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F. No. 6/03/2023-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi -110001

Dated: 28th March 2024

Case No. AD (OI)-03/2023

FINAL FINDINGS

Subject: Anti-dumping investigation concerning imports of 'Sodium Cyanide (NaCN) originating in or exported from China PR, European Union, Japan and Korea RP.

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F. No. 6/03/2023-DGTR: - Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereafter 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 thereof, as amended from time to time (hereinafter referred to as “AD Rules”);

BACKGROUND OF THE CASE

1. Hindusthan Chemical Company (HCC) and UPL Limited (UPL) (“hereinafter referred to as the ‘applicants’ or the ‘domestic industry’”) filed an application before the Designated Authority (hereinafter referred to as the ‘Authority’) in accordance with the Customs Tariff Act, 1975 (hereinafter referred to as the ‘Act’) and the Anti-Dumping Rules, 1995 (hereinafter referred to as the ‘Rules’) for the initiation of an anti-dumping investigation concerning imports of “**Sodium Cyanide (NaCN)**” (hereinafter also referred to as the ‘product under consideration’ or the ‘PUC’, or the ‘subject goods’) from China PR, European Union, Japan and Korea RP (hereinafter also referred to as the ‘subject countries’).
2. The Authority, on the basis of sufficient *prima-facie* evidence submitted by the applicants, issued a public notice vide Notification No. 6/03/2023-DGTR dated 31st March, 2023, published in the Gazette of India – Extraordinary, initiating the subject investigation in accordance with the 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 countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic injury.

PROCEDURE

3. The procedure described below has been followed with regard to the subject investigation:
 - i. The Authority notified the embassies of the subject countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Rule 5(5) of Rules.

- ii. The Authority issued a public notice dated 31st March 2023 published in the Gazette of India – Extraordinary, initiating the anti-dumping investigation concerning imports of the subject goods from the subject countries.
- iii. The Authority sent a copy of the initiation notification dated 31st March 2023 to the embassies of the subject countries in India, the known producers and exporters from the subject countries, the known importers/users in India, and the other interested parties, as per the details made available by the applicants. The interested parties were requested to provide relevant information in the form and manner prescribed in the initiation notification and make their submissions in writing within the time limits prescribed in the initiation notification.
- iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassies of the subject countries in India in accordance with Rule 6(3) of the Rules.
- v. The embassies of the subject countries were sent a copy of the letter and questionnaire sent to the producers/exporters with the request to advise the exporters/producers from their respective subject countries to submit their responses to the questionnaire within the time limit prescribed by the initiation notification.
- vi. The interested parties were granted an opportunity to present their comments on the scope of the PUC and propose product control numbers (PCNs), if required, within a period of 15 days from the date of the circulation of the non-confidential application.
- vii. The Authority also issued an economic interest questionnaire (hereafter referred to as 'EIQ') to the interested parties including the Department of Chemicals & Petrochemicals seeking inputs on the economic impact of the proposed duties.
- viii. The Authority sent questionnaires to the following known producers/exporters from the subject countries, whose contact details were provided by the domestic industry in the application, in accordance with Rule 6(4) of the Rules.

SN	Country	Producer/Exporter
1	China PR	<ol style="list-style-type: none"> i. Hebei Chengxin Co. Ltd. ii. Zhejiang Chemicals Import and Export. iii. JSM (Shenzhen) Enterprise Company Limited. iv. Asambly Chemicals Company Limited. v. Anhui Anqing Shunchuang Chemical.
2	European Union	<ol style="list-style-type: none"> i. Cyplus Gmbh (Evonik Subsidiary) ii. Evonik Industries Ag iii. Draslovka Holding B.V. iv. Union Group Chemical Company S. L.
3	Japan	<ol style="list-style-type: none"> i. Sojitz Corporation
4	Korea RP	<ol style="list-style-type: none"> i. Hanwha Corporation ii. Unid Global Corporation iii. Dk Metal World Ltd.

- ix. In response to the above notification, the following producers/exporters of the product under consideration from the subject countries have registered as an interested party.

SN	Country	Producer/Exporter
1	China PR	i. Hebei Chengxin Co. Ltd
2	European Union	i. CyPlus GmbH ii. Lučební závody Draslovka a.s. Kolín
3	Japan	ii. Nippon Soda Co. Ltd. iii. Sojitz Corporation
4	Korea RP	i. Taekwang Industrial Co. Ltd

- x. The producers/exporters from the subject countries who have not submitted the questionnaire response or have not cooperated in the investigation have been treated as non – cooperative in the investigation.
- xi. The Authority also sent questionnaires to the following known importers/users of the product under consideration in India calling for necessary information in accordance with Rule 6(4) of the Rules.

SN	Importers/Users
1.	Arshiya Logistics Service Limited
2.	Ascent Finchem Private Limited
3.	Ashoka Meta Chem Industries
4.	Asian Chemtech Private Limited
5.	Benzo Chem Industries Private Limited
6.	Bharat Rasayan Limited
7.	Chemplast Sanmar Limited
8.	Chemtech Intermediates Private Limited
9.	DCM Shriram Industries Limited
10.	Deccan Fine Chemicals (India) Private Limited
11.	Divis Laboratories Limited
12.	Emmennar Pharma Private Limited
13.	Eurofine Chemicals
14.	Gharda Chemicals Limited
15.	Grauer & Weil (I) Limited
16.	Hemani Industries Limited
17.	Heranba Industries Limited
18.	Hikal Limited
19.	Hindustan Zinc Limited
20.	Honour Lab Limited
21.	Inventys Research Company Limited
22.	Jaggo Overseas

23.	M.B. Sales Corporation
24.	Mahavir Expochem Limited
25.	Meghmani Organics Limited
26.	Premier Intermediates Private Limited
27.	Rathoure Trading Company
28.	Sabari Chemicals Private Limited
29.	Sanjay Chemicals (I) Private Limited
30.	Shree Ganesh Chemicals
31.	Shyamal Chemical Industries
32.	Tagros Chemicals India Private Limited
33.	Techno Commercial traders
34.	Teva Api India Private Limited
35.	Yamuna Meta Chem

- xii. The following importers/users of the product under consideration in India have registered as an interested party in the present investigation.

SN	Importer/User
1	Asian Chemtech Private Limited
2	Bharat Rasayan Limited
3	Chemtech Intermediates Private Limited
4	DCM Shriram Industries Limited
5	Eurofine Chemicals Limited
6	Emmenar Pharma Private Limited
7	Hemani Industries Limited
8	M B Sales Corporation
9	Meghmani Organics Limited
10	Premier Intermediates Private Limited

- xiii. The Directorate General of Commercial Intelligence and Statistics (DGCI&S) was requested to provide transaction-wise details of the imports of the subject goods for the injury investigation period and the period of investigation. The Authority has relied upon the same for the subject investigation.
- xiv. The period of investigation (POI) for the purpose of the present investigation is 1st October 2021 to 30th September 2022 (12 months). The injury analysis period covers 1st April 2019 to 31st March 2020, 1st April 2020 to 31st March 2021, 1st April 2021 to 31st March 2022 and the period of investigation (POI).
- xv. In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity to the interested parties to present their views orally regarding the subject investigation through a public hearing held on 7th December 2023. The interested parties who 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 interested parties were further directed to share the non-confidential version of the written submissions submitted by them with the other interested parties.

- xvi. The non-injurious price (hereinafter referred to as the 'NIP') has been determined based on the cost of production and reasonable profits of the goods in India, based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure-III to the Rules so as to ascertain whether anti-dumping duties lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xvii. The information submitted by the applicants has been examined and verified during on site-verification to the extent deemed necessary and has been relied upon for the present final finding.
- xviii. The information submitted by the cooperating producers/exporters from the subject countries was also examined through desk verification to the extent deemed necessary and have been relied upon for the purpose of the present disclosure statement.
- xix. The Authority made available the non-confidential version of the evidence presented by various interested parties in the manner prescribed through Trade Notice No. 01/2020 dated 10th April 2020. The information/submissions provided by the interested parties on a confidential basis were examined concerning the sufficiency of such confidentiality claims.
- xx. The Authority has considered all the arguments raised and information provided by all the interested parties, to the extent the same are supported with evidence and considered relevant to the present investigation.
- xxi. A disclosure statement containing the essential facts of the investigation which have formed the basis of the final findings was issued to the interested parties on 19th March, 2024 and the interested parties were allowed time up to 24th March 2024 to comment on the same. The comments to disclosure statement received from the interested parties have been considered, to the extent found relevant and non-repetitive, in this final finding notification.
- xxii. "****" in this document represents information furnished by an interested party on a confidential basis and so considered by the Authority under Rules 7 of Rules.
- xxiii. The exchange rate for the POI (October 2022 – September 2023) adopted by the Authority for the subject investigation is 1 US \$=Rs 77.48.

PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. The product under consideration as defined at the stage of initiation is as follows:

"3. The product under consideration for the present investigation is 'Sodium Cyanide' which is a moderately strong base. It is a poisonous compound with the formula NaCN. It is white in colour and is a water-soluble solid. Cyanide cation has a high affinity for metals, thus, attributing high toxicity to this base.

4. *Uses: Sodium Cyanide is used for extraction of gold and silver from their respective ores, in electroplating, heat treatment of metals (case hardening), manufacturing insecticides, dyes, pigments, bulk drugs and in many organic syntheses, agrochemicals, nylon intermediates, gelating compounds, ore flotation and pharmaceutical intermediates.*

5. *Tariff classification: The product under consideration is classified under Chapter 28 of the Customs Tariff Act, 1975 under subheading 283711 of the Customs Tariff Classification. However, in the past, the PUC has also been imported under other sub-headings as well, such as 28371990, 28372090, 28372040, 28391100 and 28371910. “*

C.1 Submissions made by the other interested parties.

5. The other interested parties have submitted as follows with regard to the product under consideration and like article:
 - a. The product under consideration, sodium cyanide (NaCN) exists in powder or cylindrical tablet forms whereas UPL only produces liquid sodium cyanide as a by-product. The petition and initiation notification failed to address the different forms of sodium cyanide that are produced, sold, and imported and it seems the Authority has overlooked this important detail.
 - b. The product is sold in the market in powder, tablets and liquid form and the concentration varies. Prices of the product vary depending upon the form in which it is sold.
 - c. Authority did not seek comments from the interested parties on the need for PCN methodology.
 - d. UPL has faced problems on maintaining quality of the product as purity level of product has not been at 98% level.

C.2 Submissions made on behalf of the applicants.

6. The applicants have submitted as follows with regards to the product under consideration and like article:
 - a. The product under consideration is sodium cyanide which is a moderately strong base. It is a poisonous compound with the formula NaCN. It is white and is a water-soluble solid.
 - b. The product under consideration is classified under Chapter 28 of the Customs Tariff Act, 1975 under subheading 283711 of the Tariff Classification. However, in past, the product has also been imported under other sub-headings as well, such as 28371990, 28372090, 28372040, 28391100 and 28371910.

- c. All producers of the product produce first in liquid form. However, it is preferred to be transported in solid form considering the nature of the product, economics and difficulty in selling the product in liquid form.
- d. The product is eventually consumed in liquid form after being dissolved in water to make a 30% solution. It is entirely irrelevant if the product is transacted in solid or liquid form.
- e. The mere fact that sodium cyanide is also transported and used in liquid form does not make sodium cyanide in solid and liquid form different products.
- f. The product manufactured by the applicants is 'like article' to the product being imported from the subject countries.
- g. Emmennar Pharma Pvt. Ltd.'s claim that the applicants cannot provide the desired purity lacks merit. In fact, the purity content provided by the domestic industry exceeds 98%, matching the quality of imports. While the user previously did not source any material domestically, they have recently begun to partially shift their requirements to the domestic industry.

C.3 Examination by the Authority

7. The submissions made by the interested parties and the domestic industry with regard to the product under consideration have been examined and addressed hereunder.
8. As regards the submission that the applicants are unable to provide the product with 98% purity level as required by the user industry, the Authority notes that the applicants have provided sales invoices and certificate of analysis showing sales of the product with 98% purity. The applicants have additionally highlighted that Emmennar Pharma Private Limited has shifted its requirement from imports to domestic industry and while the respondent was earlier sourcing its entire requirement from imports but has now shifted some portion of its requirements to the domestic industry. In view of the above, the contention of the interested party that the applicants do not provide the product with the desired standard cannot be accepted.
9. With respect to the form of product being sold in the domestic market, it is seen that sodium cyanide is initially produced and ultimately consumed in liquid form. However, considering the nature of the product, ease of transportation and the economics involved, it is preferred to be converted into solid form i.e., in the form of tablets/briquettes for transportation purpose. The Authority through its clarification letter for the PUC & PCNs issued on 6th August 2023 clarified that the product under consideration is sodium cyanide, regardless of its form. Liquid form of sodium cyanide is nothing but just the product mixed with water. Liquid form can be converted into solid, and the solid form can be re-converted into liquid with ease and without any change in the chemical properties of the product. The solid form and liquid form

produced by all producers are comparable in terms of all essential characteristics of the product.

10. As regards the contention that the Authority did not seek comments on the need for PCNs, it is noted that post initiation of the investigation letters were sent to all the interested parties, which clearly established the timelines of various submissions, including 15 days' time to file comments on PUC/PCNs. However, barring one interested party, Hebei Chengxin Co. Ltd., which submitted that PCN-wise analysis is not required in this case, none of the interested parties in the investigation availed the above opportunity and made any comments on the PCNs within the stipulated time. Hence, the Authority finds this contention to be totally baseless.
11. The product under consideration in the present investigation is sodium cyanide which is a moderately strong base. It is a poisonous compound with the formula NaCN. It is white in colour and is a water-soluble solid. Cyanide cation has a high affinity for metals, thus, attributing high toxicity to this base.
12. The product under consideration is used for extraction of gold and silver from their respective ores, in electroplating, heat treatment of metals (case hardening), manufacturing insecticides, dyes, pigments, bulk drugs and in many organic syntheses, agrochemicals, nylon intermediates, gelating compounds, ore flotation and pharmaceutical intermediates.
13. In view of the above, the Authority concludes that the scope of the product under consideration is sodium cyanide, regardless of its form. The product under consideration is classified under Chapter 28 of the Customs Tariff Act, 1975 under subheading 283711 of the Customs Tariff Classification. The product has also been imported under other sub-headings as well, such as 28371990, 28372090, 28372040, 28391100 and 28371910. However, the customs classification is only indicative and is not binding on the scope of the product under consideration or the levy of anti-dumping duty.
14. As per the information available on record, the Authority notes that the product produced by the domestic industry is like article to product under consideration imported from the subject countries. The product produced by the domestic industry is comparable to the goods imported from the subject countries in terms of physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, pricing, distribution & marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. Thus, the Authority concludes that the product manufactured by the domestic industry constitutes like article to the subject goods being imported into India from the subject countries in the terms of Rule 2(d).

SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1 Submissions made by the other interested parties

15. The other interested parties have submitted as follows with regards to the scope of domestic industry and standing:
 - a. HCC, UPL and Hindusthan Engineering & Industries Limited, the parent company of HCC, are habitual/regular importers and traders of the subject goods in substantial volumes, before, during and after the period of investigation.
 - b. The applicants have imported the PUC from the subject countries and traded it because of their inability to produce and supply due to regular stoppage of production on account of environmental issues, technical issues and regulatory ban on them from time to time.

D.2 Submissions made by the applicants.

16. The applicants have submitted as follows with regards to the scope of the domestic industry and standing:
 - a. The applicants are the only producers of the product under consideration in India.
 - b. HCC (formerly known as Cyanides & Chemicals Company) is a unit of Hindusthan Engineering & Industries Limited and has been engaged in the production of the product under consideration for more than 35 years.
 - c. UPL Limited had recently set up a new plant in India with an investment of Rs 500 cr. and has commenced its production of the product under consideration from April 2021.
 - d. Both the producers had imported the product under consideration in the past. While UPL imported for captive consumption before start of commercial production, Hindusthan Chemical Company imported in 2019-20 and 2020-21 for trading purpose to meet the customers requirements.
 - e. Imports by HCC were made in 2019-20 when its plant was shut down. These imports were from non-subject countries.
 - f. The applicants have not imported the product under consideration in the period of investigation.
 - g. The applicants are not related to any of the producer/exporters in the subject countries or any importers of the subject goods in India.

D.3 Examination by the Authority.

17. The application has been filed by Hindusthan Chemical Company and UPL Limited.
18. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

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

19. As regards the submission of applicants being regular importers and traders, the Authority has examined transaction wise import data for the injury period and has found that the entire imports by HCC are in the period 2019-20 and 2020-21. There are no imports made by HCC in the period of investigation. Further, the parent company of HCC has also not imported any product in the period of investigation.
20. The table below shows the imports made by HCC over the years.

SN	Particulars	Units	2019-20	2020-21	2021-22	POI
1	Imports from subject countries	MT	***	***	No imports	
2	Imports from non-subject countries	MT	***	***		
3	Imports in relation to subject countries imports	%	***	***		
4	Imports in relation to production	%	***	***		

21. Further, it has been submitted by the other interested parties that the parent company of HCC has imported the product in the period of investigation. The Authority notes that the transaction wise import data does not show any imports made by Hindusthan Engineering & Industries Limited in the POI.
22. It has been submitted that UPL imported in 2019-20 and 2020-21. The imports were made prior to commencement of commercial production by UPL. The Authority notes that there are no imports by UPL in the period of investigation.
23. The table below shows the imports made by UPL over the years.

SN	Particulars	Units	2019-20	2020-21	2021-22	POI
1	Imports from subject countries	MT	***	***	No imports	
2	Imports from non-subject countries	MT	***	***		
3	Imports in relation to subject countries imports	%	***	***		
4	Imports in relation to production	%	No production			

24. The Authority notes that the interested parties' portrayal that the imports were being made by the applicants only due to shut downs cannot be accepted since the applicants have imported the subject goods in the past to primarily cater to the demand supply gap and to retain its customers. The Applicants have contended that there was no dumping in the years 2019-20 and 2020-21 and the imports by the applicants were at un-dumped prices.
25. The Authority is required to examine if an applicant has imported in such large volumes that its nature has turned to be of an importer or a trader. The Authority notes that both the applicants had imported in past to primarily cater to the Indian demand. However, one of the applicants has even undertaken substantial investment of Rs 500 cr. to set up a new plant for production of the PUC. The Authority is also required to examine if an applicant has imported the product under consideration in the period of investigation. The Authority notes that the applicants have not imported in the period of investigation. The applicants have also certified that they are not related to any importer in India or exporter of the product under consideration in the subject countries. The Authority, therefore, concludes that the applicants satisfy the requirements of Rule 2(b) of the Rules.
26. The Authority further notes that HCC and UPL are the only producers in India and together constitute 100% of the total Indian production and considers that the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

CONFIDENTIALITY

E.1 Submissions made by other interested parties.

27. The other interested parties have submitted as follows with regards to confidentiality:
- a. The applicants suffer from excess confidentiality as relevant information has been kept confidential. Relevant information has not been given even in the indexed form.
 - b. Costing formats, price undercutting, price underselling, profitability in percentage and dumping margin have been claimed completely confidential.
 - c. The applicants have blackened the information on self-imports in the period of investigation.
 - d. Details of production being suspended have been claimed confidential.

E.2 Submissions made by the applicants.

28. The applicants have submitted as follows with regards to confidentiality:
- a. The applicants have not claimed any excessive confidentiality. Entire information has been disclosed as per Trade notice 10/2018 dated 7th September 2018.

- b. The information given in the costing formats, price undercutting, price underselling and profitability is business sensitive information and is not amenable to summarization.
- c. As regards the argument that the applicants have blackened the information on self-imports in the period of investigation, it is clarified that there are no imports in the period of investigation.

E.3 Examination by the Authority.

- 29. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties as per Rule 6(7) and Trade Notice 10/2018 dated 7th September 2018 read with Trade Notice 01/2020 (as extended by the Authority till further notice).
- 30. With regard to confidentiality of information, Rule 7 of AD Rules, 1995 provides as follows:

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

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

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.”

- 31. The Hon'ble Supreme Court in Reliance Industries relied on its decision in Sterlite Industries (India) Ltd. V. Designated Authority. Sterlite Industries had emphasized upon the importance of confidentiality. In para 3 of said decision it was reaffirmed that:

3 confidentiality under Rule 7 is not something which must be automatically assumed. Of course, in such cases there is need for confidentiality as otherwise trade competitors would obtain confidential information which they cannot otherwise get. But whether information supplied is required to be kept confidential has to be

considered on a case-to-case basis. It is for the Designated Authority to decide whether a particular material is required to be kept confidential.

32. The Authority reviewed the confidential information submitted by the interested parties, evaluating the adequacy of the confidentiality claims. Upon finding the claims substantiated, the Authority has granted approval for the confidentiality requests where deemed necessary, thereby ensuring that such sensitive information remains undisclosed to other interested parties. In situations where it was feasible, entities that furnished confidential information were advised to provide ample non-confidential renditions of the confidentially submitted information. The Authority facilitated the distribution of the non-confidential versions of the evidence presented by various interested parties, instructing them to share these non-confidential versions of their submissions via electronic communication.
33. As regards the submission on HCC's production being suspended being claimed confidential, the Authority notes that the same was disclosed in the application and the written submissions filed by the applicants. Therefore, the contention is incorrect.
34. As regards information given in costing formats, on price undercutting, price underselling and profitability being claimed confidential, the Authority notes that the information relating to these parameters are business sensitive information which cannot be disclosed. The applicants were required to disclose the confidential information as per the Trade notice 08/2018 dated 7th September 2018 and the applicants have complied with the requirements.

MISCELLANEOUS ISSUES

F.1 Submissions made by the other interested parties

35. The other interested parties have submitted as follows with regards to miscellaneous issues:
 - a. As per Trade Notice No. 04/2012 dated 23rd May 2012, applicants were required to circulate the information presented in the public hearing to the other interested parties one day prior. The applicants did not circulate the information.
 - b. The Authority had not given sufficient time for filing of comments or the exporter questionnaire response.
 - c. Authority has not given any opportunity to interested parties to suggest PCN methodology.
 - d. Since the product is sold in both solid and liquid form, they should form a basis of PCN, and the dumping margin and injury margin should be determined based on PCN methodology.
 - e. Information regarding the shutdown of plant of HCC by Gujarat Pollution Control Board has been deliberately suppressed by the applicants.
 - f. Interestingly, while there is no actual decline in prices, a new concept called 'prime cost' has been introduced by the applicants to confuse the Authority. As noted above, the

applicant HCC has been earning supernormal profits both pre and post POI with huge contribution/profitability from the PUC. This contribution/profitability declined marginally in the POI because of temporary increase in the prices of the basic raw materials as stated above which is being camouflaged as impact of dumped imports by deliberately selecting a truncated period.

- g. Domestic industry has selectively chosen this period as the period of investigation to paint a picture of injury where none existed. During this period, there was a temporary upsurge in prices of ammonia and caustic soda lye which has also caused a significant increase in import prices as well.
- h. Czech Republic accounts for less than three per cent of the total imports of the subject goods in India. The *de minimis* test as per Article 5.8 / Rule 14(d) is to be applied to a particular 'country' and not to a 'territory'. Therefore, of the only two producers in EU, (respondent from Czech Republic whose imports alone are not above de-minimis limit and 'CyPlus GmbH' from Germany whose imports alone are above the de-minimis limit) the imports from Czech Republic alone are to be considered.
- i. The Czech Republic's share in India's total imports of subject goods accounts for less than 3% of the total imports. The investigation should be terminated immediately if the share of imports from a country is less than 3% of the total imports into India.
- j. The application was originally filed against China PR, Japan, and Korea RP as evidenced from para no. 8 of the initiation notification and not against Czech Republic.

F.2 Submission made on behalf of the applicants.

36. The applicants have submitted as follows with regards to miscellaneous issues:

- a. Entirety of information provided by the applicants in the public hearing is part of the written submissions filed with the Authority and circulated with the other interested parties. The other interested parties had opportunity to comment on the same.
- b. Barring the year 2019-20 when HCC's plant was shut down due to government restrictions, there have been no other regulatory ban on the applicants.
- c. Information regarding plant shutdown by HCC is part of the application. The information has not been suppressed.
- d. Being unstable in nature due to its hazardous nature, the product cannot be exported in liquid form as it is and there are no imports of the product in liquid form. Therefore, there is no need for PCN methodology.
- e. As regards the contention that the period of investigation has been chosen selectively, a 12-month period is considered appropriate by global investigating authorities for examining dumping and injury. The applicants have suffered material injury in the period of investigation as well as the financial year immediately preceding it and it cannot be considered that it was a temporary phenomenon.
- f. The words used in Section 9A of the Customs Tariff Act, 1975 are 'country or territory'. The Rules cannot override the Act or restrict the ambit of the Act. The rules have to be

consistent with the Act. The anti-dumping rules are framed under the Customs Tariff Act, 1975. The rules and law should be read as a whole and one provision should be construed with reference to other provisions so as to make a consistent enactment of the whole statute. When the term used in the Customs Tariff Act is country or territory, it cannot be interpreted that because the Rules use the word 'country', they restrict the scope of the law.

- g. The opposing interested parties have submitted that the domestic industry has introduced a new concept of "prime cost". It is seen that the prime cost has been calculated to evaluate the price trends over the years. It has been claimed that the import price has not moved in line with the changes in the cost of production. An examination of the evolution of the price has been consistently examined by the Authority. The factors considered to examine the evolution of price have varied from investigation to investigation based on the facts of the case. In cases where there has been no change in the raw material prices, the Authority has simply examined the import price over the years. In cases where the raw material price has fluctuated significantly, the Authority has compared the import price with the raw material prices. In the present case, all the parties have accepted that the prices of the raw materials and utilities have increased over the years. The interested parties have also argued that since UPL has recently begun commercial production, the cost of UPL will be higher on account of fixed costs. Therefore, a comparison of prime cost (Raw material Cost + Utility Cost + Direct Expense) with the landed price is appropriate since it does not take into consideration the fixed costs.

F.3 Examination by Authority

37. It has been submitted by the interested parties that the applicants did not circulate the information presented in the public hearing to the other interested parties one day prior to the hearing. The Authority notes that all the interested parties, including the applicants who presented their views in the oral hearing, were required to file whatever was orally presented in the form of written submissions. The other parties too had the opportunity to file their rejoinders to the information shared in the written submission. The Authority notes that no prejudice has been caused to any interested party since information which was presented orally but not provided to the Authority in written submissions/rejoinders has not been considered for the purpose of the present final finding.
38. As regards the submission of the interested parties that sufficient time was not provided to file comments or exporter questionnaire responses, the Authority notes that post initiation of the investigation letters were sent to all the interested parties, which clearly established the timelines of various submissions, including 15 days time to file comments on PUC/PCNs and further 15 days time to file the questionnaire responses upon finalization and publishing of the final PCN methodology.

39. The Authority further notes that barring Hebei Chengxin Co. Ltd., which submitted that PCN-wise analysis is not required in this case, none of the interested parties in the investigation availed the above opportunity and made any comments on the PCNs within the stipulated time. CyPlus GmbH sought exclusion of the PUC in the liquid form from the scope of the product under consideration.
40. The Authority issued a clarificatory letter regarding the scope of the product under consideration and the PCNs wherein it was informed to all the interested parties that the scope of the product under consideration is sodium cyanide, regardless of its form. It was further clarified that since no proposals were received for construction of PCNs hence, no PCN methodology is being adopted for the investigation and accordingly the interested parties were asked to submit questionnaire responses.
41. Interestingly, the Authority finds a concerning pattern of inconsistency and shifting arguments in the submissions made by Emmennar Pharma Pvt. Ltd. In its email dated 13th May 2023, Emmennar, while seeking extension of time to file questionnaire response, suggested that PCN determination might not be relevant in this case. Later in the submissions post the oral hearing it reversed its course, claiming a lack of communication on PUC/PCNs and asserting the necessity of a PCN methodology despite the fact that the Authority vide its letter of 6th August 2023, unambiguously clarified the product scope of the investigation and PCN methodology. The Authority recommends that interested parties should maintain consistency in their submissions.
42. The Authority, in view of the above, does not agree with the contentions of interested parties that sufficient time was not provided to them to suggest PCNs and file questionnaire responses.
43. The Authority notes that the Anti-Dumping Agreement (ADA) uses the term "country" within the *de minimis* context (Article 5.8). While the interested party suggests "country" and "territory" are distinct within the ADA, there's no clear legal distinction established.
44. The Authority also recognizes that both the EU and its member states individually are the members of WTO in their own rights and the words 'country' and 'territory' are used interchangeably for members of WTO. Hence, the EU being a member of WTO, the subject investigation has been initiated in respect of imports from European Union (EU) as 'the subject country' and not against individual countries within the EU. It is not in dispute that the Authority is entitled to initiate investigations in respect of EU. The EU itself has not contended in contrary. In this subject investigation, since imports originate from the EU as the subject country and are above *de-minimis* levels, therefore the contention of termination of case against an individual member within the EU does not hold merit.

