

**To be published in Part-I Section-I of the Gazette of India Extraordinary
F. No.6/2/2017-DGAD (Case No.- OI/03/2017)
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001**

Dated: 27th April, 2018

**Notification
Final Findings
(Case No. - OI/03/2017)**

Subject: Anti-dumping investigation concerning imports of Dioctyl Phthalate, originating in or exported from Korea RP and Chinese Taipei.

No. 6/2/2017 -DGAD: - Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as the Rules) thereof:

2. Whereas M/s KLJ Plasticizers Limited, (hereinafter also referred to as the petitioners or the applicants or domestic industry) have filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules, for initiation of Anti-dumping investigation concerning imports of "Dioctyl Phthalate" (hereinafter also referred to as the subject goods), originating in or exported from Korea RP and Chinese Taipei (hereinafter also referred to as the Subject Countries), alleging dumping and consequent injury and requested for levy of anti-dumping duty on the imports of the subject goods from the Subject Countries.
3. And whereas, the Authority on the basis of sufficient evidence, submitted by the applicant issued a public notice vide Notification No. 6/2/2017 -DGAD dated 01st June, 2017, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the sub Rule 5 of the Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

A. Procedure

4. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
 - (i) 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.

- (ii) The Authority issued a public notice dated 01st June, 2017 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.
- (iii) The Authority sent a copy of the initiation notification to the Embassies of the Subject Countries in India, known producers/exporters from the subject Countries, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
- (iv) The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the subject Countries in India in accordance with Rule 6(3) of the Rules supra.
- (v) The Embassies of the subject Countries in India were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
- (vi) The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in accordance with Rule 6(4) of the Rules:
 - a. M/s Chemcross Inc. Asia
 - b. M/s Humade Corporation
 - c. M/s Woori P & C Corporation
 - d. M/s UPC Technology Corporation
 - e. M/s Advance Tekno chem
 - f. M/s Dah Sheng Plasticizer Co. Ltd
 - g. M/s LG Chem Co. Ltd
- (vii) The following producers/exporters from the Subject Countries filed exporter's questionnaire response in the prescribed format:
 - a. M/s OCI Company Ltd. Korea RP
 - b. M/s Nan Ya Plastics Corporation, Chinese Taipei
 - c. M/s Everlite Korea Co Ltd, Korea RP
 - d. M/s JC Petrochem Limited, HongKong
 - e. M/s Aekyung Petrochemical Co. Ltd, Korea RP
 - f. M/s Canko Marketing Inc, Korea RP
 - g. M/s Chemtown Co. Ltd, Korea RP
 - h. M/s Humade Corporation, Korea RP
 - i. M/s Hyundai Corporation, Korea RP
 - j. M/s Ubesco Corporation, Korea RP
 - k. M/s Woori P&C Corporation, Korea RP

(viii) The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

- a. M/s Alpha Polymers
- b. M/s Anukampa Polymers & Technologies Pvt. Ltd.
- c. M/s Gloster Cables Limited
- d. M/s Prime Polymers
- e. M/s S. Gopal Kamath (Cochin)
- f. M/s Coir Tuft International Pvt. Ltd.
- g. M/s Kerafibertex Int. Pvt. Ltd
- h. M/s The Alleppey Company
- i. M/s Kerala Baars (P) Ltd
- j. M/s Tube Products
- k. M/s Gee Tee (India) Ahmedabad
- l. M/s Nishan Marketing
- m. M/s Sigma Organics and Chemicals Pvt Ltd
- n. M/s Laser Cables Pvt Ltd
- o. M/s Plastic Pack
- p. M/s Jain Chemicals (Jaipur)
- q. M/s Jain Chemicals & Plastic (Delhi)
- r. M/s Leo Vinyls Kapurthala Road
- s. M/s Jainco Enterprises
- t. M/s Arvind Plastic Udyog
- u. M/s Radha Plastic Inds. (Daman)
- v. M/s Varun Organics Pvt Ltd
- w. M/s Krishna Enterprises
- x. M/s A.D. Industries
- y. M/s Diamond Pipes & Tubes Pvt Ltd
- z. M/s BDS Industries
- aa. M/s Poonam International
- bb. M/s Royal Cushion Vinyl Products Ltd
- cc. M/s Vinyl Royal Plasticoats Ltd

(ix) The following importers filed importer's questionnaire response in the prescribed format:

- a. M/s Sterling Impex
- b. M/s Shiv Polymers

- c. M/s Kiwi Overseas
 - d. M/s RMG Polyvinyl India Ltd
 - e. M/s Swastik Polyvinyls Pvt Ltd
 - f. M/s Sonarg Plastics Pvt Ltd
 - g. M/s Kkalpana Industries
 - h. M/s Blhani Manufacturing Co. Pvt Ltd
 - i. M/s Shankla Industries
 - j. M/s Bihani Group
- (x) Submissions were also received from following parties as well
- i. IEEMA
 - ii. All India Plasticizer Consumer Association
 - iii. Taipei Economic and Cultural Center in India
- (xi) Apart from the respondent exporters and importers mentioned above, submissions have been received on behalf of the following parties during the course of this investigation. However, no importer questionnaire have been filed by the following parties.
- i. M/s Beetapoly Coats Pvt Ltd.
 - ii. M/s Yash Enterprise
 - iii. M/s Takkar Industries
 - iv. M/s Yashraj Industries
 - v. M/s Gopal Plastics
 - vi. M/s Havells
 - vii. M/s SAC Polymers
 - viii. M/s BLS Polymers Ltd
 - ix. M/s KEI Industries Limited
 - x. M/s Yash Poly Industries
 - xi. M/s Finolex Cables Limited
 - xii. M/s SAC Polymers Limited
 - xiii. M/s Technovinyl Polymers India Limited
 - xiv. M/s J & K Industries
 - xv. M/s Farcom Cable Systems Pvt. Ltd.
 - xvi. M/s Konnark Polymer Private Limited
 - xvii. M/s Rialto cables Pvt. Ltd.
 - xviii. M/s Dugar Polymers Limited
 - xix. M/s Polynova
 - xx. M/s Welset
 - xxi. M/s Currency Cables Private Limited
 - xxii. M/s Polyester Industries
 - xxiii. All India Plasticizers Consumers Association
 - xxiv. The Plastic Export Promotion Council
 - xxv. All India Laminated Fabric Manufacturers Association
 - xxvi. M/s Plast Impex
 - xxvii. M/s Marvel Vinyls Ltd.

- (xii) Following consumers/users filed letters supporting the claim of domestic industry for imposition of anti-dumping duties, post initiation of the investigation.

SN	Party Name	SN	Party Name
1	Ashish Agro Plast Pvt Ltd	40	Jainco Enterprises
2	Ashish Poly Plast Ltd	41	Krishna Enterprises
3	Ashriwad Polymers	42	Nishan Marketing
4	D.R.G Leather Cloth Pvt Ltd	43	Plasti Pack
5	Dawar Sons Pvt Ltd	44	Pritsons Polymers
6	Dutron Plastics (Bharuch)	45	Rako Mercantile Traders
7	Dutron Plastics Ltd	46	S.Gopal Kamath (Cochin) Pvt Ltd
8	ELES Vinyl Pvt Ltd	47	Varun Organics
9	Eva Synthetic LLP	48	Ac Polycoaters Pvt.Ltd.
10	Frontier Alloys	49	Ac Unicoaters Pvt.Ltd.
11	Gajindra Plastic Industries	50	Alert India
12	J & K Indsutries	51	Alpha Medicare And Devices Pvt.Ltd.
13	Janta Footwear Private Limited	52	Alpha Organics
14	Kamal Polymers	53	Amco India Ltd.
15	Lotus Industries	54	Andhra Petrochemicals Ltd.
16	Lucky Plast Ltd	55	Arvind Plastic Udyog
17	Medicare Industries	56	Bajaj Polymer
18	National Healthcare	57	Bansal Polyplast Pvt.Ltd.
19	National Industries	58	Dhan Laxmi Industries
20	National Products	59	Fleetguard Filters Private Limited
21	Nippon Polymers Pvt Ltd	60	Hariom Polymers
22	Opera Polymers	61	Hillson Footwear Pvt.Ltd.
23	Paras Udyog	62	I.G.Petrochemicals Ltd.
24	Parshv Polymers Pvt Ltd	63	Jain Chemicals
25	Patkar Extrusions Pvt Ltd	64	Jayashree Polymers Pvt.Ltd.
26	Polyfines India Ltd	65	Mahalaxmi Plastic Industries

27	Prabhat Industries	66	Major Footwears Pvt. Ltd.
28	Rainbow Enterprises	67	National Traders
29	Rama Vyapar Pvt Ltd	68	Paras Udyog
30	Ridhi Sidhi Polymers	69	Pathfinder Woodplast
31	Sakkthi Polymers	70	Plasti Lami Coats Pvt.Ltd.
32	Shri Shyam Polycoats Pvt Ltd	71	Pragati Enterprises
33	Soft Turf	72	Pvc Converters India Pvt.Ltd.
34	Sree D.R.G Vinyl Industries	73	Rextile Leather Pvt.Ltd.
35	Tekmak Cables India (P) Ltd.	74	Roman Industries LLP
36	Tirupati Plastics	75	Shital Text Pvt.Ltd.
37	Yash Enterprises	76	Standard Flex Pvt.Ltd.
38	Haryana Plastic	77	Thirumalai Chemicals Ltd.
39	Jain Chemical & Plastics	78	Vandana Enterprises Pvt.Ltd.

- (xiii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- (xiv) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigations, which was received by the Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
- (xv) The Non-injurious Price (NIP) based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- (xvi) Verification of the information provided by the applicant domestic industries, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of present final findings.
- (xvii) The Period of Investigation for the purpose of the present anti-dumping investigation is the period from 1st April, 2016 to 31st March, 2017 (12 Months). The injury investigation period has however, been considered as the period from 2013-14, 2014-15, 2015-16 and the POI.

- (xviii) In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 22nd December, 2017 and thereafter on 3rd January, 2018. All the parties who had attended the oral hearing were advised to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and were advised to offer their rebuttals.
- (xix) Subsequent to the public hearing, based on the issues raised by the various interested parties, the domestic industry vide e-mail dated 28th of March, 2018 was asked to clarify with evidence regarding the product under consideration mainly, whether all other Kanatol apart from Kanatol-800, and Kanatol 800 FG, stabilized softener Kanatol-800 and stabilized softener Kanatol-800 FG do not constitute the PUC, regarding disclosure of production and sales of other producers and their disclosure of the total turnover as DOP for the period of investigation before the Ministry of Corporate Affairs.
- (xx) The arguments made in the written submissions/rejoinders received from the interested parties have been considered in the present final findings.
- (xxi) The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final findings.
- (xxii) 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.
- (xxiii) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the final findings on the basis of the facts available.
- (xxiv) In accordance with Rule 16 of the Rules Supra, the essential facts were disclosed by the Authority on 12th April, 2018 to the concerned interested parties. Comments were requested by 19th April, 2018. Comments received on the disclosure statement to the extent considered relevant by the Authority are considered in this final finding.
- (xxv) *** In this findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- (xxvi) The exchange rate adopted by the Authority for the subject investigation is 1 US \$= Rs 67.95

B. Product Under Consideration and Like Article

5. Based on the information filed by the petitioner, the Authority initiated the Anti-dumping investigation and defined the product under consideration as “Diethyl Phthalate (DEHP)”. It is chemically known as Bis (2-ethylhexyl) phthalate, also abbreviated as DEHP. Diethyl phthalate is an organic compound with the chemical formula $C_{18}H_{26}O_4$ and was classified under Chapter 29 under the Customs Tariff Act, 1975 at 29173920.

B. 1 Submissions made by 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 domestic industry is selling the product under consideration under following brand names viz, Kanatol 800, Kanatol 800S, Kanatol 800FG and Stabilized Softener K 800.
 - (ii) The domestic industry is not selling its product as “Plasticized Softener”. The domestic industry never said that they are selling the product under consideration under the name of “Plasticized Softener”. The Authority has already verified the data filed by the domestic industry. The domestic industry is not selling its product as “Plasticized Softener”.
 - (iii) DOP and Kanatol 8080 are two different products and cannot be used interchangeably. While DOP is Phthalate based Plasticizer, Kanatol 8080 is non phthalate based plasticizer. The raw materials for both the products are different. From the technical sheet of both DOP and Kanatol 8080, it would be seen that both the products have entirely different properties. The applications of both the products are different. Whereas DOP is used for fabricating flexible vinyl products, Kanatol 8080 is used for vinyl gloves, wall covering etc. As regards, DINP, DIOP, DIMT, DOTP (Kanatol 8080) and Kanatol 1056, It would be seen that these products differ not only in properties but also in application.
 - (iv) Reference is placed on US findings on DOTP, wherein USITC stated that DOTP and DINP cannot be used interchangeably because they are chemically different products. The two products are different in molecular weight, chemical formula, raw material and toxicity.
 - (v) The domestic industry has included the sales and production of Kanatol 800 in its data. Kanatol 800 is nothing but a type of DOP. Further, the petitioner has produced and sold DOP by using different trade/brand names. The petitioner has provided information in the petition with regard to various types or forms of the DOP produced and sold by the petitioner in the market
 - (vi) The domestic industry has provided all the data for all the grades of DOP. As regards the question of viable substitute, it is reiterated that there is no viable substitute of the product under consideration produced by the domestic industry. Different brand names of the same product cannot be construed as viable substitutes of the product.
 - (vii) As regards, DINP, DBP, TOTM, DIBP and Di (2-Propylheptyl) Phthalate, it would be seen that these products differ not only in properties but also

in application. The domestic industry has sold DOP under heading 29173920 from Main Unit Silvassa and sold DOP under heading 29173400 from Unit-III Silvassa in the name Stabilized Softeners K-800. The domestic industry has provided copies of ER-1 to establish the same. Stabilized softener is one of the forms of the product under consideration and the data of the same is included. The product under consideration in the present case is not all Plasticizers but only DOP.

- (viii) Payal Petrochem Pvt. is producing various types of Plasticizers. As regards accuracy of the production figures of Payal Petrochem Pvt, the domestic industry has provided letter which is given by the said company to the legal representative of the domestic industry providing information of their production of DOP.
- (ix) The domestic industry has sought anti-dumping duty only on DOP and not all Phthalate Plasticizers.

B.2 Submissions made by Exporters, Importers, Users and other Interested Parties

7. The submissions made by the exporters, importers, users and other interested parties with regard to product under consideration and like article, and considered relevant by the Authority, are as follows:

- (i) Domestic Industry is selling the PUC and other phthalate plasticizers and specialty plasticizers under an ambiguous name of "Plastic Softeners". Domestic Industry is selling and invoicing two or more products one being PUC and the other being Non-PUC, under the same name, there is a doubt regarding the authenticity of their production and sales details. During the hearing they have accepted that the invoices pertaining to "plastic softeners" have been included in the PUC. There is no explanation on record as to how the Domestic Industry has considered the Non-PUC sold under the name of "Plastic Softeners"
- (ii) There are gross mis-declarations by the Domestic Industry with regard to the issues of substitutability of the PUC. The specialty plasticizer Kanatol 8080 is a perfect substitute of the PUC, it is stated that there is no "technical or chemical" difference between the two except some minor structural differences and Kanatol- 8080 is in fact a better substitute of PUC. There are at least five more substitutes of the PUC which are DINP, DIOP, DIMT, DOTP (Kanatol 8080) and Kanatol 1056. Domestic Industry offers them at cheaper rate claiming that they are better performing inputs than the PUC.
- (iii) Initiation is based on incorrect information. Domestic industry has provided information only in respect of goods sold under the name of DOP and has failed to disclose sales of DOP under the brand name Kanatol 800 which is admittedly DOP. If the sales and production information is correctly reflected, there would be no decline during the POI.
- (iv) Domestic Industry has not disclosed all the grades of DOP in the petition which they are selling and made an incorrect statement "There is no technically and commercially viable substitute for the product under consideration" in the petition. M/s KLJ Plasticizers Limited are manufacturing and selling DOP under various names such as "Plasticized Softener"/ Stabilized Softener" etc., which has not been disclosed anywhere in the petition.

