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**F. No. 6/20/2019-DGTR**

**Government of India**

**Ministry of Commerce & Industry**

**Department of Commerce**

**Directorate General of Trade Remedies**

**4<sup>th</sup> Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

**Dated the 1<sup>st</sup> September 2020**

**Case No. (OI) 14/2019**

**Final Findings**

**Subject: Anti-dumping investigation concerning imports of Flexible Slabstock Polyol originating in or exported from the Kingdom of Saudi Arabia and United Arab Emirates (UAE) – Reg.**

1. Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as “the Rules”) thereof:
2. M/s Manali Petrochemicals Ltd. (hereinafter also referred to as the “Applicant”) filed an application before the Designated Authority (hereinafter also referred to as the “Authority”) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the “Rules”) for imposition of Anti-dumping duty on imports of "Flexible Slabstock Polyol" (hereinafter also referred to as the “subject goods” or PUC) from Kingdom of Saudi Arabia and United Arab Emirates (UAE) (hereinafter also referred to as the “subject countries”).
3. The Authority on the basis of sufficient prima facie evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 18<sup>th</sup> September, 2019, published in the Gazette of India, initiating the subject investigation in accordance with Rule 5 of the above Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the subject countries, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the Domestic Industry.

**A. PROCEDURE**

4. The following procedure has been followed with regard to this investigation:
- i. The Authority, under the above said Rules, received a written application from the Applicants on behalf of the Domestic Industry, alleging dumping of 'Flexible Slabstock Polyol' from the subject countries.
  - ii. The Authority notified the Government of the subject countries, through its embassies in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
  - iii. The Authority issued a notification dated 18<sup>th</sup> September, 2019 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from subject countries.
  - iv. A copy of the said public notice was forwarded by the Authority to all known exporters of the subject goods, the Governments of the subject countries through their embassies in India, and other interested parties about the initiation of the subject investigation in accordance with Rule 6(2) of the Rules.
  - v. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, and to the Government of the subject countries, through its embassies and to other interested parties who made a request therefore in writing in accordance with Rule 6(3) of the Rules supra. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
  - vi. The Authority forwarded a copy of the public notice initiating anti-dumping investigation to the known producers / exporters in the subject countries, and other interested parties and provided them an opportunity to file response to a questionnaire in the form and manner prescribed within the time limit as prescribed in the initiation notification or extended time limit, and make their views known in writing in accordance with the Rule 6(4) of the Rules. The Authority sent Exporter's Questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:
    - a) M/s Sadara Chemicals Company (SCC), Saudi Arabia
    - b) M/s Nobel Chemical Material LLC
  - vii. The Governments of the subject countries, through their embassies in India were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit.

A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the High Commission along with the names and addresses of the known producers/ exporters from the subject countries.

viii. In response to the notification, following producers/exporters responded by filing Exporter's Questionnaire responses.

- a. M/s Sadara Chemicals Company (SCC), Saudi Arabia (Producer)
- b. M/s Dow Saudi Arabia Product Marketing Arabia B. V., (Dow Marketing), Netherland (Exporter)
- c. M/s Dow Chemical Pacific (Singapore) Pvt. Ltd. (Dow Singapore), Singapore (Exporter)

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

- a) Sheela Foam P Ltd
- b) Prime Comforts
- c) M H Polymers P Ltd
- d) Somany Foam Ltd
- e) Tirupati Foam Ltd
- f) Dura Puf
- g) Shree Singhal Foams P Ltd
- h) Multiwyn Foams P Ltd
- i) Shree Malani Foams P Ltd
- j) Joy Foam Pvt Ltd

x. The Authority sent Importer's Questionnaires to the following known Associations of subject goods in India for circulation & calling necessary information in accordance with Rule 6(4) of the Rules:

- a) ASSOCHAM
- b) FICCI
- c) CII
- d) Excise Law Times
- e) Indian Polyurethane Association

xi. The following importers of the subject goods has responded by filing an Importer Questionnaire response.

- a) Dow Chemical International Private Limited (DCIPL), India (Importer).
- b) Sheela foam Ltd.

xii. Further submissions were also filed by the following importers/associations -

a) Indian Polyurethane Association

xiii. The Authority made available non-confidential versions of the evidence presented by the interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7).

xiv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the injury period. The Authority has relied upon the DGCI&S data for computation of the volume and value of imports and required analysis after due examination of the transactions. The Authority also obtained data from DG-Systems, Central Board of Indirect Taxes and Customs (CBIC) for POI to correlate quantum of exports from specified exporters to validate the responses filed, to the extent feasible.

xv. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

xvi. In accordance with Rule 6(6) of the Rules, the Authority has also provided an opportunity to all interested parties to present their views orally in a hearing held on 4.3.2020. Subsequently, another oral hearing was held on 15.7.2020 in view of the change of the Designated Authority, as per the judgment of the Hon'ble Supreme Court in the matter of Automotive Tyre Manufacturers' Association (ATMA) vs. Designated Authority, in Civil Appeal No. 949 of 2006 on 7.1.2011. All the parties who attended and presented their views in the oral hearings were requested to file written submissions of their views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and were provided with an opportunity to submit their rejoinders thereafter. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this disclosure statement.

xvii. The verification of the information provided by the Applicant as well as the producers/exporters of the subject countries was conducted to the extent as considered relevant by the Authority.

xviii. The Period of Investigation (POI) for the purpose of the present investigation is 01.04.2018 to 31.03.2019 (12 months). However, the

injury investigation period covers the data of previous three years, i.e. April 2015 to March 2016, April 2016 to March 2017, April 2017 to March 2018 and the POI.

- xix. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final findings.
- xx. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
- xxi. In accordance with Rule 16 of the Rules Supra, the essential facts of the investigation were disclosed to the known interested parties vide disclosure statement dated 21.8.2020 and sufficient time to all interested parties was granted to enable them to provide comments on the disclosure statement. Comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The post-disclosure submissions, to the extent considered relevant, have been examined in this Final Findings.
- xxii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views/observations on the basis of the facts available.
- xxiii. ‘\*\*\*’ in this document represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxiv. The average exchange rate for the POI has been taken by the Authority as Rs.70.85 = 1 US\$.

**B. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

- 5. The product under consideration in the present investigation is Flexible Slabstock Polyol.

## **B1. Views of the domestic industry**

6. Following submissions were made by the domestic industry with regards to the product under consideration –
- i. The product under consideration in the present investigation is Flexible Slabstock Polyol, a polymer, originating in or exported from Subject countries. The subject product is a clear viscous liquid of molecular weight 3000-4000, manufactured by polymerization of propylene oxide and ethylene oxide with a triol chain starter. It is a polyether and on reaction with catalysts and additives, yields polyurethane foams used in upholstery, mattresses, pillows, bolsters, transport seating and packaging. Flexible Slabstock Polyol is transported in tankers or stored in steel drums.
  - ii. The subject goods are classified under chapter 39 of Customs Tariff Act, 1975 under the sub-heading 3907, 390720, 390791 and 390799. The Custom classification is indicative only and not binding on the scope of investigation.
  - iii. That the submissions of EPSPL cannot be accepted as they have not substantiated their claim that the subject goods produced by the Domestic Industry cannot be used in their production process. It is further submitted that the goods produced by the Domestic Industry and imported from the subject countries are like product and customers are using them interchangeably.
  - iv. That the specifications of the products manufactured using catalyst KOH or DMC are similar and are like articles. Further, it is submitted that it is a settled principle that mere difference in input / production process does not make the product different, unless there is a change in the specifications in the final product to the extent that they do not remain interchangeable or substitutable. Therefore, the Domestic Industry has requested the Authority to reject the unsubstantiated claim made by the EPSPL.
  - v. That the choice of EPSPL to use imported goods is totally driven by the discounted price they get from Shell / Dow. Moreover, they have not provided the technical details of their imported goods. Further, information about their purchase price from importers / exporters was also not submitted in order to assist the Authority in the investigation. In view thereof, the Domestic Industry requested the Authority to reject the submission made by EPSPL.

## **B2. Views of the other interested parties**

- vi. EPSPL has submitted that the 3000 MW polyol that they use, and applicant's polyols are not identical. It is further submitted that the technology used by the Domestic Industry is not cost efficient. Further the quality of goods is not upto the mark.

- vii. It is further submitted that DMC technology is more efficient than that of KOH technology. It is also submitted that the Domestic Industry is quality of goods produced by the Domestic Industry is not suitable to the products manufactured by the EPSPL.
- viii. No submission has been made by the producers/exporters with regard to the scope of the product under consideration and like article.

