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F. No. 6/55/2020-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001

Dated: 21st February, 2022

NOTIFICATION
FINAL FINDINGS
Case No. AD-OI-46/2020

Subject: Final Findings in anti-dumping investigation concerning imports of "Polyurethane Leather which includes any kind of textile coated one sided or both sided with Polyurethane" originating in or exported from China PR.

A. BACKGROUND OF THE CASE

1. **F. No. 6/55/2020-DGTR:** Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as "the Act") and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter referred to as "the Rules") thereof.

2. M/s Topline Commodities Private Limited (hereinafter also referred to as the "applicant" or the 'petitioner" or the "domestic industry") has filed an application (hereinafter also referred to as the "application" or the "petition") before the Designated Authority (hereinafter also referred to as the "Authority") in accordance with the 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 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") for initiation of an anti-dumping investigation concerning the imports of "Polyurethane Leather which includes any kind of textile coated one sided or both sided with Polyurethane", (hereinafter also referred to as the "subject goods" or the "product under consideration" or the "PUC") originating in or exported from China PR (hereinafter also referred to as the "subject country").

3. The Authority, on the basis of prima facie evidence submitted by the applicant, issued a public notice vide Notification No. 6/55/2020-DGTR dated 24th February, 2021, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject

country 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

4. The procedure described below has been followed with regard to the subject investigation:

   a. The Authority notified the Embassy of the subject country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.

   b. The Authority issued a public notice dated 24th February, 2021 published in the Gazette of India Extraordinary, initiating the anti-dumping investigation concerning the import of the subject goods from the subject country.

   c. The Authority sent through email dated 9th March, 2021 a copy of the initiation notification No. 6/55/2020-DGTR dated 24th February, 2021 to the Embassy of the subject country in India, the known producers and exporters from the subject country, known importers, user associations and other interested parties, as per the addresses made available by the applicant. The interested parties were advised to provide the relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.

   d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Rules.

   e. The Embassy of the subject country in India, was also requested to advise the exporters/producers from its country to respond to the questionnaire within the prescribed time limit. Also, the Authority had sent, the names and addresses of the known producers/exporters from the subject country, to the Embassy of the subject country in India. Separately, a copy of the letter and questionnaire was sent to the producers/exporters, as per the email addresses made available by the applicant.

   f. The Authority, upon request made by the interested parties, granted extension of time to the interested parties to file their Questionnaire Responses. Vide communication dated 20th April, 2021, the time was extended up to 30th April, 2021. Further, on the basis the request from interested parties, the time to file the Questionnaire responses was extended up to 11th June, 2021.

   g. The Authority sent questionnaires to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the Rules:

      i. Anhui Anli Material Technology Co. Ltd.
      ii. Anhui Dasen Import & Export Co. Ltd.
      iii. Anhui Deewang Co. Ltd
      iv. China Best Agent Co. Ltd
      v. Guangzhou Weixin Leather Goods Co. Ltd
      vi. Hangzhou Staritaly Synthetic Leather Co. Ltd

vii. Jiangsu Dongtai Polymeric Matrials Co. Ltd
viii. Jinhua Yongsheng Import & Export Co. Ltd
ix. Jinjiang Hengdeli Shoes Material
x. Linkland Enterprise (Sanghai) Co., Ltd.
xi. Lishui Haihe International Enterprise Co. Ltd
xii. Neshat Trade Limited
xiii. Qingxiang International Limited
xiv. Shanghai Hongbo International
xv. Shanghai Hongbo International Trading Co., Ltd
xvi. Shaoxing Dongtai Polymeric Matrials Co. Ltd
xvii. Shaoxing E-Chi Leather Co. Ltd
xviii. Shaoxing Golden Empress Leather and Plastics Co. Ltd
xix. Wenzhou Atlantic Imp & Exp. Co. Ltd.
xx. Wenzhou Bozhan International
xxi. Wenzhou Broad International Trade
xxii. Wenzhou Davan International Trade Co. Ltd
xxiii. Wenzhou Foreign Trade Industrial Product Co. Ltd
xxiv. Wenzhou Foreign Trade Industrial Product Co. Ltd.
xxv. Wenzhou Heli Synthetic Leather Co.
xxvi. Wenzhou Huashang International Trading Co. Ltd
xxvii. Wenzhou Imitation Leather Co. Ltd
xxviii. Wenzhou International Eco & Tec Co-Operation Co. Ltd.
xxix. Wenzhou Jiaju Trading Co. Ltd
xxx. Wenzhou Longwan Foreign Trade Co. Ltd
xxxi. Wenzhou Pellr Trading Co. Ltd
xxxii. Wenzhou Sing-Rui International Trade Co. Ltd
xxxiii. Wenzhou Vega International Trade Co
xxxiv. Wenzhou Volcano Foreign Trading
xxxv. Wenzhou Volcano International Trading Co. Ltd.
xxxvi. Wenzhou Zhenjin International Trade Ltd.
xxxvii. Zhejiang Sino Rich International Enterprise Co. Ltd

h. In response to the above notification, the following producers/exporters and their related exporters/traders have responded and submitted/filed exporters' questionnaire responses and/or legal submissions:

i. Anhui Anli Material Technology Co. Ltd
ii. Fujian Dima Synthetic Leather Co., Ltd
iii. Wenzhou Volcano International Trading Co. Ltd.

i. The Authority sent questionnaires to the following known importers and users of the subject goods in India, calling for necessary information in accordance with Rule 6(4) of the Rules.

i. A.D Impex
ii. A.K Fashions

iii.A.R Exim
iv.A.V. Enterprise
v.Aaditya Enterprises
vi.Aarti International
vii.Ace Overseas
viii.Aditya Impex
ix.Ajani Enterprises
x.Anand Diaries Pvt. Ltd.
xi.Asia Traders
xii.Asian Leather Private Limited
xiii.B.R. Leather Impex
xiv.Bajaj Traders
xv.Capital Leather
xvi.Dee Pee Leather Store
xvii.Dimple Rexine Store
xviii.Eden Enterprises
xix.Elixer Impex
xx.F.C. International
xxi.Faiz Enterprise
xxii.Fibre Trade Linc Pvt.Ltd.
xxiii.Fortune International
xxiv.Gallant Overseas
xxv.Goradia Printers
xxvi.H. S. Impex Private Limited
xxvii.Hancy Global India
xxviii.HMQ Leather Export
xxix.International Footsteps
xxx.Iskon Sales Corporation
xxxi.J H Impex
xxxii.K H Exports India Private Limited
xxxiii.K. Ramesh Chand & Co.
xxxiv.K.V.S. Traders
xxxv.KCM Traders
xxxvi.Kumar Impex
xxxvii.Mahadev Enperprise
xxxviii.Mahalaxmi Overseas
xxxix.Maxking (India) Footwear Private Limited
xl.Miqat International
xli.Monex Global
xlii.Monex International
xliii.N.C. Enterprises
xliv.New India Rexine House
xlv.Nidhi Enterprises
xlvi.Northern Consumables Private Limited
xlvii.P A Footwear Pvt Ltd

xlviii.Pankaj Impex
xlix.Perfect Leathers
l.Rains Exim
li.Rallis Overseas
lii.Raman Leathers
liii.Reliance Tarpaulines
liv.Royal Impex
lv.S M Enterprises
lvi.S V Synthetics
lvii.Sam Enterprises
lviii.Shiva Sales Corporation
lix.Shroff Impex Private Limited
lx.Star Impex
lxi.Sunny Sales
lxii.Sunshine Impex
lxiii.Team Asia Marketing Pvt. Ltd.
lxiv.Thakur Impex
lxv.Topsia Estates Pvt Ltd
lxvi.Zaf Overseas LLP

j. In response to the above notification, the following importers or users have responded and submitted importer/user questionnaire responses/legal submissions and/or registered as interested parties:

i.Alpine Apparels Pvt Ltd
ii.Navkar Techtex Pvt Ltd
iii.Fibre Bond Industries
iv.Fibre Trade Linc Pvt Ltd

k. The Authority sent a copy of the initiation notification dated 24th February, 2021 to the following known associations of the users of the subject goods in India.

i.The Indian Leather Products Association
ii.Jawaja Leather Association
iii.All India Skin and Hide Tanners & Merchants Association
iv.Indian Leather Technologists Association
v.Dolphin Leathers
vi.Ambur Glow Leather Goods Association

l. In response to the above notification, the following associations of the users of the subject goods have responded to the initiation notification and filed legal submissions and/or registered as interested parties:

i.All India Rubber Industries Association
ii.China Chamber of Commerce for Import and Export of Textiles
iii.Council for Leather Exports (CLE)

iv.Leather Merchants Association

m. Further, the following domestic producer and associations of the users / importers of the subject goods have filed submissions for the first time after the issuance of disclosure statement by the Authority:

i.Madipur Chappal Udyog Association
ii.Bapa Nagar Handmade Footwear Association
iii.Fraternity of Agra Footwear Manufacturers
iv.Winner Nippon Leatherette Pvt. Ltd.

n. The period of investigation (POI) for the purpose of the present investigation is 1st April, 2019 to 30th September, 2020 (18 months). The injury examination period covers the period 1st April, 2017 – 31st March, 2018, 1st April, 2018 – 31st March 2019 and the POI as the domestic industry started the commercial production of the PUC in June, 2017. The Authority took into consideration a longer period of investigation since trade in the first and second quarter of 2020-21 was impacted by Covid-19. A longer period would be more appropriate to assess the injury to the domestic industry caused due to the alleged dumped imports.

o. The request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of the imports of the subject goods for the injury period and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S imports data for computation of the volume & value of the imports and the injury analysis.

p. In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity to the interested parties to present their views orally in a public hearing held online on 29th July, 2021.The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions, if any. The parties shared their non-confidential written submissions with other interested parties and were advised to offer their rebuttals.

q. A list of all the interested parties was uploaded on DGTR's website vide letter dated 24-06-2021 along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to the ongoing Covid-19 global pandemic.

r. Further information was sought from the applicant to the extent deemed necessary. The verification of the data provided by the domestic industry as well as the exporters was conducted to the extent considered necessary for the purpose of the present investigation. Further, additional documents/clarifications were called from Fujian Dima Synthetic Leather Co., Ltd, China PR (Producer), Wenzhou Volcano International Trading Co., Ltd (Exporter).

s. The non-injurious price (hereinafter referred to as the "NIP") based on the cost of production and reasonable profits of the subject goods in India, having regard to the information furnished by the domestic industry in accordance with Generally

Accepted Accounting Principles (GAAP) and Annexure III to the Rules, has been worked out so as to ascertain whether the anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

t. The information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claims. On being satisfied, the Authorityhas 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.

u. The submissions made by the interested parties, arguments raised, and information provided by various interested parties during the course of the investigation, to the extent same are supported with evidence and considered relevant to the present investigation.

v. The Authority, during the course of the investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this investigation, to the extent possible, and verified the data/documents submitted by the domestic industry to the extent considered relevant and possible.

w. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of investigation, or has significantly impededthe investigation, the Authority considered such interested parties as non-cooperative and recorded it on the basis of the facts available.

x. A disclosure statement containing essential facts under consideration of the Designated Authority was issued on 28 January, 2022. The non-confidential version of the disclosure statement along with the relevant confidential figures were served to all the interested parties through email, giving reasonable time to furnish comments, if any, on the disclosure statement. The post disclosure comments received from the interested parties have been addressed in the present findings to the extent considered relevant.

y. '***' in this final finding notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

z. The exchange rate adopted by the Authority for the subject investigation is US **$1=73.09.**

C. PRODUCT UNDER CONSIDERATION ('PUC') AND LIKE ARTICLE

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

"The product under consideration (PUC) is "Polyurethane Leather which includes any kind of textile coated one sided or both sided with Polyurethane". The PUC may be in rolled form or sheet form or any other form. The PUC is commercially known as

PU Leather. PU Leather is also sold in market parlance by various names such as artificial PU Leather, PU Coated Fabric (Plain/ Printed/ Embossed)/, Lining Material, Synthetic Leather Cloth, PU Synthetic Leather, Synthetic Leather Lining, Dipping PU Lining etc. All such products are also included within the scope of the PUC. The PUC is used in many applications and sectors, such as furnishing, automotive, footwear, clothing, bags and wallets.

The PUC is manufactured using the production process which comprises (i) the coagulation or wet process and (ii) the transfer coating or dry process. The coagulation process is the key process which is followed by the finishing process called transfer coating in the manufacturing of the PUC. Therefore, any entity which does not carry out both these processes together but merely carries out the transfer coating process cannot be said to be a manufacturer of the PUC.

PU Leather is primarily imported under Chapter 56 and Chapter 59 of the Customs Tariff Act, 1975 under tariff items 5603.94.00 and 5903.20.90 respectively. The imports of PUC are also observed under certain other customs tariff headings viz. 3921.13.90, 5903.10.10, 5903.10.90, 5903.20.10, 5903.90.10, 5903.90.20, 5903.90.90, 5603.11.00, 5603.12.00, 5603.13.00, 5603.14.00, 5603.91.00, 5603.92.00, 5603.93.00, etc."

C.1. Submissions by the other interested parties

6. The following submissions were made by the interested parties with regard to the scope of the product under consideration:

   a. The domestic industry is unable to manufacture certain types of PU such as washed PU, embossed PU, Suede PU and hence unable to meet the changing designs of the customers.

   b. The domestic industry is unable to meet the customer's requirement in terms of quality and designs.

   c. The averment of the petitioner that the manufacturing process is the same as that in China, is incorrect in as much as the domestic industry cannot produce PU coated leather through the dry process only and the same has to be essentially preceded by the coagulation or wet process.

   d. The domestic industry cannot produce PU coated leather through the dry process only and such PU Leather is also priced higher than that manufactured through a combination of the wet process and dry process and, therefore, it is not in competition with the PUC manufactured by the domestic industry and must be excluded from the scope of the PUC.

   e. The petitioner does not supply smaller quantities of PU leather and user industries have to place a large enough volume to get the supplies. In contrast, the imports from China can be done in smaller and economic quantities as per the requirements of the user industry.

f. Non-woven fabric is one of the raw materials for the product under consideration and is imported under the HS code 56031400. On non-woven fabric, an additional layer of Polyurethane is added to convert it in Polyurethane Leather. Therefore, the two products can be differentiated on the basis of coating. If the product is Polyurethane Leather, then it has to be mandatorily coated on at least one side and any uncoated product or coated with some substance other than Polyurethane should be considered as product beyond the scope of the product under consideration. The product for which clarification is being sought is in fact a raw material.

g. Microfiber fabric is a synthetic fabric used as lining materials to make shoes, bags, wallets and as a direct material used to make mats, knits, and weaves, for apparel, upholstery, industrial filters, and cleaning products. The product is imported under the HS code 59032090. The product closely resembles the product under consideration. Microfiber fabric is a non-woven fabric made with impregnation or dipping or mixed with PU and nylon fibres and sometimes polyester fibres also. It is a dipped fabric and not a coated fabric. Incidentally, microfiber synthetic leather manufacturing technology is not even present in India at present. Further, the prices of the microfiber fabric are significantly high as compared to the PU leather consideration.