- (v) Various substitutes of DOP are DINP, DBP, TOTM, DIBP and Di (2-Propylheptyl) Phthalate. Petitioner is selling these plasticizers under the trade name -Kanatol 900- DINP, Kanatol 3800- TOTM, Kanatol 8005 (DOP Super), Kanatol 1010 Kanatol 400 (M). Petitioners are selling other Phthalate Plasticizers which are partial substitutes of DOP, is evident from KLJ's own brochures.
- (vi) Domestic industry has limited the data provided to Tariff Heading 2917 3920, while they have been importing and selling DOP under other Tariff Headings also, such as Tariff heading 29173400. Domestic Industry is promoting DOP under the trade name of Plasticized/Stabilized Softener. The petitioner have mislead the Authority by linking the data to the extent under Tariff Head 29173920 while they have been importing and selling DOP under Tariff Head 29173400 also.
- (vii) The production figure of other producers collectively is incorrect and misleading. According to Annual Report of M/s Payal Petrochem Pvt. Ltd. for year 2015-16, the sales of Plasticizers are Rs. 419 Crores, i.e. 60,000 MT. This sales of other producers in the petition is shown as 25,421 MT, which does not even reflect the sales of a single producer.
- (viii) There are similar product to PUC in terms of characteristics, technical properties, uses, users, common plant and commercial substitutability. PUC and the Stabilized Softener are used interchangeably and are like article, both are manufactured by the domestic industry. Stabilized softener may be included in PUC and cannot be kept out of the purview of investigation. Domestic industry may have used multiple HS Code to clear the goods (stabilized softener as DOP). KLJ: Product Kanatol 800: HS Code is 29173400, Payal: Product: PayflexPSO0(O): HS Code is 29173990 and Ritzy: Product: Ritzy 100: HS Code is 29173990. DOP is a kind of Phthalate Plasticizer, hence PUC is not DOP per se but PHTHALATE PLASTICIZERS.
- (ix) The statement of domestic industry is in itself false that Kanatol 8080 is a type of DOP and petitioner has produced and sold DOP under different trade/brand names. No justification has been given on available substitutes of DOP. Reliance is placed on the product data sheet wherein kanatol 8080 as a substitute of DOP, having "almost no difference in physical and chemical properties" has been mentioned.
- (x) Domestic industry has admitted that the other product such as Stabilized Softener although are not identical with the imported product but is having characteristics closely resembling the PUC and is physically and commercially substitutable with PUC. On this basis the Stabilized Softener is required to be included as part of present investigation. Authority should examine the production and sales of DOP of the domestic industry, cleared under different chapter headings/ brand names by reconciling with the Excise records and as per the annual report of the petitioner.
- (xi) If the duties are imposed on DOP, the petitioner would raise the prices of the substitutes which would result in hardship to users. Petitioners are promoting sales of DINP, claiming them to be substitute of DOP. Petitioner has not denied that DINP is a substitute of DOP, only the issue

of like article has been raised. Reliance is placed on the email of Indian Producers wherein it has been admitted that DINP is a substitute of DOP.

- (xii) Substitutes of DOP available in the market are Di Isononyl Phthalate (DINP), Dibutyl Phthalate (DBP), Tri octyl Trimellitate (TOTM), Di iso butyl Phthalate (DIBP), Di (2-Propylheptyl) Phthalate. Moreover Petitioner is selling these Plasticizers under the trade names which are Kanatol 900- DINP, Kanatol 3800- TOTM, Kanatol 800S (DOP Super), Kanatol 1010, Kanatol 400 (M). Further, petitioner has admitted in its catalogue, that these are partial substitutes KANATOL-800S, KANATOL-800, KANATOL-900, KANATOL-1001, KANATOL-1010, KANATOL-1210, KANATOL-1212, KANATOL-400(I), KANATOL -400(M), KANATOL- 40 (N), KANATOL-1056, KANATOL-8A, KANATOL-8S, KANATOL-40S, KANATOL -80S, KANATOL-4M, KANATOL-4S, KANATOL-TM 8-10L, KANATOL-3800, KANATOL-3430E, KANATOL-8080, KANATOL-3400AC

B.3 Examination by the Authority

8. The Authority has noted submissions made by various interested parties with regard to scope of the product under consideration and like article offered by the domestic industry. With respect to the product under consideration, the Authority notes:
- (i) The product under consideration in the present case is “Diocetyl Phthalate (DOP)”. It is chemically known as Bis (2-ethylhexyl) phthalate, also abbreviated as DEHP. Diocetyl phthalate is an organic compound with the chemical formula $C_{24}H_{40}O_4$ ($C_8H_{17}COO$)₂. It is also known as [bis (2-ethylhexyl) benzene- 1, 2-dicarboxylate].
- (ii) With regard to scope of the product under consideration, the Authority notes that the product under consideration has been considered at the time of initiation notification dated 1st June, 2017, based on the facts available before the Authority, wherein the PUC has been classified under Tariff head at 29173920.
- (iii) The domestic industry has submitted that the product under consideration does not include DOTP (Kanatol 8080), DIOP, DIMT, Kanatol 1056, DINP (Kanatol 900), TOTM (Kanatol 3800), DBP and DIBP. The domestic industry has sought anti-dumping duty on Diocetyl phthalate (DOP] and has claimed injury with respect to performance of the product under consideration.
- (iv) The opposing interested parties have raised the issues with regard to various types of stabilised softeners and stated that these all stabilised softeners are DOP and being sold under the brand Kanatol. The opposing interested parties have brought the copy of invoices raised by different domestic producers including the petitioner in order to establish that the domestic industry has not brought the correct information before the Authority with regard to the product under consideration. The other interested parties have stated that the domestic industry has not disclosed information under Tariff Head at 29173400 as the limited information with regard to the tariff head 29173920 has been provided at the time of initiation treating

the product as DOP. During the course of investigation, domestic industry has provided evidence that apart from stabilized softener K800, other stabilized softeners being produced and sold by the domestic industry, does not constitute the product under consideration i.e. DOP. In support of their claim they have filed the information with regard to product specification in terms of chemical composition, molecular structure, chemical properties, physical properties, carbon chain, and specific user application.

- (v) In order to ascertain the facts which have been raised by the opposing parties, the authority has obtained the views of Central Institute of Plastic Engineering and Technology (CIPET), Govt. of India. CIPET in its letter dated 5th April, 2018, has stated that, "Generally phthalates plasticizers are frequently used in PVC Industries for making plasticized/flexible PVC products for various applications. Plasticizers from KLG group (K-800 & K-800FG) are used for specific purposes in PVC Raising depending upon the characteristic properties to be achieved in the products. When we are looking for the products where the properties like smell less, higher volume, sensitivity, less volatility etc. are considered important then they could be best option as per the information in the brochure of the company. In the KLJ Group catalogue other phthalate products are not having such characteristics and therefore cannot be recommended. However, Phthalates (from any source) with similar property profile as K-800 can be used for such applications after proper quality check of the end product in this regard. From the data given in the brochure it is clear that there is no phthalate products in the list to match such property in the end product." In comments to the disclosure statement the domestic industry has filed an e-mail reply from Department of Polymer and Surface Engineering, Institute of Chemical Technology (ICT), Mumbai stating that K800 & K800 FG are having exclusive properties viz, less in odour, less volatility, and higher volume resistivity which made them different than the other phthalates as mentioned in KLJ product catalogue. However, it may have different dosage in PVC compounding. Phthalates from any other source with nearly matching properties as K800 and K800FG can be used for similar application after proper quality check of the end users. The clarifications made by CIPET & ICT do not clearly establish that other stabilized softeners are not DOP or dissimilar product as being raised by the interested parties. Even the petitioner were not able to establish with evidence that the other stabilized softeners were used for specific uses/applications and the same cannot be substituted. The Authority also notes that the domestic industry could not adduce sufficient evidence to prove or nullify the issue raised by the other interested parties that the other stabilised softeners being sold as Kanatol do not constitute DOP and cannot be used for similar application.
- (vi) As regards different HS codes used by the petitioner in order to capture the production and sales of DOP, the domestic industry has stated that they have two units for production and sale for product under consideration- namely main unit and unit 3. The domestic industry claimed that from main unit the petitioner sells product under consideration with the brand name "Kanatol 800 which is a 100% DOP under HS Code 29173920 and from Unit 3 the petitioner

produces DOP and sells it under the brand name “stabilised softener” having purity of DOP as 99.5% under HS Code 29173400 (other esters of orthophthalates). However, the other interested parties has claimed and provided copies of invoices of stabilised softeners of Kanatol that the petitioner has sold under HS code 29173400. In view of the import data filed by the domestic industry and collected under HS Code 29173920, the Authority moved in this investigation with the information under this head only instead of entire information of DOP as claimed by the other interested parties and during the course of investigation petitioner has claimed that production and sale of the PUC has been carried out under HS Code 29173400 also along with other stabilized softeners under the same ITCCHS code.

- (vii) In view of the above, the authority confirms that the product under consideration in the present investigation is “Dioctyl Phthalate (DOP)”. It is chemically known as Bis (2-ethylhexyl) phthalate, also abbreviated as DEHP. Dioctyl phthalate is an organic compound with the chemical formula $C_{26}H_{52}O_4$ ($C_8H_{17}COO$)₂. It is the most important "phthalate," being the diester of phthalic acid and the branched-chain 2-ethylhexanol. This colourless viscous liquid is soluble in oil, but not in water. It possesses good plasticizing properties. The subject goods is widely used as a plasticizer in manufacturing of articles made of PVC. Plastics may contain 1% to 40% of DOP depending upon requirements. It is also used as a hydraulic fluid and as a dielectric fluid in capacitors. It also finds use as a solvent in glow sticks as it has suitable properties and the low cost. The product is primarily sold on weight basis. The product under consideration is classified under Chapter 29 under the Customs Tariff Act, 1975 at 29173920 and 29173400. The customs classification is indicative and not binding on the scope of the product under consideration and present investigations.

C. Scope of Domestic Industry & Standing

C.1 Submissions made by the Domestic industry

9. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & standing are as follows:
- (i) The production of the petitioner in the present investigation constitutes a major proportion of the Indian Production and unless this claim of the domestic industry is rebutted, any argument on production of other Indian producers is baseless and irrelevant
 - (ii) Even if the production of M/s Ritzy Chemicals P. Ltd is included, the petitioning domestic industry still holds major proportion of the Indian production. The production of the petitioner in the present investigation constitutes a major proportion of the Indian producer.
 - (iii) Petitioner has not imported the product under consideration. However, the petitioner is related to the importers of the product under consideration.
 - (iv) The production figures of the other Indian producers have been provided as per the best information available with the domestic industry.
 - (v) Petitioning domestic industry is related to two importers of the subject goods. Petitioning domestic industry should be considered as an eligible

domestic producer despite imports by their related company in view of (i) past decisions of the Designated Authority, (ii) production of the company in India being quite significant, (iii) focus of the company being on domestic production (iv) Imports made by related companies constitute 0.73% of total imports, 0.59% of Indian production and 0.51% of demand in the period of investigation.

C.2 Submissions made by Exporters, Importers, Users and other Interested Parties

10. The submissions made by the exporters, importers, users and other interested parties with regard to scope of domestic industry & standing are as follows:
- (i) Names of the other Indian producers are not disclosed. M/s Ritzy Chemicals P. Ltd (plant - Daman & Jammu) a producer of DOP, has not been included in the details of Domestic producer. If M/s Ritzy Chemicals is added the Domestic Industry will fail to establish its standing in the present investigation and same should be terminated.
 - (ii) Petitioners are themselves importers of the subject goods. DOP itself has been imported and sold by the petitioner as adequate raw material for producing DOP is not available within India.
 - (iii) Applicant is related to the importers from subject countries, Rule 2(b) has been referred. Judgments relied upon by the Domestic Industry are no longer good law and the same cannot be even used for any persuasive value.
 - (iv) Petition by Domestic industry brings out that applicant is related to importers of PUC. According to Rule 2(b), the domestic producer cannot be considered as domestic industry if *they have self-imported* or are related to importers/exporters. Reliance has been placed on the judgments of Madras High Court and Kolkata High Court by the domestic industry, to claim the relationship of a domestic producer with importers/exporters. Authority holds discretion to consider domestic producer as domestic industry. Authority has been requested to decide upon the issue of domestic industry without being influenced by the decisions quoted by the domestic industry.
 - (v) Domestic industry has placed the picture of DOP industry which is dated back “two decades” and hence is not relevant in the present investigation. It is stated that the industry has seen the decline for past 20 years but the phenomena of dumped imports are of recent *origin*. Lastly, the petitioner’s claim that only 5 companies are engaged in the manufacturing of the PUC does not match with the data provided in the petition.
 - (vi) It is to be noted that the producers who have closed their production as per domestic industry are not before the authority for imposition of anti-dumping duty but the petitioner who is making high profits and having no injury came before the authority for duty on PUC. Further, domestic industry has not disclosed the name of other Indian producer, M/s Ritzy Chemicals P. Ltd. which has substantial production. If the same is included, the petitioner will fail to establish standing of domestic industry. The claim of the domestic industry that other Indian producers of DOP are

making imports against the dumping, as production and sale of DOP is not viable in India, is without legal and factual basis

- (vii) Closure of the companies in the last two decades has no relevance in the present investigation. The Indian producers have control on the market dynamics, including the price at which both the imported and indigenous DOP is bought and sold. Hence, the Indian producers cannot be considered as small scale industry.
- (viii) The submission made by the domestic industry that there are only 5 producers of DOP is not correct. M/s Ritzy Chemicals Pvt Ltd is a related entity of PCL Oil & Solvents Ltd., engaged in the manufacturing of DOP. By excluding M/s Ritzy from the list of manufacturers, the petitioner has reduced the total production of DOP.
- (ix) All the manufacturers including M/s KLJ, M/s Ritzy and M/s Payal work in tandem, which is evident from their invoices and pricing strategies. Earlier, they were selling DOP as DOP under Chapter Heading 2917 39 20, whereas, lately for the last 3 years, they have started selling DOP under Different names and different chapter Headings, such as 2917 34 00, 2917 39 90. The petition for ADD was filed with a clear intent to conceal and under report the production and sales data of DOP Manufacturers, making it easily omissible. We believe that the sales figure are extremely low, and that a significant quantity of sales have been suppressed from the Authority.

