

**To be published in Part-I Section I of the Gazette of India Extraordinary**  
**F. No. 7/12/2019-DGTR**  
**Government of India**  
**Department of Commerce**  
**Ministry of Commerce & Industry**  
**Directorate General of Trade Remedies**  
**4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

**Dated the 17<sup>th</sup> March, 2020**

**NOTIFICATION**  
**CASE NO: (SSR) 05/2019**

**FINAL FINDINGS**

**Subject: Sunset review Investigation concerning imports of “Flexible Slabstock Polyol” from Singapore.**

**Background of the case**

Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the “Rules”) thereof;

1. The original investigation was initiated to examine the nature and extent of dumping and its effect on the situation of the Domestic Industry with respect to Flexible Slabstock Polyol originating in or exported from Singapore, Australia and EU. The product under consideration for the purpose of investigation was “Flexible Slabstock Polyol” (hereinafter also referred to as the “subject goods” or PUC). The Designated Authority (hereinafter referred to as the “Authority”) vide its final findings No. 14/01/2013-DGAD dated 11.01.2015, recommended imposition of anti-dumping duties (Duties) against the dumped imports of the subject goods from Singapore, Australia and European Union (EU) and the duties were imposed by issuance of Customs Notification No. 09/2015- Customs (ADD) dated 7.4.2015. The current duties are valid up to 6<sup>th</sup> April, 2020.
2. In terms of Section 9A (5) of the Act, the anti-dumping-duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
3. Before the expiry of the said duty, M/s Manali Petrochemicals Ltd., constituting the Domestic Industry (hereinafter referred to as the “Applicant”) has filed a duly substantiated application before the Authority in accordance with the Act and the Rules, for initiation of Sunset Review investigation concerning imports of “Flexible Slabstock Polyol” originating in or exported from Australia, EU and Singapore, alleging likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry in case of cessation of existing anti-dumping duties.

4. The Authority on the basis of the prima facie evidence, considered that there is insufficient justification for conducting review investigation in respect of imports from Australia and EU, and initiated sunset review investigation through notification No. 7/12/2019-DGTR dated 09.08.2019 to examine whether the expiry of the said duties on the import of the subject goods originating in or exported only from the Singapore (hereinafter referred to as subject country) are likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
5. The scope of the present review covers all aspects of the final findings No. 14/01/2013-DGAD dated 11.01.2015 concerning imports of the above goods, originating in or exported from the subject country.

**A. PROCEDURE**

6. The following procedure has been followed with regard to this investigation:
  - i. The Authority issued a notification dated 09.08.2019, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject good from subject country.
  - ii. The Authority sent a copy of the initiation notification to the Government of the subject country, through its High Commission, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the Applicant and requested them to make their views known in writing within the prescribed time limit.
  - iii. 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 country, through its High Commission and known importers/users in India 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.
  - iv. The Authority also forwarded copy of the notice to known producers/exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the Applicant and requested them to make their views known in writing within 40 days of the initiation notification. 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 Shell Chemicals, Singapore
    - b) M/s Bayer Polyurethane Asia (PTE) Ltd, Singapore
  - v. The High Commission of Singapore in India was also requested to advise the exporters/producers from Singapore 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 country.

- vi. In response to the initiation of the subject investigation, following producers/exporters from the subject country have responded by filing questionnaire response:
- a) M/s Shell Eastern Petroleum (Pte) Ltd (“SEPL”)
  - b) M/s Shell Eastern Trading (Pte) Ltd (“SETL”)
  - c) M/s Shell Chemicals Seraya Pte Ltd (“SCSL”)
  - d) M/s Shell Eastern Chemicals (S) (“SEC(S)”)
  - e) M/s Covestro (Hong Kong) Limited Singapore Branch (“Covestro”)
  - f) M/s Pure Chemicals Pte. Ltd., Singapore (“PCPL”)
- vii. The Authority sent Importer’s Questionnaire 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
  - k) Indian Polyurethane Association
- viii. The Authority sent Importer’s Questionnaire 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
- ix. The following importers of the subject goods have responded by filing an Importer Questionnaire response :
- a) Pon Pure Chemical India Pvt. Ltd.
  - b) Sheela foam Ltd.
- x. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xi. 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 and period prior to it, and also the period of investigation, and post POI. The Authority has relied upon the DGCI&S data for computation of the volume 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.

- xii. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make & 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 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.
- xiii. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 16.10.2019. Subsequently, another oral hearing was held on 18.12.2019 in view of the change of the Designated Authority, which was attended by interested parties. All the parties who presented their views in the oral hearing 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 an opportunity to submit their rejoinders, if any.
- xiv. On the spot verification of the information provided by the Applicant as well as the producers/exporters from Singapore was conducted to the extent considered relevant by the Authority.
- xv. The Period of Investigation (POI) for the purpose of the present review investigation is 01.04.2018 to 31.03.2019 (12 months). The examination of trends in the context of injury and likelihood analysis covered the periods April 2015- March 2016, April 2016-March 2017, April 2017-March 2018 and the POI.
- xvi. The submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority, in this final findings.
- xvii. 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.
- xviii. 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.
- xix. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide disclosure statement dated 5<sup>th</sup> March, 2020 and comments received thereon, considered relevant by the Authority, have been

addressed in these final findings. The following interested parties have submitted their comments to disclosure statement.

- a. M/s Manali Petrochemicals Ltd
  - b. M/s Pon Pure Chemical India Pvt. Ltd.
  - c. M/s Pure Chemicals Pte. Ltd., Singapore (“PCPL”)
  - d. M/s Shell Eastern Petroleum (Pte) Ltd (“SEPL”)
  - e. M/s Shell Eastern Trading (Pte) Ltd (“SETL”)
  - f. M/s Shell Chemicals Seraya Pte Ltd (“SCSL”)
  - g. M/s Shell Eastern Chemicals (S) (“SEC(S)”)
  - h. M/s Covestro (Hong Kong) Limited Singapore Branch (“Covestro”)
  - i. M/s Sheela foam Ltd.
  - j. M/s Indian Polyurethane Association (IPUA).
  - k. M/s Expanded Polymers systems Pvt Ltd (EPSPL).
- xx. The Authority notes that most of the post-disclosure submissions made by the interested parties are mere reiteration of their earlier submissions and have already been addressed in the disclosure statement issued by the Authority, and also in these final findings. Other post-disclosure submissions, to the extent considered relevant, have additionally been examined in these final findings.
- xxi. ‘\*\*\*\*’ in this document represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxii. The exchange rate for the POI has been taken by the Authority as Rs.70.55 = 1 US\$.