45. It has been submitted by the other interested parties that the period of investigation has been selectively chosen by the applicants to build up a case for injury. The Authority notes that the period of investigation must be recent and should be long enough to reflect a representative picture of the industry's condition. A period of 12 months is considered sufficiently long enough to allow for proper assessment of trends. The Authority notes that the POI in the present case is a 12 month period which is in accordance with the Rules. It is also seen that the applicants suffered losses in the POI as well as the year prior to that. None of the parties have established that there is no dumping of the product under consideration in the period of investigation. Hence the Authority finds it difficult to accept that the period of investigation has been selectively chosen to build up a case.
46. The opposing interested parties have claimed that the raw material prices have declined in the post period of investigation. It is noted that examination of post-POI data is not warranted in an original investigation unless factual circumstances warrant the same. It is noted that conclusions regarding dumping and injury is to be reached based on the POI data. It is only when conclusive evidence regarding the above cannot be based on the POI data, the post-POI data may be examined. However, the facts of the POI in the present investigation establish that the applicant has suffered injury during the POI and therefore, the question of examination of post-POI data does not arise.
47. The Authority notes that while it has been contended by the opposing interested parties that prime cost is a new concept, nothing in contrary has been provided by them to show that such comparison is not appropriate. The Authority notes that the concept of prime cost takes into consideration only the variable cost of production, i.e. raw material cost, utility cost, packing cost and consumables. Prime cost is not a new concept but is only a part of the total cost of production. The Authority is required to examine the price trend of imports over the year. When the global cost of production remains stable throughout the injury period, a simple import price examination should be sufficient. However, if costs of production have fluctuated, a broader analysis beyond just import prices can be undertaken. Since all the opposing interested parties have accepted that the raw material prices have increased in the injury period and have also contended that UPL is a new producer and will therefore have high fixed costs, the Authority, therefore, notes that comparing the import price with the prime cost will be an appropriate approach in the factual matrix of the case. The Authority has also compared the import price over the injury period with the monthly global raw material prices.
48. The Authority has examined the trend of yearly import prices over the injury period. Further, the same were compared with the costs directly associated with production of the product, i.e. prime cost (raw material cost, utility cost, packing cost and cost of consumable). The domestic industry had contended that since UPL is a new producer, prime cost may be considered for HCC alone, in order to avoid distortion due to different composition of the domestic industry over the injury period. The domestic industry calculated prime cost based on the data of HCC

alone, but The Authority notes that injury analysis is required to be undertaken for the domestic industry as a whole and not just selectively based on constituents of domestic industry. The Authority has accordingly considered aggregate data for both HCC and UPL fair comparison purpose to analyse the impact of landed value vis-à-vis cost of the domestic industry as a whole.

NORMAL VALUE, EXPORT PRICE & DUMPING MARGIN

F.1 Submissions made by other interested parties.

49. The other interested parties have submitted as follows with regards to market economy treatment, normal value, and export price:
- a. 15 years for disregarding the domestic prices or costs of Chinese producers not being on market economy conditions as provided in para 15(a)(ii) of the Protocol of Accession of the People's Republic of China to WTO, has expired on 11th December 2016 in terms of para 15(d).
 - b. Proper evidence has not been provided by the applicants for the calculation of the actual normal value.
 - c. The normal value calculation as done by the applicants is imaginary. If the normal value calculated was so high, there is no reason why the exporters would have sold at this price.
 - d. No evidence of adjustment to export prices has been provided by the domestic industry.
 - e. The comparison made by the applicants in the domestic prices of the exporters and the export price to India is based on the indexed data and cannot be relied upon. Draslovka has not engaged in the dumping of the product in the Indian market.
 - f. Normal value should be determined based on the cost of the most efficient domestic producer. The claim of the applicants that HCC cannot be considered for normal value is misleading.
 - g. The applicants export the product at the same price in which the product is imported in the Indian market. This shows that there is no dumping, and the import price is the actual price.

F.2 Submissions made by the applicants.

50. The applicants have submitted as follows with regards to market economy treatment, normal value, and export price:
- a. Even though the provisions of Article 15(a)(ii) have expired, WTO members are required to consider domestic prices or costs in China PR only if the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product as per Article 15(a)(i), which the Chinese producers in the present case have not shown.

- b. No verifiable evidence of the actual selling price or cost in a market economy third country is available for determining normal value for China PR.
- c. The product is being produced majorly in the subject countries and the export prices from these countries to other countries also appear to be at dumped prices.
- d. The producers in the subject countries were not dumping the product in the Indian market when there was a demand supply gap. The producers have started dumping their product in the market as soon as UPL started production.
- e. As normal value for China PR cannot be determined on the basis of other parameters laid down under Annexure-I, Paragraph 7 of the AD Rules, the normal value is to be determined based on price actually payable in India.
- f. No interested party has provided any information with respect to domestic price, cost of sales or export price in market economy country.
- g. The only participating Chinese producer Hebei Chengxin Co. Ltd has not filed market economy treatment questionnaire.
- h. Normal value cannot be determined based on cost of production of HCC alone as the company's plant being old has a depreciated, depreciation cost is low in cost of production, have no interest cost and the purchase price of natural gas for the company is in not reflective of the market prices.
- i. Nippon Soda Limited and Sojitz Corporation Limited, Japan had filed a letter withdrawing its exporter questionnaire response. Therefore, Authority is requested to apply adverse facts.
- j. There is no response from Korea RP in the present investigation and the claims of the domestic industry with respect to dumping from Korea RP are undisputed.
- k. Information regarding raw material and natural gas prices in the subject countries have been provided by the applicants as part of its non-confidential version of the application for the purpose of calculating actual normal value.
- l. Evidence of ocean freight has been provided by the applicants within the application while other adjustments have been provided as per the standard adjustments allowed by the Authority.
- m. Exporters are selectively dumping the product in the Indian market. Analysis of trend of the prices as per the non-confidential response shows that they have increased the prices in their domestic market and other countries.

F.3 Examination by the Authority

51. The Authority notes that the following exporters of the subject goods have filed exporter's questionnaire responses: -
 - a) Hebei Chengxin Co. Ltd., China PR.
 - b) Lučební závody Draslovka a.s. Kolín., European Union.
 - c) Nippon Soda Co. Ltd. and Sojitz Corporation, Japan.

F.3.1 Pricing pattern of the participating producers from the subject countries.

52. The Authority has examined the domestic selling prices and the export prices of the participating producer over the injury period.
53. The information regarding the domestic selling price and the export price of the Lučební závody Draslovka a.s. Kolín, European Union is given in the table below.

SN	Particular	UOM	2019	2020	2021	POI
A	Domestic					
1	Sales volume	MT	***	***	***	***
2	Sales value	USD'000	***	***	***	***
3	Price	USD/MT	***	***	***	***
4	Price	Trend	100	100	96	136
B	Export					
1	Sales volume	MT	***	***	***	***
2	Sales value	USD'000	***	***	***	***
3	Price	USD/MT	***	***	***	***
4	Price	Trend	100	103	87	99

54. It is seen from the questionnaire response filed by the producer that while its domestic sales price has increased over the period and more importantly in the period of investigation, the export price to India has declined.
55. Examination of the price trend over the years shows that the sharp price decline has been selectively in case of the Indian market when UPL set up its plant and the demand supply gap was bridged.

F.3.2 Normal value and export price for the subject countries.

56. 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, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or

ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:

(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or

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 transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

F.3.3 Normal value and export price for China PR.

F.3.3.a Normal value for China PR

Market Economy Status for Chinese Producers

57. Article 15 of China's Accession Protocol in WTO provides as follows: "Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

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

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

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

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

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

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

58. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO, read with obligation under 15 (a) (i) of the Accession Protocol require the criterion stipulated in Para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producers/exporters from China PR have not submitted response to questionnaire in the form and manner prescribed, the normal value computation is required to be done as per the provisions of Para 7 of Annexure I of the Rules.
59. As none of the producers from China PR have claimed determination of normal value on the basis of their own data/ information, the normal value has been determined in accordance with para 7 of Annexure I to the Rules which read as under:

"7. 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.

8. (1) The term "non-market economy country" means any country which the designated authority determines ds not operating on market principles of cost or pricing structures, so that

sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in subparagraph (3).

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an antidumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a non-market economy country. Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in subparagraph (3).

(3) The designated authority shall consider in each case the following criteria as to whether: (a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values; (b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment in kind compensation of debts; (c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and (d) the exchange rate conversions are carried out at the market rate. Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph.

(4) Notwithstanding, anything contained in subparagraph (2), the designated authority may treat such country as market economy country which, on the basis of the latest detailed evaluation of relevant criteria, which includes the criteria specified in subparagraph (3), has been, by publication of such evaluation in a public document, treated or determined to be treated as a market economy country for the purposes of anti-dumping investigations, by a country which is a Member of the World Trade Organization.”

60. Para 7 lays down hierarchy for determination of normal value and provides that normal value shall be determined on the basis of price or constructed value in a market economy third country, or the price from such a third country to any other country, including India, or where it is not possible, on any reasonable basis, including the price actually paid or payable in India for the like article, duly adjusted, if necessary, to include a reasonable profit margin. Thus, the Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Annexure-I.
61. The Authority notes that none of the interested parties have provided any information with regard to domestic price, constructed value or export price of the product in an appropriate market economy third country. The Authority notes that it is required to select an appropriate

country on the basis of information and evidence brought on record by the interested parties. Since neither the applicants nor the interested parties have provided any verifiable information, the normal value could not be determined on this basis. Therefore, the normal value for China PR has been determined based on price actually paid or payable in India for the like article. The normal value has been determined considering the cost of production in India after addition for the selling, general & administrative expenses, and the reasonable profits.

62. The normal value so determined is given below in the dumping margin table.

F.3.3.b Export price for China PR

Export price for co-operative producer – Hebei Chengxin Co. Ltd.

63. The producer has reported *** MT as exports of the product under consideration to India. The producer has claimed that it has directly exported the product to India and no other related/unrelated party is involved in the export of the product under consideration. The producer has claimed adjustment on account of ocean freight, marine insurance, port expenses, credit cost and inland transportation.
64. The Authority has undertaken desk verification and examined the claims made by the respondent. The adjustments claimed by the respondent have been allowed. The export price so determined is given below in the dumping margin table.

Export price for non-co-operative exporters/producers.

65. The export price for non-cooperative producers/exporters from China PR has been determined based on facts available in terms of Rule 6(8) of the Rules. The net export price so determined is mentioned in the dumping margin table below.

F.3.4 Normal value and export price for European Union.

66. CyPlus GmbH and Lučební závody Draslovka a.s. Kolín have registered as interested parties. However, CyPlus GmbH did not file a questionnaire response and has been treated as non-cooperative.

F.3.4.a Normal value for European Union

Normal value for co-operating producer - Lučební závody Draslovka a.s. Kolín

67. The producer has reported domestic sales of *** MT in the period of investigation. The producer has claimed that all domestic sales are to unrelated parties. The producer has claimed adjustment on account of inland transportation and credit cost. The Authority has undertaken desk verification and examined the claims made by the respondent. The claims made have been accepted. The normal value so determined is given below in the dumping margin table.

Normal value for non-cooperating producers.

68. The normal value for non-cooperative producers/exporters from the European Union has been determined based on facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

F.3.4.b Export price for European Union

Export price for co-operating producer - Lučební závody Draslovka a.s. Kolín

69. The producer has reported *** MT as exports of the product under consideration to India during the period of investigation. The producer has claimed that it has directly exported the product to India and no other related/unrelated party is involved in the export of the product under consideration. The producer has claimed adjustment on account of ocean freight, marine insurance, credit cost, commission and inland transportation.
70. The Authority has undertaken desk verification and examined the claims made by the respondent. The adjustments claimed by the respondent have been allowed. The net export price so determined is given below in the dumping margin table.

Export price for non-co-operative exporters/producers.

71. The export price for non-cooperative producers/exporters from the European Union has been determined based on facts available in terms of Rule 6(8) of the Rules. The net export price so determined is mentioned in the dumping margin table below.

F.3.5 Normal value and export price for Japan.

72. Nippon Soda Co. Ltd. has filed a questionnaire response. However, pursuant to the oral hearing, the respondent filed a letter withdrawing its questionnaire response. The letter dated 15th December 2023 reads as below: -
- i. We are writing this letter to inform the Authority that Nippon Soda Co. Ltd., is withdrawing its participation from the subject anti-dumping investigation.
 - ii. Management of Nippon Soda Co. Ltd. has now taken a decision that it will withdraw participation from this anti-dumping investigation as it will not be possible for Nippon Soda Co. Ltd., to export sodium cyanide to India from April 2024 due to rapidly changing business environment.
73. The producer has accordingly been treated non-cooperative. Therefore, the normal value and export price has not been determined based on the data provided by the respondent. Hence, it is noted that there is no participating producer from Japan.

F.3.5.a Normal value for Japan

74. The normal value for Japan has been determined based on facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

F.3.5.b Export price for Japan.

75. The net export price for Japan has been determined based on facts available in terms of Rule 6(8) of the Rules. The net export price has been calculated from the customs data. Since the data reported is at CIF level, adjustments have been made for ocean freight, marine insurance commission, inland freight, port expenses and bank charges. The net export price so determined is mentioned in the dumping margin table below.

F.3.6 Normal value and export price for Korea RP.

76. Taekwang Industrial Co. Ltd., Korea RP had registered as an interested party. However, the producer did not file a questionnaire response. Therefore, the producer has been treated as non-cooperative. It is noted that there is no participating producer from Korea RP.

F.3.6.a Normal value for Korea RP.

77. The normal value for Korea RP has been determined based on facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

F.3.6.b Export price for Korea RP.

78. The net export price for Korea RP has been determined based on facts available in terms of Rule 6(8) of the Rules. The net export price has been calculated from the customs data. Since the data reported is at CIF level, adjustments have been made for ocean freight, marine insurance commission, inland freight, port expenses and bank charges. The net export price so determined is mentioned in the dumping margin table below.

F.3.7 Dumping margin.

79. Based on the normal value and export price determined above, the dumping margin for the participating and non-participating producers has been determined and is shown below.