C.3 Examination by the Authority

11. Rule 2(b) provides as under;

“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”

- 12. The petition was filed by M/s KLJ Plasticizers Ltd. (KLJ) who is a major producer of subject goods in India. The petitioner has not imported the product under consideration. However, the petitioner is related to two importers of the subject goods namely M/s KLJ organic Limited and M/s KLJ Polymers & Chemicals Ltd. *Imports made by related companies constitute 945 MT as per DGCI&S import data* . The imports made by the related companies constitutes insignificant share in relation to total imports of the product under consideration, its production and consumption of the product under consideration in India. In view of the insignificant import by the related parties to the petitioners, the Authority did not find appropriate to treat such imports sufficient to disentitle petitioner from being an eligible domestic industry.
- 13. During the course of investigation, it was stated by the petitioner that there are number of other producers of DOP in India, however, they provided the information with regard to five other Indian producers namely M/s Payal Petrochem Pvt Ltd, M/s PCL Oil & Solvents Ltd., M/s Rachna Plasticizers Pvt. Ltd., M/s N K Polymers & Mfg Company and M/s Lalitha Chem Industries Pvt. Ltd. The other interested parties in their submissions have stated that the domestic industry did not provide the information with regard

to the production and sales of other major producers namely M/s Ritzy Chemicals and others, in order to establish injury to the domestic industry. Moreover, the interested parties also did not provide information with evidence regarding production and sales of other domestic producers. The domestic industry subsequent to the oral hearing provided the information of production and sales of M/s Ritzy chemical but M/s Ritzy being one of a major importer of the subject goods could not be considered a constituent of the domestic industry. It is also noted that based on the DGCI&S import statistics, M/s Ritzy Chemicals Pt. Ltd. and its related parties have imported substantial volume of DOP during the POI and at the same time as an interested party, they didn't file the information with regard to production and sales.

14. As per the Anti-dumping Rules, the Authority is required to examine whether (a) domestic producers expressly supporting the application account for more than twenty five percent of the total production of the like article by the domestic industry; and (b) the application is supported by those domestic producers whose collective output constitute more than fifty percent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition to the application. The applicants alone constitute 73% of the total domestic production based on the information provided by them, however, this share may further increase *if other stabilised softeners are treated as the part of the product under consideration.*
15. The authority notes that the AD Investigation was initiated based on the facts available before the authority. However, during the course of investigation, the information which has been brought to the notice of the authority by the other interested parties, have been considered in this AD Investigation. In view of the issues raised by the interested parties regarding production and sales, the authority even tried to obtain the production and sales figure from the administrative Ministry, however, it was stated by the Ministry of Chemical and Fertilizers that such information is not maintained by them since, they monitor only selected large and medium scale units. However, information filed by the interested parties during course of investigation, have been considered for computation of demand. The authority notes that if the production figure of the other domestic producers would have been provided, it would have made change in volume parameters including demand and percentage share.
16. In view of the above and after due examination, the Authority holds that the applicant satisfy the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. Applicant satisfies the requirement of standing under the Rules. Further, the applicant constitutes domestic industry within the meaning of Rule 2(b).

D. Confidentiality

D.1 Submissions made by the Domestic industry

17. With regard to confidentiality, the submissions made by the domestic industry during the course of the investigation are as follows:
 - (i) Domestic industry has claimed confidentiality wherever required and have also provided non confidential summary wherever feasible. Further, the interested party has failed to establish even a single instance where petitioners have claimed confidentiality where information was available publicly and which cannot be permitted by the authority as a matter of

need of the present case. The confidentiality claims of the petitioners are consistent with the practice of authority. The domestic industry has provided trends of all injury parameters which is sufficient for the opposing interested parties to argue on merits of the case.

- (ii) The DGCI&S data is “Third Party business proprietary information” and the domestic industry is not authorized to disclose. Further, it has been consistent practice of the Authority to treat DGCI&S data as confidential.
- (iii) Further, if the opposing interested party requires DGCI&S data, they can very well take authorization letter from the Authority and purchase the data. The data is available to all on payment basis, subject to authorization by the Authority

D.2 Submissions made by Exporters, Importers, Users and other Interested Parties

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

- (i) Excessive Confidentiality has been claimed, even the economic parameters are confidential in the petition which has resulted as respondents are not able to fully undertake a meaningful examination of injury parameters of the industry. Neither a good cause for the purpose of claiming confidentiality on certain parameters, nor made available in NCV. Confidentiality has been claimed for capacity and capacity utilization, costing of the industry - Statement B, Format CI, Format CII, Format D, Format E and certain other key information.
- (ii) As per the established practice being followed in DGAD at the time of initiation of the present investigation, the non-confidential version of the import data was mandatorily provided with each and every petition and the same was placed in the public file, however opposite to the rule has been permitted by the authority.
- (iii) For confidentiality claims, the respondent has scrutinized its own responses and found that no excessive confidentiality has been claimed.
- (iv) Right to make effective comments has been curtailed as domestic industry did not file the complete information in NCV petition. We reserve our rights to comment as and when the information is provided to us.
- (v) Initiation of investigation is based on incorrect information and therefore, the test of adequacy and accuracy in rule 5 of Anti-dumping Rules has not been met. The petitioner has furnished data/information only in respect of subject goods sold under the name of DOP, if the complete sales and production of the product was given, there would have been no decline in the sales of DOP during the POI. Petitioners are themselves selling plasticizers under different varieties of Kanatols and they themselves have admitted that it is near substitute of DOP.
- (vi) It is contended by the petitioner that all types of DOP have been included for the purposes of the injury parameters such as capacity utilisation, production and sales, if that be the case, why the details of different types of DOP considered was not disclosed.
- (vii) The domestic industry has a history of using the mechanism of trade remedial measure to oppress the user industry for gaining monopolistic position in India. Earlier, the domestic industry has sought protection like

safeguard duty imposed on import of DOP and now they are seeking the way of protection under anti-dumping by distorting the data.

- (viii) Domestic industry is a phthalate plasticizers and total installed capacity for all the products by it is 1, 80,000 MT per annum as per its annual report. However, there is no dedicated installed capacity for the PUC.

D.3 Examination by the Authority

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

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

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

20. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality to the extent considered relevant were examined by the Authority and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority also notes that all interested parties have claimed their business related information as confidential.

21. As regards disclosure of DGCI&S transaction wise data, it is noted that the domestic industry has claimed that such data has been purchased by obtaining authorization from the Authority. Domestic industry has also stated that DGCI&S data is confidential information and the petitioner is not authorized to disclose without specific authorization from DGCI&S. However, any interested parties may obtain the DGCI&S data on receipt of authorization from DGAD. Moreover, the summary of import statistics has

been provided to all the interested parties in the non-confidential version of the petition filed by the domestic industry.

E. Miscellaneous Submissions

E.1 Submissions made by the Domestic industry

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

- (i) The information filed by the domestic industry is duly verified by the Authority and also the costs are certified by the Cost/ Chartered Accountants.
- (ii) The purpose of the petition is not to take any kind of price advantage from the ADD that is proposed to be imposed. The petitioner simply wishes to gain the market that has been lost by Indian producers to the imports. The petitioner has suffered adverse volume effect as a result of dumping in the country. If the authority imposes ADD, the petitioner will be able to regain the volumes that have been lost and shall maintain its share in the market. Thus, when the petitioner is not intending to increase prices in any manner barring the price increase or reduction that might be necessary due to changes in raw material; in any case, there shall be no adverse impact of the proposed duty on the consumers. Therefore, the interested parties need not be concerned about the ADD that is proposed to be imposed.
- (iii) The opposing interested party is trying to mislead the Authority. The Balance Sheet shows total sales of all products and not of DOP sales. The product under consideration in the present is not all Plasticizers but only DOP. Opposing interested party are equating the production of all Plasticizers with production of DOP. Further the production figures of M/s Lalitha Chem Industries Pvt. provided by the opposing interested party is for the year 2015-16 which is not even the period of investigation.
- (iv) The opposing interested party has not provided any evidence to prove that 8500MT of imports is duty free imports. There has been plethora of cases wherein the Designated Authority has included imports under advance license for examination of dumping and injury. It is purely presumptive on the part of the interested parties that imports made under advance license are not capable of causing any injury to the domestic industry. Such imports are clearly causing injury to the domestic industry. Import for export production are exempted by the Govt. of India from purview of anti-dumping duty under advance authorization scheme, does not imply that these imports are not causing injury. It only implies discretion of the Govt. of India while imposing anti-dumping duties.
- (v) The period of investigation for the present investigation is April 2016 – March 2017 and the case was initiated on 1st June, 2017. Therefore there is only a gap of 2 months between a period of investigation in the petition and initiation of investigation. Therefore it is consistent with the WTO's Anti-dumping Committee document G/ADP/6. Regarding change in period of investigation, it has been consistent practice globally including Designated Authority, to change the period of investigation by the Authority from what has been adopted by the petitioner in their petition. There is no inconsistency in such practice.

- (vi) Reference is placed on Panel report in the matter of Mexico – Anti-Dumping Duties on Steel Pipes and Tubes from Guatemala wherein the Panel stated that there is no inconsistency if the gap between the end of the period of investigation and initiation is even 8 months. The domestic industry was also provided 40 days’ time period to file updated information just like the other interested parties were to give data for the purpose of the investigations. This was consistent with the past practice of the Designated Authority. Further, there was no bar on the interested parties to file comments on the updated information to the domestic industry. The non-confidential version of the updated information was placed in the public file.
- (vii) While DOP is not a major cost item for the consumers, it is a vital material for manufacturing of Polyvinyl Chloride (PVC) to produce Plastic Film, Imitation Leather, Electric wire, Cable wearer etc. Thus, viable and vibrant domestic industry is in the larger interest of the Country.
- (viii) A lot of parties made themselves known for the first time after five months of the deadline. Such being the case, any submissions filed by any of these parties should be rejected on the ground of delayed submission. The authority had earlier specified a time limit of 15 days for registration of interest parties vide trade notice No. 01/2012 dated 9th January 2012. Not only that none of the said parties registered themselves as an interested party within the stipulated time as per the Trade Notice, but also these parties never filed response to the questionnaire or submissions with the Authority. This trade notice has been heavily abused.

E.2 Submissions made by Exporters, Importers, Users and other Interested Parties

23. The submissions made by the producers/exporters/importers/other interested parties with regard to miscellaneous issues during the course of the investigation are as follows:
- (i) Data/information considered by authority to arrive at conclusion for initiation in terms of provisions of Rule 5 of Anti-dumping rules has not been provided. Right to participate in the investigation has been curtailed. Hearing held on 22nd December cannot be referred as effective hearing in terms of rule 6(6).
 - (ii) Present proceedings are not maintainable as they have not been initiated according to the rule 5 of the AD Rules. For the purpose of initiation, all the parameters have to necessarily show a decline. However, there is no injury or decline as far as price related aspects of injury are concerned. Domestic Industry has clearly stated in the hearing that there is no price injury in the present case and is earning significant profits.
 - (iii) There are 1,500 to 2,000 compounding units in India for PUC. Imposition of Anti-dumping duty will have disastrous result on the compounding and downstream industries. Imposition of duty would increase the cost, which would result in higher increase of prices, on account of taxes and duties. Petitioner is manufacturing DOP as well as compounds, imposition of ADD will adversely affect the importers/users which would result in manufacturing of compound at much lower cost by the petitioner. Authority is requested to balance the interests of the

petitioners and the users, as both are Indian Industry and entitled to equal treatment.

- (iv) Annual Report of M/s KLJ Plasticizers for POI states DOP sales as a worth INR 1,100 crores which results in Volume of around 1,40,000-1,50,000 MT. In petition the data provided, states that the sales are 45,319 MT. Domestic Industry is trying to mislead and misguide the Authority by filing false data.
- (v) ADD on Raw materials of DOP have already been levied, the duty on the PUC will cause hardship and cascading effect on to the end users, with three duties on the product will be against the public interest. With increase in cost of raw material the buyers of their products may prefer to import rather than buying from the domestic small manufacturers, this will go against the Govt. policy of MAKE IN INDIA.
- (vi) DOP consumers are all in SME; creating huge jobs and are giving the "Make in India" initiative a major boost, hence imposition of Anti-Dumping Duty will lead to shutting down of many industries and downstream industries will suffer and would promote the monopolistic attitude of the petitioner.
- (vii) Difference in POI between the one in the petition and the one approved by the Designated Authority is different and raises serious concerns. As per WTO's Anti-dumping Committee document G/ADP/6, the period of data collection in an Anti-Dumping investigation should end close to date of initiation of the case. In the current case, the petition ended in Sep, 2016 however it was initiated on 1ST June, 2017 which shows a gap of 8 months.
- (viii) Updated petition was not placed in public file immediately after initiation of the case. The Domestic Industry has not followed the procedure as it filed the NCV version of the revised petition after the initiation of the case.
- (ix) Imposition of Anti-Dumping Duty would have adverse effect not only on the users of the Product under consideration but also the downstream industries. Imposition of Anti-Dumping Duty would result in shifting of manufacturing abroad and import of value added product in India threatening their survival and also of downstream industries.
- (x) Imposition of Anti-Dumping Duty on DOP Import may result in domestic suppliers taking advantage of the situation and further increase the price of DOP. Due to the same, PVC Compound cost will go up and will result in increase in cable and wire price in the market. Imposition of Anti -Dumping duty will adversely impact the cable and wire industry as well as interest of consumers.
- (xi) Petitioner has made certain submissions claiming that despite existence of unutilized capacities, other Indian producers were compelled to import PUC. Request has been made to Authority to reject this submission, as other Indian producers have submitted that producers faced issues of increased cost of production as well as availability of raw material due to AD duties on raw materials of PUC. It was admitted that increased cost and lack of raw material availability were the cause of such import, during oral hearing.

- (xii) With regard to acceptance of delayed response, reliance has been placed on PTFE from China PR-MTR, PVC Suspension Grade, PVC Flex and Barium Carbonate China PR wherein delayed response has been accepted not only from the interested parties but also from the domestic industry.
- (xiii) With regard to that delayed responses filed by the importers, the petitioner has not deliberately disclosed the names of major importers/users in their petition. As importers/users were not mentioned in the petition, they did not receive any communication regarding initiation of the investigation or the Questionnaire Response, and were unable to file the submissions within the time limits.
- (xiv) The petitioner knows that there are 500 consumers of the product in India out of which 425 have not agreed to the imposition of Anti-dumping duties and their participation is necessary in the investigation. Reliance has been placed on Automotive Tyre Manufacturers Association vs. Designated, wherein it was held that in an adversarial proceeding, having a quasi-judicial character, the participation of the opposing parties is essential to ensure that the correct result is reached.
- (xv) During the POI, M/s KLJ has claimed injury due to dumped import. However, during the same period DI has substantially increased its profits, achieving its highest profits. When there was no dumping, the return on capital employed was negative. However, the DI has the highest return on capital employed during the POI when the imports are at the highest level. Thus, injury so claimed is not due to imports.
- (xvi) During the POI, KLJ is producing and earning profit on its sales. The producers of DOP in general are in process of enhancing capacity expecting a good prospectus of growth in this industry. There are no sign of industry suffering due to dumped import rather they are well competing with the imports.
- (xvii) The initiation of anti-dumping duty on DOP itself has led to steep rise in DOP prices, the DI has created an artificial shortage by hiking the prices every day. PVC industry is facing steep competition from cheap imports of finished goods like PVC floorings, PVC Geomembrane, Sheetings, and Films etc. from countries having no anti-dumping duty. With imposition of anti-dumping duty on DOP will be highly detrimental to the survival of processing industry in India.

E.3 Examination by the Authority

- 24. Various submissions made by the interested parties with regard to miscellaneous issues and considered relevant by the Authority are examined and addressed as follows:
 - (i) With regard to the argument of insufficient information of domestic industry duly filed by them, the Authority notes that the application contained all information relevant for the purpose of initiation of investigation. The Authority, only after deriving satisfaction that application contained sufficient evidence to justify initiation of the investigation, decided to initiate the present investigation.