C.2. Submissions by the Domestic Industry

7. The submissions made by the domestic industry with regard to the product under consideration and like article and considered relevant by the Authority are as follows:

a. The product under consideration in the application is "Polyurethane Leather which includes any kind of textile coated one sided or both sided with Polyurethane". The PUC maybe in rolled form or sheet form or any other form. The PUC is commercially known as PU Leather. PU Leather is also sold in market parlance by various names such as artificial PU Leather, PU Coated Fabric (Plain/ Printed/ Embossed)/, Lining Material, Synthetic Leather Cloth, PU Synthetic Leather, Synthetic Leather Lining, Dipping PU Lining, etc. All such products are also included within the scope of the PUC. The PUC is used in many applications and sectors such as furnishing, automotive, footwear, clothing, bags and wallets.

b. The product manufactured by the domestic industry (DI) is like article to the product imported from the subject country in all conceivable respects, with the same manufacturing process, functions and uses, quality and technical and commercial characteristics.

c. The manufacturing process adopted by the domestic industry and the one used by the manufacturers in the subject country are identical. The PUC is manufactured using the production process, which comprises (i) the coagulation or wet process and (ii) the transfer coating or dry process. The coagulation process is the key process which is followed by the finishing process called transfer coating in the manufacturing of the PUC. Therefore, any entity which does not carry out both these processes together but merely carries out the transfer coating process cannot be said to be a manufacturer of the PUC.

d. The interested parties have made an unsubstantiated claim of another production process being used, and accordingly, sought exclusion of products which are manufactured using the new process. It is submitted that the interested parties have merely made hollow statements of the existence of such a new technology to produce the PUC. The Authority is requested to disallow any submission of new information or evidence at such a belated stage of the investigation.

e. The other interested parties have falsely and baselessly alleged that the DI does not supply smaller quantities of the PUC. The DI does not have any such policy of minimum order quantity. To substantiate this, the DI has already placed on record commercial invoices wherein it has sold varying quantities ranging from as low as *** to *** meters.

f. The DI not only has the capability but has also sold various designs of the PUC during the POI. The DI has the facilities to manufacture and meet wide variety of design requirements, including Embossed PU, Suede PU, Washed PU, etc. Moreover, the DI also has in the past supplied customized designs based on customer requirement and continues to do so till today. The DI has also sold the PUC manufactured using non-woven fabric and few sample invoices evidencing the same have been placed on record before the Authority. Also, as held in different investigations, the design requirements do not in any way alter the scope of the PUC as the base product remains the same.

g. The PUC manufactured by the DI is used in many applications and sectors by the consumers valuing quality over prices. Accordingly, the PUC produced by the DI is used by the high-end and internationally reputed brands across various sectors such as Zara, M&S, Bata, Reebok, Adidas, and FILA, etc. the DI has also shared appreciation letters as well as invoices in support of and acknowledging the quality of the PUC supplied by it. Further, as per the established practice of the Authority and the legal position decided by the Appellate Authority, the difference in quality, in any case, is not a relevant parameter to ascertain 'likeness' in an ADD investigation.

h. Further, the interested parties have not provided any evidence to demonstrate that these products with alleged quality difference are not competing with each other. In view of the above, there stands no arguments in substance of quality difference between the PUC produced by the DI and the imported the PUC and it is requested to the Authority to hold the subject goods manufactured by the DI as the like article to the PUC imported from the subject country. The domestic industry has produced the like article to the imported products.

C.3. Examination by the Authority

8. The various interested parties have raised a number of issues with regard to the scope of the product under consideration in the present case. The interested parties have sought exclusion of certain products from the scope of the PUC on the grounds that the domestic industry is not capable of producing the product type or supply that product in the desired quantity or the quality of the product produced and supplied by the domestic industry is not satisfactory. The arguments of the interested parties have been analysed after calling the relevant

information from the parties and examination of the same during the verification process and also taking into account the evidence submitted on record by the interested parties.

9. The Authority verified that the domestic industry is manufacturing all types of products under consideration, be it Embossed PU, Suede PU, i.e., MOKA, Washed PU, both sided coated, micro-fiber-based PU, etc. for which it got orders; has supplied them to the users in India for various desired order size. The domestic industry has also provided copies of invoices for the same to the Authority. In so far as the concerns regarding the quality are concerned, the Authority notes that the difference in quality is not a relevant parameter for exclusion of an article in an anti-dumping investigation.

10. The Authority also notes that the aspect of quality not being a factor for exclusion of a product from the scope of 'like article' has been dealt with by the Hon'ble CESTAT in DSM Idemitsu Limited vs Designated Authority in which it was held that "*The plea of the appellants' counsel is not convincing since he did not adduce any evidence/technical literature with reference to process of manufacture to show that product manufactured by the domestic manufacturers was different from the goods exported into India. He failed to substantiate that they are not similar and interchangeable except stating that they were of different grades. Difference in quality will not make an article as different and Designated Authority was right in observing 'that the fact that qualities may be different, does not imply that the imported product and the domestic are not like articles'. We do not find any valid reason to disturb the findings given by the Designated Authority on this issue*"

11. The interested parties (users) have contended that the domestic industry cannot produce PU coated leather through the dry process only and such PU Leather is also priced higher than that manufactured through a combination of the wet process and dry process and, therefore, it is not in competition with the PUC manufactured by the domestic industry and, therefore, such PU leather must be excluded from the scope of the PUC. The Authority notes that the participating exporters/producers from China PR have not shown or highlighted this concern on new technology, i.e., dry technique. Also, the interested parties have neither shown how the product manufactured by the new technique is different from the product manufactured domestically in India in terms of end use, consumer preference, physical characteristics, tariff classification, etc. nor quantified the volumes of imports of the product under consideration coming into India from China PR manufactured using the new technology. Thus, the Authority does not find any merit in the requests for exclusion thereof.

12. Some of the users have requested for clarification for exclusion of Microfiber or non-woven fabric without PU coating from the scope of the PUC. The Authority notes that the PUC is defined as 'Polyurethane Leather which includes any kind of textile coated one sided or both sided with Polyurethane'. Thus, the very definition of the PUC clearly does not cover raw microfiber or non-woven fabric without PU coating in the scope of the PUC. Accordingly, no clarification is deemed necessary in this respect.

13. The Authority finds that no case has been made out by any of the interested parties for grant of any exclusion from the scope of the product under investigation. Accordingly, the Authority confirms the scope of the product under consideration as defined in the initiation notification which is reproduced below:

"The product under consideration (PUC) is "Polyurethane Leather which includes any kind of textile coated one sided or both sided with Polyurethane". The PUC may be in rolled form or sheet form or any other form. The PUC is commercially known as PU Leather. PU Leather is also sold in market parlance by various names such as artificial PU Leather, PU Coated Fabric (Plain/ Printed/ Embossed)/, Lining Material, Synthetic Leather Cloth, PU Synthetic Leather, Synthetic Leather Lining, Dipping PU Lining etc. All such products are also included within the scope of the PUC. The PUC is used in many applications and sectors, such as furnishing, automotive, footwear, clothing, bags and wallets."

14. The Authority notes from the information available on record that the product produced by the domestic industry is like article to the product under consideration imported from the subject country. The product produced by the domestic industry is comparable to the goods imported from the subject country in terms of physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. The Authority, therefore, holds that the subject goods produced by the domestic industry are like article to the product imported from the subject country in terms of Rule 2(d) of the AD Rules.

D. SCOPE OF THE DOMESTIC INDUSTRY AND STANDING

D.1. Submissions by the other interested parties

15. The other interested parties have made the following submissions with regard to the scope of the domestic industry and its standing.

    a. The applicant has neither provided the total production of the PUC in India, nor its share in the total production as a percentage. While the production figures may be confidential for an individual company, since the petition is supported by two other producers, the total production should have been given as an aggregate. According to Trade Notice No.10 of 2018, total aggregate of production is to be provided if there are more than two domestic producers. As M/s Jasch Industries Limited and M/s Mayur Uniquoters Limited are supporters of the petition, the applicant ought to have provided the aggregate domestic production of the three entities who allegedly comprise the entire domestic industry of the subject goods in India.
    b. In addition, thereto, the applicant has claimed excessive confidentiality with respect to its share in the total production of the subject goods and despite being a single applicant, the same should have been indicated as a range. The Authority is requested to direct the applicant to provide its share in total domestic production so that the interested parties can comment on its alleged standing.
    c. The Trade Notice No.13 of 2018 requires that a Supporter's Questionnaire be filed by domestic producers in the event that they are supporters but not co-applicants to the application for initiation of investigation filed under Rule 5 of the AD Rules 1995. However, there is no indication that a questionnaire response has been filed by the Supporters and if filed, the same has not been shared. Therefore, their support to the petition must be rejected.

d. In view of the fact that the petitioner's group was engaged in PU leather imports in a big way before entering into manufacturing, it is apprehended that they may continue to import the PUC through their group concerns where there are common shareholding and management. It is requested to the Authority to enquire into this aspect so as to ensure compliance with 'domestic industry' and consequently the fulfilment of standing requirements.

D.2. Submissions by the Domestic Industry

16. The domestic industry has made the following submissions with regard to the scope of domestic industry and its standing:

a. The PUC is manufactured using the production process which comprises (i) the coagulation or wet process and (ii) the transfer coating or dry process. The coagulation process is the key process which is followed by the finishing process called transfer coating in the manufacturing of the PUC. Therefore, any entity which does not carry out both these processes together but merely carries out the transfer coating process cannot be said to be a manufacturer of the PUC.

b. Accordingly, as per the best information available to the petitioner, there are three producers of PU Leather in India, namely, (i) Topline Commodities Private Limited, (ii) Jasch Industries Limited and (iii) Mayur Uniquoters Limited. Further, as per the best information available to the petitioner, Winner Nippon Leatherette Pvt. Ltd. ('WNLPL') is another producer of PU Leather in India. However, the petitioner could not gather information regarding the current status of production facilities of WNLPL. Thus, the production, sales figures for WNLPL are not available with the petitioner. In view of the same, the Authority may independently verify the current status of production and sales of the PUC by WNLPL.

c. The petition for the present anti-dumping investigation has been filed by Topline Commodities Private Limited which alone accounts for 66% of the total Indian production in the POI. The petition is further supported by the other two domestic producers, namely, (i) Jasch Industries Limited and (ii) Mayur Uniquoters Limited.

d. The petitioner holds major proportion in total production of the PUC in India in line with the requirement of Rule 2(b). Furthermore, the requirement of Rule 5(3) is also fulfilled as all other Indian producers of the PUC in India are supporting this petition. Therefore, the petitioner satisfies the requirement of standing for filing the petition and constitutes 'domestic industry' in India for the PUC in accordance with Rule 2(b) read with Rule 5(3) of the Indian AD Rules.

e. Neither the petitioner nor the related group companies of the petitioner have placed orders for any imports since the period the petitioner started commercial operation, i.e., June, 2017. The relevant declarations to this effect from the petitioner and group companies have been submitted before the Authority.

f. The interested parties have made a false claim with regard to the non-disclosure on the total production of the PUC in India and DI's share in total domestic production as a percentage. The DI has mentioned during the oral hearing that the share of DI

in total domestic production is 66 %. Moreover, the DI has complied with the requirement of trade notice no. 10/2018 and given a table as claims of confidentiality in this respect in the petition as well as the post-initiation submission. Moreover, it is also submitted that since the supporters have manufactured limited volume of the PUC (as Mayur started its production of the PUC in March, 2020 and Jasch being a multi-product company) and produced diminutive quantities of the PUC, provision of such information would reveal sensitive business information of the DI, such as production and capacity. Therefore, the issue of excessive confidentiality does not arise as argued by the interested parties.

g. The interested parties have claimed that the other domestic producers have not filed the supporter's questionnaire, and thus, their support must be rejected. In this regard, it is submitted that since the domestic industry alone accounts for over 50% of the total domestic production, there is no legal requirement for the supporters with limited share to file the supporter's questionnaire. However, the supporters did file their supporting letters.

h. Moreover, the requirement of filing supporter's questionnaire was not considered to be mandatory in the recent final findings issued in the Sunset Review of Anti-Dumping Investigation concerning imports of '*Caustic Soda*' originating in or exported from China PR and Korea RP (F. No. 7/1/2020-DGTR), where just four companies had participated in the investigation as applicants, and the remaining 16 companies supported the application. In this case, the applicant producers accounted for only 44.6% of the total domestic production and the Authority held that the information of the DI alone is required for the determination of the injury. The Authority made the following observation while recommending the anti-dumping duties on the basis of the information provided by the DI:

> *"68. With regard to the contention of the other interested parties regarding lack of information regarding supporters, the Authority notes that as per Rule 11(2) of the Rules, Authority is required to "determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry". Therefore, the evaluation of injury is required to be restricted to the defined domestic industry, and the performance of other producers is irrelevant. Since all the information essential for the determination of injury to the domestic industry is made available by the participating producers, the information about performance of supporting producers is irrelevant for such analysis."*
>
> *"124 On the issue of the supporter's data not being filed the Authority notes that it had invited all interested parties to file their claims with appropriate evidences and formats as applicable. The supporters have chosen to provide limited support to the domestic industry members. Accordingly, the Authority has made its determination based on the information filed on record."*

i. In view of the above, it is submitted that the argument of the interested parties regarding the rejection of the support to the petition cannot be sustained.

D.3. Examination by the Authority

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

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

18. The application has been filed by M/s. Topline Commodities Private Limited and supported by M/s. Jasch Industries Limited and M/s. Mayur Uniquoters Limited. The Authority notes that the applicant accounts for 66% of the total Indian production during the period of investigation. The Authority notes that the production of the petitioners along with the supporter's accounts for a major proportion of the total Indian production.

19. As regards production by WNLPL is considered, WNLPL has supported the petition of the domestic industry in response to the disclosure statement. Thus, the Authority has considered the information available on records to assess the standing of domestic industry in line with Rule 2 (b) read with Rule 5(3)(a) even without the support of WNLPL.

20. With respect to the imports by the petitioner and its related companies, the Authority has verified from the DGCI&S data that the neither the petitioner nor its related companies have imported the PUC during the POI.

21. The Authority also notes that the supporters have filed support letters containing the relevant information and the same was circulated to the interested parties by the domestic industry.

22. Considering the information available on record, the Authority notes that the applicant accounts for a major proportion of the total domestic production.

23. The Authority, therefore, holds that the applicant constitutes domestic industry under rule 2(b) of the Rules and considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.

