, 2020, published in the Gazette of India, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Anti-Dumping Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

3. The Authority having regard to the Act and the Rules, considered it appropriate to recommend interim duties and issued preliminary findings vide Notification No. **6/20/2020-DGTR** dated 11th November, 2020, recommending the imposition of provisional anti-dumping duties on the imports of the subject goods, originating in or exported from subject countries. However, vide Office Memorandum No. 354/158/2020-TRU dated 6th January, 2021, the Central Government decided not to impose the provisional ADD.

B. PROCEDURE

4. The procedure described below has been followed with regard to the investigation:
 - a. The Authority notified the Embassies of the subject countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
 - b. The Authority issued a public notice dated 27th May, 2020 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning import of subject goods from subject countries.
 - c. The Authority sent a copy of the initiation notification dated 27th May, 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 Applicant. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.
 - d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Anti-Dumping 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 it 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 response as well as submissions. Vide communication dated 30th June, 2020, the time was extended upto 24th July 2020. Vide communication dated 23rd July, 2020, the time was extended upto 7th August, 2020.
 - g. The following Government provided written submissions:
 - i. Government of Korea
 - h. 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. China Sunsine Chemical Holdings Ltd.

- ii. M/s. Sennics Co., Ltd. – Sinochem International (Jiangsu Sinorgchem Technology Co., Ltd.)
- iii. M/s. Shandong Yanggu Huatai Chemical Co. Ltd.
- iv. M/s. Changde Dingyuan Chemical Industrial Limited
- v. M/s. Dongying Bo Chen Chemical Co. Ltd.
- vi. M/s. Jinan Runguan Chemical Co. Ltd.
- vii. M/s. Nanjing Chemical Plant (NCP)
- viii. M/s. Zhejiang Yongjia Chemical Plant
- ix. M/s. Henan Kailun Chemical Co., Ltd.
- x. M/s. Rongcheng Chemical General Factory Co. Ltd.
- xi. M/s. Dalian Richon Chem Co., Ltd.
- xii. M/s. Zhenjiang No. 2 Chemical Factory
- xiii. M/s. Hebei Haufeng Chemical Group
- xiv. M/s. Shenzhen Huaren Industrial Co.
- xv. M/s. Yixing Dongfang Fince Chemicals
- xvi. M/s. Zhejina Yueging Ultrafine Powders & Chemicals Co. Ltd.
- xvii. M/s. Lion Industries Ltd.
- xxviii. M/s. Linkwell Rubber Chemicals Co. Ltd.
- xix. M/s. Kemai Chemical Co. Ltd.
- xx. M/s. Hebi Huaxia Auxiliary Co., Ltd.
- xxi. M/s. Qingdao Zhongjian Rubber Chemicals Co. Ltd.
- xxii. M/s. Northeast Auxiliary Chemical Industry Co. Ltd.
- xxiii. M/s. Puyang Willing Chemicals Co. Ltd.
- xxiv. M/s. Zhejiang Huangyan Zhedong Rubber Auxiliary Co. Ltd.
- xxv. M/s. Dongying Wantong Rubber Auxiliary Co. Ltd.
- xxvi. The Organic Chemical Industry Limited, Company of Tongling Chemical Industry Group
- xxvii. M/s. Shangyu Lixing Chemical Co. Ltd.
- xxviii. M/s. Tianjin East Richon Rubber Additives Co. Ltd.
- xxix. M/s. Donglong Industry Limited, Company of Jiangsu
- xxx. M/s. Jincheng Sky Success Chemical Industry Co. Ltd.
- xxxi. M/s. Hebei Hanxing Chemical Co. Ltd.
- xxxii. M/s. Jingcheng Tiancheng Chemical Co.
- xxxiii. M/s. Hebi Uhoo Rubber Chemicals co. Ltd.
- xxxiv. M/s. Kumho Petrochemicals Co. Ltd.
- xxxv. M/s. Daewoo International Corporation
- xxxvi. M/s. Lanxess Corporation USA
- i. In response to the above notification, following exporters/ producers and their related exporters/traders have responded and submitted exporter's questionnaire responses and/or legal submissions:
 - i. M/s. Lanxess Corporation USA (Lanxess)
 - ii. M/s. Kumho Petrochemical Co. Ltd. Korea RP (Kumho)
 - iii. M/s. Sennics Co., Ltd. Shandong, China PR
 - iv. M/s. Sennics Co., Ltd. Tai'an, China PR

- v. M/s. Sennics Singapore Pte. Ltd.
- vi. M/s. Sennics Inc., USA
- vii. M/s. Sennics Co., Ltd., China PR
- viii. M/s. Posco International Cooperation, Korea (Posco)
- j. 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. Lanxess India P Ltd
 - ii. M/s. PMC Rubbchem P Ltd.
 - iii. M/s. Appollo Tyres Limited
 - iv. M/s. ATC Tires Private Limited
 - v. M/s. Birla Tyre
 - vi. M/s. Balkrishna Industries Limited
 - vii. M/s. Bridgestone India Private Limited
 - viii. M/s. J.K. Fenner (India) Limited
 - ix. M/s. CEAT Ltd.
 - x. M/s. Ralson Limited
 - xi. M/s. MRF Ltd.
 - xii. M/s. JK Tyres & Industries Limited
 - xiii. M/s. TVS Srichakra
 - xiv. M/s. Goodyear India Ltd.
 - xv. M/s. Malhotra Rubbers Ltd.
 - xvi. M/s. Metro Tyres Limited
 - xvii. M/s. Speedways Rubber Company
- k. In response to the above notification, following importers or users have responded and submitted importer/user questionnaire responses and/or legal submissions:
 - i. M/s Lanxess India Pvt. Ltd.
 - ii. M/s Rishiroop Limited
 - iii. M/s Apollo Tyres Limited
 - iv. M/s CEAT Limited
 - v. M/s JK Tyre & Industries Limited
 - vi. M/s MRF Limited
- l. The Authority sent a copy of the initiation notification dated 27th May, 2020 to the following known Associations of the subject goods in India.
 - i. Automotive Tyre Manufacturers' Association (ATMA)
- m. In response to the above notification, following Associations have responded to the initiation notification and filed legal submissions:
 - i. Automotive Tyre Manufacturers' Association (ATMA)
 - ii. All India Rubber Industries Association (AIRIA)
- n. 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 4th March, 2021. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions, if any. The parties shared their

non-confidential submissions with other interested parties and were advised to offer their rebuttals.

- o. 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.
- p. The period of investigation (POI) for the purpose of present investigation is 1st April 2019 to 31st March 2020 (12 months). The injury examination period has been considered as the period from 1st April 2016 - 31st March 2017, 1st April 2017 – 31st March 18, 1st April 2018 – 31st March 2019, and the period of investigation.
- q. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCIS) to provide transaction-wise details of imports of subject goods for the past three years and the period of investigation, which has been received by the Authority. The Authority has relied upon DGCIS data for computation of the volume of imports and required analysis after due examination of the transactions.
- r. 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 the present investigation.
- s. The non-injurious price (hereinafter referred to as 'NIP') based on the cost of production and reasonable profits the subject goods in India, having regard to the information furnished by the domestic industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules, has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- t. 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.
- u. 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.
- v. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to 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.
- w. 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 15th 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.

- x. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded this Final Finding on the basis of facts available.
- y. ‘***’ in this Final Finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- z. The exchange rate adopted by the Authority for the subject investigation is 1 US \$= Rs. 71.65.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

5. At the stage of initiation, the product under consideration was defined as-

“The product under consideration is “Rubber Chemicals PX-13” (hereinafter also referred to as PX-13) also known as 6PPD, Antioxidant 6PPD, Kumanox 13, Santoflex 6PPD, Sirantox 6PPD, Vulkanox 4020, Antioxidant 4020, Dussantox 6PPD, Antage 6C, N-1,3-Dimethylbutyl)-N’-Phenyl-P-Phenylenediamine, etc.

PX-13 is an alkyl-aryl-PPD antidegradant most widely used in the tyre and non-tyre sector of the rubber industry. PX-13 offers excellent resistance to rubber vulcanizates against degradative forces such as ozone (static as well as dynamic), flex-cracking and fatigue, oxidative heat ageing, metal-ion catalyzed oxidative ageing, UV light and weathering. It is used as antioxidants in treating natural rubber, synthetic rubber (SBR, Butadiene Rubber, Nitrile Rubber, Carboxylated Rubber) and other synthetic rubber-based compounds used for manufacture of various rubber products to achieve the desired life cycle of the rubber product. PX-13 is manufactured by reductive alkylation of 4ADPA and MIBK.

The product is classified under the Chapter 38 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) under the tariff custom classification 3812. However, there are also imports for the product under consideration under the Chapter 29 of the First Schedule. The customs classification is only indicative and is not binding on the scope of the product under consideration.”

C.1. Submissions of the domestic industry

6. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
- i. The product under consideration in the Application is “Rubber Chemical PX-13”. PX-13, also known as 6PPD, Antioxidant 6PPD, Kumanox 13, Santoflex 6PPD, Sirantox 6PPD, Vulkanox 4020, Antioxidant 4020, Dussantox 6PPD, Antage 6C, N-1,3-Dimethylbutyl)-N’-Phenyl-P-Phenylenediamine, etc.

- ii. PX-13 is an alkyl-aryl-PPD anti degradant most widely used in the tyre and non-tyre sector of the rubber industry. PX-13 offers excellent resistance to rubber vulcanizates against degradative forces such as ozone (static as well as dynamic), flex-cracking and fatigue, oxidative heat ageing, metal-ion catalyzed oxidative ageing, UV light and weathering. PX-13 pastilles are easy to handle on all types of weighing systems and quickly disperse in rubber compounds even at lower processing temperatures.
- iii. The product is classified under the Chapter 29 and 38 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). The PUC is being imported under the 8-digit HS codes, 29215130, 29215190, 38121000, 38123030, 38123910, 38123990 and 38123100. The duties have always been recommended by the Authority at 4-digit levels in previous findings of Rubber Chemicals.
- iv. There is no difference in the subject goods produced by the domestic industry and exported from subject countries and are comparable in terms of physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods.
- v. The Applicant has produced like article to the imported products.

C.2. Submissions of other interested parties

- 7. Following submission have been made by the exporters/other interested parties with regard to the product under consideration and like article.
 - i. The liquid/melt form is not like article and hence should be excluded from the scope of subject goods.
 - ii. The company has exported liquid form to India, whereas has sold both liquid and solid form in India.
 - iii. The liquid form exported to India was entirely sold to affiliated company who processed it further and sold solid form to eventual consumers in India.

C.3. Examination by the Authority

- 8. The product under consideration is "Rubber Chemicals PX-13" also known as 6PPD, Antioxidant 6PPD, Kumanox 13, Santoflex 6PPD, Sirantox 6PPD, Vulkanox 4020, Antioxidant 4020, Dussantox 6PPD, Antage 6C, N-1,3-Dimethylbutyl)-N'-Phenyl-P-Phenylenediamine.
- 9. PX-13 is an alkyl-aryl-PPD anti degradant most widely used in the tyre and nontyre sector of the rubber industry. PX-13 offers excellent resistance to rubber vulcanizates against degradative forces such as ozone (static as well as dynamic), flexcracking and fatigue, oxidative heat ageing, metal-ion catalyzed oxidative ageing, UV light and weathering. It is used as antioxidants in treating natural rubber, synthetic rubber (SBR, Butadiene Rubber, Nitrile Rubber, Carboxylated Rubber) and other synthetic rubber-based compounds used for manufacture of various rubber products to achieve the desired

life cycle of the rubber product. PX-13 is manufactured by reductive alkylation of 4ADPA and MIBK.

