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**F. No. 6/39/2020 - DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi-110001**

Dated: 27th September, 2021

FINAL FINDING

NOTIFICATION

(Case No. AD-OI 34/2020)

Subject: Final finding in the anti-dumping investigation concerning imports of "Caprolactam" originating in or exported from European Union, Korea RP, Russia and Thailand-reg.

File No. 6/39/2020 - Having regard to the Customs Tariff Act 1975, as amended from time to time 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 thereof: -

A. BACKGROUND OF THE CASE

1. Gujarat State Fertilizers and Chemicals Limited (hereinafter also referred to as the 'applicant' or the 'petitioner' or the 'domestic industry') filed an application before the Designated Authority (hereinafter also referred to as "the Authority") in accordance with Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the "Act") and Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred to as the "Rules") for initiation of anti-dumping investigation concerning imports of "Caprolactam" (hereinafter referred to as the "subject goods" or the "product under consideration" or the "PUC") originating in or exported from European Union, Korea RP, Russia and Thailand (hereinafter referred to as "subject countries")
2. The Authority, on the basis of prima facie evidence submitted by the applicant, issued a public notice vide Notification No. (OI) 34/2020 - DGTR dated 30th September, 2020

in the Gazette of India Extraordinary, initiating the investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described below has been followed with regard to the investigation:
 - a. The Authority, in accordance with Rule 6(1) of the AD Rules, issued a Notification No. 6/39/2020-DGTR dated 30th September 2020, published in the Gazette of India Extraordinary, initiating investigation concerning imports of the subject goods from the subject countries.
 - b. 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 per the addresses made available by the applicant and requested them to make their views known in writing within 30 days of the initiation notification in accordance with Rule 6(2) of the AD Rules. The time limit to file information was extended first up to 4th December, 2021 and thereafter a final extension was granted by the Authority up to 18th December, 2021.
 - c. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, known importers and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the AD Rules.
 - d. The Embassies of the subject countries in India were also requested to advise the exporters/producers from the subject 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.
 - e. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject countries, whose details were made available by the applicant, to elicit relevant information in accordance with Rule 6(4) of the Rules:
 - i. Grodno Khimvolokno, Belarus
 - ii. DSM Fibre Intermediates, Netherlands
 - iii. Domo Caproleuna, Germany
 - iv. Fibrant Pure Chemistry, Netherlands
 - v. BASF Antwerpen N.V., Belgium
 - vi. Zaklady Azotowe "Pulawy" S.A, Poland
 - vii. Spolana, Czech Republic
 - viii. ZA w Tarnowie-Mościcach S.A., Poland
 - ix. Azot Kemerovo, Russia.
 - x. Open JSC Shchekinoazot Russia

- xi. Avestra Chemical (Suisse) SA, Switzerland
 - xii. Millman Limited, United Kingdom
 - xiii. Optima Chemical Ltd-United Kingdom
 - xiv. BASF Belgium SA, Ludwigshafen, Germany
 - xv. Capro Corporation, Korea RP
 - xvi. KuibyshevAzot, Russia
 - xvii. Thai Caprolactam Public Company Limited, Thailand
 - xviii. UBE Chemicals (Asia) Public Co., Ltd., (UCHA), Thailand
- f. The following producers/exporters filed questionnaire response: -
- i. Open Joint Stock Company "Shchekinoazot", Russia
 - ii. Avestra Chemical (Suisse) SA, Switzerland
 - iii. Optima Chemical Ltd., United Kingdom
 - iv. Millman Limited, United Kingdom
 - v. Capro Corporation, Korea RP
 - vi. Hyosung TNC Corporation, Exporter, Korea RP
 - vii. PJSC KuibyshevAzot, Russia
 - viii. CPH Chemicals BV, Netherlands
 - ix. Itochu Corporation, Japan
 - x. UBE Chemicals (Asia) Public Company Limited
- g. Kemrovo Joint-Stock Company Azot, Russia and Fibrant BV, European Union has not filed any questionnaire response, however, they have filed post oral hearing submissions.
- h. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user Associations, whose names and addresses were made available to the Authority, of the subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):
- i. Century Enka Limited
 - ii. Gujarat Polyfilms Private Limited
 - iii. Modipon Limited
 - iv. SRF Limited
 - v. NRC Limited
 - vi. Madura Industrial Textiles Limited
 - vii. Nirlon Limited
 - viii. JCT Limited
 - ix. Star Filaments Corporation
 - x. Merck Life Science Private Limited
- i. The following importer/users filed questionnaire response: -
- i. Century Enka Limited
 - ii. Gujarat Polyfilms Private Limited

- iii. SRF Limited
 - iv. JCT Limited
 - v. Madura Industrial Textiles Limited
-
- j. Association of Synthetic Fibre Industry and Nylon Spinners Association has also participated in the present investigation and has filed submissions.
 - k. BASF SE-Germany responded to the initiation notification but have not filed any questionnaires/submissions thereafter.
 - l. Exporters, foreigner producers and other interested parties who have not responded to the Authority, or not supplied information relevant to this investigation, are being treated as non-cooperating interested parties and the determination made on the basis of facts available.
 - m. The Authority made available non-confidential version of the evidence presented by the various interested parties. A list of all the interested parties was uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to the restrictions on physical movements owing to ongoing global Covid-19 pandemic.
 - n. The information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
 - o. The interested parties were asked to share the non-confidential version of the responses, submissions and evidence presented by them with the other interested parties.
 - p. The period of investigation for the purpose of the present investigation has been considered from April, 2019 to March, 2020 (POI). The injury investigation period has been considered as the period from April, 2016 to March, 2017, April, 2017 to March, 2018 and April, 2018 to March, 2019 and the period of investigation.
 - q. Additional/supplementary information was sought from the applicant and the other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry and the foreign producers was conducted to the extent considered necessary for the purpose of the present investigation.
 - r. The Non-injurious Price (NIP) is based on the cost of production and cost to make and 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 AD Rules. It has been worked out so as to ascertain whether duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

- s. Information obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) on transaction-wise import data for the past three years and the period of investigation has been adopted for determination of volume and value of imports of the product concerned in India.
- t. In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity to all the interested parties to present their views orally in the oral hearing held on 3rd March, 2021 which was attended by various parties. The oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID- 19 pandemic. All the parties who presented their views in the oral hearing were requested to file written submissions of these views, in order to enable the opposing interested parties to file rejoinders thereafter.
- u. A disclosure statement containing the essential facts in this investigation which would have been formed the basis of the final findings was issued to the interested parties on 03.09.2021 and the interested parties were allowed time upto 09.09.2021 to comment on the same. The comments on the disclosure statement received from the interested parties have been considered, to the extent found relevant, in this final findings notification.
- v. 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 finding.
- w. Wherever an interested party has refused access to or has otherwise not provided the necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded this final finding on the basis of the facts available.
- x. *** in this final finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- y. The exchange rate adopted by the Authority during the POI for the subject investigations is 1 US\$= Rs. 71.65

C. PRODUCT UNDER CONSIDERATION

4. The product under consideration was defined at the time of initiation of the investigation as under: -

"3. The product under consideration in the present application is Caprolactam which is a monomer and a base material for production of Nylon-6. Caprolactam is produced and sold in both liquid and solid forms.

4. The product under consideration is classified under chapter 29 of the Customs Tariff Act, 1975 under the tariff heading 29337100. The custom

classification is indicative only and not binding on the scope of the investigation."

C.1 Submissions of the other interested parties

5. The other interested parties have not made any submissions with regard to the product under consideration and like article.

C.2 Submissions of the domestic industry

6. The domestic industry has submitted as follows with regard to the product under consideration and like article:
 - i. Caprolactam is produced and sold in both liquid and solid forms. Except for the physical difference, there is no difference in both the forms.
 - ii. The domestic industry is producing a like article to the product under consideration.

C.3 Examination by the Authority

7. No opposing interested party has made any submission with regard to the product under consideration. The Authority has considered the product under consideration as under: -

"3. The product under consideration in the present application is Caprolactam which is a monomer and a base material for production of Nylon-6. Caprolactam is produced and sold in both liquid and solid forms.

4. The product under consideration is classified under chapter 29 of the Customs Tariff Act, 1975 under the tariff heading 29337100. The custom classification is indicative only and not binding on the scope of investigation."

8. It is seen from the information on record that the subject goods produced by the domestic industry are like article to the product under consideration imported from the subject countries. The subject goods produced by the domestic industry and the product under consideration imported from the subject countries are comparable in terms of physical & chemical properties, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The end product has comparable specifications and is used interchangeably. It is further noted that the imported and the domestically sold products are technically and commercially substitutable, and the consumers are using the two interchangeably.

D. DOMESTIC INDUSTRY AND STANDING

9. Rule 2(b) of the AD rules defines domestic industry as under:

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

D.1 Submissions of the other interested parties

10. The following submissions have been made by other interested parties with regard to the standing and scope of the domestic industry:
 - a. The applicant is a regular importer of the subject goods from Thailand and Korea RP.
 - b. The applicant has agreement with sellers in these countries and imported the subject goods for commercial use as it was already operating at 120% capacity utilization.
 - c. The applicant had high-seas sales agreement with one of the users during the injury period and was involved in purchase and sale of huge commercial quantity. The applicant's name would not appear as importer on record in respect of these transactions.
 - d. It is further submitted by the interested parties that the sole reason for imports from Thailand was to bring Thailand into the purview of the subject countries. Therefore, to discourage this practice, applicant should not be considered as the domestic industry.
 - e. Share of imports by the applicant should be considered in relation to volume and value of the subject imports from Korea and Thailand.
 - f. Eligibility of the domestic industry is required to be determined by the same approach as was applied in Soda Ash.
 - g. The applicant has not provided any plausible reasons for importing the product from two subject countries and in the absence of a reason, such as to test the market, etc., any subject import made should render it as ineligible to be considered as the domestic industry.

D.2 Submissions of the domestic industry

11. The following submissions have been made by the domestic industry with regard to the standing and scope of the domestic industry: -
 - a. There is one more producer of the subject goods in India but it has not produced the subject goods in commercial quantity across the injury period.
 - b. The applicant is the sole existing producer of the subject goods in India.