**B3. Examination by the Authority:**

- ix. The product under consideration in the present investigation is Flexible Slabstock Polyol. The subject product is a clear viscous liquid polymer of molecular weight 3000-4000, manufactured by polymerization of propylene oxide and ethylene oxide with a triol chain starter. It is a polyether and on reaction with catalysts and additives yields polyurethane foams used in upholstery, mattresses, pillows, bolsters, transport seating and packaging. Flexible Slabstock Polyol is transported in tankers or stored in steel drums (hereinafter referred to as the "subject goods").
  - x. The subject goods are classified under the category "Plastics and articles thereof" in Chapter 39 of the Customs Tariff Act, 1975 and further under 3907 20 as per Indian Trade Classification. The classification, however, is only indicative and in no way binding on the scope of the present investigation. The Authority notes that while different ITCHS may be quoted by producers/exporters, the product description assumes primary over the ITCHS as the same is indicative.
  - xi. As regards, the submissions of the EPSPL, it is noted that they have not substantiated their claim of difference in quality and goods imported by them and produced by the Domestic Industry are not like article, it is noted that EPSPL has failed to provide any evidence to substantiate their claim. It is further noted that they have also not provided any technical report or any other information which proves their claim. In view therefore, the Authority rejects the claims made by EPSPL.
7. With regard to like article, Rule 2(d) of the Anti-Dumping Rules provides as under:
- "like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;*
- xii. After considering the information on record, the Authority is of the view that the subject good produced by the domestic industry is comparable to the product under consideration in terms of chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. Thus, the Authority is of the view that subject goods produced by the Applicant domestic industry are like article to the product under consideration which is imported from subject countries in accordance

with the Rules. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

- xiii. Thus, the Authority holds that the subject goods produced by the domestic industry are like article to the product under consideration imported from subject countries within the scope and meaning of Rule 2(d) of the Rules.

## **C. SCOPE OF DOMESTIC INDUSTRY & STANDING**

### **C1. Views of the domestic industry**

8. The following submissions have been made by the domestic industry in this regard–
- i. The application has been filed by M/s Manali Petrochemicals Limited for imposition of anti-dumping duty on the subject goods from the subject countries. The Applicant also submitted that they account for almost 98 % share in Indian production of the subject goods during the period of investigation. As per the information available with them there is only one other known producer of the product under consideration in the country i.e., M/s Expanded Polymers.
  - ii. The applicant has neither imported the subject goods from the subject countries nor is related to any other producer/exporter of subject goods in the subject countries or any importer in India. Further, the applicant accounts for a major proportion in Indian production of the subject goods.
  - iii. In view of the above said and since none of the interested parties have made any submissions in relation to standing of the Domestic Industry, and therefore, the Authority is requested to consider the applicant as Domestic Industry within the meaning of the Rule 2(b) of the Rules, since the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

### **C2. Views of the other interested parties**

9. None of the interested parties has made any submissions in relation to the standing and eligibility of the applicant to be considered as eligible Domestic Industry.

### **C3. Examination by the Authority:**

10. The application in the present investigation has been filed by M/s Manali Petrochemicals Limited. It is noted that as claimed by the Applicant, M/s Expanded Polymers Systems Private Limited (EPSPL) was considered as another domestic producer. However, during the proceedings, the Authority finds that EPSPL has imported the subject goods and they have stopped production of subject goods. In view thereof, the Authority holds that Applicant is the sole producer of the subject goods in India.
11. It is noted that the Applicant has not imported the subject goods from the subject



countries. It is further noted that the Applicant is not related to any of the exporters in the subject countries and also not related to any importer of the subject goods in India.

12. In view of the above, the Authority holds that the production by the applicant constitutes 100 % of total Indian production of the like product and that the application satisfies the requirements of 'standing' under Rule 5 of the AD Rules and constitute 'Domestic Industry' (DI) in terms of Rule 2(b) of the AD Rules.

**D. Confidentiality**

**D1. Views of the Domestic Industry**

13. Various submissions made by the domestic industry with regard to confidentiality claims of the exporters/importers and other interested parties are as follows:
  - i. Exporters have failed to fulfil their obligations under the Indian law by not providing the meaningful non-confidential version of their response. Moreover, exporters / importers have made mockery of the system by claiming excessive confidentiality.
  - ii. The Applicant has claimed confidentiality on information provided by them as allowed in rule 7 of the AD rules and a meaningful summary of such information was also provided. The claims of interested parties that the Applicant has claimed excessive confidentiality are baseless.
  - iii. In relation to the confidentiality claimed on costing information, Domestic Industry has submitted that costing is by nature confidential and therefore, the Domestic Industry has rightly claimed costing as confidential.
  - iv. Excessive confidentiality has been claimed by the exporters in as much as the non-confidential versions of the questionnaire response were not the exact replica of the confidential version filed by the exporters as required under the Rules and the instructions on the issue. This has not only restricted the ability of the Domestic Industry to assist the Authority but also handicapped the Authority in reaching the correct conclusion.

**D2. Views of the other interested parties**

- i. Domestic Industry has claimed excessive and unwarranted confidentiality in the application.
- ii. Claim of excessive confidentiality by the Domestic Industry has restricted the ability of the exporters to comment and also does not permit the proper understanding and appreciation of the facts by other interested parties.

- iii. In relation to the allegation of the Domestic Industry of excessive claim by exporters, it is submitted that exporters have claimed confidentiality only on business sensitive information.

### **D3. Examination by the Authority**

14. Various submissions made by the Applicant as well as other interested parties during the course of the investigation with regard to confidentiality, to the extent considered relevant by the Authority, are examined and addressed as follows:
15. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as under:

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

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

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

16. As regards the contention with regard to confidentiality of information, it is noted that information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of a public file. The information related to imports, performance parameters and injury parameters of domestic industry has been made available in the public file. Business sensitive information has been kept Confidential as per practice. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

## **Normal Value, Export Price and Determination of Dumping Margin**

### **D4. Views of the Domestic industry**

17. The domestic industry inter alia submitted as follows:
- i. The Domestic Industry has provided ample evidence to support their claim of normal value and export price in their petition to the best of their ability for the purpose of the initiation.
  - ii. The Authority should consider the market price of Propylene Oxide (PO), based on prices published in ICIS LOR or international raw material price for calculating cost of production for the subject goods in Saudi Arabia and not the prices submitted by producer in Saudi Arabia, due to their market situation and internal arrangement with raw material suppliers.
  - iii. The Domestic Industry humbly requests the Authority to kindly consider the domestic sales that is purely meant for the consumption of local market in Saudi Arabia and not those sales which are ultimately shipped outside Saudi Arabia.
  - iv. The Authority should closely check the transactions between exporter and its related entity in India, as the Domestic Industry apprehended that the price between exporter and its related importer is not correct and is be done at higher value.
  - v. The Authority should check the post sales discount given by the producers/exporters from Saudi Arabia / Singapore and Indian related importers to the end users. Domestic Industry also requested the Authority to adjust the loss suffered by the importer into the export price as well as landed value for fair comparison.
  - vi. That the related importer is selling the subject goods in India below the price of Rs. 118 to 119 per KG. Further, the prices of the exporter can be checked from the responses of M/s Sheela Foams Ltd.
  - vii. That the Authority must ensure that the raw material pricing is at arm's length with respect to transfer of raw materials among related companies. Domestic Industry has further requested that at-least the method of transfer price should be disclosed to the Domestic Industry.

### **D5. Views of the interested parties**

18. The following submissions have been made by the other interested parties –
- i. The subject goods produced in Saudi Arabia and exporter by Dow entities is un-dumped and is also not injuring the Domestic Industry.

- ii. The construction of the normal value is based on erroneous and false assertions without adhering to the standards and evidentiary requirements laid down under the Anti-Dumping Agreement (AD Agreement) and the AD Rules. Further, as per the Article 5.2(iii) of the AD Agreement, Domestic Industry has not provided any evidence why they have used Korean prices of PO particularly when Saudi Arabia is a world leader in petrochemicals with an abundant capacity and competitive advantage to produce PO and there is no occasion for the Sadara to import the PO.
- iii. That the producer has provided all the data to the Authority and they have also requested the Authority to verify their data for determination of normal value and export price.
- iv. That the Authority must compute the normal value after sequentially applying the different methods required under the Customs Tariff Act. Sadara and Dow have filed complete responses to the exporter's and importer's questionnaires, which includes all information relating to domestic sales undertaken by Sadara during the POI and preliminary information relating to third country export prices.

#### **D6. Examination by the Authority**

##### **Determination of normal value and export price**

##### **Normal value computation**

- 19. As per sub section (c) of the section 9A (1) of the Customs Tariff Act, 1975 normal value in relation to an article means:
  - i. The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or
  - ii. When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either
    - (a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
    - (b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);
- 20. At the stage of initiation, the Applicant proceeded with the prices of subject goods based on prices published in ICIS LOR for calculating cost of production with

adjustments of insurance and landing charges due to non-availability of internal transactions of Singapore.