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

7. The product under consideration in the present investigation is Flexible Slabstock Polyol of molecular weight 3000-4000.

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

8. 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 Singapore. 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 customs classification is indicative only and not binding on the scope of investigation.

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

9. No submission was made by any other interested parties with regard to the scope of the

product under consideration and like article, till the time of issuance of the Disclosure statement. However, comments have been received from M/s EPSPL after the issuance of disclosure statement which have been dealt appropriately in the post disclosure comments in these final findings.

### **B3. Examination by the Authority:**

10. The product under consideration in the present investigation is “Flexible Slabstock Polyol of molecular weight 3000- 4000” (hereinafter also referred to as the “subject goods”). 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 also referred to as the “subject goods”).
11. The subject goods are classified under the category “Plastics and articles thereof” in Chapter 39 of the Customs Tariff Act, 1975 and further under 390720 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 primacy over the ITCHS as the same is indicative.
12. The present investigation being a sunset review investigation and anti-dumping duties being in force on the imports of the subject goods from the subject country, the Authority considers that the scope of the PUC in the present investigation remains the same as that in the original and subsequent review investigation. Moreover, none of the interested parties have made any quantified submission requesting modification (including curtailment) in the scope of the review.
13. The Applicant has claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods and the product under consideration manufactured by the Applicant. The two are technically and commercially substitutable and hence should be treated as ‘like article’ under the Rules.
14. With regard to “like article”, Rule 2(d) of the 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;*
15. After considering the information on record, the Authority is of the view that the subject goods produced by the domestic industry are 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 country in accordance with the Rules. The two are technically and commercially substitutable.

The consumers are using the two interchangeably.

16. The Authority, therefore, confirms that the scope of the product under consideration in the present review remains the same as that of the original investigation.

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

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

17. The following submissions have been made by the domestic industry in this regard—
- i. The current application for the sunset review has been filed by M/s Manali Petrochemicals Limited who accounts for almost 98 % share in Indian production of the subject goods during the period of investigation. As per the information available with the Applicant there is only one other known producer of the product under consideration in the country i.e., EPSPL.
  - ii. As per the available information on record, the Applicant has neither imported the subject goods from the subject country nor are they related to any other producer/exporter of subject goods in the subject country 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 and since none of the interested parties have made any submissions in relation to standing of the Domestic Industry, 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**

18. The following submissions have been made by the other interested parties in this regard:
- i. In the financial statements of Manali Petrochemicals, it has been disclosed that it has a related entity in Singapore – AMCHEM, which is involved in ‘exploring other opportunities for acquisition of existing overseas facilities to further improve the global presence of MPL, besides taking up other activities such as trading, transaction facilitations, business and project consultancy’. The domestic industry has nowhere disclosed the existence of such a related entity in the subject country. It is immaterial if the said related entity is involved in the subject product or not. It is submitted that a similar burden is placed upon the producers/exporters of other countries at the time of filing of the response. Such disclosure standards cannot be different for the domestic industry and it was obligated to state the same. By keeping the said information confidential, the domestic industry has indulged in material suppression of facts and has impeded the current investigation.

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

19. The application for sunset review was filed by M/s Manali Petrochemicals Limited. It is noted

that till the issuance of disclosure statement, and as claimed by the Applicant, M/s Expanded Polymers Systems Private Limited (EPSPL) was considered as another domestic producer EPSPL stated in their post disclosure comments that they have imported the subject goods. However, based on the comments received from EPSPL after issuance of disclosure statement, it is noted that EPSPL is now an importer of subject goods as 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.

20. It is noted that the Applicant has not imported the subject goods from the subject country. It is further noted that the Applicant is not related to any of the exporters in the subject country and also not related to any importer of the subject goods in India.
21. As regards the contention of the interested parties that Applicant has a related entity in Singapore – M/s AMCHEM, which is involved in number of activities, including trading activities, the Authority has examined the said issue and considers that none of the related entities of the Applicant is involved in subject goods and hence, the same does not affect the standing of the Applicant. It is further noted that since the Applicant is not related to any exporter of the subject goods, or related to an importer, it has no impact on their eligibility to become the Domestic Industry (DI) as per Rule 2 (b).
22. 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 Rules and constitutes ‘Domestic Industry’ (DI) in terms of Rule 2(b) of the Rules.

## **D. CONFIDENTIALITY**

### **D1. Views of the Domestic Industry**

23. Various submissions made by the domestic industry with regard to confidentiality claims of the exporters/importers and other interested parties are as follows:
  - i. Shell has filed a deficient response, as information such as volume of imports, details of their entities involved in the production of subject goods or its raw material, other related entities, has not been provided or deficient response has been provided and hence, the response needs to be rejected. Further, Shell group has not provided complete information about all their related companies and therefore, their response needs to be rejected. Even after specifically pointed out during the oral hearing, Shell group has not clarified the exact status of the related parties involved in the production / sales of the subject goods.
  - ii. The Applicant has claimed confidentiality on information provided by them as allowed in Rule 7 of the Rules and a meaningful summary of such information were also provided. The claims of interested parties that the Applicant has claimed excessive confidentiality are baseless.
  - iii. On the other hand, 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**