10. The product is classified under the Chapter 38 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) under the tariff custom classification 3812. However, the product under consideration has also been imported under Chapter 29 of the First Schedule. The customs classification has been considered only indicative and not binding on the scope of the product under consideration. Imports of the product under consideration wherever reported have been considered for the purpose of present determination.
11. As regards exclusion of liquid/melt form, the Authority notes that the importer has imported liquid form from its affiliated company in USA, and the affiliated exporter/producer in USA has sold both liquid and solid form in domestic market. The importer in India is a producer of PX-13. The company has processed the imported liquid PX-13 into solid and has thereafter sold to the eventual consumers, along with PX-13 produced by the company. Thus, as far as consumer of the product under consideration are concerned, they have bought solid form of PX-13. Such being the case, the liquid and solid form cannot be treated as two different articles and liquid form cannot be excluded from the scope of the product under consideration.
12. It is seen from the information available on record that the product produced by the domestic industry is like article to the goods imported from the subject countries. The product produced by the domestic industry and imported from subject countries is comparable 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.

D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING

D.1 Submissions of the domestic industry

13. The domestic industry has made the following submissions with regard to the scope of domestic industry and standing:
 - a. The Applicant NOCIL Limited account for a 'major proportion' of Indian production of subject goods in India. The applicant accounts for 70.13% of the total Indian production for the subject goods in India.
 - b. The Applicant has not imported the subject goods in the period of investigation from the subject countries.
 - c. The Applicant is not related to any exporters in the subject countries or importers of the subject goods in India.
 - d. Lanxess India cannot be considered as eligible domestic industry and its production cannot be considered to calculate applicant's share in Indian production as it is importing the subject goods from its affiliate i.e., Lanxess Corporation, USA and merely converts the form of the imported goods without engaging in manufacturing.

Reference has been made to findings in SDH transmission equipment, CPVC resin wherein the Authority held that every domestic producer cannot be recognized as domestic industry.

- e. Lanxess wanted to ensure that material continues to be available to the company at dumped prices.

D.2. Submissions of other interested parties

14. The other interested parties have made the following submissions with regard to the scope of domestic industry and standing:
 - a. Lanxess cannot not be excluded from the scope of the domestic industry merely on a ground that it has imported the PUC from a subject country, without determining the status of the quantum of imports made by Lanxess
 - b. The fact that Lanxess is importing 4ADPA cannot change its status as a domestic manufacturer of the product under consideration.
 - c. NOCIL on its own will not be able to fulfil the requirement of 'major proportion' under the Indian AD rules. Request to re-assess NOCIL's standing as the domestic industry including Lanxess' production in the total Indian production and whether it constitutes major proportion in the total Indian production.
 - d. Lanxess is one of the major domestic producers and has imported subject goods in liquid form and converted to flakes to supplement its production. Imported goods have not been sold in liquid form in POI.
 - e. Lanxess India approached DGTR requiring anti-dumping duties on imports from China and Korea, which did not satisfy standing and was opposed by NOCIL.
 - f. The domestic industry has failed to consider the discretion available with the authority to include a domestic producer regardless of the imports made by them.
 - g. Domestic industry has not made any substantiated claims to show that Lanxess is importing a significantly large quantity of product under consideration, thereby making it ineligible to be considered domestic industry or that is thrust has moved from production to imports.
 - h. The Authority has considered domestic producer who has imported or is related to an exporter or imports as eligible domestic industry in investigations concerning imports of Pigments, Caprolactam. In anti-subsidy investigations concerning imports of Atrazine Technical and continuous cast copper wire rods, domestic producers who had imported raw material constituting significant portion of total cost as domestic industry.
 - i. Lanxess cannot be excluded for the purposes of injury analysis irrespective of whether it is an eligible domestic producer or not.
 - j. The claim to not treat Lanxess India as domestic industry should be closely examined and if facts establish eligibility, major proportion test must be conducted.

D.3. Examination by the Authority

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

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

16. The Application has been filed by M/s NOCIL Limited. The Applicants has certified that they have neither imported the PUC from the subject countries in the POI nor they are related to any exporter or producer of PUC in the subject countries or any importer of the PUC in India.
17. The product under consideration is produced in India by following companies:
 - i. Lanxess India P Ltd
 - ii. PMC Rubbchem P Ltd
18. It is seen from the information provided by the Lanxess that the company has imported significant volumes of the product under consideration from USA. It is also noted that the company is related to exporter and is itself an importer, and the volume of such imports is quite significant (entirety of the imports from US are by this company). The Authority has considered Lanxess as a domestic producer, but not domestic industry within the meaning of Rule 2(b). As regards submissions made by interested parties concerning eligibility of Lanxess, India, the Authority notes that ineligibility of Lanxess India is not on account of import of 4-ADPA. The same is on account of imports of PX-13 and its relationship with the exporter from USA.
19. The Production of applicant accounts of *** % in gross Indian production (including Lanxess) and *** % after excluding production of Lanxess.
20. Considering the information on record, the Applicant accounts for a major proportion of the Indian production. Accordingly, the Authority holds that the Applicant constitutes domestic industry within the meaning of Rule 2(b) of the Rules. Further, the Authority considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rule.

E. CONFIDENTIALITY

E.1. Submissions by the domestic industry

21. The following submissions have been made by the domestic industry with regard to confidentiality:
 - i. The exporters have claimed excessive confidentiality in their questionnaire responses regarding sales channels, corporate structure, list of products sold, etc.

- ii. The exporters have claimed information that is freely available in the public domain as confidential.
- iii. The users/importers have claimed excessive confidentiality of questionnaire responses and have not provided a reasonable summary of the information claimed confidential.
- iv. The responses filed by users/importers are incomplete. Further, information in the public domain have been claimed confidential.
- v. The petition filed by the domestic industry is as per Rule 7 of the Rules, Trade Notice No. 1/2013 and Trade Notice 10/2018.
- vi. As regards confidentiality of costing information, it is a business proprietary information not amenable to summarization. The exporters themselves have claimed costing information confidential and different standards show be applied for all parties. Reference was made to Anwar Jute Spinning Mills Ltd. v. Union of India/Designated Authority wherein it was stated that cost of production and related data of the domestic industry are confidential in nature. The domestic industry also relied on Nitro Chemical Industry Limited v. Designated Authority.
- vii. The petitioner has not claimed confidentiality of Annual Reports and is freely available on the website.

E.2. Submissions of the other interested parties

- 22. The following submission have been made by other interested parties with regard to confidentiality:
 - i. The domestic industry has failed to appropriately analyse the parameters under the Trade Notice 10/2018, it has also failed to provide the actual figures of some specified parameters in violation of the Trade Notice 10/2018. The domestic industry should be directed to refile the trend, performance parameters and data considering the actuals for March 2020, which is now available.
 - ii. The non-confidential version of the petition does not allow for a reasonable understanding and violates requirements in Rule 7 of the Rules and Trade Notice No. 1/2013 dated 9th December, 2013.
 - iii. Section VI (Costing Information) has not been furnished at all, and no justification has been provided. Significant data has not been properly indexed or provided in the NCV. Petitioners should be directed to provide these documents and a summary/indexed data of the same.
 - iv. The petitioner has claimed excessive confidentiality of Annual reports, which is already available in the public domain. Trade Notice 1/2013 states that the petitioner should mandatorily provide annual reports and balance sheets.
 - v. The users have provided sufficient information in the questionnaire response. Information claimed confidential are business sensitive and not amenable to summarization.
 - vi. Investigation should not be trivialized by raising issues regarding reasonable confidentiality.

- vii. Equity acquisition in Shandong HuaHong Chemical Co., Ltd. does not mean there is structure change in Sennics Co, Ltd. as they are two different companies. Sinochem International itself is not involved with the PUC.

E.3. Examination by the Authority

23. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).

24. With regard to confidentiality of information, Rule 7 of the Rules provide as follows:

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

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why 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.”

25. As regards the argument of excessive confidentiality claims, the Authority examined the confidentiality claims of the interested parties and on being satisfied allowed the claim on confidentiality. The Authority considers that an 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.

26. As regards the argument of information on period of investigation, it is noted that following the initiation of investigation, the updated copy of application for the POI was

filed by the petitioner, and the same was duly has been circulated to all interested parties. It may be recalled that the Application filed by the domestic industry for initiation of investigation was based on information for the period April 2019 to February 2020 as the investigation period, since the accounts of March 2020 were yet to be finalized. The Authority has considered the information filed by the interested parties for period of investigation i.e. April 2019 to March, 2020 in this Final Finding.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by the domestic industry

27. The following miscellaneous submissions have been made by the domestic industry:
- i. The user association, namely All India Rubber Industries Association (AIRIA) has registered itself but none of its members or the association itself has filed any comments to the petition or other information within time limits prescribed by the Authority.
 - ii. The information filed by Kumho Petrochemicals is false and misleading. The exporter has claimed same cost for domestic and exports. There is no consistency between cost-price and profits.
 - iii. Lanxess has filed a deficient response and the same should not be accepted. The exporter did not file a complete response despite being given 72 days after initiation and failed to rectify the deficiency even after it was noted by the Authority in the preliminary findings.
 - iv. As regards excessive duty protection, there is no excessive protection to the domestic industry and anti-dumping duty is to only prevent unfair trade measure. The Authority imposes duty only when all legal requirements are met. The exporters are habitually exporting at unfair prices and the domestic industry cannot be barred from approaching the Authority.
 - v. The Applicant filed the present application on 28th April, 2020. The application filed on 24th January 2020 was withdrawn by the Applicant and the same was accepted by the Authority.
 - vi. The arguments of the interested parties regarding the argument that the grounds for rejection that existed in 2017-18 also exists in the period of investigation is without basis. The present investigation is a fresh investigation and the domestic industry is required to only establish material injury. The Authority has held that the imports are causing material injury and posing a threat of material injury.
 - vii. Seeking relief from the courts is a legal right of the domestic industry. As regards Delhi High Court order, the same has no relevance in the present investigation.
 - viii. The requirements of Rule 5 have been adequately met by the domestic industry. The quantity and quality of evidence improves as an investigation progresses. Information sufficient for the purpose of initiation may not be sufficient for the purpose of determination, and information required for determination need not be insisted upon at the time of initiation. The respondents omitted to quote the finding of the WTO Panel in Mexico-Steel Pipes and Tubes while referring to the case wherein it was noted that it is not necessary to have irrefutable proof during initiation.

- ix. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.
- x. The impact of the possible anti-dumping duty on the user industry is grossly insignificant.
- xi. The duties were terminated with Delhi High Court Order and therefore the petition is filed as per Article 2.19 of CEPA.

F.2. Submissions by other interested parties

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

- i. NOCIL has been under duty protection with respect to PX-13 for more than 10 years. Duties have also been imposed on Accelerator chemicals and other ancillary products such as Oxo-Alcohols, acyclic alcohols and isopropyl alcohol.
- ii. There exists a discrepancy in the date of filing of the petition by the domestic industry.
- iii. In a previous safeguard investigation in 2011, NOCIL had argued that it is seeking duty protection so that it can increase its capacity to be able to cater to the domestic demand and also to decrease its costs. Reference has been provided to Final Findings in Safeguard investigation concerning imports of PX-13 or 6PPD (Rubber Chemicals) into India, dated 06th June 2011. Thereafter, in the review investigation of the safeguard duty that had been imposed in 2011, the DI had failed to follow through its adjustment plan to increase its capacity, pursuant to which the Director General of Safeguards terminated the safeguard duty on the PUC in 2014. Reference has been provided to Final Findings in Review of Safeguard duty imposed on PX-13 or 6PPD (Rubber Chemicals) into India dated 24th April 2014.
- iv. The factors and circumstances considered by DGTR while rejecting the SSR application filed by the domestic industry in 2018, wherein it was observed that there was no information on record to show that there was injury or likelihood of injury to the domestic industry also currently exists.
- v. The return during the POI in the present investigation falls within the range of the historical returns. Thus, it cannot be said the current imports of PUC from subject countries has resulted in declining returns. Moreover, there are other factors which have played a significant part in declining performance of the DI which are not related to the PUC imported from subject countries.
- vi. Petitioner used multiple forums to get anti-dumping duties imposed by going to the extent of almost forcing the Authority to initiate the second sunset review when the underlying anti-dumping notification had already been quashed by the High Court of Delhi dated 31.05.2018. Submissions by the petitioner should be examined with highest scrutiny to ensure that favourable recommendations are not obtained by deceit.