21. The Authority sent copies of Exporters Questionnaire to all the known producers/exporters for providing relevant information in this regard. The following entities have responded by filing questionnaire response:
- a) M/s Sadara Chemicals Company (“SCC” or “Sadara”), Saudi Arabia (Producer)
  - b) M/s Dow Saudi Arabia Product Marketing Arabia B. V., Netherland (Dow marketing”) (Exporter)
  - c) M/s Dow Chemical Pacific (Singapore) Pvt. Ltd. Singapore (Dow Singapore) (Exporter)
22. Since the above-mentioned companies have filed the questionnaire responses, the Authority has examined the request for determination of individual dumping margin for these producers and has determined dumping margins wherever appropriate.
23. In the absence of cooperation from the other producers/exporters in the subject countries, the Authority has determined the normal value, on the basis of facts available in terms of Rule 6 (8) of AD Rules read with Article 6.8 of the Agreement.
24. Accordingly, the Authority has determined the normal value, export price and dumping margin in respect of various producers/exporters of the subject countries as follows:

### **Normal value**

**M/s Sadara Chemicals Company (SCC), Saudi Arabia (Producer), M/s Dow Saudi Arabia Product Marketing Arabia B. V., Netherland (Exporter) and M/s Dow Chemical Pacific (Singapore) Pvt. Ltd. Singapore (Exporter)**

25. Based on the information furnished in the EQ responses, the Authority notes that M/s Sadara Chemicals Company (SCC or Sadara), Saudi Arabia is a producer of the subject goods and has exported the subject goods to India during the POI. It is further noted that M/s Dow Saudi Arabia Product Marketing Arabia B. V., Netherland (Exporter) and M/s Dow Chemical Pacific (Singapore) Pvt. Ltd. Singapore (Exporter) have filed respective questionnaires in the formats prescribed.
26. SCC has sold \*\*\* MT of the PUC in the domestic market during the POI whereas, it has exported \*\*\* MT of the subject goods to India through related and unrelated traders during the POI. The Authority has first examined whether the total domestic sales of the subject goods by the producers/exporters concerned in the subject country were representative when compared to their total sales of the subject goods in the exporting country. Thereafter, it was examined whether their sales are under ordinary course of trade in terms of the Annexure I to the Anti-dumping Rules. M/s SCC has provided transaction wise details of sales made in home market. The same has been

accepted by the Authority after examination and relied upon to determine the selling price of the subject goods sold in the home market. For the determination of the ordinary course of trade test, the cost of production of the product concerned was examined with reference to the records maintained by the producer/exporter. It was noted that M/s SCC has filed the variable margin report (VMR), developed by utilizing their ERP (SAP) system for the PUC, and the same has been relied upon to determine the cost of production.

27. Further, all domestic sales transactions were examined with reference to the cost of production determined by the Authority of the subject goods to determine whether the domestic sales were in the ordinary course of trade or not. In order to determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. In case profit-making transactions are more than 80% then the Authority considers all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, profitable domestic sales have been taken into account for determination of normal value, since the profitable sales were less than 80% by volume. The producer has claimed Inland Freight, and Credit Cost as post factory expenses, and the same has been accepted by the Authority. The dumping margin determined as above is mentioned in the dumping margin table.

#### **Normal value for all other producers/exporters from Saudi Arabia**

28. It is noted that no other producer/exporter from Saudi Arabia has cooperated in the present investigation. In view of non-cooperation, the Authority has determined Normal Value for such other producers/exporters based on facts available which is calculated and mentioned in the dumping margin table.

#### **Export Price**

**M/s Sadara Chemicals Company (SCC), Saudi Arabia (Producer), M/s Dow Saudi Arabia Product Marketing Arabia B. V., Netherland (Exporter) and M/s Dow Chemical Pacific (Singapore) Pvt. Ltd. Singapore (Exporter)**

29. It is noted that M/s SCC sells the entire quantity of the subject goods to Dow Marketing. For exports to India, Dow Marketing raises invoice on Dow Singapore for resale to unrelated and related Indian importers. During the POI, Dow Singapore has sold \*\*\*MT of subject goods to DCIPL and \*\*\*MT to unrelated importers. The Authority has verified the responses of Sadara and Dow Marketing and Dow Singapore and found the same to be in order.
30. The Authority has examined the responses of Sadara, Dow Marketing and Dow Singapore and DCIPL to the extent necessary. It is also noted that Dow Singapore has incurred losses

on the export of the PUC during the POI. DCIPL has also incurred losses on the PUC in India.

31. For arriving at the ex-factory export price, the Authority has considered the expenses incurred by all exporting entities as well as the Producer in the entire export chain to India while calculating backwards from Dow Singapore to Dow Marketing to Sadara. Accordingly, adjustments on account of freight, credit cost, port and other related expenses, inland transportation, insurance and other post factory expenses from the invoice price have been adjusted. In addition, the Authority has made an adjustment on account of losses incurred by DCIPL. Accordingly, the ex-factory export price is calculated and mentioned in the tables.
32. The Authority noted that SCC exported \*\*\* MT of the subject goods to India during the POI through M/s Dow Saudi Arabia Product Marketing Arabia B. V., Netherland (Exporter) and M/s Dow Chemical Pacific (Singapore). Out of \*\*\* MT, \*\*\*MT has been exported to Dow India (related importer) in India and \*\*\* MT to unrelated importers. For arriving at the ex-factory export price, the Authority has considered adjustments on account of freight, credit cost, port and other related expenses, inland transportation, insurance, and other post factory expenses from the invoice price. In addition, the Authority has made an adjustment on account of losses incurred by DCIPL. Accordingly, the ex-factory export price is calculated and mentioned in the dumping table.

#### **Export Price for all other producers/exporters from Saudi Arabia**

33. It is noted that no other producer/exporter from Saudi Arabia has cooperated in the present investigation. In view of non-cooperation, the Authority has determined Export Price for such other producers/exporters based on facts available in terms of Rule 6(8) which is calculated and mentioned in the dumping margin table.

#### **Normal value for all other producers/exporters from UAE**

34. It is noted that no producer/exporter from UAE has cooperated in the present investigation. In view of non-cooperation, the Authority has determined Normal Value for all producers/exporters based on facts available in terms of Rule 6(8) which is calculated and mentioned in the dumping margin table.

#### **Export Price for all other producers/exporters from UAE**

35. It is noted that no other producer/exporter from UAE has cooperated in the present investigation. In view of non-cooperation, the Authority has determined Export Price for such other producers/exporters based on facts available in terms of Rule 6(8) which is calculated and mentioned in the dumping margin table

#### **Dumping Margin Table**

36. Based on the above the dumping margin is determined as under:

Country	Producer	Normal Value/ CNV (US\$/MT)	Export Price (US\$/MT)	Dumping Margin (US\$/MT)	Dumping Margin %	Dumping Margin Range
Saudi Arabia	Sadara Chemical Company	***	***	***	***	20-30
	Others	***	***	***	***	20-30
UAE	All Producers	***	***	***	***	0-10

37. It is seen that the dumping margins are more than the de-minimis limits prescribed under the Rules.

#### **E. INJURY ASSESSMENT AND CAUSAL LINK**

38. The views on injury, likelihood and causality are as under:

##### **E1. Views of the Domestic industry**

- i. That the Dow India (related importer) is reselling the subject goods in India at price lower than that of imported price and incurring losses. It is further submitted that the related importer is giving post sales discounts to match the prices of the Domestic Industry and thus creating price pressure on them. In this context, Domestic Industry requested the Authority to make appropriate adjustments to the net export price as well as the landed value of imports.
- ii. It is also submitted by the Domestic Industry that despite the landed value of approximately of Rs. 124 / KG and incurring additional direct and indirect cost on the subject goods, how the Dow India is selling the subject goods below Rs. 118 / KG in the market. The Domestic Industry humbly requested to verify this issue and also to make necessary adjustments while determining the dumping margin and injury margin, these adjustments are necessary so that this practice of importing at a higher price and reselling at a lower price should not become an exit route for the foreign exporters.