E. <u>CONFIDENTIALITY</u>

E.1. Submissions by the other interested parties

24. The other interested parties have made the following submissions with regard to the confidentiality:

    a. The non-confidential version of the DI petition violates Rule 7 of the Customs Tariff AD Rules and claims excessive confidentiality, thereby, violating Trade Notice Nos. 1/2013 and 10/2018.

    b. The petitioner has claimed excessive confidentiality with respect to its standing in view of the fact that the applicant has neither provided the total production of the

PUC in India, nor its share in total production as a percentage. The petition does not comply with the requirements of the Trade Notice No. 10/2018 and a number of figures have been provided as a trend instead of actuals.

c. No information regarding the cost, raw materials used and manufacturing process have been provided in non-confidential version of the petition and such vital information has been kept confidential.

d. The applicant has claimed excessive confidentiality with respect to its share in the total production of the subject goods and despite being a single applicant, the same should have been indicated as a range.

e. The petitioner has claimed that "the DI as per market sources, China PR has huge unutilized capacities with respect to the PUC and is further expanding the same, which will be routed to India". These alleged market sources relied upon by the petitioner have not been revealed and in fact, do not seem to have been tendered as evidence even in the confidential versions of its submissions throughout the course of the investigation. Therefore, the entire allegation is in the realm of surmises and conjecture.

f. Anhui Anli Material Technology Co., Ltd. and Fujian Dima Synthetic Leather Co., Ltd in their non-confidential version of questionnaire response have already submitted the answer as to why they have not supplied the set of product catalogues and brochures. The companies do not have catalogues and brochures.

g. Anhui and Fujian Dima have followed all the guidelines with respect to the confidentiality stipulated in the Trade Notice No. 01/2013 dated 9th December, 2013 and 10/2018 dated 7th September, 2018.

E.2. Submissions by the Domestic Industry

25. The following submissions have been made with regard to the confidentiality:

a. The non-confidential versions of the application and all other documents filed by the petitioner were made available to the Authority and the interested parties could have accessed the same at any point of time from the public file maintained by the DGTR. Further, DI has also circulated non-confidential version of documents filed by it during the course of the investigation with the interested parties as instructed by the Authority from time to time.

b. The petition and all the other submissions filed by the DI thus far have completely and strictly adhered to the Indian AD Rules and the Trade Notice no. 10/2018. DI has also provided reason for claiming confidentiality wherever deemed necessary. Moreover, since the supporters have manufactured limited volume of the PUC (as Mayur started its production of the PUC in March 2020, and Jasch, being a multi-product company, produced diminutive quantities of PUC, provision of such information would reveal sensitive business information of the DI, such as

production and capacity. Therefore, the issue of excessive confidentiality does not arise as argued by some of the interested parties.

c. The domestic industry has provided indexed figures of the parameters showing the trend of the injury parameters.

d. The questionnaire responses filed by the interested parties including the exporters are grossly deficient as they have claimed excessive confidentiality while violating Trade Notice No. 10/2018 and have provided unreliable or incorrect information which have completely prevented the petitioner from offering its comments.

e. The exporters have claimed information like manufacturing process, name of major raw materials used in production of the PUC, details of volume and value of export/import of the subject goods, the information regarding related parties involved in production/sales/purchase of the PUC, etc. The non-confidential version of the questionnaire response is grossly inadequate. The interested parties have not disclosed all such information that they are obliged to disclose.

E.3. Examination by the Authority

26. With regard to the confidentiality of the information, Rule 7 of the Rules provides as follows:

> *"Confidential information: (1) Notwithstanding anything contained in sub-Rules (2), (3)and (7) of rule 6, sub-rule(2) of rule12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, betreated 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 authorize its disclosure in a generalized or summary form, it may disregard such information."*

27. The Authority examined the confidentiality claims of the interested parties and on being satisfied allowed the claims on confidentiality. The Authority considers that any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to

an investigation shall, upon good cause shown, should be treated as such by the Authority. Such information cannot be disclosed without specific permission of the party submitting it.

28. The Authority made available to all the interested parties the non-confidential version of evidences submitted by various interested parties for inspection, upon request.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by the other interested parties

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

    a. The levy of ADD will establish monopoly of the petitioner and will not be in the public interest. It will also have an adverse impact on the end-users and MSME industries.

    b. About 80% of footwear sold in the domestic industry is non-leather footwear. Because of changes in the technology and fashion, PU has now become a major raw material for manufacturing of non-leather footwear. The footwear industry is a major consumer of PU Leather in India. Hence, the levy of anti-dumping duty will severely affect the footwear industry, leading to closure of units and job losses.

    c. Any increase in the price on account of levy of ADD can erase thin margins at which the industry is currently operating and may well impact the ability to meet the buyers' prices and design requirements.

    d. The applicant in the present application fails to comply with the requirements of trade notice dated no. 02/2004 dated 12th May 2004. As per the trade notice, the applicant was required to provide information for the period of investigation and three preceding years. The Designated Authority cannot ignore its own trade notice.

    e. The justification given by the applicant and considered by the Authority for considering a period more than 15 months period is not adequate under the eyes of the law.

    f. The petition filed by the domestic industry and the standard of review applied by the Authority before initiation does not meet the requirements laid down under the law and thus the initiation is bad at law.

    g. The petitioner has requested the anti-dumping duty in terms of duty per kg. In this regard, it is submitted that the different fabrics used in the manufacture of the PUC have different compositions which determine the value of the fabric whereas the cost of PU Coating and its application are the same on all types of fabric. The fabrics referred to above fall within the various descriptions between Chapter 50 to Chapter 60. Similarly, coated fabric could be of non-woven, knitted and woven fabric. The major cost of the PUC is derived from two raw materials, viz., fabric and PU resin. Hence, the computation of import average price of PU coated fabric having a coating on one side or both sides would be incorrect and rather it must be determined on the

basis of the fabric employed which can be done by segregating the data in terms of PU Leather imported under each Customs Tariff Heading.

h. If there is a case of misdeclaration, it is for the customs authorities to rectify the same and after detecting it, adjusting the import volumes reported in the import statistics. It in itself cannot form the basis of drawing any adverse inference in the anti-dumping proceedings.

i. The sorting of import data by the applicant is also incorrect.

j. "Fujian Dima Synthetic Leather Co., Ltd" and "Wenzhou Volcano International Trading Co. Ltd." are two different entities. Due to typographical mistake, it was wrongly mention in the narrative version of Questionnaire Response of "Fujian Dima Synthetic Leather Co., Ltd" as the English name of company is Wenzhou Volcano International Trading Co. Ltd. The Business License of both the companies are different and both are registered as a separate entity.

k. The PUC having Rs. per meter value less than 50 or more than 1000 should be excluded from the import analysis.

l. The domestic industry has claimed that there are significant transactions where the prices are below Rs. 20 or above Rs. 1000 and considered the same as abnormal transactions. Perusal of the import data showed that there are import transactions above this price because of the product properties. and not abnormality. In fact, it is quite possible that the product has been purchased at a price above Rs. 1000. In view of the above, the Authority is requested to direct the domestic industry to justify its claim.

F.2. Submissions by the domestic industry

30. The following miscellaneous submissions have been made by the domestic industry:

a. The importers of the PUC in India are indulged in the malpractice of mis-declaration which involves wrongful declaration of HSN or the description or quantity for the PUC in order to evade customs duty. Resultantly, the import volume and the prices captured by the DGCI&S data are not accurate and the actual injury and dumping is much more.

b. Existence of this malpractice has also been confirmed by the Special Investigation & Intelligence Branch of Customs vide circular no. 02/2019 dated 16th October, 2019.

c. The DI has submitted extracts from the secondary source import data, which makes it evident that Fibre Trade, Wenzhou Volcano & Anli Anhui, have made significant exports of the PUC to India at extremely low prices. lower than even the costs at which raw materials for manufacturing of the PUC can be procured.

d. A number of Chinese exporters declare correct quantum and value for the shipment before the Customs Authority in China unlike the declaration made by them at Indian

ports. The DI submits that the Authority may consider instructing Wenzhou Volcano to submit corresponding documents filed with China's customs department for claiming export benefit vis-à-vis the export sales documents generated at Indian port to verify the actual facts. It is submitted that in the sunset review of anti-dumping duty on the imports of 'Melamine' originating in or exported from China PR, a similar issue was dealt with by the Authority, wherein the Authority had requested the information from the DRI with regard to the actual value of imports to assess dumping and its price effect.

e. The DI requests the Authority to obtain the prices record submitted to the China's Customs Authority by participating exporters and consider non-provision of such critical data by the producers and exporters as a serious attempt of non-cooperation and concealment of material information. In the event any of the interested parties refuse to share the relevant information, the DI respectfully requests the Authority to consider such an interested party as non-cooperative. Also, the Authority is requested to procure the data available with China's Customs Authority or the DRI for a holistic analysis of the prevailing market situation in India.

f. In the post oral hearing written submission filed by both Fujian Dima and Wenzhou Volcano, it has been stated that Fujian Dima is the producer of the PUC, which is distributed in the Indian market by the sole distributor, Wenzhou Volcano. However, in the questionnaire response filed by former, it has claimed that Wenzhou Volcano is its English name. The confusion that arises is that if Wenzhou Volcano is the English name of Fujian Dima, then what was the need of the former to file a separate questionnaire response. Moreover, in the non-confidential version of its separate questionnaire response, it has not mentioned its association/connection with Fujian Dima. Thus, there is a need to examine the legitimacy of the two companies and their association, completeness of the questionnaire response filed by them and to treat the responses filed by the Chinese producers as deficient, confusing and unreliable, and accordingly, to treat such interested parties as non-cooperative.

g. The importers are openly mis-declaring the quantity (in meters) of the PUC to fall in the bracket of lower customs duty. In multiple cases, the quantity in meters is not captured in the import data, leaving scope for subjectivity. Further, it is difficult to verify the quantity in meters of each unit of shipment arriving at the customs port to calculate customs duty and such duty is mostly calculated based on the declaration given by the importers, whereby cases of duty evasion are observed time and again. The DI has already placed on record DRI circular acknowledging existence of such mis-declaration where the PUC is mis-declared as some other product or the lower volumes of imports in meters are declared to evade duty.

h. Globally many countries including China PR impose basic custom duties on PU leather on Kg basis instead of meter. Also, Turkey in an anti-dumping investigation concerning import of textile fabrics impregnated, coated, covered or laminated with polyurethane/ leather substitutes from China had imposed anti-dumping duties since 2005 in USD/kg.

i. The imposition of duty in USD per KG will help in reducing the scope of any such practices. This is immensely important considering the fact that weight for every

shipment is measured at the customs port.

j. The DI has filed the petition along with the relevant annexures in line with the applicable formats and the trade notices issued by the Authority.

k. With regard to the concern of the footwear industry that imports of PU are necessitated to meet the demand requirements without the anti-dumping duties, it is submitted that under the Indian law, the existence of demand and supply gap cannot be the basis to not provide the necessary protection to the domestic industry from dumped imports. The purpose of the anti-dumping duties is to eliminate the injury suffered by the DI on account of unfair trade practices of dumping by the subject countries and to allow a level playing field to the DI. Further, the imposition of the anti-dumping duties does not restrict imports and thereby, does not affect the availability of the products to the user industry.

l. The imports of the PUC from the subject country were at alarming level during the proposed POI as evidenced from the data provided to the Authority and the interested parties. Such imports continued to hold an abnormally large market share in the domestic market, despite the covid restrictions and the prevalent malpractices.

m. The DI in its petition has stated that the PUC having Rs. per meter value less than 20 or more than 1000 are abnormal transactions and have excluded them from the import analysis.

n. As regards the issue of public interest and the adverse effect on raw materials prices for the user industry, the DI has submitted as follows:
   i. There is no legal requirement of "public interest" in an anti-dumping investigation.
   ii. It must be noted that the purpose of imposing an anti-dumping measure is solely to create a level-playing field for the DI to compete fairly in the domestic market.
   iii. The Hon'ble Authority has consistently held that imposition of anti-dumping duties would not be against the public interest as the imports would not be restricted upon such imposition.
   iv. As regards the claim of users that imposition of anti-dumping duties would adversely impact and lead to reduction in exports of finished goods of MSME industries using PU Leather as raw material, it must be noted that raw material can be procured under advance authorization scheme without payment of customs duties including anti-dumping duties. Thus, the imposition of anti-dumping duties does not impact export performance of the manufacturers or exporters of goods using PU Leather.
   v. As regards, the impact of imposition of anti-dumping duties on import of PU Leather is considered, the user industry has failed to quantify the impact of imposition of duties in the final cost of production of the various products manufactured by them. To the best of our understanding, if the upper of footwear requires one side PU leather, then with 1 meter of PU Leather, 18 pair of shoes can be manufactured and if the upper of footwear requires both side PU Leather then with1 meter of PU Leather 6 pairs of shoes can be manufactured. Therefore, assuming the anti-dumping duty is Rs 50 per meter then the impact would be 50/18= 2.77 Rs per pair for one sided upper and 50/6= 8.33 Rs per pair for both

sided upper out of total manufacturing cost of the product. Thus, the impact is negligible. Further, it should be noted that the shoes with PU Leather as raw material is priced much higher than shoes with PVC leather as raw material.

vi. Since, the user industry has failed to quantify the impact of imposition of anti-dumping duties on their final product, the claims of the user industry are based on mere apprehension without any clear evidence. On the other hand, DI has tried to quantify the impact of anti-dumping levy in paragraph above which indicates negligible impact on user industry. Given such submissions by the DI and absence thereof by the user industry, the concerns of the user industry are baseless and devoid of merit.

F.3. Examination by the Authority

31. The Authority has noted all the arguments and counterarguments of the interested parties and has examined all aspects of the submissions made as deemed appropriate in the present finding.

32. With regard to the submission of the interested parties regarding the compliance of Trade Notice No. 02/2004 is concerned, the Authority notes that Trade Notice No. 02/2018 dated 01.02.2018 supersedes the Trade Notice No. 02/2004. The domestic industry has duly complied with the anti-dumping investigation process with regard to the format of DI's petition in line with Trade Notice No. 02/2018.

33. As regards the consideration of a period more than 15 months as period of investigation is concerned, a longer period of investigation is appropriate in the present investigation since trade in the first and second quarter of 2020-21 was impacted by Covid-19. A longer period would be more appropriate to assess the injury to the domestic industry caused due to the alleged dumped imports. The same is well within the power of the Authority having regard to Rule 2(da) and the explanation to Rule 5(3). Therefore, the Authority considers that the period of investigation is appropriate.

34. As regards the argument of the DI that the import transactions of the PUC having Rs. per meter value less than 20 or more than 1000 should be classified as abnormal, the Authority notes that as per the DGCI&S data, these transactions are of the PUC. However, the DI has not provided any reasons as to why these transactions which consist of the PUC should be considered as abnormal. During the course of the investigation, none of the interested parties provided any comments on the methodology adopted by the DI. Accordingly, the Authority vide an email dated 10th December, 2021 solicited the comments from the interested parties on the proposed methodology of the DI. In response, the participating exporters from China PR submitted that the PUC having Rs. per meter value less than 50 or more than 1000 should be excluded from the import analysis. However, the parties have not provided any reasons for excluding such transactions which are of the PUC from the import analysis. Moreover, the Authority also notes that the DI has provided data from secondary sources and has argued that the imports of the PUC are even coming at around 40 cents from China PR. Thus, it seems that the response of the participating exporters from China PR is to exclude all the cheaper import transactions from the analysis. In view of the above, as neither the DI nor any of the interested parties have provided any reasons for exclusion of the import transaction of the PUC having Rs. per meter value less than 50 or 20 and more than 1000

from the import analysis, the Authority has decided to include all such import transactions within the scope of its analysis.