- vii. The present initiation is bad in law and should be terminated. Standard of review applied by Authority does not meet standards laid down under law. The allegations in the petition are largely based on estimates and assumptions, and petitioner failed to draw a logical conclusion. Reference was made to US-Softwood Lumber from Canada, Guatemala – Cement II and Mexico – Steel Pipes and Tubes.
- viii. The factors considered by Ministry of Finance while not imposing provisional ADD should also be taken note of. ADD will adversely affect the economies of MSME sectors, End users, Tyre industries etc. The unemployment rate at present is the highest in India and MSME sector is the main employment generator.
- ix. Initiation of a new investigation prior to one year is not proper, in reference to Article 2.19 of CEPA.
- x. The preliminary findings are non est in the eye of the law as Central Government did not accept the conclusion and findings made by the Authority, and the DI has not given any new arguments or evidence in their written submissions.
- xi. The totality of circumstances should be considered and the present investigation should be terminated.
- xii. The response filed by Lanxess is full and complete. Further, no deficiency memo was issued by the Authority regarding the minor deficiencies mentioned in the preliminary findings.
- xiii. Domestic industry has been unfairly protected due to the rejection of actual raw material price of Kumho in determining normal value, leading to inflated dumping margins has also been a huge burden on the user industry.
- xiv. A user association is an interested party and has the right to participate in the investigation. Rishiroop Limited is a member of the association and has responded.

F.3. Examination by the Authority

- 29. As regards excessive protection to the domestic industry, the Authority notes that the recommendation for imposition of duty is made only when the requisite legal requirements are met. Further, there is no bar on the number of times a duty can be imposed or extended on a given product.
- 30. As regards the submission that the petition does not have prima facie evidence to justify initiation, the Authority notes that the Application contained all information relevant for the purpose of initiation of investigation. The Authority, only after satisfaction that application contained sufficient prima facie evidence to justify initiation of investigation decided to initiate the present investigation.
- 31. As regards the contention that the facts and circumstances that existed in 2018 still exists, the Authority notes that the present investigation only concerns the period of investigation and the factors existing during the current period has been sufficiently considered. The factors that existed in 2018 holds no relevance in the present investigation.
- 32. As regards the contention that the present initiation was prior to the completion of one year, the Authority notes that the duties against the subject countries were terminated by

the Delhi High Court. Therefore, the initiation of the present investigation has been done only after meeting all legal requirements.

33. As regards the argument regarding the impact of ADD on the user industry, it is noted that the interested parties have not demonstrated how the anti-dumping duty will impact the consumers. Despite providing all formats for users to quantify the impact of ADD and elaborate on how imposition of ADD will adversely impact them, 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. Further, even if it is considered that the imposition of ADD might affect the price levels of the product manufactured using the subject goods, it is noted that fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the ADD is restricted to an amount necessary to redress the injury to the domestic industry. The objective of imposition of anti-dumping measure is to remove the unfair advantages gained by dumping practices, to prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
34. As regards argument of deficient response of Lanxess, it is noted that the required information has been provided by the exporter after the preliminary findings, and the same has been taken into account in the Final Finding.
35. As regards status of All India Rubber Industries Association (AIRIA) as an interested party, it is noted that neither any of the members of the Association has filed the prescribed questionnaire nor the Association has provided any information during the course of investigation. However the Authority has considered their submissions for the purpose of the present investigation.

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

G.1. Submissions of the domestic industry

36. Following submissions have been made by the domestic industry with regard to market economy, normal value, export price and dumping margin are as follows:
 - i. Efforts were made to get evidence of the price of subject goods in Korea and USA. However, normal value could not be determined on the basis of price or constructed value in an appropriate third country for the reason that the relevant information is not publicly available and that the product does not have a dedicated customs classification.
 - ii. The Applicant has claimed consideration of normal value for Korea and USA on the basis of constructed cost of production with the addition of reasonable profit margins as information regarding price or constructed value in an appropriate third country was not publicly available.
 - iii. Since it is an established fact that Korea Kumho (the sole known manufacturer of PX-13 in Korea) is sourcing its requirement of the major raw material 4ADPA which constitutes 70-80% of the total cost, from Chinese companies, as already stated in the Preliminary Findings, the cost and price of Korea cannot be adopted for normal value determination.

- iv. Price of Korea Kumho should not be accepted as Kumho is faced with a particular market situation. It is highly unusual that Kumho never invested in production of 4ADPA despite being a major producer of PX-13 and having capacities of 80,000 MT. The company was also granted patent in June 2012. Korea Kumho procures 4ADPA from Sennics. Further, even though it is easy for Sennics to stop supplying to Kumho and grab the market, it has not done so. The import of the major raw material in the present conditions show that the sale price in the record is naturally distorted.
- v. Cost of production of Kumho is distorted as 4ADPA, which is the penultimate intermediate in the production of PX-13 is being procured at a distorted price.
- vi. Article 6.10 of ADA and Rule 17(3) of AD Rules cannot be read to imply individual normal value and the sole obligation of the Authority is to determine individual dumping margin.
- vii. Domestic sales made by the subject exporter does not pass the normal value tests and should be discarded for determination of normal value. The Authority is not obliged to consider transactions under consideration just because they represent domestic sales transactions.
- viii. Even if the elements of costs might be based on the records kept by the exporter, it does not imply that the Authority is bound to adopt the cost of production of the exporter without being satisfied as to whether they reasonable reflect the cost associated with production and sale of the product under consideration.
- ix. Provisions relating to determination of SGA and profits under Annexure I further establishes that the constructed normal value is not always solely based on the data of the producer concerned and so it cannot be said that normal value can be determined only on the basis of the data of the producer.
- x. Korean costs cannot be accepted particularly when the Chinese costs are being rejected on grounds of distortion, and the treatment cannot be any different for a Korean producer who has procured its penultimate intermediate from China.
- xi. Written agreement is not mandatory to undertake business and the actions of the parties are also clearly indicative of such an agreement. Further, Kumho has never denied the existence of an agreement even when the issue was raised in previous investigations. There were no exports by Kumho to Sennics or by Sennics to Korea despite holding significant capacities far exceeding demand and having significant export orientation, thereby clearly indicative of a tacit agreement between them to not compete.
- xii. The Authority has rejected 4ADPA cost of Kumho in the past for determination of normal value and it was upheld by CESTAT and the Supreme Court.
- xiii. Other countries such as EU has an established practice of rejecting raw material consumption price if the input constitutes 17% more than total cost of production and there is sufficient evidence of distortion.
- xiv. Kumho and Sennics should be deemed as related parties as Kumho exclusively purchases 4ADPA which constitutes majority of the cost, from Sennics.
- xv. The Designated Authority shall follow Para 1-6 of Annexure I for determination of normal value only if the responding Chinese companies establish that their costs

and price information is such that individual normal value and dumping margin can be determined and shall reject the claim of individual dumping margin.

- xvi. Since the Chinese producers are not entitled to market economy treatment, Para 7 of Annexure I may be followed to determine the normal value. Since the normal value could not be determined on the price or constructed value in a market economy third country as the relevant information is not publicly available, The Applicant has claimed the determination of normal value for China on the basis of price payable in India duly adjusted.
- xvii. The Authority should consider actual cost of production for determination of normal value. Normal value should not be based on any normation – whether for raw materials or for conversion costs while determining normal value
- xviii. Since Lanxess USA is exporting the product under consideration to Lanxess India, it is a related party transaction and therefore the export price of these transactions cannot be considered for export price determination. Export price needs to be constructed from resale price of Lanxess India, duly adjusted.
- xix. Export price of Lanxess USA is required to be adjusted as its related party in India has converted the liquid form into flakes, the selling price of Lanxess India is selling at losses as its selling price is lower than purchase costs including import prices and conversion costs, and the questionnaire response filed by Lanxess USA also shows it is exporting to India at losses for the last three years including period of investigation.
- xx. The dumping margins of the subject countries are above de-minimus levels, significant and substantial.
- xxi. The level of trade adjustments on export price claimed by Kumho for its domestic sales have been rightly rejected and the reasoning of the exporter lacks legal basis as well.
- xxii. As regards Delhi High Court order, the same was not on merits. CESTAT order upholding rejection of 4ADPA prices is binding on the Authority.
- xxiii. While interpreting Article 2.2.1.1 of the AD Agreement, the term “normally” should be read as referring to a situation wherein the costs of an exporter can be calculated on the basis of records kept by the exporter or producer. This implies that there can exist a situation wherein the records of the exporter or producer cannot be relied upon. The exporters’ interpretation of the WTO Panel’s decision in *EU-Biodiesel* is incorrect. Reference was also made to WTO Panel Reports in *Broiler* and *Egypt – Steel Rebar*.
- xxiv. The WTO Panel in *EU-Biodiesel* states that the rule may be derogated from under certain conditions which was later affirmed in *Australia – A4 copy paper* wherein it was also observed that the Authority can disregard the costs of the exporters even for reasons distinct from the two conditions mentioned in the provision in a situation where the Authority may find a compelling reason to do so.
- xxv. China PR has been considered as non-market economy by the Authority in all recent investigations.
- xxvi. India has not acted inconsistently with the provisions of “*pacta sunt servanda*”. China is not being treated as a non-market economy merely based on domestic

regulations, but also on the basis of Article 15(a)(i) of China's Accession Protocol which continues to operate even after 11th December 2016. China has failed to fulfill its obligations under the Accession Protocol and failed to remove distortions, to allow prices to be set by the market, as a result of which even other WTO members, including USA and European Union, have continued to treat China as a non-market economy.

G.2. Views of the interested parties

37. The following submissions have been made by the exporter/producer/other interested parties with regard to normal value, export price and dumping margin:

- i. Dumping margin should be determined based on the questionnaire response filed by the producers/exporters and actual procurement price of raw material. Rejection of raw material consumption price is in violation of Article 2.2.1.1 of AD Agreement and with the reports of the Appellate Body in EU – Biodiesel, Ukraine – Ammonium Nitrate and Panel in EU-Cost Adjustment Methodologies and Anti-dumping Measures on Imports from Russia – Second Complaint which specify that there is no requirement to assess the reasonableness of the prices provided by the exporter / producer.
- ii. The fact that Chinese producers are non-market economy companies does not imply that the purchase price can be rejected. CESTAT decision upholding rejection of actual cost of 4ADPA in the previous investigation is not relevant, as it is contrary to the WTO jurisprudence.
- iii. Petitioner has relied on the earlier final findings concerning the subject goods wherein the actual price of raw material 4-ADPA had been rejected by the Authority. However, the final findings dated 29.04.2014 have already been quashed by the High Court of Delhi via its judgement dated 31.05.2018. Thus, there is no basis for the Authority to apply the same principle again in this case.
- iv. As regards the issue of special agreement between Kumho and Sinorchem, Authority has previously held in Sunset Review Anti-dumping investigation concerning imports of “White Cement” originating in or exported from Iran and UAE that competition issues are to be raised in Competition Commission and it is unnecessary for DGTR to examine such issues.
- v. The calculation of cost on the basis of records kept by the producer or exporter is in accordance with Article 2.2.1.1 of AD Agreement. Unless Korean exporters are not fulfilling the two conditions under Article 2.2.1.1 the Authority may consider the records maintained by these producers/exporters. The price of Kumho cannot be rejected just because they imported raw materials for China PR.
- vi. Kumho had procured most of 4-ADPA during the POI from an unrelated supplier in China PR who is also participating in the present investigation as a producer and exporter of the subject goods. It is commercially impractical that Kumho's competitor based in China PR would sell key raw material 4-ADPA to Kumho at a price lower than the market price and there is no evidence of record to support the view.

