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**F. No. 7/11/2020 - DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
Jeevan Tara Building, Parliament Street, New Delhi**

NOTIFICATION

FINAL FINDINGS

Case No. ADD-SSR-07/2020

Dated 05th January, 2021

Subject: Sunset Review of anti-dumping investigation concerning imports of “Phthalic Anhydride” originating in or exported from Japan and Russia.

Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the 'Act'), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the 'Rules' or 'AD Rules') thereof;

A BACKGROUND OF THE CASE

1. The Designated Authority (hereinafter referred to as the Authority) initiated an antidumping investigation in respect of imports of "Phthalic Anhydride" (hereinafter also referred to as "PAN" or the "subject goods" or "PUC" or "Product Under Consideration") originating in or exported from Japan and Russia on 9th May 2014 and after conducting the investigation recommended imposition of definitive duty vide Final Findings Notification No. 14/6/2014-DGAD dated 3rd November, 2015. On the basis of recommendations made by the Authority in the final findings, definitive anti-dumping duty was imposed by the Central Government vide Notification No. 56/2015-Customs (ADD) dated 4th December 2015.
2. Section 9A (5) of the Act, inter alia, provides that anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

3. Rule 23(1B) of the Rules provides as follows:
"...any definitive anti-dumping duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition, unless the Designated Authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry."
4. M/s IG Petrochemicals Limited, M/s Thirumalai Chemicals Limited and M/s SI Group India Private Limited (hereinafter referred to as "applicants" or "domestic industry") filed a duly substantiated application on behalf of the domestic industry, in accordance with the Act and the Rules alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from subject countries and consequent injury to the domestic industry and have requested for review and continuation of the anti-dumping duties, applicable on the imports of the subject goods, originating in or exported from Russia and Japan.
5. Based on the application filed on behalf of the domestic industry in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules with prima facie evidence of likelihood of dumping and injury, the Authority initiated the sunset review investigation vide Notification No. F. No. 7/11/2020-DGTR (SSR No. 07/2020) dated 11th May, 2020 to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry and whether there is a need for continued imposition of antidumping duty in respect of the subject goods originating in or exported from Russia and Japan .
6. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject countries.

B PROCEDURE

7. The procedure described below has been followed with regard to the investigation:
 - i. The Authority notified the embassy of the subject countries in India about the receipt of the present application before proceeding to initiate the investigations in accordance with sub-rule 5(5) of the AD Rules.
 - ii. The Authority issued a Notification dated 11th May, 2020, published in the Gazette of India Extraordinary, initiating investigation concerning imports of the subject goods from the subject countries.
 - iii. The Authority sent a copy of the initiation notification to the Embassy 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 applicants and requested them to make their views known in

- writing within 60 days of the initiation notification in accordance with Rule 6(2) of the AD Rules.
- iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, known importers and to the embassy of the subject countries in India in accordance with Rule 6(3) of the AD Rules.
 - v. The Embassy 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.
 - vi. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject countries, whose details were made available by the applicants, to elicit relevant information in accordance with Rule 6(4) of the Rules:
 - a. Gazprom Neftekhim Salavat, Russia
 - b. JSC Ural Chemical Co, Russia
 - c. West-Siberian Steel, Russia
 - d. Angarsk Petrochemical, Russia
 - e. Polymer Pack Go, Russia
 - f. Uralkhimprom Podlesnaya, Russia
 - g. Rosplast Ooo LLC, Russia
 - h. OJSC Kamtex-Himprom, Russia
 - i. JFE chemical corporation, Japan
 - j. New japan chemical Co. Limited, Japan
 - k. Nippon Shokubai, Japan
 - l. C-Ghem Co., Limited, Japan
 - vii. None of the producers/exporters from the subject countries have filed exporter's questionnaire response.
 - viii. 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 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):
 - a. M/s KLJ Plasticizers Limited
 - b. M/s Mazda Colors Limited
 - c. M/s Pck Oil & Solvents Limited
 - d. M/s Lona Industries Limited
 - e. M/s Silvassa Plast Private Limited
 - f. M/s Aarti Industries Limited
 - g. M/s Mechemco Industries Private Limited
 - h. M/s Rachna Plasticizers
 - i. M/s Micro Inks Limited

- j. M/s Phthalo Colors & Chemicals (I) Limited
 - k. M/s Heubach Colour Private Limited
 - l. M/s Ramniklal S. Gosala & Co.
 - m. M/s Sanman Trade Impex Private Limited
 - n. M/s Pertochem Middle East (India) Private Limited
 - o. M/s A-One Chem Trade Private Limited
 - p. M/s Amjey Chemicals Trade Private Limited
 - q. M/s Sanjay Chemicals (India) Private Limited
 - r. M/s Hazel Mercantile Limited
 - s. M/s Indian Plastics Federation
 - t. M/s Indian Plasticizers Manufacturers Association
 - u. M/s Indian Paint Association
 - v. M/s Chemical Industries Association
 - w. M/s Indian Chemical Council
- ix. The following importers or consumers of the product have filed the importer's questionnaire response in the prescribed format:
- a. M/s KLJ Plasticizers Limited
 - b. M/s Payal Polyplast Private Limited
- x. M/s Indian Plasticizers Manufacturers Association (IPMA) and Government of Russia filed letters of participation in response to the initiation notification. The Government of Japan filed written submission as well.
- xi. Exporters, foreigner producers and other interested parties who have not responded to the Authority, or not supplied information relevant to this investigation, have been treated as non-cooperating interested parties.
- xii. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xiii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by all interested parties. A list of all interested parties was uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to ongoing global pandemic.
- xiv. 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 POI. The Authority has also considered April 2020 to August 2020 as the post - POI for the purpose of examining likelihood of continuation or recurrence of dumping and injury.

- xv. Additional/supplementary information was sought from the applicants and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation.
- xvi. 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.
- xvii. 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 product concerned in India.
- xviii. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in the oral hearing held on 11th November, 2020, 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 opposing interested parties to file rejoinders thereafter.
- xix. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these final findings.
- xx. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded these final findings on the basis of the facts available.
- xxi. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 18th December, 2020 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings.
- xxii. *** in these final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxiii. The exchange rate adopted by the Authority during the POI for the subject investigations is 1 US\$= Rs. 71.65

C PRODUCT UNDER CONSIDERATION

8. The product under consideration in the present investigation is "Phthalic Anhydride" (PAN). Phthalic Anhydride (PAN) is an anhydride of Phthalic Acid and is commercially produced by catalytic oxidation of Ortho-xylene or Naphthalene. It is a colourless solid, variously referred as Phthalic Anhydride flakes, Phthalic Anhydride (98% min.), Phthalic Acid Anhydrous, Phthalic Anhydride (99.8% min), etc. Specifications of Phthalic Anhydride includes its physical appearance, colour of solid flakes, colour of molten product, solidification point, Phthalic Anhydride content by weight, other anhydrides & organic impurities' content by weight and acidity index.