- (ii) As regards contention regarding POI, it is noted that the Period of Investigation (POI) proposed by the applicant was for the period from April 2015 to September 2016 (18 months). However, for enabling the Authority to make required analysis on the basis of more updated data, the Authority has considered more recent period of POI as April 2016 to March 2017 (12 Months). The injury investigation period, however, covered the periods 2013-14, 2014-15, 2015-16 and period of investigation. The information with regard to revised period of investigation was made available in the public file.
- (iii) The period of investigation fixed by the Authority was communicated to the domestic industry on initiation of the investigation. The Authority provided 40 days to the domestic industry, similar to that provided to other interested parties to provide data for the updated period of investigation. The updated information was timely filed by the domestic industry and was placed in the public file.
- (iv) As regards the contention that imposition of Anti-dumping duty will have disastrous result on the compounding and downstream industries, the Authority notes that the objective of imposing anti-dumping measure is to rectify unfair trade practices and to redress its injurious effect by providing level playing field to domestic industry. Moreover, imposition of anti-dumping measures does not prevent imports, however imports will be available at fair prices and it will also allow competition in the domestic market.
- (v) As regards the contention of the domestic industry that injury has been caused due to the other products, the Authority notes that injury to the domestic industry is required to be analysed for the product concerned and not for the sector as a whole or due to non PUC. Being a multi-product group, data/information has been segregated for the product concerned in order to examine their injury, if any, due to dumping from imports of subject goods from subject countries.
- (vi) As regards the concerns raised by the other interested parties with reference to petitioner's submission of financial statements in Ministry of Corporate Affairs (MCA), the Authority has examined the said submissions and it is noted that the turnover mentioned in the financial statements as submitted to the MCA is for total turnover of DOP. Subsequent to the oral hearing, this issue was specifically asked from the domestic industry and it has been stated by the domestic industry that there has been an inadvertent error in filing the information to MCA as the company faced certain technical glitches at the time of filing the return. However, in order to supplement its committed error, the domestic industry has stated that the Cost Audit Report (CAR) establishes the facts that the total turnover of Rs.1158 crores of the company matches with the figure as reported to the MCA. The domestic industry further clarified that the cost audit report for the period of investigation establishes that the number of products produced and sold by the company during the relevant period matches with the audited P&L account figure of the company, which was duly verified by the Authority. In reply to the submission of financial statement before MCA, the petitioner has stated that there has been inadvertent error for filing information for the entire injury period. However, Authority is of view that such claim of 'inadvertent error' is not acceptable as such unrectified

mistakes in statutory filing of information before the regulatory authority is incomprehensible.

- (vii) With regards to exclusion of imports under advance licence, it is noted that these imports have been taken into account for the purpose of working out total imports, demand and volume assessment in order to examine the volume impact in this AD investigation.
- (viii) As argued by the other interested parties about the quality of the product manufactured by the domestic industry and those imported into India, it is noted that since the product manufactured by the domestic industry is held as like article to the product being imported into India and the two are used interchangeably by the users/importers, such issues raised by the interested parties is without evidence to establish the same.
- (ix) As regards the concerns raised by the domestic industry that a number of parties have appeared for the first time at the oral hearing and have filed belated submissions. It is noted that the parties have not availed opportunity provided to them in timely manner to file their submissions/information. The Authority notes that anti-dumping duty investigations being time bound, it requires exchange of submissions being filed by registered interested parties and file comments, in order to assist the authority to arrive at a fair determination. Exporters, producers, importers and other interested parties who have neither responded to the Authority nor supplied information relevant to this investigation, have been treated as non-cooperative. However the Authority, taking a pragmatic judicious view, has considered and examined their submissions appropriately and addressed the submissions made by them at appropriate places.
- (x) As regards the determination of non-injurious price for the product, it is noted that the total plant production has been taken for the purpose of optimization of production for determination of NIP. Since, the domestic industry claims that the other products are also produced using the same production facility, authority found it appropriate to consider the total plant production for normation and determination of NIP.

F. Normal Value, Export Price and Dumping Margin

25. 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):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

F.1 Submissions by Domestic Industry

26. Following submissions made by the domestic industry with regard to Normal Value:

- (i) None of the exporters have fully replied to the question with regard to the valuation of raw material i.e. PA and 2EH. Further, some of the exporter's has not even provided any information on the valuation of raw material which are captively produced by them or claimed to have negotiated the prices. Whereas, the website information of majority responding exporters are procuring raw material captively. It needs to be established by the exporters that the prices of such raw materials reasonably reflect the costs associated with production and sale of DOP.
- (ii) In the present investigation, questionnaire responses are unclear on sales channels adopted and how the response filed presents comprehensive sales channels adopted by these producers. The completeness of the questionnaire response is vital for determination of individual dumping margin. In this scenario, the responding exporters'/producers' cost and price cannot be relied upon for determination of normal value and export price unless it is established that the questionnaire response filed by them are complete and meets the statutory requirements. This is particularly important in this case as there is a complex web of value chain involved, and the producers are backward-forward integrated either directly or through related company. Due to the absence of complete value chain of the exports, the Authority should not determine individual dumping margin.
- (iii) In the present investigation, questionnaire responses are unclear on sales channels adopted and how the response filed presents comprehensive sales channels adopted by these producers. The completeness of the questionnaire response is vital for determination of individual dumping margin. Based on the questionnaires filed by the exporters, it is noted that Everlite Korea Co Ltd is supplying the products made by Hanwa Chemicals, who is one of the producer of product under consideration in Korea. Hanwa Chemicals have not responded in the present investigation. Further, Nan Ya Plastics (Taiwan) and OCI Co Ltd have stated that they are exporting the product under consideration through traders. However, it is not clear whether all these traders have filed the questionnaire response.
- (iv) In the present investigation, one producer has exported the product through several exporters, and one exporter has exported goods produced by several producers. Nothing has been mentioned in the questionnaire which depicts the functions being performed by these producers, traders, exporters and shippers. As Aekyung Petrochemicals Co Ltd (Korea) is a producer who has exported the product through

Humade Corporation (Korea), Ubesco Corporation (Korea) and Everlite Korea Co Ltd (Korea). Humade Corporation and Ubesco Corporation are related companies. Also, Nan Ya Plastics (Taiwan) is a producer who has exported the product through different traders including JC Petrochem Ltd (Hong Kong).

- (v) In the same way, OCI Co Ltd is a producer who has exported the product through different traders/distributors including Everlite Korea Co Ltd. Everlite Korea Co Ltd (Korea) is a trader who has exported to India the product manufactured by OCI Co Ltd (Korea), Hanwa Chemicals (Korea) and Aekyung Petrochemicals Co Ltd (Korea). Hanwa Chemicals has not cooperated in the subject investigation. With regard to such complex web trade channel, the exporters would take advantage of the individual duties assigned to a particular sales channel.

F.2 Submissions made by Exporters, Importers, Users and other Interested Parties

27. The submissions made by the exporters, importers and other interested parties are summarized below:

- (i) The export prices from China or Taiwan or Korea is same except the ocean freight which is equalized to ensure buyers in India have same prices. The local producers are correcting the prices every month or fortnightly based on Demand and supply ability.
- (ii) The traders of OCI have participated in the investigation and the value chain is complete. With respect to Everlite, respondents are seeking individual duty margin with respect to trade/export chain. Authority in India grant individual margin not to specific exporter but to participating trade/export chain. Non participation of Hanwa chemicals would not impact the duty to OCI-Everlite trade/export chain.
- (iii) Authority must note that the case laws cited by the petitioner refer to situations where exports of PUC could not be evidenced rather than situations where response of exporter has been rejected for one trade chain due to non-participation of producer of another trade chain
- (iv) Claim of the petitioner regarding complex web of trade channel and dumping margin should be rejected as duty margins determined by the Authority are on the basis of the trade channel, including a producer and exporter rather than either one in isolation. Such practice is followed globally, where different producers are assigned different duty rates.
- (v) As per the established practice of authority to impose different duty margins for the same exporter when supplying the goods of different producers. Such producers have unique normal value and a unique ex-factory export price, therefore determination of different duties for same exporter supplying goods of different producer becomes inappropriate to fair assessment by authority. Reference has been placed upon “O-Acid from China”, wherein authority determined different duty margins.
- (vi) In India, authority does not determine individual dumping margin but identifies duties based on channel of trade between producer and exporter to India. Such distinction ensures that a fair trade channel is encouraged.

F.4 Examination by the Authority

28. 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);
29. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. However, barring the following producer and exporters, none of the other producers/exporters from subject countries co-operated in this investigation by filing the prescribed questionnaire responses
- a) OCI Company Ltd., Korea RP
 - b) Nan Ya Plastics Corporation, Chinese Taipei
 - c) Everlite Korea Co Ltd., Korea RP
 - d) JC Petrochem Limited, HongKong
 - e) Aekyung Petrochemical Co. Ltd., Korea RP
 - f) Canko Marketing Inc., Korea RP
 - g) Chemtown Co. Ltd., Korea RP
 - h) Humade Corporation, Korea RP
 - i) Hyundai Corporation, Korea RP
 - j) Ubesco Corporation, Korea RP
 - k) Woori P&C Corporation, Korea RP
30. Since the above mentioned producers/exporters have filed the questionnaire response, the Authority proposes to determine individual dumping margin in respect of these companies. The general methodology adopted by the Authority for determination of Normal Value for these exporters is to first examine whether the domestic sales of the subject goods by the responding exporters in their home markets were representative and viable for permitting determination of Normal Values on the basis of domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the respondents.
31. In the case of non-cooperating exporters in the subject countries, the Authority proposes to determine the normal value on the basis of facts

available in terms of Rule 6 (8) of AD Rules read with Article 6.8 of the Agreement.

Normal Value for Aekyung Petrochemical Co., Ltd., Korea RP

32. M/s Aekyung Petrochemical Co., Ltd., during the POI, has sold 13801.00 MT of the subject goods having invoice value *** KRW in the domestic market. 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. If 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 and in cases, where profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. In this case, based on the ordinary course of trade test, all domestic sales have been taken for determination of normal value, since the profitable sales were more than 80%.
33. M/s Aekyung Petrochemical Co., Ltd., has claimed adjustments on account of freight expenses, bank charge, commission, credit expense and packing expenses which have been duly verified and considered by the Authority except the commission since it was not substantiated. Accordingly, weighted average normal value for M/s Aekyung Petrochemical Co., Ltd., has been determined as ***US\$/MT.

Normal value for M/s OCI Co. Ltd., Korea

34. M/s OCI Co. Ltd., during the POI, has sold 16,705.51 MT of the subject goods having invoice value ***KRW in the domestic market. 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. If 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 and in cases, where profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. In this case, based on the ordinary course of trade test, only profitable domestic sales have been taken for determination of normal value, since the profitable sales were less than 80%.
35. OCI has claimed adjustments on account of packing cost, inland freight, Warehouse Charge and credit expenses which have been duly verified and considered by the Authority. Accordingly, weighted average normal value for M/s OCI Co., Ltd., has been determined as ***US\$/MT.

Normal Value for non-cooperating producers and exporters from Korea RP

36. The Authority notes that no other producer/exporter from Korea RP has responded to the Authority in the present investigation. For all the non-

cooperative producers/exporters in Korea RP, the Authority has determined normal value as ***US\$/MT as facts available.

Export Price

Export Price for M/s Aekyung Petrochemical Co., Ltd., Korea RP with M/s Canko Marketing, INC., M/s Humade Corporation, M/s Ubesco Corporation, M/s Chemtown Co., Ltd., M/s Hyundai Corporation and M/s Woori P&C Corporation, Korea RP.

37. M/s Aekyung Petrochemical Co., Ltd., has filed the questionnaire response along with its unrelated trading companies, namely, M/s Canko Marketing, INC., M/s Humade Corporation, M/s Ubesco Corporation, M/s Chemtown Co., Ltd., M/s Hyundai Corporation and M/s Woori P&C Corporation, Korea RP. These companies exported the subject goods, manufactured by M/s Aekyung Petrochemical Co., Ltd., during the POI.
38. M/s Canko Marketing, INC., has exported 15387 MT of subject goods having invoice value *** US\$ to India, manufactured by M/s Aekyung Petrochemical Co., Ltd. Out of total exports to India by M/s Canko Marketing, INC., 12874.00 MT of subject goods having invoice value *** US\$ have been sold to India directly by M/s Canko Marketing, INC., and rest of 2017.00 MT of subject goods having invoice value *** US\$ and 496.00 MT of subject goods having invoice value *** US\$ respectively sold to India through two traders namely M/s Innovesco, Singapore and United Raw Material, Singapore. Since these two traders did not file their EQR the Authority did not consider these exports to India for determination. M/s Canko Marketing, INC., has claimed adjustments on account of insurance, bank charges, commission, certificate of origin expenses, freight charges, L/C expenses. Adjustments claimed by M/s Aekyung Petrochemical Co., Ltd., with regards to M/s Canko Marketing, INC., have been considered after due verification. Accordingly, the weighted average export price has been determined for M/s Canko Marketing, INC., as *** US\$/MT.
39. M/s Chemtown Co., Ltd., has exported 480 MT of subject goods, having invoice value *** US\$ to India, manufactured by M/s Aekyung Petrochemical Co., Ltd., and claimed adjustment on account of ocean freight, handling expenses, commission, bank charges, insurance, L/C expenses and credit expenses. Adjustments claimed by M/s Aekyung Petrochemical Co., Ltd., with regards to M/s Chemtown Co., Ltd., has been considered after due verification. Accordingly, the weighted average export price has been determined for M/s Chemtown Co., Ltd., as ***US\$/MT.
40. M/s Humade Corporation., has exported 15581 MT of subject goods having invoice value *** US\$ to India manufactured by M/s Aekyung Petrochemical Co., Ltd., and claimed adjustment on account of L/C expenses, bank charges, freight expenses, insurance, commission, and credit expenses. Adjustments claimed by M/s Aekyung Petrochemical

Co., Ltd., with regards to M/s Humade Corporation, has been considered after due verification. Accordingly, the weighted average export price has been determined for M/s Humade Corporation, as ***US\$/MT.

41. M/s Hyundai Corporation, has exported 630 MT of subject goods having invoice value *** US\$ to India manufactured by M/s Aekyung Petrochemical Co., Ltd., and claimed adjustment on account of insurance, bank charges, L/C expenses, document fee and credit expenses. Adjustments claimed by M/s Aekyung Petrochemical Co., Ltd., with regards to M/s Hyundai Corporation, has been considered after due verification. Accordingly, the weighted average export price has been determined for M/s Hyundai Corporation, as ***US\$/MT.
42. M/s Ubesco Corporation, has exported 1617 MT of subject goods having invoice value *** US\$ to India manufactured by M/s Aekyung Petrochemical Co., Ltd. and claimed adjustment on account of L/C expenses, bank charges, insurance and credit expenses. Further adjustments claimed by M/s Aekyung Petrochemical Co., Ltd., with regards to M/s Ubesco Corporation, has been considered after due verification. Accordingly, the weighted average export price has been determined for M/s Ubesco Corporation, as ***US\$/MT.
43. M/s Woori P&C Corporation, has exported 16 MT of subject goods having invoice value *** US\$ to India manufactured by M/s Aekyung Petrochemical Co., Ltd., who has further exported subject goods to India through another trader namely M/s Oxyde Chemicals China Limited, Hong Kong. Since, trader namely M/s Oxyde Chemicals China Limited, Hong Kong, did not file the EQR, thereby, Authority did not consider these exports to determine the net export price with regard to M/s Woori P&C Corporation.
44. Accordingly, the weighted average export price has been determined for exports to India by M/s Aekyung Petrochemical Co., Ltd. through M/s Canko Marketing, INC., M/s Humade Corporation, M/s Ubesco Corporation, M/s Chemtown Co., Ltd., and M/s Hyundai Corporation Korea RP, as ***US\$/MT.