- vii. Contrary to the Petitioner's contention, Kumho has no explicit or implied agreements or commitments regarding the sale or production of raw material and subject goods to limit each other's sales market or limit competition.
- viii. The petitioner has been protected by unfairly high duties on Kumho as the Authority has rejected actual raw material price of 4-ADPA reported by Kumho in determining normal value has led to inflated dumping margins and such treatment is unfair and in violation of Article 2 of the AD agreement.
- ix. The methodology adopted by Authority for rejection of cost based on CESTAT's decision is inappropriate based on the Supreme Court's decision in Customs, Bangalore v. G.M. Exports, wherein it was held that where a statute is enacted pursuant to an international treaty, an interpretation based on international treaty should be followed rather than earlier domestic precedents.
- x. The surrogate country methodology should not be used in calculating the normal value for this case, regardless of whether China is treated as a market economy country. India has no basis for calculating normal value using the non-market economy methodology.
- xi. India is bound by 'pacta sunt servanta' and must fulfill its obligations under relevant agreements and recognize China's full market economy status, by amending relevant domestic regulations.
- xii. Domestic industry has not argued whether records kept by Kumho Korea are in accordance with GAAP of Korea RP and unless it is not so, the records maintained and submitted by it should be considered.
- xiii. Input prices cannot be disregarded when those prices are lower than other price internationally.
- xiv. The records of Korea Kumho should be considered where its records reflect the price paid to acquire the raw material 4-ADPA from Sennics, sufficiently correspond to the production and sale of the PUC in domestic market.
- xv. The costs of an investigated exporter reflect the price at which it has procured the raw material and subsequently the costs incurred in production and sale of PUC and it is immaterial whether it is procured from China PR, a non-market economy. There is no provision in law to adjust landed value and such a contention is untenable in law.
- xvi. Kumho and Sennics are not related parties and their relationships is only with regard to commercial activities. They do not fall under the definition of related party under Rule 2(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and Trade Notice No 9/2018 dated 10th May 2018.
- xvii. Korea RP is a market economy and India has been consistently applying Section 9A(c) of the Act to determine normal value in anti-dumping investigations involving Korea RP.
- xviii. Domestic industry has failed to establish how the domestic selling price of Kumho is not in the ordinary course of trade and how Kumho's cost is distorted and the preliminary findings has ruled that domestic sales of Kumho is in ordinary course of trade.
- xix. The raw material supplier of Kumho is also participating in the present investigation and competing with Kumho in several markets, including India. It is commercially

impractical for a competitor based in China PR to sell key raw material 4-ADPA to Kumho at a price lower than market price. Kumho had purchased 4-ADPA during the POI on internationally prevailing market prices only.

- xx. Kumho and the raw material supplier in China PR do not have any explicit or implied agreements or commitments regarding the sale or production of raw materials and subject goods to limit each other's sales market or limit competition.
- xxi. Presumption of NME status does not provide for rejection of actual export price to other countries.
- xxii. There is no requirement to assess reasonableness of price under Article 2.2.1.1 of AD Agreement or Annexure I of the AD Rules.
- xxiii. Kumho has correctly requested for level of trade adjustment in the present case and the same must be allowed by the Authority.

G.3. Examination by Authority

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

- i) The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*
- ii) When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:*
 - a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*

39. 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. M/s Lanxess Corporation USA
- ii. M/s Kumho Petrochemical Co. Ltd.
- iii. M/s Sennics Co., Ltd. Shandong, China PR
- iv. M/s Sennics Co., Ltd. Tai'an, China PR
- v. M/s Sennics Singapore Pte. Ltd.
- vi. M/s Sennics Inc., USA
- vii. M/s Sennics Co., Ltd., China PR
- viii. M/s Posco International Cooperation, Korea

40. The normal value and export price for all producers/exporters from the subject countries have been determined as below.

G.4. Determination of normal value

Normal Value in Korea

Kumho Petrochemical Co. Ltd. ("KKPC") or ("Kumho")

41. M/s Kumho Petrochemical Co. Ltd. ("KKPC") is a limited liability company established under the Korean Commercial Law. The company has filed Exporter's Questionnaire response furnishing the requisite information.
42. It is noted from the response that M/s KKPC has sold the subject goods to directly to unrelated customers in the domestic market. It is also noted that KKPC has exported the subject goods directly to India as well as indirectly through an unrelated Korean trader namely, POSCO International Corporation. M/s POSCO International Corporation ("POSCO") has also provided all the relevant information in the prescribed questionnaire format.

Normal Value

43. M/s KKPC has submitted Exporter's Questionnaire response furnishing details of domestic sales and cost of sales of subject goods during the POI. During the POI, M/s KKPC has sold the subject goods directly to unrelated customers in the domestic market.
44. The Authority notes that 4-ADPA is a major raw material in production of the product under consideration. The information provided by the petitioner domestic industry and Kumho show that 4ADPA constitutes significant part of the total cost of production of PX-13. As per information available on record, 4-ADPA is being largely produced only by Chinese and Indian producer, with some quantity being produced in EU. Information provided by responding producers showed that Kumho have largely sourced 4-ADPA from China PR. Questionnaire response filed by Chinese producers show that they produce their own 4-ADPA. The responding producers from China PR have not claimed market economy treatment.
45. With regard to determination of Normal Value for KPC in the present investigation, it is noted that the Authority has consistently rejected 4ADPA cost of Kumho in the past anti-dumping investigations for determination of normal value. No evidence or argument has been provided that the situation in the present investigation has undergone any major change from the previous investigations of this product from the same country where the same cooperating producer and exporter had participated, i.e., the original investigation, midterm review investigation and sunset review investigations. It is further noted that the very issue has also been upheld by Hon'ble CESTAT, and the Supreme Court and now attained finality with regard to treatment of 4ADPA cost reported by the Kumho. Relevant extract of the Hon'ble CESTAT reproduced below.

46. The Hon'ble CESTAT in its judgment reported as 2015 (322) E.L.T. 514 (Tri. - Del.) held as under:

"19. In dumping investigations, the Authority routinely requests both price and cost information in order to check whether domestic sales are made below cost. In determining normal value, sales of the like product in the domestic market of the exporting country at prices below per unit (fixed and variable) costs of production plus SGA costs will be treated as not being in ordinary course of trade by reason of price. In order to ascertain the comparable price for the like article when meant for consumption in ordinary course of trade in the exporting country under Section 9A(1)(c)(i) ibid, the sales reflected in the accounts/record for the relevant period at the price shown therein will normally be accepted when the record reasonably reflects the cost associated with the production and sale of such article. However, when a major input is imported from a non-market economy country, the sale price reflected in the record will have to be scrutinized to detect and correct the distortion resulting from the non-market economy price of the input used, the cost of which is required to be worked out in order to correct the distorted cost of production of the article. The Authority is justified in rejecting the domestic sales price shown as the record when the input in question was produced within a non-market economy country, because the price for such input would be distorted, as they do not reflect the normal market economy purchase price. The prices or costs in non-market economies are not accepted as an appropriate basis for the calculation of normal value on the ground that prices and costs are controlled and regulated by the government and therefore not subject to market forces. Export price of 4 ADPA from China to India, would also suffer from the same distortions. Thus, in our view, the international price, as evidenced by the import data for 4 ADPA from a market economy country to India, is a fair basis for ascertaining the actual value of 4 ADPA....."

47. The Hon'ble Supreme Bench c on 8-5-2015 disposed of the Petition for Special Leave to Appeal (Civil) No. 12086-12087 of 2015 with S.L.P. (C) CC No. 8088 of 2015 filed by Kumho Petrochemicals Co. Ltd. against the CESTAT Final Order Nos. AD/A/54808-54810/2014-CU(DB), dated 26-12-2014 as reported in 2015 (322) E.L.T. 514 (Tri.-Del.) (Kumho Petrochemicals Co. Ltd. v. Designated Authority). While disposing of the petitions, the Supreme Court passed the following order :
"SLP (C) Nos. 12086-12087/2015

Learned counsel for the petitioners, on instructions, seeks permission of this Court to withdraw these special leave petitions with liberty to the petitioners, if they so desire, to question the correctness or otherwise of the order that may be passed by the designated authority, Director General of Anti-Dumping and allied duties, before an appropriate forum by taking up all such contentions which are available to them including the contentions raised in these special leave petitions.

48. Kumho again challenged the remand finding before Hon'ble CESTAT, the Hon'ble CESTAT rejected the appeal vide its Final Order Nos. AD/A/53452-53453/2016-

CU(DB), dated 9-9-2016 reported as 2016 (342) E.L.T. 573 (Tri. - Del.) and held as follows;

6. We have heard all the interested parties and perused the appeal records including the written submissions. We note that in the first round of appeal, the Tribunal examined two issues for decision. The first one being the correctness of cost construction for production of 6 PPD (one of the subject goods) for arriving at normal value and consequently, the dumping margin and injury decision on the said goods. After elaborate discussion, the Tribunal recorded that the DA rightly rejected the price of 4 ADPA from Sinorgchem and after for construction of normal value based on the international price of 4 ADPA which is a main raw material for 6 PPD. The Tribunal upheld the rejection of 4 ADPA price from China and arriving of normal value based on international price of 4 ADPA. Hence, the issue relating to methodology adopted by the DA in constructing the normal value for the appellants has reached finality. The conclusion of the Tribunal has not been challenged before any higher judicial forum.

49. The Hon'ble Supreme Court Bench on 13-2-2017 dismissed Petition for Special Leave to Appeal (C) No. 3079 of 2017 filed by Kumho Petrochemicals Co. Ltd. against the CESTAT Final Order Nos. AD/A/53452-53453/2016-CU(DB), dated 9-9-2016 as reported in 2016 (342) E.L.T. 573 (Tri.-Del.) (Rishiroop Polymers Pvt. Ltd. v. Union of India). While dismissing the petition, the Supreme Court passed the following order :
"The special leave petition is dismissed."
50. In view of the above, the very issue has been settled by the Designated Authority and further upheld by Hon'ble CESTAT and Hon'ble Supreme Court, that the Designated Authority has not accepted consumption price of 4-ADPA reported by Kumho.
51. In the present investigation, Kumho Petrochemicals continues to source majority of 4ADPA from the same non-market economy company with whom Kumho Petrochemicals had earlier reported to have special relationship and no facts or evidence have been brought before the Authority in the present investigation that either status of the said company or business activities of the two companies has undergone any change since the previous determination by the Designated Authority.
52. It is therefore considered that the use of actual purchase price of 4ADPA by KKPC from the said non-market economy company would not reasonably reflect the cost associated with production of PX13 (6 PPD), and therefore, the consumption price of 4-ADPA reported by Kumho Petrochemicals cannot be adopted for the purpose of determination of cost of production. Further, there are no imports of 4ADPA to India from a market economy third country during the POI in the present investigation. However, during the process of investigation, the export price of 4ADPA from India to USA has been made available by the interested party, and the same has been accepted, after adding adjustments as ocean freight, insurance and inland freight, as the prevailing international price of 4ADPA during the POI, and cost of production of Kumho for the product under

consideration has been modified accordingly. Rest of the cost of production of Px-13 as claimed by Kumho has been accepted. The revised cost of sales of PX-13 (6PPD) so constructed has been taken into account for ordinary course of trade ("OCT") test.

53. On the basis of cost of sales determined as above, the Authority has carried out ordinary course of trade ("OCT") test, which indicates that less than 80% of domestic sales made during the POI were profitable. Accordingly, profitable domestic sales have been considered for determination of normal value. It is noted from the response that M/s KKPC, during the POI, has sold *** MT of subject goods at average invoice price of KRW *** per kg (USD *** per kg) in the domestic market. It is noted that KKPC has sold subject goods both in bulk and packed forms in the domestic market, while it has sold subject goods to India in packed form only. Thus, for fair comparison, the Authority has taken only packed sales into account for determination of normal value for KKPC.
54. M/s KKPC has claimed adjustments on account of inland transportation, credit cost, packing cost and level of trade. The Authority notes that KKPC has not provided reasonable evidences to substantiated level of trade adjustment in the EQR submitted. Therefore, level of trade adjustment has not been considered for the normal value determination. Other adjustments claimed by M/s KKPC have been accepted for determining the normal value at ex-factory level. The ex-factory normal value so determined has been mentioned in the dumping margin table below.