C.1 Submissions of the domestic industry

9. The domestic industry has submitted as follows with regard to product under consideration and like article:
- i. Product under consideration in the present petition is 'Phthalic Anhydride', the principal commercial form of Phthalic Acid
 - ii. Since the present investigation is a sunset review investigation, the scope of product under consideration remains the same as in the original investigation.
 - iii. The domestic industry is producing a like article to product under consideration.

C.2 Submissions of other interested parties

10. Other interested parties have not made any submissions with regard to product under consideration and like article.

C.3 Examination by Authority

11. The product under consideration in the original investigation as well as in the present sunset review is Phthalic Anhydride. In the previous investigation, the product under consideration was defined as under. The Authority has considered the same scope of the product under consideration for the present purposes:

The product under consideration in the present investigation is "Phthalic Anhydride". Phthalic Anhydride, also referred as PAN or P.A. is an anhydride of Phthalic Acid, and is commercially produced by catalytic oxidation of Ortho-xylene or Naphthalene. It is a colourless solid, variously referred as Phthalic Anhydride flakes, Phthalic Anhydride (98% min.), Phthalic Acid Anhydrous, Phthalic Anhydride (99.8% min), etc. The product is produced only in one grade. As regards different applications, it does not have distinguishable different types of forms. It is mainly used in the production of phthalate esters, which functions as plasticizers. It is an important chemical intermediate in plastic industry. It is also used in making of the products like Polyester Resins, Alkyd Resins used in paints and lacquers, Unsaturated Polyester Resins,

Polyester Polyols, Dyes and Pigments, Halogenated Anhydrides, Polyetherimide Resins, Isatonic Anhydride, Insect Repellents etc.

Phthalic Anhydride is an organic chemical classified under customs sub-heading No. 29173500 under the Custom Tariff Act, 1975. The classification is, however, indicative only and in no way binding on the scope of the present investigation.

12. The subject goods produced by the domestic industry and that imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. In view of the same, the product under consideration produced by the domestic industry is treated as like article to the product under consideration imported from subject countries.

D DOMESTIC INDUSTRY AND STANDING

13. 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 domestic industry

14. Following submissions have been made by the domestic industry with regard to standing and scope of the domestic industry:
 - i. All the three producers in India are participating in the investigation.
 - ii. Applicants have not imported the subject goods and are not related, either directly or indirectly, to any exporter in the subject countries or any importer of the dumped article within the meaning of Rule 2(b).
 - iii. The application satisfies the requirement of the rules.

D.2 Submissions of other interested parties

15. The other interested parties have not made any submissions with regard to domestic industry and its standing.

D.3 Examination by the Authority

16. The present application has been filed by M/s IG Petrochemicals Limited, M/s Thirumalai Chemicals Limited and M/s SI Group India Private Limited. There is no other existing producer in India. Therefore, the applicants account for entire production in India. These applicants have provided relevant information as per the prescribed format and the applicants are 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, even though standing within the meaning of Rule 5(3) is not required to be established in a sunset review initiated under Rule 23.

E MISCELLEANOUS SUBMISSION

E.1 Submissions of domestic industry

17. Following miscellaneous submissions have been made by the domestic industry:
- i. Profits of the domestic industry have dried up and the industry has suffered from extremely poor returns. Allegation of high price charged by the domestic industry should be completely ignored.
 - ii. Demand and supply gap cannot justify dumping.
 - iii. KLJ Plasticizers Limited is in the process of installing PAN plant with capacity around 200 KT. These capacities will become operational by 2024 tentatively. The capacity after the expansions will be much more than the projected demand in India.
 - iv. Extension of duties will not prevent imports. Imports can continue to happen from subject countries as well as other countries. Even the domestic industry would have to compete which will keep domestic industry's prices in check.
 - v. BIS will bring standards. It is improper to consider that it is used to monopolize market and such allegation amounts to levelling serious allegations against Govt. functioning and decision making.
 - vi. As regards the application filed by domestic industry with different period of investigations, it is submitted that the application for sunset review as well as fresh investigation are filed with the same period of investigation. Applicants have already stated that domestic industry is suffering injury in the period of investigation due to dumping from fresh countries and there is a likelihood of injury from the subject countries in this sunset review application.
 - vii. As regards argument with respect to bilateral safeguard measures on imports from South Korea, it is submitted that in bilateral safeguard case, it is Korean imports which has been identified as the cause of injury. The domestic industry is conscious and well aware that it will not get protected beyond injury margin
 - viii. There need not be one sole reason for the injury to the domestic industry. The authority needs to only assess if there is a "genuine and substantial relationship of cause and effect" of dumping and injury.

As regards the claim of report from TecnonOrbiChem being claimed confidential, it is submitted that report is based on third-party information which the applicants are not permitted to disclose. However, the figures adopted from the report have been disclosed. It is these figures which shall form the basis for determination.

- ix. As regards the claim that the duty will lead to closure of phthalate plasticizer industry, it is submitted that no information on number of users which have shut down plants in past on account of antidumping or safeguard duty has been given by other interested parties.
- x. Consumption of PAN shows healthy growth of downstream industry even when antidumping duty or safeguard duty were in force. Duties were imposed after due examination of public interest.

E.2 Submissions of other interested parties

18. Other interested parties have made following miscellaneous submissions.

- i. There is a demand and supply gap.
- ii. The Indian producers charge high prices by misusing trade remedial measures.
- iii. PAN manufacturers are blocking imports of Phthalic Anhydride by anti-dumping duty, safeguard duty or pushing for BIS specifications so that they can monopolize the market.
- iv. Applicants are presenting different period of investigation and conflicting cause of injury before the Authority in different investigations.
- v. To support claims of excess capacities, a report from TecnonOrbiChem has been used but is held confidential.
- vi. Continuation of anti-dumping duty will open flood gates for imports of Phthalate Plasticizers which is also being imported with zero basic custom duty.
- vii. Value addition in converting Phthalic Anhydride into phthalate plasticizers is very low and with low value addition, increase in raw material price will make it difficult to compete with imported phthalate plasticizer.
- viii. Anti-dumping duty will lead to closure of phthalate plasticizer industry down the line and leading to loss of employment.
- ix. Government of India has revoked antidumping duties applicable on imports of PTA and Acrylic Fibre which are key inputs for various sectors. Same should be done in the present case as well.
- x. PAN being a key input for many units employing thousands of people, it is essential that such input is made available to units at fair prices and at required volume.
- xi. Authority must take affidavit from producers on factual position of capacity expansions since such claims have been made in many recent investigations but the expansions are never complete.