24. Various submissions made by the interested parties with regard to confidentiality claims of the Domestic Industry are as follows:
- i. The DI's allegation that Shell has not complied with the statutory requirement by not filing the questionnaire response of the related parties is incorrect as the law requires only the producers and exporters of the subject goods to file questionnaire responses in an investigation. All the related companies of Shell involved in the production or domestic sales or export to India of the PUC are participating in the present investigation and have filed the questionnaire response. Other four entities of Shell as alleged by the Applicant, are not involved in the production and sale of the subject goods and therefore, they are neither required to file exporter's questionnaire response, nor are they involved in the value chain of production or sale of FSP. These four entities are either dissolved or in the process of liquidation or are not involved in manufacturing process or sale of FSP at any stage.
  - ii. As regards specific allegations made against response filed by Shell entities regarding non-supply of information, such as but not limited to (a) related entities not providing information supplying raw materials or utilities, (b) actual information in relation to source of raw material, raw material used in manufacturing major inputs of FSP, (c) other information claimed to be confidential or not provided, Shell submits that either such information was not required to be provided in terms of the relevant provisions read with trade notices issued by Authority or wherever required to be provided, the same has been provided along with meaningful summary in non-confidential versions providing indexed figures. Further, all the information required by the Authority has been duly provided to the Authority in the appropriate response of concerned entity of Shell.
  - iii. As against specific allegation against PCPL that it has not provided (i) indexed no of inventory as no of days of sales of PUC against the requirement of point no 15 of the Trade Notice No. 10/2018 dated 07th September, 2018; and (ii) indexed no of inventory of PUC in contravention of requirement of point no 13 of the Trade Notice No. 10/2018 dated 07th September, 2018, PCPL provided the said information as the same was inadvertently omitted in the questionnaire. PCPL also provided indexed figures of the same in the non-confidential version of rejoinder submissions. The said issue has not been re agitated by the domestic industry in the subsequent oral hearing as well. As regards the allegation that Appendix 11 is not provided, reliance is placed on Trade Notice No.5/2018 which provides that an unrelated exporter of the subject goods to India is only required to file the questionnaire response in Part I and Part II along with Appendix 5. As Appendix 11 is covered in Part III of the questionnaire response prescribed by Trade Notice No.5/2018, PCPL is not required to file Appendix 11 and the contention of the Domestic Industry is contrary to the clear prescription provided in Trade Notice No.5/2018.

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

25. 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:

26. With regard to confidentiality of information, Rule 7 of the 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.*

27. 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 evidence submitted by various interested parties in the form of 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.

## **E. MISCELLANEOUS SUBMISSIONS**

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

28. The following miscellaneous submissions have been made by the Domestic industry:
- i. The information provided in the application 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.
  - ii. That the producers / exporters from Singapore have absorbed the anti-dumping duties. Moreover, they are providing post sales discount to Indian customers to bench their prices equal to the prices offered by the Domestic Industry. Domestic Industry has requested

the Authority, to extend the duties by recommending reference-price based duties, so that issues of price absorption and post sales discount can be addressed.

- iii. That despite increase in demand, the Domestic Industry was not able to utilize its full capacity. This shows that demand and supply gap is not an issue, as Domestic Industry has still unutilized capacity which can easily cater to the Indian demand.
- iv. That the response of Shell Group cannot be accepted as even till date they have not cleared the position about their related entities.
- v. The exporters from Singapore have absorbed the duties. The Authority is requested to impose the duty on the reference price basis or as deemed fit by the Authority.

## **E2. Views of the other interested parties**

29. The following submissions have been made by cooperating exporters:

- i. In the original investigation, Shell group was treated as non-cooperative as two of the entities in the group - Shell Eastern Chemicals (S) (“SEC(S)”) and Shell Chemicals Seraya Pte Ltd (“SCSL”) did not file exporter’s questionnaire response (EQR). Shell submits that filing of questionnaire by these two entities was not necessary as SCSL was not involved in the production or sale of the subject goods. Furthermore, SEC(S) is a registered sole proprietorship business of SETL and in Singapore, a sole proprietorship is not a separate legal entity from that of the business owner, which is reflected in Accounting and Corporate Regulatory Authority’s (ACRA) record of SEC(S). Nevertheless, SCSL and SEC(S) have also filed EQRs along with SEPL and SETL in the present review.
- ii. Initiation of the present investigation is bad in law as the initiation notice does not meet the requirement of Rule 23(3) read with Rule 6(6). The Authority has also failed to prima facie scrutinize whether the application submitted by the Domestic Industry has provided sufficient and admissible data for the purpose of initiating sunset review, before deciding to initiate a sunset review. Scrutinizing the application was more important as the DA has decided to initiate the sunset review only against imports from Singapore while excluding EU and Australia from its purview for reasons that are not forthcoming from the initiation notice. As the initiation of the present investigation is bad in law, all the consequential proceeding will be void and therefore, the present investigation needs to be terminated.
- iii. Domestic Industry has limited capacity to meet the Indian demand. Domestic Industry in order to maximize its profit resorts to repeated levy of anti-dumping duty.
- iv. The decision of the Authority to exclude Australia and European Union from the scope of subject countries is illogical and initiation of review only against Singapore is discriminatory.
- v. 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.

- vi. That the unrelated claims regarding the dumping and injury caused from sources like Saudi Arabia and UAE would be better dealt with in the investigation pertaining to these countries, which has been duly initiated by the Authority and is underway.

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

- 30. The various miscellaneous submissions considered relevant have been examined as under:
  - i. As regards the submission that all the relevant related entities of Shell Group have filed their responses, the Authority has taken the same on record for the purposes of present investigation.
  - ii. As regards the argument of the opposing interested parties that the application 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 wherever required and verified the information furnished by the domestic industry.
  - iii. As regards the contentions raised on the reasoning for the exclusion of some countries in the present sunset review, the Authority notes that there was insufficient justification for conducting review investigation in respect of imports from Australia and EU, and thus the scope of the review investigation is restricted to imports of the product under consideration from Singapore only.
  - iv. As regards the exporters apprehension that exclusion of Australia and EU leads to violation of Rule 19 of the Rules or Article 9.2 of the WTO Ant-dumping Agreement, it is noted that issue is already settled by the WTO Appellate Body that the concept of discrimination under Article 9.2 (Rule 19) applies only to exporters from within the same country (i.e., intra-country) and not between different countries (inter-country).
  - v. 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 is not an indicator of presence or absence of dumping.
  - vi. 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 the likelihood of continuation or recurrence of dumping and injury, as per rules.