- c. The applicant is not related to any exporter in the subject countries or any importer in India.
- d. Responding to the submissions made by the interested parties, the domestic industry makes the following submissions:
 - i. The applicant has imported small volume of product under consideration in the period of investigation.
 - ii. The applicant is not a regular importer of the subject goods and is not importing for commercial uses. The applicant has only acted as a facilitator for these transactions.
 - iii. Discretion lies with the Authority to decide whether to treat the applicant as the eligible domestic industry. Rules do not debar producer from filing application merely because it had relied on the imports.
 - iv. The Authority has in a number of cases in the past held the applicant producer as an eligible domestic industry even though it had made imports in the period of investigation from the subject countries.
 - v. Imports made by the domestic industry cannot be compared with the volume of exports from the country concerned. Comparison of imports made by the domestic industry with the country of import would defeat the purpose of cumulative analysis.
 - vi. With respect to imports by the applicant, the facts of anti-dumping investigation concerning imports of Soda Ash from Turkey and United States of America are completely different from the present investigation. In that investigation, other producers did not participate and it was found that their affiliates were exporting significant volumes to India. Therefore, the issue was non-participation by other producers and comparison with total exports from the United States. The issue in the present case is rejection of domestic producer as domestic industry because of imports made by it.
 - vii. The Authority in cases such as sunset review of Phthalic Anhydride from Korea RP, Taiwan and Israel and anti-dumping investigation of Methyl Ethyl Ketone from China PR, Japan, South Africa and Taiwan compared imports made by the domestic industry with the total imports into India.

D.3 Examination by the Authority

- 12. The present application has been filed by Gujarat State Fertilizers and Chemicals Limited (GSFC).
- 13. There is another producer in India, namely, Fertilizers and Chemicals Travancore Limited (FACT). However, from the information on record, it is noted that the other producer has not undertaken commercial production during the injury period. The production of the applicant accounts for the entire production in India during the period of investigation.

14. It is also noted that the applicant has imported *** MT of the subject goods from Thailand which is approximately ****% of the total imports from Thailand, and was sold by it in high seas sale to another party. The applicant has also imported *** MT of subject goods from Korea RP which is approximately ****% of the total imports from Korea which was consumed by it for production of Nylon 6. The imports made by the domestic industry have been compared with the cumulative imports from all the subject countries, production of the domestic industry and the Indian consumption. It is seen that the imports made by the applicant are insignificant in relation to total imports, applicant's own production and Indian consumption.

SN	Particulars	UOM	Total	Thailand	Korea
1	Import volume	MT	***	***	***
	Importer on record			***	***
	Use			***	***
2	Imports by applicant in relation to (%)				
A	Production	%	***	***	***
	Trend	%	0-5%	0-5%	0-5%
B	Consumption	%	***	***	***
	Trend	%	0-5%	0-5%	0-5%
C	Imports from subject countries	%	***	***	***
	Trend	%	0-5%	0-5%	0-5%
D	Imports from particular Country	%	-	***	***
	Trend	%		20-25%	0-5%
E	Imports from all countries	%	***	***	***
	Trend	%	0-5%	0-5%	0-5%

15. As far as high-seas imports are considered, the Authority considered in the matter of imports of anti-dumping investigation concerning imports of Melamine from European Union, Iran, Indonesia and Japan for the same applicant company that they did not file bill of entries for home consumption and were only acting as facilitator. The Authority considered that even though it had imported and sold subject goods, the focus of the applicant company has not turned to imports and the company is not behaving like an importer-trader. The focus of the company continued to be that of a producer and carry

on with its own production. Further, the Authority ascertained profits earned by the domestic industry in the present high seas imports. It is seen that whereas the weighted average import price was Rs. *** these products were sold at a price of Rs***. It is thus seen that the company has not earned significant profits from these imports. The Authority notes that this small volume of imports facilitated by the domestic industry should not disentitle it from seeking protection as domestic industry under the law.

16. As far as imports made and consumed by the company from Korea RP are considered, the domestic industry submitted that it had imported small volume of Caprolactam for production of Nylon – 6 for testing purpose. It is seen that the volume of imports made by the domestic industry for captive consumption is ***% of the total demand in India. The Authority, therefore, notes that the imports made by the domestic industry are insignificant to warrant its treatment as ineligible domestic industry.
17. The Authority holds that the applicant is an eligible domestic industry within the meaning of Rule 2(b) of the Rules. The application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. MISCELLANEOUS SUBMISSIONS

E.1 Submissions of other interested parties

18. The other interested parties have made the following miscellaneous submissions: -
 - a. The applicant has claimed excess confidentiality and has not followed requirement of disclosure as prescribed by the trade notice with respect to funds raised, R&D expenses, average industry norms for productivity per day and import quantity and value by the applicant.
 - b. The applicant has failed to disclose the information in accordance with the trade notice no.10/2018. The applicant has not furnished any information in response to Section VI.
 - c. The applicant has not disclosed the most critical and crucial fact pertaining to its pricing arrangement with the Indian buyers, wherein, GSFC has fixed quantity and pricing agreements with their buyers. Such a vital fact ought to have been clearly brought out in the application with a meaningful summary in the non-confidential version.
 - d. The Authority had initiated investigation without fulfilling pre-conditions of initiation stipulated in Article 5.3 of the Anti-dumping Agreement and Rule 5 of the Anti-dumping Rules and there is error in initiating the investigation.
 - e. There is a demand and supply gap in the country which makes the imports necessary.
 - f. It is unlikely that M/s Fertilizers and Chemicals Travancore Limited can restart and supply the 50 KTA capacities since it is unviable due to high and unworkable costs. The users will be forced to import.

- g. In the anti-dumping investigation concerning imports of newsprint, the Authority excluded a particular product from the scope of levy of anti-dumping duty on the ground that the domestic industry was not able to adequately cater to the demand for the product. The Authority's decision was made keeping in mind the need to balance user interests.
- h. Imposing anti-dumping duty will not only strengthen the monopolistic position of the applicant but also adversely affect the availability of Caprolactam in India.
- i. The applicant has deliberately and wilfully mis-declared itself to be a public sector company, which is utterly false and contrary to the Government records, to create a bias in mind of the Authority. Even the shareholding of the applicant suggests that it is not a public sector enterprise as around 62% of the shares are with the public.
- j. The applicant has categorized certain transactions of import as Non-PUC without stating how those transactions were with abnormal quantities or prices.
- k. MOF has not imposed anti-dumping duty on the imports of NFY on the ground that it is a key textile raw material for user industry in India which mostly has MSME players. Anti-dumping duty was also withdrawn from NTCF imported from China PR by the MOF.
- l. The central government has recently taken a protectionary stance on the textile industry as the rate of custom duty on imports of the subject goods was reduced to 5%.
- m. Fishnets used for fishing are also made of Nylon yarn and any increase in the cost of Caprolactam will lead to increase in fishnet prices and additional burden on the fishing community.
- n. Kemrovo Joint-Stock Company Azot has stated that it has neither exported the subject goods to India during the period of investigation nor is related to any of the exporters or producers in the subject countries and, therefore, eligible to file a New Shipper Review.
- o. The applicant's claim that Itochu Corporation has not complied with confidentiality norms is incorrect. Since the respondent is not a producer, parameters for which the applicant has cited unavailability of data are not applicable to it.
- p. Itochu has been incorrectly identified as exporting from Thailand, whereas it is incorporated in and exporting from Japan. Due to this error, the applicant has incorrectly presented the data for prices of imports of Caprolactam from Thailand, which do not relate to Itochu at all.

E.2 Submissions of the domestic industry

- 19. The following miscellaneous submissions have been made by the domestic industry: -
 - a. The objective of the anti-dumping duty is to address unfair price discrimination by foreign producers which is injurious to the industry in India. The domestic

industry in the present case is suffering losses due to discriminatory pricing followed by producers in the subject countries.

- b. Merely because duties were not imposed by the Ministry of Finance in some other products, it does not imply that the duties should not be imposed on the present product as well.
- c. Plea for non-recommendation of duties cannot be taken on the ground that the textile industry is being protected by the Indian Government. Users should establish how imposition of duties will adversely affect them.
- d. In several cases involving products in the textile chain such as Viscose Spun Yarn and Nylon Tyre Cord Fabric, the Authority has recommended duties after examination of public interest. Anti-dumping investigations have been initiated for Polyester Spun Yarn and Viscose Staple Fibre from China PR and Indonesia.
- e. The domestic industry in the anti-dumping investigation of NFY, which is the user industry in the current investigation, had quantified impact of anti-dumping duties on the end product as hardly 2% and claimed that duties will not be against public interest. When they had themselves claimed that impact of duties is minimal, they cannot claim in current investigation that duties will be against the public interest.
- f. Reference to the newsprint investigation is misstated as the Authority in that investigation excluded a particular product from the scope of the product under consideration because the domestic industry was not manufacturing it in an appreciable volume. The applicant is capable of producing the article required by the users.
- g. Fertilizers and Chemicals Travancore Limited has successfully completed trial run of operations and is expected to begin commercial production soon. Once the commercial production commences, Indian producers will be capable to cater a significant share of demand and the import dependency will be reduced.
- h. All the economic parameters considered by the Authority for arriving at the determination of injury have been provided in compliance with the trade notice. The respondents should first establish what prejudice has been caused by non-disclosure of factors such as R&D expenses, funds raised and average industry norms, when these are not going to form a basis for determination.
- i. The product excluded on the basis of abnormal prices are majorly sample items which have been traded through airways. Commercial trading of the goods happens only through the ships. This fact is well known to the interested parties.

E.3 Examination by the Authority

- 20. The Authority notes that the current investigation was initiated on the basis of sufficient prima facie evidence submitted by the applicant. Therefore, the claim that the application does not satisfy the requirement of the law is incorrect.

21. The Authority made available non-confidential version of the information provided by various interested parties to all the interested parties as per Rule 6(7).
22. With regard to confidentiality of information, Rule 7 of the 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.”

23. A list of all interested parties was uploaded on DGTR’s website along with the request therein to all of them to email the non-confidential version of their submissions to all the other interested parties since the public file was not accessible physically due to the ongoing Covid-19 pandemic.
24. Submissions made by the domestic industry and other interested parties with regard to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. The Authority notes that the information provided by all 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 the other interested parties. All the interested parties have claimed their business-related sensitive information as confidential and provided non-confidential version of all the information that is relevant for the purpose of the present investigation.