E.3 Examination by the Authority

19. The Authority made non-confidential version of the information provided by various interested parties available to all interested parties for inspection through the public file containing non-confidential version of evidence submitted by various interested parties.
20. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. The Authority notes that the information provided by the interested parties on confidential basis was duly examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.
21. The Authority notes that the demand supply gap in the country does not bar a domestic industry from seeking redressal from dumped imports. Demand-supply gap does not justify dumping. The information on record shows that the domestic industry is undergoing capacity expansion. In fact, the domestic industry has enhanced capacity and has made investment towards the same. Further, documentary evidence has been provided showing that KLJ Plasticizers Limited is in the process of setting up capacity of around 200 KT. The domestic industry contended that considering the capacity expansions undertaken, the capacity of the domestic industry will be significantly higher than the demand in country. The 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. Therefore, there is no basis for the claim that imposition of ADD can lead to shortage of the raw material for the downstream industry. The Authority notes that imposition of anti-dumping duty provides level playing field and does not prevent fair competition in the market. The Authority also notes the submission of the domestic industry that subject goods is produced and exported by many countries. The users are free to import the subject goods from any source.
22. The Authority notes that the trade remedial measures have been imposed in past on the imports of the subject goods from various sources. These measures are invoked after following a quasi-judicial investigation with participation of all interested parties, and after due examination of merits, and in due compliance with the law and examination of the public interest. The applicant has given evidence of likelihood of increase in imports of the subject goods from the subject countries. Contrarily, the other interested parties have not provided any justification/evidence for the claim of likelihood of increase in imports of downstream product. Therefore, there is no reason to believe that the present

continuation of anti-dumping will lead to an increase in imports of the downstream industry.

F DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

F.1 Normal Value

23. Under Section 9A (1)(c) of the Act, 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 exporting 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 sub-section (6):*

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

F.2 Submissions of domestic industry

24. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows: -

- i. Evidence of prices of subject goods in the domestic market of Russia and Japan or the price lists of the producers is not available in public domain.*
- ii. Exports from Russia to Poland have highest share in the exports from Russia. Similarly, exports from Japan to Malaysia have highest share in the exports from Japan. Exports prices from the subject countries to these two countries can be considered appropriate for determination of normal value.*

- iii. Export price can be calculated after due adjustments in the DGCI&S transaction wise data for ocean freight, marine insurance, commission, bank charges, port expenses and inland freight expenses.
- iv. Dumping margin determined on the basis of above is not only positive but is significant.
- v. Even if normal value is constructed, the resulting dumping margin is significant.
- vi. Since none of the producers from the subject countries have participated, the claims of dumping margin are undisputed.
- vii. Positive dumping even when duties are imposed shows likelihood of dumping when duties will expire.
- viii. As regards submission that normal value proposed does not justify facts, it is submitted that user association was free to provide relevant information, rather than merely drawing conclusions.
- ix. As regards submission regarding appropriate surrogate country, the association is under belief that there is a need to identify surrogate country even in case of market economy countries. The requirement is “comparable representative price” of the like article when exported from the exporting country or territory to an appropriate third country.

F.3 Submissions of other interested parties

25. The submissions made by the other interested parties with regard to normal value, export price and dumping margin are as follows: -
 - i. No justification has been given for considering export price from Russia to Poland as normal value.
 - ii. Source of information for adjustment claimed to arrive at normal value has not been provided.
 - iii. Proposal of domestic industry for determination of normal value should not be accepted since proposed methodology is not justified.
 - iv. Poland and Malaysia cannot be treated as surrogate countries for India.

F.4 Examination by Authority

26. The Authority sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. None of the producers/exporters have co-operated in this investigation by filing the prescribed questionnaire responses.

F.4.1 Normal Value determination

Russia

27. The Authority notes that none of the producers/exporters from Russia have filed exporter's questionnaire response. Since the applicants have not provided any detailed justification for considering Poland as an appropriate third country, the same has not

been considered for determining the normal value. The Authority has thus determined normal value on the basis of facts available in terms of Rule 6(8).

Japan

28. The Authority notes that none of the producers/exporters from Japan have filed exporter’s questionnaire response. Since the applicants have not provided any detailed justification for considering Malaysia as an appropriate third country, the same has not been considered for determining the normal value. The Authority has thus determined normal value on the basis of facts available in terms of Rule 6(8).

F.4.2 Export Price

29. Since no response has been received from any producer/exporter from the subject countries, the Authority has determined export price as per “facts available” in terms of Rule 6(8) of the AD Rules in respect Russia and Japan. The export price has been determined on the basis of weighted average import price in India. Since this price is CIF export price, the same has been adjusted on account of ocean freight, insurance, commission, bank charges, port expenses and handling charges, based on facts available, in view of non-cooperation by the producers/exporters concerned.

F.4.3 Calculation of Dumping Margin

30. Considering the normal value and export price determined, as explained above, it is noted that the dumping margin for both Russia and Japan is more than the *de minimis* limit prescribed under the Rules.

SN	Particulars	Normal value	Export price	Dumping margin	Dumping margin	Range
		USD/MT	USD/MT	USD/MT	%	%
1	Japan	***	***	***	***	20-30%
2	Russia	***	***	***	***	20-30%

G METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

31. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles... ”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of

the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

32. Rule 23 of the Rules provides that the provisions of Rule 6,7,8,9,10,11,16,18, 19 and 20 shall apply mutatis mutandis in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and has also examined as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
33. The Authority notes that the application for imposition of antidumping duty has been filed by M/s IG Petrochemicals Limited, M/s Thirumalai Chemicals Limited and M/s SI Group India Private Limited. In terms of Rule 2(b) of the Rules, the Applicants have been treated as the domestic industry for the purpose of this investigation. Therefore, the cost and injury information of the Applicants, constituting the domestic industry as defined in Rule 2(b), have been examined.

G.1 Submissions of domestic industry

34. The submissions of the domestic industry with regard to injury and causal link are as under:
 - i. Volume of imports from the subject countries have declined over the injury period due to imposition of anti-dumping duty and dumping from other countries.
 - ii. Present injury to domestic industry is not due to imports from subject countries.
 - iii. Domestic industry is expanding its capacities and once capacity expansion is undertaken, domestic industry will be able to meet entire demand for the product in the country.
 - iv. Considering the significant investments planned and made, it is necessary that the Indian market is protected from the unfair trade practice of dumping.
 - v. Performance of the domestic industry has deteriorated in respect of parameters such as production, capacity utilization sales, inventories, market share, profits, cash profits and return on investment during the current injury period.
 - vi. Domestic industry was faced with idle capacities in the period of investigation despite demand and supply gap.
 - vii. Domestic industry suffered decline in sales and faced piling of inventories.
 - viii. Faced with significant high inventories and lack of demand domestic industry had to undertake significant exports at distress prices.
 - ix. Domestic industry had to compromise not only on its sales opportunities in the domestic market, but also on margins.
 - x. Catalyst is changed in every 27-30 months. The year in which it is changed, witnesses high efficiency in plant in terms of production and utilization of raw material and utilities, which subsequently starts declining. Therefore, considering higher production and lower consumption for such a year for determination of NIP will not be appropriate.