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

### **F1. Views of the Domestic industry**

- 31. 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 application 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 for calculating cost of production for FSP in Singapore and not the prices submitted by producer in Singapore, due to their suspicious internal transactions.
- iii. The Authority should consider the domestic sales that is purely meant for the consumption of local market in Singapore and not those sales which is ultimately shipped outside Singapore.
- iv. The Authority should closely check the transactions between exporter and its related entity in India, as the Domestic Industry doubts that the same may be done at higher value.
- v. The Authority should check the post sales discount given by the producers/exporters from Singapore.
- vi. The Authority must ensure that the raw material pricing is at arm's length with respect to transfer of raw materials among related companies of Shell. The Authority should take the international price of raw material for determining cost for the producer.
- vii. The exporter has not provided sufficient evidence to prove that there is no likelihood of dumping.

## **F2. Views of the interested parties**

32. The following submissions have been made by the other interested parties –
- i. The normal value and export price of the subject goods exported by M/s Covestro (Hong Kong) Singapore branch to India may be determined based on the verified responses filed by it as well as the response of the producer i.e., Shell Group.
  - ii. The prices considered by the Applicant for determination of Normal Value are unreliable and inadmissible. There is no evidence that these rates are at ex-factory level. Applicants have claimed arbitrary adjustments.
  - iii. The application does not meet the evidentiary requirements of the WTO Anti-Dumping Agreement and AD Rules 1995 because (i) the Domestic Industry has not provided admissible evidence for construction of normal value; (ii) the adjustment made for construction of normal value are not tenable as per Section 9A (1) (c) of the Customs Tariff Act, 1975 r/w Annexure I of the AD Rules 1995; and (iii) the adjustments made with respect to the Export Price are abnormally high. Detailed submissions have been made in the written submissions, which need to be examined minutely by the DA.
  - iv. Article 11.3 of WTO ADA and Rule 23(1B) of the Rules mandates that initiation of sunset review must be upon a duly substantiated request by the domestic industry. In the application, the Domestic Industry has determined normal value for Singapore based on Prices mentioned in trade journals. Prices mentioned in trade journals are not admissible evidence or judicially noticeable facts unless based on public documents of the country for whom NV is being calculated. Therefore, Normal Value (NV) based on trade journals cannot be relied upon. Similarly, no satisfactory evidence was provided by Domestic Industry with respect to adjustments in export price. Though Final Findings are issued

on verified data, initiation of investigation should also be based on admissible evidence as otherwise, legal requirements regarding the same would be rendered superfluous.

### **F3. Examination by the Authority**

#### **F.3.1 Determination of normal value and export price**

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

33. Under section 9A (1) (c), of the Act, normal value in relation to an article means:
- (i) *The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting 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);*
34. As regards the issue of normal value, export price and dumping margin, it is noted that the Authority had initiated the investigation based on the *prima facie* evidence given by the Domestic Industry. At the stage of initiation, the Authority had proceeded with the prices of subject goods based on information submitted by the Applicant based on the prices published in ICIS LOR due to non-availability of internal transactions of Singapore. However, for the purpose of this disclosure statement, the Authority has relied upon the verified data provided by the interested parties.
35. The Authority sent copies of Exporter 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 Shell Eastern Petroleum (Pte) Ltd.
  - b) M/s Shell Eastern Trading (Pte) Ltd.
  - c) M/s Shell Seraya Chemicals Pte Ltd.
  - d) M/s Shell Eastern Chemicals (S)
  - e) M/s Covestro (Hong Kong) Limited Singapore Branch
  - f) M/s Pure Chemicals Pte. Ltd., Singapore.
36. Since the above-mentioned companies have filed the questionnaire responses, the Authority has examined the request for determination of individual dumping margin based on verified data for these producers and have determined dumping margin, wherever appropriate.
37. In the absence of cooperation from the other producers/exporters in the subject country, the

Authority has determined the normal value, on the basis of facts available in terms of Rule 6 (8) of the Rules.

38. Accordingly, the Authority has determined the normal value, export price and dumping margin in respect of various producers/exporters of the subject country as follows:

**M/s. Shell Eastern Petroleum (Pte) Ltd, Shell Eastern Trading (Pte) Ltd, Shell Chemicals Seraya Pte Ltd and Shell Eastern Chemicals (S)**

39. M/s. Shell Eastern Petroleum Pte Ltd (SEPL), Shell Eastern Trading Pte Ltd (SETL), Shell Chemicals Seraya Pte Ltd (SCSL) and Shell Eastern Chemicals (S) (SEC(S)) have filed respective questionnaires in the formats prescribed. In addition, two unrelated traders, namely, M/s Covestro (Hong Kong) Limited, Singapore Branch and M/s Pure Chemicals Pte. Ltd., Singapore have also filed their questionnaire responses. SETL's immediate holding company is Shell Eastern Petroleum (Pte) Ltd, Singapore, which holds \*\*\*%. The remaining \*\*\*% is held by Shell Petroleum N.V., Netherlands. SETL carries out its activity of trading relating to FSP either under its registered legal company name, or under the registered business name of Shell Eastern Chemicals ["SEC(S)"]. SEC(S) is not a separate legal entity but merely a registered business name of SETL. SEC(S) does not maintain or file separate accounts.
40. Four entities of Shell Group have filed individual responses. It is noted that SCSL is 100% subsidiary company of SEPL. SCSL is also a supplier of input i.e. PO to SEPL, which is used in the manufacture of subject goods. Shell Eastern Petroleum (Pte) Limited ("SEPL") is the producer of the PUC and has sub-contracted the operations of the plant to its wholly owned subsidiary, Shell Chemicals Seraya Pte. Ltd. ("SCSL"). SEPL reimburses the costs incurred by SCSL for operation of plant on no profit basis under an agreement.
41. SETL has sold \*\*\*MT of the PUC in the domestic market during the POI and it has exported \*\*\*MT of the subject goods to India directly as well as through unrelated traders during the POI. Based on their response, it is noted that their domestic sales are in sufficient quantity in the domestic market. 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 has considered 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, all domestic sales have been taken into account for determination of normal value, since the profitable sales were 100%.
42. For arriving at the ex-factory normal value, the Authority has considered adjustments (in USD/MT) on account of inland freight and credit cost from the invoice price of the producer (SEPL). Accordingly, the ex-factory normal value is calculated and mentioned in the dumping margin table.