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

G.1. Submissions by the other interested parties

35. The following submissions have been made by the other interested parties with regards to the normal value, export price and dumping margin:

    a. There is evidentiary serious shortcoming in the claim of the normal value, export price and dumping because the CNV is not tenable u/s 9A(1)(c), and the adjustments to export price are abnormally high and unsubstantiated.

    b. The petitioner had proposed a reduction in the export price to the extent of 13% being non-refundable VAT. The legal updates available in public domain including the website of State Administration of Taxes, the entire 13% of VAT imposed on the export of the PUC is refundable.

    c. Many of the Chinese exporters are manufacturers and thus, the adjustment for commission/traders' profit is out of place and may be disallowed for manufacturer-exporters.

    d. The cost of production of the applicant could not have been relied upon to construct the normal value as the cost of the major raw material, viz, PU Resin is high as it is wholly imported due to a lack of the local suppliers of the same.

    e. The cost of production of the domestic industry is higher as the applicant is attempting to cater to a wide variety of designs which cannot be produced in adequate quantities over a shorter period of time owing to orders which are placed in small quantities for certain designs. However, unless such specific varieties are produced in adequate quantities, the domestic industry cannot be profitable as the cost of the Release Paper and Rollers, which are consumables and are specific to these particular varieties, cannot be offset.

    f. Furthermore, the applicant had stated in its petition that "Other manufacturing costs have been considered on the basis of the experience of the domestic industry". However, the conversion cost of the applicant is inflated as it is unable to realize the full commercial value of Dimethylformamide ("DMF") which is recovered during the production process. Since the domestic industry has to import its PU Resin due to the lack of domestic producers of the same, it is unable to resell the DMF that is recovered during the production process in the absence of such domestic producers of PU Resin. This adds massively to the cost of production of the domestic industry and does not depict an accurate picture of the standard cost of production of PU Resin globally.

    g. The conversion costs of the applicant are also not reliable as the applicant has admittedly started commercial production only in June of 2017. Therefore, it follows as a natural sequitur that it would not have achieved full efficiency and stability in its operations and as such, the cost of production would be higher. As such, it is submitted that in case the conversion cost of the applicant is adopted, the Authority

is requested to account for the start-up cost adjustment and reduce the conversion cost accordingly.

h. In the present case, evidently no effort was made by the applicant to determine the price payable for the subject goods in an appropriate market economy third country, failing which the price from such a third country to other countries or the constructed price in such third country. As such, the petition filed by the applicant was deficient and ought to have been rejected at the threshold.

i. As per Section 15 (a)(ii) of the protocol on the Accession of the China PR to the WTO expired on December 11, 2016. After that date, India no longer has a legal basis under the agreement of the WTO to calculate normal value in AD investigation of Chinese products using non-market economy methodology. Any such action by India would be inconsistent with the requirements of the Anti-dumping Agreement and other covered Agreement.

j. Thus, the Authority shall grant "market economy status" to China PR; conduct any normal value calculation in accordance with Article 2 of the Anti-dumping Agreement; at the very least, apply the data on costs and prices provided by the Chinese exporters in their response for the determination of the normal value.

G.2. Submissions by the Domestic Industry

36. The following submissions have been made by the domestic industry with regards to normal value, the export price and the dumping margin:

a. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO Anti-Dumping Agreement read with obligation under 15 (a) (i) of the Accession Protocol require criterion stipulated in paragraph 8 of the Annexure I of the Indian AD Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming the market economy status. China PR is presumed and has been considered to be operating under non-market economy conditions by various authorities the world over. Moreover, until recently, the DGTR has considered China PR as non-market economy in every anti-dumping investigation concerning imports originating in or exported from China PR. Further, paragraphs 1 to 6 of Annexure I to Indian AD Rules do not apply for computation of the normal value for imports from China PR, unless a producer/exporter shows with sufficient evidence that it is operating under market economy conditions. Therefore, the normal value for China PR is required to be determined in terms of paragraph 7 of Annexure I to the Indian AD Rules.

b. The petitioner has treated China PR as a non-market economy and since it could not collect any information with respect to the price of the PUC in the subject country, the domestic industry has constructed the normal value on the basis of '*price actually paid/ payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin*' in the following manner: (1) The raw material consumption and prices have been considered on the basis of the experience of the domestic industry. The major raw material required for manufacture of the PUC, i.e., PU resin is imported by the domestic industry. Therefore, the raw material prices of domestic industry reflect the international prices of the major raw materials and the same prices have been considered for construction of the normal value. (2) conversion cost, SGA costs and finance costs have been considered based on the experience of the domestic

industry, (3) a profit margin of 5% has been considered for working out the normal value. The petition and the post initiation submission filed by the DI clearly mention that the normal value was calculated in the said manner.

c. The petitioner has determined the export price considering volume and value of the imports of the PUC for the period of investigation as per the import data procured from the DGCI&S. To arrive at the ex-factory export price from China PR for a fair comparison with ex-factory constructed normal value, the adjustment has been made for (1) Ocean Freight (2) Inland Freight (3) Marine Insurance (4) Commission/Trader's Profit (5) Bank Charges (6) Port Handling Expenses (7) Non-Refundable VAT (In respect of China PR). With regard to the China's Accession Protocol in WTO, the Authority has consistently held that while the provisions contained in Article 15(a)(ii) of China's Accession Protocol in WTO have expired on 11.12.2016, the provisions under Article 2.2.1.1 of the WTO Anti-Dumping Agreement read with Article 15(a)(i) of the Accession protocols require criteria stipulated in paragraph 8 of the Annexure I of the Indian AD Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. In this respect, it must be note that none the producers nor exporters from China PR have claimed Market Economy Treatment ("MET") nor have they submitting information on the normal value.

d. The DI has computed the normal value, the export price and the dumping margin as per the methodology set out in law and keeping in mind the consistent practice of the Authority. It is further submitted that the entire methodology along with the relevant information have been provided to the Authority for such calculations.

e. The dumping margin from China PR is very substantial. Globally, other countries have also taken steps to counter the dumping of the PUC from China PR. For example, Turkey had imposed anti-dumping duties on the PUC being imported from China PR since 2005, which were extended in 2016 for another period of five years. Therefore, it can be inferred that Chinese producers for the PUC have a tendency to dumping the subject goods in the international market.

f. The petitioner has considered average ocean freight of 1.4 Rs/Meter. The supporting documents for arriving at this freight have been submitted to the Authority in the confidential version and are based on actual fee quote received from the shipping agencies.

g. The commission/Trader's profit indicates either the sales commission paid by the manufacturer or profit made by the traders. As per the petitioner's understanding, the PUC is sold directly by manufactures as well as through traders in India. Further, these are general adjustments allowed by the Authority in various other investigations such as Alu-zinc AD investigation, DPP Red AD investigation. The petitioner requests the Authority to request the participating exporters to submit evidence against these adjustments. Further, no other interested party has argued against the adjustments.

h. In the submissions by both Fujian Dima and Wenzhou Volcano, it has been stated that Fujian Dima is the producer of the PUC, which is further distributed in the Indian market by the sole distributor, Wenzhou Volcano. However, in the questionnaire response filed by the former, it has been claimed that Wenzhou Volcano is its English name. The confusion so arose questions the whole legal basis of the latter. The Authority is requested to examine the legitimacy of the two companies and their

association, and the completeness of the questionnaire response filed by them to accordingly consider their cooperation or lack thereof.

i. A number of Chinese exporters declare correct quantum and value for the shipment before the Customs Authority in China unlike the declaration made by them at Indian ports. The DI requests the Authority to obtain the prices record submitted to the China's Customs Authority by participating exporters and consider non-provision of such critical data by the producers and exporters as a serious attempt of non-cooperation and concealment of material information. In the event any of interested parties refuses to share the relevant information, the DI requests the Authority to consider such an interested party as non-cooperative. The Authority is requested to obtain information from the DRI with regard to the actual value of imports to assess dumping and its price effect as was also done in Sunset Review of anti-dumping duty on imports of 'Melamine' originating in or exported from China PR.

j. The DMF is extracted through distillation process and mostly captively consumed by the DI during the production process and if any minuscule quantity is left, the same is sold at commercial value. As regards the consumption of rollers and release papers are concerned, it is submitted that rollers are an asset with a lifespan of 15-25 years and release papers is used repetitively by the DI as per the best industry practice. Further, rollers and release papers are procured domestically as well as imported from various countries basis the requirement.

G.3. Examination by the Authority

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

i) The comparable price, in the ordinary course of trade, for the like article, where meant for consumption in the exporting country or territory as determined in accordance with the Rules made under sub-section (6), or
ii) When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:

(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the Rules made under sub-section (6); or
the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the Rules made under sub-section (6);

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

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

various submissions of the domestic industry and the other interested parties in respect of dumping in the following paras.

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

    i. Anhui Anli Material Technology Co., Ltd.
    ii. Fujian Dima Synthetic Leather Co., Ltd.
    iii. Wenzhou Volcano International Trading Co., Ltd.

40. Keeping in view the submissions of the interested parties, the normal value and the export price for all the producers/exporters from the subject country have been determined as below.

G.4. Determination of the Normal Value for China PR

Market Economy claims for Chinese producers

41. Article 15 of China's Accession Protocol provides as follows:

> *"Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:*
>
> *(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*
>
> *(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product withregard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
>
> *(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard tomanufacture, production and sale of that product.*
>
> *(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there*

are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

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

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

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

Normal Value for all producers in China PR

43. Para 7 of Annexure I of the Rules reads as under:

In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner keeping in view the level of development of the Country concerned and the product in question and due account shall be taken of any reliable information made available at the time of the selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in similar matter in respect

of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.

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

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

46. Accordingly, the normal value for all the producers/exporters from the subject country have been determined and the same is shown in the Dumping Margin Table below.

G.5. Determination of the Export Price for China PR

a) <u>Export Price for Anhui Anli Material Technology Co., Ltd, China PR (Producer)</u>

47. During the POI, Anhui Anli Material Technology Co., Ltd. has exported *** MTRS of the PUC to India for invoice value *** US$, out of which *** MTRS of the PUC to India for invoice value *** US$ has been exported through another unrelated trader, namely, Desipro Pte. Ltd., Singapore. This constitutes only *** % of the total exports to India made by Anhui Anli Material Technology Co., Ltd. The Authority has not considered the exports made by Anhui through Desipro Pte. Ltd., Singapore since the quantity is minuscule.

48. Anhui Anli Material Technology Co., Ltd., has claimed adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses, bank charges and commission, which have been allowed. Accordingly, the ex-factory export price as determined is given in the Dumping Margin Table below.

b) <u>Export Price for Fujian Dima Synthetic Leather Co., Ltd, China PR (Producer), Wenzhou Volcano International Trading Co., Ltd (Exporter)</u>

49. During the POI, Fujian Dima Synthetic Leather Co., Ltd., ('Fujian Dima'), has exported *** MTRS of PUC to India for invoice value *** US$ through unrelated trader, namely, Wenzhou Volcano International Trading Co., Ltd., China PR. Fujian Dima Synthetic Leather Co., Ltd., has sold the subject goods to Wenzhou Volcano International Trading Co. Ltd., China PR ('Wenzhou Volcano') on ex-work basis.

50. The domestic industry in comments to the disclosure statement reiterated various anomalies in the responses of Fujian Dima Synthetic Leather Co., Ltd. and Wenzhou Volcano International Trading Co., Ltd and resubmitted two sample invoices from Wenzhou Volcano during the POI along with the connected bill of entry and payment proof as was submitted by it vide letters dated 07 January, 2022. The DI had requested for cross examination of

these documents vis-à-vis the response submitted by Wenzhou Volcano in continuation of its claim of misdeclaration by the Chinese producer/exporter along with other anomalies as highlighted. The Authority has re-examined the responses filed by Fujian Dima and Wenzhou Volcano and found the following issues in these responses:

a. Both the invoices as supplied by the DI for imports from Wenzhou Volcano were during the POI for the product under consideration procured from Fujian Dima by Wenzhou Volcano and reported in the questionnaire response of Wenzhou Volcano. While the invoice value matched with the bill of entry, in the corresponding payment proof as well as the DG Systems data, the values did not match with the information supplied in the questionnaire response of Wenzhou Volcano. It is further noted that Wenzhou Volcano had supplied corresponding China Custom document for one such invoice submitted by the DI as a response to the deficiency letter issued by the Authority. Thus, there is a mismatch between the figures reported in China Custom and the DG Systems data. Therefore, the Authority notes that the invoice value reported in the response of Wenzhou Volcano and captured in the China Custom data are higher than the values recorded in DG Systems data.
b. Further, the Authority also noted that as per the questionnaire responses, Fujian Dima had supplied the product under consideration to Wenzhou Volcano for the first time in June, 2019. However, Wenzhou Volcano has reported the first supply of the product under consideration to India procured form Fujian Dima in April, 2019 with inventory as N/A. Thus, the questionnaire response filed by Fujian Dima and Wenzhou Volcano indicates that Wenzhou Volcano is exporting the product manufactured by Fujian Dima even before purchasing it from Fujian Dima.
c. Fujian Dima has reported multiple sales to Wenzhou Volcano during the post POI period which if excluded will lead to mismatch between the quantity procured by Wenzhou Volcano from Fujian Dima during the POI and its further exports to India.
d. Fujian Dima had stated in the questionnaire response and its subsequent clarification that name of Wenzhou Huashang International Trading Co., Ltd, was changed to Wenzhou Volcano International Trading Co., Ltd in August, 2020. However, the invoice submitted by the DI which belongs to November, 2019 is issued by the name 'Wenzhou Volcano International Trading Co., Ltd' which is also captured in the bill of entry and payment proof. Even DG Systems data shows multiple transactions for exports made by the name 'Wenzhou Volcano International Trading Co., Ltd' before August, 2020. This indicates the existence of 'Wenzhou Volcano International Trading Co., Ltd' even before the name change in August, 2020 as submitted by the participating producer as well as the exporter.
e. The Authority had issued deficiency letter dated 23rd December, 2021 and 31st December, 2021 to Fujian Dima and Wenzhou Volcano seeking clarification on the above issues and also these issues were discussed with the legal representatives of the producer/exporter on 16th February, 2022 and 17th February, 2022. The Authority further sent an email to the producer/exporter on 18th February 2022 concerning the above deficiencies.
f. The producer/exporter provided its reply on 18th February, 2022 after the stipulated deadline. Nevertheless, the Authority has considered the response and notes as follows:

i. The producer/exporter with respect to inclusion of Post POI data in its annexures has submitted that Wenzhou Volcano issues the commercial invoice in the month of actual shipment of the subject goods to India, whereas Fujian Dima issues the VAT Invoice to Wenzhou Volcano in the following months. However, the Authority does not find this explanation adequate, given that goods cannot leave the producer's warehouse without the issuance of a VAT invoice and consequently shipped to India. Moreover, the producer/exporter has not provided any documents to support its argument.

ii. The Authority further notes that the producer/exporter with respect to the issue concerning mismatch between invoice value reported in questionnaire response vis-à-vis DG System data has merely resubmitted the copy of invoice, packing list, shipping bill and document concerning declaration with China customs reporting higher invoice value without any explanation on the mismatch. Thus, the producer/exporter has not submitted any new evidence to clarify the above issue. Notably, the producer/exporter has failed to submit any document evidencing bank remittance against the invoice submitted by the producer/exporter. This is especially relevant as the DI has submitted document evidencing bank remittance against the invoices of the producer/exporter having lower invoice value which is also getting reflected in the DG System data.

iii. The Authority further notes that the producer/exporter has not provided any clarifications with respect to the export by Wenzhou Volcano even before the name change in August, 2020.