25. As regards the submission that the applicant has not disclosed the fact pertaining to its pricing arrangement with the Indian buyers, the Authority notes that the company has provided information in the form and manner prescribed. This included information on the selling price of the domestic industry over the injury period, and month wise breakdown of the same for the period of investigation. The Authority has examined the movements in the selling price of the domestic industry and the import prices and have found that the selling price of the domestic industry has moved in tandem with the imports. Further, as noted, the domestic industry has given non-confidential version of its application and the same has been made available to the interested parties.
26. It has been contended by the other interested parties that the recommendation of duties will be against the interest of the textile industry which is being protected by the Central Government. The Authority has considered all the facts and information on record. Any duty, if recommended, will be after considering the interests of all the interested parties. It is noted that on anti-dumping duties are recommended against unfair trade practice of dumping which has caused injury to the domestic industry. Anti-dumping duty does not grant any protection. It only leads to a level playing field. It does not prevent fair competition in the market. The users have not provided any evidence to show that duties will be against public interest but have merely relied on non-imposition of duties in some cases by the Central Government. If the domestic industry is wiped out, it is ultimately the user industry which will suffer.
27. The users have submitted that imports have happened due to demand and supply gap. The Authority considers that, as held by the Hon'ble CESTAT in the matter of DSM Idemitsu Limited vs Designated Authority and thereafter in a number of other appeals, demand-supply gap in the country does not bar a domestic industry from seeking redressal from dumped imports and does not justify dumping. Foreign producers can always meet the Indian demand by selling the product at undumped prices. Even after the imposition of antidumping duty, the imports are not restricted in the country. The users are free to import the goods at fair price.
28. On the submission that FACT is currently not producing the subject goods, the Authority notes that the interested parties have not contended that FACT has discarded its production facilities. While company may not have commenced commercial production, the company continues to hold production facilities. Further, the interested parties have also contended that there exists a demand and supply gap in the country. It is all the more important and necessary to provide level playing field to such a company. Permitting persistent dumping in such situation would rather lead to further sickening of the production facilities.
29. The Authority notes that the objective of the present investigation is not examination of whether the exporter is eligible for new shipper review. The exporter is free to lodge its

claim in accordance with the law in the event of imposition of duty and seek individual dumping margin.

30. On the submission of the interested parties on exclusion of certain transactions from the DGCI&S import listing on the basis of 'abnormal' quantities or prices, the Authority has examined the DGCI&S transaction wise data. It is seen that the domestic industry had over the injury period identified ***MT of imports as abnormal PUC since the prices of these imports were very high and were abnormal. Further, certain transactions wherein no quantity was reported or materials which were imported by air have been considered Non-PUC by the domestic industry. It is seen that the total quantity of such transactions over the injury period is not even ***MT.
31. On the submission of the other interested parties regarding domestic industry mis-declaring itself as a public sector company, the Authority notes that the status of the domestic industry on this account is entirely irrelevant to the present determination. Further, as per the information available on record, it seen that 39% of shareholding in GSFC is held by the Government and the Govt. of Gujarat appoints Chairman and Managing Director in the company.
32. On the exclusion of a particular product in the anti-dumping investigation of Newspaper, the Authority notes that the product was excluded in that investigation considering the facts of that case. The domestic industry in the present case is capable of producing the goods required by the users.

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

Normal Value

33. Under Section 9A (1)(c) of the Act, the 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 countries or territory as determined in accordance both 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 countries or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exploring countries 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 countries or territory or an appropriate third countries as determined in accordance with the rules made under sub-section (6): or*

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

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

F.1 Submissions of the other interested parties

34. The submissions made by the other interested parties with regard to normal value, export price and dumping margin are as follows: -
- a. The applicant has claimed single normal value for all the subject countries. This is erroneous as costs in the four countries would be reflective of different dynamics and constructed normal value cannot be determined based on same cost inputs, conversion costs and profit margin.
 - b. GSFC, with a firm pricing formula in place, determines market prices in India which are required to be followed by the exporters as well.
 - c. The applicant has stated that there is significant variation in the export price from the subject countries to different countries and these do not appear to be in the ordinary course of trade being loss making sales. However, the applicant has made a hollow claim without any supporting evidence.
 - d. The contention that information regarding prices in the subject countries is not available in public domain is incorrect as ICIS and Technon publish prices on regular basis.
 - e. All Caprolactam imports in India are based on internationally published prices. In the case of GSFC, their pricing is import parity price in which they add import duty to prices published in Tecnon.
 - f. Just like crude, Caprolactam is an internationally traded commodity with transparent pricing and, therefore, dumping in such a product is not possible.

F.2 Submissions of the domestic industry

35. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows: -
- a. Price lists or commercial invoices for sales in the local market are commercially sensitive information and, therefore, not available in the public domain.
 - b. The applicant does not have access to any reports for prices available in the subject countries on which it could rely for determining the normal value.

- c. There is significant variation in export prices from the subject countries to different countries and these do not appear in the ordinary course of trade, being loss making sales.
- d. Only option with the domestic industry is to construct the normal value on the basis of the estimates of the cost of production.
- e. In case of Capro Corporation, the trend in export price to India is totally different from the trend of other subject countries. Domestic price does not appear to move in tandem with the global price trend. Evidently, there is a particular market situation in Korea RP. Similar trends can be seen in the response of JSC Shchekinoazot and Itochu Corporation.
- f. In the case of Hyosung TNC Corporation, the exporter has not provided the data for the injury period notified in the questionnaire response. Further, the figures for the period of investigation and 2019 are the same and the domestic price information has not been provided. Optima Chemical Ltd. has also not provided information regarding domestic prices.
- g. On the submission of single individual normal value, the applicant did not have access to raw material prices of Benzene, Hydroxylamine Sulphate and Oleum prevailing in the individual subject countries and conversion costs of the producers in the subject countries. Therefore, it was not possible for the applicant to ascertain cost on the basis of actual data. Consideration of global average prices has ensured that the raw material prices are free from any distortion.
- h. On the submission of other interested parties that export price to third countries could have been considered for normal value, it should be first established that exports to third countries are representative of normal value. On comparison of exports to third countries with basis of estimated cost of production, the exports to the third countries are below the cost of production. Even third country prices should pass OCT test.

F.3 Examination by the Authority

36. The Authority notes that at the time of the initiation of the investigation against the subject countries, the transaction wise data of domestic sales in the subject countries was not available in the public domain and also there was price variation in the export prices from the subject countries. Therefore, at the time of the initiation, the normal value had been constructed on the basis of the cost of the domestic industry, duly adjusted. However, now since the response/data has been received from the producers/exporters subject countries, the domestic sales data of the responding producers/exporters has been considered to determine the normal value for them. The Authority had sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers from the subject countries have filed questionnaire response along with their exporters: -

- a. Open Joint Stock Company "Shchekinoazot", the producer from Russia, along with the exporters Avestra Chemical (Suisse) SA, Optima Chemical Ltd and Millman Limited.
- b. PJSC Kuibyshev Azot, the producer from Russia, along with the exporter CPH Chemicals BV, Netherlands.
- c. Capro Corporation, the producer from Korea RP, along with its exporter Hyosung TNC Corporation and Itochu Corporation.
- d. UBE Chemicals (Asia) Public Company Limited (UCHA or Exporter) is a producer and exporter of the subject goods from Thailand.

F.4 Normal Value and Export Price for Russia

i. Open Joint Stock Company "Shchekinoazot"

a. Normal Value

37. During the POI, JSC "Shchekinoazot", Russia, has sold the subject goods in the domestic market to unrelated parties only. The domestic sales are in sufficient volumes when compared with the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of the subject goods. If profit making percentage of all the transactions is more than 80%, then all the transactions in the domestic sales are being considered for determination of the normal value and if the profit-making percentage of all transactions is less than 80%, only the profitable domestic sales are being taken into consideration for determination of the normal value. In the present case since more than 80% of domestic sales are profitable, hence all the domestic sales have been considered to determine the normal value. JSC "Shchekinoazot", Russia, has claimed adjustment on account of credit cost and packing expenses and the same have been allowed by the Authority. Accordingly, the normal value at ex-factory level for JSC "Shchekinoazot", Russia has been determined and the normal value is shown in the dumping margin table.

b. Export Price

38. During the POI, JSC "Shchekinoazot" Russia, sold *** MT of subject goods to India through two unrelated traders, namely, Avestra Chemical (Suisse) S.A., Switzerland and Millman Limited, UK. It is further noted that Avestra Chemical (Suisse) S.A., Switzerland, has exported the subject goods to India sourced from JSC "Shchekinoazot", Russia, through another unrelated trader, namely, M/s Optima Chemical Ltd., UK. JSC "Shchekinoazot", Russia has claimed adjustment on account of ocean freight, inland transportation, credit cost and packing expenses and the same have been allowed. Accordingly, export price at ex-factory level for JSC

“Shehekinoazot”, Russia has been determined and the same is shown in the Dumping Margin Table.

ii. PJSC Kuibyshev Azot

a. Normal Value

39. PJSC Kuibyshev Azot has sold *** MT of the subject goods in the domestic market. The domestic sales are in sufficient volumes when compared to the exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of the subject goods. If profit making percentage of all the transactions is more than 80%, then all the transactions in the domestic sales are being considered for determination of the normal value and if the profit-making percentage of all transactions is less than 80%, only the profitable domestic sales are being taken into consideration for determination of the normal value. In the present case since more than 80% of domestic sales are profitable, hence all the domestic sales have been considered to determine the normal value. The exporter has claimed adjustments for credit cost & level of trade. The Authority has not accepted the adjustment for level of trade to arrive at the normal value to India as no justification was given to claim the same. The weighted average Normal Value for the PJSC Kuibyshev Azot so determined is mentioned in the dumping margin table.

b. Export Price

40. PJSC Kuibyshev Azot has exported *** MT of the subject goods through unrelated exporter, namely, CPH Chemicals BV. The exporter has claimed adjustments of freight, insurance and credit cost which were verified and allowed. Accordingly, the export price determined is provided in the dumping margin table.

iii. Other producers/exporters from Russia

41. The normal value and export price for all other non-cooperating producers and exporters of Russia is determined as per the facts available and the same are mentioned in the dumping margin table.