- xi. Present deterioration in performance of domestic industry was largely due to dumping from China, Indonesia, Korea RP and Thailand. It nevertheless establishes likelihood of injury to domestic industry from subject imports in the event of cessation of anti-dumping duty.
- xii. Domestic industry is operating with idle capacities, high inventories and was constrained to export significant volumes. There is no reason why it would stop responding to customer queries unless prices expected are abysmally low and unreasonable.
- xiii. Injury margin may be compared by adding freight as consumers decide their purchases and negotiate the prices with the suppliers on the basis of comparison of landed price of imports in their factory warehouse.
- xiv. As regards the submission of the other interested parties that the negative price undercutting shows high price is charged by the domestic industry, the domestic industry submitted that negative price undercutting means domestic industry prices were lower than import prices. Further, had domestic industry charged higher prices, domestic industry profitability would not have been deteriorated and would not have been adverse.
- xv. Applicants have clearly written in application that they are not requesting determination of NIP at customers' level by adding freight. The NIP may be determined at ex-factory level. However, the injury margin should be determined by adding associated freight. Consumers have not disputed the claim of the applicant.
- xvi. As regards the claim of injury due to OX, it is submitted that domestic industry has faced no issues in availability of raw material during period of investigation. It is respondent's own claim that raw material is available at nil custom duty. The domestic industry needs to align its prices to raw material but could not do due to dumped imports.
- xvii. Adverse performance in exports is on account of injury due to dumped imports in country and could be considered as one of factors showing injury to the domestic industry.
- xviii. As regards the claim that domestic industry enjoys advantages, it is submitted that even when domestic industry has these "advantages", its performance is poor which shows vulnerability to dumped imports.
- xix. As regards submission on TCL plant, it is submitted that it is customary to continuously invest in technology and improve efficiency. Statements made in Annual Report are in reference to such technological investments made. Technical performance of TCL in all aspects is on par with other producers globally.

G.2 Submissions of other interested parties

35. The submissions of other interested parties with regard to injury and causal link are as under:

- i. Most of factors of economic parameters of the domestic industry show a positive trend reflecting that the domestic industry is not suffering injury and there is no justification for continuation of hefty duties.
- ii. The performance of the domestic industry has suffered because of the flood of low-priced imports from China PR, Indonesia, Korea RP, Thailand and Taiwan.
- iii. Applicants have admitted that domestic industry did not suffer any continued injury on account of import of subject goods from subject countries.
- iv. Difference in price between Orthoxylene and final product and availability of OX has greatest influence on the performance of PAN manufacturers in India.
- v. Domestic industry is a regular exporter which impacts demand supply situation in India. Manufacturers are selling PAN overseas at a lower price compared to domestic selling price without claiming any kind of injury.
- vi. Proposal to add freight to both NIP and landed price to determine the injury margin is against Annexure III.
- vii. Applicant has presented transaction wise DM/IM by zeroing negative margins, which is not a method adopted by the Authority.
- viii. Major sources of imports are already probed under trade measures. Insignificant imports from subject countries should be freed from anti-dumping duty.
- ix. TCL is operating with a very old plant and technology which causes frequent shutdowns and other issues. Injury is due to such factors.
- x. Producers have other reasons which are influencing their performance but are attributing them to imports in their annual reports in order to take undue advantage of trade remedial measures.
- xi. Domestic industry has a natural advantage on account of nil energy cost and custom duty benefit on imports of raw material. Therefore, they cannot suffer injury.
- xii. PAN manufacturers are not responding to customer inquiries and are quoting arbitrarily high prices.
- xiii. Imports from subject countries constituted barely 1% of Indian demand which shows negligibility of such imports.
- xiv. Imports from Japan are below the threshold limit of 3% across the entire injury period and therefore Japan should be excluded.

G.3 Examination by Authority

36. The Authority has taken note of the submissions made by the interested parties. Annexure-II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact of these imports on domestic producers of such products.
37. According to Section 9(A)(5) of the Customs Tariff Act, 1975, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review,

is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time-to-time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of the order of such extension.

38. In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.
39. 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 other interested parties.
40. The Authority has taken note of various submissions made by the Domestic Industry and other Interested parties on injury and causal link and has analyzed 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 other interested parties.

G.3.1 Assessment of demand

41. The Authority has determined demand or apparent consumption of the product in India, as the sum of domestic sales of the Indian Producers, and imports from all sources.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Sales of domestic industry	MT	2,23,200	2,35,591	2,37,924	2,28,046
2	Sales of other producers	MT	24,000	6,000	-	-
3	Imports from subject countries	MT	5,866	10,037	11,171	5,732
4	Imports from other countries	MT	86,184	1,20,402	1,33,488	1,68,723
5	Total demand/consumption	MT	3,39,251	3,72,030	3,82,583	4,02,500

42. It is seen that the demand of the subject goods has continuously increased over the injury period including POI.

G.3.2 Volume effect of dumped imports.

i. Import volume and share of subject countries

43. The effects of the volume of dumped imports from the subject countries as well as imports from other countries have been examined by the Authority.

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Subject Countries	MT	5,866	10,037	11,171	5,732
A	Japan	MT	350	-	-	300
B	Russia	MT	5,516	10,037	11,171	5,432
2	Other countries	MT	86,184	1,20,402	1,33,488	1,68,723
3	Total	MT	92,051	1,30,439	1,44,660	1,74,454
4	Subject countries import in relation to -					
A	Indian production	%	1.98%	3.47%	4.06%	2.13%
B	Demand	%	1.73%	2.70%	2.92%	1.42%
C	Total imports	%	6.37%	7.69%	7.72%	3.29%

44. It is seen that the volume of dumped imports of product under consideration from subject countries increased till 2018-19 but has declined sharply thereafter in the period of investigation.

G.3.3 Price effect of dumped imports.

45. 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. Price Undercutting

46. 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.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Net Sales Realisation	Rs/MT	***	***	***	***
2	Subject countries as a whole					
a	Landed Price	Rs/MT	53,098	66,901	73,712	65,562
b	Price Undercutting	Rs/MT	***	***	***	***
c	Price Undercutting	%- Range	20-30%	0-10%	0-10%	0-10%
3	Japan					
a	Landed Price	Rs/MT	51,027	-	-	60,985
b	Price Undercutting	Rs/MT	***	-	-	***

c	Price Undercutting	%- Range	30-40%	-	-	10-20%
4	Russia					
a	Landed Price	Rs/MT	53,230	66,901	73,712	65,815
b	Price Undercutting	Rs/MT	***	***	***	***
c	Price Undercutting	%- Range	20-30%	0-10%	0-10%	0-10%

47. It is seen that price undercutting is positive in respect of imports from both the countries.

b. Price Suppression/Depression

48. 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 notes the changes in the costs and prices over the injury period.

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of Sales	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>94</i>	<i>117</i>	<i>113</i>
2	Selling Price	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>119</i>	<i>101</i>
3	Landed Price from subject countries	₹/MT	53,098	66,901	73,712	65,562
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>126</i>	<i>139</i>	<i>123</i>

49. It is seen that both cost of sales of domestic industry and selling price have declined in the period of investigation. However, the decline in selling price is much higher than decline in the cost of sales. The period of investigation has also seen a decline in the landed price of imports. However, considering the insignificant imports made in the period of investigation from the subject countries, the decline in selling price of the domestic industry cannot be attributed to the decline in landed price of imports. Therefore, while the prices of domestic industry are suppressed, they are not due to imports from the subject countries.

c. Price Underselling

50. The price underselling has been evaluated by comparing the non-injurious price with the landed price of the subject imports.