Normal Value in USA

i. Lanxess Corporation

55. M/s. Lanxess Coporation has filed response to exporter's questionnaires, in the prescribed formats. From the data filed by the M/s Lanxess Corporation, the cooperating producer and exporter from USA, it is noted that they have exported the subject goods directly to India to their related party Lanxess India in liquid form. It is further noted that in India, the related party has sold the material in flake form only and therefore, it is considered appropriate to compare Flake to Flake only for the purpose of dumping margin and injury margin. 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 Appendix. It is noted that M/s. Lanxess Corp., USA has sold *** MT of subject goods in the domestic market. Out of this *** MT *** MT is liquid and remaining *** MT of flakes in the market. Based on their response, it is noted that their domestic sales are in sufficient quantity in the domestic market. In order to determine 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 profit making transactions are more than 80% then the Authority has considered 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, only profitable domestic sales have been taken into account for determination of normal value, as it is seen that more than 20% sales are below cost of production.

56. For arriving at the ex-factory normal value, the Authority has considered adjustments (in USD/MT) on account of inland freight and credit cost from the invoice price of the responding producer. Accordingly, the ex-factory normal value is calculated and mentioned in the dumping margin table.

ii. Non-Cooperative exporters in USA

57. The Authority notes that no other exporter/producer from USA has responded to the Authority in present investigation. For all the non-cooperative exporters/producers in USA, the Authority determined the normal value on the basis of facts available, and the same is mentioned in the dumping margin table.

Normal Value in China

Market Economy Status for Chinese Producers

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

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

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

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

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

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

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

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

59. It is noted that while the provision contained in Article 15 (a)(ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a)(i) of the Accession Protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producers/ exporters from China PR have not submitted response to questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules.
60. Accordingly, the normal value for all the producers/exporters from the subject country have been determined as below.

Normal Value for all Producers in China PR.

61. As none of the producers from China PR have claimed determination of normal value on the basis of their own data/information, the normal value has been determined in accordance with para 7 of Annexure I of the Rules which reads as under:

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

62. It is noted that the prices or constructed value of the product in an appropriate market economy third country or the prices from such third country to other countries, including India, has neither been made available by the Applicant or an interested party, nor is available with the Authority from any public source. Thus, normal value has been determined on the basis of price paid or payable in India, duly adjusted to include profit, which has been determined considering optimised cost of production in India, after addition for selling, general & administrative expenses and reasonable profits. The normal value so determined is given below in dumping margin table.

G.5. Determination of export price

Korea RP

Kumho Petrochemical Co. Ltd.

63. During the POI, M/s KKPC has exported the subject goods directly to India as well as indirectly through an unrelated Korean trader namely, POSCO International Corporation. M/s KKPC and M/s POSCO have provided all the relevant information in the requisite formats. It is noted from the response that during the POI, M/s KKPC has exported *** MT of subject goods to India at an average invoice price of KRW *** per kg (USD *** per kg).
64. M/s KKPC has claimed adjustments on account of inland freight, ocean freight, port and other related expenses, overseas insurance, custom broker fees, commission expenses, packing expenses, credit cost, bank charges and duty drawback and the same have been allowed by the Authority except duty drawback. The ex-factory export price as determined is given in the dumping margin table.

For Non-cooperative Exporters from Korea

65. Export price in respect of any other exporters from Korea has been determined, pending further investigation, as per facts available in terms of Rule 6(8) of the Rules. For the purpose, the Authority has considered imports as reported in the DGCI&S and the questionnaire response of the responding producer and exporters. The ex-factory export price as determined is given in the dumping margin table.

USA

Lanxess Corporation

66. In the exporters' questionnaire response, the producer / exporter stated that during the POI they directly exported *** MT to their related party in India. The related importer in India has converted the liquid form of the subject goods in to Flake form and therefore, the Authority has made necessary adjustments on account of the conversion cost. As

their selling price of subject goods is lower than their purchase price which includes import prices and conversion cost, suitable adjustments have been made from their landed price and net export price. Further, the Authority has accepted the adjustment as claimed by the exporter on account of inland freight, overseas freight, marine insurance, credit cost, and inland transportation, subject to verification. Accordingly, the export price determined is provided in the dumping margin Table below. The export price so determined has been considered as ex-factory export price of Lanxess USA in respect of solid & packed material. The same has therefore been compared with the normal value of solid and packed material sold by Lanxess USA. The ex-factory export price as determined is given in the dumping margin table.

For Non-Cooperative exporters in USA

67. Export price in respect of any other exporters from USA has been determined, as per facts available in terms of Rule 6(8) of the Rules. For the purpose, the Authority has considered imports as reported in the DGCI&S and the questionnaire response of the producer and exporters. The ex-factory export price as determined is given in the dumping margin table.

China PR

Export price of Sennics Co., Ltd. Shandong, China PR (Producer), Sennics Co., Ltd. Shanghai, China PR (Exporter), M/s Sennics Inc., USA (Exporter) and M/s Sennics Singapore Pte. Ltd., Singapore (Exporter)

68. Sennics Co., Ltd. Shandong (hereinafter also referred to as "Sennics Shandong" or "the Company") is a limited liability company incorporated in China under the Chinese law. Sennics Shandong is 100% owned by Sennics Co., Ltd. ("Sennics Shanghai").
69. It is noted that Sennics Co., Ltd., Shandong (Producer) and Sennics Co., Ltd. Tai'an, (Producer), China PR, have filed questionnaire response along with its related trading companies, namely, M/s Sennics Co., Ltd. Shanghai, China PR, Sennics Singapore Pte. Ltd., Singapore and Sennics Inc., USA. In their questionnaire response, M/s Sennics Co., Ltd., Shandong and M/s Sennics Co., Ltd. Tai'an, China PR, have declared that these companies have exported the PUC produced by them to India through M/s Sennics Co., Ltd. Shanghai, China PR.

Sennics Co., Ltd. Shandong, China PR (Producer),

Export price of Sennics Co., Ltd. Shandong, China PR (Producer), Sennics Co., Ltd. Shanghai, China PR (Exporter), M/s Sennics Inc., USA (Exporter) and M/s Sennics Singapore Pte. Ltd., Singapore (Exporter)

70. The Authority notes that M/s Sennics Co., Ltd., Shandong China PR, has 901.00 MT of the PUC during POI to India through M/s Sennics Co., Ltd. Shanghai, out of which M/s Sennics Co., Ltd. Shanghai, has exported *** MT, directly to India, *** MT and *** MT have been exported to India through M/s Sennics Inc., USA and M/s Sennics Singapore Pte. Ltd., Singapore respectively.
71. It has been noted that Sennics Inc., USA and M/s Sennics Singapore Pte. Ltd., Singapore have reported losses in exports sales of PUC to India. The Export Price has been adjusted to the extent of losses shown by Sennics Inc., USA and M/s Sennics Singapore Pte. Ltd., Singapore.
72. The Authority made adjustments on account of ocean freight, insurance, inland freight, port and other related expenses, credit and bank charges, in order to arrive at the weighted average export price at ex-factory level. The ex-factory export price as determined is given in the dumping margin table.

Sennics Co., Ltd. Tai'an, China PR (Producer)

Export price of Sennics Co., Ltd. Tai'an, China PR (Producer), Sennics Co., Ltd. Shanghai, China PR (Exporter), M/s Sennics Inc., USA (Exporter)

73. The Authority also notes that M/s Sennics Co., Ltd. Tai'an, China PR, has exported *** MT of the PUC during POI to India through M/s Sennics Co., Ltd. Shanghai, out of which M/s Sennics Co., Ltd. Shanghai, has exported *** MT, directly to India and *** MT has been exported to India through M/s Sennics Inc., USA.
74. It has been noted that Sennics Inc., USA and M/s Sennics Singapore Pte. Ltd., Singapore have reported losses in exports sales of PUC to India. The Export Price has been adjusted to the extent of losses shown by Sennics Inc., USA and M/s Sennics Singapore Pte. Ltd., Singapore.
75. The Authority made adjustments on account of ocean freight, insurance, inland freight, port and other related expenses, credit and bank charges, in order to arrive at the weighted average export price at ex-factory level. The ex-factory export price as determined is given in the dumping margin table.

For Non-cooperative Exporters from China PR

76. Export price in respect of any other exporters from China has been determined, pending further investigation, as per facts available in terms of Rule 6(8) of the Rules. For the purpose, the Authority has considered imports as reported in the DGCI&S and the questionnaire response of the responding producer and exporters. The ex-factory export price as determined is given in the dumping margin table.

G.6 Determination of dumping margin (DM)

77. It is noted that in the subject investigation many cooperating producers and exporters are related to each other and form a group of related companies. It has been a consistent practice of the Authority to consider related exporting producers and exporters as one single entity for the determination of a dumping margin and thus to establish one single dumping margin for them. This is in particular because calculating individual dumping margins might encourage circumvention of antidumping measures, thus rendering them ineffective, by enabling related exporting producers to channel their exports to India through the company with the lowest individual dumping margin.
78. In accordance with the above, related producers and exporters from China PR have been regarded as one single entity and attributed one single dumping margin which was calculated on the basis of the weighted average of the dumping margins of the cooperating related producers and exporters.
79. Considering the normal value and export price for subject goods, the dumping margins for the subject goods from subject countries have been determined as follows:

Dumping margin Table

Country	Producer/Exporter	Normal Value/ CNV (US\$/MT)	Export Price (US\$/MT)	Dumping Margin US\$/MT	Weighted Average DM	Weighted Average DM%	Range
China PR	Sennics Co., Ltd. Shandong	***	***	***	***	***	30-40
	Sennics Co., Ltd. Tai'an	***	***	***	***	***	30-40
	Other Producers and Exporters	***	***	***	***	***	50-60
Korea RP	Kumho Petrochemical Co. Ltd.	***	***	***	***	***	20-30
	Other Producers and Exporters	***	***	***	***	***	40-50
USA	Lanxess Corporation	***	***	***	***	***	10-20
	Other Producers and Exporters	***	***	***	***	***	10-20

H. EXAMINATION OF INJURY AND CAUSAL LINK

H.1. Submissions of the domestic industry

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

- a. The goods from the subject countries directly compete with the like goods by the domestic industry and therefore, it is only appropriate to assess the effect of imports cumulatively.
- b. The demand for the product increased in 2017-18, marginally declined in 2018-19 and declined further in the POI. The imports from the subject countries increased in absolute terms in comparison with the base year and declined in the POI when compared to the previous year due to a decline in demand. The imports from subject countries have increased in relative terms.
- c. Imports from subject countries, except USA are undercutting the prices of the domestic industry. The imports from subject countries are suppressing the prices of the domestic industry. Further, price underselling/injury margin is positive and significant.
- d. With regards to USA, Lanxess USA exports to its related party in India i.e., Lanxess India and therefore, the selling price of the applicant has been considered by the domestic industry as the resale price of Lanxess India in order to determine the landed price of imports from USA.
- e. Capacities were constant throughout the injury period and inventories declined. Production, capacity utilization and domestic sales declined in the POI. Domestic industry exported in losses due to inability to sell the product in the domestic market.
- f. Market share of imports from subject countries have increased and that of the domestic industry has declined over the injury period.
- g. Profitability declined and the domestic industry faced significant financial losses in the POI and in effect, the ability to raise capital investment has weakened. Cash profits, PBIT, ROCE are negative in the POI. This is also because of cessation of anti-dumping duties against imports from Korea and China. Growth of the domestic industry is negative in the POI.
- h. Imports from subject countries pose threat of material injury to the domestic industry, and factors other than dumped imports are not causing injury to the domestic industry.
- i. The performance parameters of the exporters reveal both material injury and threat of material injury to the domestic industry in terms of increase in exports to India. India is a lucrative market for the exporters.
- j. Dumping need not be the sole cause of injury to the domestic industry and the domestic industry needs to only establish 'a' causal link.
- k. The exports sales constitute only 13% of the total sales of the domestic industry. The domestic industry was constrained to export in view of its inability to sell more volumes in the domestic market. Exports are more of a compulsion than a choice or preference.