F.4.1 Normal Value and Export Price for Korea RP

i. Capro Corporation, Korea RP

a. Normal Value

42. CAPRO Corporation is engaged in the production and sale of the subject goods in Korea RP. During the POI, Capro Corporation, Korea RP, has sold the subject goods in the domestic market to the related party (***) MT) and to unrelated parties (***) MT). The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine the profit-making domestic sales transactions with reference to the cost of production of the subject goods. If profit making percentage of all the transactions is more than 80%, then all the transactions in the domestic sales are being considered for determination of the normal value and if the profit-making percentage of all transactions is less than 80%, only the profitable domestic sales are being taken into consideration for determination of the normal value. In the present case since more than 80% of domestic sales are profitable, hence all the domestic sales have been considered to determine the normal value. Capro Corporation, Korea RP has claimed adjustment on account of loading charges and credit cost and the same have been allowed. Accordingly, the normal value at ex-factory level for Capro Corporation, Korea RP has been determined and the same is shown in the Dumping Margin Table.

b. Export Price

43. During the POI, Capro Corporation, Korea RP, sold *** MT of the subject goods to India indirectly through three traders, namely, Hyosung TNC Corporation, Itochu Corporation and Agrifields DMCC. Out of the three, Agrifields DMCC has not participated in the present investigation. However, the exports through Agrifields DMCC constitute only ****% of total exports to India by Capro Corporation, Korea RP. The same have not been considered to work-out the ex-factory export price. Capro Corporation, Korea RP, has claimed adjustment on account of ocean freight, insurance, inland transportation, port and handling charges, credit cost, brokerage charges, bank charges and other expenses and the same have been allowed. It is also noted that the traders have exported the subject goods to India at loss and, thus, the Authority has made appropriate adjustments. Accordingly, the export price at ex-factory level for Capro Corporation, Korea RP has been determined and the same is shown in the Dumping Margin Table.

ii. Other producers/exporters from Korea PR

44. The normal values and export price for all other non-cooperating producers and exporters of Korea RP is determined as per facts available and are same is mentioned in the dumping margin table.

F.4.2 Normal Value and Export Price for the European Union.

a. Normal Value for all producers/exporters from EU

45. Since no producer/exporter from the EU has cooperated in the present investigation, the normal value for all the producers and exporters from the EU is determined on the basis of the cost of production of the domestic industry, duly adjusted with selling, general and administrative expenses, plus reasonable profit. The same is mentioned in the dumping margin table.

b. Export Price for all producers/exporters from EU

46. Since no producer/exporter from the EU has cooperated in the present investigation, the ex-factory export price for all the producers and exporters from the EU is determined as per facts available and the same is mentioned in the dumping margin table.

F.4.3 Normal Value and Export price for Thailand.

i. UBE Chemicals (Asia) Public Company Limited, Thailand

a. Normal Value

47. UBE Chemicals (Asia) Public Company Limited (UCHA or Exporter) is a producer and exporter of the subject goods from Thailand. UCHA has claimed in its questionnaire response that it has sold the subject goods in the domestic market directly as well as through trader. As per its claim, it has exported the subject goods directly to unrelated customers in India.
48. It is noted that UCHA has neither disclosed the name of the trader through which subject goods were sold in the domestic market nor the linked trader has filed the questionnaire response. Further, it has been also noted that the exporter has not filed the questionnaire response as per the format prescribed vide Trade Notice No. 05/2018 dated 28th February, 2018. UCHA has only filed some information in Appendix 3A and 4A in PDF format. The exporter has also not provided the excel file of the Appendices. Therefore, the questionnaire response filed by the exporter cannot be accepted.
49. Accordingly, the normal value is determined on the basis of facts available in terms of Rule 6(8) of the Rules. The Authority has determined the normal value for all the producers and exporters from Thailand is determined on the basis of the cost of production of the domestic industry, duly adjusted with selling, general and administrative expenses, plus reasonable profit. The same is mentioned in the dumping margin table below.

b. Export Price for all producers/exporters from Thailand

50. In view of the above-mentioned facts and circumstances, the Authority holds to reject the ex-factory export price for UBE Chemicals (Asia) Public Company Limited, Thailand in the present investigation, the ex-factory export price for all the producers

and exporters from Thailand is determined as per facts available and the same is mentioned in the dumping margin table.

F.4.4 Dumping Margin

51. The normal value, the ex-factory export price and the dumping margin determined in the present investigation for the subject countries are as follows:

Dumping Margin Table

S. No	Producer	Normal Value (USD/MT)	Export price (USD/MT)	Dumping Margin (USD/MT)	Dumping Margin (%)	Dumping Margin Range
1	Russia					
a	JSC Shchekinoazot	***	***	***	***	40-50
b	PJSC Kuibyshev Azot	***	***	***	***	0-10
c	Any Other	***	***	***	***	70-80
2	Korea RP	***	***	***	***	
a	Capro Corporation	***	***	***	***	0-10
b	Any Others	***	***	***	***	20-30
3	European Union	***	***	***	***	
a	All Producers	***	***	***	***	20-30
4	Thailand	***	***	***	***	
a	All Producers	***	***	***	***	20-30

52. It is noted that the dumping margin is positive in respect of all the producers/exporters from the subject countries.

G. ASSESSMENT OF INJURY AND CAUSAL LINK

Methodology for injury determination and examination of injury and causal link

G.1 Submissions of the other interested parties

53. The submissions of the other interested parties with regard to injury and causal link are herein below:

- a. The increase in volume of subject imports was because of the increase in demand over the injury period and the domestic industry's incapability of meeting the entire demand due to its limited capacity.
- b. Imports from Korea RP increased with the elimination of custom duties.

- c. Decline in profits is not attributable to decline in landed price of imports but due to decline in global Capro price caused by oversupply in the market.
- d. There was negative price undercutting in the period of investigation and the two preceding years.
- e. Domestic industry's selling price increased over the injury period at a rate more than increase in the selling price which led to applicant earning abnormal returns. Fall in current period is just correction of profits.
- f. Applicant has been constantly operating above its rated capacity. Its production and demand had increased till 2018-19 and there can be no injury in terms of production or capacity utilization.
- g. Captive consumption has increased by 30% in the period of investigation, which shows that the applicant has prioritised captive consumption.
- h. Applicant has himself recognized that decline in the market share of the domestic industry up to preceding year can be attributed to the low capacity.
- i. Decline in domestic sales was due to decline in demand and user industry considers applicant as an unreliable source of supply due to limited capacity.
- j. Depreciation of the domestic industry has increased significantly over the injury period.
- k. There is a possibility of applicant having accumulated Benzene or having a long-term contract with the supplier at high rates.
- l. Applicant's performance could have been impacted due to Covid-19 which affected the performance in last quarter of 2019-20.
- m. Reason for cash loss suffered by the applicant is that the plant in Vadodara was put on the hold.
- n. Applicant has not taken any steps towards upgrading of its production technology and machinery and this obsolete technology has caused inefficient utilization of capacities and led to higher costs of production.
- o. Applicant has contradictory data in the application and in the Annual Report with regard to production.
- p. Applicant has suffered injury due to decline in demand.
- q. As per annual report of the applicant, heavy rainfall, volatility in crude oil prices, poor demand, upward price movement of raw materials like Benzene, etc. are cause of injury.
- r. In case of Digital Offset Printing Plates originating in or exported from China PR, the Authority held that the domestic prices already agreed upon through MoU have no connection with import prices.
- s. Applicant has contractual arrangements with user industry, which is bound by volumes/off-take linked discounts.
- t. Applicant quotes its prices on the basis of Tecnon Asia reports and like any other producer, its selling price in the domestic market reflects global prices.
- u. GSFC has fixed quantity and pricing agreements with their buyers in which pricing is based on agreed formula based on published prices of "Technon" or ICIS prices.

- v. The prices are accepted as benchmark internationally and import prices have no bearing on the prices of the applicant.
- w. GSFC has its captive requirements also for Nylon-6 chips plant and any increase in their captive volume, caprolactam offered to other customers will be further reduced.
- x. Applicant's contention of increasing spread between benzene and caprolactam is ill-founded since fall in the domestic selling prices of Caprolactam is due to benchmarking with global prices.
- y. It is settled position that mere positive injury margin during period of investigation is not evidence of injury but only a means for applying the lower duty rule. Injury has to be determined by looking at the holistic picture for entire injury period wherein on all parameters domestic industry have fared exceedingly well.
- z. Decline in global prices of Caprolactam in the period of investigation was caused due to an oversupply of Caprolactam in the international market by China PR (as a result of the US-China trade war), which caused a financial impact. This has been admitted by the applicant in its Annual Report 2019-20.

G.2 Submissions of the domestic industry

54. The submissions of the domestic industry with regard to injury and causal link are herein below: -
- a. Cumulative assessment of the effects of dumped imports from the subject countries is appropriate in the present investigation.
 - b. Demand for the subject goods has consistently increased till the preceding year but declined in the period of investigation.
 - c. As compared to the base year, the imports have increased by 32% in the period of investigation.
 - d. In spite of the decline in demand in the period of investigation by 4%, the imports from the subject countries have increased by 6%.
 - e. The imports in relation to production and consumption have increased by around 20% and 8% respectively over the injury period.
 - f. While the price undercutting is negative, the same is due to significant price depression faced by the domestic industry. Had the domestic industry sold at remunerative prices, the price undercutting would have been positive and significant.
 - g. Drastic fall in the landed price of the imports in the period of investigation has forced the domestic industry to reduce its prices and, therefore, the prices of the domestic industry were depressed.
 - h. The production and capacity utilization of the domestic industry has declined in the period of investigation after increasing upto the preceding year.
 - i. The domestic sales of the industry increased up to the preceding year but because of the significant fall in the landed price of the imports coupled with the increase

in the volume of the subject imports, the domestic sales have declined in the period of investigation by 12%.

- j. Market share of the domestic industry has continuously declined over the injury period whereas that of the imports from the subject countries increased.
- k. Average inventories declined upto the preceding year, but the same increased in the period of investigation as the domestic sales declined.
- l. With sharp decline in the landed price of the imports, the domestic industry has been forced to sell at highly unremunerative prices and has suffered significant financial losses in the period of investigation.
- m. The domestic industry has suffered with cash losses and negative return in the period of investigation.
- n. Employment and wages are not solely dependent on the performance of subject goods. These are governed by several legislative requirements in the country and various business compulsions with the domestic industry.
- o. The domestic industry witnessed a positive growth till the preceding year. However, the industry has recorded a negative growth in all the parameters in the period of investigation due to the fall in landed price of imports.
- p. The domestic industry is faced with negative return on capital employed. The ability to raise capital investments is being significantly affected due to continued presence of dumped imports.
- q. The price of the subject imports was in the region of 2150-2250 USD per MT during the period from May, 2018 to January, 2019 and has declined significantly thereafter in the period of investigation to as low as 1250-1350 USD per MT in January, 2020 to March, 2020.
- r. The delta between cost of benzene per unit of Caprolactam and the subject imports increased till the preceding year but has declined significantly in the period of investigation. This shows that the fall in the import prices of Caprolactam is over and above the fall in price of benzene.
- s. The domestic industry was planning to set up a new plant of 50,000 MT for the production of the subject goods. However, due to a significant shift in the global trade balance of demand and supply in the subject goods which has also affected the prices in the Indian domestic market, the domestic industry has been forced to put the project on the hold.
- t. On the submission of inconsistent data in the application and the Annual Report, the production reported in the Annual Report does not contain the production that is to make the finished product in progress. However, the production reported in the costing formats includes work in progress, the production on which work such as packing it yet to be done.
- u. Statements made in the Annual Report pertain to the performance of the company as a whole and not just relating to the product under consideration.
- v. The applicant admits that the prices of Caprolactam in the global market have declined, but the exporters have not established that their domestic prices have also declined in proportionate extent.