Export Price for M/s OCI Co. Ltd. along with M/s Everlite Korea Co. Ltd., Korea RP

45. M/s OCI has filed questionnaire response along with its unrelated trading company, namely, M/s Everlite Korea Co. Ltd., Korea RP. During the POI, OCI has exported 500 MT of the subject goods to India only through Everlite. M/s OCI has sold the subject goods to Everlite on FOB terms. M/s OCI has claimed adjustments on account of inland freight, port handling expenses, flexi-tank fees, credit expenses and bank charges. The same have been allowed, after due verification. From the response filed by Everlite, Authority also notes that Everlite has exported 3 export transactions of subject goods manufactured by Hanwha Chemical, who has not cooperated with the authority. Further, Everlite also exported 4

export transactions of subject goods manufactured by Aekyung Petrochemical Co., Ltd. However, Aekyung Petrochemical Co., Ltd has sold the subject goods prior to POI to Everlite. Therefore, Authority *did not consider* the transactions of Aekyung Petrochemical Co., Ltd and Hanwa Chemical for determination of individual margin.

46. Accordingly, the weighted average export price has been determined for OCI exported through Everlite as ***US\$/MT

Export Price for non-cooperating producers and exporters from Korea RP

47. The Authority notes that no other producer/exporter from Korea RP has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Korea, the Authority has determined weighted average export price as ***US\$/MT as facts available.

Chinese Taipei

Normal Value for M/s Nan Ya Plastic Corporation, Chinese Taipei

48. M/s Nan Ya Plastic Corporation, during the POI, has sold 6987.59 MT of the subject goods having invoice value *** NTD in the domestic market. 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. If 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 and in cases, where profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. In this case based on the ordinary course of trade test, only profitable sales have been taken for determination of normal value since the profit making sales were less than 80%.

49. Nan Ya Plastic Corporation has claimed adjustments on account of freight expenses, packing expenses and credit expense which have been duly verified and considered by the Authority. Accordingly, weighted average normal value for Nan Ya Plastic Corporation has been determined as ***US\$/MT.

Normal Value for non-cooperating producers and exporters from Chinese Taipei

50. The Authority notes that no other producer/exporter from Chinese Taipei has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Chinese Taipei, the Authority has determined normal value as ***US\$/MT as facts available.

Export Price for M/s Nan Ya Plastic Corporation, Chinese Taipei with M/s JC Petrochem Ltd., Hong Kong

51. M/s Nan Ya Plastic Corporation has filed the questionnaire response along with its unrelated trading company, namely, M/s JC Petrochem Ltd., Hong Kong and they have exported the subject goods which were manufactured by M/s Nan Ya Plastic Corporation during the POI.
52. M/s Nan Ya Plastic Corporation has directly exported 278.34 MT of PUC and exported 12985.13 MT through M/s JC Petrochem Ltd., Hong Kong, Since, M/s JC Petrochem Ltd., Hong Kong did file the EQR, thereby, authority has determined the export price based on the total quantities exported to India.
53. They have claimed adjustment on account of commission, ocean freight, insurance, inland freight, packing, back charges, trade promotion service fee, customs clearance fee, harbor service fee, harbor facility charge, dockage fee, slot fee and credit expenses and the same have been considered, after due verification in order to arrive at ex-factory export price. Accordingly, the weighted average export price has been determined as ***US\$/MT.

EXPORT PRICE for non-cooperating producers and exporters from Chinese Taipei

54. The Authority notes that no other producer/exporter from Chinese Taipei has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Chinese Taipei, the Authority has determined weighted average export price as ***US\$/MT based on facts available.

Dumping Margin Table

55. The dumping margin during the POI for all exporters/producers from the respective subject countries have been determined as provided in the table below:

<u>S.No.</u>	<u>Country</u>	<u>Producer</u>	<u>Exporter</u>	<u>Normal value</u> <u>(US\$)</u>	<u>Export Price</u> <u>(US\$)</u>	<u>Dumpin g Margin</u> <u>(US\$)</u>	<u>Dumpin g Margin</u> <u>%</u>	<u>Range</u>
1.	Korea RP	M/s Aekyung Petrochemical Co., Ltd.,	a) M/s Canko Marketing, INC., b) M/s Humade Corporation, c) M/s Ubesco Corporation, d) M/s Chemtown Co., Ltd., e) M/s Hyundai Corporation	***	***	***	***	0-10

<u>S.No.</u>	<u>Country</u>	<u>Producer</u>	<u>Exporter</u>	<u>Normal value</u> <u>(US\$)</u>	<u>Export Price</u> <u>(US\$)</u>	<u>Dumping Margin</u> <u>(US\$)</u>	<u>Dumping Margin</u> <u>%</u>	<u>Range</u>
2.	Korea RP	M/s OCI Co. Ltd.	M/s Everlite Korea Co. Ltd.	***	***	***	***	0-10
3.	Korea RP	All Others	All Others	***	***	***	***	15-25
4.	Chinese Taipei	M/s Nan Ya Plastic Corporation	a) M/s Nan Ya Plastic Corporation b) M/s JC Petrochem Ltd., Hong Kong	***	***	***	***	20-30
5.	Chinese Taipei	All Others	All Others	***	***	***	***	35-45

G. Injury Determination

G.1 Submissions made by domestic industry

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

- (i) The quantum of imports are significantly undercutting the prices of domestic industry as the landed price of imports is much lower than the cost of sales and selling price of the domestic industry.
- (ii) Price underselling is not a prescribed parameter under AD rules, therefore domestic industry did not provide information in this regard. The injury margin and price underselling is same as per the past practice of the Authority. The landed price of imports was significantly below the non-injurious price of the domestic industry. Thus, the subject imports are underselling the domestic prices.
- (iii) Domestic industry has claimed injury during the period of investigation and the same has been accepted by the opposing party. The production and capacity utilisation of domestic industry has declined over the period which is due to dumping of the subject goods. The decline in 2014-15 is due to commencement of production in the enhanced capacities, the capacity utilization even after two years is much below the levels that were achieved in 2013-14.
- (iv) The capacity utilization of the domestic industry has declined from 39% to 26% over a period, which cannot be considered as stable.
- (v) The imports have increased significantly thereby causing volume injury to the domestic industry. With such increase in imports, the performance of the domestic industry has deteriorated both on volume and price in post investigation period. There is a direct relation in performance of the domestic industry.
- (vi) The petitioner does not have any intention to increase the prices in any manner barring the price increase or reduction that might be necessary due to changes in the price of raw material, there shall be no adverse impact of the proposed duty on the consumers.

- (vii) Domestic industry is not selling any substitute of DOP for capturing the market as there is no viable substitute of DOP. With regard to the prices of DOP, they are much higher than the other products sold by the domestic industry.
- (viii) Injury has been claimed on the basis of volume parameter. The domestic industry has maintained the prices, thereby suffering on volume front. The industry has only two options, either to compromise on price to maintain volumes and suffer losses, or maintain price and suffer decline in volumes. The dumped imports have resulted in mounting losses for not only the petitioner but to DOP industry as a whole in India making operations unviable, which resulted in suspending the production and resorting to imports. There were about 70 companies in India manufacturing DOP earlier but at present out of 70 only 5 companies have continued their production.
- (ix) Domestic Industry has provided the data to the Authority for both bulk and packed. Even the comparison is made for bulk and packed DOP, it would be seen that the imports are undercutting the prices of the domestic industry in these segregated forms as well.
- (x) While assuming and not admitting, lack of price suppression does not mean there is no injury to the domestic industry. The existence of positive price undercutting is sufficient to establish the price effect caused by the dumped imports to the domestic industry. Rules have placed price undercutting and suppression/ depression as alternates, as established by the use of "OR" under the law.
- (xi) Both the production and capacity utilization of the domestic industry has shown decline over a period.
- (xii) The figures of sales for product under consideration have already been verified by the authority and it includes sales of the stabilized softener. The overall sales of the domestic industry have declined over a period.
- (xiii) Injury has not been claimed by the domestic industry on account of profits, cash profits, return on capital employed or increased inventories. Imposition of the anti-dumping duty would result positive as the petitioner will be able to regain the volumes that have been lost and shall maintain its share in the market.
- (xiv) As regard the level of employment, the domestic industry has not claimed injury on this ground. These are governed by several legislative requirements in the Country and various business compulsions with the domestic industry. Employment and wages are not reflective of the adverse effects of the dumping on the domestic industry, as these factors are governed by overall operations of the company and the economy.
- (xv) The petitioner does not have any intention to export the product under consideration. The capacities installed by the company are for the Indian market. If export would have been the intention then the petitioner would have installed capacity in EOU or SEZ to avail benefits for such exports.
- (xvi) The landed price of imports is below the NIP and the injury margin is positive.
- (xvii) The effect of dumped imports on the performance of the domestic industry has to be evaluated cumulatively and not country wise. In any case, the imports from Taiwan are undercutting the prices of the domestic industry.
- (xviii) As regards price parameters are showing increase. Domestic industry has not claimed price injury during the present investigation period but has claimed volume injury in investigation period and price & volume injury in post investigation period.

- (xix) In present case, imports under advance license are causing injury to the domestic industry, as the capacities with the domestic industry are remaining unutilized. If the exporters sell at undumped prices, the domestic industry would be able to cater to this requirement of the consumers.
- (xx) The imports are entering the Indian market at price even lower than the cost of sales, and selling price and causing price undercutting to the domestic industry. Further, participation of domestic industry in Phthalic Anhydride anti-dumping duty investigation does not have any relevance in the present case. Opposing imposition of anti-dumping duty on raw materials does not debar a party for seeking anti-dumping duty on its product.
- (xxi) The opposing interested party has admitted that there is an increase in imports. As regards dumping, the petitioner has already established the existence of dumping of the product concerned in the petition which has caused injury to the domestic industry.
- (xxii) The import of product under consideration is undercutting the prices of the domestic industry, which clearly shows that the price of imports is lower than the selling price of the product under consideration. Further, the fact that Payal Petrochem Pvt Ltd, having its own manufacturing facilities and is forced to suspend its production keeping its facilities idle and instead import in order to maintain its customers is enough to prove that the DOP industry is faced with injurious imports. The representative of Payal Petrochem Pvt Ltd itself states the same in the public hearing.

G.2 Submissions made by Exporters, Importers, Users and other Interested Parties

57. The following submissions with regard to injury and causal link have been made by the Exporters, Importers, Users and other Interested Parties:

- (i) Domestic industry has failed to provide any evidence for material injury due to dumped imports of PUC.
- (ii) Applicants have not been able to make out a case of any injury, let alone material injury. Almost all the injury parameters demonstrates improvement from the base year as well as from the preceding years which cannot lead to a conclusion of injury let alone "material injury".
- (iii) Cost of sales and selling prices have dropped drastically. The prices of raw material have declined price undercutting claimed by the petitioner is flawed as the drop in the prices of imported goods have actually been in proportion to the drop in prices of raw material and the cost of sales and selling prices of the Domestic Industry. Price undercutting is not a factor of injury. No information has been given regarding price underselling; we are entitled to presume that they are not having any issue with price underselling.
- (iv) Production of the domestic industry has increased except for the POI. Plant capacity utilization has remained same. Decline in market share is due to the focus from PUC to other products, which could be more profitable products for them.
- (v) Per unit profit and cash profit has been increased from the base year. ROCE is in the range of 15-25% which is significantly high but it rules out the possibility of any injury. From the table, it can be seen that Cost of

sales declined by 34%, while the selling price only declined by 31%, Profit per unit increased by 71%, Cash Profit increased by 58%, Profit before interest and tax increase by 42%, Employment increased by 14%, wages by 21%, Capital Employed increased by 21%, Return on Capital Employed surged to 15-25%

- (vi) Claim of injury by Domestic industry is baseless, misconceived, legally unsound and do not hold any value in terms of the Anti-Dumping Rules. There is no occasion to claim either the volume or price injury.
- (vii) Domestic Industry has included the self-imports from the subject countries while computing the injury and is flawed on the basis of calculation of demand and its trend, Market share of imports from the subject countries in imports, Market share of imports from the subject countries in demand and Market share of imports from the subject countries in production.
- (viii) The trend of imports has no correlation with the trend of the injury parameters. There is inverse relationship between the imports and the injury parameters (sales, cash profits and profits).
- (ix) Petitioner is enjoying healthy profits and returns on capital employed while importers are operating on thin margins and are extremely vulnerable to changes in raw material price.
- (x) Domestic Industry is selling these substitutes of DOP at a lower price, to capture market claiming that these are better performing products. The claim of injury due to imports is baseless. If duty is imposed, domestic Industry would raise the prices of even the substitutes.
- (xi) In Proforma IV-A, production of Plant as a whole has increased over the injury period, while the production and Capacity Utilization of PUC has remained stable.
- (xii) Domestic Industry is manufacturing and selling DOP at profitable prices, during the POI, so the argument that other producers are being forced to import because production of the DOP is unviable in India is absurd. Domestic Industry is able to double its profit in the POI, as compared to the previous years, it is un-imaginable as to why the other producers had to abandon production activities, in favour of making imports. It is illogical to say that the Domestic Industry has increased its capacity during the injury period.
- (xiii) It has been claimed that there is a significant price undercutting of 5% to 15%, this is the result of unfair comparison of the selling price of the Domestic Industry with the landed value of imports. The price undercutting arises only because the bulk imports have been compared to the sales in drums. Request has been made to determine the undercutting, underselling and price suppression separately for the product in bulk and in packed condition.
- (xiv) The question of price suppression does not arise as the cost of sales has fallen more than the selling price resulting in an increase in profit as compared to the previous year and the profits have doubled in the POI.
- (xv) The capacity utilization for the plant is more or less consistent during the injury period, it has declined due to diversion of capacities for other products (substitutes) and due to expansion. Whereas, profitability, returns on investment, cash flow etc, reveal a positive trends.

- (xvi) For capacity utilisation, claim of 26% by Domestic industry is grossly incorrect. As per annual report total installed capacity for all the products produced is 1,80,000 MT and there is no dedicated capacity of the product. Therefore the analysis of capacity utilization is misleading.
- (xvii) Imports have increased due to the growth in demand, Domestic industry through its related parties has imported the PUC and so the injury appears to be self-inflicted.
- (xviii) Sales volume has reduced and the same should be analyzed together with sales volume of the product Stabilized Softener sold by the domestic industry. Examination can be done when the sales of both the products are undertaken together as both are mutually substitutable and are like article.
- (xix) The profits of the domestic industry have increased and the imports have no role in affecting their prices or their performance in the domestic market. Cash profit has also increased over the injury investigation period in view of not passing the full reduction in cost on to its buyers. ROCE has increased over the injury period, there is no injury.
- (xx) For Capacity and capacity utilization of Petitioner, 2014-15 should be treated as base year, as DI increased its capacity in this year. Injury is caused because of unjustified increase in capacities.
- (xxi) As profit, cash profit and profit before interest and tax has increased. Imports are not causing injury to DI.
- (xxii) As regards return on capital employed, there is no material injury to the DI as Petitioner is selling its product above NIP.
- (xxiii) Price undercutting is in isolation and does not give meaningful price effect.
- (xxiv) No negative trends as no. of employees have increased.
- (xxv) petitioner is doing well and achieving 22% return on capital employed and increasing its profitability year by year, no injury to the Domestic Industry by the imports from the subject countries
- (xxvi) Taiwan's share in total demand is only 5% during the POI hence no volume effect or price effect can be determined from such minimal imports.
- (xxvii) Profits of the Domestic Industry was highest in the POI when imports were highest hence no injury and no price undercutting. The case should be terminated as data shows huge profitability in the face of alleged dumped imports. The petitioner is a profit making industry and have been consistently expanding clearly shows that it is growing.
- (xxviii) ADD in this case will be inconsistent with the long-term and interests of the Indian domestic industry and its downstream industries. It will cause an unfair competitive environment and cause damage to the fundamental interests of their respective.
- (xxix) Imports are at prices, lower than those by the users of DOP. False statement has been made during hearing by Domestic industry as Indian producers have maintained a strong hold on the Indian DOP market. Situation is same in POI, while some producers have opted for imports, while others have continued the manufacturing operations. Users are at mercy of Indian producers.