**Normal value for all other producers/exporters from Singapore**

43. It is noted that no other producers/exporters from Singapore has cooperated in the present sunset -review investigation. In view of the non-cooperation, the Authority has determined the Normal Value for other producers/exporters based on best facts available which is calculated and mentioned in the dumping margin table.

### **Export price:**

44. SEPL sells the entire quantity of the subject goods to SETL/SEC(S) and SETL/SEC(S) export the subject goods to India as well as sells the subject goods in Singapore to unrelated customers. The exports to India are made by SETL directly as well as through two unrelated traders namely – Covestro (Hong Kong) Limited and Pure Chemicals Pte. Ltd. It is noted that SETL exported \*\*\* MT of the subject goods to India during the POI which comprises of \*\*\*MT (directly), \*\*\*MT (through Pure Chemicals Pte. Ltd. (“PCPL”)) and \*\*\* (through Covestro (Hong Kong) Limited (“Covestro”)). The Authority has verified the responses of the SETL, PCPL and Covestro to the extent necessary and noted that the exports sales made by SETL and PCPL were profitable. However, Covestro has incurred losses on the export of the PUC during the POI.
45. For arriving at the ex-factory export price, the Authority has considered adjustments on account of Ocean freight, Surveyor & Nitrogen Cost, Ocean Insurance, Port Charges, Inland Freight, Demurrage, Packing Cost and Credit Cost from the invoice price of the producer (SEPL). In addition, the Authority has made adjustment on account of the losses incurred by the Covestro. Accordingly, the ex-factory export price has been worked out which is mentioned in the dumping margin table.

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

46. It is noted that no other producer/exporter from Singapore has cooperated in the present sunset review investigation. In view of non-cooperation, the Authority has determined export Price for such other producers/exporters based on facts available which is calculated and mentioned in the dumping margin table.

### **F.3.2 Dumping Margin**

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

S. No	Country	Producer	Normal Value (US\$/MT)	Export price (US\$/MT)	Dumping Margin (US\$/MT)	Dumping Margin (%)	Dumping Margin Range (%)
1.	Singapore	M/s Shell Eastern Petroleum (Pte) Ltd	***	***	***	***	0-20
2.	Singapore	Other producers and exporters	***	***	***	***	0-20

48. The dumping margins are more than the *de-minimis* limits prescribed under the Rules.

**G. DETERMINATION OF INJURY AND CAUSAL LINK AND LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY TO THE DOMESTIC INDUSTRY**

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

**G1. Views of the Domestic industry**

- i. The domestic industry is already suffering injury and revocation of anti-dumping duty shall lead to intensified injury to the domestic industry. Cessation of anti-dumping duty is likely to have significant suppressing and depressing effect on the prices of the product under consideration in the market.
- ii. Price underselling and undercutting is positive for imports from Singapore. This price also indicates the likely prices in the event of cessation of duties. Therefore, it is clear and imminent that at current prices Domestic Industry will suffer injury.
- iii. None of the producers/exporters from Singapore has provided any evidence that there is no likelihood of continuation or recurrence of dumping or injury to the Domestic Industry in case duties are revoked.
- iv. As regards the submissions of interested parties relating quantum of imports and their impact of domestic industry, it is submitted that the current level of imports in sunset review has no relevance and therefore, this is not a relevant factor for this investigation. It is further submitted that the argument regarding absence of causal link with the imports from Singapore, the domestic industry submits that it is settled jurisprudence that “causal link” is not a mandatory or necessary factor in any sunset review investigations in terms of both section 9A(5) of the Rules as well as under Article 11.3 of WTO Agreement on AD. In any case, no material, data, information or evidence has been placed on record by the Opposing Parties to even remotely suggest that the causal nexus between dumped imports and injury is broken. In view of the aforesaid, the Authority should reject the arguments raised by the opposite interested parties. Moreover, the landed value is below the NIP and selling price of the domestic industry clearly causing injury. Further, landed value is also below the international price of the major raw material i.e., Propylene Oxide (PO).

**G2. Views of other interested parties**

- i. The volume of imports from Singapore and the pricing of the goods entering therefrom are un-dumped and/or non-injurious, and therefore, there is no rationale for the continuation of duties in the present scenario against Singapore. Further, imports from Singapore have declined in absolute terms as well as relative to production, consumption and total imports. In addition, landed prices from Singapore have increased over the period of injury and in the POI, and are at their highest level during the POI. 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. No data pertaining to the post-POI period has been brought out by the Applicant. Accordingly, the data on record shows that exports from the subject country have been declining and therefore, the “likelihood” claim is bound to fail.
- iii. There is neither any price undercutting nor any price suppression or depression as claimed by the Applicant. Further, for price undercutting assessment, the Authority must compare the import prices after addition of anti-dumping duties. This is because the customers would compare the final prices payable by them while deciding their supplier as per the consistent practice of the Authority. Further, as review covers only Singapore, Domestic Industry is required to file updated injury data, including data regarding price undercutting, price suppression and price depression from other countries as well to examine whether domestic prices were affected by them.
- iv. 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).
- 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, the Applicant’s inventory has been continuously decreasing, which is reflective of reduced idle stock and more movement of goods, reflected equally by the improved sales volumes. Further, prices from the other countries have affected the Net selling realisation (NSR) of the Domestic Industry, and the same has no nexus with that of the prices from Singapore. Without prejudice, it is suspected that the wages for managerial personnel and directors have been arbitrarily allocated to the production of FSP and needs to be examined.
- vi. The data pertaining to profit / loss and ROCE appears to be misrepresented and contrary to the Applicant’s Annual Report and merits verification as Applicant’s annual report shows a PBT of INR 102.69 crore, and a healthy growth through the last two years. It has also been submitted that 60% of the company’s turnover is contributed by the production and sale of Polyol.
- vii. 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 Singapore in any manner. Also, the difference between the cost of sales per unit and selling price per unit cannot singularly be the cause for the significant losses it is incurring.
- viii. When the selling price of the Domestic Industry moves independently from that of alleged dumped imports, any price suppression or price depression observed in the prices of the Domestic Industry cannot be attributed to dumped imports.
- ix. In light of increasing demand for the like article in India, declining volume of subject imports at increasing prices, strong market position with the domestic industry and its higher sales realization over the injury period, the domestic industry is unlikely to be affected financially and its ability to raise capital investments will not be affected. In any case, the ability to raise capital investments loses relevance as a factor while assessing material injury to the Domestic Industry of a like article when the same is a large multiproduct company.