- iii. That when landed value from the subject countries are adjusted appropriately, it would be seen that the adjusted prices are significantly below the Non-injurious price/fair price of the domestic industry. Even the price undercutting will also show correct position. These low-priced sales by related importers and post sales discounts are not allowing the domestic industry to fetch a fair price for the subject goods and this is causing material injury to the domestic industry.
- iv. That the contention of the interested parties that DI is unable to fulfil the Indian demand, the Domestic Industry has submitted that despite constant capacity and increase in demand, they were unable to utilize their full capacity. The fact that the Domestic Industry has idle capacity, clearly established that imports in India are coming to India due to lower price and not only because of demand and supply issue.
- v. With respect to the contention of the interested parties that the Domestic Industry had not brought any substantive evidence in terms of Rule 5(3) of the Rules, the Applicant submitted that they had supplied all the relevant information to Authority and the same has been duly noted in the Initiation notification.
- vi. With respect to the argument of the interested parties that the Domestic Industry had not suffered any injury, as their Annual Report Shows huge profit, it is submitted by the Domestic Industry that they are a multiproduct company and overall profit does not mean that Domestic Industry has not suffered injury on the subject goods.
- vii. That the Government of Saudi Arabia has not provided any written submission therefore, their oral submissions cannot be taken on record in terms of the Rules.
- viii. That despite clear guidelines by the Authority, IPU association has chosen not to fulfill its obligation by providing the requested details required under the law. Moreover, they have also not provided minutes of the meeting wherein the decision was passed to oppose this investigation.
- ix. That IPU association has failed to assist the Authority in reaching the correct conclusion by providing relevant information relating to purchase price of the subject goods from the Domestic Industry, traders and exporters from the subject countries.
- x. Domestic Industry has further submitted that the issues relating to no injury to the Domestic Industry because of the fact of higher landed value, has no relevance, as Dow India (related importer) is selling subject goods at much below the landed value of the subject goods, causing material injury to the Domestic Industry.
- xi. Market share of the Domestic Industry declined despite increase in demand. However, during the same period, market share of imports from the subject countries has increased.
- xii. The information provided in the petition is correct and shows no discrepancy as claimed by the interested parties. Further, the domestic industry has followed all the procedures prescribed in the Rules.

- xiii. With respect to injury to the Domestic Industry as a consequence of imports from Singapore, the Domestic Industry accepts that injury to the Domestic Industry in addition also caused from the imports from Singapore. It is also submitted by the Domestic Industry that since the Authority has recommended extension of duties against imports from Singapore and the fact that imports from Saudi Arabia are ultimately sold at price lesser than that of Singapore, there is no reason for the Authority to come to a conclusion that Domestic Industry is not suffering injury because of the imports from Saudi Arabia.
- xiv. That the Domestic Industry has claimed NIP in accordance to the Annexure III. The Authority has also verified the data and only such verified data has been used by the Authority.

**E2. Views of other interested parties**

- i. The volume of imports from Saudi Arabia and the pricing of the goods entering therefrom are un-dumped and/or non-injurious, and therefore, there is no rationale for any imposition of anti-dumping duties. Further, the injury assessment presented by the Applicant completely ignores the impact of third country imports which are primarily, if not entirely, responsible for the injury, if any, suffered by the Applicant.
- ii. The instant investigation needs to be terminated because the Authority has failed to intimate the government of Saudi Arabia prior to the initiation of the investigation in terms of the Article 5.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade and Rule 5 of the Anti-Dumping Rules.
- iii. NIP claimed by the Applicant is arbitrary & inflated as Applicant's Annual Report points to high level of profits and the pricing of the Applicant is also slightly higher than the landed value with ADD of the subject imports (signified by negative price undercutting).
- iv. The Applicant is a sole producer of the subject product in India and has sought and received continued protection for over 17 years in the form of anti-dumping duties against subject imports entering India from one or the other source. This is a classic case of misuse of anti-dumping duties.
- v. The Applicant's production, capacity utilization and sales has improved over the injury period along with improvement in productivity, increase in employment, sales value and sales realization per unit. Further, prices from the other countries have affected the Net selling Realization (NSR) of the Domestic Industry, and the same has no nexus with that of the prices from the subject countries.
- vi. The data pertaining to profit / loss and ROCE appears to be misrepresented and contrary to the Applicant's Annual Report and requires strict verification and scrutiny.

- vii. As regards the issue of strict scrutiny of injury parameters of the Domestic Industry, it is submitted that the same is correct and only verified information has been used for this finding. Therefore, no prejudice can be caused to any of the interested parties.
- viii. The Applicant's cost of sales per unit has steeply increased and selling price has not kept up with the same. However, the increase in costs and the resultant losses are not attributable to imports from Saudi Arabia in any manner.
- ix. It is incumbent for the Authority to examine factors other than dumped imports which are causing injury to the domestic industry and such other factors must not be attributed to alleged dumped imports, which include (a) Competition from imports sourced from other countries not attracting ADD; (b) Closure due to CPCB order; and (c) Lack of backward integration.
- x. Domestic Industry has limited capacity to meet the Indian demand. Domestic Industry in order to maximize its profit resorts to repeatedly levy of anti-dumping duty.
- xi. It is submitted that Domestic Industry has provided no evidence of post sales discount by the exporter / related importers and therefore, this has no relevance. Moreover, the Domestic Industry has already admitted in para 4 of their first written submissions that the landed value of goods from Saudi Arabia is higher than the landed prices from Singapore, this fact was also stated in their application as well. It is therefore an admitted position that goods exported from Saudi Arabia by Sadara and Dow are not a cause of injury to the domestic industry.
- xii. That the unsubstantiated claims of the Domestic Industry in relation to post sales discount should be rejected and the Authority should conclude that Domestic Industry is not suffering any injury because of the imports from Saudi Arabia.

### **E3. Examination by the Authority**

- 39. The various submissions of the interested parties and the Domestic Industry on injury have been examined as per the information available on record. All relevant issues concerning the facts and figures are addressed in the following injury analysis.
  - i. As regards the argument of the opposing interested parties that the petition is deficient and, therefore, the investigation needs to be terminated, the Authority notes that the present investigation was initiated on the basis of prima facie evidence furnished by the domestic industry showing dumping, injury and likelihood of dumping and injury to justifying initiation of the investigation in accordance with the Act and Rules. The Authority has also called for additional information whenever required and verified the information furnished by the domestic industry.
  - ii. As regard the contention that the antidumping duty being in force for 17 years now and having served its intended purpose, it is noted that the Authority is examining

as per the anti-dumping rules, the investigation scope is restricted to analyse injury caused by dumping and other factors if any. Further, the Domestic Industry has every right to seek protection, if exporters from the subject countries are indulged in dumping practice which is causing injury to Domestic Industry.

- iii. It is important to appreciate that it is not necessary that all parameters show deterioration / injury. Some parameters may show deterioration, while other may show improvement. The Designated Authority considers all injury parameters and, thereafter, concludes whether the domestic industry has suffered injury due to dumping or not.
- iv. As regards the contention that the demand in the country is more than the supply ability of the producers, it is noted that the demand supply gap in country does not give license to any exporter to dump the subject goods in India. Moreover, anti-dumping duties does not intend to restrict the imports in India, the sole purpose of Anti-Dumping Duty is to create level playing field in the market for Domestic Industry and other suppliers / users of the subject goods in India.
- v. The Kingdom of Saudi Arabia (KSA) raised an issue that the Government of India has failed to fulfill its obligations under Article 5.5 of the Anti-dumping Agreement which requires that the investigating authorities of the importing member shall, before proceeding to initiate an investigation, notify the government of the exporting Member concerned. In the instant case, the DGTR dispatched the intimation letter to the KSA through speed post on 18.9.2019 while the investigation was initiated on 19.9.2019. The delivery through speed post is normally done the very next day but, in this case, it is the claim of the Government of KSA that they had received the intimation on 23.9.2019. The Authority noted that there is no dispute that the DGTR had indeed dispatched the letter notifying the Government of KSA before the investigation was formally initiated. The Designated Authority is of the view that the relevant date for the purpose of notifying under Article 5.5 is the date on which the notification is issued and not the date of receipt of the communication. In this context, it may be relevant to refer to Footnote 15 of the Anti-dumping Agreement where the language of the Footnote specifically refers to the date of “receipt” of the questionnaire as the relevant date for the purpose of reckoning the 30 days’ time allowed to the exporters to respond to the questionnaire prescribed by the Authority. In contrast, Article 5.5 uses the word “notify” and not “receipt”. Thus, it is clear that the Agreement has consciously used the word “notify” in Article 5.5 and, hence, the Authority is of the view that the two different terms used in the very same Agreement have to be given their full meaning and understood in the context they have been used. Thus, the procedure followed by the Authority is in accordance with India’s obligations under Article 5.5 of the Anti-dumping Agreement and Rule 5 (5) of the Anti-Dumping Rules.
- vi. As regards the claim of the interested parties that NIP is inflated and Domestic Industry is not suffering any injury, it is noted that NIP is strictly computed on the basis of the Annexure III of the Anti-Dumping Rules.. Further, only verified information is used for the injury analysis and therefore, all the concerns of the

interested parties about costing information and injury to them is appropriately taken care off.