SN	Particular	Normal value USD/MT	Net export price USD/MT	Dumping margin USD/MT	Dumping margin %	Dumping margin Range
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1	China PR					
a	Hebei Chengxin Co. Ltd.	***	***	***	***	40-50
b	Any other	***	***	***	***	70-80
2	European Union					
a	Lučební závody Draslovka a.s. Kolín	***	***	***	***	100-110
b	Any other	***	***	***	***	120-130
3	Japan					
a	Any other	***	***	***	***	30-40
4	Korea RP					
b	Any other	***	***	***	***	20-30

80. The Authority notes that an inadvertent typographical error occurred in the disclosure statement in mentioning the ‘dumping margin range’ of the producer Lučební závody Draslovka a.s. Kolín as well as ‘any other producer’ from the European Union. The dumping margin range has now been corrected in the above table in these final findings.

EXAMINATION OF INJURY AND CAUSAL LINK

G.1 Submissions made by other interested parties.

81. The other interested parties have submitted as follows with regards to injury to the domestic industry:
- There is no increase in imports from the subject countries in absolute terms or relative to production or consumption in India.
 - Analysis of “unnecessary imports” does not have any basis either in the Act or AD Rules. The increase in imports should be examined objectively in absolute terms or in relation to production or consumption in India.
 - Imports from the European Union cannot be a cause of injury. Imports from the European Union have declined at a much higher rate as compared to other countries.
 - Cumulative assessment of imports from EU with imports from other countries is not justified as EU prices are 10% higher than Chinese prices, 6% higher than the average price and 13% higher than the import prices from other countries. Price undercutting is negative for the European Union.
 - Imports from Japan cannot be a cause of adverse price impact as the imports from China were in major proportion whereas the imports from Japan were only 10% of the market share.
 - The price undercutting has declined over the injury period. Losses in 2021-22 cannot be due to imports from the subject countries when the volume of imports came down significantly.
 - Production of the domestic industry has increased throughout the injury period. It has increased by 537% in the period of investigation as compared to the base year.

- h. The domestic industry has not explained the reason for the increase in cost of sales. The change in cost is because of a temporary rise in raw material prices and capacity addition.
- i. UPL has been exporting products under consideration from December 2021 at prices much below the price at which goods are imported from the subject countries.
- j. As UPL has set up a new unit, the Authority should undertake a separate injury analysis for it and compare its actual information with the projection.
- k. Actual capacity utilization of UPL cannot be considered for determining NIP since UPL is a new producer.
- l. Quarterly utilization over the period of investigation should be adopted for raw material cost and cost of utilities for determination of NIP.
- m. Injury parameters are impacted due to startup operations and inefficiency of UPL.
- n. The mindless enhancement in capacity is causing injury to the domestic industry. The production capacity is much higher than the demand of the subject merchandise in India.
- o. The applicants have requested injury determination to be considered after including captive consumption as well. The Authority should adopt that methodology which is permissible under the AD Rules, and which is consistently being followed.
- p. The domestic industry's request for more than 22% return on capital employed for NIP should be rejected because 22% is already high and was fixed as a standard when the interest rates were very high.
- q. The domestic industry has already captured a major share of demand as the imports have drastically decreased.
- r. The closing stock of the domestic industry has declined by 62% in the period of investigation as compared to the immediately preceding year.
- s. The increase in stock is due to (a) HCC's production suspension for regulatory reasons, (b) UPL setting up a new plant and (c) imports of massive quantity by HCL.
- t. The domestic industry has selectively chosen the period of investigation to paint a picture of injury where none existed. During this period, there was a temporary upsurge in prices of ammonia and caustic soda lye which had also caused a significant increase in import prices as well.
- u. Shutdown of HCC's plant and COVID-19 lockdown took place during the first quarter of 2021-22 and have negatively affected the business, sales, and profits.
- v. Shutdown of the UPL plant was also not because of the dumped imports since the imports had declined when UPL had first started its production.
- w. Injury might be due to high depreciation and interest cost.
- x. Demand for imports is guided by various other factors including prices, technology, quality, timely supply, etc.
- y. Import price from European Union are 10% higher than Chinese prices and 6% higher than the average price. Further, the import prices from European Union remained stable throughout the period of investigation.
- z. Price undercutting is negative for European Union.

- aa. The market share of the applicants has increased by 550% and the import share has declined to a mere 9% and yet the applicants have claimed injury on account of these imports.
- bb. The capacity of the applicants has increased by 637% in just one year. Similarly, production and domestic sales have increased by 496% and 431%. The applicants expect the capacity to be fully utilised within one year. The Authority has initiated this investigation based on such an absurd argument/claim.
- cc. Temporary stock piling is also due to import of massive quantity by HCC. The company's capacity utilization and market share were close to 90%.
- dd. The injury parameters are adversely impacted due to startup operations of UPL and inefficiency of the applicants.
- ee. As required under Article 3.5, in completing an adequate "non-attribution" analysis, the investigating authority must ensure that injury caused by any other known factors is not wrongly attributed to the dumped imports. As a result, they must "separate and distinguish the injurious effects of the dumped imports from the injurious effects of those other factors".
- ff. The comparison of the export price and domestic selling price is inappropriate since the claim is based on indexed numbers. The export price to India is higher than the domestic selling price during the base year.
- gg. The increase in price of raw material has been abnormal and temporary in nature. The raw material prices have started normalizing in the post period of investigation.
- hh. The rise in raw material prices was due to Russia-Ukraine war. The decline in delta is due to several factors which do not account for dumping.
- ii. The claim by the domestic industry to calculate non injurious price on domestic production and not on domestic merchant sales is baseless since the duty protection is available for domestic sales and not captive consumption. While calculating the NIP, more weightages should be given to HCC since its share in the domestic sales is significant as compared to UPL.
- jj. The reason for decline in delta was because the raw material prices were at an all-time high and not because of dumping by the producers in the subject countries.
- kk. The imports were needed due to demand and supply gap. Considering the shutdown of the plant of UPL, there was a demand and supply gap of at least 35%.
- ll. The argument of the domestic industry that the delta has declined was due to the fact that the raw material prices increased globally in the period of investigation. The raw material prices have declined again in the post period of investigation.
- mm. The methodology proposed by the applicants to calculate price undercutting based on same profit as in the past is incorrect as price information is required to be considered based on the accounting records.
- nn. UPL plant faced disruptions as they imported secondhand plant from China PR with glass reactors. It has replaced some glass line reactors but is still struggling with the second-hand inefficient machines.

G.2 Submissions made on behalf of the applicants.

82. The applicants have submitted as follows with regards to injury to the domestic industry:
- a. A cumulative assessment of imports from the subject countries is required as requirements of Annexure II (iii) of the AD Rules have been satisfied.
 - b. Imports from subject countries declined with HCC's plant becoming operational in 2019-20 and commencement of production by UPL in 2021-22 thereby closing the demand-supply gap.
 - c. If the imports necessary due to the demand-supply gap are removed, the imports from the subject countries have increased very significantly in the period of investigation.
 - d. The exporters from the subject countries have not increased their export prices in line with the increase in the prime cost resulting in significant dumping.
 - e. The landed price of imports in the period of investigation is below the selling price of applicants resulting in positive price undercutting despite company selling the product at losses.
 - f. As regards the submission that the price undercutting has declined, a decline in price undercutting shows increasing competition between the domestic and imported products. The price undercutting has declined because the domestic industry is selling at losses. Had the domestic industry not sacrificed profits, the price undercutting would have been higher.
 - g. The imports have had a suppressing impact on the prices of the applicants in the period of investigation and price depression over the injury period.
 - h. While capacity in India was sufficient in 2021-22 and the period of investigation to meet the demand, the increase in production was much less than the demand-supply gap in the same period due to dumping from the subject countries.
 - i. Profitability has declined significantly in 2021-22 and the period of investigation.
 - j. The applicants are bleeding financial losses and a negative return on capital employed in the proposed period of investigation.
 - k. Cash profits of the applicants have significantly declined over the injury period.
 - l. The market share of the applicants is below the level to which it can cater.
 - m. The inventory with the applicants has increased over the injury period. The decline in inventories to some extent in the period of investigation is a result of suspension of production to contain inventories.
 - n. Even at the normated cost of production, the applicants are suffering losses, cash losses and negative return on capital employed.
 - o. If changes in prime cost are taken into consideration, the import price is at least 20% below the price it should have been.
 - p. The applicants have recorded significantly negative and adverse growth.
 - q. While UPL has recently invested more than 500 Cr. in the product, no producer would want to invest in their business considering the current performance.
 - r. Injury to the domestic industry is not because of any other factors but rather due to dumped imports from the subject countries.

- s. The decline in demand is not a cause for injury as demand for the subject goods has increased over the injury period.
- t. Imports from the subject countries hold 39% share in the Indian demand in a situation where the demand in the country was only 85% of the capacity of the domestic industry. The imports were preventing utilisation of production capacities and caused adverse volume effects on the Indian industry.
- u. While delta between import price into India and raw material prices was more than 1600 USD/MT before UPL commenced production, the delta steeply declined post the commencement of production. Delta towards end of the period of investigation was only 300 USD/MT.
- v. The period of investigation saw a steep increase in the prime cost of more than Rs 34,000 per MT but the increase in import price was only Rs 8000 per MT.
- w. Had the domestic industry kept the same profit per unit as was being earned in the base year, the price undercutting would have increased in the period of investigation to a staggering level of 54%.
- x. As regards the submission of Emmennar Pharma Pvt. Ltd. on demand for imports being guided by various other factors, Emmennar Pharma Pvt. Ltd. has partly started sourcing its requirements from UPL in 2021-22 and the period of investigation. Therefore, the contention cannot be accepted.
- y. The quality of material supplied by the domestic industry is better as UPL's technology is superior to exporters.
- z. The lead time of the domestic industry is lower than that of the exporters.
- aa. The inventory as % of sales have increased over the injury period. The inventory as % of sales have declined in the period of investigation only because UPL decided to suspend production for some time in the period of investigation to ease off rising inventories.
- bb. As regards the argument on export sales made by UPL at same prices in which the product is imported, UPL has been forced to export the product under consideration from December 2021 because of difficulty in selling the same in the Indian market because of dumped imports. UPL is suffering in exports as well.
- cc. As regards high finance costs being a cause of injury, the interest cost charged in the cost of production is nil in the case of HCC and less than 0.1% in the case of UPL.
- dd. As regards depreciation being a cause of injury, the cost of production as depreciation cost is insignificant. The domestic industry is suffering at the normal cost of production as well.
- ee. As regards the argument that the domestic industry is suffering due to inherent issues, the domestic industry would have been profitable had the exporters adjusted their prices in line with the change in the prime cost.
- ff. While the injury analysis is required for the domestic industry as a whole and not selectively for only one of the participating producers, an analysis of the individual performance of the domestic industry will show that both the producers are suffering injury.

- gg. HCC has been producing for more than 20 years and the plant is highly depreciated. A return on capital employed of 22% will not be reasonable for NIP calculation. 22% would imply a profit which will be insufficient to cover any future interest cost, fresh investments, and taxes. The Authority may consider past profits as a basis to determine the non-injurious price.
- hh. Had HCC procured natural gas at market prices, it would have suffered losses.
- ii. UPL Limited has achieved a capacity utilization of 90% in the injury period and the Authority may consider it for calculation of its non-injurious price. For UPL, 22% return on capital employed can be considered for NIP calculation as it is a new plant and requires complete protection from dumping.

G.3 Examination by the Authority

- 83. Rule 11 of the Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... *taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...*”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
- 84. The submissions made by the domestic industry and other interested parties during the course of investigation with regard to injury and causal link and considered relevant by the Authority are examined and addressed below under the relevant parameters.
- 85. The Authority notes that it is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority considers all injury parameters and, thereafter, concludes whether the domestic industry has suffered injury or is likely to suffer injury due to dumping. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and the other interested parties.

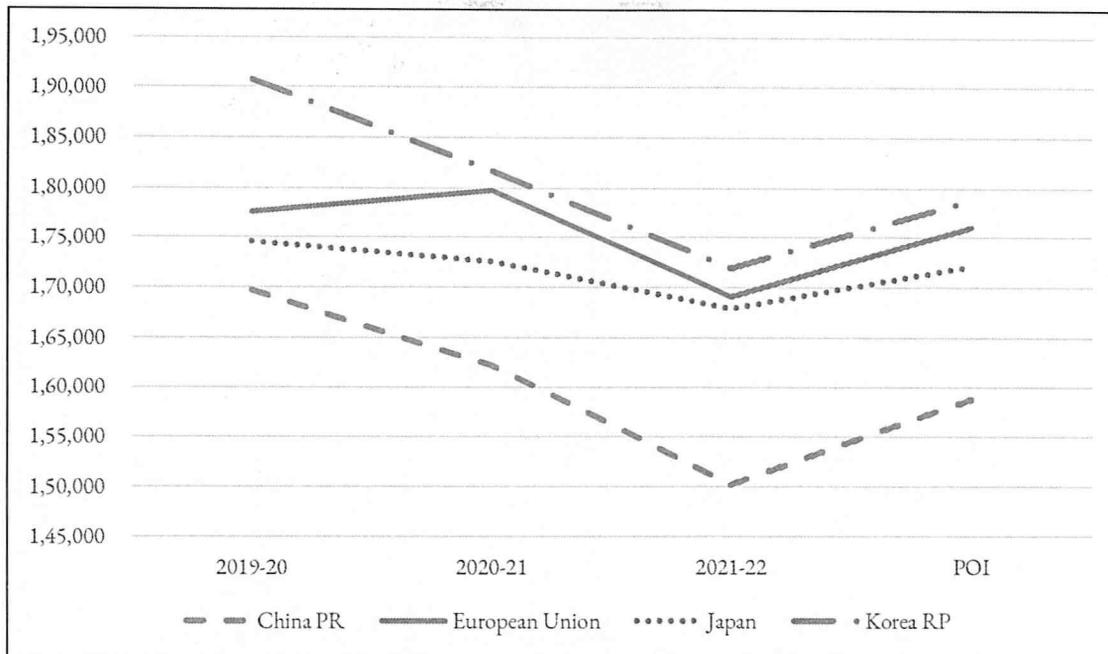
Cumulative assessment of imports.

- 86. Article 3.3 of WTO agreement and Para (iii) of Annexure II of the AD provide that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that:
 - a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the

export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article and

- b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
87. The Authority notes that:
- a. Imports of the product under consideration from China PR, European Union, Japan and Korea RP are at dumped prices.
 - b. The margins of dumping from each of the subject countries are more than the *de minimis* limits prescribed under the AD Rules.
 - c. The volume imports from these countries are above the *de minimis* limits prescribed under the AD Rules.
88. In order to ascertain whether cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles, the following parameters have been examined: -
- a. Products supplied by different parties are like articles and are comparable in properties.
 - b. Domestically produced products and the imported products are interchangeable. Consumers are using domestic material and imported material interchangeably and the exporter and the domestic industry have sold the same product to same set of customers.
 - c. There is direct competition between the domestic product and the imported product and inter-se between the imported products.
 - d. Import price from the subject countries have moved in tandem with each other.
89. The Authority notes that the domestic industry has provided evidence that the domestic producers and exporters from the subject countries sell the like product to the same category of customers and both are competing in the same market. Both products are being used by the consumers interchangeably. The same has also been ascertained by the Authority through DG Systems data.
90. The table and graph below show the import price from the subject countries.