- w. Import price from the subject countries, selling price of the domestic industry and prices reported in the two leading trade journals show the same trend. CFR price reported in trade journals is reflective of the price at which the foreign producers are exporting their product. These export prices act as a benchmark for the prices in other markets, including domestic industry.
- x. The reference to Digital Offset Printing Plates is inappropriate. The Authority had disregarded claims of adverse price effect in that investigation because there was already an MOU in force between the domestic industry and the users and the prices were set according to it. However, prices of the domestic industry are all linked to prices reported in the trade journal, and the prices reported in the trade journals are the prices at which the foreign producers are exporting to India and other countries.

G.3 Examination by the Authority

Cumulative assessment

- 55. Article 3 of WTO Agreement and Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
 - 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.

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

57. In order to ascertain whether 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, the following parameters have been examined: -
- a. Products supplied by different parties are like articles and are comparable in properties.
 - b. Domestically produced products and the imported products are interchangeable.
 - c. There is direct competition between the domestic product and the imported product and inter-se between the imported product.
 - d. Consumers are using domestic material and imported material interchangeably and the exporter and the domestic industry have sold the same product to same set of customers.
 - e. Import price from the subject countries have moved in tandem.
58. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from European Union, Korea RP, Russia and Thailand on the domestic industry.
59. Rule 11 of 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 effects on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude, and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.
60. The Authority has taken note of the various submissions made by the domestic industry and other interested parties on injury and causal link and has analysed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority in the succeeding paras addresses submissions made by the domestic industry and the other interested parties.
61. The Authority notes that it is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority considers all injury parameters and, thereafter, concludes whether the domestic industry has suffered injury or is likely to suffer injury due to dumping. The

Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and the other interested parties.

62. With regard to the claim that the applicant's loss is attributable to the oversupply in the global market which has impacted the prices of the subject goods, it is seen that the interested parties themselves have contended that the domestic industry has been operating in a market where there is a demand and supply gap and the domestic industry is the sole producer. The domestic industry has been unable to align its prices adequately to the movements in prices of raw materials because of low priced imports from the subject countries which have resulted in losses. Analysis of the questionnaire response of the exporters shows that the decline in their export price to India was far steeper than the decline in their domestic prices. This clearly shows that the foreign producers were able to hold the decline in their domestic prices while reducing their prices for exports. The Authority notes that the foreign producers should have reduced their domestic and export price both to the same degree, had the decline in the prices been global.
63. It has been claimed that the imports from Korea RP increased with elimination of customs duties and imports from Russia have declined. It is noted that the imports from the two subject countries are above the de-minimis limits in the period of investigation as prescribed under para (iii) of Annexure II of the Rules. Therefore, the effect of the imports is to be cumulatively assessed by the Authority.
64. The interested parties provided information with respect to agreement entered into by the domestic industry with the users. It has been submitted that GSFC has fixed quantity and pricing agreements with their buyers wherein user and the applicant are bound by certain volumes; and prices are decided on the basis of a formulae based on published prices in Technon or ICIS. Based on this, the interested parties contended that the pricing of the domestic industry is not related to the import price and the same is related to these reports. The domestic industry too has stated that the prices of the domestic industry are linked to the reports but has submitted that the prices in the trade journal itself are reflective of the export prices. The interested parties have not demonstrated that the trends in export price to India are different from the trends in prices published in these trade journal. From the information on record, it is seen that the prices reflected in the report are CFR prices and these export prices have eventually resulted in landed price of imports. Further, comparison of these prices with the export price of the foreign producers and selling prices of the domestic industry shows that all have moved in tandem. The domestic industry is the sole producer in the country and has minimal export volumes.
65. In any case, the Authority is required to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India. The domestic industry also submitted that as the domestic industry

was operating in a market with demand and supply gap and is the sole producer in India, there was no compulsion on the domestic industry to reduce its prices even below cost of production, leave aside a level where it would have earned reasonable profits. The response of all the producers in the subject countries also shows dumping. Therefore, the imports are at dumped imports and were undercutting the prices of the like article in India.

G.3.1 Assessment of demand

66. The Authority has determined demand or apparent consumption of the product in India as the sum of domestic sales of the domestic industry and imports from all sources.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Imports from subject countries	MT	49,816	56,935	61,820	65,814
2	Imports from other countries	MT	1,773	1,477	4,660	2,235
3	Domestic sales of applicant (excluding captive)	MT	***	***	***	***
	Trend	<i>Indexed</i>	100	102	106	94
4	Demand/ consumption excluding captive	MT	***	***	***	***
	Trend	<i>Indexed</i>	100	107	116	111
5	Captive consumption by domestic industry	MT	***	***	***	***
	Trend	<i>Indexed</i>	100	97	99	97
6	Demand/ consumption including captive	MT	***	***	***	***
	Trend	<i>Indexed</i>	100	105	113	109

67. It is seen that the overall demand for the product has increased over the injury period. However, the demand of the subject goods (including captive consumption and excluding captive consumption) declined in the period of investigation after increasing till 2018-19. However, there was no material increase or decline in the captive consumption over the injury period. Therefore, the domestic industry had sufficient demand in the market to utilise its production capacities. As against a demand (excluding captive consumption) of *** MT, the domestic industry could have offered at least *** MT of the PUC in the market. Further, considering that there was no material increase or decline in the captive consumption over the injury period, it was considered appropriate to analyse the effect of dumped imports on the domestic industry after excluding captive consumption. Further, whereas demand/consumption

declined in the period of investigation as compared to the preceding year, the subject imports increased and sales of the domestic industry declined in the POI.

G.3.2 Volume effect of dumped imports.

i. Import volume and share of subject countries

68. The effect of the volume of dumped imports from the subject countries as well as the imports from other countries has been examined by the Authority. The volume of imports from various countries in absolute terms and in relation to production and consumption was as under:

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Subject countries	MT	49,816	56,935	61,820	65,814
a	European Union	MT	13,551	11,293	13,832	14,510
b	Korea RP	MT	19,760	29,248	24,144	36,288
c	Russia	MT	12,249	15,450	22,250	12,600
d	Thailand	MT	4,256	944	1,594	2,416
2	Other countries	MT	1,773	1,477	4,660	2,235
3	Total	MT	51,589	58,412	66,479	68,049
4	Subject countries import in relation to-					
A	Indian Production	%	***	***	***	***
	Trend	<i>Indexed</i>	100	112	119	136
B	Demand	%	***	***	***	***
	Trend	<i>Indexed</i>	100	107	107	119
C	Total imports in India	%	***	***	***	***

69. It is seen that: -

- a. imports from the subject countries increased in absolute terms over the injury period.
- b. imports have increased in relation to production and consumption in India
- c. product has been imported from a number of other countries over the injury period.

G.3.3 Price effect of dumped imports.

70. In terms of Annexure II (ii) of the Rules, the Authority is required to consider the effect of the dumped imports on domestic prices in terms of price undercutting, price underselling, price suppression and price depression, if any.

a. Evolution of prices

71. The Authority has examined the trend of import prices over the injury period and in the period of investigation. It is seen that whereas the import prices were increasing till 2018-19, the same declined steeply in the POI. Further, there was a steep decline in the prices even in the period of investigation. The same trend is seen in both the import price and the domestic price.

Year/ Months	Landed Price- Subject Countries		Domestic Industry Sales Prices	
	Rs/MT	Trend	Rs/MT	Trend
2016-17	1,00,140	100	***	100
2017-18	1,31,819	132	***	119
2018-19	1,54,940	155	***	138
Apr-19	1,24,592	124	***	120
May-19	1,34,180	134	***	120
Jun-19	1,32,267	132	***	116
Jul-19	1,22,262	122	***	100
Aug-19	1,14,385	114	***	100
Sep-19	1,14,541	114	***	103
Oct-19	1,12,861	113	***	101
Nov-19	1,13,567	113	***	99
Dec-19	1,06,644	106	***	90
Jan-20	95,553	95	***	87
Feb-20	94,616	94	***	93
Mar-20	1,01,214	101	***	88

b. Price undercutting

72. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product from the subject countries 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 ex-factory level. It is seen that both the import price and domestic price declined over the period. Further, the landed price of imports was slightly above the selling price of the domestic industry. The domestic industry contended that in the situation of decline in prices, the price undercutting shows negative trend as the domestic prices

shows the immediate effect of declined prices whereas the imports prices do not show the same trend because of the time lag.

SN	Particulars	UOM	EU	Korea RP	Russia	Thailand	Subject Countries as a whole
1	Import Volume	MT	14,510	36,288	12,600	2,416	65,814
2	Landed Price	Rs/MT	1,14,150	1,15,293	1,09,637	1,13,905	1,13,907
3	Net Sales Realisation	Rs/MT	***	***	***	***	***
4	Price Undercutting	Rs/MT	***	***	***	***	***
5	Price Undercutting	%	***	***	***	***	***
6	Price Undercutting	Range	(0-10)	(0-10)	0-10	(0-10)	(0-10)

c. Price Suppression/Depression

73. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority examined the changes in the costs and prices over the injury period and compared the same with the landed price of imports.

SN	Parameter	Unit	2016-17	2017-18	2018-19	POI
1	Cost of Sales	₹/MT	***	***	***	***
2	Trend	<i>Indexed</i>	100	110	127	132
3	Selling Price	₹/MT	***	***	***	***
4	Trend	<i>Indexed</i>	100	119	138	101
5	Landed Price	₹/MT	1,00,140	1,31,819	1,54,940	1,13,907
6	Change over previous year					
7	Cost of Sales	₹/MT	-	***	***	***
8	Selling Price	₹/MT	-	***	***	***
9	Landed Price	₹/MT	-	31,678	23,121	(41,033)

74. It is seen that the landed price of imports increased up to 2018-19. As the landed price increased, the domestic industry was able to increase its selling price. Further, the increase in the landed price of imports was more than the increase in the selling price of the domestic industry. Further, both the increase in landed price of the subject imports and the selling price of the domestic industry was higher than the increase in cost of the domestic industry. However, in the period of investigation, while the cost of sales of the domestic industry continued to increase, the landed price of imports declined

significantly. The selling price of the domestic industry also declined significantly. The decline in the selling price was slightly less than the decline in the landed price of imports. It is thus seen that whereas the imports were not suppressing or depressing the domestic prices till 2018-19, the domestic industry faced significant suppression and depression in the POI.