- vii. The Authority noted that Dow India (related importer) in India has sold the subject goods even below its landed cost. Thereby they have not only received the landed price but also the additional expenses (Selling, General and Administration) expenses on the imported product. This non-recovery of proper cost has made the Domestic Industry to suffer injury.
40. As regards to the impact of the dumped imports on the domestic industry, Para (iv) of Annexure-II of the AD Rules states as follows:
- “The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”*
41. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the Rules supra.
42. Further Rule 11 of Antidumping Rules read with Annexure-II state 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.
43. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been 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 the

prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

### **Cumulative Assessment**

44. Para (iii) of Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that :a) 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 imports from each country is three percent (or more) of the import of like article or where the import 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 the light of the conditions of competition between the imported article and the like domestic articles.
45. The Authority noted that: a) The subject goods are being dumped into India from the subject countries. The margin of dumping from each of the subject countries is more than the de minimis limits prescribed under the Rules. b) The volume of imports from each of the subject countries is individually more than 3% of total volume of imports. c) Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries not only directly compete inter se but also with the like articles offered by the domestic industry in the Indian market.
46. In view of the above said analysis, the Authority considers that it is appropriate to assess injury to the domestic industry cumulatively from imports of the subject goods from the subject countries.
47. 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....”. While examining the volume of dumped imports, the Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

48. The submissions made by the domestic industry and other interested parties during the course of investigation with regard to injury and causal link, which have been considered relevant by the Authority are examined and addressed as under:

**E4. Volume Effect of dumped imports**

**i. Assessment of Demand/ Apparent Consumption**

49. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from the DGCI&S.
50. The Authority has considered, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports from all sources as under:

SN	Particulars	UoM	2015-16	2016-17	2017-18	POI
1	Sales of Domestic Industry	MT	***	***	***	***
2	Imports from Saudi Arabia	MT	0	0	15661	32027
3	Imports from UAE	MT	0	132	235	2819
4	Imports from Subject Countries	MT	0	132	15897	34846
5	Imports from Countries attracting ADD	MT	58424	38403	43741	39463
6	Import from Other Countries	MT	10050	19362	6932	9079
7	Total Imports	MT	68474	57897	66570	83388
8	Total Demand	MT	80,728	70435	81,124	96841

51. The demand of the subject goods has increased by around 20% i.e., from 80728 MT in the base year to 96841 MT in the POI.

**ii. Volume Effect of Dumped Imports**

**Import volume and Share**

SN	Particulars	UoM	2015-16	2016-17	2017-18	POI
1	Saudi Arabia	MT	-	-	15,661	32,027
2	UAE	MT	-	132	235	2,819
3	Imports from the Subject Countries	MT	-	132	15,897	34,846
4	Imports from the Country Attracting ADD	MT	58,424	38,403	43,741	39,463
5	Other Countries	MT	10,050	19,362	6,932	9,079
6	Total	MT	68,474	57,897	66,570	83,388
	Share of Imports from					

SN	Particulars	UoM	2015-16	2016-17	2017-18	POI
7	Saudi Arabia	%	0%	0%	24%	38%
8	UAE	%	0%	0%	0%	3%
9	Subject Countries	%	0.00%	0.23%	23.88%	41.79%
10	Country Attracting ADD	%	85.32%	66.33%	65.71%	47.32%
11	Other Countries	%	14.68%	33.44%	10.41%	10.89%
13	Total	%	100%	100%	100%	100%
14	Production of Domestic Industry	MT	11,621	13,230	14,623	14,047
15	Subject Countries import in relation to					
A	Indian Production	%	0%	1%	109%	248%
B	Indian Demand	%	0%	0%	20%	36%

52. The volume of imports from the subject countries has shown a significant increase during the period of investigation in absolute terms as well as in relative terms as compared with overall imports, production, and demand.

#### **E5. Price Effect of the Dumped Imports on the Domestic Industry**

##### **a. Price Undercutting**

53. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. While computing the net selling price of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level has been determined for comparison with the landed value of the dumped imports.

SN	Particulars	Unit	2015-16	2016-17	2017-18	POI
1	Landed Price from Saudi Arabia	Rs/MT	-	-	111754	127497
2	Net Selling Price	Rs/MT	***	***	***	***
3	Net Selling Price	Indexed	100	94	97	104
4	Price Undercutting	Rs/MT	-	-	***	***
5	Price Undercutting	Indexed	-	-	100	(898)
6	Price Undercutting	%	-	-	***	***
7	Price Undercutting	Range	-	-	(10) - 0	(10) - 0
8	Landed Price from UAE	Rs/MT	-	-	113690	123954
9	Net Selling Price	Rs/MT	***	***	***	***
10	Net Selling Price	Indexed	100	94	97	104
11	Price Undercutting	Rs/MT	-	-	***	***
12	Price Undercutting	Indexed	-	-	100	(163)



13	Price Undercutting	%	-	-	***	***
14	Price Undercutting	Indexed	-	-	(10) - 0	(10) - 0
15	Landed Price from Subject Countries	Rs/MT	-	-	111783	127211
16	Net Selling Price	Rs/MT	***	***	***	***
17	Net Selling Price	Indexed	100	94	97	104
18	Price Undercutting	Rs/MT	-	-	***	***
19	Price Undercutting	Indexed	-	-	100	(840)
20	Price Undercutting	%	-	-	***	***
21	Price Undercutting	Indexed	-	-	(10) - 0	(10) - 0

54. The Authority notes that the price undercutting is negative from the subject countries due to the fact that exporters from the Saudi Arabia export the subject goods to India at a high price and their related party resells the subject goods at a loss. Therefore, the import price recorded in DGCI&S import data is not showcasing the actual prevailing price of the subject goods from the subject countries in the Indian market.

#### **b. Price Suppression/ Depression**

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

SN	Particulars	Unit	2015-16	2016-17	2017-18	POI
1	Cost of sales	Rs /MT	***	***	***	***
2	Trend	Indexed	100	92	96	101
3	Selling price	Rs /MT	***	***	***	***
4	Trend	Indexed	100	94	97	104
5	Landed Price from the subject countries	Rs /MT	-	-	111783	127211
6	Trend	Indexed	-	-	100	114

56. From the above table, it is also noted that the imports of the subject goods from the subject countries were coming at prices above the sales price of the domestic industry. However, as observed above, the related parties of the exporter resells the subject goods at a loss, this has forced the domestic industry not to increase its prices in line with increase in cost of sales and has led to a situation where in the domestic industry has been forced to sell the subject goods at the levels below the cost of sales during POI ultimately causing adverse impact on the domestic industry

### **Price Underselling**

57. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from the subject countries, as follows.

SN	Particulars	UoM	Consolidated	Saudi Arabia	UAE
1	Non-Injurious Price	Rs/MT	***	***	***
2	Landed Price	Rs/MT	127211	127497	123954
3	Price Underselling	Rs/MT	***	***	***
4	Price Underselling	%	***	***	***
5	Price Underselling	Range	0-20	0-20	0-20

58. The non-injurious price (NIP) of the domestic industry has been determined and compared with the landed value of the subject goods (as per DGCI&S) to arrive at the extent of price underselling. The NIP of the product under consideration has been determined by adopting the verified information/ data relating to the cost of production for the period of investigation on the basis of principles mentioned in Annexure III of the Rules. The analysis shows that during the period of investigation, the landed value of the subject imports was below the non-injurious price of the domestic industry, as can be seen from the table above, demonstrating positive price underselling effect. From the aforesaid table, it is noted that price underselling from the subject countries during the POI is positive. The Authority notes that the price underselling amount is lesser due to the fact that exporters from the subject countries exported the subject goods to India at a high price and their related party then resells the subject goods at a loss. Therefore, the real impact of price underselling is not showcasing from the import data.

### **E6. Economic Parameters relating to the Domestic Industry**

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

herein below:

**a. Production, Capacity, Capacity Utilization and Sales Volume**

SN	Particulars	Unit	2015-16	2016-17	2017-18	POI
1	Capacity	MT	***	***	***	***
2	Trend	Indexed	100	100	100	100
3	Production - Polyol	MT	***	***	***	***
4	Trend	Indexed	100	116	130	137
5	Capacity Utilization – Polyol	%	***	***	***	***
6	Trend	Indexed	100	116	131	138
7	Production – PUC	MT	***	***	***	***
8	Trend	Indexed	100	114	126	121
9	Domestic Sales Volume – PUC	MT	***	***	***	***
10	Trend	Indexed	100	102	119	110

61. It is noted that the capacity of the Domestic Industry has remained same throughout the injury investigation period. The capacity is for all types of polyols which includes subject goods also. The capacity utilization has shown an increase during the injury period which is largely on account of the production of the non-PUC products. The production and sales volume of the product under consideration shows decline during the POI as compared to 2017-18 despite increase in the demand in India.