SN	Country Name	UOM	2019-20	2020-21	2021-22	POI
1	China PR	Rs/MT	1,69,695	1,62,204	1,50,208	1,58,735
2	European Union	Rs/MT	1,77,584	1,79,751	1,69,072	1,76,036
3	Japan	Rs/MT	1,74,554	1,72,545	1,67,900	1,72,113
4	Korea RP	Rs/MT	1,90,699	1,81,723	1,71,896	1,78,771



91. A comparison of the import prices in the period of investigation with the prices in the base year show that the import prices from all the subject countries have declined. Similarly, when the prices in the period of investigation are compared with the prices in the immediately preceding year, the import price from all the subject countries have shown a marginal increase. The Authority also notes that the average yearly import prices may not necessarily be at exact similar level due to monthly changes in the prices, however, the overall trend of the import prices shows that they have moved in tandem.
92. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the product under consideration from the subject countries on the domestic industry.

Separate assessment of imports from European Union and Japan.

93. It has been submitted by the opposing interested parties that imports from European Union and Japan have declined and they are not a cause of injury. The Authority notes that all the conditions of cumulation as provided in Para (iii) of Annexure II of the AD Rules are satisfied in the present case. A mere decline in import volume from one source does not justify de-cumulation of imports and the segregated analysis of injury from different sources. It is also seen that the import prices have shown decline from each of the subject countries. It is also seen that the average import price from EU and Japan were lower than that from Korea. The Authority has examined the transaction wise data and found that the importers are interchangeably importing from these sources. Therefore, there is no merit in the contention that imports from European Union and Japan should be de-cumulated and assessed separately.

Calculation of non-injurious price.

94. The domestic industry has requested for consideration of profits for the year 2020-21 as a basis for determination of non-injurious price for HCC. Further, the other interested parties have requested for determination of non-injurious price of UPL based on quarterly utilization of the plant. The Authority has, however, determined the non-injurious price based on the Annexure-III of the Rules and the consistent practice followed by the Authority. The Authority has not accepted the request of the domestic industry for considering the past return on investment earned by HCC for fixation of its NIP.

Separate injury analysis for UPL and HCC.

95. The interested parties had requested for a separate injury analysis for UPL and HCC considering that UPL has set up a new unit. The Authority also notes that a request of analysis of injury separately for the two entities shall be contrary to law and rules as the requirement is for injury examination for domestic industry as a whole and not selectively for each constituent of the domestic industry. Notwithstanding the above, the Authority notes that both the companies have faced deterioration in performance both cumulatively and individually.

Performance of UPL based on normations.

96. It has been submitted by the interested parties that since UPL is a new producer, the injury examination should be undertaken based on normation as well. The Authority notes that there is no legal basis for this. Comparison with normations is required for cases where the domestic industry does not have production over the entirety of injury period. In the present case, the Authority has examined if the dumped imports are causing any material injury to the domestic industry. Therefore, the comparison with projections will not be appropriate.
97. However, in light of the submissions made, the Authority has also analysed the performance of the domestic industry at normated cost of production[#] (by considering highest capacity utilisation of UPL over the injury period) to see if the injury can be attributed to start up operations or low capacity utilisation. The table below shows the performance of the domestic industry over the injury period at optimum level.

SN	Particulars	UOM	2019-20	2020-21	2021-22	POI
1	Selling price	₹/MT	***	***	***	***
	Trend		100	88	76	81
2	Cost of production	₹/MT	***	***	***	***
	Trend		100	76	106	131
3	Profit per unit	₹/MT	***	***	***	***
	Trend		100	110	21	-12
4	Profit in Rs Lakhs	₹ Lacs	***	***	***	***
	Trend		100	237	84	-53
5	PBIT	₹ Lacs	***	***	***	***

	Trend		100	237	84	-52
6	Cash profit	₹ Lacs	***	***	***	***
	Trend		100	216	103	-9
7	ROCE	%	***	***	***	***
	Trend		100	84	7	-7

As provided by the applicants

98. The analysis of performance of the domestic industry at normated cost of production indicates that the domestic industry would suffer losses even at normated costs.

Export prices of UPL in line with import prices.

99. It has been submitted by the opposing interested parties that UPL is exporting at the same prices at which it is being imported. The domestic industry, however, has submitted that the exports are completely unwarranted and purely to dispose of the inventory which UPL was unable to sell in the domestic market at remunerative prices. It is seen that the export price is much below the price at which the domestic industry has sold in the domestic market. This itself substantiates the claim of the domestic industry that the sales were made to dispose of the inventory. The fact that the producer was forced to export at significantly low and unremunerative prices is a reflection of the injury caused to the domestic industry due to the dumped imports.

Issues with UPL plant.

100. It has been submitted by other interested parties that UPL purchased a second hand plant and the plant issues lead to regular shutdowns. The issue was examined during the physical verification of at the premises of UPL. It was clarified by UPL during the on-site verification that the plant was a newly installed plant by the company. It has also been submitted by UPL that the shutdowns undertaken were only because of the idle inventory lying and not due to any issues in the plant.

G.3.1. Assessment of demand.

101. The Authority has determined demand or apparent consumption of the product in India as the sum of domestic sales of the domestic industry and imports from all sources. Further, demand has been determined twice – once excluding and then including captive consumption of the domestic industry.

SN	Particulars	UOM	2019-20	2020-21	2021-22	POI
1	Domestic sales of domestic industry	MT	***	***	***	***
	Trend		100	216	396	431
2	Import from subject countries	MT	14,189	12,544	8,586	6,272

3	Import from other countries	MT	1,776	421	180	180
4	Demand (excluding captive)	MT	***	***	***	***
	Trend		100	98	97	89
5	Captive consumption*	MT	***	***	***	***
6	Demand (including captive)	MT	***	***	***	***
	Trend		100	98	117	111

102. The total demand/consumption in India declined in 2020-21 due to outbreak of COVID but increased thereafter in 2021-22. The demand has declined again marginally in the period of investigation.

G.3.2. Volume effect of dumped imports

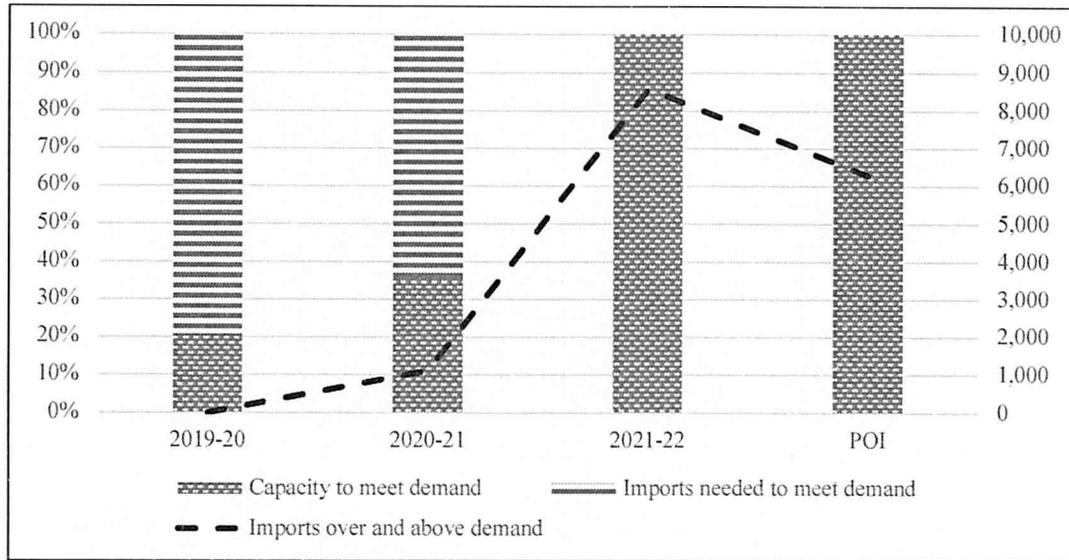
103. The effect of the volume of dumped imports from the subject countries has been examined in order to ascertain whether imports have increased either in absolute terms or in relation to production or consumption in India.
104. The volume of imports from various countries in absolute terms and in relation to production and consumption is as under:

SN	Particulars	UOM	2019-20	2020-21	2021-22	POI
1	Imports from subject countries	MT	14,189	12,544	8,586	6,272
2	Subject countries import in relation to: -					
A	Indian production	%	***	***	***	***
	Trend		100	36	11	9
B	Demand (including captive)	%	***	***	***	***
	Trend		100	90	52	40
C	Total Imports	%	89%	97%	98%	97%

105. It is seen that the imports from the subject countries have declined in absolute terms and relative to production and consumption over the injury period.
106. The Authority has examined the situation of decline in import with regard to demand for the product and supply by the Indian industry. The table below shows the imports over the injury period, the capacity with the Indian industry and the demand in the country.

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Demand in India	MT	***	***	***	***
2	Capacity of domestic industry	MT	***	***	***	***

3	Gap in demand and supply	MT	***	***	No gap	No gap
4	Imports from subject countries	MT	14,189	12,544	8,586	6,272
5	Import above demand-supply gap	MT	***	***	8,586	6,272



107. It is seen that, there was a large demand and supply gap in the country in the year 2019-20 and 2020-21 and therefore, the users had no option but to meet their requirements through import. However, with the commencement of production by UPL in 2021-22, the demand supply gap in the market was bridged. In fact, the installed capacities with the Indian industry are now higher than the demand for the product in the country. Therefore, while the imports in the past were necessary to cater the demand for the product in the country, the imports from the subject countries are now in competition with the capacities in India. It is also seen that UPL has sold at losses to increase its market share.

G.3.3. Price effect of dumped imports

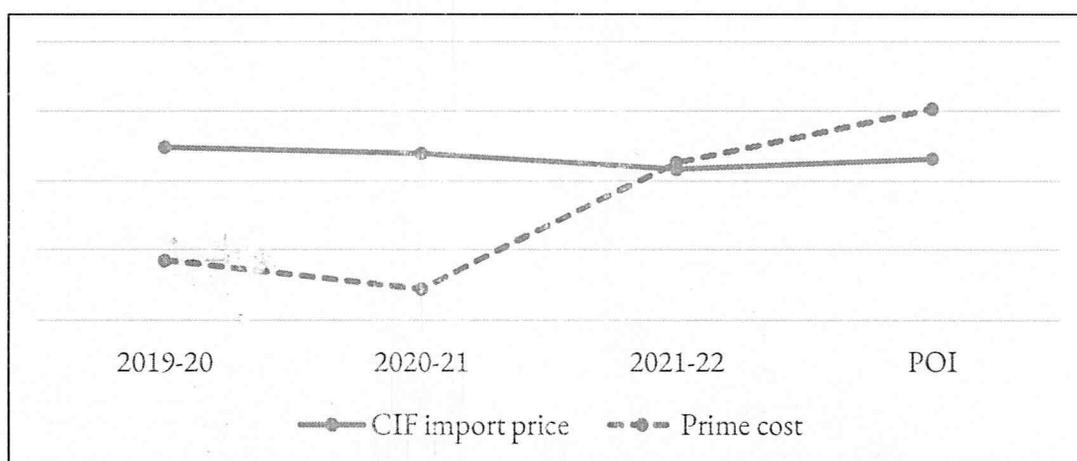
108. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases. which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product from the subject countries and the average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at ex-factory level.

a. Evolution of prices.

109. The Authority has compared the trend of import prices with the costs directly associated with production of the PUC, i.e. prime cost (raw material cost, utility cost, packing cost and cost of consumable). The domestic industry had contended that since UPL is a new producer, prime

cost may be considered for HCC alone, in order to avoid distortion due to different composition of the domestic industry over the injury period. The Authority notes that injury analysis is required to be undertaken for the domestic industry as a whole and not just selectively based on constituents of domestic industry. The Authority has accordingly considered aggregate data for both HCC and UPL also.

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	CIF import price	₹/MT	1,74,216	1,69,958	1,58,414	1,66,001
	Trend		100	98	91	95
2	Prime cost	₹/MT	***	***	***	***
	Trend		100	78	177	218



110. It is seen that in the year 2019-20, there was a significant gap between the import price and the prime cost of the applicants which further increased in the year 2020-21. However, in 2021-22 the prime cost has increased whereas the import price has declined. While the prime cost has further increased in the period of investigation, the import price has remained at almost the same level which is below the prime cost.
111. The domestic industry has provided information regarding monthly international price of the raw materials and the import price into India. Further, the domestic industry quantified the difference between CIF import price for the subject goods and costs on account of ammonia and caustic soda. The table below shows the factual position.

SN	Month	Ammonia USD/MT	Caustic soda USD/MT	Natural gas USD/MT	Import price. USD/MT	Difference USD/MT
1	2019-M04	361	212	417	2,461	1,717
2	2019-M05	337	227	414	2,556	1,816
3	2019-M06	315	206	394	2,515	1,824
4	2019-M07	301	194	405	2,513	1,831

5	2019-M08	293	202	397	2,499	1,822
6	2019-M09	307	189	417	2,458	1,766
7	2019-M10	326	187	366	2,483	1,824
8	2019-M11	340	199	414	2,493	1,776
9	2019-M12	329	186	405	2,466	1,774
10	2020-M01	325	176	391	2,414	1,744
11	2020-M02	333	152	400	2,470	1,808
12	2020-M03	327	155	409	2,460	1,792
13	2020-M04	333	155	379	2,363	1,716
14	2020-M05	300	173	350	1,588	969
15	2020-M06	297	191	312	2,364	1,764
16	2020-M07	268	179	271	2,309	1,772
17	2020-M08	281	171	210	2,317	1,829
18	2020-M09	282	162	217	2,266	1,780
19	2020-M10	318	146	241	2,214	1,699
20	2020-M11	321	145	261	2,248	1,714
21	2020-M12	331	150	316	2,102	1,513
22	2021-M01	333	137	336	2,210	1,615
23	2021-M02	371	131	342	2,242	1,623
24	2021-M03	439	143	325	2,219	1,564
25	2021-M04	580	151	306	2,125	1,393
26	2021-M05	629	157	378	2,089	1,263
27	2021-M06	632	176	332	2,078	1,271
28	2021-M07	664	186	418	1,952	1,046
29	2021-M08	716	193	486	2,087	1,088
30	2021-M09	725	213	407	2,017	1,061
31	2021-M10	768	228	467	1,963	918
32	2021-M11	858	276	651	1,956	664
33	2021-M12	999	320	668	2,262	833
34	2022-M01	1,256	303	677	2,204	627
35	2022-M02	1,288	309	548	2,352	858
36	2022-M03	1,274	356	725	2,300	628
37	2022-M04	1,588	365	765	2,155	251
38	2022-M05	1,707	383	656	2,158	259
39	2022-M06	1,338	414	703	2,345	604
40	2022-M07	1,294	404	828	2,244	433
41	2022-M08	1,300	409	951	2,094	174
42	2022-M09	1,321	406	1,017	2,354	367

112. It is seen that the difference between the import price of the product under consideration and the costs on account of raw material have declined sharply. While the difference averaged to

1800 USD/MT in 2019-20, the same has declined to around 400 USD/MT towards the end of the period of investigation.

b. Price undercutting

113. The table below shows the comparison between the landed price of imports and the selling price of the imports in the period of investigation.