- x. It is further submitted that it is incumbent for the Authority to examine causal link in the case of sunset review investigations also. Further, the DI is required 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.
- xi. The subject goods coming from Singapore is not injuring the Domestic Industry. Further, the Domestic Industry is making substantial profits continuously for last 8 years including POI, even the Directors' Report confirms the same.
- xii. The allegations of injury in the POI on account of imports from subject country is totally unsubstantiated and the DI resorted to misrepresentation of facts while making such allegation of continued injury. Moreover, their numbers need to be checked carefully.
- xiii. It is important to note that when subject goods is major product for Domestic Industry, how the Applicant is suffering injury in this product when company is in exceptionally high profits.
- xiv. The Domestic Industry has limited capacity to meet the Indian demand. Domestic Industry in order to maximize its profit repeatedly resorts to levy of anti-dumping duty.
- xv. The Central Government has imposed anti-dumping duties of USD 67.79 per MT. Further, when landed prices of the subject goods increased from Singapore, how Domestic Industry can claim that exporters from Singapore has absorbed the duties.

### **G.3 Examination by the Authority**

- 50. 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 injury analysis.
- 51. As regards the impact of the dumped imports on the domestic industry, Para (iv) of Annexure-II of the 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.”*
- 52. 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.
- 53. Further Rule 11 of the Rules read with Annexure–II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking

*into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....”*. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

54. According to Section 9(A)(5) of the Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
55. Annexure-II of the Rules provide 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.
56. In consideration of the various submissions made by the interested parties in this regard, the Authority has examined the current injury, if any, to the domestic industry before undertaking to examine the likelihood aspects of dumping and injury on account of imports from the subject country.

### **G.3.1 Volume Effect of dumped imports and impact on domestic industry**

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

57. 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.
58. 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:

<b>SN</b>	<b>Particulars</b>	<b>UoM</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>POI</b>
1	Sales of Domestic Industry	MT	***	***	***	***
2	Imports from Subject Country	MT	43,143	31,976	42,628	39,177

3	Imports from Thailand (Attracting ADD)	MT	15,281	6,427	1,113	286
4	Imports from EU (Attracting ADD)	MT	360	18	0	0.2
5	Imports from Australia (Attracting ADD)	MT	0	0	0	0
6	Import from Other Countries	MT	9,690	19,476	22,828	43,925
7	Total Imports	MT	68,474	57,897	66,569	83,388
8	Total Demand	MT	80,728	70,435	81,124	96,841

59. The demand of the subject goods has increased from 80728 MT in the base year to 96841 MT in the POI.

ii. **Volume Effect of Dumped Imports and Impact on Domestic Industry**

**Import volume and Share**

SN	Particulars	UoM	2015-16	2016-17	2017-18	POI
1	Subject Country		MT	MT	MT	MT
2	Singapore	MT	43,143	31,976	42,628	39,177
	Country Attracting ADD –					
3	Thailand (Attracting ADD)	MT	15,281	6,427	1,113	286
4	EU (Attracting ADD)	MT	360	18	0	0.2
5	Australia (Attracting ADD)	MT	0	0	0	0
6	Other Countries	MT	9,690	19,476	22,828	43,925
7	Total	MT	68,474	57,897	66,569	83,388
8	Share of Subject Country in Imports					
9	Singapore	%	63.01%	55.00%	64.00%	47.00%
10	Thailand (Attracting ADD)	%	22.00%	11.00%	2.00%	0.00%
11	EU (Attracting ADD)	%	0.53%	0.03%	0.00%	0.00%
12	Australia (Attracting ADD)	%	0.00%	0.00%	0.00%	0.00%
13	Other Countries	%	14.15%	33.64%	34.29%	52.68%
14	Total	%	100%	100%	100%	100%
15	Subject country imports in relation to					
A	Indian Production		156%	99%	119%	103%
B	Indian Demand		53.44%	45.40%	52.55%	40.45%

60. The volume of import from Singapore has shown marginal decline during the period of investigation in absolute term as well as in relative terms compared with overall imports, production and demand between 2015-16 and POI. However, this appears to be because of the existing anti-dumping duties.

**G.3.2 Price Effect of the Dumped Imports on the Domestic Industry**

**a. Price Undercutting**

SN	Particulars	Unit	2015-16	2016-17	2017-18	POI
1	Landed Price from Singapore	Rs/MT	1,06,053	93,043	1,01,869	1,13,619
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	168	104	66
6	Price Undercutting	%	***	***	***	***
7	Price Undercutting	Indexed	100	193	109	62
8	Range		0-20	0-20	0-20	0-20

61. The price undercutting by imports from Singapore was found to be positive without anti-dumping duty in POI. The price undercutting margin is considered significant.

**b. Price Suppression/ Depression**

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	Rs /MT	1,06,053	93,043	1,01,869	1,13,619
6	Trend	Indexed	100	88	96	107

62. Comparison of cost of sales, selling price and landed price of imports from Singapore indicates that the selling prices continue to be below the cost of sales but higher than landed value of imports in POI. There is no price depression or price suppression on account of imports from subject country during the POI, as compared to base year. It is also noted that the domestic selling price of the subject goods changed in tandem with the change in the landed value from Singapore. It is also noted that selling price of the domestic industry continues to be below the cost of production of domestic industry.

**Price Underselling**

63. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the Rules has been compared with the landed value of the exports from the subject country for determination of injury margin during the POI. It is noted that price underselling margin is significant on account of imports of subject goods from subject country.