- l. The domestic industry has stated in the annual reports that dumping is causing injury. Further, the interested parties have referred to the annual report without even establishing how the same pertains to or is relevant to the PUC. Public statements in the Annual Report do not alter the conclusion that dumping of the product has contributed to injury to the domestic industry.
- m. There is no legal requirement to consider post-POI data in a fresh investigation.
- n. As regards fall in crude prices, the selling price and costs both declined in the POI as compared to the preceding year, the decline in the selling price was far more than the decline in the costs. This is due to the fact that the landed price of imports was below the cost throughout the injury period.
- o. NIP has been calculated as per Annexure III.
- p. The interested parties are selectively reading the annual report. Further explosion of chemical plants pertains to China and not India.
- q. 22% ROCE has been allowed in all situations and for the past many years without considering actual rate of return earned by the domestic industry. 22% is lower than actual rate.
- r. Lanxess has support the present application in their written submissions. Other factors have already been examined by the domestic industry.
- s. It was provisionally held that imports from USA is also causing injury. The dumping margin is positive and substantial.

H.2. Submissions of other interested parties

81. The following are the submissions of the other interested parties with regard to injury and causal link:
 - a. The domestic industry has not considered actual data for the last month of the POI i.e. March 2020. Instead, annualized the figures for the purpose of the injury analysis. This has resulted in insufficient information in the domestic industry petition for analyzing the injury to the domestic industry in the most recent period.
 - b. The anti-dumping duty on import of PX-13 from China PR and Korea RP was in existence till 24 July 2019. Thus, injury to the domestic industry on account of import of the PUC before the POI, would have been negated due to such levy.
 - c. The data provided by the domestic industry shows that there is a decline in import volume of PUC during the recent period i.e., the POI. Moreover, user industry is forced to import on account of demand-supply gap.
 - d. As the domestic industry is unable to meet the entire demand which increased during the injury period, the same resulted in increase in imports of PUC during the said period. Similarly, when the demand of the PUC declined during the POI, as admitted by the domestic industry itself, the same resulted in decrease in imports of the PUC for the period.
 - e. Maximum increase in relative terms is visible from countries with AD duty levy, i.e. the European Union ('EU') which is much higher than the subject countries in the present investigation.
 - f. There is no price suppression or depression during the injury period. the landed value from 2016-17 till 2018-19 has increased by 48% which is much more than the increase in selling price of the domestic industry.

- g. The production, sales and capacity utilization of the domestic industry has continuously increased till 2018-19. The data provided for POI(A) is based on estimated figures therefore, the same should be confirmed basis actual data for March 2020.”
- h. Inventories of the domestic industry have experienced a decline during the injury period
- i. Market Share of domestic industry has increased in the period of investigation.
- j. Interest cost and depreciation and amortization expense of the domestic industry has increased during the POI(A).
- k. There was a fall in demand/consumption of PUC due to economic slowdown in the automobile sector in India. Thus, these factors may have impacted the profitability of the domestic industry in the present investigation and can be probable reason of losses to the domestic industry.
- l. Losses from export sales cannot be a part of the injury analysis in an anti-dumping investigation and must be separated from the parameters in the present analysis.
- m. Domestic industry’s major production is utilized in export sales and it is one of the reasons to contribute to the losses suffered by the domestic industry if any. Domestic industry has not explained the reason for exporting subject goods despite a demand-supply gap.
- n. Increase in import volumes of the PUC during the investigation period may be attributable to the lack of domestic supply in India owing to the domestic industry’s affinity towards export markets.
- o. Domestic selling prices of the PUC has dropped in the POI due to a massive fall in crude prices worldwide, which lowered the cost of raw materials by 40% which has been admitted to by the domestic industry itself in its 2018-19 annual report. However, the domestic selling price still shows an increase by 5% in 2018-19 as compared to the base year despite the massive reduction in raw material cost.
- p. It is submitted that the domestic producers of the subject goods are suffering injury because of imports of the subject goods from China and Korea. It is further submitted that the subject goods imported from USA are at substantially higher price, as compared to China and Korea and therefore, are not causing injury to domestic producers in India.
- q. Domestic industry has been claiming protection for 10 years through AD and safeguard measures, despite which it is not able to cater to the demand or improve its efficiency.
- r. The domestic industry has not suffered any injury from US imports as (a) imports from USA are at prices higher than China and Korea, (b) imports are in liquid form, which is converted into flakes in India, (c) liquid PX-13 has very little market share, (d) domestic industry domestic industry is suffering losses and distortions due to imports from Korea RP and China PR, (e) imports from USA have remained competitive. Imports from USA should therefore be excluded from investigation.
- s. Previous SSR filed in 2018 by domestic industry was not initiated since there was no likelihood of injury and a provisional duty would be in contravention to the same.

- t. Prices of the product have softened due to slow down, better availability, general decline in CIF prices and input prices. Slowdown in OEM industry impacted capacity utilization of major tire companies. Increase in depreciation cost, interest cost, foregoing opportunity cost of domestic industry, decline in demand in auto industry, etc. lead to decline in profitability. Also the domestic industry is planning capacity expansion.
- u. Price undercutting range (15-25%) is lower than the range in the terminated SSR investigation. Current prices of imports (without ADD) are not injuring the DI. Price undercutting range in the POI is lower than what prevailed in 2017-18.
- v. Imports increased due to lack of supply. Export orientation increased while capacity remained the same.
- w. Returns in the POI for PX-13 is 15%. Returns during POI do not fall within range of historical returns and cannot be said that subject imports has resulted in declining returns.
- x. DI's economic parameters have improved in Post-POI period according to the conference call on 03.02.2021 by the MD of NOCIL.
- y. There is no threat of material injury to the domestic industry.
- z. There is no causal link between volume of imports, price undercutting and losses suffered by the domestic industry, as there is no correlation between price undercutting and profit parameters of the DI.
- aa. NIP has been fixed at a very high price.
- bb. Decline in profitability is due to abnormal events such as shutdown of plants, explosion in chemical plants and COVID 19.
- cc. The assumption of 22% ROCE is highly inflated, not in accordance with the law and gives undue advantage to DI.
- dd. Serious allegations made by Lanxess against NOCIL should be examined while making causal relationship analysis. The producers have severe competition between themselves, thereby causing injury to NOCIL.
- ee. Domestic producers are suffering injury due to imports from China PR and Korea.
- ff. Export price from USA is higher than China and Korea and are not injuring the domestic producers. Examination of data will reveal that there is no injury to even the applicant from export prices from Lanxess USA.
- gg. DI has not increased its capacity in a decade despite declaring such an intention. Instead of selling 100% production in the domestic market, it's focused on catering on the export market.
- hh. It may be inferred that DI has some arrangement with importers in export market and is not interested in catering the domestic market demand.
- ii. Claims made by companies regarding future plans are likely to change or not be fulfilled, but it does not qualify to disregard the exporter's data.

H.3. Examination by the Authority

82. The Authority has taken note of the arguments and counterarguments of all the interested parties with regard to injury to the Domestic Industry. The injury analysis so made by the Authority hereunder addresses the various submissions made by the interested parties.

83. As regards argument of considering 22% as return on capital employed, it is noted that Authority has determined NIP as per Annexure III of the AD Rules.
84. As regards argument of considering information for post period of investigation, it is noted that the present investigation being a fresh investigation, there is no requirement of considering post period of investigation information

H.3.1 Cumulative assessment

85. Annexure-II para (iii) of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
- i. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and
 - ii. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
86. The Authority notes that:
- i. The subject goods are being dumped into India from the subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
 - ii. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
 - iii. Cumulative assessment of the effects of import is appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market. It is noted that the consumers who are buying from the domestic industry are also importing from amongst the subject countries.
87. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from the subject countries on the domestic industry. The Authority notes that even though US exporter has supplied the product in liquid form, the same has been eventually sold in solid form by the related importer. Further, the related importer is engaged in production of the product under consideration, and therefore holds all facilities for conversion of the product into solid. The consumers have ultimately consumed the product in solid form only.
88. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...". In

considering the effect of dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-Dumping Rules.

H.3.2 Volume effect of dumped imports on domestic industry

a) Assessment of demand / apparent consumption

89. The Authority has taken into consideration, for the purpose of the present investigation, the 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	2018-19	POI
Sales of domestic industry	MT	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>117</i>	<i>107</i>	<i>92</i>
Sales of other Indian producer	MT	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>113</i>	<i>108</i>	<i>83</i>
Subject Countries	MT	5,812	6,797	7,455	7,191
Countries attracting duty - European Union	MT	1,197	2,440	2,591	2,320
Other Countries	MT	0	0	10	312
Total Indian Demand	MT	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>121</i>	<i>119</i>	<i>106</i>

90. It is seen that the demand for the subject good has increased during the injury period, with a decline in the POI. The overall demand of subject goods have increased over the injury period.

b) Import volumes from the subject countries

91. 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. Factual position is as follows –

Particulars	Unit	2016-17	2017-18	2018-19	POI
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Subject Countries	MT	5,812	6,797	7,455	7,191
China	MT	2,004	3,537	3,882	3,749
Korea	MT	2,657	2,170	1,342	2,085
USA	MT	1,152	1,090	2,231	1,357
Countries attracting duty -European Union	MT	1,197	2,440	2,591	2,320
Other Countries	MT	0	0	10	312
Subject Imports in relation to					
Production	%	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>95</i>	<i>105</i>	<i>135</i>
Consumption	%	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>97</i>	<i>108</i>	<i>117</i>

92. It is seen that the volume of imports from subject countries has increased till 2018-19 but declined marginally during the period of investigation. However, the overall imports of subject goods from subject countries have increased during the POI. The volume of imports from subject countries have increased in relation to total Indian production and consumption.

H.3.3 Price effect of the dumped imports

93. With regard to the effect of the dumped imports on prices, it is required to be analyzed 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 underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with landed price of imports of the subject goods from the subject countries.

a) Price undercutting

94. For the purpose of price undercutting analysis, the net selling price of the domestic industry has been compared with the landed value of imports from the subject countries. Accordingly, the undercutting effects of the dumped imports from the subject country work out as follows-

Particulars	Unit	2016-17	2017-18	2018-19	POI
Net Sales Realisation	₹/Kg	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>131</i>	<i>132</i>	<i>104</i>
China					
Landed Price	₹/Kg	***	***	***	***

Price Undercutting	₹/Kg	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	Range	40-50	30-40	40-50	20-30
Korea					
Landed Price	₹/Kg	***	***	***	***
Price Undercutting	₹/Kg	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	range	50-60	30-40	20-30	20-30
USA					
Landed Price	₹/Kg	***	***	***	***
Price Undercutting	₹/Kg	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	range	10-20	40-50	10-20	(0-10)
Subject Countries					
Landed Price	₹/Kg	***	***	***	***
Price Undercutting	₹/Kg	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	range	40-50	30-40	20-30	10-20

95. It is seen that the imports from subject countries except for USA are entering at a price below the domestic selling price of the Domestic Industry, resulting in positive price undercutting. On a cumulative basis, the price undercutting margins from subject countries are positive.

96. As regards USA, the Authority notes that imports have been made by Lanxess India, who has imported the material in liquid form, processed the same into solid form and thereafter sold the same into India. The Authority further notes that the price undercutting is negative from USA due to the fact that exporters from USA export the subject goods to India at a higher price and their related party sales price in Indian market is lower than the cost price which included import prices of Liquid PX-13 and conversion cost from liquid to Flake of the Indian user. Thus, suitable adjustment has been made from their landed price. Therefore, it is noted that the import price recorded in DGCI&S import data is not showcasing the actual prevailing price of USA exporters in the Indian market.

b) Price suppression/depression:

97. In order to determine whether the dumped imports are depressing the domestic prices or whether the effect of such imports is to suppress prices to a significant degree and prevent price increases which other would have occurred in normal course, the Authority has considered the changes in the costs and prices over the injury period. The table below shows factual position:

Particulars	Unit	2016-17	2017-18	2018-19	POI
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Cost of Sales	Rs/Kg	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>93</i>	<i>109</i>	<i>106</i>
Selling Price	Rs/Kg	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>131</i>	<i>132</i>	<i>104</i>
Landed Value (Subject Countries)	Rs/Kg	143	195	212	183
	<i>Indexed</i>	<i>100</i>	<i>137</i>	<i>148</i>	<i>128</i>

98. It is seen that

- the landed price of imports from subject countries has remained below the cost of sales and the selling price of the domestic industry throughout the injury period
- Even though the cost has increased over the injury period, the domestic industry has not been able to increase its selling price in proportion to increase in costs.
- Whereas the costs declined in 2017-18, both the import price and selling price increased significantly in this period.
- Whereas the selling price and costs both declined in the POI as compared to the preceding year, the decline in the selling price was far more than the decline in the costs.