- (xxx) Decrease in the import price is due to decrease in raw material prices, Domestic industry has admitted that there has been huge drop in the international prices of raw material. Domestic industry has opposed duty on phthalic anhydride, which is the main raw material for PUC.
- (xxxi) Shortage in supply is due to the acute shortage of raw material namely Octonol and also the presence of only one producer of the same. Thus Octonol is also imported to bridge the demand supply gap.
- (xxxii) Through anti-dumping petitioners are again restoring to quotas, creating shortages and would push up their profits by adjusting their prices based on landed prices post Anti-Dumping Duty being levied. Imposing of Anti-Dumping Duty would lead to ceasing of imports having impacts on consuming industry of DOP.
- (xxxiii) Increase in imports is not because of dumping but due to the Comprehensive Economic Partnership Agreement between India and Korea which has resulted in a reduction of duty of customs on imports of DOP from Korea vide Notification No. 152/2009. The increase in imports is a result of the change in applicable tariffs and duties.
- (xxxiv) Claim for injury, material or otherwise is suspected as Petitioner has earned high profits throughout the injury period and even in POI.
- (xxxv) While examining the parameters, authority is required to examine both the volume of dumped imports and its impact on domestic prices together. It is clear in the present investigation that increasing volume of imports has no impact on domestic prices. Such lack of impact is evidenced by lack of price suppression / depression. Moreover, the profitability has remained high despite of both the increased imports and price undercutting.
- (xxxvi) The figures while comparing the increase in imports (367%) and increase in demand (47%) by the domestic industry are misleading and isolated. Rather, with such increase the dumped imports accounts for 47% of demand in question. Moreover, with such substantial increase there is no effect on profitability of the petitioner. Authority cannot focus only on volume of import but should also consider the effect of imports on prices in domestic market for like article.
- (xxxvii) The claim of petitioner that landed price of imports was significantly undercutting the selling price of the Petitioner and same was below non-injurious price is without merit. Further, the undercutting of the Petitioner's selling prices is based on average for all exporters and not specifically to OCI and Everlite. The range of undercutting is within 15-25%. It can also be seen that, the petitioner is having high profits throughout injury period where there is positive undercutting.
- (xxxviii) Reliance has been placed upon the DGAD's Findings, imports of X-ray Baggage Inspection Multi Energy System (XBIS) from the European Union and imports of Ammonium Nitrate originating in or exported from Russia and Iran, wherein Net Sales Realization was higher than the determined NIP, there could not possibly be any material injury against the claim of petitioner that that landed value is lower than the Non-Injurious Price.
- (xxxix) No submission has been provided against the claim of enhanced capacity in 2014-15 and manufacturing the PUC with other products in the plant by the petitioner. Further, the loss experienced in 2014-15 is due to increased fixed costs and/or overhead costs because of expansion in the capacity of production of DOP. Moreover, negative price undercutting has been recorded in 2014-15 during which losses were incurred.

- (xl) The claim of injury is on the basis that both the production and sales of domestic industry has declined during period of investigation when compared to base year. In this regard, there has been marginal decline only and if we exclude only one year then the production and sales of domestic industry has increased despite of increase in imports. So, there is no causation between the increase in imports and the increase or decrease in production and /or sales of petitioner.
- (xli) The situation of curbed production and lower capacity utilization is due to the anti-dumping duties on raw materials for DOP and not due to dumped imports in India. Petitioner is focused on the increase in imports as a factor of injury, which is actually due to anti-dumping duties on raw materials of DOP and also accounts for decline in capacity utilization.
- (xlii) Present investigation should be terminated as no injury has been suffered by the domestic industry and high profits have been earned by them. Reliance has been placed on AA Dry Cell Batteries originating in or exported from China PR and Vietnam, wherein similar facts existed and the Authority terminated the investigation.
- (xliv) Price undercutting has no relevance in the present investigation as both the profits and ROCE are increasing. Further price underselling is not a factor of injury, reliance has been placed upon the decision of Hon'ble CESTAT in the Radial Tyre case, wherein same was held. Moreover with regards to price suppression or depression, the selling price as compared to reduction in cost has declined due to decline in raw material price.
- (xlv) Examination of the injury parameter with regard to utilization of installed capacity is incorrect and misleading. The authority should examine the capacity utilization by drawing a conclusion that this parameter does not provide any indication of injury to the domestic industry. It may be noted that, there has been increase in the plant production by 35% over the injury period and indicates no injury in terms of capacity utilization
- (xlv) With regard to argument by the domestic industry for decline in their market share, the analysis of market share of both the PUC and other products are to be considered together as both are mutually substitutable and are like article for a meaningful examination of market share.
- (xlvi) As per annual report of the domestic industry there has been no injury from the alleged dumped imports. The contents and data provided by the domestic industry in their petition are in contradiction with the facts, statements and affirmation made by the company in its annual reports.
- (xlvii) 70% of the total imports are being made by the manufacturers of DOP, at prices, which are lower than those by the users of DOP. However, this supports that the injury, if any, is self-inflicted.
- (xlviii) All types of DOP have been included for the injury parameters such as capacity utilization, production and sales by the domestic industry. Request has been made to the authority to make public the description, brand name, of all types of DOP which have been included or not included for the purposes of the injury analysis. Nothing has been mentioned regarding the sale of DOP under heading 3904 22 90, or heading 2917 3400 by some of the Indian producers. Moreover, petitioner has cleared Kanatol 800 under heading 2917 3400 during POI.
- (xlix) The injury suffered by the petitioner is not due to dumping but due to change in tariffs and duties between Korea and India. 8,500MT of imports are duty free and need to be disregarded to arrive the correct figure of volume of imports from subject countries. No ADD can be imposed on imports made under Export Promotion Schemes.

- (i) Imports made by the manufacturers of DOP are at lower prices than the users of DOP. Therefore, the undercutting is not by the imports made by the users but due to the imports made by the Indian producer themselves.
- (ii) With regard to impact of dumped imports on capacity utilization, profitability, returns on investment, cash flow etc, it is to be noted that capacity utilization is consistent during injury period. Capacity utilization for PUC has declined due to diversion of capacities for substitutes and expansion. Whereas, profitability, returns on investment, cash flow etc, reveal positive trends.
- (iii) The claim of the petitioner for significant loss of production on the basis of notional achievable production should be rejected, as the analysis has been done on the basis of actual figures, which do not show any decline.
- (iv) Petitioner is unable to establish a causal link as there is no correlation between the increase in imports, steady price undercutting and economic parameters.
- (v) Petitioner has unintentionally admitted that DOP industry is cost driven and is high as 90%, in Para 5 of the submission. Authority should note that the Anti-dumping duty on raw material has led to higher costs. This is true for small scale producers of subject goods.
- (vi) The fact that other Indian producers are being forced to import, as production of DOP is unviable in India is illogical. The petitioner has been successful to make profits during POI. Moreover, there is no justification for the imports made by the Indian Producers.
- (vii) As evidenced by the District Industrial Potential Survey Report of 2016-17, wherein the petitioner has been mentioned, as one of the top 50 large scale and medium scale units and turnover is admittedly in excess of Rs.1000 crores. In such a situation the argument that they are small scale is totally illogical.
- (viii) With regard to Post POI data, the authority cannot rely on the same while making determinations in an anti-dumping investigation.
- (ix) Present application is an attempt to have monopoly in domestic market and to make profits after the imposition of anti-dumping duty on PUC.
- (x) The injury to the domestic industry is due to the high cost of raw materials as anti-dumping duties are imposed on them. It is also the reason for performance of domestic industry.

G.3 Examination of the Authority

- 58. The submissions made by the domestic industry and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as below:
- 59. As regards contention of other interested parties that injury to the domestic industry is on account of other products manufactured by domestic industry, it is noted that Anti-dumping duty, if recommended, on account of injury from the product concerned. The Authority further notes that the verified information with regard to the PUC has been considered in order to examine the injury to the domestic industry, if any, due to the dumped imports from subject countries.

H. Cumulative Assessment:

- 60. Annexure II para (iii) of the Anti-dumping Rules provides that in case where imports of a product from more than one country are being

simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:

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

61. The Authority notes that:

- a) The subject goods are being dumped into India from subject countries. The margins of dumping from each of the subject countries are more than the *de minimis* limits prescribed under the Rules.
- b) The volume of imports from each of the subject countries is individually more than 3% of total volume of imports.
- c) Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market.

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

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

I. Volume Effect of the Dumped Imports on the Domestic Industry

i. Demand and Volume of Imports

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

would be seen that the demand of the product under consideration has increased over the injury period.

Particulars	Unit	2013-14	2014-15	2015-16	POI
Sales of Domestic Industry	MT	46,220	50,456	53,858	45,319
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>109</i>	<i>117</i>	<i>98</i>
Sales of Other Producers	MT	27,329	26,451	26,622	16,951
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>97</i>	<i>97</i>	<i>62</i>
Subject Countries	MT	11,235	9,007	36,291	56,527
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>80</i>	<i>323</i>	<i>503</i>
Other Countries	MT	904	305	344	813
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>34</i>	<i>38</i>	<i>90</i>
Demand/Consumption	MT	85,687	86,218	1,17,115	1,19,610
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>101</i>	<i>137</i>	<i>140</i>

ii. Import Volume and Market Share

65. With regard to 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. The volume of imports of the subject good from the subject country have been analysed as under:

Imports volume	Unit	2013-14	2014-15	2015-16	POI
Subject Countries	MT	11,235	9,007	36,291	56,527
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>80</i>	<i>323</i>	<i>503</i>
Other Countries	MT	904	305	344	813
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>34</i>	<i>38</i>	<i>90</i>
Total Imports	MT	12,139	9,312	36,636	57,340
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>77</i>	<i>302</i>	<i>472</i>
Market Share in Imports					
Subject Countries	%	93	97	99	99
Other Countries	%	7	3	1	1
Total	%	100	100	100	100
Imports in relation to					
- Imports	%	92.55	96.72	99.06	98.58
- Production	%	15.54	11.89	45.36	89.87
- Demand	%	13.11	10.45	30.99	47.27

66. It is noted that that

- i. The volume of imports from subject countries have increased in absolute terms over the injury period.
- ii. Imports from subject countries have increased in relation to total imports of product under consideration in India.
- iii. Imports from subject countries have increased in relation to production and consumption in India over the injury period.

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

i) Price Undercutting

67. With regard to the effect of dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports when compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.
68. In order to determine whether the Authority has compared landed price of imports with net sales realization of the domestic industry. In this regard, a comparison has been made between the landed value of the product and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level. This comparison showed that during the period of investigation, the subject goods originating in the subject countries were imported into the Indian market at prices which were lower than the selling prices of the domestic industry. It is thus noted that imports of subject goods were undercutting the domestic prices and margin of undercutting is shown as per the table below: Imports are undercutting the prices of the domestic industry in the market.

Particulars	Unit	Korea RP	Taiwan	Subject Countries
Landed price of imports	Rs/MT	62,940	62,371	62,876
Net Selling Price	Rs/MT	***	***	***
Price Undercutting	Rs/MT	***	***	***
Price Undercutting (%)	%	***	***	***
Price undercutting	(Range %)	10-20%	15-25%	10-20%

S.No.	Country	Producer	Exporter	Landed Value (US\$)	Selling Price (US\$)	Price Undercutting (US\$)	Price Undercutting %	Range
1.	Korea RP	M/s Aekyung Petrochemical Co., Ltd.,	a) M/s Canko Marketing, INC., b) M/s Humade Corporation, c) M/s Ubesco Corporation, d) M/s Chemtown Co., Ltd., e) M/s Hyundai Corporation	***	***	***	***	10-20
2.	Korea RP	M/s OCI Co. Ltd.	M/s Everlite Korea Co. Ltd.	***	***	***	***	0-10

S.No.	Country	Producer	Exporter	Landed Value (US\$)	Selling Price (US\$)	Price Undercutting (US\$)	Price Undercutting %	Range
3.	Chinese Taipei	M/s Nan Ya Plastic Corporation	a) M/s Nan Ya Plastic Corporation b) M/s JC Petrochem Ltd., Hong Kong	***	***	***	***	0-10

The price undercutting from the subject countries, is positive.

ii) **Price underselling**

69. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject countries. For this purpose, the NIP determined for the domestic industry has been compared with the landed price of imports. Comparison of weighted average NIP of the domestic industry with weighted average landed price of imports shows as follows:

<u>S.No</u>	<u>Country</u>	<u>Producer</u>	<u>Exporter</u>	<u>Landed Value (US\$)</u>	<u>NIP (US\$)</u>	<u>Injury Margin (US\$)</u>	<u>Injury Margin %</u>	<u>Range</u>
1.	Korea RP	M/s Aekyung Petrochemical Co., Ltd.,	a) M/s Canko Marketing, INC., b) M/s Humade Corporation, c) M/s Ubesco Corporation, d) M/s Chemtown Co., Ltd., e) M/s Hyundai Corporation	***	***	***	***	5-10
2.	Korea RP	M/s OCI Co. Ltd.	M/s Everlite Korea Co. Ltd.	***	***	***	***	0-(5)
3.	Korea RP	All Others	All Others	***	***	***	***	25-30
4.	Chinese Taipei	M/s Nan Ya Plastic Corporation	a)M/s Nan Ya Plastic Corporation b)M/s JC Petrochem Ltd., Hong Kong	***	***	***	***	(5)-(10)
5.	Chinese Taipei	All Others	All Others	***	***	***	***	10-15

70. Based on the verified data/information, it is noted that the price underselling is negative in case of OCI from Korea RP and Nan Ya Plastics from Chinese Taipei.

iii) Price Suppression/Depression

71. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Landed Price of Imports	Rs/MT	1,10,916	1,04,054	67,487	62,876
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>94</i>	<i>61</i>	<i>57</i>
Cost of Sales	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>94</i>	<i>70</i>	<i>67</i>
Selling Price	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>90</i>	<i>70</i>	<i>69</i>

72. It is seen that cost of sales and selling price of the domestic industry has declined over the injury period but the selling price is much above the non-injurious price of the domestic industry during the POI. Hence, in a situation of falling costs, the domestic industry has been able to realise a price which has improved its margin of profit. Since the selling price has fallen less than the cost of production, it is evident that the imports have not suppressed or depressed prices of PUC.

K. Economic Parameters Relating To The Domestic Industry

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

74. Accordingly, various economic parameters of the Domestic Industry are analysed herein below.

I. Sales, Capacity, Production, and Capacity Utilization

75. The performance of the domestic industry with regard to production, domestic sales, capacity & capacity utilization was as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Capacity	MT	120,000	180,000	180,000	180,000
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>150</i>	<i>150</i>	<i>150</i>
Production PUC	MT	46,262	50,533	54,594	45,945
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>109</i>	<i>118</i>	<i>99</i>
Plant Production	MT	115,378	135,200	155,139	155,252
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>117</i>	<i>132</i>	<i>135</i>
Capacity Utilization PUC	%	38.55	28.07	30.33	25.52
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>73</i>	<i>79</i>	<i>66</i>
Capacity Utilization Plant	%	96.15	75.11	86.19	86.25
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>78</i>	<i>90</i>	<i>90</i>
Domestic Sales	MT	46,220	50,456	53,858	45,319
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>109</i>	<i>117</i>	<i>98</i>
Demand	MT	84,391	84,983	115,914	119,610
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>101</i>	<i>128</i>	<i>142</i>

76. Authority notes that the domestic industry has enhanced its capacity in the year 2014-15. The production and sales of the domestic industry has increased till 2015-16 but declined in period of investigation. The demand of the product under consideration has increased by 42%, but the domestic industry instead of using the plant for production of DOP used this facility for producing other phthalates as such the plant production has not gone down. It is also noted that there is no dedicated plant capacity for DOP and since the same lines are being used for production of all phthalates including DOP, therefore, the claim of domestic industry of volume injury on account of not utilizing of plant for DOP, is not substantiated. Moreover, the plant has been used for production of other plasticizers and there is no sign of decline.