S.No.	Particulars	UoM	POI
1	Non-Injurious Price	Rs/MT	***
2	Landed Price	Rs/MT	1,13,619
3	Price underselling	Rs/MT	***
4	Price Underselling %	%	***
5.	Price Underselling Range	%	0-20

**G.3.3 Economic Parameters relating to the Domestic Industry**

64. Annexure II to the 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 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, ability to raise capital investments.

65. Accordingly, various economic parameters of the Domestic Industry are analyzed 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

66. 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.

**b. Market Share in Demand**

67. 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 Subject Country	MT	43,143	31,976	42,628	39,177
3	Thailand attracting ADD	MT	15,281	6,427	1,113	286

4	EU attracting ADD	MT	360.00	18.00	0.00	0.20
5	Australia attracting ADD	MT	0.00	0.00	0.00	0.00
6	Import from Other Countries	MT	9,690	19,476	22,828	43,925
7	Total Imports	MT	68,474	57,897	66,570	83,388
8	Total Demand	MT	80,728	70,435	81,124	96,841
	Share in Demand					
1	Sales of Domestic Industry	%	***	***	***	***
2	Imports from Singapore	%	53.44%	45.40%	52.55%	40.45%
3	Thailand attracting ADD	%	18.93%	9.12%	1.37%	0.30%
4	EU attracting ADD	%	0.45%	0.03%	0.00%	0.00%
5	Australia attracting ADD	%	0.00%	0.00%	0.00%	0.00%
6	Import from Other Countries	%	12.00%	27.65%	28.14%	45.36%
7	Total Demand	%	100.00%	100.00%	100.00%	100.00%

68. The domestic industry's market share in demand has declined marginally in the POI as compared to the preceding years.

**c. Profitability, return on investment and cash profits**

69. 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)

70. It is noted from above that the domestic industry continued to suffer losses throughout the injury investigation period. The domestic Industry has claimed that since the producers from Singapore have absorbed the anti-dumping duties, they were not able to improve their financial performance in relation to the subject goods. However, imposition of anti-dumping duties on Singapore has helped the Domestic Industry in reducing the losses during the same period.

#### d. Inventories

71. 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

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

#### e. Employment and productivity

73. 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

74. 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.

#### f. Magnitude of Dumping

75. 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 country for cooperative producer/exporters are above *de-minimis* levels, and is significant.

#### g. Ability to raise Capital Investment

76. The continued losses and negative 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 country.

#### h. Growth:

77. The growth of the Domestic Industry continues to be negative for most of the price parameters. The domestic industry has submitted that continued imposition of anti-dumping duty is very crucial as there is strong likelihood of continuance or recurrence of dumping and injury to the domestic industry.

### **G.3.4 Other Known Factors & Causal Link**

78. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price undercutting, underselling and price suppression, and depression effects, other indicative parameters listed under the Rules have been examined by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry.

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

79. Apart from Singapore, subject goods are imported from other countries such as Thailand, EU, Saudi Arabia, UAE, etc. While imports from Thailand and EU are currently subject to anti-dumping duties, the Authority has already initiated an anti-dumping investigation against Saudi Arabia and UAE. It is observed by the Authority that during the injury period, the imports from other countries not attracting anti-dumping duties, increased significantly, while imports from countries attracting anti-dumping duties declined.

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

80. 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**

81. 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. Export performance of the domestic industry**

82. The injury analysis has been carried out by the Authority taking into consideration domestic operations of domestic industry only. Therefore, performance in the export market has not affected the present injury analysis.

83. 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.

### **G.3.5 INJURY MARGIN**

84. The injury margin for cooperative producers/exporters and other producers/exporters are determined as :

S.No.	Country	Producer	NIP (US\$/MT)	Landed Value (US\$/MT)	Injury Margin (US\$/MT)	Injury Margin %	Injury Margin Range %
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1	Singapore	M/s Shell Eastern Petroleum (Pte) Ltd	***	***	***	***	0-20
2	Singapore	Other producers and exporters	***	***	***	***	20-40

85. It is noted that injury margin is positive and significant for cooperating producer and exporter from the subject country for POI.

**Conclusion by the Authority on injury and causal link**

86. It is observed that due to existing anti-dumping duties, there has been a decline in the volume of imports from Singapore. Imports are undercutting the prices of the domestic industry during the POI. The underselling margin is also positive and significant from Singapore. Further, the financial health of the domestic industry remained negative in spite of improvement in production and sales due to the price effects from imports of Singapore. The Domestic Industry is still incurring losses, which shows that the Domestic Industry is still suffering injury due to imports from Singapore.
87. As regards the submissions of the interested parties that data of the Domestic Industry is not correct, it is noted that the Authority has verified the data and only used such verified data / information for the purpose of this disclosure statement.
88. As regards the profitability of the company, it is noted that the Applicant is a multi-product company and to compare profitability of the company with profitability of the product under consideration is incorrect and also not in line with the jurisprudence available on this subject. Further, the Authority is required to examine the performance of the Domestic Industry in respect to domestic like product and not for the company as a whole. Accordingly, the Authority has analyzed the data for this investigation also. Therefore, the contention of the interested parties based on total profitability of the company is not correct.
89. In relation to limited capacity of the Domestic Industry, it is noted that despite limited capacity available with the Domestic Industry, the Domestic Industry still has unutilized capacity to cater to the demand of the PUC. It is also noted that it is the price of imports of subject goods which is restricting the ability of the Domestic Industry from enhancing the capacity and capacity utilization of the domestic like product.
90. As regards the issue of price absorption, it is noted that the Authority has not found any price absorption by the producer / exporter as claimed by the Domestic Industry during the course of the investigation. Moreover, the Domestic Industry was also not able to substantiate its allegation during the investigation relating to price absorption.
91. As regards post POI data, it is noted that the Domestic Industry has provided post-POI data claiming that they are continuing to suffer injury. However, since the Domestic Industry is suffering injury in the period under investigation, there is every likelihood that the injury to the Domestic Industry will continue. Therefore, the contention of the interested parties that

since the Domestic Industry has not provided any post-POI data, their claim of likelihood is bound to fail, is incorrect.