It is thus seen that imports of subject goods from subject countries are suppressing the prices of the domestic industry in the market.

H.3.4 Economic parameters of the domestic industry

99. Annexure II to the Rules provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below

100. 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 sale

101. 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	2018-19	POI
Capacity	MT	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>

Production	MT	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>128</i>	<i>129</i>	<i>97</i>
Capacity Utilization	%	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>128</i>	<i>129</i>	<i>97</i>
Domestic Sales	MT	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>117</i>	<i>107</i>	<i>92</i>
Average Stocks	MT	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>74</i>	<i>95</i>	<i>91</i>

102. It is seen that

- Production and capacity utilization of the domestic industry increased till 2018-19 and then declined significantly in the period of investigation.
- Whereas demand over the injury period was positive, production and capacity utilization in POI were at a level below the base year.
- Domestic sales of the domestic industry have shown a trend similar to that of production. Domestic sales increased in 2017-18 and then declined significantly in the period of investigation. Sales in POI were at a level below the base year.
- Overall, the production, capacity utilization and sales have declined during the POI as compared to base year.
- Inventories with the domestic industry declined in 2017-18, but increased thereafter. However, inventories have declined over the injury period.

ii. Market share in Demand

103. The market share of the domestic industry is shown in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Domestic industry	%	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>97</i>	<i>90</i>	<i>87</i>
Other Indian producer	%	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>93</i>	<i>90</i>	<i>78</i>
Subject Countries	%	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>97</i>	<i>108</i>	<i>117</i>
China	%	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>146</i>	<i>163</i>	<i>176</i>
Korea	%	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>67</i>	<i>42</i>	<i>74</i>
USA	%	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>78</i>	<i>163</i>	<i>111</i>
Countries attracting duty - European Union	%	***	***	***	***

	<i>Indexed</i>	100	169	182	183
Other Countries	%	***	***	***	***
	<i>Indexed</i>			100	3475

104. It is seen that the market share of the domestic industry has declined throughout the injury period. The market share of the subject countries have increased over the injury period, whereas market share of the domestic industry has declined.

iii. Profitability, cash profits and return on capital employed

105. 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	2018-19	POI
Profit/Loss	₹/Kg	***	***	***	***
	<i>Indexed</i>	-100	260	108	-120
Profit/Loss	₹ Lacs	***	***	***	***
	<i>Indexed</i>	-100	304	115	-111
PBIT	₹ Lacs	***	***	***	***
	<i>Indexed</i>	-100	341	128	-120
Cash Profits	₹ Lacs	***	***	***	***
	<i>Indexed</i>	-100	356	139	-114
Return on Capital Employed	%	***	***	***	***
	<i>Indexed</i>	-100	318	125	-144

106. It is seen that

- The domestic industry was suffering financial losses in 2016-17. With decline in costs and increase in prices, the domestic industry earned profits in 2017-18 which declined in 2018-19 and further in POI. The decline in profitability in the POI was very significant and the domestic industry once again suffered financial losses in the POI.
- Cash profits, PBIT and return on investment have shown the same trend as profits. Performance of the domestic industry in respect of cash profits, PBIT and return on investment first improved in 2017-18 and thereafter declined significantly till POI. The domestic industry has suffered cash losses, negative PBIT and return on investment in the POI.

iv. Employment, wages and productivity

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

Particulars	Unit	2016-17	2017-18	2018-19	POI
No. of Employees	Nos	***	***	***	***
	<i>Indexed</i>	100	95	95	95
Productivity Per Day	MT	***	***	***	***

	<i>Indexed</i>	<i>100</i>	<i>128</i>	<i>129</i>	<i>97</i>
Wages	₹ Lacs	***	***	***	***
	<i>Indexed</i>	<i>100</i>	<i>89</i>	<i>79</i>	<i>71</i>

108. It is seen that

- The employment levels have remained constant in the last three years.
- The productivity per day increased steadily till 2018-19 but declined in the POI.
- The wages paid has declined throughout the injury period.

109. The domestic industry has submitted that these parameters are not reflective of the impact of dumped imports on the domestic industry.

v. Growth

110. The growth of the domestic industry in terms of production, capacity utilization, domestic sales volume, inventories, profits, cash profits, and return on investment has become significantly negative during the period of investigation.

Particulars	Unit	2017-18	2018-19	POI
Production	Y/Y	28	1	(25)
Domestic Sales	Y/Y	17	(9)	(14)
Cost of Sales	Y/Y	(7)	16	(3)
Selling price	Y/Y	31	0	(21)
Profit/Loss	Y/Y	(360)	(59)	(211)
Cash profits	Y/Y	(456)	(61)	(182)
ROCE	Y/Y	(418)	(61)	(215)

vi. Ability to raise capital investment

111. It is seen that the domestic industry has faced significant decline in profitability, which has weakened its ability to raise capital investment.

vii. Factors affecting domestic prices

112. 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 suppressed the prices of the domestic industry to a significant degree. The imports of subject goods from third countries are either attracting anti-dumping duty or at de-minimus levels or are at higher prices. 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 from the subject countries.

113. The Authority notes that the Dumping Margin is more than de-minimus and also significant. The Authority has taken note of the arguments and counterarguments of all the interested parties with regard to injury to the Domestic Industry. The injury analysis so made by the Authority hereunder addresses the various submissions made by the interested parties.
114. As regards the argument of demand supply gap, the Authority considers that possible demand-supply gap cannot deprive a domestic industry from seeking redressal against dumped imports causing injury. If the exporters wish to meet the requirement in Indian market, that could be done by meeting the requirements at an undumped price. It is also noted that the profitability of the domestic industry is much adverse in the export market, as compared to domestic market. It is not established that the domestic industry preferred exports over domestic sales. Further, it is seen that the capacity utilisation of the domestic industry declined significantly in the present investigation period.
115. As regards the argument of exports of domestic industry causing injury, it is clarified that the performance of the domestic industry has been analysed with respect to its domestic operations only. Losses suffered in exports have been segregated and not considered in the present findings.
116. As regards the decline in the raw material prices, it is noted that the profitability of the domestic industry has been considered, having regard to actual raw material prices. It is seen that the profitability of the domestic industry significantly declined, despite these decline in raw material prices.
117. With regard to argument that the reasons of decline in profitability is 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).
118. As regards decline in demand, it is seen that whereas the demand for the product declined, the imports from subject countries increased and production, domestic sales and capacity utilisation of the domestic industry declined.
119. As regards previous ADD and absence of injury due to the same, it is clarified that the Authority has considered injury to the domestic industry in the present POI.
120. With regard to the contention of the interested parties that imposition of anti-dumping duty will not be prejudicial to interests of the users, the Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.
121. With regard to the issue of continued duty raised by the interested parties, the Authority notes that there is no antidumping duty on the product at present. In fact, the Authority

had earlier recommended cessation of antidumping duty on the grounds that there was no likelihood of injury to the domestic industry. The information relating to the domestic industry however shows that the domestic industry is once again suffering injury, due to significant price depression caused by the imports of subject goods from subject countries.

viii. Magnitude of price underselling/injury margin (IM)

122. 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 product under consideration 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 accountant for the period of investigation. The NIP has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilisation of the raw materials and utilities has been considered over the injury period. Best utilisation of production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from the cost of production. The penultimate product which is captively consumed in PUC i.e. 4 ADPA has been optimised as per Annexure III of the Rules. A reasonable return @ 22% on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration and 4ADPA was allowed towards interest, tax and profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules.
123. 'Landed price for the cooperating exporters has been determined from the CIF export price determined for the purpose of dumping margin determination. Applicable customs duties have been added to determine landed price of imports. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.
124. As mentioned in the dumping margin analysis, it is noted from the response filed by the Lanxess Corporation, USA (producer / exporter) that their related user / importer Lanxess India in India has incurred a loss during the sale of the subject goods in Flake Form. As their sales price of subject goods in Flake Form is lower than the cost price which included import prices of Liquid PX-13 and conversion cost from liquid to Flake of the Indian user, suitable adjustment has been made from their landed price.
125. Based on the landed price and NIP determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below:

Country	Producer	Non-Injurious Price (US\$/MT)	Landed Value (US\$/MT)	Injury Margin US\$/MT	IM weighte d	IM%	IM range
China PR	Sennics Co., Ltd. Shandong	***	***	***	***	***	20-30
	Sennics Co., Ltd. Tai'an	***	***	***	***	***	20-30
	Other Producers and Exporters	***	***	***	***	***	40-50
Korea RP	Kumho Petrochemical Co. Ltd.	***	***	***	***	***	20-30
	Other Producers and Exporters	***	***	***	***	***	20-30
USA	Lanxess Corporation	***	***	***	***	***	(10-20)
	Other Producers and Exporters	***	***	***	***	***	(10-20)

H.3.5 Conclusion on Injury

126. The examination of the imports of the subject product and the performance of the domestic industry clearly shows that the volume of dumped imports from subject countries has increased in both absolute and relative terms. The imports from the subject countries are undercutting the prices of the domestic industry. It is also noted that the imports of subject goods from the subject countries are suppressing the prices of the domestic industry. The production, sales, capacity utilization and market share of the domestic industry has declined 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. The Domestic Industry has suffered financial losses, cash losses and negative return on investments in the period of investigation. In view of the foregoing, the Authority concludes that the Domestic Industry has suffered material injury.

I. NON-ATTRIBUTION ANALYSIS

127. The Authority examined any known factors other than the dumped imports which at the same time might have been injuring the domestic industry, so that the injury caused by these other factors, if any, is not attributed to the dumped imports. Factors which are relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. The Authority examined whether factors other than dumped imports could have contributed to the injury to the domestic industry.

a) Volume and value of Imports not sold at dumped prices

128. The imports from other countries are either attracting anti-dumping duty or at de-minimis levels. Thus, imports from other countries do not appear to have caused injury to the domestic industry.

b) Contraction in demand

129. While overall demand has increased, the demand has declined in the period of investigation. However, the volume of imports have increased in POI. Thus, the claimed injury to the Domestic Industry is not on account of contraction of demand.

c) Changes in pattern of consumption

130. There have been no material changes in the pattern of consumption of the product under consideration. Hence, changes in the pattern of consumption have not caused injury to the domestic industry.

d) Conditions of competition and trade restrictive practices

131. The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry.

e) Developments in technology

132. 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.

f) Export performance of the domestic industry

133. 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. However, the domestic industry has submitted that it is compelled to export only because of absence of demand for the product from the domestic market.

g) Performance of other products

134. 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. Therefore, performance of other products produced and sold by the applicant is not a possible cause of the injury to the domestic industry.

J. Conclusion on Causal Link

135. The Authority concludes that the domestic industry has not suffered injury in the POI due to other factors. Further, the following factors show that the injury to the domestic industry is due to subject dumped imports:
- i. The imports are undercutting the prices of Domestic Industry and are priced below the cost of the Domestic Industry.
 - ii. The imports have forced the Domestic Industry to sell the product at a price below cost of production. The Domestic Industry has suffered price depression on account of dumped imports.
 - iii. The adverse volume and price effect on account of imports of subject goods from subject countries has resulted in financial losses, cash losses and negative return on investments in the POI.
 - iv. Price undercutting has led to increase in imports and decline in sales of the domestic industry. v. Decline in sales of the domestic industry has led to decline in market share, production and capacity utilization of the domestic industry.

136. The Authority, thus, finally concludes that there exists a causal link between the dumping of the subject goods and injury to the domestic industry.