G.3.4 Impact on economic parameters of the domestic industry

75. Annexure - II to the Anti-Dumping 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. The Anti-Dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective 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. Accordingly, various injury parameters relating to the domestic industry are discussed herein below.

a. Capacity, Production, Capacity Utilization and Sales

76. The Authority has considered capacity, production, capacity utilization and sales volume of the domestic industry over the injury period.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Capacity	MT	***	***	***	***
2	Trend	<i>Indexed</i>	100	100	100	100
3	Production	MT	***	***	***	***
4	Trend	<i>Indexed</i>	100	102	105	97
5	Capacity Utilisation	%	***	***	***	***
6	Trend	<i>Indexed</i>	100%	102%	105%	98%
7	Domestic sales	MT	***	***	***	***
8	Trend	<i>Indexed</i>	100	102	106	94
9	Captive consumption	MT	***	***	***	***
10	Trend	<i>Indexed</i>	100	97	99	97

77. It is seen that:

- a. The capacity of the domestic industry has remained constant over the injury period and is lower than the demand in country. At highest achieved production, the domestic industry could have catered to 52% of the demand (excluding captive consumption) for the product in the country.

- b. Production of the domestic industry increased upto 2018-19. However, the production declined steeply in the period of investigation and was lower than even the base year 2016-17.
- c. The capacity utilization of the domestic industry has followed the same trend as that of production. The capacity utilisation increased upto 2018-19 and then declined in the period of investigation.
- d. The domestic sales increased till 2018-19 but declined in the period of investigation.
- e. While demand/consumption declined, and captive consumption remained relatively stable.
- f. The capacity utilisation has remained above 100% thought the injury period and the POI.

b. Market share in demand

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Domestic industry	%	***	***	***	***
	Trend	<i>Indexed</i>	100	95	91	85
2	Subject Countries	%	***	***	***	***
	Trend	<i>Indexed</i>	100	107	107	119
3	Other Countries	%	***	***	***	***
	Trend	<i>Indexed</i>	100	78	226	113

79. It is seen that: -

- a. On analysis over the injury period, the market share of the subject imports has increased whereas that of the domestic industry declined. There is a sharp increase in market share of the subject imports in the period of investigation. Resultantly, the market share of the domestic industry declined sharply in the period of investigation.

c. Inventories

80. Average inventory with the domestic industry has been examined.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Opening inventory	MT	***	***	***	***

2	Closing inventory	MT	***	***	***	***
3	Average Inventory	MT	***	***	***	***
	Trend					
4	Opening inventory	<i>Indexed</i>	100	38	44	29
5	Closing inventory	<i>Indexed</i>	100	116	77	138
6	Average Inventory	<i>Indexed</i>	100	59	53	59

81. It is seen that the inventory with the domestic industry at the beginning of the year 2016-17 was in significant quantity. The domestic industry was able to reduce its inventory level significantly.

d. Profits, cash profits and return on investment

82. The performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Cost of Sales	₹/MT	***	***	***	***
	Trend	Indexed	100	110	127	132
2	Selling Price	₹/MT	***	***	***	***
	Trend	Indexed	100	119	138	101
3	Profit / Loss (PBT)	₹/MT	***	***	***	***
	Trend	Indexed	100	176	208	(90)
5	Cash Profit	₹/MT	***	***	***	***
	Trend	Indexed	100	176	208	(90)
6	Profit before Interest and Taxes (PBIT)	₹/MT	***	***	***	***
	Trend	Indexed	100	174	207	(87)
Total for domestic operations						
7	Profit / Loss (PBT)	₹ Lacs	***	***	***	***
	Trend	Indexed	100	179	220	(85)
8	Cash Profit	₹ Lacs	***	***	***	***
	Trend	Indexed	100	179	220	(85)

9	Profit before Interest and Taxes (PBIT)	₹ Lacs	***	***	***	***
	Trend	Indexed	100	177	219	(82)
10	Return on capital Employed	%	***	***	***	***
	Trend	Indexed	100	146	177	(73)

83. It is seen that:

- a. Cost of sales of the domestic industry has increased continuously over the injury period. However, while selling price too increased till the year 2018-19, the same has declined in the period of investigation. The decline in selling price in the POI is so sharp that the same was now below the cost of sales of the domestic industry.
- b. Profitability of the domestic industry increased till 2018-19 but declined sharply in the period of investigation. The domestic industry suffered significant financial losses in the period of investigation.
- c. Profit per unit, cash profit per unit and profit before interest and tax per unit have all increased till the year 2018-19 but declined in the period of investigation and all became negative.
- d. The domestic industry was earning cash profits, and the extent of the same increased upto 2018-19. However, in the POI, the domestic industry suffered not only steep decline in cash profits, but also significant cash losses.
- e. The return on capital employed (ROCE) increased till 2018-19. However, ROCE not only declined in the POI, but also was significantly negative in the POI.

e. Employment, wages and productivity

84. The situation of the domestic industry with regard to employment, wages and productivity was examined.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Number of Employees	Nos	***	***	***	***
	Trend	Indexed	100	102	101	107
2	Salary & Wages	₹ Lacs	***	***	***	***
	Trend	Indexed	100	128	85	116
3	Productivity per day	MT/Day	***	***	***	***
	Trend	Indexed	100	102	105	97
4	Productivity per Employee	MT/Nos	***	***	***	***
	Trend	Indexed	100	100	104	91

85. It is seen that the number of employees and the salary & wages paid by the domestic industry have increased over the injury period. Productivity per day and per employee has increased till 2018-19 but declined in the period of investigation. The changes in productivity are in line with the changes in production.

f. Growth

86. Examination of growth parameters of the domestic industry during the injury period is shown below –

SN	Particulars	UOM	2017-18	2018-19	POI
1	Production	Y/Y	1.88%	2.69%	-7.00%
2	Sales	Y/Y	1.80%	3.84%	-10.74%
3	Profit/(Loss) per unit	Y/Y	75.76%	18.40%	-143.29%
4	Inventory	Y/Y	-41.09%	-10.69%	11.38%
5	Market Share	Y/Y	-4.85%	-4.41%	-6.88%
6	Profit before Tax	Y/Y	78.93%	22.94%	-138.64%
7	Cash Profit	Y/Y	79.03%	22.84%	-138.61%
8	PBIT	Y/Y	77.34%	23.39%	-137.67%
9	ROI	Y/Y	45.87%	21.47%	-141.34%

87. It is seen that growth of the domestic industry was negative in both volume and price parameters in the period of investigation, while the same was positive till 2018-19.

g. Magnitude of dumping

88. It is seen that the dumping margin in respect of the imports from the subject countries is not only positive, but also significant.

h. Ability to raise fresh investment

89. The applicant has submitted that considering demand in the country, it had planned for a capacity expansion. However, due to a significant shift in the global trade balance of demand and supply in the subject goods which has also affected the prices in the Indian domestic market, the domestic industry has been forced to put the project on hold. It is seen that the domestic industry is operating in losses.

i. Factors affecting domestic prices

90. The imports from the subject countries hold a significant share in the market and the landed price of these imports is below the non-injurious price of the domestic industry. The interested parties contended that the pricing of the domestic industry is linked to prices published in trade journals. These trade journal prices are reflective of the prices at which exports are taking place. The selling price of the domestic industry has been affected in the period of investigation and the domestic industry has reduced its prices by a whopping Rs. *** per MT even when the costs increased by Rs. *** per MT. The cost of production of the domestic industry increased partially because of decline in production, but substantially due to increase in costs on account of raw materials. The landed prices of subject imports have suppressed and depressed the prices of the domestic industry leading to domestic industry suffering financial losses. Therefore, it is seen that the imports from subject country were a factor affecting the prices of the domestic industry.

j. Magnitude of injury margin

91. The Authority has determined the Non-Injurious Price (NIP) for the domestic industry on the basis of principles laid down in the Rules, read with Annexure III, as amended. Detailed disclosure is being made separately hereinbelow. Injury margin for producers/exporters and other producers/ exporters has been determined considering the landed price and NIP so determined. The table below shows the determined injury margin. It is seen that the injury margins are significant.

Injury Margin Table

S. No	Producer	NIP (USD/MT)	Landed Value (USD/MT)	Injury Margin (USD/MT)	Injury Margin (%)	Injury Margin Range
1	Russia					
a	JSC Shchekinoazot	***	***	***	***	0-10
b	PJSC Kuibyshev Azot	***	***	***	***	10-20
c	Any Other	***	***	***	***	40-50
2	Korea RP	***	***	***	***	
a	Capro Corporation	***	***	***	***	10-20
b	Any Others	***	***	***	***	30-40
3	European Union	***	***	***	***	
a	All Producers	***	***	***	***	0-10
	Thailand	***	***	***	***	
a	All Producers	***	***	***	***	0-10

H. CAUSAL LINK

92. The Authority is required to examine whether any known factors other than dumped imports have also caused injury to the domestic industry at the same time. Factors which may be relevant in this respect include, inter-alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It was examined whether these listed factors other than dumped imports could have contributed to the injury to the domestic industry.

a. Volume and price of imports from third country

93. The imports from the subject countries account for 97% of the total imports. Imports have been reported from Japan, United Arab Emirate and United States of America. It is, however, seen that the import price from these countries is higher than the import price from the subject countries. Further, imports from other countries increased till 2018-19 and then declined significantly in the period of investigation, whereas imports from subject countries increased further in the period of investigation. Imports from non-subject countries are very less in volume.

b. Contraction in Demand and / or Change in Pattern of Consumption

94. The subject goods are consumed largely in the production of Nylon-6. The demand of the subject goods has shown consistent increase till 2018-19. The demand, however, declined in the period of investigation. It was, however, higher than the base year. As against demand of *** MT in the period of investigation, the capacity with the domestic industry is significantly below the demand in India. Further, the imports from the subject countries increased even when demand for the product declined. It is also noted that the domestic industry submitted that the decline in demand was purely temporary and short term.

c. Developments in Technology

95. The Authority notes that the technology for production of the product has not undergone any material change over the injury period. Development in technology is, therefore, not a possible cause of injury suffered by the domestic industry.

d. Trade restrictive practices

96. The Authority notes that none of the interested parties have made any claim of possible existence of trade restrictive practice which could have caused injury to the domestic industry. It is also noted that the domestic industry is the sole producer of the product in the country.

e. Export performance

97. The domestic industry has been exporting small volume of the subject goods. The volume of exports was higher in 2016-17 and declined sharply thereafter till 2018-19. Even though the export volumes increased again in the period of investigation, the volume of exports in any case is much lower at *** MT in the POI (***% of the domestic sales). The injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. Thus, the injury suffered cannot be attributed to the possible deterioration in export performance of the domestic industry.

f. Performance of other products

98. The Authority has considered segregated data relating to performance of the product under consideration and all other products. Therefore, performance of other products produced and sold by the applicant is not a possible cause of the injury to the domestic industry in this investigation.

g. Conditions of Competition

99. It is seen that the domestic industry is the sole producer of the product under consideration in the country at present. The other company, FACT holds capacities (*** MT) for the product under consideration. The company has, however, not produced the product over the injury period. The domestic industry stated that FACT has undertaken trial production. In any case, since the domestic industry was the sole domestic supplier and ***% of the imports were from the subject countries, there are no trade restrictive practices in India which could have caused injury to the domestic industry.