77. It has been contended by the interested parties that the petitioner has produced other products in the plant and there is no injury to the domestic industry. The domestic industry has contended that they have set up the plant for manufacturing DOP and no other products, however they have been forced to do so due to presence of dumped imports. The Authority has examined the contentions of all the parties and after due verification of records, it is noted that domestic industry has used the plant for manufacturing other products of plasticizer group instead of using for production of DOP in order to utilize plant capacity. There is no decline in the plant production.

II. Market Share in Demand

78. The effects of the dumped imports on the market share of the domestic industry have been examined as below:

Particulars	UNIT	2013-14	2014-15	2015-16	POI
Domestic Industry	%	54.77	59.37	46.46	37.89
Other Producers	%	30.85	29.67	21.93	14.17
Subject countries - Imports	%	13.31	10.60	31.31	47.26
Imports from Other Countries	%	1.07	0.36	0.30	0.68
Total	%	100	100	100	100

79. It is noted that market share of the domestic industry has declined as compared to base year as well as previous year. Market share of other Indian producers have also declined during the injury period. Market share of the imports from subject countries has increased over the injury period whereas market share of other countries have remained constant. The Authority notes that the imports of subject countries have captured the market share of DOP of the domestic industry in view of plant is being used for other plasticizers instead of plant being used for production of DOP. It is also noted the same line production is being used for making all kind of plasticizers including DOP which could be reason of decline in shares.

III. Profit/Loss, Cash Flow, Return on Capital Employed

80. The profit/loss, cash profits and return on investment of the domestic industry has been analysed as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Cost of Sales	Rs/MT	***	***	***	***
Trend	Indexed	100	94	70	67
Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	90	70	69
Profit/Loss	Rs/MT	***	***	***	***
Trend	Indexed	100	(94)	81	171
ROI	%	***	***	***	***
Trend	Indexed	100	(57)	73	117
Cash profit	Rs lacs	***	***	***	***
Trend	Indexed	100	(68)	98	158

81. The Authority notes that the profits, cash profits and return on capital employed of the domestic industry *has increased during the POI. It is noted that the petitioner has added the plant capacity during 2014-15 which led to loss, however, subsequent to that period, they have improved both in profit and loss and ROI which is quite substantial in the situation where imports have increased during POI..*

IV. Employment and Wages

82. The position with regard to employment, wages and productivity is as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Employment	No	***	***	***	***
Trend	Indexed	100	101	98	84
Wages	Rs Lacs	***	***	***	***
Trend	Indexed	100	93	98	98
Productivity per employee	MT/Nos	***	***	***	***
Trend	Indexed	100	109	120	118

83. It is noted that the employment levels of the domestic industry has declined during period of investigation. Productivity per employee has increased and wages have shown decline during period of investigation.

V. Inventories

84. The data relating to inventory of the subject goods are shown in the following table :

Particulars	Unit	2013-14	2014-15	2015-16	POI
Opening Stock	MT	***	***	***	***
Closing Stock	MT	***	***	***	***
Average Stock	MT	***	***	***	***
Trend	MT	100	85	70	64

85. It is seen that inventories with the domestic industry have declined during period of investigation.

VI. Impact of Net Selling Price

86. The net selling price has been compared with the non-injurious price of the domestic industry both in packed and bulk form and it is noted that the net sales realization is higher in both bulk and packed form compared with the NIP of the domestic industry and they are earning good profit.

Index	NIP	NSR
Packed	***	***
Bulk	***	***

VII. Growth

87. The Authority notes that growth of the domestic industry is positive with regard to production, domestic sales, capacity utilization and market share in demand taking into account the total plant capacity as plasticizer during period of investigation and it is also noted that demand of the product has increased due to expanding market for both plastics and PVC products. The growth in respect to profit, ROI and cash profit was positive in the increasing demand and growing imports. On the whole, the growth of the domestic industry has been positive over the injury period.

VIII. Ability to raise capital investment

88. The Authority notes that the performance of the domestic industry has improved in terms of production, domestic sales, capacity utilization, profit and ROI. In view of the profitability and the growth of the domestic industry, their ability to make fresh investment does not seem to be impaired.

IX. Level of dumping& dumping margin

89. It is noted that subject countries imports are entering the country at dumped prices and that the margin of dumping is significant.

X. Factors affecting prices

90. The examination of the import prices from the subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc. shows that the landed value of imported material from the subject countries is below the selling price of the domestic industry, and selling price of the domestic industry is much above the non-injurious of the domestic industry *and making good profit*. In view of the above, landed value of imports may not be in a position to drive the domestic prices.

XI. Conclusion on Injury

91. It is thus seen that there has been an increase in the volume of dumped imports from subject country in absolute terms in view of increasing demand. The dumping margin determined by the Authority is significant. With regard to consequent impact of dumped imports on the domestic industry, it is noted that dumped imports from subject countries have not impacted the performance of the domestic industry in respect of volume and price parameters; rather it has shown improvement.

L. MAGNITUDE OF INJURY AND INJURY MARGIN

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

<u>S.No</u>	<u>Country</u>	<u>Producer</u>	<u>Exporter</u>	<u>Landed Value</u>	<u>NIP</u>	<u>Injury Margin</u>	<u>Injury Margin %</u>	<u>Range</u>
1	Korea RP	M/s Aekyung Petrochemical Co., Ltd.,	a) M/s Canko Marketing, INC., b) M/s Humade Corporation, c) M/s Ubesco Corporation, c) M/s Chemtown Co., Ltd., d) M/s Hyundai Corporation	***	***	***	***	5-10
2.	Korea RP	M/s OCI Co. Ltd.	M/s Everlite Korea Co. Ltd.	***	***	***	***	(0)-(5)
3	Korea RP	All Others	All Others	***	***	***	***	25-30
4	Chinese Taipei	M/s Nan Ya Plastic Corporation	a) M/s Nan Ya Plastic Corporation b) M/s JC Petrochem Ltd., Hong Kong	***	***	***	***	(5)-(10)
5	Chinese Taipei	All Others	All Others	***	***	***	***	10-15

M. Causal Link and other factors

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

I. Imports from third countries

94. The Authority has examined the imports data of the subject goods from other countries. It is noted that imports from third countries are negligible and could not have caused claimed injury to the domestic industry.

II. Contraction in demand

95. There has been rise in demand of the product concerned over the injury period. Possible decline in demand could not have caused injury to the domestic industry.

III. Changes in the patterns of consumption

96. The pattern of consumption with regard to the product under consideration has not undergone any material change. Therefore, changes in the pattern of consumption cannot be considered to have caused injury to the Domestic Industry.

IV. Trade restrictive practices of and competition between the foreign and domestic producers

97. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry.

V. Developments in technology

98. Technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor causing injury to the domestic injury.

VI. Export performance

99. The performance of the domestic industry and injury has been examined with respect to the domestic performance to the extent possible. Possible deterioration in the export performance of the domestic industry may, therefore, not a cause of injury to the domestic industry, since the domestic industry is mainly involved in domestic business and having good profitability.

VII. Performance of the domestic industry with respect to other products

100. The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the economic health since they have shown good profitability during the POI. However, on examination of information with regard to PUC, it has also shown improvement.

VIII. Productivity of the domestic industry

101. The Authority notes that the productivity of the domestic industry has followed the same trend as production. Deterioration in productivity is not a cause of injury to the domestic industry.

N. Factors establishing causal link:-

102. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has improved on most of the parameters. Causal link between dumped imports and the injury to the domestic industry is not established on the following grounds-

- a.) The Net Sales Realization of the domestic industry is higher than the Non Injurious Price of the domestic industry.
- b.) The performance of the domestic industry has improved both in volume and price parameters. In view of this, injury if any cannot be attributed to dumped imports from subject countries.
- c.) The Selling price of the domestic industry is higher than the landed value of imports from the subject countries.

O. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

103. The post disclosure submissions have been received from the interested parties. Majority of the issues raised therein have already been raised earlier during the investigation and also addressed appropriately. Additional submissions have been analysed as under:

O.1 Submissions by Domestic Industry

104. The submissions made by the domestic industry post-disclosure and considered relevant by the Authority are as follows:

- i) The domestic industry vide the reply to the e-mail dated 28th March, 2018 filed relevant documents to establish that all other Kanatol apart from Kanatol-800, and Kanatol 800 FG, stabilized softener Kanatol-800 and stabilized softener Kanatol-800 FG, do not constitute the PUC. The Authority, however, obtained the views of Central Institute of Plastic Engineering & Technology and ignored its recommendation, instead held that “the domestic industry could not adduce sufficient evidence to prove or nullify the issue raised by the other interested parties that the other stabilised softeners being sold as Kanatol do not constitute DOP”.
- ii) Govt. of India through Union Budget has substituted the words Dioctyl Phthalate and specified “Dioctyl isophthalate” and “Dioctyl Tetraphthalate” as the relevant description and 29173920 as the relevant HS code. It is, thus, evident that while all parties (including Customs authorities, Importers, users and domestic producers) were considering 29173400 or 29173920 as the classification for DOP in any of its form, the Govt. has now specified that only 29173200 shall be used as the right classification. Therefore, it is requested to the Authority to modify the product description accordingly.
- iii) The domestic industry has sought disclosure of exporter’s verification report, the communication made with them and the non-confidential version of information filed by them. They have sought additional disclosure of information vide e-mail dated 12th April, 2018 and 16th April, 2018, however, no disclosure has been received. Thus, the present inadequate disclosure of facts is not only contrary to Rule 16 of AD Rules but also hinders the right of the domestic industry to defend its interest.
- iv) The domestic industry has sought clarification with regard to the documents based on which, it has been assumed that the commission is linked to sales. The statements in the disclosure statement makes it evident that the information documents and submissions made by the domestic industry has been ignored and some other information, documents and submissions not disclosed to the domestic industry, relied upon assuming that expenses is in the nature of commission on sales, is not an operational expense.

- v) In the disclosure statement, it is stated that the imports are undercutting the prices of the domestic industry, therefore, the exporter-wise price undercutting is meaningless when overall price undercutting is positive. The price underselling/ injury margin is a comparison of NIP and landed value of imports, the overall price underselling is positive in the present case, however, the authority has made a statement with regard to only negative price underselling, which is not objective in nature.
- vi) The Designated Authority has itself considered that the domestic industry has under-utilized its capacities to the extent of 86% whereas it could have utilized the same to the extent of 96% and despite the same, Designated Authority has held that the petitioner has not suffered any adverse effects on its production, sales and capacity utilization. An underutilization of production capacities by 10% implied loss of production to the extent of 18,000, which translates into 15% of demand and 39% of actual DOP production. The Designated Authority found that domestic industry's market share declined by 8%, which translates into a loss of sale by 8500 MT. Evidently, in the absence of dumping, domestic industry could have produced and sold higher volumes. This clearly indicates adverse effects of dumped imports on the domestic industry. Further, the product under consideration production, sales and capacity utilization of the domestic industry has declined.
- vii) The market share of the domestic industry has declined in period of investigation as compared to base year as well as previous year. The market share of other Indian producers has also declined and the market share of the imports has increased. However the disclosure statement thereafter states that the market share of petitioner has declined because the plant was used for production of other plasticizers and not for DOP. An underutilization of production capacities by 10% implied loss of production to the extent of 18,000, which translates into 15% of demand and 39% of actual DOP production. The Designated Authority found that domestic industry's market share declined by 8%, which translates into a loss of sale by 8500 MT. Evidently, in the absence of dumping, domestic industry could have produced and sold significantly higher volumes.
- viii) Whereas Para 75, 76 and 78 states that the domestic industry could not have produced more of DOP and the company preferred to produce other types of plasticisers but in the NIP disclosure it was observed that the plant was underutilised by more than 10% and resulted in a lower production of DOP. The Authority has incorrectly determined NIP and adopted an approach to lower the NIP without any legal and factual basis or ignoring its own practices.
- ix) All imports from Korea are under FTA and were attracting 1.5% duty till 31st Dec., 2016 and ZERO duty thereafter. This can be verified from the importer responses as well as other import documents filed by the domestic industry relating to imports by related parties of KLJ, imports by Payal and Ritzy. However, it is apprehended that the Authority has considered 7.5% of customs duties for Korea while computing landed price of Imports. The same is accordingly be modified.

- x) It is requested while comparing imported product with domestic product, appropriate adjustment of packing cost (bulk, packed and flexi bags) is required to be made. The Designated Authority however, has considered only two forms in which the material has been transported i.e. packed and Bulk and has not considered Flexi bags.
- xi) The disclosure statement at various places states absence of injury to the domestic industry on the basis that NSR determined is higher than NIP. This contention in the disclosure statement is contrary to the past findings of the Designated Authority and decision of the CESTAT. We refer and rely upon decision of CESTAT in the matter of All India Glass Manufacturers Federation Versus Union of India, wherein CESTAT categorically stated that there is no legal provision to mandate the DA to compare NIP with NSR in order to determine the price effect.
- xii) In view of the arguments made by the interested parties and despite providing sufficient material by domestic industry, Designated Authority earlier sought views from CIPET. Despite CIPET holding in an unambiguous term fact with regard to the scope of product under consideration in the present case, the Designated Authority first brought this letter in the disclosure statement, thereafter ignored the same and made technically incorrect statements in the disclosure statement. While it can be appreciated that Designated Authority is a non-technical body on the technical matters relating to product under consideration, having sought an opinion from CIPET, the Designated Authority could not have ignored the same that too when we have provided significant documents to establish what is DOP and what is not DOP. Domestic industry has also sought opinion from Institute of Chemical Technology (ICT) and it may be seen that ICT has also confirmed that there are no other Phthalate products in the catalogue which can impart similar characteristics to the end products.
- xiii) There is inadvertent error in filing electronic return in MCA return filing. This is totally on account of lack of understanding, knowledge and expertise in feeding information on computerized environment. Moreover, no adverse consequence follows as far as present investigation is concerned. However, the Designated Authority accepted argument of the interested parties and has held that “such claim of ‘inadvertent error’ is not acceptable as such unrectified mistakes is statutory filing of information before the regulatory authority is incomprehensible”. This is an excessive penalty for an inadvertent and inconsequential error in electronically filing return and ignores the fact that there is no possibility of rectification on this account.
- xiv) The domestic industry has submitted that the Authority has accepted excessive and misleading claims of confidentiality by the exporters, leading to severe prejudice to the Petitioner.
- xv) The Authority has considered the imports of DOP by petitioner’s related party as 945MT, despite clarification that the actual imports was only 420MT.

O.2 Submissions by exporters and other interested parties

105. The following submissions have been made post-disclosure by the Exporters, Importers, Users and other Interested Parties:

- i) In the petition filed by the domestic industry, only a few of the names of the importers / actual users were mentioned. Consequently, many importers / users were not aware of the investigations and did not file any information to the Authority. However, as soon as they came to know of these investigations, they made a request to the Authority for a public hearing at the earliest. The Authority was pleased to grant a separate oral hearing to the importers / users wherein detailed oral submissions were made, which were followed by written submissions. Thereafter, the importer's questionnaire responses were filed by the following parties: -
 - i) M/s Swastik Polyvinyls Pvt Ltd
 - ii) M/s Sonarg Plastics Pvt Ltd
 - iii) M/s Kkalpana Industries
 - iv) M/s Bihani Manufacturing Co. Pvt Ltd
 - v) M/s Shankla Industries
 - vi) M/s Bihani Group

The names of the importer's may kindly be taken into consideration and the findings in paragraph 4 of the disclosure statement may be modified accordingly.