SN	Particulars	Net selling price Rs/MT	Landed price Rs/MT	Price undercutting	
				Rs/MT	%
1	China	***	1,71,831	***	0-10%
2	Japan	***	1,72,113	***	0-10%
3	Korea	***	1,78,771	***	0-10%
4	EU	***	1,90,559	***	(0-10)%
5	Subject countries as a whole	***	1,73,637	***	0-10%

114. It is seen that the price undercutting is positive in respect of all the subject countries, barring EU. Further, the weighted average price undercutting is positive.

115. It has been contended by the other interested parties that the price undercutting has declined over the injury period. It is noted as per Annexure-II of AD Rules, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India. However, the applicants have submitted that high price undercutting in the past and low price undercutting in the present period shows relatively much lower competition between the domestic industry and imports in the past and high degree of competition in the present period. The producers in subject countries did not align their prices to the changes in the prime costs which forced the domestic industry to bridge the gap between the prices of the domestic and imported product in order to sell the material and sustain in the market.

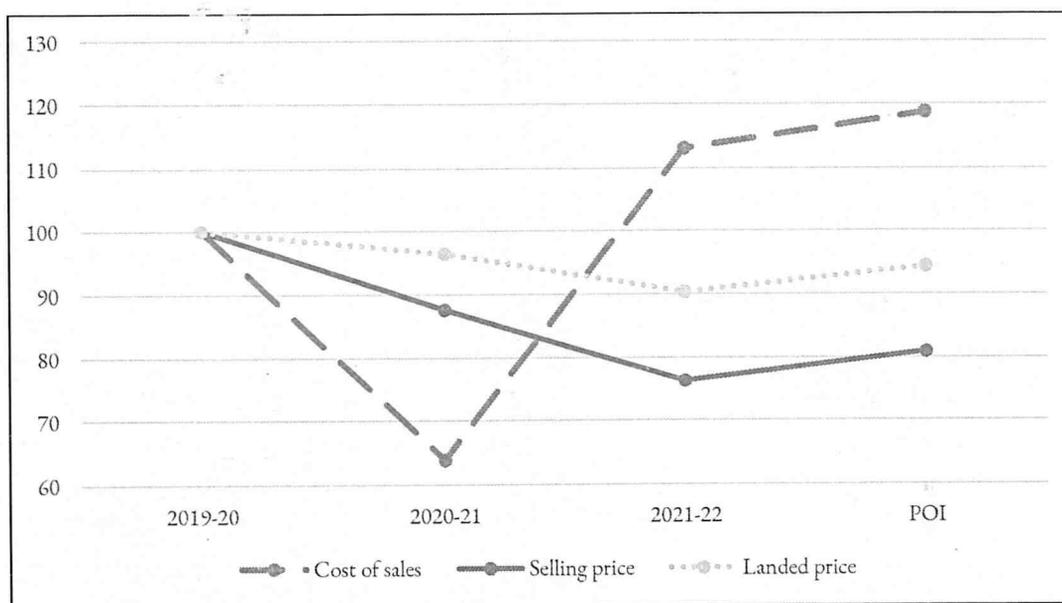
116. The domestic industry has further highlighted that had it sold at same profitable prices as in the base year, the price undercutting would have been higher. The same has been depicted in the table below.

SN	Particulars	UOM	2019-20	Period of investigation	
				Actual	If profit was retained
1	Selling price	Rs/MT	***	***	***
2	Landed price	Rs/MT	***	***	***
3	Price undercutting	Rs/MT	***	***	***
4	Price undercutting	%	20-30%	0-10%	40-50%

c. Price suppression/depression

117. The table below shows the change in the cost of sales, selling price and landed price of imports.

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Cost of sales	₹/MT	***	***	***	***
2	Selling price	₹/MT	***	***	***	***
3	Landed price	₹/MT	1,84,077	1,77,443	1,66,368	1,73,637
Change						
1	Cost of sales	₹/MT		***	***	***
2	Selling price	₹/MT		***	***	***
3	Landed price	₹/MT		-6,634	-11,075	7,269
Trend						
1	Cost of sales		100	64	113	119
2	Selling price		100	88	76	81
3	Landed price		100	96	90	94



118. It is seen that in the year 2020-21, the cost of sales declined by around Rs *** (by 36 index points) per MT whereas the selling price declined by Rs *** (12 index points) per MT. The domestic industry was profitable till 2020-21 and therefore, the imports were not having any suppressing/ depressing impact on the prices of the domestic industry. It has also been submitted that the cost in 2019-20 were higher because the plant of one of the producers (HCC) was shutdown.

119. In the year 2021-22, the cost of sales increased by Rs *** per MT (49 index points) but the selling price declined by Rs *** per MT (12 index points). The increase in the cost of sales was due to raw material cost. This period also saw a decline in the landed price of imports by Rs

9,674 per MT (6 index points). The landed price of imports was below the cost of sales of the domestic industry. The domestic industry suffered losses in this period. It has been stated by the domestic industry that this was the period when UPL started commercial production and the exporters started dumping in the Indian market.

120. The cost of sales has further increased by Rs ***per MT (7 index points) and the selling price increased by Rs ***per MT (5 index points). However, the import price did not increase in the same proportion. It only increased by 7,269 per MT (4 index points). Resultantly, the gap between the cost of sales and the landed price of imports widened and the domestic industry was prevented from increasing its prices in the same proportion. Therefore, the imports had a suppressing impact on the prices of the domestic industry in the period of investigation.

G.3.4. Economic parameters relating to the domestic industry.

a. Capacity, production, domestic sales and capacity utilization

121. The table below shows capacity, production, capacity utilisation, domestic sales, export sales and captive consumption.

SN	Particulars	Units	2019-20	2020-21	2021-22	POI
1	Capacity	MT	***	***	***	***
	Trend		100	171	637	637
2	Production	MT	***	***	***	***
	Trend		100	247	544	496
3	Capacity utilization	%	***	***	***	***
	Trend		100	144	85	78
4	Domestic sales	MT	***	***	***	***
	Trend		100	216	396	431
5	Export sales	MT	***	***	***	***
	Trend		-	-	100	633
6	Captive consumption	MT	***	***	***	***
	Trend		-	-	100	114

122. It is observed that: -

- The plant of HCC was shut down for 5 months in 2019-20. The capacity of HCC has been considered to that extent.
- UPL started commercial production in 2021-22 with an investment of Rs 500 cr.
- The capacity of the domestic industry has increased over the injury period and is sufficient to cater the entire demand in the country. The demand in the country is around 85% of the capacity.
- With the increase in the capacity of the domestic industry, the production also increased in 2020-21 and thereafter in 2021-22. The production has, however, declined in the

period of investigation. The decline in production in the period of investigation is despite increase in domestic sales, export sales and captive consumption.

- e. The capacity utilisation has increased in 2020-21 but declined in 2021-22. With the decline in production in the period of investigation, the capacity utilisation has further declined in the period of investigation. The domestic industry has contended that they were forced to reduce production in the period of investigation.
- f. The domestic sales of the domestic industry have also increased over the injury period. The increase in sales volume from 2021-22 is not commensurate with the increase in capacity and production of the domestic industry which is sufficient to cater the entire Indian demand. Further, the domestic industry was not able to sell the product to the extent of increase in production. This resulted in significant piling up of the production in stocks.
- g. There were no exports by the domestic industry in the period 2019-20 and 2020-21. Export started in 2021-22 and increased sharply in the period of investigation.
- h. The captive consumption of the domestic industry has also increased over the injury period.

5. Inventories

123. The table below shows the opening, closing and average inventory of the domestic industry.

SN	Particulars	Units	2019-20	2020-21	2021-22	POI
1	Opening inventory	MT	***	***	***	***
2	Closing inventory	MT	***	***	***	***
3	Average inventory	MT	***	***	***	***
	Trend		100	647	1,548	1,260

124. It is seen that the average inventory with the domestic industry increased sharply by March 2021 and thereafter March 2022. However, the inventories declined by the end of the POI. The average inventory increased in 2020-21, further increased in the year 2021-22 but has declined in the period of investigation.

c. Market share

125. The information regarding market share is given below: -

SN	Particulars	Units	2019-20	2020-21	2021-22	POI
1	Domestic industry	%	***	***	***	***
	Trend		100	221	478	553
2	Subject countries	%	***	***	***	***
	Trend		100	90	52	40
3	Non-subject countries	%	***	***	***	***
	Trend		100	24	9	9

126. It is seen that with the increase in the capacity, the market share of the domestic industry has increased over the injury period. The market share of the subject countries has declined over the injury period. The capacity of the domestic industry is sufficient to cater the entire demand in the country, therefore, considering the demand in the country, the domestic industry's share is below the level it can cater.

d. Profit / loss, cash profits and return on capital investment.

127. The information regarding profitability is given below: -

SN	Particulars	Units	2019-20	2020-21	2021-22	POI
1	Profit/loss	Rs/MT	***	***	***	***
	Trend		100	168	-47	-46
2	Profit/loss	Rs Lakhs	***	***	***	***
	Trend		100	361	-187	-196
3	Cash profit	Rs/MT	***	***	***	***
	Trend		100	141	-20	-17
4	Cash profit	Rs Lakhs	***	***	***	***
	Trend		100	304	-81	-74
5	PBIT	Rs/MT	***	***	***	***
	Trend		100	168	-47	-45
6	PBIT	Rs Lakhs	***	***	***	***
	Trend		100	361	-187	-195
7	ROCE	%	***	***	***	***
	Trend		100	128	-16	-30

128. The Authority notes that the domestic industry was in profits in 2019-20. The profitability of the domestic industry improved in the year 2020-21 with restoration of production of HCC. However, in 2021-22, the profitability of the domestic industry declined significantly in that year. The domestic industry started suffering financial losses in 2021-22, which increased in the period of investigation.

129. The domestic industry was earning cash profits, positive PBIT and return on investment in 2019-20. The performance of the domestic industry on these accounts improved in 2020-21, but declined in 2021-22 significantly. The performance of the domestic industry deteriorated further in the period of investigation. The domestic industry recorded loss before interest and negative return on investment in the period of investigation.

e. Employment, wages and productivity.

130. The relevant information is given below: -

SN	Particulars	Units	2019-20	2020-21	2021-22	POI
1	No of employees	Nos.	***	***	***	***
	Trend		100	103	424	516
2	Salaries & wages	₹ Lacs	***	***	***	***
	Trend		100	132	454	531
3	Productivity per day	MT	***	***	***	***
	Trend		100	247	544	496
4	Productivity per employee	MT	***	***	***	***
	Trend		100	238	128	96

131. It is seen that the employment and wages show an increasing trend over the injury period and the period of investigation. The employment has increased with the commencement of production by UPL. Productivity shows an increasing trend over the injury period as UPL started commercial production.

f. Growth.

132. The relevant information is given below: -

SN	Particulars	Units	2020-21	2021-22	POI
1	Capacity	Y/Y	71%	272%	0%
2	Capacity utilization	Y/Y	31%	-41%	-5%
3	Production	Y/Y	147%	120%	-9%
4	Sales	Y/Y	116%	84%	9%
5	Inventory	Y/Y	547%	139%	-19%
6	Market Share	Y/Y	15%	32%	9%
7	Profit/loss	Y/Y	68%	-128%	3%
8	Cash profit	Y/Y	41%	-114%	-16%
9	PBIT	Y/Y	261%	-152%	-5%
10	ROI	Y/Y	28%	-113%	-85%

133. It is seen that that while few volume parameters showed a positive trend over the injury period, the profit/loss, PBIT, ROI, production and capacity utilization show a negative trend in the period of investigation.

g. Ability to raise capital investment.

134. UPL made fresh investment of more than 500 Cr in the product under consideration. However, the domestic industry has been unable to achieve optimum level of production and capacity utilisation for the product under consideration, despite significant capacities in the country. The domestic industry is incurring financial losses, loss before interest and tax and negative return on capital employed.

h. Margin of dumping.

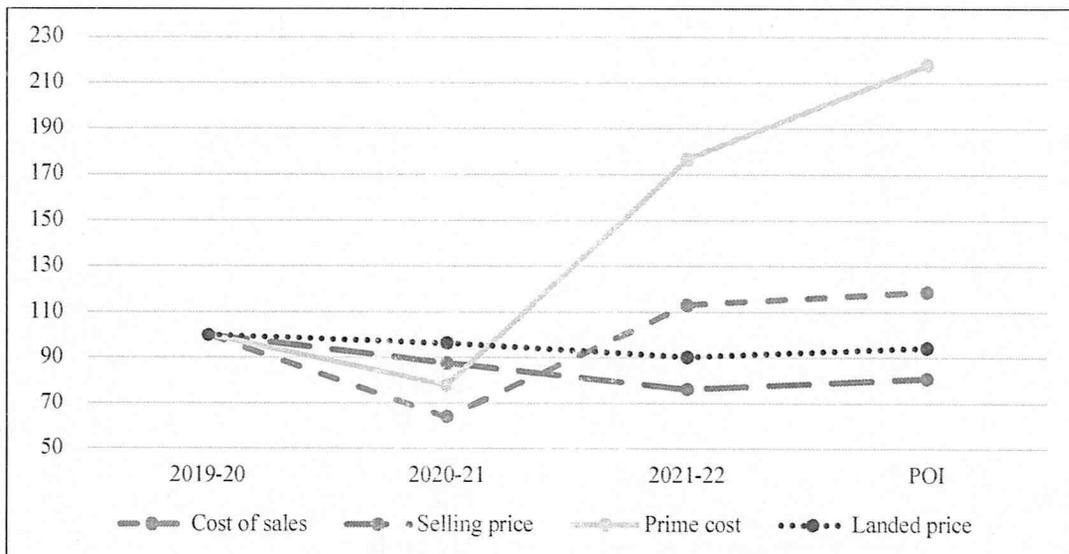
135. The margin of dumping may be an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The dumping margin determined for each of the subject country, is above *de-minimis* and significant.

i. Factors affecting prices of the domestic industry.