51. In view of the above examination of the Authority and the lack of sufficient explanation by Fujian Dima and Wenzhou Volcano, the Authority has decided to reject the responses of Fujian Dima Synthetic Leather Co., Ltd. and Wenzhou Volcano International Trading Co., Ltd and treat them as non-cooperative. Accordingly, the export price for Fujian Dima Synthetic Leather Co., Ltd. and Wenzhou Volcano International Trading Co., Ltd has been determined on the basis of facts available and it is the same as determined for all the non-cooperating producers and exporters. The same is mentioned in the Dumping Margin Table below.

c) <u>For non-cooperating producers and exporters from China PR</u>

52. The Authority has determined the export price for all the non-cooperating producers and exporters from China PR as per the facts available in terms of Rule 6(8) of the Rules. For the purpose, the Authority has considered the imports as reported in the DGCI&S data and the questionnaire response of the responding producers and exporters. The export price so determined for all the non-cooperating producers and exporters is mentioned in the Dumping Margin Table below.

G.6. <u>Determination of dumping margin</u>

53. It is noted that in the subject investigation, many cooperating producers and exporters are related to each other and form a group of related companies. It has been a consistent practice of the Authority to consider the related exporting producers and exporters as one single entity for the determination of a dumping margin and thus to establish one single dumping

margin for them. This is because calculating individual dumping margins might encourage circumvention of the antidumping measures, thus rendering them ineffective, by enabling related exporting producers to channelise their exports to India through the company with the lowest individual dumping margin.

54. In accordance with the above, the related producers and exporters from China PR have been regarded as one single entity and attributed one single dumping margin which was calculated on the basis of the weighted average of the dumping margins of the cooperating related producers and exporters.

55. Considering the normal value and the export price as determined above, the dumping margins for the subject goods from the subject country have been determined and is mentioned in the Dumping Margin Table below.

Country	Producer/Exporter	Normal Value (USD/Meter)	NEP (USD/Meter)	DM (USD/Meter)	DM %	Range %
China PR	Anhui Anli Material Technology Co., Ltd	***	***	(***)	(***)	(50)-(40)
China PR	Other Producers and Exporters	***	***	***	***	60-70

H. ASSESSMENT OF INJURY AND CAUSAL LINK

H.1. Submissions by the other interested parties

56. The following submissions have been made by the other interested parties with regard to the injury, the threat of injury and the causal link:

i. There is no volume injury to the domestic industry as the requirement under the anti-dumping agreement is an increase in the imports, either in absolute terms or in relation to production and consumption, which has not been satisfied.
ii. The injury complaint by the petitioner is self-inflicted as it has intentionally kept its prices much lower, i.e., by 20 to 30% than that of imports from China. The reduction in the margin of undercutting has nothing to do with the pricing behavior of the producers and the exporters in China and rather it is due to the petitioner's flawed pricing policy.
iii. The domestic industry has evidently been able to raise its prices over and above the rate of increase in the cost of sales.
iv. The comparison of the price undercutting must be made after calculating basic customs duty on the enhanced valuation enforced by Customs Authorities in India and not the invoice value.
v. The inflated cost of production of the applicant and its higher non-injurious price is due to the reasons of its inability to recover the cost of DMF produced as a by-product, high consumption of consumables such as rollers and release paper which cannot be utilized to its full extent due to the domestic industry's insistence to cater to a wide variety of designs irrespective of the order quantity, reliance on the import of the

aforesaid consumables as well as its main input, viz., PU Resin, extraordinary cost of purchase of machinery which was far above the market norm, etc., and not the prices of the imports from China which have consistently shown an increase.

vi. The reduced capacity utilization of the petitioner was due to the COVID-19 lockdown which was further compounded by the admitted slump in demand of the PUC in India due to COVID-19.

vii. It is but natural that the DI would be facing start-up problems and would take some time to stabilize its operations and achieve cost efficiency as it has recently commenced operation.

viii. The imports from China have remained high due to the demand supply gap.

ix. The evidence or statement supplied by the DI only establishes that China is the world's largest producer of the PUC which does not indicate excess capacities that would be disposed in India.

x. The petitioner has not demonstrated that post continuance of the anti-dumping duties by Turkey on the PUC, the market in Turkey contracted further. The baseless statements and claims of the petitioner must not be relied upon to form an opinion of a threat of material injury as the same is neither based on facts nor in law.

xi. The domestic industry has suffered material injury due to its export performance as the same has reduced.

xii. The supporting producers are performing better than the domestic industry.

xiii. Nowhere do the rules provide for the projections in the project report as a benchmark for assessing material injury or a threat thereof to the domestic industry.

xiv. No separate guidelines are required to be issued by the Authority to deal with the COVID-19 lockdown and that the practice which should be adopted is to exclude the capacity unutilized during the lockdown.

xv. The petitioner has complained that it is not able to sell whatever it produced. However, the inventory holding of the petitioner as per its annual report is only of few days.

xvi. The losses of the petitioner have reduced considerably.

xvii. The reduction in the imports from China confirms that there are no freely disposable capacities in China.

xviii. The petitioner's capital structure is highly skewed. Therefore, it has high financing cost which has thereby impacted its profitability.

xix. The material consumption of the DI is very high, indicating inefficiencies whereas the material consumption of Jasch & Mayur is better.

xx. The economic performance of the domestic industry has improved in terms of the increased market share, increased selling price, reduced losses, reduced cash losses, improved ROCE and declined inventory.

xxi. None of the requirements laid down under Annexure-II are met with in the present case.

xxii. There is no price undercutting or price depression/suppression.

xxiii. There is no material injury or threat of material injury to the DI.

xxiv. The claim of the domestic industry regarding the surplus capacity of the producers from China PR is unsubstantiated.

xxv. Anhui is operating at 100% capacity and has no excess or surplus capacity with them. The claim of the domestic industry regarding the surplus capacity of the producers from China PR is erroneous and misleading.

xxvi. The domestic industry cannot claim both material injury and threat thereof. This is in view of the fact that all three forms of injury or two in the present case, cannot co-

exist at the same time with respect to the same domestic industry as they are mutually exclusive.

xxvii. As the DI has to import special fabric as well as release paper (coating transfer paper) and emboss roller for making certain specialized varieties required by consumers, the delay in sample making results in loss of orders as the DI is dependent on such imports which take time to procure.

xxviii. The profitability of the domestic industry is also required to be examined after including the profits and the sales earning as a result of selling PVC coated fabric with the same machinery as that employed for manufacturing the PUC.

H.2. Submissions by the Domestic Industry

57. The following submissions have been made by the domestic industry with regard to injury, threat of injury and causal link:

i. The exporters from China PR are dumping the PUC in the Indian market, thereby causing material injury to the domestic industry. There is also a threat of material injury on account of the dumped imports of the PUC from the subject country.

ii. The Indian producers of the PUC are not able to fully utilize their capacities, given the existence of the dumped imports from China PR to meet the existing demand of the PUC in India. Nevertheless, the DI is more than willing to invest in the capacity expansion if required to meet the demand of the PUC in India.

iii. Due to various malpractices, the actual volume of imports of the PUC from China PR is much higher which is not reflected in the import data. Nonetheless, the imports of the PUC from China PR in relative as well as absolute terms has been remarkably high throughout the injury period.

iv. Despite the existence of significant demand for the PUC in India, while the market share of the dumped import of the PUC from China PR during the injury period has been between ***% to ***%, the market share of petitioner and the supporters together has been in single digit during the POI as well as throughout the injury period.

v. As regards the arguments of the other interested parties regarding declining imports, it must be noted that the share of the imports from China PR in total imports of the PUC was 94% in 2017-18, 91% 2018-19 and 87% during the POI which clearly indicates a remarkably high presence and aggressive dominance of the Chinese imports in the domestic market of the PUC in India at any point of time throughout the injury period. Moreover, the slight decline in the import volume was due to COVID-19 restrictions, widespread misdeclaration and underreporting of actual volume and value of the imports, and the entry of Mayur in the domestic market.

vi. Nevertheless, the Authority in various other anti-dumping investigations has recommended imposition of the anti-dumping duties on the subject countries with significant market share, even when the imports from such subject countries declined in absolute and relative terms during the POI.

vii. The domestic industry started operation in 2017 but due to existence of the dumped imports in the domestic market, the domestic industry has been left with no option but to keep its selling price low to compete and survive in the Indian market due to the unfair practice of dumping by the Chinese exporters. This trend was present both in 2017-18 and 2018-19. Further, the attention of the Authority is drawn to the final findings of anti-dumping investigation involving import of 2-Ethyl Hexanol (2-EH) from the European Union, the Republic of Indonesia, the Republic of Korea, Malaysia, Kingdom of Saudi Arabia, Chinese Taipei & the United States of America (F. No. 14/24/2014-DGAD) wherein the Authority made recommended imposition of anti-dumping duties and made the following observation:

> *"152. The above data shows that the landed values of imports from the subject countries did not undercut the prices of the domestic industry during the POI. However, the price undercutting may not be relevant if the domestic prices are already depressed or suppressed significantly. Therefore, the degree and extent of price suppression or depression, if any, has also been examined in addition to the price undercutting examination as above. The domestic industry, in its submissions, has argued that the price undercutting is negative largely because of significant credit being extended by the exporters."*

viii. The dumped imports from China PR are suppressing and depressing the selling price of the domestic industry. The impact of low-priced imports was such that despite increase in the cost to make and sell, the domestic industry could not make requisite increase in the selling price of the PUC to recover the cost to make and sell and earn a reasonable return over it. In the POI, the petitioner was able to increase its selling price slightly as the Government of India had increased the BCD to 20% in 2018 resulting in higher landed price. However, it is to be noted that to offset the benefit of higher BCD, the Chinese exporters reduced the CIF price of the PUC in the POI. This resulted in the situation of price suppression as the petitioner was not able to increase its selling price in accordance with the increase in the cost of production of the PUC. It should also be noted that the cost of production of the PUC has increased by 25-35% in the Post POI period in the form of rising raw material cost and the freight cost, which is getting reflected in the increased prices from the other countries. The importers have even absorbed such increased costs as well.

ix. The price underselling/injury margin is positive and significant.

x. Despite the substantial demand of the PUC in India, the production, the domestic sales and the capacity utilization of the domestic industry have remained extremely low throughout the injury period. More than 75% of the domestic industry's capacity is unutilized.

xi. The PUC is used to produce the products in the industry of fast fashion, where businesses respond rapidly to the ever-changing consumer demand. With new design trend springing up, consumer preferences keep changing. This suggests that maintaining a significant inventory that is likely to be obsolete soon in the market is not prudent in this business. Nevertheless, it is worth noting that the inventories of

the DI have remained at significant level throughout the injury period due to capturing of market share by the dumped imports from China PR.

xii. Since the beginning of the commercial production, the domestic industry has been incurring losses and unable to earn sufficient profits.

xiii. PBIT and ROCE were negative throughout the injury period. The cash profits were either negative or remained low throughout the injury period.

xiv. There is a threat of further deepened material injury over and above the material injury being suffered by the domestic industry presently. The factors to be considered in determination of threat of injury are discussed below:

- A significant presence of dumped imports in India.

- There is sufficient freely disposable capacity of the exporters from China PR. China PR has huge unutilized capacities with respect to the PUC and is further expanding the same, which has also been admitted by the interested parties. Even the latest report of Global Market Insight highlighted that China has become the world's largest PU producer, and base on scientific and statistical analysis, it has estimated that China alone would account for 45% of the global total output. The market studies also show that China's capacity has exceeded a third of the global total. Also, M/s Anhui Anli Material Technology Co., Ltd alone has an annual production capacity of 88.5 million meters PU leather which is over and above the total Indian demand. The user industry has also accepted that China possesses excess capacity. In this context, attention is drawn to page 9 of the questionnaire response filed by M/s Alpine Apparel where it has admitted that "the capacity of PU manufacturing is extremely restricted in India, and even the rest of the world except China and in response to Q. 9 of Section D of questionnaire response, Fibre Bond Industries has admitted that the producers/exporters of the subject country are producing the subject goods in huge quantities and act as an exporter to almost every major country in the world. Further, with the limited market access in Turkey for dumped products from China due to continued ADD, there is a clear lack of availability of other export markets to absorb any additional exports by China.

- One of the most important factors in threat of material injury is depressing or suppressing effect of the dumped imports on the domestic prices. In this regard, it is already submitted that the imports are entering at prices having a significant depressing or suppressing effect on the domestic prices during the POI. Moreover, it may be noted that such depressing or suppressing effect of the dumped imports has amplified during the Post POI period (October, 2020 to December, 2020). While the cost of production is increasing on account of increasing cost of raw materials and other factors globally, the CIF prices for the PUC from China continue to fall. However, the imports prices of the PUC from the non-subject countries accurately capture such increase in the costs. Therefore, justifying existence of significant threat of material injury further.

- The exporters from China PR have large quantum of inventory of the PUC accumulated with them

xv. As regards the arguments raised regarding the performance of the other domestic producers by the interested parties, it is submitted that the supporters, Jasch Industries Limited and Mayur Uniquoters Limited have stated in their supporting letters as to how they have faced the injury due to the dumped imports from China PR. Moreover, the comparison of domestic industry's performance with its supporters is not accurate as Mayur has started manufacturing the PUC rather recently in March, 2020, while Jasch is a multi-product company, whose annual reports show consolidated data of all the products produced by it.

xvi. As regard the issue of COVID-19 restrictions impacting normal business operations, the DI requests the Authority to issue guidelines on treatment of the data pertaining to the period of lockdown imposed in the country due to Covid-19 pandemic. It is submitted that the domestic industry has already provided information requested by the Authority from time to time, to support its claim and is committed to supply whatsoever information is required pursuant to the instructions of the Authority in this respect.

xvii. The interested parties have suggested that there is no threat of material injury. In this regard, domestic industry submits that the factors to be considered in determination of threat of injury are clearly laid out in Paragraph (vii) of Annexure-II of the Rules and these have been elaborated in detail in domestic industry's submissions showing a clear threat of injury.

xviii. With regard to the domestic industry's claim of suffering from both material injury and threat of injury, it is submitted that there is no legal bar that precludes the domestic industry from doing so.

xix. As regards to the claim that the domestic industry placed reliance on the Project Report, it is submitted that the same is absolutely incorrect as the Project Report was provided by the domestic industry to show the possibility to excel if a level playing field is provided and not for the purpose of injury assessment. The Project Report statistically assessed and showed "where it could be" in the coming years for performance estimates. However, the domestic industry never relied on it for its claim of material injury and/or threat of material injury.

xx. With regard to the unreliability of the conversion costs of the domestic industry and the requirement of start-up cost adjustments, it is submitted that the same has been submitted to the Authority for careful examination and adjustments, if required. The domestic industry has made huge investment in setting up plant for manufacturing PU leather. Such investments indeed require borrowing. In fact, every capital-intensive industry has such kind of debt structure in the beginning. However, this does not in any way highlight the inefficiencies of the domestic industry. On the other hand, it indicates that the lenders have shown trust in the business set up by the DI.

xxi. The export sales have always been around ***% of total sales by the domestic industry throughout the injury period and the POI. The injury information supplied to

the Authority is for domestic operations only. Therefore, export performance could not have caused injury to the domestic industry.

xxii. The domestic industry does not lose out on orders because of its dependence on imports of raw materials. Multiple raw materials are available domestically and there are no difficulties in imports of raw material in any manner.