**Market Share in Demand**

62. The market share of the domestic industry moved as shown below:

SN	Particulars	UoM	2015-16	2016-17	2017-18	POI
1	Sales of Domestic Industry	MT	***	***	***	***
2	Imports from Saudi Arabia	MT	0	0	15661	32027
3	Imports from UAE	MT	0	132	235	2819
4	Imports from Subject Countries	MT	0	132	15897	34846
5	Imports from Countries attracting ADD	MT	58,424	38,403	43,741	39,463
6	Import from Other Countries	MT	10,050	19,362	6,932	9,079
7	Total Imports	MT	68474	57897	66570	83387.947
8	Total Demand	MT	80728	70435	81124	96841
9	Share in Demand					
10	Domestic Industry	%	***	***	***	***
11	Saudi Arabia	%	0%	0%	19%	33%
12	UAE	%	0%	0%	0%	3%
13	Subject Countries	%	0%	0%	20%	36%
14	Countries attracting ADD	%	72%	55%	54%	41%
15	Other Countries	%	12%	27%	9%	9%
16	Total Imports	%	85%	82%	82%	86%

63. The domestic industry's market share in demand has declined in the POI as compared to the preceding years. However, during the same period market share of the subject countries increased.

#### **Profitability, return on investment and cash profits**

64. Performance of the domestic industry with regard to profits, return on investment and cash flow is as follows:

SN	Particulars	Unit	2015-16	2016-17	2017-18	POI
1	Cost of sales	Rs./MT	***	***	***	***
2	Trend	Indexed	100	92	96	101
3	Selling price	Rs./MT	***	***	***	***
4	Trend	Indexed	100	94	97	104
5	Profit/(Loss)	Rs./MT	***	***	***	***
6	Trend	Indexed	(100)	(62 )	(73)	(42)
7	Profit/(Loss)	Rs. Lacs	***	***	***	***
8	Trend	Indexed	(100)	(63)	(87)	(47)
9	PBIT	Rs. Lacs	***	***	***	***

10	Trend	Indexed	(100)	(62)	(82)	(44)
11	Cash Profits	Rs. Lacs	***	***	***	***
12	Trend	Indexed	(100)	(56)	(79)	(37)
13	ROCE	%	***	***	***	***
14	Trend	Indexed	(100)	(57)	(64)	(21)

65. The domestic industry continued to suffer losses throughout the injury investigation period. Domestic Industry has claimed that since the producers and related importers from subject countries are giving post sales discount to match the prices of the exporters from Singapore, they were not able to improve their financial performance in relation to subject goods.

### **Inventories**

66. Inventories with the domestic industry is as follows:

Particulars	UoM	2015-16	2016-17	2017-18	POI
Opening	MT	***	***	***	***
Closing	MT	***	***	***	***
Average	MT	***	***	***	***
Trend	Indexed	100	81	48	77

67. It is noted from the table above that the average inventory of the Domestic Industry has reduced in the POI as compared to the base year. However, the same is increased as compared to the immediately preceding year i.e., 2017-18.

### **Employment and productivity**

68. Performance of the domestic industry with regard to employment, productivity and wages is as follows:

SN	Particulars	UoM	2015-16	2016-17	2017-18	POI
1	Productivity per Day	MT/day	***	***	***	***

2	Trend	Indexed	100	114	126	121
3	Employment (Nos)	Nos.	***	***	***	***
4	Trend	Indexed	100	100	100	100

69. While employment indicated a stable trend between 2015-16 and POI, productivity of the domestic industry increased during the same period. Therefore, productivity is not the cause of injury to the Domestic Industry.

### **Magnitude of Dumping**

70. The Authority has undertaken evaluation of dumping margin for cooperating producers/exporters during POI as stated in the earlier paras. The dumping during POI from the subject countries for cooperative producer/exporters is above de-minimis levels and is significant.

### **Ability to raise Capital Investment:**

71. The significant decline in profitability and return on investment indicates that the ability of the domestic industry to raise capital investments for the sector could be adversely affected due to continued dumped imports from the subject countries.

### **Growth:**

#### **Growth Table**

Particulars	2015-16	2016-17	2017-18	POI
Production	-	13.84%	10.53%	(3.94)%
Domestic Sales	-	2.31%	16.09%	(7.56)%
Market share	-	2.62%	0.14%	(4.05)%
Profitability	-	38.41%	(33.33)%	46.55%
ROCE	-	42.86%	(12.50)%	66.67%
Inventories	-	(18.88)%	(40.52)%	59.42%

72. The growth of the Domestic Industry continues to be negative for most of the price parameters. The domestic industry has submitted that continued pressure from the exporters has made the situation of the Domestic Industry very vulnerable.

## **E7. Factors affecting domestic prices**

73. The examination indicates that the demand in India for the subject goods is not a limiting factor for the growth of the domestic industry. The import prices from the subject countries are directly affecting the prices of the domestic industry in the domestic market. It is also noted that the landed value of the subject goods from the subject countries are below non-injurious price of the domestic industry. Further, landed prices of subject goods from the subject countries have depressed prices of the Domestic Industry. The imports of the product under consideration from countries other than the subject countries and countries already attracting anti-dumping duties are negligible and are claimed not to be injurious to the domestic industry. The Demand for the product in this industry has not declined, and, therefore, could not have been a factor responsible for price suppression faced by the domestic industry. Thus, main factor affecting the adverse impact on the domestic industry is the adjusted landed prices of subject goods from subject countries.

## **E8. Magnitude of injury margin**

74. The Authority has determined Non-Injurious Price (NIP) for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The NIP of the domestic industry has been worked out and it has been compared with the landed price (LP) from each of the subject countries for calculating injury margin (IM). In line with the determination of dumping margins, the injury margin has also been determined for the related companies taking them together as one entity.
75. As mentioned in the dumping margin analysis in this Findings, it is noted from the response filed by the subject countries from Saudi Arabia that their Indian related entity has incurred a loss during the sale of the subject goods imported from their parent companies through different trading channels. As their sales price of subject goods are lower than their purchase price which included import prices and SGA of the Indian subsidiaries, suitable adjustment has been made from their landed price.

**Injury margin Table**

Country	Producer	Non-Injurious Price (US\$/MT)	Landed Value (US\$/MT)	Injury Margin (US\$/MT)	Injury Margin (%)	Injury Margin % (Range)
Saudi Arabia	Sadara Chemical Company	***	***	***	***	0-10

Saudi Arabia	Others	***	***	***	***	10-20
UAE	All Producers	***	***	***	***	0-10

76. It is noted that injury margin is positive and significant for cooperating producer and subject countries for POI.

#### **E9. Other Known Factors & Causal Link**

77. As per the AD 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. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the domestic industry.

##### **a) Volume and prices of imports from third countries**

78. Apart from countries already attracting anti-dumping duties, imports from other sources are below the *de-minimis* levels. Thus, it can be concluded that the imports from the other countries were not causing injury to the Domestic Industry during the POI.

##### **b) Contraction of demand and changes in the pattern of consumption.**

79. There has been a constant rise in demand of the product concerned throughout the injury period. Therefore, decline in demand is not a possible reason of injury to the Domestic Industry.

##### **c) Trade restrictive practices of and competition between the foreign and domestic producers**

80. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry as the raw materials as well as the subject goods are freely importable in the country.

##### **d) Development of Technology**



81. None of the interested parties have furnished any evidence to demonstrate significant changes in the technology that could have caused injury to the domestic industry. It is further noted that technology for production of the product concerned has not undergone any change. Thus, development in technology is not a factor causing injury to the domestic injury.

**e) Export performance of the domestic industry**

82. The injury analysis has been done by the Authority taking into consideration their domestic operations only. Therefore, performance in the export market has not affected the present injury analysis due to developments in technology.

83. No evidence has been brought by any interested parties about existence of significant changes in the technology that could have caused injury to the Domestic Industry.

**f) Productivity**

84. The Authority noted that the productivity of the Domestic Industry has increased over the injury period. Therefore, the Domestic Industry has not suffered injury on this account.

85. It is thus noted that listed known other factors do not show that the domestic industry could have suffered injury on account of them. None of the interested parties has also provided any evidence to suggest that the material injury caused to the Domestic Industry is attributable to other known factors.