- ii) The stabilized softener and Kanatol 800 are nothing but DOP that is the product under consideration. The distinction sought to be made based on purity is not correct and has been made only to mislead the Authority. It is difficult to appreciate as to why the same product Kanatol 800 is being cleared under different headings and different nomenclature from different units. We, therefore, apprehend that the correct information has still not been furnished to the Authority and some of its clearances of DOP have been concealed from the Authority, so as to claim injury which is otherwise non-existent.
- iii) The arguments raised were concerning reliability of the information furnished by the petitioner. The domestic industry failed to give details of major producer in India with the sole motive of creating a false impression before the Authority. This aspect has not been dealt with in the disclosure statement. It is submitted that a party, which at the very stage of initiation deliberately conceals information from the Authority, should not be allowed to derive any advantage of its own wrong.
- iv) As regards the issues regarding end use, it is submitted that the imposition of Anti-dumping duty will have disastrous effect on the user industry. We reiterate our submission that the continuation of investigations is not in the public interest. There are about 1,500 to 2,000 compounding units in India, using the subject goods. The imposition of anti-dumping duties will have a disastrous result on the compounding industry, as well as, on other

downstream industries, such as footwear industry, and for medical applications. Footwear used by the weaker sections of society, contains DOP in significant quantity, almost up to 40% in certain cases. The imposition of duty would result in the escalation of costs, which would result in an even higher increase in prices, on account of taxes and duties. Such price increase would be difficult to absorb, especially by the weaker sections of the society. A similar situation arises in the case of blood bags used for medical applications.

- v) Apart from DOP, the petitioner is also engaged in the manufacture of compounds. Imposition of anti-dumping duties on DOP, will adversely affect the importers / users, since the petitioner would be in a position to manufacture compounds at a much lower cost, and would totally wipe out the user industry. It is submitted that having regard to the serious consequences, which may arise in the event of imposition of duties, the importers request the Authority to balance the interests of the petitioners and the users, as both are Indian Industry and entitled to equal treatment. It would be evident that while the petitioner enjoys healthy profits and returns on capital employed, the importers are operating on thin margins and are extremely vulnerable to changes in raw material price.
- vi) The increase in imports is, therefore, a result of the change in applicable tariffs and duties and is not a result of dumping. The Anti-dumping provisions can only be invoked to redress injury being caused on account of dumped imports. The increase in imports is, therefore, not an indicator of injury consequent to dumping. Further, 8,500 MT of imports made are duty free imports, and need to be disregarded to arrive at the correct figure of volume of imports from the subject countries, as no Anti-dumping Duty can be levied on imports made under Export Promotion Schemes.
- vii) The Authority notes that consequent impact of the dumped imports is not evident from the capacity utilization, profitability, returns on investment, cash flow etc. In this context, it is submitted that we agree with the view of the authority that the capacity utilization for the PUC has declined only due to diversion of capacities for other products (substitutes) and due to expansion. Also that, the profitability, returns on investment, cash flow etc. reveal a positive trends.
- viii) It may be noted that the sales of domestic industry have remained stable over the injury period. The sales of other producer, who are also importer has fallen significantly. This is for the reason that the bulk of the imports are by other producer in fact as far as the petitioner is concerned, there is no impact or volume effect on it.
- ix) It is submitted that the comparison be made separately for the PUC in bulk packing and in bags. While, there is price undercutting by the subject imports, the domestic industry has been able to make profitable sales, and achieve a substantial improvement in profitability during the POI, as compared to the previous year.
- x) As regards the issue of price suppression, it is important to note, that the cost of sales has fallen more than the selling price resulting in an increase in profit as compared to the previous year. Therefore, the question of any price suppression does not arise.

- xi) The landed value of imports, the selling price of domestic industry as well as the cost to make and sell in India, have fallen significantly during the injury period and the POI. The landed value has declined the most, falling from indexed figure 100 in the base year to 60 in the POI. This is a fall of almost 40% as compared to base year. As against this, the selling price of domestic industry has fallen by 31% whereas the cost to make and sell the goods, has declined by 33%. Hence, in a situation of falling costs, the domestic industry has been able to realise a price which has improved its margin of profit. Since the selling price has fallen less than the cost of production, it is evident that the imports have not suppressed or depressed, the prior of domestic industry, especially since the profits of domestic industry have been at their highest level during the POI, demolishing any claim of injury consequent to dumped imports.
- xii) The argument of the domestic industry that other producers are being forced to import because production of the DOP is unviable in India, is not a valid statement, as the petitioner himself is manufacturing and selling DOP at profitable prices, during the POI. In fact both their absolute and per unit profits have substantially increased during the POI, the profit per MT has almost doubled i.e., increased by 1.7 times during the POI as compared to previous years. The cash profit and profit before the interest and tax have increased 1½ times during the POI, as against the base year of 2013-14, and by even more, when compared to the preceding year i.e., 2015-16. The return on capital employed is already in the range of 15% to 25%, even though, there has been an expansion of capacity during the injury period. It is submitted that if the petitioner is able to double its profit in the POI, as compared to the previous years, it is un-imaginable as to why the other producers had to abandon production activities, in favour of making imports.
- xiii) This is even more illogical, in view of the fact, that the other producers have expanded their capacity during the injury period. The aforesaid facts indicate that while KLJ continues to maintain its high prices, the other producers imported and re-sold the subject goods to the user matching the price of petitioner. As a result, there was no loss to the petitioner during the POI, who earned huge profit on its domestic production while the other manufacturers earned exorbitant profits by re-sale of the DOP in the Indian market.
- xiv) As in the case of profits, the return on capital employed has improved significantly in 2015-16 and POI, when the imports were at their peak. In fact, from a situation of negative returns in 2014-15, the domestic industry has achieved a return on capital employed which is even higher than the return in the base year, when there are no dumping. There is clearly no linkage between the import volumes or import prices and the return on capital employed of the domestic industry. In any case, the domestic industry is enjoying a reasonable return on capital employed during the POI, ranging between 15% -25%, which is indicative of the fact, that it is able to profitably compete with the imports, without any measures in force.
- xv) It may be noted that given the rising demand of the product in the country, the domestic industry has made significant investments in plant and machinery. Further, the possibility of injury to the domestic industry caused by the increased investments in plant and machinery instead of dumped imports cannot be ruled out, given that there is substantial expansion

underway by other producers, namely M/s Rachna Plasticisers, Dahej (38,400 MT), M/s Aarti Industries Ltd., Dahej (12,000 MT) and Meghaarika Enterprises Ltd. Also, the Authority has rightly noted that in view of the profitability and the growth of the domestic industry, they may be in apposition to make fresh investments, as can also be seen from the above, that other producers are making substantial expansions.

- xvi) It is submitted that there is no causal link between dumping and injury, in view of the fact, that the Authority has found that the domestic industry has preferred to make alternate products as compared to PUC and the decline is, therefore, not on account of the dumped imports.
- xvii) It is submitted that the domestic industry has deliberately shifted to new product / types / variant / substitutes, so as to earn exorbitant profits. This shift is uncalled for and unjustified since profitability of DOP production has almost double over the injury period. This should have acted as an incentive to increase production of DOP. It is also important to consider that during the period of investigation, the selling price is above the NIP, therefore, the petitioner is able to earn adequate profits and returns in excess of 22% of capital employed. This itself indicates a total absence of injury to the domestic industry.
- xviii) There is no dedicated plant capacity for DOP and since the same lines are being used for production of all phthalates including DOP, therefore, the claim of the domestic industry of volume injury on account of not utilizing of plant for DOP is not substantiated.
- xix) The primary raw materials for the manufacturing of DOP are 2-Ethyl Hexanol and Phthalic Anhydride and on both these products anti-dumping duties have been levied. Therefore, any further anti-dumping, if, levied on the subject goods, it shall cause extreme hardship and cascading effect on to the end users of the subject goods. This will amount three anti-dumping duties on the products used by the end user industry. Resultant effect shall be on the consumer and the same shall be against public interest. The primary end users of the subject goods are the cable industry, upholstery manufacturing industry, Foot wear Industry and small scale manufacturing units engaged in production of PVC and Plastic products etc. Impact of three anti-dumping duties shall force them to close their units resulting into loss of capital and creation of widespread unemployment as with the increase in cost of raw material with the impact of three anti-dumping duties, the buyers of their product may resort to import rather than buying from the domestic small manufacturers. DOP constitute around 10-40% towards the cost of raw material of the user industry. Besides, this will also be against the public policy of the Government of India to give impetus to Make in India.
- xx) The domestic industry has submitted the petition on the basis DOP being sold under the brand names Kanatol 800 etc., under Customs Tariff heading 29173920 . As such information with regard to NIP must have been submitted with the Authority for such products only and examination by the Authority might have been undertaken accordingly. However,

based on the evidences submitted by the respondent and examination by the Authority, it is clearly evident that the production and sales of DOP in other brand names of the domestic industry viz. Kanatol 900, Kanatol 400(N) etc./ customs tariff heading 29173400 have not been included in its petition.

- xxi) PUC ought to include other stabilized softeners within scope of PUC which is very much evident from KLJ's letter dated 17/05/2017 to the Chairman, CBEC stating that DOP is general name and it includes-a) Di-Octyl Ortho- phthalate, b) Di-Octyl meta-Phthalate, c) Di-Octyl terephthalate (DOTP). In furtherance to this, copy of catalogue of Kanatol 8080 of KLJ Group informing there is almost no difference in physical and chemical properties of DOP and Kanatol 8080. It may be noted that DOP is a phthalate based plasticizer and Kanatol 8080 is a non-phthalate based plasticizer (DOTP).
- xxii) It is also submitted that the Petitioner has not provided meaningful non-confidential summary of the import data and the basis of sorting out the data. Since the PUC should be Phthalate Plasticisers, the import data as structured / sorted out by the domestic industry may also be incorrect and no objective analysis of injury parameters can be undertaken by the Authority in accordance with the AD Rules. Further, it has been submitted that there exist contradictions in the information contained in the Petition and the information contained in the Annual Reports (Statutory Filing) 2016-17. This raises questions as to the reliability of the Petition filed by the Petitioner.
- xxiii) It has been submitted that domestic industry has claimed excessive confidentiality. Specifically, the Petitioner has failed to supply details of the production and sales of the domestic industry under different brand names. However, while the same was supplied to the Authority on a confidential basis as part of the Written Submissions as Annexure WS 4, no non-confidential version of the same was provided.

O.3 Examination by the Authority

106. It is noted that the comments on Disclosure statement filed by the interested parties are primarily reiterations and reproductions of their earlier submissions in the context of Disclosure statement. The relevant opposing views and submissions are inter alia addressed under the appropriate sections in this final finding which are self-explanatory based on evaluation of the relevant facts and also in view of the relevant rules and jurisprudences to be followed by the Authority. Nevertheless, certain specific comments on the Disclosure statement raised by the parties are addressed as follows;

- i) As regards the request of further disclosure of the facts, the Authority notes that all relevant information pertaining to this case has been disclosed and addressed appropriately at relevant places. Regarding the issue of CIPET's letter, it is noted that the Authority has reproduced it in verbatim in the disclosure statement and also made available the copy of the same in the public file, which is available to all the interested parties. It is noted that the issues raised by the interested

- parties have been considered and examined in detail in order to arrive at its findings regarding the PUC.
- ii) As regards the classification of DOP, it is noted that this issue has been addressed at the relevant para as per the claim and classification of the product, made by the domestic industry, however, any change in the product classification with the HS code will be dealt by the appropriate Authority.
 - iii) With respect to the Customs duty, it is noted that the same has been considered at the time of the disclosure statement at the rate of 7.5% as claimed by the domestic industry during the course of investigation. However, the authority has rectified the same in line with the comments received from the domestic industry subsequent to the disclosure statement and considered the custom duties rate for the subject goods based on the relevant customs tariff notification. Further, in view of the India-Korea CEPA, the custom duty with respect to Korea RP has been considered as 1.56% for April, 2016-Decemembr, 2016 & 0% for January, 2017-March, 2017. Accordingly, the landed value has been worked out and relevant para have been modified at relevant places.
 - iv) With regard to the comparison of prices at the same level, the Authority notes that the landed value of the imports has been compared with the NIP of the domestic industry at the same level, factoring the cost of packing of bulk, packed and flexi bags.
 - v) As regards the contention of interested parties that the petitioner has concealed the information with regard to production and sales of DOP, the Authority notes that during the course of investigation, authority has proceeded in this investigation based on the information received from the other interested parties and the verified information of the petitioners.
 - vi) As regards the capacity expansion of subject goods during the POI, the Authority notes that other producers had also expansion plan of subject goods in the expanding market of the subject goods. Although, the other big producers do not constitute domestic industry, since, they themselves are importers but this capacity expansion indicates positive outlook of producer of subject goods in India.
 - vii) With regard to the claim of the domestic industry pertaining to capacity utilization of the PUC, the Authority notes that the petitioner has increased its capacity over the period of injury and in the POI, the utilization of PUC in turn declined. However, considering the trend of capacity utilization since, 2014-2015, it is evident that plant capacity utilization has improved throughout the remaining period. Thus, it is understood that decline in capacity utilization is mainly due to capacity expansion and at the same time it is also noted, while the overall plant production has improved, the production of DOP has declined, Thus, the argument of the domestic industry is not commensurate with facts rather it shows a shift in focus of the petitioner from production of PUC to Non-PUC.
 - viii) With regard to the submission that price undercutting should be determined by considering only transaction for landed value of imports which is below the selling price of the domestic industry, the Authority notes that it is the established practise of DGAD that price undercutting exercise is undertaken, taking into account the entire imports during the POI and the similar practise is adopted for determination of underselling/injury margin also.

- ix) With regard to the claims pertaining to NIP, the Authority notes that NIP has been worked out in line with annexure-III of AD Rules. The authority further notes that the amount paid to the Director as commission as a percentage of profit cannot be considered in the NIP working as this is paid out of profits which is not an operational expenses.
- x) With regard to the volume of imports by the related party of the petitioner, the Authority notes that import of DOP by the petitioner related companies has been considered based on the DGCI&S information available before the Authority.
- xi) As regards the claim of excessive confidentiality by the interested parties, the Authority notes that it has disclosed the relevant information subject to the claim of confidentiality under Rule 7 of anti-dumping rules, 1995, however, non-confidential versions of the submissions are made available in the public file. However, applicant specific confidential information has been shared with them.

P. Conclusions and Recommendations

107. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in this finding, the Authority concludes that:
- I. The product under consideration has been exported to India from subject countries, below its normal value, resulting in dumping.
 - II. The domestic industry has not suffered material injury due to dumping of the product under consideration from the subject countries.
 - III. Causal link between imports from subject countries and injury to the domestic industry is not conclusively established.
 - IV. In view of the above, the Authority does not consider it appropriate to recommend levy of anti-dumping duty on the imports of subject goods from subject countries and hereby terminates this investigation in accordance with Rule 14(b) (e) and Rule 17 (1) (iii) read with 11(ii) of the Anti-Dumping Rules.

Q. FURTHER PROCEDURE:

108. An appeal against the order of the Central Government arising out of this finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)
Additional Secretary & Designated Authority