H.3. Examination by the Authority

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

59. The submissions made by the domestic industry and the other interested parties with regard to the injury, threat of material injury and the causal link related issues have been examined in the following paragraphs.

H.3.1. Volume effect of the dumped imports on the Domestic Industry

a. Assessment of demand/apparent consumption

60. The Authority has taken into consideration, for the purpose of the present investigation, the demand or the apparent consumption of the product in India as the sum of the domestic sales of the Indian producers and the imports from all sources. Also, as mentioned above, neither the domestic industry nor any of the interested parties have provided any reasons for exclusion of the import transaction of the PUC from DGCI&S data having Rs. per meter value less than 50 or 20 and more than 1000 from the import analysis. Thus, the Authority has included all such import transactions within the scope of its assessment of demand/apparent consumption as given below:

Particulars	Value	2017-18	2018-19	POI (Apr 19 to Sep 20)	POI (A)
Imports from subject country	Meters	9,05,79,952	7,03,64,502	9,53,96,345	6,35,97,563
	Indexed	100	78	105	70

Imports from other countries	Meters	93,78,506	1,04,86,314	1,86,63,562	1,24,42,375
	Indexed	100	112	199	133
Domestic Sales of DI	Meters	***	***	***	***
	Indexed	100	165	143	95
Domestic Sales of other domestic producers	Meters	***	***	***	***
	Indexed	100	116	143	96
Demand	Meters	***	***	***	***
	Indexed	100	83	115	77
Total Domestic Production	Meters	***	***	***	***
	Indexed	100	145	141	94
Imports from subject country in relation to **Consumption**	%	***	***	***	***
	Indexed	100	93	92	92
Imports from subject country in relation to **total Domestic production**	%	***	***	***	***
	Indexed	100	54	75	75

61. It is noted that the demand declined during 2018-19 in comparison to 2017-18 and further the during POI (A)

b. Import volumes from the subject country.

62. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. Further, as mentioned above, the Authority has included all import transaction of the PUC from DGCI&S data inclusive of transactions having Rs. per meter value less than 50 or 20 and more than 1000 within the scope of its assessment of import volumes. The resultant factual position is as follows:

Particulars	Unit	2017-18	2018-19	POI	POI (A)
Subject Country	Meters	9,05,79,952	7,03,64,502	9,53,96,345	6,35,97,563

	Indexed	100	78	105	70
Other Countries	Meters	93,78,506	1,04,86,314	1,86,63,562	1,24,42,375
	Indexed	100	112	199	133
Total Imports	Meters	9,99,58,458	8,08,50,816	11,40,59,907	7,60,39,938
	Indexed	100	81	114	76
Total Domestic Production	Meters	***	***	***	***
	Indexed	100	145	141	94
Imports from Subject Country in relation to total imports	%	91	87	84	84
	indexed	100	96	92	92
Imports from Other Countries in relation to total imports	%	9	13	16	16
	indexed	100	138	174	174
Imports from subject country in relation to **total Domestic production**	%	***	***	***	***
	indexed	100	54	75	75
Imports from subject country in relation to **Consumption**	%	***	***	***	***
	indexed	100	93	92	92

63. It is noted that the imports from the subject country have commanded a significant share in the total import of the subject goods during the entire injury period. It is also noted that the imports from the subject country in relation to domestic production have increased during the POI in comparison to the previous year.

H.3.2. Price effect of the dumped imports

64. With regard to the effect of the dumped imports on the prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from the subject country has been examined with reference to price undercutting, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, non-injurious price (NIP) and net sales realization (NSR) of the domestic industry have been compared with the landed price of the imports of the subject goods from the subject country.

a. Price undercutting

65. For the purpose of the price undercutting analysis, the selling price of the domestic industry has been compared with the price from the subject country. Further, as mentioned above, the Authority has included all import transaction of the PUC from DGCI&S data inclusive of transactions having Rs. per meter value less than 50 or 20 and more than 1000 within the

scope of its import analysis. Accordingly, the undercutting effect of the dumped import from the subject country work out as follows-

Particulars	Unit	2017-18	2018-19	POI (Apr 19 to Sep 20)	POI (A)
Landed Value	INR/Meter	111	125	111	111
	Indexed	100	113	100	100
Domestic Selling Prices	INR/Meter	***	***	***	***
	Indexed	100	115	136	136
Price Undercutting	INR/Meter	(***)	(***)	***	***
	%	(***)	(***)	***	***
	% range	(30-20)	(30-20)	0-10	0-10

66. The above data shows that the landed value of the imports from the subject country is undercutting the prices of the domestic industry during the POI. Also, the landed value has declined during the POI as compared to 2018-19.

b. Price suppression and depression

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

Particulars	Unit	2017-18	2018-19	POI	POI(A)
Selling Price	INR/Meter	***	***	***	***
	Indexed	100	115	136	136
Cost of sales	INR/Meter	***	***	***	***
	Indexed	100	104	121	121
Landed Value	INR/Meter	111	125	111	111
	Indexed	100	113	100	100

68. It is seen that from above table that the landed price of the imports from the subject country has remained below the cost of sales of the domestic industry throughout the injury period; the landed price of imports from the subject country has remained below the net sales realization of the domestic industry during the period of investigation and even though the cost has increased over the injury period, the domestic industry has not been able to increase its selling price in proportion to increase in the costs. It is thus seen that imports of the subject goods from the subject country are suppressing the prices of the domestic industry in the market.

H.3.3. Economic parameters of the domestic industry

69. Annexure II to the Rules provides that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant

economic factors and indices having a bearing on the state of the industry, including actual and potential decline in the 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 oncash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below.

70. The Authority has examined the injury parameters objectively taking into account the various facts and arguments made by the interested parties in their submissions.

i. Production, capacity, capacity utilization and sales

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

Particulars	Unit	2017-18	2018-19	POI	POI(A)
Installed Capacity	Meters	***	***	***	***
	Indexed	100	100	150	100
Production	Meters	***	***	***	***
	Indexed	100	159	139	93
Capacity Utilization	%	***	***	***	***
	Indexed	100	159	93	93
Domestic Sales	Meters	***	***	***	***
	Indexed	100	165	143	95

72. The Authority finds that –

i. The installed capacity of the domestic industry has remained constant.

ii. The production and capacity utilization of the domestic industry increased during 2018-19 and then declined significantly in the period of investigation.

iii. The production and capacity utilization in POI(A) were at a level below the base year.

iv. The domestic sales of the domestic industry have shown a trend similar to that of production. The domestic sales increased in 2018-19 and then declined significantly in the period of investigation. The sales in the POI(A) were at a level below the base year.

v. Overall, the production, capacity utilization and sales have declined during the POI(A) as compared to base year.

ii. Market share in demand

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

Particulars		2017-18	2018-19	POI	POI(A)
Imports from subject country	%	***	***	***	***
	Indexed	100	93	91	91
Imports from other countries	%	***	***	***	***
	Indexed	100	134	173	173
Domestic Sales of DI	%	***	***	***	***
	Indexed	100	198	124	124
Domestic Sales of other domestic producers	%	***	***	***	***
	Indexed	100	139	125	125

74. It is seen from the above table that:

    i. The market share of the domestic industry remained in single digits during the entire injury period as well as the POI.
    ii. The market share of the dumped imports has reduced in the POI(A). However, the dumped imports from the subject country are entering in the domestic market in significant volumes.

iii. Inventories

75. The inventory position with the domestic industry over the injury period is given in the table below:

Particulars	Unit	2017-18	2018-19	POI (A)
Inventory	MT	***	***	***
	Indexed	100	41	60
Inventory as No. of days of Production	No	***	***	***
	Indexed	100	26	64
Inventory as No. of days of Sales	No	***	***	***
	Indexed	100	25	62

76. It is noted that the inventory declined in 2018-19 from the base year and then increased during the POI. The Authority also notes that the PUC belongs to the fast-changing fashion industry and inventory levels are based on customer's order.

iv. Profitability, cash profits and return on capital employed

77. The profitability, cash profits and return on investment of the domestic industry over the period is given below.

Particulars	Unit	2017-18	2018-19	POI	POI (A)
PBIT-Domestic Sales	INR/Meter	(***)	(***)	(***)	(***)
	Indexed	(100)	(50)	(24)	(24)
PBIT-Domestic Sales	INR	(***)	(***)	(***)	(***)
	Indexed	(100)	(83)	(35)	(23)

Cash Profit	INR	(***)	(***)	***	***
	Indexed	(100)	(59)	38	25
Return on capital employed	%	(***)	(***)	(***)	(***)
	Indexed	(100)	(45)	(20)	(20)

78. It is seen that throughout the injury period the PBIT, return on capital employed has remained negative and cash profit though improved during the POI has remained low.

v. Employment, wages and productivity

79. The employment, wages and productivity of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2017-18	2018-19	POI	POI(A)
No of Employees	Nos	***	***	***	***
	Indexed	100	106	89	89
Wages	INR	***	***	***	***
	Indexed	100	191	196	130
Productivity per Day	Meters/Day	***	***	***	***
	Indexed	100	159	93	93

80. It is seen that the number of employees has decreased in the period of investigation. Similarly, the productivity improved overall but declined in the POI(A) compared to 2018-19. The wages paid have declined during the POI(A) in comparison to 2018-19.

vi. Growth

81. The domestic industry recorded a negative growth during the POI in terms of production, capacity utilization, domestic sales volume and inventories as shown in the table below:

Particulars	Unit	2018-19	POI(A)
Production	Y/Y-Meters	***	(***)
Trend	% - Indexed	100	(71)
Capacity Utilisation	Y/Y-%	***	(***)
Trend	% - Indexed	100	(107)
Domestic Sales	Y/Y-Meters	***	(***)
Trend	% - Indexed	100	(107)
PBIT per Unit-Domestic Sales	Y/Y-INR/Meter	***	***
Trend	% - Indexed	100	50
Cash Profit	Y/Y-INR	***	***
Trend	% - Indexed	100	205
Return on Capital Employed	Y/Y-%	***	***
Trend	% - Indexed	100	50
Inventories	Y/Y-Meters	(***)	***

Trend	% - Indexed	(100)	31

vii. Ability to raise capital investment

82. The significant investment was recently made establishing the capacity of the domestic industry to produce the PUC. However, the domestic industry has incurred significant losses throughout the injury period which has weakened its ability to raise further capital investment.

viii. Factors affecting domestic prices

83. As regards the argument of demand supply gap, the Authority considers that possible demand-supply gap cannot deprive a domestic industry from seeking redressal against the dumped imports causing injury. If the exporters wish to meet the requirement in the Indian market, that could be done by meeting the requirements at an un-dumped price. It is also noted that the primary focus of domestic industry is on the domestic market with minimal exports. Also, it is clarified that the performance of the domestic industry has been analysed with respect to its domestic operations only. Further, it is seen that the capacity utilisation of the domestic industry has remained significantly low in the entire injury period.

84. As regards the argument on recovery of DMF and other consumption issues, it is clarified that the domestic industry recovers DMF for self-consumption and the balance after captive consumption is sold at fair price. Due adjustment has been made for such sales of DMF in the cost and non-injurious price calculations. Further, the Authority notes that consumables such as rollers and release papers are being reused by the domestic industry as per the best practice.

85. As regard the import dependence of domestic industry with respect to raw materials, the Authority notes that the domestic industry has not imported the PUC during the POI and also, has not lost orders on account of shortage of raw materials or consumables.

86. As regards the impact of COVID-19 on the capacity utilization as well as the adjustment required on account of start-up factors, the same has been taken care of in computation of non-injurious price by considering best capacity utilization during each quarter of the POI and the proceeding two years.

87. With regard to the argument that the reasons of losses to the domestic industry is skewed capital structure and high interest and depreciation costs, it is also seen that the performance of the domestic industry has been significantly negative / low in terms of profit before interest (ROI) and profit before depreciation (cash profits) throughout the injury period.

88. As regard the consideration of the profitability of the domestic industry after including profits and sales earned as a result of selling PVC coated fabric is concerned, it is clarified that domestic industry is solely engaged in manufacturing of the PUC.

89. As regards the decline in demand, it is seen that whereas the demand for the product declined, the imports from the subject country remained significant and production, domestic sales and capacity utilization of the domestic industry remained very low throughout the injury period.

90. With regard to the contention of the interested parties that the imposition of anti-dumping duty will be prejudicial to the interests of the users, the Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

ix. Magnitude of price underselling/injury margin

91. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in the anti-dumping Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing accountant for the period of investigation. The NIP has been compared with the landed price from the subject country for calculating the injury margin.

92. The landed price for the cooperating exporters has been determined from the CIF export price determined for the purpose of dumping margin determination. The applicable customs duties have been added to determine the landed price of the imports. For all the non-cooperative producers/exporters from the subject country, the Authority has determined the landed price based on the facts available.

93. Based on the landed price and the NIP determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below:

Country	Producer /Exporter	NIP (USD/Meter)	Landed Price (USD/ Meter)	IM (USD/ Meter)	IM %	Range %
China PR	Anhui Anli Material Technology Co., Ltd	***	***	(***)	(***)	(50)-(40)
China PR	Other Producers and Exporters	***	***	***	***	30-40

I. NON-ATTRIBUTION ANALYSIS

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

i. Volume and prices of imports from third countries

95. The imports from the other countries are either at de-minimis levels or at very high prices.

ii. Contraction in Demand

96. It is noted that the demand for the product under consideration decreased during the period of investigation. However, the Authority also notes that significant capacity of the domestic industry is utilised and thus a contraction in demand is not relevant given that a large quantum of the demand can still be catered to by the domestic industry. The Authority also note that despite contraction of demand and COVID-19, the market share of the imports has remained substantial during the period of investigation. Moreover, the Authority notes the claim of the domestic industry regarding the widespread practice of misdeclaration being in place in imports of product under consideration from the subject country due to which the possibility of actual imports of product under consideration from the subject country being much higher cannot be ruled out. Therefore, the contraction in demand cannot be considered as a reason for injury to the domestic industry.

iii. Changes in Pattern of consumption

97. No evidence has been brought by any interested parties about any material change(s) in the pattern of consumption of the product under consideration.

iv. Conditions of competition and trade restrictive practices

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

v. Developments in technology

99. No evidence has been brought forward by any interested parties about the existence of significant changes in the technology which is being used by the producers from the subject country for manufacturing the subject goods to be exported in India that could have caused injury to the domestic industry.

vi. Export Performance of the Domestic Industry

100. The exports made by the domestic industry constitute a small portion of its production. The Authority has considered data for the domestic operations only for the injury analysis.

vii. Performance of other products

101. The domestic industry is indulged in the manufacturing of the PUC only and has provided the injury data of the PUC performance and the same has been adopted by the Authority for the purpose of injury analysis. Since the domestic industry does not produce any other product, the performance of other products cannot be a possible cause of the injury to the domestic industry.