136. The table below shows the movement of prices of imports and prime cost, cost of production (at normated level) and the selling price of the domestic industry over the injury period.

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Cost of sales	₹/MT	***	***	***	***
	Trend		100	64	113	119
2	Selling price	₹/MT	***	***	***	***
	Trend		100	88	76	81
3	Prime cost	₹/MT	***	***	***	***
	Trend		100	78	177	218
4	Landed price	₹/MT	1,84,077	1,77,443	1,66,368	1,73,637
	Trend		100	96	90	94

137. It is seen that in the year 2019-20 and 2020-21, the landed price of imports was materially higher than the cost of production of the domestic industry. The cost of production declined in 2020-21 but increased in the year 2021-22 and the period of investigation. In order to examine if the increase in the cost of production was due to new plant set up UPL, the Authority has compared the cost of production at normated level (fixed costs normated at highest capacity utilisation) and prime cost (only variable costs) over the injury period. It is seen that the costs have increased over the injury period and the increase was not due to commercial production commencement by UPL.



138. While the costs have increased, the landed price of imports has declined. The landed price of imports have not moved in line with the increase in the cost of production. As a result, the domestic industry have not been able to increase their prices in line with the cost of production. Therefore, the imports from the subject countries are the only factor affecting the prices of the domestic industry.

j. Conclusion on injury

139. On the basis of the above analysis, the following can be concluded: -

- a. The imports in absolute and relative terms have shown a decline over the injury period with the commencement of production by UPL.
- b. Considering the fact that the capacity with the domestic industry is now sufficient to meet the demand, the volume of dumped imports in both absolute and relative terms in the period of investigation is considerably high.
- c. The landed price of import is below the selling price of the domestic industry in the period of investigation resulting in positive price undercutting.
- d. The import price has not moved in line with the movement of raw material costs. While the raw material costs have increased, the import price has declined.
- e. The import price has not increased in line with the increase in the cost of sales. This has prevented the domestic industry from increasing prices. The imports were suppressing the prices of the domestic industry.
- f. The production of the domestic industry has increased over the injury period. However, the production declined in the period of investigation as the domestic industry were forced to suspend commercial production.
- g. The market share of the domestic industry has increased over the injury period. However, this increase in share has been achieved by the domestic industry by selling at losses.
- h. Sales volume of the applicant increased in 2020-21 with the commencement of production by HCC and in 2021-22 with commencement of commercial production by UPL. However, production declined again in the period of investigation.
- i. The domestic industry is suffering financial losses and a negative return on capital employed. Domestic industry has suffered financial losses even at normated cost of production.
- j. The dumping margin determined for each of the subject country is above de-minimis and significant.
- k. The growth of the domestic industry has been negative both in terms of volume and price.

NON-ATTRIBUTION ANALYSIS.

140. As per the Rules, the Authority, *inter-alia*, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. The

factors which may be relevant in this respect include, inter-alia, the volume and 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. It has been examined below whether factors other than dumped imports could have contributed to the injury.

a. Volume and price of imports from third countries.

141. The table below shows the volume and price of imports in the period of investigation.

SN	Particulars	Import volume in MT	Import price CIF ₹/MT	Share in total imports
1	China	3,400	1,58,735	52.40%
2	Japan	1,704	1,72,113	26.26%
3	Republic of Korea	936	1,78,771	14.43%
4	European Union	232	1,76,036	3.58%
5	Subject countries	6,272	1,66,001	97.21%
6	Taiwan	180	1,52,497	2.79%
7	Total	6,452	1,55,603	100%

142. It is seen that in addition to the subject countries, there are imports of the product under consideration from Taiwan. The volume of imports from Taiwan are, however, below *de-minimis* level and they could not have been a cause of injury to the domestic industry.

b. Contraction in demand

143. There has been a constant rise in demand of the product concerned throughout the injury period. Therefore, a decline in demand could not have been a cause of injury to the domestic industry.

c. Pattern of consumption

144. No significant change in the pattern of consumption has come to the knowledge of the Authority, nor any interested party has made any submission in this regard. Therefore, it could not have been a cause of injury to the domestic industry

d. Conditions of competition

145. The investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry. Therefore, conditions of competition could not have been a cause of injury to the domestic industry.

e. Developments in technology

146. The investigation has not shown that there was any significant change in technology which could not have been a cause of injury to the domestic industry.
- f. Export performance of the domestic industry
147. The price and profitability in the domestic and export market has been segregated by the Authority for the purpose of present injury assessment. Therefore, the analysis on injury is not misrepresentative due to possible inclusion of export performance.
148. It is seen that there are no other factors which could have caused material injury to the domestic industry. Therefore, the Authority notes that the material injury to the domestic industry has been caused by dumped imports as is established below.
- a. The landed price of imports has not increased in line with the increase in the cost of sales. While the cost of sales has increased, the price of the imports has declined.
 - b. The landed price of imports is significantly below the cost of sales and the selling price of the domestic industry. The imports are undercutting the selling price and cost of the sales of the domestic industry which has prevented the domestic industry from not aligning its selling prices in line with the movement in cost. The landed price of imports has been suppressed the prices of the domestic industry.
 - c. The price pressure from the dumped imports has forced the domestic industry to sell at financial losses. The domestic industry has also suffered a negative return on capital employed.
 - d. The continuous low priced of imports has not allowed the applicants to utilize its capacity to optimum level.
 - e. The production of the domestic industry has declined in the period of investigation.
 - f. The market share of the domestic industry is below the level which it could have catered.

MAGNITUDE OF INJURY MARGIN.

149. The Authority has determined the non-injurious price for the applicants on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price has been determined by adopting the information/data relating to the cost of production provided by the applicants. The non-injurious price has been compared with the landed price of the product under consideration from the subject countries for calculating injury margin. For determining the non-injurious price, the best quarterly utilization of the raw materials and utilities and best quarterly utilization of production capacity has been considered. Extraordinary or non-recurring expenses and/or assets have been excluded from the cost of production and/or NIP. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) deployed for the product under consideration has been allowed for recovery of interest, corporate tax and profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules.

SN	Particular	NIP USD/MT	Landed price USD/MT	Injury margin USD/MT	Injury margin %	Injury margin Range
1	China PR					
a	Hebei Chengxin Co. Ltd.	***	***	***	***	10-20
b	Any other	***	***	***	***	20-30
2	European Union					
a	Lučební závody Draslovka a.s. Kolín	***	***	***	***	0-10
b	Any other	***	***	***	***	0-10
3	Japan					
a	Any	***	***	***	***	20-30
4	Korea RP					
b	Any	***	***	***	***	20-30

INDIAN INDUSTRY ISSUE

J.1 Submissions made by the other interested parties

150. The other interested parties have submitted as follows with regards to Indian Industry issues:
- Imposition of duties will adversely impact the user industry, mainly the common masses as 60% of the consumption of like article in India goes for agriculture and pharma sector.
 - Increase in price of the product will impact the price of the lifesaving drugs such as Ampicillin, Cephalexin, Clopidogrel and fungicides, fragrances (phenethyl alcohol), antibiotics, and other pharmaceuticals.
 - DCM Shriram Limited is the sole global producer for one of the critical intermediate drugs – D (-) Alpha Phenyl Glycine Chloride Hydrochloride (PGCH) used for production of Cephalexin.
 - Imposition of the measures would allow domestic producers to form cartels resulting in creating barriers to enter the market.
 - Anti-dumping duties will result in losses to the user industry as there is very little margin on the goods produced using the product under consideration.
 - Widespread protests have been held against HCC for unsafe waste disposal from its manufacturing plants, leading to significant land and water pollution in local areas.
 - The supply from the applicants is erratic.
 - The user industry is forced to import as the applicants are not able to meet the purity requirements.
 - Product supplied by UPL faces quality issues in the pharma sector which accounts for 25-30% of the Indian demand.

J.2 Submissions made on behalf of the applicants.

151. The applicants have submitted as follows with regards to Indian Industry issues:

- a. The impact of the anti-dumping duty on downstream sectors and products is insignificant.
- b. The imposition of anti-dumping duty will benefit the upstream industry to flourish. The raw material required for the production of the product under consideration are ammonia, caustic soda, sulphuric acid and natural gas which are available in the Indian market and which the domestic industry has completed sourced for its requirements from the Indian market.
- c. Imposition of anti-dumping duty would be in the interest of domestic manufacturers as it would allow the domestic industry to compete with the dumped imports and improve their financial health.
- d. Imposition of anti-dumping duty would be in the interest of consumers to have a competitive domestic industry capable of supplying the product to the consumers in competition with fair priced imports. Furthermore, the domestic industry unlike the Chinese producers who have the option to switch markets if they don't find buyers to their terms, will keep the consumers interest in mind. Consumers therefore can maintain a lower degree of inventory and will not have a significant amount of blockage of capital employed when procuring from the domestic industry in comparison to exporters.
- e. Imposition of anti-dumping duty would be in the interest of public at large to have a strong and competitive domestic production of the product.
- f. The viability of the consumers cannot be dependent on access to raw material at unfair and dumped prices.
- g. The objective of anti-dumping duties is not to restrict imports and/or protect the domestic industry but rather to establish a level playing field, by removing any trade distortion by the producers in the subject countries and allowing the Indian industry an opportunity for fair competition.
- h. The purpose of anti-dumping duties is also recognized by the Hon'ble Supreme Court in *Reliance Industries Ltd. v. Designated Authority* [2006 (202) E.L.T. 23 (S.C.)] wherein it was highlighted the role played by the anti-dumping law help in helping achieve India's national aim of creating a modern, highly industrialized, powerful state.
- i. With regards to claim regarding widespread protests against Hindusthan Chemical Company, the matter has been examined by the Hon'ble National Green Tribunal and the Ministry of Environment, Forest and Climate Change, and the company has further received environment clearance for operation.
- j. The applicants have supplied the purity as required by the consumers.

J.3 Examination by the Authority.

152. The Authority underscores that the primary objective of anti-dumping duties is to rectify the injury inflicted upon the domestic industry by the unjust trade practices of dumping, thereby fostering an environment of open and equitable competition in the Indian market. The recommendation, if any, of anti-dumping measures is not designed to curtail imports from

the subject countries arbitrarily. Rather, it is based on a detailed analysis regarding dumping, injury and the causal link between the two and is a mechanism to ensure a level playing field. It is crucial to note that the essence of fair competition in the Indian market will remain unscathed by the presence of such measures. Far from diminishing competition, the anti-dumping measures serve to prevent the accrual of unfair advantages through dumping practices. It safeguards the consumers' access to a broad selection of the subject goods. Thus, anti-dumping duties are not a hindrance but a facilitator of fair-trade practices.

153. The Authority issued initiation notification inviting views from all the interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/ consumers to provide relevant information about the present investigation including any possible effects of anti-dumping duty on their operations. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to the present investigations, including effect of an antidumping duty on their operations. The Authority sought information on, *inter-alia*, interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of anti-dumping duty on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of anti-dumping duty.

154. The following users registered themselves as an interested party in the present investigation.

SN	Importer/User
1	Asian Chemtech Private Limited
2	Bharat Rasayan Limited
3	Chemtech Intermediates Private Limited
4	DCM Shriram Industries Limited
5	Eurofine Chemicals Limited
6	Emmenar Pharma Private Limited
7	Hemani Industries LTD
8	M B Sales Corporation
9	Meghmani Organics Limited
10	Premier Intermediates Private Limited

155. From the above list of the users, only Bharat Rasayan Limited and DCM Shriram Industries Limited have filed user questionnaire response.

156. The Authority had also issued an economic interest questionnaire. The applicants and DCM Shriram Industries Limited have filed a detailed reply to this questionnaire.

157. As regards the submissions regarding impact on user industry the Authority holds 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. Imposition of antidumping measures is not to restrict imports from the subject countries in any way, and, to affect the availability of the products to the consumers.
158. The Authority has examined the questionnaire response filed by the user industry. It is seen that the product under consideration is used in the following product: -

DCM Shriram Industries Limited	
SN	Product
1	DL-2-(2-Chloro Phenyl) Glycine
2	DL Alpha Phenyl Glycine
3	Alpha Phenyl Glycine
4	Alpha Phenyl Glycine Chloride Hydrochloride
5	Alpha Phenyl Glycine Dane Salt
6	SIPA-2 under Contract Manufacturing
7	Valine
8	BENZYL CYANIDE
Bharat Rasayan Limited	
9	4-Acetyl 2-Methyl Benzamide (Ambad) 98%
10	Fenvalerate Technical
11	PARA-CHLORO-A-ISO (PCA POWDER)
12	Para Chloro Benzal Cyanide
13	Para Chloro Phenyl Acetic Acid (Pcpaa Powder)
14	Lambda Cyhalothrin Technical(Pw)
15	Lambda Cyhalothrin Technical(Lq)
16	Cypermethrin Technical
17	Alpha Cypermethrin Technical
18	Fluxametamide

159. The table below shows the share of the product under consideration in the total cost of downstream product and its impact on the same.