K. Post Disclosure statement submissions

Submissions by Domestic Industry

137. The submissions made by the domestic industry is as follows

- i. Lanxess did not file any non-confidential version of the information filed by them post preliminary determination, in order to rectify the deficiency thereby violating confidentiality provisions under the Rules and the principles of natural justice. Reference was made to Anti-subsidy investigation against imports of Fibreboard where the Authority rejected exporter responses as sufficient non-confidential version was not provided.
- ii. The NIP calculated by the Authority is not as per Annexure III of the AD Rules. The disclosure statement does not specify the reason for significant differences in NIP reported in petition and calculated by the Authority. The Authority is requested to

- share the linked file along with modifications made, without which, the petitioner is unable to offer comments on the NIP.
- iii. Annexure III has been applied to captive inputs, which is inconsistent with Annexure III, a number of affidavits filed by DGTR before the Hon'ble High Court, past practices and public statements and communications made by DGTR.
 - iv. The reasons for modification by DGTR of net fixed assets reported by applicant and resultantly the depreciation has not been disclosed. If such deductions are due to the application of Indian accounting standards (IND-AS), the domestic industry has already substantiated the appropriateness of such amount.
 - v. The reasons for significant reduction of working capital as compared to the working capital reported by the domestic industry has not been disclosed, without which the domestic industry is unable to offer comments.
 - vi. 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.
 - vii. A competitive domestic industry capable of supplying the product to the consumers in competition to fair priced imports is in consumer's interests.
 - 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.
 - ix. The consumers will have to maintain higher degree of inventory if they have to depend on imported material, while, in case of procurement from the domestic industry, inventory holding can be kept at much lower levels.
 - x. The domestic industry has been underutilizing its capacities due to the presence of dumped imports from the subject countries.
 - xi. Anti-dumping duty will provide a level playing field, address the decline of the domestic industry's performance, and at the same time does not have an adverse impact on the eventual end consumers. Anti-dumping duty is only a means of price correction and not a protection to the domestic industry.
 - xii. Radial tyres price ranges between INR 20,000/- to INR 25,000/- and the cost of PX-13 is INR 90 per tyre. Even a 20% increase in price of PX-13 due to imposition of anti-dumping duties will only result in an increase in cost by INR 18 per tyre, which is 0.09% of the price of a radial tyre. Impact of duty on the consumer industry is very miniscule.
 - xiii. The domestic industry has sufficient capacity of PX-13 to cater to the domestic market for future requirements.
 - xiv. Since Eastman Chemical has sold their rubber chemicals business to One Rock Capital, the customers will be forced to depend on China and NOCIL for 4ADPA supply, and non-imposition of duties will result in suspension or cut down of operations and the consumers will be left at the mercy of Chinese suppliers.
 - xv. The raw material used in the production of PX-13 i.e., 4ADPA constitutes 85% of its total cost. The major suppliers of 4ADPA are China and India. The Applicant is the sole manufacturer of 4ADPA in India. Injury to the domestic industry due to the presence of dumped imports will cause an imbalance in supply chain arrangement.

- xvi. 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.
- xvii. Due to widening trade deficit and dwindling forex reserves, it is important to rely more on the domestic production capacities and reduce import dependence.
- xviii. Since normal value of China is based on data of the domestic industry, the same should be disclosed. Further, calculations by the domestic industry shows a higher dumping margin than that of the Authority.
- xix. The Authority should disclose the non-confidential version of the communication sent to participating exporters and replies if any, post filing of questionnaire responses, and verification reports.

Submissions by other interested Parties

138. The submissions of other interested parties are as follows

- i. The Authority has not analyzed in its examination in the subsequent para 28, as to how it may recommend an ADD without the DI having adduced any additional evidence that was not already submitted at the time of issue of the preliminary findings, when the same has already been rejected by the Central Government. Thus, in view of the above, the respondents respectfully submit that the Hon'ble DA should not recommend a definitive ADD on the PUC.
- ii. The analysis of causal link between the imports from subject countries and the alleged injury is lacking. The Hon'ble DA in its non-attribution analysis in paras 127-135 of the DS has not accounted for any of the submissions made by ATMA which clearly demonstrate the break in causal link.
- iii. There is a demand supply gap, and the domestic industry is unable to cater prevailing demand in Indian market.
- iv. With respect to M/s. KKPC while calculating the dumping margin, export price has been considered for the PUC sold in bulk form whereas the normal value has been taken for the bulk and packed form together. The authority should compare the export prices of bulk with the normal value of bulk and packed.
- v. The DI's claims that it is suffering 'material injury' barely 3 months after the December 2018 decision of the Hon'ble DA in the SSR mentioned above, seemingly defies any logical explanation. Therefore, the Hon'ble DA's statement that its own determination in December 2018 is no longer relevant is without any justification or necessary context. The Hon'ble DA is thus requested to revisit its conclusion in this regard.

Examination by the Authority

139. 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.

- a. As regards argument on excessive confidentiality, treatment of China as non-market economy, return @ 22% on average capital employed, the same has already been addressed in the relevant paragraphs of these findings.
- b. As regards the contention that the domestic industry cannot meet the demand for the product in the country, the Authority notes that the demand-supply gap in the country does not justify dumping of the product in the country, particularly when the same is causing injury to the domestic industry.
- c. As regards M/s KKPC's concern on Normal Value, the Authority has examined the issue and has appropriately modified the normal value and export price, and explained it in the relevant headings in this finding.
- d. As regards eligibility of Lanxess India as domestic industry, it is seen from the information provided by the Lanxess that the company has imported significant volumes of the product under consideration from USA. It is also noted that the company is related to exporter and is itself an importer, and the volume of such imports is quite significant (entirety of the imports from US are by this company). The Authority has considered Lanxess as a domestic producer, but not domestic industry within the meaning of Rule 2(b). As regards submissions made by interested parties concerning eligibility of Lanxess, India, the Authority notes that ineligibility of Lanxess India is on account of imports of PX-13 and its relationship with the exporter from USA.
- e. As regards various argument raised by domestic industry on the insufficient disclosure of NIP, argument on Annexure III has been applied to captive inputs, and argument on modification of net fixed asset, depreciation and working capital while computing NIP the authority reiterated that for determining the non-injurious price, the best utilisation of the raw materials and utilities has been considered over the injury period. Best utilisation of production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from the cost of production. The penultimate product which is captively consumed in PUC i.e. 4 ADPA has been optimised as per Annexure III of the AD Rules. Moreover, a reasonable return @ 22% on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration and 4ADPA was allowed towards interest, tax and profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules. The significant difference between the claimed and allowed value of NIP is because of the above said relevant factors as considered by the authority after due verification of data on record.
- f. As regards the argument on 2018 findings of Designated Authority, it is submitted that the period of investigation in that case was July 2017-June 2018, whereas the period of investigation in the present case is 2019-20. The Authority has in the relevant paragraphs of these findings has determined that the exporters are dumping

the product under consideration during the period of investigation resulting in injury to the domestic industry.

L. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

140. 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.
141. 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.
142. 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.
143. Four users, namely, M/s. Apollo Tyres Limited, M/s. CEAT Limited, M/s. JK Tyre & Industries Limited, M/s. MRF Limited and one related importer, namely M/s. Lanxess India Private Limited have filed the prescribed user/importer questionnaire response. However, as already noted in these findings, none of these users 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.

144. 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. Further the domestic industry has quantified the impact of the recommended anti-dumping duty on the consumer industry and submitted that the impact is miniscule on different segments of the consumer. The fact that there are only three Indian producers of the product under consideration, i.e PMC Rubbchem P Ltd which has stopped production of PUC, Lanxess India P Ltd, and NOCIL Ltd. It is also noted that the domestic industry is the sole producer of the major raw material, i.e., 4ADPA used in the production of the product under consideration. Thus, non-imposition of anti-dumping duty will adversely impact the indigenous production of the product concerned. From the information on record, it is also noted that the impact of anti-dumping duty is miniscule to the consumers of the product under consideration, and the Authority is of the view that the imposition of anti-dumping duty will be in public interest.

M. CONCLUSION & RECOMMENDATIONS

145. 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 Applicant constitutes 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 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.
 - d. The very issue of rejection of consumption price of 4-ADPA reported by Kumho has been settled by the Designated Authority and further upheld by Hon'ble CESTAT and Hon'ble Supreme Court.
 - e. The use of actual purchase price of 4ADPA by KKPC from the said non-market economy company would not reasonably reflect the cost associated with production of PX13 (6 PPD), and therefore, the consumption price of 4-ADPA reported by Kumho Petrochemicals cannot be adopted for the purpose of determination of cost of production.
 - f. 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.
 - g. 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 has increased in both absolute and relative terms. The volume of subject goods has increased by more than 23% whereas demand has increased by only 6%. The imports from

the subject countries are undercutting the prices of the domestic industry, and the margin of price undercutting is more than 10 percent. It is also noted that the imports of subject goods from the subject countries are suppressing the prices of the domestic industry. The production, sales, capacity utilization and market share of the domestic industry has declined in the period of investigation. It is noted that market share of domestic industry has declined by 13% . The performance of the Domestic Industry has significantly deteriorated in respect of profits, cash profits and return on capital employed. The profits, PBIT, cash profits, and ROCE have declined by 20%, 20% 14% and 44% respectively. The Domestic Industry has suffered financial losses, cash losses and negative return on investments in the period of investigation.

- h. The material injury suffered by the domestic industry has been caused by the dumped imports.
- i. No anti-dumping duty is recommended against exports of subject goods from USA as injury margin is negative.
- j. Despite providing all formats for users to quantify the impact of ADD and elaborate on how 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. Non-imposition of anti-dumping duty will adversely impact the indigenous production of the product concerned and the fact that the impact of anti-dumping duty is miniscule to the consumers of the product under consideration, the Authority is of the view that the imposition of anti-dumping duty will be in public interest.

146. 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 imposition of anti-dumping duty is required to offset dumping and injury, pending completion of the investigation. The Authority considers it necessary and recommends imposition of anti-dumping duty on imports of subject goods from the subject countries.

147. 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 imposition of antidumping duty on the imports of subject goods, originating in or exported from subject countries, 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. No anti-dumping duty is recommended against exports of subject goods from USA as injury margin is negative.

Duty Table

SN	Head ing	Descript ion	Country of Origin	Country of Export	Producer	Amount	Unit	Curren cy
1	2	3	4	5	6	7	8	9
1	3812, 2921, 2934 (note 1)	Rubber Chemical PX 13 (note 2)	China PR	Any country including China PR	Sennics Co., Ltd. Shandong	591.36	MT	US\$
2	- do -	- do -	China PR	Any country including China PR	Sennics Co., Ltd. Tai'an	591.36	MT	US\$
3	- do -	- do -	China PR	Any country including China PR	Any producer other than Serial Number 1 & 2	924.47	MT	US\$
4	- do -	- do -	Any country other than countries attracting anti-dumping duty	China PR	Any	924.47	MT	US\$
5	- do -	- do -	Korea RP	Any country including Korea RP	Kumho Petrochemi cal Co. Ltd.	489.56	MT	US\$
6	- do -	- do -	Korea RP	Any country including Korea	Any producer other than Serial Number 5	612.18	MT	US\$

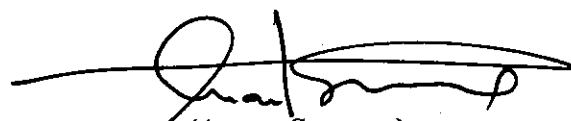
7	- do -	- do -	Any country other than countries attracting anti-dumping duty	Korea RP	Any	612.18	MT	US\$
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Note-1 - Customs classification mentioned above is only indicative.

Not-2 - The description of the product under consideration is "Rubber Chemicals PX-13" also known as 6PPD, Antioxidant 6PPD, Kumanox 13, Santoflex 6PPD, Sirantox 6PPD, Vulkanox 4020, Antioxidant 4020, Dussantox 6PPD, Antage 6C, N-1,3-Dimethylbutyl)-N'-Phenyl-P-Phenylenediamine.

N. FURTHER PROCEDURE

148. 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