J. POST-DISCLOSURE COMMENTS

102. The Authority issued a disclosure statement disclosing essential facts of the case and inviting comments from all the interested parties. The post-disclosure submissions have

been received from the interested parties. 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:

J.1. Submissions of the other interested parties

103. Apart from reiterating their earlier submissions, the other interested parties have submitted as under:

a. The constructed normal value and NIP determined by the Designated Authority is excessively high and would give undue protection to the domestic industry.

b. The adoption of 22% ROCE employed by Designated Authority is highly inflated and should be rationalized to a reasonable level. Providing 22% ROCE is incorrect as:

   i. Debt portion of capital employed which attracts about 10 to 12% interest rate is provided 22%

   ii. This result in providing more than 22% return on Net Worth Portion of Capital Employed.

   iii. During an era of global recession allowing such a high return to the domestic industry is totally unheard of in any sector.

   iv. 22% ROCE would give 41% profit margin to the domestic industry, which is unreasonable.

c. Reliance has been placed on the EC's decision in European Fertilizer Manufacturer's Association v. Council (1999) ECR II-3291 on the determination of reasonable return which states that profit margin for arriving at reasonable return should be limited to profits under normal conditions, in the absence of the dumped imports.

d. Imposition of ADD will adversely affect the employment (in Agra only) as approximately five (5) lakh people are directly/indirectly dependent on this industry.

e. Indian manufacturers are not in the state to supply material at par with China in same prices. PU upper as used in footwear is only 15% of the total cost of footwear. this usage also generates business to allied industries of footwear.

f. Imposition of ADD would restrict imports, thereby leading to a monopoly and affecting the end users categorized in the MSME category. This is contrary to the policy of the Government on MSME after Covid-19 pandemic.

g. Imposition of ADD would also affect their exports to middle-eastern and European countries as Indian PU industry is not in the position to compete with Chinese products in quality or prices.

h. PU leather produced through the dry process is higher in cost compared to PU coated leather produced through the wet process. In the former, the coagulate base is totally eliminated and PUC is coated directly on the fact of the backing. The chemical reaction in the dry process provides enhanced strength and performance. The resin system can be either: two-component reactive polyether-polycarbonate; or high solid polycarbonate. The high-quality resins are processed in a cleaner and more environmentally sound manufacturing environment. Over 99% of solvents are recaptured and recycled. The dry manufacturing process uses about 25% less energy than the wet process.

i. The claim of the petitioner that the coagulation process is a must to manufacture PU coated fabric is wrong.

j. The Authority should determine whether the domestic industry was capable of manufacturing the product under consideration using the dry technique notwithstanding the non-participation of Chinese producers employing the same.
k. The Authority's reliance on Dsm Idemitsu Limited v. Designated Authority is inapplicable to the present situation as respondents manufacture PU Leather from the dry process only as said process results in an article which is commercially distinct from that manufactured using a combination of the wet and dry process.
l. The Designated Authority has not considered that the assessment of price undercutting and underselling must be made after calculating BCD on the enhanced valuation enforced by the Customs Authorities in India and not the invoice value. An enhanced customs valuation under Customs Valuation (Determination of Value of Imported Goods) Rules 2007 is applied on the subject goods, which must be considered by the Designated Authority as it has major price effect.
m. The cost of production of the domestic industry is also higher as the applicant is attempting to cater to a wide variety of designs which cannot be produced in adequate quantities over a shorter period of time owing to orders which are placed in small quantities for certain designs. It has to import special fabric, release paper and emboss roller to cater to such clients, and delay in sample making results in loss of orders. The cost of these imports cannot be offset.
n. Conversion costs of the applicant are not reliable as it started commercial production in June 2017 and not achieved full efficiency and stability. The Authority is requested to account start-up cost adjustment and reduce conversion costs.
o. While computing export price, the Designated Authority must not deduct VAT as the 13% VAT is refunded by the Government of China upon the export of any article including the PUC. As per their law, VAT on inputs is to be refunded when the final product is exported. Under the Chinese system, VAT on inputs is 17% and the VAT refund on export of finished goods is 13%. Mathematically, if there is a value addition of 32%-33%, what is refunded will be exactly matching with the VAT paid on the inputs. The system is simple, transparent and efficient. Unless and until it is proved that the value addition is less than 32%, there is no reason to deduct the refund as a deduction. In view of the above, there is no reason to deduct 4% of VAT which is the difference between VAT rate on inputs and VAT rate on FOB value of finished goods exported.
p. Price undercutting and price suppression claimed by the petitioner is self-inflicted as it intentionally kept its prices much lower i.e. by 20 to 30% than that of imports from China.
q. While cost of sales has only increased by 21%, the domestic industry's selling price has increased by 36% showcasing that it has been able to raise its prices over and above the rate of increase the cost of sales.
r. The selling price of the domestic industry has not followed the same trajectory as the landed value of imports. It was laid down in Indian Spinners Association vs. Designated Authority reported in 2004 (170) E.L.T. 144 (Tri. – Del.) wherein it was observed that if the selling price of the domestic industry moves independently of the landed value of the imports, it would establish that price suppression and depression, if any, cannot be attributed to imports.
s. The reduced capacity utilization of the petitioner was due to the fact that COVID-19 lockdown was imposed from March 2021 to June 2021 during which the domestic industry was not able to operate its plant and machinery.

t. The data regarding employment, wages and productivity are being disclosed for the first time during the disclosure statement as the domestic industry has claimed complete confidentiality with respect thereto in their petition. Therefore, the same must not be relied upon at this stage for the first time to arrive at a conclusion of injury. In any case, loss of employment was due to the pandemic.

u. The Authority has noted that the domestic industry has not imported the PUC during the POI. This is contrary to the information provided by the domestic industry in its petition wherein it stated that while constructing normal value, prices of raw materials were considered on the basis of the experience of the domestic industry which reflects international prices as PU resin is imported by the domestic industry. This suggests that the applicant either suppressed information regarding import of raw materials or provided false information in its petition.

v. The Authority must determine the duration of the period during which domestic industry was not operational due to lockdown and consequentially, remove the loss of production and capacity utilization. Only thereafter can a proper determination of whether the domestic industry has suffered any loss due to the subject imports can be made.

w. If there is a case of misdeclaration, it is for the customs authorities to rectify the same and after detecting it, adjusting the import volumes reported in the import statistics and cannot form the basis of drawing any adverse inference in anti-dumping proceedings.

x. M/s Jasch Industries Limited and M/s Mayur Uniquoters Limited have increased production, sales and market share during the POI which indicates that inter-se competition is also responsible for lower sales and reduced market share of the applicant in the POI.

y. If ADD to the tune of 30-40% is recommended to safeguard the applicant which accounts for less than 10% of the market share of the subject goods in India, it would result in a massive increase in cost of goods to users who are MSMEs. Such increased cost would be passed on to the further downstream user/consumer, imports of finished products such as wallresiets, belt, bags, furniture, car seat covers or any finished product made with the PUC, essentially rendering these MSMEs unviable.

z. The user industry has quantified the impact of imposition of duties in their IQR. In the IQR, the total cost of raw materials utilized for producing the further downstream product, i.e., belts (clothing accessory) has been captured. The PUC accounted for 47% of the cost of sales for the respondents during the POI. If 40% duty is imposed, the cost of sales per meter for the belts produced by the respondents will increase from Rs.74 per meter to Rs 103.6 per meter. This signifies an overall 23% increase in total cost of raw materials for producing belts manufactured by the respondents. Since, raw materials account for approximately 87% of the total cost of sales of belts, and if the cost of raw materials increases by a further 23%, the total cost of sales of the respondents would rise from Rs.16.72 to Rs.20.07 which signifies an increase of 20%. Therefore, the negligible impact of ADD assumed by the Authority is not correct.

aa. It cannot be in public interest for the Authority to impose ADD to protect a domestic industry which performs a minimal process of coating.

bb. The petitioner has applied for anti-dumping investigation because its cost of producing the subject goods in India is not viable as its raw materials, i.e., PU resin, is not manufactured in India, and has to be imported. Therefore, due to the high

cost of the petitioner, its operation is unviable and therefore, it has applied for anti-dumping duties to alleviate its losses.

cc. The major cost of production of the petitioner constitutes raw materials as minimal value addition is required for the purpose of coating i.e., the manufacturing process performed by the domestic industry. It cannot be in public interest for the Authority to impose anti-dumping duty to protect a domestic industry which performs a minimal process and deal a death knell to the entire downstream industry whose value addition is much higher and which employs a far greater number of people across the diverse industries in which the PUC is used and which consist primarily of MSME's.

dd. The Authority is requested to clarify that non-woven fabric imported without any PU coating does not fall under the scope of present investigation.

ee. The Authority has made observation on raw microfiber whereas the exclusion requested was for microfiber synthetic leather or microfiber-based PU. Also, the exclusion sought was not on the basis of quality but because the specifications provided by the domestic industry are not similar to one demanded by user industry as the domestic industry does not have facility to produce microfiber-based PU as can be seen from several email communications with domestic industry where they have not responded to the request for PU coating on microfiber base. However, the Authority has noted in the disclosure statement that Topline is manufacturing all types of the product including microfiber-based PU, they have not responded to several emails requesting material, which they are unable to sell in the market.

ff. The facts behind the decline in demand and the impact of decline in demand on the different supply sources imports and the domestic industry have not been analysed in the disclosure.

gg. The impact of non-subject imports has not been examined, and there is no examination made on the relative increase/decrease in relation to demand and imports in India.

hh. The increase/decrease of imports from subject country in absolute term and increase of imports from other countries has not been examined as imports from subject country have declined over the injury period.

ii. There is significant demand and supply gap in India and imports either from subject country or third countries will always remain significant.

jj. The market share of the domestic industry has increased from base year and declined in POI because of increase in market share of third countries.

kk. No observation has been made on the growth of profitability parameters of the domestic industry.

ll. The cash losses have converted into cash profits in POI. Cash profits in POI shows high depreciation cost and the reason for making the losses by the domestic industry.

mm. The estimated impact on footwear industry calculated by the petitioner as Rs 8.33 per shoe is incorrect. 170 grams of polyurethane is required to manufacture one pair of shoes basis the information available on https://www.linkedin.com/pulse/polyurethane-industry-india-market-analysis-footwear-mohammed-raseel/. Considering the ADD to be Rs 50 per meter and the approximate length of 1 KG of PU Leather to be 2 meter per KG, the impact should come out to be Rs 17 per shoe (i.e., (consumption per shoe X 2 meter) X 1000 X Rs 50 per meter).

nn. The petitioner has claimed that it has suffered financial loses in the period of

investigation, but, has made cash profits in the period of investigation. The Authority is requested to kindly address how requirements of Article 3.5 have been complied with.

oo. The domestic industry has been misusing the trade remedy measures as it has applied for ADD/CVD/Safeguard Investigation for many of its products.

pp. Levy of any anti-dumping duty will adversely affect the downstream industry as out of total quantity only 3-5% can be manufactured as per the existing production capacity.

qq. The average stock of the domestic industry continuously declining because the domestic industry continued to sell more than it produced.

rr. The decline in the profitability is due to the abnormal events and not the imports from China PR. This affected the overall performance of the domestic industry.

ss. The Council for Leather Exports (CLE) submitted its comments to the disclosure statement on 08 February 2022 which is much beyond the time-period stipulated for providing comments. In its submission, CLE has argued that VAT adjustment should not be made from the export price of China PR for the PUC.

J.2. Submissions of the other domestic producer

104. Winner Nippon Leatherette Pvt. Ltd., the other domestic producer, who didn't participate in the investigation earlier, has made the following post-disclosure statement submissions:

a. PU Leather manufactured by the domestic industry is like and identical to PU Leather imported from China PR in all respects. There is no difference in their manufacturing process.

b. The interested parties have submitted baseless claims for product exclusion even when manufacturing process of the Indian manufactures is the same as Chinese manufacturing process. Relevant proof about the claimed manufacturing process with new technology may kindly be asked from the interested parties.

c. WNLPL are well capable of supplying smaller as well as bigger quantities of the PUC as per choice and demand of the clients. Any 'Minimum Order Quantity' policy is not followed.

d. The domestic industry is fully competent to meet variety of design requirements and supplying to high-end brands.

e. The price of the PUC is quite reasonable and competitive considering the national and international market scenario.

f. The domestic industry is facing material injury owing to dumping by Chinese exporters who have a significant market share and hence is not able to utilize its full production capacity.

g. The low-priced dumped imports from China PR are suppressing and depressing the domestic industry. Despite increase in production and selling cost, the domestic industry is not able to attain reasonable profit margins.

h. The ADD on the imports of PUC from China PR may kindly be imposed to eliminate the injury suffered by the domestic industry on account of unfair trade practices of dumping by the subject countries and to create a level-playing field for the Indian manufactures of the Polyurethane Leather/ PUC.

J.3. Submissions of the domestic industry

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

a. The authenticity and accuracy of the information shared by Wenzhou Volcano International Trading Co., Ltd. in its questionnaire response is doubtful and should be re-examined.
b. The Chinese exporters concerning the PUC are indulged in misdeclaration, wherein they declare incorrect quantum and value for the shipment before the Indian Customs Authorities while declaring the correct quantum and value of the shipment before the custom authorities in China.
c. The Authority is requested to compare the value provided in the DGCI&S data with the value provided by the exporter in its questionnaire response for the similar transaction. If there are significant differences in the invoice value, the same will automatically establish that the response filed by Wenzhou Volcano is incorrect which should lead to outright rejection of the response by Wenzhou Volcano.
d. There have been anomalies in the responses filed by Wenzhou Volcano and Fujian Dima, wherein obscure responses have been by the two interested parties to create confusion on their status. For instance, while Fujian Dima, established in 2007, claims that Wenzhou Volcano is its English name, as per the response filed by Wenzhou Volcano, it was established on November 25, 2015. Further, both the parties have filed separate questionnaire responses too.
e. The Hon'ble Authority has rejected responses filed by producers / exporters from the subject countries even at the post-disclosure stage. Reliance is placed on anti-dumping investigation concerning import of *"Flexible Slabstock Polyol"* originating in or exported from Australia, EU and Singapore. The aggrieved exporters further filed an appeal before the Hon'ble CESTAT, which confirmed the right of the Hon'ble Authority to make alterations in the final findings' basis the comments to the disclosure and dismissed the appeal.
f. The imposition of duty on the PUC be on Kg basis, i.e., in terms of the volume, and not on meter basis, i.e., in terms of length to reduce the evasion of duty. Given the acute malpractice of misdeclaration in the present case, imposing anti-dumping duty on USD per Kg will help in reducing the scope of any such practices. This is immensely important considering the fact that weight for every shipment is measured at the customs port. Moreover, even globally many countries, including China PR, impose basic custom duties on PU leather on Kg basis instead of meter. Turkey had also imposed anti-dumping duties since 2005 in USD / kg on import of textile fabrics impregnated, coated, covered or laminated with polyurethane/ leather substitutes from China.
g. The dumping from Fujian Dima Synthetic Leather Co. Ltd. and other Chinese producers and exporters are significant. The dumped imports of PUC from these Chinese producers / exporters are causing severe injury to the Indian producers of PUC.
h. The Authority is requested to re-evaluate the dumping margin and the injury margin for Fujian Dima Synthetic Leather Co. Ltd in case of discrepancies in the questionnaire response filed by its exporters, Wenzhou Volcano.