SN	Product	Consumption norms	Impact %	Impact Range
1	DL-2-(2-Chloro Phenyl) Glycine	***	***	1-2%
2	DL Alpha Phenyl Glycine	***	***	1-2%
3	D(-) Alpha Phenyl Glycine	***	***	Less than 1%

4	D(-) Alpha Phenyl Glycine CHLORIDE HYDROCHLORIDE	***	***	Less than 1%
5	D(-) Alpha Phenyl Glycine Dane Salt	***	***	Less than 1%
6	Valine	***	***	1-2%
7	BENZYL CYANIDE	***	***	3-4%
8	4-Acetyl 2-Methyl Benzamide (Ambad) 98%	***	***	Less than 1%
9	Fenvalerate Technical	***	***	1-2%
10	Para-Chloro-A-Iso (PCA Powder)	***	***	1-2%
11	Para Chloro Benzal Cyanide	***	***	2-3%
12	Para Chloro Phenyl Acetic Acid (PCPAA Powder)	***	***	2-3%
13	Lambda Cyhalothrin Technical(Pw)	***	***	Less than 1%
14	Lambda Cyhalothrin Technical(Lq)	***	***	Less than 1%
15	Cypermethrin Technical	***	***	Less than 1%
16	Alpha Cypermethrin Technical	***	***	Less than 1%
17	Fluxametamide	***	***	Less than 1%

160. Hence, as regards the submissions regarding impact on user industry, the Authority notes that the impact is less than 1% in more than fifty percent of the downstream products whereas for many others it is between 1%-2%.
161. The user industry had contended that the domestic industry was forced to import because the it could not supply the product with desired purity. The Authority has examined the certificate of analysis provided by the applicants and found that the product supplied by the applicants has the same purity content as the exporters. Therefore, the contention cannot be accepted.
162. The Authority notes that a recent significant investment (Rs. 500 crore) by a domestic industry demonstrates a commitment to bridging the demand-supply gap. However, the current situation of dumping forced domestic players to suspend production due to economic unviability. It is also seen that as compared to the period of investigation; the landed price of imports was higher in past. The consumers have set up their plants considering fair market conditions. It cannot be construed that the operations of the consumers would become unviable, merely because dumping is prevented by imposition of duty and fair competition is restored in the market. Anti-dumping duties can create a level playing field for domestic producers, allowing them to compete fairly and continue supplying the market.
163. It is also seen that there is no demand and supply gap in the country and the imposition of anti-dumping duty will not lead to nonavailability of the product for the consumers. In fact, the lead time for supply may be lower if the material is purchased from the domestic market and the users can maintain lower degree of inventory. Further, the anti – dumping duties will

not restrict imports from the subject countries as the imports can continue to happen at fair prices.

164. The Authority recognizes that the imposition of the anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of the anti-dumping measures. It is also seen that the prices in the past were higher than the current prices. The imposition of anti-dumping duty will only ensure that the import prices are restored to fair prices.
165. It is also seen that the domestic industry has sourced its entire requirements from the domestic market. Therefore, the imposition of the imposition of duties will lead to increase in the demand for the upstream products and also help the upstream industry to flourish.

K. POST DISCLOSURE SUBMISSIONS

K.1 Submissions made by the other interested parties.

166. The other interested parties have submitted following comments to disclosure statement.
- a. There is no examination of the excessive confidentiality claimed by the domestic industry.
 - b. There is also no analysis relating to the volume of imports if they are significant in absolute as well as relative terms.
 - c. Hebei Chengxin Co. Ltd. has cited the decision of Hon'ble CESTAT in the case of Bridge Stone Tyre Manufacturing vs DA 2011. The Hon'ble CESTAT had examined factors such as increase in domestic sales, production and capacity utilisation, increased profits, return on capital employed and inventory does not show injury. The respondent has compared the performance of the domestic industry in the subject investigation with the performance of the domestic industry in the aforementioned case of Bridge Stone Tyre Manufacturing and has claimed that the investigation should be terminated on the same lines.
 - d. There is no analysis of the increase in the depreciation cost, interest cost, wages and overheads over the injury investigation period as a result of increase in capacity by 537% over the injury period.
 - e. The cost of production should be adjusted for unreasonable, abnormal and temporary increase in the cost of raw materials / utilities during the period of investigation on account of the Russia-Ukraine conflict so as to reflect the reasonable cost of production of the subject goods.
 - f. Considering the low volume of imports and negative price undercutting from Czech Republic, the imports from Czech Republic cannot be a cause of injury. The investigation should be terminated.
 - g. The domestic industry has submitted that they imported from non-subject countries. However, HCC has imported from Korea RP and the information has been concealed.

- h. The Authority has noted that the imports in the past were at undumped prices. The prices in the past were at the same level and if the current prices are dumped prices, it demonstrates that the imports in the past were at dumped prices too.
- i. The Authority is requested to calculate normated cost of production by considering 90% or monthly highest capacity utilisation and best consumption norms between the two producers since new plant will have higher consumption norms.
- j. The impact of anti-dumping duty as calculated by the Authority is under stated.
- k. The Authority has noted that Emmenar Pharma Pvt Ltd has purchased from the domestic industry. The purchase was made in the dire need when the users had no other options.
- l. It is not known whether the Authority has examined the records of the applicant to verify the vital fact with regard to the imports made by them or relied only on the transaction wise import data as recorded in the disclosure statement.
- m. The Authority has failed to verify how despite uncertain and irregular supply of natural gas and technological bottlenecks the domestic industry is able to conform to the 98% purity level.
- n. Determination of a suitable PCN methodology is the bounden responsibility of the Authority. It is immaterial whether and what the interested parties say and comment.
- o. The abrupt withdrawal of exporters from several countries should have triggered a deeper investigation by the Authority. This indicates an underlying shift in the market that impacts the product's economic conditions and necessitates thorough scrutiny.

K.2 Submissions made by the domestic industry.

167. The domestic industry has submitted the following comments to the disclosure statement.
- a. The Authority is requested to kindly specify all the codes in which the product is imported in the duty table or recommend duty at 4-digit level. This is particularly important because of the recent decision of the Gujarat High Court in the matter of Ajanta Pvt Ltd. v. Union of India.
 - b. Normal value determined for China PR and non-participating countries is not appropriate as higher normal value for participating producers will discourage participation from the exporters.
 - c. The Authority has not considered the price trend of Hebei Chengxin Co., Ltd. China and Nippon Soda, Japan over the injury period which shows selective aggressive pricing in the Indian market.
 - d. While the applicants had claimed production volume ratio for allocating certain expense, the Authority has allocated them based on the production value ratio. These expenses are incurred on per unit basis and allocation on production value will not be appropriate.
 - e. Net fixed assets and working capital allowed in the calculation of non-injurious price of UPL are significantly lower than as claimed by UPL and no reason has been provided.

- f. The Authority has not considered that stock piling due to dumping in the domestic market led to curtailed production which ultimately resulted in the decline in inventory in the period of investigation.
- g. The Authority has not considered calculation of contribution. The domestic industry is operating with negative contribution. While a producer may bear a loss on its fixed cost, if the selling price is below even the marginal cost to produce there is no business justification in carrying out production.
- h. Even though the other parties have said that raw material prices have declined, they continue to remain higher than base year.
- i. Examination of the post period of investigation trends would imply requirement of collection of fresh data of the domestic industry (to examine injury) and the participating producers (to examine dumping). By the time the Authority completes the entire process, the post period of investigation too would become stale, and the data provided would again not reflect market fluctuations.
- j. In case of procurement from the domestic industry, inventory holding can be kept at much lower levels. Further, lead time of the domestic industry is significantly lower as compared to the imports.

K.3. Examination by the Authority

168. The Authority has examined the post disclosure submissions made by the interested parties and notes that majority of the comments are reiterations which have already been suitably examined and adequately addressed in the relevant paras of the final findings. The same are not being repeated in the post-disclosure examination by the Authority for the sake of brevity. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below.
169. The Authority notes that Hebei Chengxin Co. Ltd. has compared the facts of the present case with the Bridge Stone Tyre Manufacturing vs DA 2011 in CESTAT. The Authority notes that the facts of both the cases are different. The domestic industry in the present case has suffered losses, negative return on capital employed and decline in production and capacity utilisation, which is not similar to what has been noted in the case of Bridge Stone Tyre Manufacturing vs. DA 2011. The only similarity is that the domestic sales of the domestic industry have increased in both the cases. However, the increase in the present case has come at a cost as the domestic industry has lowered its prices and suffered losses to increase its market share. The Authority, therefore, notes that no parallel can be drawn between the two cases and hence the request for termination of the instant case does not hold ground.
170. As regards the comments of the domestic industry on allocation of inappropriate ratios and inadequate disclosure of the non-injurious price, the Authority notes that the non-injurious price has been determined and disclosed based on the Annexure-III of the Rules and the consistent practice followed by the Authority.

171. While the Authority acknowledges its responsibility to establish a suitable PCN methodology, it emphasizes that comments from interested parties can be highly material. Industry expertise can provide crucial insights for an accurate methodology demonstrating the importance of transparency within the investigative process. The Authority notes that constructive inputs significantly enhance the robustness of an investigation. Emmennar's dismissal of this role by saying that it is immaterial whether and what the interested parties say and comment undermines the investigative process's transparency and rigor. It was only after taking into consideration the submissions made by the parties that the Authority decided not to adopt any PCN methodology in the subject investigation.
172. As regards the comments on imports made by the domestic industry, the Authority has verified it from DG Systems data and the records maintained by the domestic industry. There are no imports in the period of investigation.
173. As regards the comments on high depreciation cost, wages and interest cost on account of new plant, the Authority notes that it has examined the performance even at normated cost of production. It is seen that the domestic industry has suffered even when the plant of the domestic industry is considered operating at optimum capacity utilisation.
174. As regards the comments that the prices in the past were at the same level and if the current prices are at dumped prices, it demonstrates that the imports in past were at dumped prices too. The Authority notes the comment of the interested parties fails to take into consideration the increase in the raw material cost. The cost of raw materials has increased over the injury period but the import price has declined.
175. On the comments made by the opposing interested parties that the cost of production is required to be adjusted, the Authority notes that increase in cost of raw materials is a common factor for the applicant as well as the exporters. The question of injury to the domestic industry cannot be decided by assuming ideal conditions but has to be decided on prevailing condition. Under the rules, the Authority is required to consider the domestic industry as it exists and examine whether the performance of the domestic industry has deteriorated over the injury period.
176. Emmennar has submitted that several participating exporters have withdrawn from the present investigation proceedings after stating that due to the "rapid changes in business scenario exporters are not in a position to continue their business of the subject goods". Emmennar states that such statements from exporters and their consequent withdrawal needs critical examination from the Authority. It is noted that Emmennar has placed undue emphasis on the general statement made by withdrawing exporters. The decision to participate in any trade remedial investigation is a voluntary decision and is guided by commercial interest. The participating exporters who have subsequently withdrawn from the investigation merely

stated this general statement and did not point out the “rapid changes” which forced them to discontinue their business of the subject goods. Unless an interested party specifically points out an issue, it is unclear how the Authority can analyse its nature. Even Emmennar who has asked for analysis of this issue, has failed to point out any factor in this regard. The Authority cannot be obliged to examine every unsubstantiated claim or mere utterance by an interested party.

CONCLUSION & RECOMMENDATION

177. After examining the submission made by the interested parties and issues raised therein and considering the facts available on record, the Authority concludes that:
- a. The application requesting anti-dumping duties has been filed by Hindusthan Chemical Company and UPL Limited.
 - b. The product under consideration in the present investigation is Sodium Cyanide regardless of its form.
 - c. The product produced by the Indian industry is a like article to the imported product.
 - d. The applicants had imported in past prior to commencement of commercial production by UPL Limited. The applicants have not imported the product under consideration in 2020-21 or in the period of investigation.
 - e. The applicants satisfy the requirement of Rule 2(b) of the anti-dumping rules and the application satisfies the requirement of Rule 5(3) of the anti-dumping rules.
 - f. Considering the normal value and the export price for the product under consideration, the dumping margin for the product under consideration from the subject countries has been determined, and the margins are positive.
 - g. The domestic industry has suffered injury as is established by following: -
 - i. Considering the fact that the capacity with the domestic industry is now sufficient to meet the demand, the volume of dumped imports in both absolute and relative terms in the period of investigation is considerably high.
 - ii. The imports were suppressing the prices of the domestic industry.
 - iii. The production of the domestic industry has declined in the period of investigation as the domestic industry were forced to suspend commercial production.
 - iv. The domestic industry had to sell at losses to increase its market share. The market share of the domestic industry is significantly below the level which it can cater.
 - v. The domestic industry is suffering financial losses and a negative return on capital employed.
 - h. The other interested parties had contended that the injury is due to capacity expansion. However, the domestic industry has suffered financial losses even at normated cost of production.
 - i. There is no other factor which could have caused material injury to the domestic industry. Injury suffered by the domestic industry is only attributable to the dumping of the product in the Indian market.
 - j. The domestic industry has made significant investment (Rs. 500 crore) to bridge the demand-supply gap. The current situation of dumping has forced domestic players to suspend production due to economic unviability.

- k. There is no demand and supply gap in the country. The capacity of the domestic industry is sufficient to cater for the entire demand in the country.
- l. The Authority recognizes that the imposition of the anti-dumping duties might affect the price levels of the product in India. However, the impact of the anti-dumping duty on the downstream industry will not be significant.

178. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers, and other interested parties to provide positive information on the aspect of dumping, injury, causal link, and impact of recommended measures. Having initiated and conducted the investigation into dumping, injury, and causal link in terms of provisions laid down under the anti-dumping rules and having quantified the impact of imposition of anti-dumping duty, the Authority is of the view that imposition of anti-dumping duty is required to offset the dumping and injury. The Authority considers it necessary and recommends imposition of an anti-dumping duty on imports of product under consideration from the subject countries.

179. Having regard to the lesser duty rule, the Authority recommends imposition of definitive antidumping duty equal to the lesser of margin of dumping or margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of such revised definitive anti-dumping duties on the import of the subject goods, originating in or exported from China PR as indicated in Col 7 of the duty table below, for a period of 5 years from the date of notification to be issued in this regard by the Central Government.

Duty Table

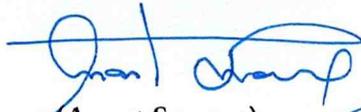
SN	Sub Heading or Tariff Item	Description of Goods	Country of origin	Country of Export	Producer	Duty (\$/MT)
1	2	3	4	5	6	7
1	2837	Sodium Cyanide, regardless of its form	China	Any country including China	Hebei Chengxin Co. Ltd.	286
2	-do-	-do-	China	Any country including China	Any producer other than mentioned in SN (1) above.	554
3	-do-	-do-	Any country other than China, EU, Japan and Korea	China	Any producer other than mentioned in SN (1) above.	554

4	-do-	-do-	European Union	Any country including European Union	Lučební závody Draslovka a.s. Kolín	13
5	-do-	-do-	European Union	Any country including European Union	Any producer other than mentioned in SN (4) above.	230
6	-do-	-do-	Any country other than China, EU, Japan and Korea	European Union	Any producer other than mentioned in SN (4) above.	230
7	-do-	-do-	Japan	Any country including Japan	Any producer	447
8	-do-	-do-	Any country other than China, EU, Japan and Korea	Japan	Any producer	447
9	-do-	-do-	Korea RP	Any country including Korea RP	Any producer	413
10	-do-	-do-	Any country other than China, EU, Japan and Korea	Korea RP	Any producer	413

The customs classification is indicative only and is not binding on the scope of the product under consideration.

FURTHER PROCEDURE

180. An appeal against the determination of the Designated Authority in this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.


 (Anant Swarup)
 Designated Authority