SN	Particulars	Non-injurious price (NIP)	Landed price	Price Underselling	Price Underselling	Range of Price Underselling
		RS/MT	RS/MT	RS/MT	%	%
1	Japan	***	60,985	***	***	0-10%
2	Russia	***	65,815	***	***	0-10%

51. It is seen that the price underselling is positive in respect of dumped imports from both the subject countries.

G.3.3 Impact on economic parameters of the domestic industry

52. 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

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Capacity	MT	3,17,110	3,17,110	3,17,110	3,17,110
2	Production	MT	2,72,561	2,83,491	2,75,492	2,69,640
3	Capacity Utilisation	%	86%	89%	87%	85%
4	Domestic sales	%	2,23,200	2,35,591	2,37,924	2,28,046

54. It is noted that –

- The capacity of the domestic industry has remained constant throughout the injury period.
- The production and capacity utilization of the domestic industry has increased till 2017-18 but declined thereafter.
- Domestic sales of the product under consideration has increased till 2018-19 but decreased during the period of investigation.

b. Market share of the domestic industry in demand.

55. 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	%	66%	63%	62%	57%
2	Other Producers	%	7%	2%	0%	0%
3	Subject Countries	%	2%	3%	3%	1%
4	Other Countries	%	25%	32%	35%	42%

56. It is seen that market share of the domestic industry and subject countries has declined over the injury period. Other countries have seen a significant increase in the market share.

c. Inventories

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Average inventory	MT	5,904	3,564	3,429	4,934

58. It is seen that the average inventory level of the domestic industry has shown decreasing trend till 2018-19 and has increased thereafter in the period of investigation.

d. Profit or loss, cash profits and return on investment

59. Performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed.

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of sales	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>94</i>	<i>117</i>	<i>113</i>
2	Selling price	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>119</i>	<i>101</i>
3	Profit / Loss	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>203</i>	<i>138</i>	<i>4</i>
4	Profit / Loss	₹ Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>215</i>	<i>147</i>	<i>4</i>
5	Cash profits	₹ Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>198</i>	<i>143</i>	<i>23</i>
6	Profit before interest & tax	₹ Lacs	***	***	***	***

	<i>Trend</i>	<i>Indexed</i>	100	197	139	15
7	Return on capital employed	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	150	106	11

60. It is seen that the domestic industry was earning good profits till the preceding year. However, the profits of the domestic industry have declined sharply in the period of investigation. Resultantly, the cash profits and the return on investment have also been impacted.

e. Employment, wages and productivity

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	No of employees	Nos	695	757	783	775
2	Salary & wages	₹ Lacs- Trend	100	121	127	130
3	Productivity per day	MT/Day	779	810	787	770
4	Productivity per employee	MT/Nos	392	374	352	348

62. It is seen that employment levels of domestic industry have fluctuated over the injury period and wages paid have increased over the injury period. The productivity per employee and per day increased in 2017-18 but declined thereafter with a decline in production.

f. Growth

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

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI
1	Production	Y/Y	-	4%	-3%	-2%
2	Capacity Utilization	Y/Y	-	4%	-3%	-2%
3	Domestic Sales	Y/Y	-	6%	1%	-4%
4	Profit/(Loss) per unit	Y/Y	-	103%	-32%	-97%
5	Inventory	Y/Y	-	-40%	-4%	44%
6	Market Share	Y/Y	-	-4%	-2%	-9%
7	Profit/(Loss) in Rs Lakhs	Y/Y	-	115%	-31%	-98%
8	Cash Profit in Rs Lakhs	Y/Y	-	98%	-28%	-84%
9	PBIT in Rs Lakhs	Y/Y	-	97%	-29%	-89%
10	ROI %	Y/Y	-	50%	-29%	-90%

64. It is seen that most of the performance parameters of the domestic industry show a negative growth in the period of investigation.

g. Magnitude of dumping

65. It is seen that the dumping margin in the imports from the subject countries is not only positive but also significant

h. Ability to raise fresh investment

66. Considering performance of the domestic industry in the period of investigation, it is seen that the ability of the company to raise fresh investments is likely to be impaired. If the domestic industry is earning profits at these levels.

i. Factors affecting domestic prices

67. It is seen that the selling price of the domestic industry are affected as it is unable to earn adequate returns. Imports from subject countries are not a factor affecting the domestic prices.

j. Observations on injury

68. Considering various parameters relating to material injury, it is seen overall performance of the domestic industry is poor. There is a sharp decline in the volume of dumped imports from the subject countries, in absolute terms and in relation to production and consumption in India. There is presence of suppressing effect on the domestic selling prices but it cannot be attributed to dumped imports. Performance of the domestic industry has deteriorated in respect of capacity utilisation, production, sales, market share, profits, cash profits and return on investment. The domestic industry has suffered injury and the situation of the domestic industry is fragile.

H CAUSAL LINK

69. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than dumped imports which are injuring or are likely to cause injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. While the present investigation is a sunset review investigation and causal link has already been examined in original investigation, the Authority examined whether other known listed factors have caused or are likely to cause injury to the domestic industry. It was examined whether other factors listed under the AD Rules could have contributed or are likely to contribute to the injury suffered by the domestic industry

a. Volume and price of imports from third country

70. It is seen that the volume of imports from China, Indonesia, Korea RP, Thailand and Taiwan are above di-minimis limits. Applicant claimed that imports from these countries are at dumped prices. The Authority has initiated investigation in respect of imports from China, Indonesia, Korea RP and Thailand vide notification no. 6/16/2020 dated 21st May 2020. Further, the Authority has recommended bilateral safeguard

measures by removal of concession over custom duty payable on imports of Korea RP. Imports from Taiwan are above the non-injurious price of the domestic industry and therefore cannot be a cause of injury to the domestic industry.

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

71. The demand of the subject goods has increased as compared to base year. The pattern of consumption with regard to product under consideration has not undergone any change. Changes in the pattern of consumption could not have, therefore, contributed to the injury to the domestic industry.

c. Development of Technology

72. The Authority notes that technology for production of the product has not undergone any change. Developments in technology are, therefore, not a possible factor of injury.

d. Trade restrictive practices

73. The Authority notes that there is no trade restrictive practice, which could have caused injury to the domestic industry.

e. Export performance

74. The applicant has contended that it has been forced to undertake exports in the period of investigation due to dumped imports in the domestic market. The applicant contended that the exports made by the domestic industry – both in terms of volume and price – should be considered a result of dumping in the country. It is seen that export sales of the domestic industry have increased sharply in the period of investigation and profitability in exports was far less as compared to domestic sales. The domestic industry has suffered financial losses in exports. While the Authority has relied on segregated data for domestic and export operations, to the extent the same could be, for the purpose of injury analysis of the domestic industry, the fact that the domestic industry was forced to export at significantly low and unremunerated prices is a reflection of adverse impact of imports on the domestic industry. Further, since export volumes and profits have been segregated, possible decline in export performance is not cause of the injury considered hereinabove.

f. Performance of other products

75. The Authority has considered the data relating to the performance of the subject goods only. Therefore, performance of other products produced and sold by the applicants are not a possible cause of the injury to the domestic industry.