J.4. Examination of the Authority

106. It is seen that most of the submissions made by the interested parties on the 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 reproduced again. The submissions made by the interested parties on the disclosure statement that are not already examined by the Authority have been addressed herein below:

a. The Authority notes that many parties have made submissions before the Authority for the first time after the issuance of the disclosure statement. However, even those arguments have been taken on record and wherever necessary, the data on record has been re-verified to ensure that concerns raised get duly addressed. The Authority however notes that such an approach on the part of parties to raise fresh set of issues after the issuance of the disclosure statement, that too without having participated at any prior stage of the investigation is not at all appreciated. Further, CLE has submitted its comments much beyond the deadline, however, the same has been considered by the Authority to the extent relevant in its analysis.

b. With respect to submission made by Navkar Techtex Pvt Ltd that the exclusion claimed by the was for microfiber-based PU whereas the Authority has made observation on raw microfiber. The Authority draws attention to the questionnaire response as well as the post-oral written submissions dated 5 August 2021 submitted by Navkar Techtex Pvt Ltd, wherein they have submitted as follows:

> *Non-woven fabric is one of the raw materials for the product under consideration and is imported under the HS code 56031400. On non-woven fabric, an additional layer of Polyurethane is added to convert it in Polyurethane Leather. Therefore, the two products can be differentiated on the basis of coating. If the product is Polyurethane Leather, then it has to be mandatorily coated on at least one side and any uncoated product or coated with some substance other than Polyurethane should be considered as product beyond the scope of product under consideration. The product for which clarification is being sought is in fact a raw material. Further, as per the respondent information, the Indian manufactures of product under consideration are themselves importing non-woven fabric and by doing PU or PVC coating on it, they are producing Polyurethane Leather. Non-woven fabric imported by us is impregnated fabric and dipped either with latex, chemicals or polyurethane.*
>
> *Microfiber fabric is a non-woven fabric made with impregnation or dipping or mixed with PU and Nylon fibres and sometimes polyester fibers also.* ***It is dipped fabric and not a coated fabric.***

c. Therefore, Navkar Techtex Pvt Ltd had sought exclusion for non-woven fabric and microfiber fabric, both the products without any PU coating. Thus, the interested party has raised a fresh request for exclusion of microfiber fabric having PU coating or microfiber synthetic leather vide email dated 02 February 2022 and comments to disclosure statement at the post-disclosure stage.

d. Since the Authority cannot examine the arguments nor provide opportunity to the other interested parties to make their comments on the same, it will not be interest of equity to consider the fresh request from Navkar. In any event, the Authority notes that Navkar vide the above paragraph also admits that Indian manufacturers of PUC are themselves importing non-woven fabric and doing PU coating on the same. It is also noted that the data on record establishes that the domestic producers have supplied microfiber coated PU Leather during the POI. In view of the same, the Authority rejects the request for exclusion sought at the post-disclosure stage.

e. Further, with respect to the email communication submitted by Navkar Techtex Pvt Ltd, the Authority notes that the evidence supplied by Navkar Techtex Pvt Ltd in form of email communication is incomplete as well as outside the scope of POI. In this respect it is also noted that the domestic industry had requested for contact details in the email communications shared by the interested party. However, no information was shared by the interested party as per the email chain. The Authority further clarifies that post-POI data / information provided by the domestic industry evidencing aggregated injury has not examined for the purpose of the current anti-dumping investigation being an original investigation. Therefore, to be consistent the post POI submission by Navkar Techtex Pvt Ltd also cannot be considered.

f. As regards the submission made for the exclusion of PUC manufactured using dry technique, the Authority notes that none of the producers / exporters from the subject country or the association of the exporters participating in this investigation have mentioned about the new technique involving only the dry process. This signifies that there is no difference in the manufacturing process and the product produced is commercially and use-wise substitutable with the PUC manufactured using the two-step process. The user industry requesting for exclusion of products manufactured using dry process has not provided any substantial evidence even in their post-disclosure submissions to establish the difference in the products manufactured using the two techniques. Therefore, the Authority finds that the products manufactured using either of the technology are "like articles" and thus, finds no merit in such a claim for exclusion of products manufactured using dry technique only.

g. As for the quality issues cited, the Authority as per its consistent practice finds that quality issues are not relevant for exclusion. In any event, the importers/users would continue to be able to import the subject goods at fair prices and therefore, such claims are not reasonable.

h. As regards the argument that the cost of production of the domestic industry is high due to import dependency for PU Resin, the Authority notes that the domestic industry is importing as well as domestically procuring PU Resin.

i. The Authority notes that the non-refundable VAT is 4% as submitted by the interested parties and not 13% as claimed by the domestic industry. As regards the contention that no adjustment is required for non-refundable VAT component while calculating the export price, the Authority notes that the submissions of the domestic industry and the interested parties on VAT. Since no producer/exporter has commented upon this adjustment of non-refundable VAT and keeping in view the domestic industry's clarification and the consistent practice of the Authority, the Authority has adjusted the ex-factory export price with the non-refundable

VAT of 4%. Accordingly, the net export price at ex-factory level for exports from China PR has been calculated and is shown in the dumping margin table.

j. As regards the argument of considering 22% as return on capital employed, it is noted that the Authority has determined NIP as per Annexure III of the AD Rules and the consistent practice of the Authority.

k. As regards the argument that the assessment of price undercutting and underselling must be made after calculating basic customs duty on the enhanced valuation enforced by the Customs Authorities in India, as per its consistent practice, the Authority has assessed the price undercutting and underselling considering the landed value of imports as per the provisions of the Customs Act, 1962 (52 of 1962) as assessable value including all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

l. The impact on user industry has been examined under the section on 'Indian industry's interest and other issues' in present finding.

m. The Authority notes the support to the domestic industry's petition by another producer, Winner Nippon Leatherette Pvt. Ltd. The arguments raised by WNLPL are already duly captured in the disclosure statement and the Authority has examined the support in assessment of standing of the domestic industry in the present finding.

n. As regards the argument that imposition of ADD would lead to creation of monopoly, the Authority notes that there are already four manufacturers of PUC in India and the Indian market is dominated by Chinese imports. Thus, the Authority finds no merit in this argument.

o. The Authority has rejected the response of Wenzhou Volcano International Trading Co., Ltd. and Fujian Dima Synthetic Leather Co., Ltd. on account of reasons mentioned in paragraphs 50 & 51 of the present findings. In this respect, the Authority notes the decision of the Hon'ble CESTAT in *M/s Shell Eastern Petroleum Ltd & others vs. Union of India & others,* 2018(364) ELT423(Tri.-Delhi) wherein it was held that the Authority has the power to make changes in the final findings post issuance of the disclosure statement without the need to recirculate a revised disclosure statement pursuant to such changes.

p. The Authority notes that the levy of duty in USD per KG would not be appropriate in the present investigation as the domestic industry did not maintain data in kilogram.

K. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

107. The Authority notes that the purpose of the antidumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The imposition of the antidumping measures would not restrict the imports from the subject country/ territory in any way and, therefore, would not affect the availability of the product to the consumers.

108. It is recognized that the imposition of the antidumping duties 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 antidumping measures, particularly if the levy of the antidumping duty is restricted to an amount necessary to redress the injury to the

domestic industry. On the contrary, the imposition of antidumping measures would remove the unfair advantages gained by dumping practices; would prevent the decline in the performance of the domestic industry and help maintain the availability of wider choice to the consumers of the subject goods.

109. The imposition of antidumping duty does not impact the export performance of the user industry as the product under consideration can be procured under advance authorization scheme without payment of customs duties including antidumping duty.

110. The user industry has not quantified the impact of imposition of duties in the final cost of production of the various products manufactured by them. However, as per the domestic industry if the upper of footwear requires one side PU Leather, then with 1 meter of PU Leather, nearly 18 pair of shoes can be manufactured and if the upper of footwear requires both side PU Leather then with one meter of PU Leather 6 pairs of shoes can be manufactured. The domestic industry has further provided an illustration, assuming if the antidumping duty is Rs 50 per meter then the impact would be INR 2.77 per pair (i.e., 50/18) for one sided upper and INR 8.33 per pair (i.e., 50/6) per pair for both sided upper out of total manufacturing cost of the product. The Authority also notes that none footwear manufacturers' users' associations have rebutted the quantitative analysis of the likely impact of imposition of ADD on the footwear industry provided by the domestic industry.

111. The Authority further notes that the Navkar Techtex Private Limited in their comments to the disclosure statement have submitted, that the impact of duty on footwear industry would be Rs 17 per shoe and not Rs 8.33 per pair as submitted by the domestic industry. Having examined the weblink relied upon by Navkar Techtex Private Limited to obtain data on consumption of 170 grams per shoe, the Authority found that the data is irrelevant in the present investigation as the link states the usage of polyurethane, a chemical in manufacturing the sole of the shoe as 170 grams and not the PUC. Further, it is noted that the chemical, polyurethane is used for the sole of footwear whereas PUC is used in the upper of sole. Therefore, the information is not relevant.

112. The Authority notes that Fibre Bond Industries and Fibre Trade Linc Pvt. Ltd. in their comments to the disclosure statement have provided a calculation to demonstrate the effect of ADD, if levied, on the Indian belt industry. However, the said calculation is not supported by any evidence. Nevertheless, the Authority has examined the calculation provided and notes that the buckle consumption considered by these entities is *** as against the total production of *** belts. Thus, the information is prima facie unreliable.

113. The Authority vide its letter dated 07th February, 2021 requested for comments from the domestic industry for the impact of the proposed anti-dumping duty on belt manufacturers in India. The domestic industry has submitted basis the information contained in letter received from different belt manufacturers as follows:

> *On an average with 1.25 meters of PU Leather, 34 belts can be made (i.e., (33+35)/2) with single side PU Leather. Further, the average cost to manufacture one PU Leather belt is around Rs. 110 wherein PU Leather constitutes approx. 9% in the overall manufacturing cost. Therefore, in view of the above, assuming the ADD to be Rs. 50 per meter on imports of PU Leather from the subject country, in*

such a scenario, the overall impact on the cost of per belt will be Rs. 1.83 (i.e., (50 X 1.25) /34) or 1.66% (i.e., 1.83/110).

114. As regards the submission of Madipur Chappal Udyog Association, the user association has chosen not to participate until the post-disclosure stage, the Authority notes that such submissions at a belated stage amount to fresh claims and ought to be outrightly rejected. Nevertheless, the Authority notes that imposition of ADD will not impact the exports made by the downstream industry as the PUC can be procured domestically, i.e., without payment of customs duties, including ADD.

115. The Authority notes that Fibre Bond Industries and Fibre Trade Linc Pvt. Ltd. in their comments to the disclosure statement have submitted that the value addition done by the domestic industry in the coating process is minimal, whereas, the value addition by the downstream industry using the PUC is much higher, and therefore, imposition of ADD is not is public interest. In this regard, the Authority is of the view that firstly there is a significant value addition by the domestic industry and in any event, value addition by the domestic industry cannot be a determining factor in a public interest examination in context of an anti-dumping investigation.

116. Moreover, the Authority also notes that the market share of China PR in the overall demand is 80% during the POI which is abnormally high given that there are three domestic producers for the subject goods.

Particulars		**2017-18**	**2018-19**	**POI**	**POI(A)**
Imports from subject country in overall demand	%	***	***	***	***
	Indexed	100	93	91	91

117. In the view of the Authority, such a high market share of China PR in the overall demand poses a significant risk to the user industry in India, as any disruption in the domestic market in China for the subject good or any disruption in supply chain from China PR on account of any factor will lead to significant difficulties for the user industry some of which are MSME.

118. Thus, the information on record shows that the non-imposition of the antidumping duty will adversely impact the domestic industry, while imposition of the duty will not materially impact the consumers or the downstream industry or the public at large.

L. CONCLUSIONS

119. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in the present findings, the Authority concludes that:

a. The landed value of the product under consideration from the subject country is below the cost of the domestic industry and its selling price, which gives clear indication that the injury to the domestic industry is due to the dumped imports from the subject country.

b. The product under consideration has been exported to India in large volumes from the subject country below its normal value, resulting in dumping.
c. The examination of the imports of the subject product and the performance of the domestic industry clearly shows that the volume of dumped imports from subject country has been significantly high in both absolute and relative terms throughout the injury period. The imports of the subject goods from the subject country are undercutting as well as suppressing the prices of the domestic industry. The production, sales, capacity utilization and market share of the domestic industry has declined in the period of investigation in comparison to preceding year. The performance of the domestic industry has been significantly low in respect of profits, cash profits and return on capital employed during the injury period. The domestic industry has suffered financial losses and negative return on investments in the period of investigation. The imports from subject country have dominated the market share while the market share of the domestic industry has been in single digit. Growth is negative in multiple volume and price parameters in the period of investigation. In view of the foregoing, the Authority, thus, concludes that the domestic industry has suffered material injury.
d. The material injury has been caused by the dumped imports from the subject country.
e. The recommendation for imposition of duty will not be against public interest on account of factors summarized below:
    i. The purpose of ADD is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.
    ii. The imposition of the ADD would not restrict the imports from the subject country/ territory in any way.
    iii. The imposition of ADD will not impact the export performance of downstream industry as the product under consideration can be imported duty free under advance authorization.
    iv. The high market share of China PR in the overall demand poses a significant risk to the user industry in India, as any disruption in supply chain from China PR on account of any factor will lead to significant difficulties for the user industry some of which are MSME.
    v. The impact of ADD on footwear and belt industry basis the information available on record is negligible.

M. RECOMMENDATIONS

120. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, Embassy of the subject country, exporters, importers and the other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the Authority is of the view that imposition of anti-dumping duty is required to offset dumping and the consequent injury. Therefore, the Authority considers it necessary to recommend imposition of the definitive antidumping duty on the imports of the subject goods from the subject country in the form and manner described hereunder for a period of 5 years.

121. In terms of the provision contained in Rule 4(d) & Rule 17(1) (b) of the Rules, the Authority recommends imposition of the anti-dumping duty equal to the lesser of margin of dumping and the margin of injury so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the Duty Table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on all imports of the subject goods described at Column 3 of the Duty Table, originating in or exported from China PR.

Duty – Table

S.N.	Heading / Subheading	Description of Goods	Country of Origin	Country of Export	Producer	Amount	UoM	Currency
1.	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**
1.	*5603.94.00* *5903.20.90*	Polyurethane Leather which includes any kind of textile coated one sided or both sided with Polyurethane	China PR	Any country including China PR	Anhui Anli Material Technology Co., Ltd.	NIL	Meters	USD
2.	-do-	-do-	China PR	Any country including China PR	Any Producer other than S. N. 1	0.46	Meters	USD
3.	-do-	-do-	Any country other than China PR	China PR	Any	0.46	Meters	USD

122. The customs tariff classification is only indicative and in no way binding upon the scope of the product concerned.

123. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

124. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

(Anant Swarup)
Designated Authority