I. POST DISCLOSURE COMMENTS

100. The Authority issued a disclosure statement disclosing the essential facts of the case and inviting the comments from all the interested parties. The post-disclosure submissions have been received from the interested parties. The majority of the issues raised in the post disclosure comments have already been raised earlier and also addressed appropriately. Additional submissions to the extent deemed relevant have been examined as under:

I.1 Submissions made by other interested parties

101. The following submissions have been made by the other interested parties on the disclosure statement: -

- a. On the reasoning given by the Authority for considering GSFC as the eligible domestic industry, the Authority in the various past cases such as Vitrified Tiles, Soda Ash and PX-13, companies like Kajaria Ceramics, Nirma Limited and Lanxess India were considered as ineligible. The same approach should be applied here.
- b. If self-imports of the applicant from Thailand are removed, the share of the imports from Thailand will fall below 3%. It is for this reason that the other interested parties request termination.
- c. The requirement of Rule 2(b) is express and categorical and does not allow for an exception to be carved out for a domestic industry that is an importer itself to qualify as the domestic industry.
- d. The Authority should deal with the approach adopted in the Digital Offset Printing Plates (DOPP) Case wherein the Authority has terminated the investigation as there was an MOU between the applicant industry and the users.
- e. The Authority has not provided its observation / analysis to the specific questions relating to fixed quantity contracts and methodology for fixing the pricing.
- f. The Authority has not appreciated that because of the pre-fixed pricing arrangement, the applicant industry is contractually barred to sell the subject goods above the agreed prices.
- g. Since there is "ZERO" correlation between the actual landed prices and the pre-determined prices of the applicant industry with the customers, there is no causal link between the landed value and the injury suffered by the applicant industry. Therefore, the investigation needs to be terminated on this ground alone.
- h. The Authority should allow Fibrant B. V. producer from EU and Kemorovo Joint-Stock Company Azot, Russian to file new shipper review as they have not exported the subject goods to India during the period of investigation. Further, they are also not related to any producer who has exported the subject goods to India during the period of investigation.
- i. The Authority should analyze the frequency at which the applicant has indulged in importing. The frequency of the imports would conclusively prove that these are not just remote transactions for purposes like testing the market, but rather a routine process as a trader to earn profits from the trading
- j. It has also been contended that the domestic industry imported and consumed from Korea "small volume of Caprolactam for production of Nylon – 6 for testing purposes." There is no explanation given as to why the domestic industry had to

resort to the import for testing purposes when it is itself a producer of Caprolactam operating a plant at more than the optimal capacity.

- k. The central government has recently taken a protectionary stance on the textile industry with the objective of providing relief to the ailing textile sector by not notifying the recommendation of this Authority to impose the anti-dumping duty on nylon multifilament yarn from China, Korea, Taiwan and Thailand.
- l. The recent budget announcements also reflect this desire to protect the interest of the textile industries. In this situation, any imposition of the anti-dumping duty on Caprolactam will be contrary to the central government's announcement in Budget 2021-2022.
- m. The imports from Korea should not have been cumulated with the imports from other origins. They followed a completely different trend with regard to both imports from the other subject countries and from the non-subject countries.
- n. Injury margin disclosure is absent from the disclosure statement. This renders it unable to assess the exact scope of the injury that the domestic industry is found to have suffered.
- o. The Authority has simply stated that "the technology for production of the product has not undergone any material change". The examination provided is inadequate in the light of the detailed information provided in respect of the lack of efficiency of the older of the two plants of the applicant.
- p. The fact that the domestic industry suffers from artificially high costs that have prevented it from being profitable has not been examined by the Authority.
- q. The calculation of the return by adopting 22% uniformly on both the components of the capital employed is totally incorrect and needs to be reviewed. In view of the foregoing, it is submitted that by applying 22% ROCE, the DGTR is giving undue protection to the domestic industry.
- r. The quantum of imports made by the applicant should be disclosed and no prejudice will be caused to the applicant if such data is revealed.
- s. The refusal of the central government to impose the anti-dumping duty on NFY and NTCF despite a positive recommendation by this Authority, is itself a proof that any duty on caprolactam will cause great harm to the interests of the users in the supply.
- t. Even if a 5% ADD is assumed on caprolactam, it translates to around Rs. 9/- per kg of additional cost for chips manufacturing.
- u. NTCF producers are expanding their capacities by around 4,000 MT per month which will require an additional requirement of 4,000 MT of caprolactam per month.
- v. The capacities of Nylon Chips and NTCF will become idle as imports of these items will become cheaper.

- w. There was an oversupply of the subject goods in the global world in the period of investigation. This should not be considered as a basis to impose duties for 5 years.
- x. The prices of caprolactam have already recovered in the post period of the investigation and the domestic industry is not suffering any injury.
- y. The results of the domestic industry declined only due to Covid-19.
- z. There is a huge demand and supply gap in India.
- aa. The landed value taken by the Authority for Itochu Corp is lower than its purchase price. Hence, it is requested to revise the calculations of landed value for Itochu Corp to calculate the injury margins of the cooperating producer Capro Corp.
- bb. UCHA requests the Authority to not demand the information required in the questionnaire format such as production cost, raw material consumption, other operating expenses etc. as these are business sensitive information.
- cc. UCHA has now provided the information on domestic sales to its end users.
- dd. The Authority is requested to examine the applicant's contracts with the buyers and the details of their pricing formula. When the prices are negotiated and fixed based on a formula, how can imports have any impact on the realization of the applicant industry?

I.2. Submissions made by the domestic industry

102. The following submissions have been made by the domestic industry on the disclosure statement: -
- a. There is significant difference in the dumping margin in the case of the responding producers from Russia.
 - b. When both the producers in Russia are operating in the same domestic market, there cannot be such a significant difference in their domestic prices. The normal value of PJSC Kuibyshev Azot has been underreported.
 - c. The adjustment of the packing expense in the normal value computation of JSC "Shchekinoazot", Russia is inappropriate as there is no secondary packing done for the sales made in the domestic market. The adjustment of the packing expense is allowed only when the packing for the domestic sale and the export sale is different. Same can be verified from response by PJSC Kuibyshev Azot, Russia and Capro Corporation, Korea RP. It is requested to not allow the adjustment claimed unless these are justified.
 - d. In computation of the net export price of PJSC Kuibyshev Azot, no adjustments have been made for inland insurance, bank charges, commission and port and other handling charges for PJSC Kuibyshev Azot and JSC "Shchekinoazot", Russia. All expenses have been adjusted in the net export price of Capro Corp,

Korea RP. There is no justification for different exporters claiming expenses on different account to determine the ex-factory export price when all of them have sold to Indian buyers at the CIF level.

- e. Fertilizers and Chemicals Travancore Limited has completed the trial run of the operations for production on its 50,000 MT plant and is expected to begin the commercial production very soon. FACT incurred significant expenses on restart in the last 2 years. Upon commencement, the Indian producers will be able to cater a significant share of the demand and the import dependency will reduce along with providing the employment opportunity.
- f. In the absence of sufficient disclosure about the computation of non-injurious price, the domestic industry is unable to comment on the non-injurious price determined.
- g. The impact of ADD on the end-product is very minimal. The producers of Nylon Filament Yarn had quantified the impact of the duty on the end users only 2%. The impact of the duty on Caprolactam will be far lower.

Final product	Price	Caprolactam Consumption	Difference	Impact on End Product
	Rs/KG	KG /KG	Rs/KG	%
Saree	160	0.06	9.71	0.37%
Dupatta/ Stolls	70	0.04	9.71	0.49%
Dress material	90	0.07	9.71	0.77%
Swim Wear, Lingerie	900	0.08	9.71	0.09%
Suiting and Shirting	140	0.12	9.71	0.85%
Socks/ Bottoms	60	0.02	9.71	0.33%
T shirts / Tops	600	0.10	9.71	0.16%
Sweaters	800	0.06	9.71	0.07%
Elastics / Tapes	4	0.01	9.71	1.48%
Crochet / Labels/ Velcro/ Laces	70	0.02	9.71	0.28%
Rugs, Carpets, Packaging	400	0.25	9.71	0.62%
Threads, Cosmetics, Fish Nets	350	0.07	9.71	0.20%
Automotive Backing, Gloves	600	0.04	9.71	0.07%
Bolting, Filters	70	0.07	9.71	0.92%

- h. Most of NTCF producers normally sell their product linked to Capro prices and pass on the price increase and reduction in their product as is evident from their

annual reports. The cost of NTCF in tyres are normally grossly low and the impact of the cost increase of NTCF on the tyre industry is minimal.

Particulars	Consumption factor	Price Rs/KG	Impact
Consumption of Capro in NTCF			4.11%
Consumption of NTCF in tyres	0.004	200	0.02%
Increase in Capro price due to antidumping duty (assuming that the domestic industry increases the prices by the amount of antidumping duty)		9.71	

- i. The public interest is a much wider term and covers the domestic industry and ultimately the public at large interest.
- j. The imposition of ADD will definitely be in the interests of the domestic industry and will allow the domestic industry to compete with the dumped imports and grow. It is in consumers' interest to have a competitive domestic industry capable of supplying the product in competition to fair priced imports.
- k. The viability of the consumers cannot be dependent on access to the raw material at cheap, unfair and dumped prices. The consumers cannot claim a right to availability of the product at cheap and dumped prices.