I MAGNITUDE OF INJURY MARGIN

76. The injury margin has been evaluated by comparing the non-injurious price with the landed price of the subject imports.

SN	Particulars	Non-injurious price (NIP)	Landed price	Injury margin	Injury margin	Range
		RS/MT	RS/MT	RS/MT	%	%
1	Japan	***	60,985	***	***	0-10%
2	Russia	***	65,815	***	***	0-10%

77. It is seen that the injury margin is positive in respect of dumped imports from both the subject countries.

J LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

78. In a review investigation, the Authority has to determine whether the subject goods are continuing to enter or likely to enter the Indian market at dumped prices and whether injury to the domestic industry is likely to continue or recur due to these dumped imports if the duty is removed.

J.1. Submissions by Domestic industry

79. The submissions of the domestic industry with regard to likelihood of injury are reproduced herein below:

- i. Producers in both the subject countries are currently operating with idle capacities.
- ii. Demand as a percentage of production in both the subject countries is considerably low which shows that the significant production is accounted for exports.
- iii. Significant exports to third countries are at dumped and injurious prices.
- iv. The volume of imports which are at dumped and injurious prices constitutes significant share of Indian demand.
- v. There are significant volumes of exports which can be diverted to India because of attractive Indian market, in case of revocation of duties.
- vi. Future projections for capacity and production in the next three years show that the capacities in both the countries will remain idle.
- vii. India has been a primary market for Russian producers in past as it has held around 34% share in exports.
- viii. Imports from Japan enjoy concessional duty and users will always be incentivised to import from Japan.
- ix. If domestic industry is forced to match its prices with price of imports from subject countries, it will bleed in losses and a negative return.
- x. Price undercutting without anti-dumping duty is positive in case of both the subject countries which shows likelihood of injury.
- xi. Landed price of imports from both Japan and Russia is reasonably below the landed price of imports from China, Indonesia, Korea RP and Thailand which are causing an injury to the domestic industry.

- xii. Volume of imports in post period of investigation from Japan are at a highest level considering the present injury period.
- xiii. Imports from Russia have recorded a significant jump in the post period of investigation.
- xiv. Increasing imports in the post period of investigation is also a likelihood of injury to the domestic industry.
- xv. Imports from both the countries are above di-minimis limits in post period of investigation (even though de-minimis provision does not apply in case of a review). Mere increase in prices without examining the movement in prices of raw material is misleading.
- xvi. As regards the submission that subject imports were never a major source of imports, before duties were recommended, it is submitted that imports from both the subject countries were above di-minimis limits leading to present duties.
- xvii. Average export price to a large number of third countries in fact has no meaning as prices are decided for individual sale transactions and weighted average would only present distorted picture. As regards the submission that the domestic industry has increased its prices in the post period of investigation, it is submitted that no verifiable evidence has been provided.

J.2 Submissions by other interested parties

80. The submissions of other interested parties with regard to likelihood of injury are reproduced herein below:

- i. Applicants have admitted that domestic industry did not suffer any continued injury on account of import of subject goods from subject countries.
- ii. Share of subject countries imports is negligible and duty needs to be terminated.
- iii. Prices from subject countries have increased from Rs 49.37/Kg to Rs 60.76/- in the period of investigation.
- iv. Reduction in volume and increase in price shows that exporters are not under any pressure to export at lower prices.
- v. Positive price undercutting in the present matter could be on account of very high price charged by the domestic industry.
- vi. PAN has a balanced demand supply situation in the world and the subject countries are not a major source of supply.
- vii. Subject countries were not major source of imports prior to imposition of anti-dumping duty. Even if import goes back to pre-duty levels, it would be very negligible.
- viii. Injury margin and dumping margin on third countries exports shows a misleading situation.
- ix. Performance of domestic industry in post period of investigation is very robust and published results of IGPL and TCL shows significant increase in profits.
- x. Selling price of product under consideration in domestic market has increased by 25 to 30% without any proportionate increase in raw material prices.
- xi. Claims of likelihood are unsubstantiated

J.3. Examination by Authority

81. The Authority has examined the likelihood of continuation or recurrence of injury considering the requirement laid down under Section 9A(5), Rule 23 and parameters relating to the threat of material injury in terms of Annexure - II (vii) of the Anti-dumping rules, and other relevant factors brought on record by the interested parties. The Authority notes as under.
82. The present investigation is a sunset review of duties imposed on the imports of subject goods from Japan and Russia. Under the Rules, the Authority is required to determine whether cessation of existing duty is likely to lead to continuance or recurrence of injury to the domestic industry. Further, the Authority has also examined other relevant factors which could have a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry
83. The Authority notes that the applicants have relied on the Tecnon Orbi Chem Report for information with respect to capacities, production and demand in the subject countries. None of the producers from the subject countries have participated in the investigation and other interested party have not brought forward any justifiable information/evidence disputing the claims made by the domestic industry. While Govt. of Russia has participated in the present investigations, no verifiable information has been provided by them with regard to likelihood of continuation or recurrence of dumping and injury to the domestic industry.

J.3.1 Capacities in subject countries

84. Information with respect to unutilised capacities is given below.

SN	Particulars	2016	2017	2020	2023
1	Capacity (in kT)	457	457	457	457
a	Russia	282	282	282	282
b	Japan	175	175	175	175
2	Production (in kT)	274	282	299	309
a	Russia	124	131	139	144
b	Japan	150	151	160	165
3	Utilization in %	60%	62%	65%	68%
a	Russia	44%	46%	49%	51%
b	Japan	86%	86%	92%	94%
4	Idle capacities	183	175	158	149
a	Russia	158	151	143	138
b	Japan	25	24	15	11

85. It is seen that significant capacities of the producers in subject countries are unutilised in case of Russia, while the capacities are significantly utilised in case of Japan. Further, projections for next few years show that the capacities in Russia will remain significantly unutilised, whereas the capacities in Japan would be increasingly utilised.

J.3.2 Export orientation

86. Information with regard to the surplus production over demand in the subject countries is as under:

SN	Particulars	2016	2017	2020	2023
1	Total Production (in kT)	274	282	299	309
A	Russia (in kT)	124	131	139	144
B	Japan (in kT)	150	151	160	165
2	Total Consumption (in kT)	193	195	201	207
A	Russia (in kT)	88	89	95	99
b	Japan (in kT)	105	105	106	109
3	Consumption as a % of production	70%	69%	67%	67%
a	Russia	71%	68%	68%	69%
b	Japan	70%	70%	66%	66%
4	Consumption as a % of capacity	42%	43%	44%	45%
a	Russia	31%	32%	34%	35%
b	Japan	60%	60%	61%	62%

87. It is seen that the current demand in the subject countries is less than 70% of the production. Further, consumption as a percentage of capacity is low in Russia, while the same is high in case of Japan.

J.3.3 Third country dumping and injury

88. The table below shows volume of exports by these exporters to third countries at dumped, attractive and injurious prices.