## **E10. POST-DISCLOSURE SUBMISSIONS**

### **Post disclosure statement comments:**

#### **Submissions by Other interested parties**

86. The following submissions are made by other interested parties:

- a. That the Authority has effectively granted only three working days to the interested parties to file their comments on the Disclosure Statement. It is further submitted that the time given to the parties for filing their comments is inadequate and opposed to the practice followed by the Authority in other investigations and therefore, the time given cannot be said to be adequate.
- b. That the technology used by the Domestic Industry and exporters to produce the subject goods are different and this factor has not been analyzed by the Authority in the disclosure statement. It was further submitted that the goods produced by DMC technology has a difference in hardness, resilience, tensile and tear strength and therefore, the goods imported by the EPSPL and produced by the Domestic Industry cannot be considered as like article. The KOH processing is adopted by Domestic

industry, therefore, producers/users for certain end applications prefer subject goods produced from DMC technology because of its superior quality. In view thereof, they have demanded the exclusion of the subject goods produced by DMC technology.

- c. That the present Disclosure Statement is per-se incomplete as the non-confidential version of Annexure-IV (methodology for computation of NIP) has not been provided to Sadara/Dow and other interested parties.
- d. That the Government of Saudi Arabia has never received the letter issued 18.9.2019 by the DGTR before initiation of the investigation in terms of Article 5.5. as also mentioned in the disclosure statement. Further, the letter received on 23.9.2019, was post initiation intimation by the DGTR and said letter cannot be said in accordance with the requirement of Article 5.5. It is further submitted that the present investigation needs to be terminated against Saudi Arabia.
- e. That the Authority has erroneously computed the normal value to determine the dumping margin. It is further submitted that the Authority has wrongly disallowed the deduction of inter-unit profits for arriving at the Cost of Production, they have relied upon DS529 to strengthen their submissions that the Authority ought to have adjusted profit element on inputs for determining the cost of production for the subject goods.
- f. That the Authority wrongly adjusted the losses incurred by the related importer in the landed value of Sadara Chemical Company. They have requested the Authority not to adjust the losses incurred by the related importer in the landed value, as the same has direct implications on the injury margin. The exporter has also submitted that there is no provision under the law which enables the Authority to deduct loss incurred by the related exporter from the landed value.
- g. That the Domestic Industry is not suffering any injury on the subject goods as evident from their Annual Reports. Further, there is no causal link between the alleged injury and imports from the subject countries. Further, the Authority has not analyzed the injury parameters in terms of Annexure II of the Rules.
- h. That the Authority should have analysed price undercutting and price underselling after adjustment of losses from the landed value. It is further submitted that due to capacity constraints, the Domestic Industry was not able to increase its production and sales in the growing market.
- i. That the import data filed by the Domestic Industry and used by the Authority in the disclosure statement has vast variations and therefore, any analysis based on this data will be incorrect and therefore, the exporter request for fresh analysis of the data.
- j. That how the Authority has segregated capacity, production, capacity utilization and other economic parameters for domestic and export operations. The exporters have also

requested for the methodology for segregating such parameters. Further, the Authority has not provided the methodology for considering POI rates for the inputs used by the Domestic Industry for production of PUC. They also requested the Authority to confirm, whether the rates considered are true reflective of market prices or not. It is further requested to discard the abnormal increased in water cost and impact of closure of Plant I for 22 days during the POI.

- k. That the Authority should nullify the impact of expenditure on bio-mass captive power plant for the purpose of NIP which was not in use during the POI. It is further requested to provide the items not considered for the NIP and reasons for not considering the same. Further, they have also requested that the Authority should have considered average historical rate of return and not the inflated return of 22% for calculating NIP.

#### **Submissions by the Domestic Industry**

87. The following submissions are made by other interested parties:

- a. That the onus of substantiating the claim of exclusion of certain specifications / types from the scope of the product under consideration, the obligation to prove the same with sufficient evidence lies with the party claiming such exclusion. The Domestic Industry further submitted that no reliable and material evidence carrying detailed technical parameters of these desired exclusions from the scope of the product under consideration have been placed by any of the interested parties to help the Authority to establish conclusively that aforementioned specifications / forms of the product under consideration are not like articles and are not technically and commercially substitutable. Further, none of the participating exporters or importers have also raised such an issue or assisted the Authority in reaching the determination. In view of the above, the Domestic Industry humbly requests the Hon'ble Authority to kindly reject the submission made in relation to the product under consideration and confirm the scope of the product under consideration in the final findings as mentioned in the disclosure statement.
- b. That the submission of the Government of Saudi Arabia relating to non-receipt of intimation prior to the initiation notification, Domestic Industry has submitted that the Government of Saudi Arabia had failed to appreciate the requirement of intimation under the Article 5.5. Further, post initiation also, DGTR has allowed the responding parties forty days to file the questionnaire response from the "date of the letter" and not from the date of the initiation notice. In any case, the time limit allowed to the responding parties including the Government of Saudi Arabia began on the day letters were dispatched and therefore, no prejudice can be caused to any interested parties including the Government of Saudi Arabia. In view thereof, Domestic Industry requested the Authority to reject the submission made by the Government of Saudi Arabia.

- c. That the exporters from UAE should not get any undue advantage in the computation of dumping margin and injury margin due to their non-participation and requested the Authority to kindly adjust their landed value and export price based on the data filed by importers and other facts available with the Authority.
- d. Domestic Industry has also requested the Authority to confirm the injury margin and dumping margin computed for the subject countries in the disclosure statement in the final findings.

**Examination by the Authority:**

88. The Authority notes that most of the submissions by parties are repetitive in nature and have been examined and addressed in the disclosure statement and in the foregoing parts of the present findings. The findings above deal with all such arguments of the domestic industry and other interested parties. However, the Authority has examined these submissions herein below to the extent relevant and not addressed elsewhere.
89. As regards the submission of the exporter that the Authority did not allow sufficient time for filing of comments on the disclosure statement, the Authority notes that there is no prescribed time limit which has to be necessarily adhered to by the authority. The authority provided sufficient time to provide the comments on the disclosure statement in view of the facts and circumstances of the case. Further, it is important to note that there was no request by the exporter seeking additional time for filing their comments on the disclosure statement. Moreover, they have also not provided any reason legal or otherwise, that the time allowed by the Authority is insufficient and that they have faced serious issues in preparing the comments on the disclosure statement. In view thereof, the Authority rejects the submission made only with the intent to obfuscate the investigation and to delay the proceedings.
90. In relation to issues relating to the difference in technology and subsequent quality of the product produced by the Domestic Industry, the Authority notes that neither the difference in technology nor the alleged quality differences can per se be a ground for exclusion of any product or for the purposes of either the dumping margin or the injury analysis. It is further noted that the Domestic Industry is supplying subject goods to large numbers of customers and their quality is acceptable to all. In any case, none of the interested parties has provided any evidence to substantiate their claim that goods produced by the Domestic Industry with existing technology cannot be used by them due to quality and other technical issues. The Authority, therefore, holds that different technologies cannot form the basis of any conclusion by the Authority as long as the products are technically and commercially substitutable.
91. As regards the submission that the Disclosure Statement is incomplete, it is noted that the Authority has circulated the non-confidential version of Section IV of the disclosure statement to all the interested parties, as soon as it was brought to the notice of the Authority, and had granted additional time to all interested parties to submit responses/comments, if any.

92. In respect to the submission of Government of Saudi Arabia regarding intimation in accordance to Rules, it is noted that the DGTR has forwarded the intimation letter in terms of its obligation under Rule 5(5) and Article 5.5 prior to the initiation of the investigation. Therefore, the DGTR has acted in accordance of its international and national obligation, and no prejudice is caused to the rights and interests of the Government of Saudi Arabia or its exporters in any manner whatsoever. Without prejudice to the aforesaid, the Authority has granted an extension to the exporters of Saudi Arabia and extended the time to all interested parties to file their responses.
93. As regards the argument that Normal Value should be computed based on actual cost associated with production and sale of the article under consideration, it is noted that during the Covid time the Authority has not verified data by visiting the said units but has conducted only desk verification and complete reliance has been placed on the certified documents and other information submitted to the Authority. During desk verification, Sadara has filed the Income Statement for company as a whole and for the PUC for the POI. They have also provided other information including SAP server screen shots, raw material details, Variable Margin Report (VMR) for the company and PUC. The VMR has been developed by Sadara by utilizing the SAP Business Intelligence reporting from Sadara's ERP (SAP) system. All these documents have been taken on record during the desk verification.
94. As regards request to allow deduction of notional profit for computing Normal Value, it is noted as per the information provided by the company that Sadara has adopted a cost centre approach for determining the cost of input material. It is a multi-product company with certain affiliated/ JV companies engaged in supply of input material for production of subject goods and other products of the company. To produce subject goods Sadara has procured input materials from affiliated/ JV companies at market prices for production of intermediate product i.e., propylene Oxide which is subsequently consumed captively for production of PUC. As per the Company, inputs are transferred at contract price (cost plus profit) which is at par with the external price/market price. During such desk verification, it was noticed that there is a difference between the loss as per VMR generated by their SAP system and as claimed by them in Appendix 7 for the PUC. It has been observed that M/s. Sadara has adjusted the cost while claiming the same in Appendix 7/8 submitted in EQR. During desk verification /reconciliation with VMR of the company, it has been noted that company has excluded the element of profit while transferring the PO (captive raw-materials) and adjusted the share of Sadara JV profit in the cost of PUC also. Also, the finance cost has been claimed by the company on the lower side. VMR is an authentic SAP document as claimed by the company and has been relied upon to determine the cost of production. Further, the company also stated that they are following a profit centre concept and PO cost has been transferred to PUC at cost plus profit. In view of the above, the VMR has been accepted and ex-factory cost of production has been worked and considered to determine the Normal Value.
95. The Authority further notes that the information provided by the producer in various appendices has been verified by the Authority in terms of the Annexure I of the AD Rules

as per the consistent practice of the Authority. In relation to rejection of deduction of profit from the cost of production, it is noted that the Authority has deducted the profit in term of the Annexure I of the AD Rules to ascertain the actual cost of production for determining whether the domestic sales were made in ordinary case or not. Therefore, the contention of the exporter is misplaced and incorrect.