I.3. Examination by the Authority

103. It is seen that most of the submissions made by the other interested parties on the disclosure statement are mere reiteration of their earlier submissions. The Authority has already examined the submissions made by the other interested parties at the time of issuance of the disclosure statement. The views expressed by the interested parties which are mere repetition of the submissions made before are not being reproduced again. The submissions made by the domestic industry and the other interested parties on the disclosure statement that have not already been examined by the Authority are addressed hereinunder.

104. The Authority notes that the definition of the domestic industry within the ambit of Rule 2(b) provides that when the producers are related to the exporters or the 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. In such a situation, by the deliberate use of the word 'may', the investigating authority has been vested with the discretion to analyze the facts of an individual case and thereafter decide upon disqualification of a producer.

105. On the cases referred by the other interested parties, the Authority notes that the facts of the present case are different from the facts of those cases due to the following reasons:
- a. Kajaria Ceramics Limited was considered ineligible in the anti-dumping investigation concerning imports of Glazed Unglazed Porcelain Vitrified tiles as the imports in relation to production made by it was very high as compared to the present case.
 - b. In the anti-dumping investigation concerning imports of Rubber Chemical PX-13 from China PR, Lanxess India Private Limited was considered ineligible as it had imported significant volumes of the product under consideration and the company is related to the exporter and is itself an importer. However, in the present case, the domestic industry is not related to any importer or exporter.
 - c. In the anti-dumping investigation concerning imports of Soda Ash, there were exports in significant quantity by the related entity of the domestic industry in one of the subject countries which was engaged in dumping. Therefore, Tata Chemicals Limited was considered ineligible.
 - d. In the anti-dumping investigation concerning the imports of Aluminum Foil from China PR, Raviraj Foils Limited was considered ineligible as it had made imports which were then sold in the domestic market and unduly benefitted from it. The producer had given no reason for the imports made. However, in the present case, the domestic industry has provided reasons for the imports. Further, even for the imports sold in the domestic market, it has not provided sufficient reasons.
106. Further, the Authority notes that there is plethora of cases where the Authority has held the domestic industry as eligible domestic industry even if it had made imports. Accordingly, the Authority holds that the applicant is an eligible domestic industry within the meaning of Rule 2(b) of the Rules.
107. With regard to the submission made on the significant difference in the normal value of the Russian producers, the Authority notes that it has verified the information provided by the responding producers and only after due examination and table verification has considered the information for the purpose of calculation of the normal value.
108. On the submission that the imports from Korea RP should not be cumulated, the Authority notes that since the conditions of cumulation are satisfied, the Authority, therefore, has undertaken the cumulative assessment. Further, the claim that the trend of imports from Korea is different from trend of imports from other country is incorrect as the imports have increased from all subject countries barring Russia. The fact that the users have switched their source of supply also shows that there exists inter-se competition.

109. On the participation of UCHA chemical, it is seen that the producer has not complied with the requirements prescribed in the trade notice. The information requirement provided in the trade notice such as cost of production is required to the conduct the OCT test. Since the information has not been provided, the Authority has rejected the response filed by it and treated it as non-responding producer.
110. The submission on global oversupply, the demand and supply gap, the non-imposition of duties by the central government in some of the cases have been already examined by the Authority in the disclosure statement.
111. On the submission on the impact of Covid-19, the domestic industry had been operating in the entire period of investigation. There was no significant shut down due to covid which has resulted in significant losses to the domestic industry. Further, the average capacity utilization in the POI was more than 100% and it always had the inventory to meet the demand.
112. With regard to the submission for examination of the agreement between the users and domestic industry for setting the price and reference to the Digital Offset Printing Plates, it is seen that in the Digital Offset Printing Plates, it was found that the 'MOU' signed by the Domestic Industry with the user association/user industry has led to mitigation of the likely injury due to unfair trade. However, in present case, the prices of the domestic industry are all linked to the prices reported in the trade journal, and the prices reported in the trade journals are the prices at which the foreign producers are exporting to India (and other countries). As already noted in the disclosure statement, the prices reflected in the trade journals are CFR prices which have eventually resulted in landed price of the imports. Further, the comparison of these prices with the export price of the foreign producers and the selling prices of the domestic industry shows that all have moved in tandem.
113. With regard to the submission that the domestic industry suffered due to the high cost, under the Rules, the domestic industry in the present case was earning sufficient profits up to the immediately preceding year. Had it suffered due to high costs, it would have suffered injury in the previous years as well. In any case, the Authority is required to examine injury to the domestic industry as it exists and not consider if the domestic industry was operating in idle conditions. The same stand has been confirmed by the CESTAT in the matter of Nippon Zeon Co. Ltd. Vs. Designated Authority and by the Appellate Body in EU - Biodiesel.
114. On the issue of examination of the post period of investigation data, the examination of post period of investigation is not conducted in the original investigation unlike sunset review investigation.

115. On the request of Fibrant B. V., EU and Kemorovo Joint-Stock Company Azot, Russia to treat them eligible for new shipper review, the interested parties are free to apply for a new shipper review as per the Rules.
116. With regard to the submission made by the domestic industry and the other interested parties on the computation of the non-injurious price and the disclosure thereof, the Authority notes that non-injurious price has been determined in accordance with Annexure III of the Rules and the consistent practice of the Authority and the same has been disclosed to the domestic industry.
117. With regard to the submission on the imposition of the duties against the public interest, all concerns of the interested parties with regard to the public interest have been examined hereunder.

J. PUBLIC INTEREST

118. The Authority considered whether the imposition of the anti-dumping duties shall have any adverse public interest. Specifically, the Authority issued gazette notification inviting views from all the interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide the relevant information with regard to the present investigation, including the possible effect of the anti-dumping on their operations. The Authority sought information on, inter-alia, interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of the anti-dumping duties on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of anti-dumping duties, impact of imposing the present duty.
119. The Authority notes that some consumers filed questionnaire response. The submissions made by the consumers during the course of the investigation have been taken into account. The Authority notes that these interested parties have not shown with verifiable information that the imposition of the anti-dumping duties shall have significant adverse effect either on these consumers or the public at large. The users have claimed that the impact of duties on Nylon Chips will amount to Rs 9 per KG. However, no calculation has been provided for it. In the absence of information, the claim cannot be accepted. The domestic industry has provided quantified information for impact of duties on the end products. It is seen that the impact of duties on the product is very low. While the impact is high in case of NTCT, the users have themselves stated in their annual report that the impact is transferred to the end product. The impact on end product of NTCT, which is tyre, is also found to be very low.
120. Authority notes that purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to

establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The domestic industry in the present case is suffering with losses. Due to the dumping of the subject goods from the subject countries, the domestic industry has been forced to sell at losses. Imposition of anti-dumping duty will provide a level playing field to the domestic industry to compete with the imports.

121. It is further recognized that Fertilizers and Chemicals Travancore Limited has completed trial run of operations and will begin commercial production soon. The producer has a plant of 50,000 MT and will be able to cater a significant share of demand to eliminate the demand and supply gap.
122. It is recognized that the imposition of duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The duties will ensure that domestic industry can compete in the market and will ensure wider availability of options to the users which will be in large public interest. As per the information provided by the domestic industry, the impact of duty on the end products is minimal.
123. The Authority thus concludes that the imposition anti-dumping duties will not be against the public interest at large.

K. CONCLUSION

124. After examining the submissions made by the interested parties and the issues raised therein and considering the facts available on record, the Authority concludes that:
 - a. The applicant is an eligible domestic industry within the meaning of Rule 2(b) of the Rules. The application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.
 - b. The product produced by the domestic industry is like article to the PUC imported from the subject countries.
 - c. The application contained all information relevant for the purpose of initiation of the investigation and also contained evidence to justify initiation of the present investigation.
 - d. Considering the normal value and export price for the subject goods, dumping margin for the subject goods from the subject countries has been determined, and the margin is positive and significant.

- e. The domestic industry has suffered material injury in view of the following-
- i. Volume of dumped imports from subject countries have increased in both absolute and relative terms.
 - ii. While the production and sales of the domestic industry have declined. The performance of the domestic industry has significantly deteriorated in respect of profits, cash profits and return on capital employed. The domestic industry has suffered financial losses, cash losses and negative return on investments in the period of investigation.
 - iii. The injury margin is positive and significant.
- f. There are no other factors which could have caused injury to the domestic industry.
- g. The material injury suffered by domestic industry has been caused by dumped imports.
- h. Recommendation of duties will not be against public interest at large.

L. RECOMMENDATION

125. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, producers, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link thereof in terms of Rules.

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

Duty Table

SN	Heading/ Subheading	Description of goods	Country of origin	Country of exports	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	29337100	Caprolactam	Russia	Any country including Russia	JSC Shchekinoazot	111.76	MT	US \$

2	- do -	- do -	Russia	Any country including Russia	PJSC Kuibyshev Azot	67.79	MT	US \$
3	- do -	- do -	Russia	Any country including Russia	Any other than SN 1 and SN 2	560.82	MT	US \$
4	- do -	- do -	Any country other than Russia	Russia	Any	560.82	MT	US \$
5	- do -	- do -	Korea RP	Any country including Korea RP	Capro Corporation	67.78	MT	US \$
6	- do -	- do -	Korea RP	Any country including Korea RP	Any other than SN 5	287.57	MT	US \$
7	- do -	- do -	Any country other than Korea RP	Korea RP	Any	287.57	MT	US \$
8	- do -	- do -	European Union	Any country including European Union	Any	132.13	MT	US \$
9	- do -	- do -	Any country other than European Union	European Union	Any	132.13	MT	US \$
10	- do -	- do -	Thailand	Any country including Thailand	Any	135.55	MT	US \$
11	- do -	- do -	Any country other than Thailand	Thailand	Any	135.55	MT	US \$

Note - Customs classification mentioned above is only indicative, and the determination of anti-dumping duty shall be made as per the description of the product under consideration. The product under consideration mentioned above should be subject to above ADD even when it is imported under any other HS code.

M. FUTRHER PROCEDURE

127. An appeal against the order of the Central Government arising out of these findings shall lie before the appropriate forum.


(Anant Swarup)
Designated Authority