SN	Particulars	Exports from Russia to third country	Exports from Japan to third country
1	Volumes below NIP	29,259	36,662
2	Volumes above NIP	26,953	8,185
3	Volumes below normal value	47,638	44,484
4	Volumes above normal value	8,573	363
5	Volumes below Indian prices	37,244	42,111

6	Volumes above Indian prices	18,968	2,736
7	Demand in India	4,02,500	4,02,500
8	Exports in relation to demand		
a	Volume below normal value (dumped) in %	11.84%	11.05%
b	Volume below NIP (injury) in %	7.27%	9.11%
c	Volume below Indian price in %	9.25%	10.46%

89. Analysis of exports from Japan and Russia to third countries out of total exports shows as follows: -
- Exports at price below normal value constitute 11.84% (Russia) and 11.05% (Japan) of Indian consumption.
 - Exports at price below non-injurious price of the domestic industry were 7.27% (Russia) and 9.11% (Japan) of Indian demand.
 - Exports at price below Indian price were 9.25% (Russia) and 10.46% (Japan) of Indian demand.

J.3.4 Post-POI Analysis

90. Authority has also conducted an analysis for the post period of investigation (April 2020 to August 2020) for the purposes of determining likelihood of continuation or recurrence of dumping and injury. It is seen that the volume of imports from both the subject countries have increased sharply in the period post the period of investigation which shows that there is a likelihood of further increase in imports, if duty is allowed to expire. Further, the Authority notes that the performance in the post POI in any case is not likely to be representative due to country wide lockdown in India due to Covid pandemic.

SN	Particulars	2016-17	2017-18	2018-19	POI	Post POI (A)
1	Subject imports	5,866	10,037	11,171	5,732	17,841
2	Japan	350	-	-	300	3,888
3	Russia	5,516	10,037	11,171	5,432	13,953

91. It is seen that the volume of imports from both the subject countries have increased sharply in the period post the period of investigation which shows that there is a likelihood of further increase in imports.

J.3.5 Likely performance of the domestic industry if duties are not extended

92. The applicant has claimed that if it was forced to match its selling prices with the imports, it would have suffered significant losses. The Authority has compared the

landed price of imports from the subject countries and cost of domestic industry. It is seen that the landed price of imports from the subject countries is below the cost of domestic industry. If there is an increase in imports from the subject countries, domestic industry would be forced to match its prices with the imports which would result in losses.

K POST DISCLOSURE SUBMISSIONS

93. The Authority notes that most of the submissions made by the interested parties in response to the disclosure statement are repetitive in nature and the interested parties have largely reiterated their earlier submissions, which have already been examined and addressed by the Authority.

Following are new submissions made by the domestic industry and other interested parties on the disclosure statement issued by the Authority.

K.1 Submissions by domestic industry

94. Following submissions have been made by the domestic industry:

- i. Complete disclosure of non-injurious price including Format B, D, expenses allowed/disallowed, optimum capacity utilisation used and capital employed details is requested. Even though the non-injurious price has been determined based on the data of the domestic industry, the calculations have not been provided and domestic industry is unable to comment on non-injurious price determined.
- ii. Authority has ignored freight in calculating the injury margin.
- iii. The same quantum of duty may be extended as current duties are serving purpose of protecting the domestic industry against the continued dumped imports.
- iv. Rosplast OOO LLC, Russia participated in the original investigation but has not responded to the current investigation. This may be noted while recommending duty.
- v. Imports from subject countries in September 2020 shows a similar increase.
- vi. Dumping from subject countries has continued even when duties are in place which shows that producers are likely to continue or even intensify dumping in the absence of duties.
- vii. Positive price undercutting further substantiates that it is the anti-dumping duty in force which has prevented imports from causing injury to the domestic industry.
- viii. Positive price underselling or injury margin from both the subject countries shows that the imports are injurious to the domestic industry.
- ix. Pakistani National Tariff Commission has initiated an antidumping investigation on imports of subject goods from Russia. This highlights export orientation and third country dumping by Russian producers. If duties are imposed by Pakistan, it will lead to closure of another market for them.
- x. Looking at the ratio of price of finished goods to raw material prices, it is lower for subject countries in comparison to average world level. Producers in Japan and

- Russia are keeping their prices lower than the market prices in order to maintain their export market.
- xi. Users and association have made mere statements and have not been able to quantify the adverse effect of duties. No information has been provided to establish adverse effect of duty on the consumers.
 - xii. Consumption of the subject goods has significantly improved in last one decade. This clearly shows that the duties have had no adverse impact on the users.
 - xiii. Commercial production in new plants of Thirumalai Chemicals and IG Petrochemicals is expected to begin soon. Capacity after expansions will be much more than the projected demand in India.
 - xiv. KLJ Plasticizers Limited is setting up new plant of 2 lacs MT. Capacities in India are expected to be in the range of 7 lacs MT which will be more than the likely demand in India.
 - xv. With no demand-supply gap and no reliance on imports, Indian Phthalic Anhydride industry will become a totally an AtmaNirbhar Industry.
 - xvi. In past investigations, it has been repeatedly found that imposition of trade measures will not be against the public interest.
 - xvii. DG Safeguards found safeguard duty (which is against fairly priced imports) in public interests. In the present case, the issue is unfair dumping of the product.
 - xviii. Ministry of Finance has recently imposed bilateral safeguard measures on the imports of Phthalic Anhydride from Korea RP after recommendation from the Authority. The Authority had already found that the imposition of measures was not against public interest.
 - xix. Anti-dumping duty is a redressal of unfair price discrimination by the producers in other countries, which is injurious to the industry in India. It is not a protection to the industry, but rather a means of addressing unfair pricing.
 - xx. There are three producers in India and imports happening from multiple sources and there is going to be another fresh entrant in the market. There is enough inter-se competition and the domestic industry will have to keep a check on its prices.
 - xxi. Public interest does not limit itself to the consumer industry alone and is in fact a much wider term which covers in its ambit the domestic industry as well.
 - xxii. M/s Thirumalai Chemicals Limited and M/s IG Petrochemicals Limited have already made an investment of around Rs 135 crs and Rs 345 crs for new plants. M/s Thirumalai Chemicals Limited is further investing around Rs 450 cr. for a new green field project of subject goods. With such significant investments being undertaken, it is necessary to impose suitable measures to prevent the unfair trade practices followed by exporters from the subject countries.
 - xxiii. Government of India has been promoting the Make in India campaign and the ideology of Atma Nirbhar Bharat, but the Indian Phthalic Anhydride industry user industry are heavily resorting to imports.
 - xxiv. It will be seen that ratio of exports to imports has fallen over the years to such an extent that whereas exports were earlier far higher than imports, imports are now far higher than exports. The ratio of exports to Imports has fallen from about 3.93 in 2001-02 to 0.17 in the year 2019-20