96. As regards the adjustment in landed value, it is noted that since India is following lesser duty rule, in which duty is restricted to the lower of dumping margin and injury margin, it is important to make appropriate adjustment in landed value so that the Domestic Industry gets genuine protection from the dumped imports. It is also important that losses by the related importer are also adjusted in the export price for determining the dumping margin. Therefore, it is legally and logically appropriate to adjust losses in the landed value, when the related import of the exporter is selling the subject goods in India at lower prices. It is this lower price that is effectively injuring the Domestic Industry. In view of the aforesaid, the Authority considers it appropriate to deduct the losses from the landed value.
97. The Authority further notes that the analysis of the injury being suffered by the Domestic Industry has been made on the basis of an objective analysis of the injury parameters in terms of the Annexure II of the AD Rules. Moreover, all the concerns raised by the interested parties are already dealt in detail at the relevant places of these final findings.
98. In relation to the submission of an exporter that the Authority should have made the price undercutting and price underselling examination after adjusting losses, it is noted that the price undercutting and price underselling is made taking into account the import quantity and value as per DGCI&S data. However, for the purpose of injury margin, , it is noted from the response filed by the exporter from Saudi Arabia that their Indian related entity have incurred a loss during the sale of the subject goods imported from their parent companies through different trading channels. As their sales price of subject goods are lower than their purchase price which included import prices and SGA of the Indian subsidiaries, suitable adjustment has been made from their landed price for the purpose of determining the injury margin.
99. As regards the submission relating to limitation of capacity and production, it is noted that the Domestic Industry was under price pressure from the exporters from the subject countries to sell their product. Further, the Domestic Industry still has the unutilized capacity, which indicates that the Domestic Industry was not able to increase its production and market share because of price pressure created by the exporters.
100. As regards the claim relating to the difference in import data filed in the petition by the Domestic Industry and used by the Authority in the disclosure statement, it is noted that the Authority has segregated the import data received from the DGCI&S based on its description and brand names mentioned in the transactions. Further, the data relied on in this finding has been checked and examined by the Authority. Further, the data used by Authority is also corroborates with the data submitted by the exporter.
101. In relation of the submissions regarding computation of NIP, it is noted that the Authority

has computed the NIP in accordance the principles laid down in Annexure III and the standard costing principles in relation to the determination of capacities etc. when the facilities are not dedicated. The cost related numbers have predominantly changed due to the revised data furnished by the Domestic Industry during verification. It is important to mention that the revised data verified by the Authority has resulted in reduction of the cost of the sales of the Domestic Industry, and consequently the NIP determined is now based on the revised data. Therefore, the Authority notes that the contentions raised by the interested parties do not have any merit and hence, cannot be accepted. The Authority also notes that some of the details sought by the exporter cannot be provided as the Authority, as a matter of consistent practice, allows the claim of confidentiality to the applicant. Therefore, the Authority notes that the contentions raised by the interested parties do not have any merit and hence, cannot be accepted.

#### **E11. Examination by the Authority on injury and causal link**

102. An examination of the various parameters of injury along with the volume and price effects of imports reveals that there is an increase in the volume of imports of subject goods from the subject countries during the injury investigation period in absolute terms as well as in relation to the total imports, domestic production and total demand in the country. With regard to price effect, it is noted that The Authority notes that the price undercutting is negative from the subject countries due to the fact that exporters from the subject countries export the subject goods to India at a high price and their related party resells the subject goods at a loss. Therefore, the import price recorded in DGCIS import data is not showcasing the actual prevailing price of the subject goods from the subject countries in the Indian market, and the price analysis on the basis of the import data has no material bearing on the case, as the same is not reflective of the true numbers. It is noted that landed price of subject goods from subject countries have suppressed the selling price of domestic industry, and as a result, the domestic industry is selling the subject goods at a price below its cost of sales. With regard to impact of volume and price effect on the domestic industry, it is noted that it is noted that sales and market share of the domestic industry has been adversely affected. It is also noted that .sales, production and capacity utilization of the domestic industry has not increased in line with increase in demand, and the capacity utilization of the domestic industry remains suboptimal. Further, it is also noted that profitability of the domestic industry has been adversely affected on account of dumped imports of the subject goods from the subject countries.
103. It is also noted that listed known other factors do not show that the domestic industry could have suffered injury due to these other factors. The Authority examined whether the dumping of the product has caused injury to the domestic industry. The following parameters show that injury to the domestic industry has been caused by dumped imports:
  - a. Imports of the subject goods from the subject countries have increased in absolute terms during the POI as compared to the preceding year i.e., 2017-18. Imports of the PUC from the subject countries have also increased in absolute terms as well as increased relative to production and consumption in India.

- b. The domestic industry has not been able to increase its production and sales commensurate with the increase in demand.
- c. Market share of the Domestic Industry has decreased during the injury period even though demand for the subject goods has been rising in India during the same period. This is due to the reason that imports have aggressively captured the increase in demand.
- d. The resale prices of the subject goods by related importers of the exporters of the subject goods from the subject countries were undercutting the prices of the domestic industry in the market. Resultantly, the domestic industry was forced to reduce its prices to match the resale prices by the related importers. The price depression suffered by the domestic industry is primarily because of dumping of the product in the country.
- e. Performance of the domestic industry with regard to profits, cash flow and return on investments deteriorated as a result of price depression. Thus, dumping of the product has led to deterioration in performance of the domestic industry in terms of profits, cash flow and return on investments.

104. The Authority, therefore, concludes that the Domestic Industry has suffered material injury due to dumped imports of subject goods from subject countries.

#### **F. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES.**

105. The Authority recognizes that the imposition of 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 anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the Domestic Industry and help maintain availability of wider choice to the consumers of the subject goods.
106. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the end user. The end user could still maintain two or even more sources of supply. 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 anti-dumping measures would not affect the availability of the subject goods to the consumers.

#### **G. CONCLUSION**

107. Having regard to the contentions raised, information provided, and submissions made by the interested parties and facts available before the Authority as recorded in these final findings and on the basis of the above analysis, the Authority concludes that:



- a. The product under consideration has been exported to India from the subject countries below its associated normal value, thus resulting in dumping.
- b. The Domestic Industry has suffered material injury due to dumping of the product under consideration from the subject countries.
- c. The material injury has been caused by the dumped imports from the subject countries.

## **H. RECOMMENDATION**

108. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules and having established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti-dumping duty is required to offset dumping and injury. The Authority, therefore, considers it necessary and recommends imposition of anti-dumping duty on imports of the subject goods from the subject countries in the form and manner described hereunder.
109. In terms of provision contained in Rule 17(1) (b) read with Rule 4(d) of the Rules, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the Domestic Industry. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the duty table below is recommended to be imposed from the date of the Notification to be issued by the Central Government, on all imports of subject goods originating in or exported from subject countries.

### Duty Table

S. No	Heading /Sub-heading	Description of Group	Country of origin	Country of export	Producer	Duty Amount	Currency	Unit
1	2	3	4	5	6	7	8	9
1	3907.20	Flexible Slabstock Polyol of Molecular weight 3000-4000	Saudi Arabia	Any	Sadara Chemical Company	150.06	USD	MT
2	-do-	-do-	Saudi Arabia	Any	Any other than at Sl. No 1 above	235.02	USD	MT
3	-do-	-do-	Any country other than country attracting anti-dumping duty	Saudi Arabia	Any	235.02	USD	MT
4	-do-	-do-	UAE	Any	Any	101.81	USD	MT
5.	-do-	-do-	Any country other than country attracting anti-dumping duty	UAE	Any	101.81	USD	MT

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

(Bidyut Behari Swain)  
Special Secretary & Designated Authority