K.2 Submissions by other interested parties

95. Following submissions have been made by other interested parties on the disclosure statement:

- i. The Authority has not disclosed basis of normal value in the disclosure statement, which is in violation of Rule 16.
- ii. Position taken on injury in present case is contrary to finding in safeguard matter against Korea RP.
- iii. Observation that price underselling is positive from both subject countries has no meaning in present matter as subject imports did not cause any injury.
- iv. Injury margin is not any parameter of injury as has been ruled by the Hon'ble Gujarat HC.
- v. Disclosure statement undermines the fact that imports during entire injury period from subject countries were very negligible in comparison to Indian demand and continuation of duties on such imports has no justification.
- vi. Submission of association on performance of the domestic industry in post period of investigation has not been addressed by the Authority in the disclosure statement.
- vii. If the Authority conducts post POI examination, it may conduct examination for both dumping and injury related parameters and should not restrict examination only to volume of imports which as a standalone parameter is indicative of nothing.
- viii. Information on likelihood relied upon in disclosure statement is based on uncorroborated evidence and the Authority has not verified the veracity of such data. Summary data cannot satisfy the requirements of disclosure of essential facts.
- ix. If subject countries were source of unutilized capacities and third country dumping as is projected in disclosure statement, share of imports from such countries would have been much higher.
- x. Basis of third country prices is not provided for examination of third country exports from subject countries which are above and below NIP and Normal Value.
- xi. KLJ Plasticizers Limited has plans for 100KT plant and we are unaware about the evidence of capacity expansion for 200 KT. The capacities may become operational in the next 3 plus years and it is unfair for the Authority to subject essential imports from subject countries to duty till all such capacities become operational.

K.3 Examination by Authority

96. The Authority notes that most of the submissions by the domestic industry and other interested parties are repetitive in nature. These submissions have already been

examined at appropriate places in this finding. Further, the Authority has examined additional/new relevant submissions of the interested parties as under

97. The scope of domestic industry is different in the safeguard investigations concerning imports from Korea and the present sunset review investigations. M/s SI Group India Private Limited was not within the scope of domestic industry in the bilateral safeguard investigation. Therefore, the economic parameters of the domestic industry in both the investigations cannot be directly compared.
98. On the submission of both the interested parties on consideration of the post period of investigation data, the Authority notes that period of post period of investigation will include the period of COVID-19 pandemic and associated lock-down and therefore may not conclusively establish the need for either withdrawal or extension of duties. The performance of the domestic industry and the imports into India both were affected due to countrywide lockdown in India due to Covid pandemic.
99. In regard to the submission that the imports from subject countries were never a major source of imports, the Authority notes that the imports from subject countries in the original investigation were above the de-minimis limit prescribed under the Rules.
100. With regard to the issue raised in respect of the source of third country export data and the information on likelihood, it is noted that in the absence of participation from the foreign producers from the subject countries and non-provision of any such verifiable data from any other interested party, the Authority has relied on the facts available and has considered the customs data publicly available and provided by the Applicants.
101. On the submission of capacity expansion, it is noted that domestic industry had provided a document showing capacity expansion of 200 KT. The association has contended that the capacity expansion will be of 100 KT and will take 3 years to complete. It is noted that two existing producers have already expanded their capacity and the commercial production in respect of expanded capacity is going to start soon. Even if the planned capacity expansion of KLJ Plasticisers is considered as 100 KT, it is seen that the domestic producers will be able to cater to complete demand of the product in India. In any case, the users are free to import the subject goods at fair price.
102. On the submission made by the domestic industry concerning computation of non-injurious price and disclosure thereof, it is noted that the non-injurious price has been determined in accordance with Annexure III of the Rules. The NIP has been disclosed to the domestic industry, consistent with the practice followed in this regard.
103. On the submission with regard to examination of parameters for injury, it is noted that the Authority has examined all the parameters of injury as per its consistent practice.

104. As regards non-disclosure of normal value, it is clarified that the foreign producers have not cooperated with the authority in the present investigation and therefore the authority was constrained to determine normal value based on facts available. Further, the normal value determined includes confidential information of the applicant domestic industry. Disclosure of normal value would have therefore led to disclosure of confidential information of the applicant domestic industry.
105. It is seen that there were three import transactions of imports from Japan over the entire injury period. The import of product under consideration from Japan over the injury period was meagre 650 MT in import of 5,08,797 MT and Indian demand of 14,96,364 MT over the injury period. Consumption of product under consideration in relation to capacity is quite high in case of Japan thus showing significant domestic consumption. It is noted that the existing capacity utilisation of Japanese producer is also significantly high. Whereas Japanese producer's average capacity utilisation over the injury period was 86-92%, the average capacity utilisation of Russian producers over the period was 60-65%. It is thus concluded that Japanese producers are substantially utilising their capacities and are having significant domestic consumption. On the contrary, Russian producers' existing capacity utilisation is quite low and the consumption as percentage of capacity is also very low in Russia unlike Japan. The authority therefore concludes that while there is no likelihood of significant increase in imports from Japan, there is likelihood of significant increase in imports from Russia in the event of cessation of ADD on account of huge unutilised capacity there.

L INDIAN INDUSTRY'S INTEREST

106. The Authority notes that the purpose of ADD, 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. Imposition of anti-dumping measures would not restrict imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.
107. It is noted that fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the ADD is restricted to an amount necessary to redress the injury to the domestic industry. 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.

M CONCLUSION

108. Having regard to the contentions raised, information provided and submissions made and facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the Domestic Industry, the Authority concludes that:
- a. There is continued dumping of the subject goods from the subject countries.
 - b. The domestic industry has suffered injury.
 - c. Factors such as volume of imports over injury period, domestic consumption in Japan, the capacity utilisation of the Japanese producers over the period, show no likelihood of injury to the domestic industry in case the ADD in force on imports from Japan is allowed to cease.
 - d. Factors such as positive price undercutting, excess production over demand, idle production capacities in Russia, price attractiveness of Indian market, third country dumping show likelihood of dumping and injury to the domestic industry in case the ADD in force on imports from Russia is allowed to cease.
 - e. Factors such as significant capacity expansions in the country which will remove demand-supply gap, inter-se competition among Indian producers show that there may not be adverse effect of duties on the consumers or downstream industry.

N RECOMMENDATIONS

109. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and the causal link.
110. Having concluded that there is likelihood of dumping and consequent injury to the domestic industry if the existing anti-dumping duty against imports from Russia is allowed to cease, the Authority is of the view that continuation of anti-dumping duty is required on the imports of the product under consideration from Russia. However, cessation of anti-dumping duty on imports of the product under consideration from Japan is not likely to lead to injury to the domestic industry.
111. Under these circumstances, the Authority considers it appropriate to recommend continuation of existing quantum of anti-dumping duty on the imports of subject goods from Russia. The Authority, thus, considers it necessary to recommend continuation of definitive ADD equal to the amount indicated in Col. 7 of the duty table below for a period of five (5) years on all imports of the subject goods mentioned in column 3 of the duty table from Russia.

DUTY TABLE

SN	Heading/ Subheading	Description of subject goods	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	29173500	Phthalic Anhydride	Russia	Any country including Russia	Any	159.43	MT	US\$
2	29173500	Phthalic Anhydride	Any country other than Russia	Russia	Any	159.43	MT	US\$

O FURTHER PROCEDURE

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



(B.B. Swain)

Special Secretary & Designated Authority