92. As regards the issues relating to price undercutting, price suppression or depression, capacity, production, sales quantity, net sales realization, cost of sales, etc., it is noted that these have been addressed during the analysis of the injury parameters of the Domestic Industry.
93. As regards the issue of NIP, the Authority has computed the NIP based on the verified numbers of the Domestic Industry and strictly in term of Annexure III of the Rules. Therefore, all the concerns of the interested parties are appropriately taken care of.

### **G.3.6 LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY**

94. It is noted that this is a sunset review investigation and, thus, the focus of this investigation is to examine, whether the cessation of such anti-dumping duties is likely to lead to continuation or recurrence, if the said anti -dumping duty is removed or varied. The views of interested parties with regard to likelihood of continuation or recurrence of dumping and injury has been examined as below.

#### **Views of the Domestic Industry:**

95. Following are the submissions made by the Domestic Industry with regard to likelihood of continuation of dumping and consequent recurrence of injury –
  - i. The Authority may like to appreciate that none of the exporters has claimed or provided any data to show that there is no likelihood of dumping or injury to Domestic Industry. Therefore, the Authority should reject all the claims made by the responding interested parties.
  - ii. The domestic industry is already suffering injury and revocation of anti-dumping duty will lead to intensified injury to the domestic industry. Cessation of anti-dumping duty is likely to have significant suppressing and depressing effect on the prices of the product under consideration in the market.
  - iii. That the producer in Singapore maintains huge capacities of subject goods. In this regard the domestic industry has submitted the evidence to substantiate the claim of surplus capacities of the subject goods in Singapore. It is further submitted that Singapore has limited consumption of subject goods in their local market, and with addition of new capacities in Saudi Arabia and UAE, India remains the attractive market for producers / exporters from Singapore. It is, therefore, submitted that in case of revocation of anti-dumping duties, the volume of imports of the subject goods is bound to increase further, which is evident from the fact of continued injury to the Domestic Industry due to non-remunerative imports in spite of imposition of duty.
  - iv. India ranks second in terms of overall export attractiveness from Singapore on the basis of the report downloaded from the website of Trade Map, which clearly indicates the attractiveness of the Indian market for subject goods.

- v. That decline in import prices in post-POI as compared to the POI period implies likelihood of dumping in the event of withdrawal of duty and in itself justifies extension of anti-dumping duty.
- vi. Continued imposition of anti-dumping duties from few multi-national producers over the years prove beyond doubt that in case duties are revoked, injury to the Domestic Industry will further intensify.

### **Views of the Other Interested Parties**

96. Following are the submissions made by the other interested parties with regard to likelihood of continuation of dumping and consequent recurrence of injury –
- i. There are no surplus production capabilities as Shell has been operating at a very high capacity utilization. The capacity that remained unutilized by Shell was due to the fact that the production of the PUC is dependent on the availability of Propylene Oxide (PO) which is the primary raw material. In any case, “Surplus capacity” claimed by Applicant does not refer to just any capacity over and above the domestic demand in a particular country. Rather, “surplus” refers to idle capacities left over after meeting domestic demand and global demand that is being catered by a producer, and refers to capacity that may be engaged, in the future, for production and sale of subject goods to the Indian markets at dumped prices.
  - ii. Domestic industry has not made any allegations with respect to (a) a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation; (b) an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports; (c) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and (d) inventories of the article being investigated; which need to be examined by the Authority. Nevertheless, examination of these factors also does not suggest that there exists likelihood of injury to the domestic industry. Also, DI has not claimed that the imports from Singapore have increased significantly. Further, the increase in imports should be at dumped prices and an increase in imports simpliciter would not suffice.
  - iii. The domestic industry has suppressed the actual volume of imports from Singapore in order to insinuate that due to the effect of the additional burden of anti-dumping duties, imports from Singapore to India has reduced and removal of the same would result in an increase in imports again.
  - iv. Imposition of duties in India does not reflect the “price attractiveness” of the Indian market in any manner. Price attractiveness could be established if the Applicant showed that imports from subject country were being sent to a third country at even lower prices, which would be diverted to the Indian market for a better price. The existence of ADD does not, in any way, establish price pattern or attractiveness.
  - v. The Applicant has not substantiated that producers/ exporters from Singapore have absorbed the ADD and are still exporting the subject goods to India at lower prices as

compared to other countries. Such random statements regarding likelihood parameters have no place in an anti-dumping investigation and merit rejection.

- vi. Price underselling cannot be considered as a factor for the purpose of assessing whether the Domestic Industry is suffering from material injury and the same has to be considered only for the purposes of quantifying the amount of ADD to be levied as per decision in Gujarat High Court in Nirma v. UOI.

**Examination by the Authority with regard to likelihood of continuation or recurrence of dumping and injury**

97. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from Singapore. In relation to the submissions of the interested parties about current dumping margin and injury margin, it is noted that the sunset review investigation is primarily to carry out the likelihood analysis. As per the rules, the Authority is required to analyze likelihood of continuation of dumping of subject goods from subject country and injury to the domestic industry in the event of revocation of anti-dumping duties. At the same time, it is pertinent to note that current dumping margin and injury is a good indicator of likelihood of dumping and injury that in the event duties are withdrawn, injury to Domestic Industry is likely to continue.
98. There is continued dumped imports of the subject goods from Singapore despite imposition of the anti-dumping measures, and dumping margins determined for the chain of the co-operating producers and exporters from Singapore continue to be positive. This, by itself, shows that there is likelihood of dumping of subject goods from Singapore. Moreover, imports without ADD are landing at prices lower than the domestic selling prices which shows the likely injurious impact of the imports from Singapore on the Domestic Industry.
99. Various factors have been examined to see whether there is a likelihood of continuation and recurrence of dumping and injury from Singapore during the injury investigation period, and whether in such a scenario the domestic industry would continue to suffer material injury.
100. The Authority notes that the imports from the subject country marginally declined during the injury period. The same appears to be due to the existing anti-dumping duties and also due to the imports from Saudi Arabia and UAE. However, if the duties are revoked from Singapore, there is every likelihood that the quantum of imports will increase. Moreover, Domestic Industry which already has a low share in total demand, will be vulnerable against such increased imports.
101. The Authority has analyzed parameters relating to evaluation of freely disposable capacities and capacity addition, if any, to explore the possibility of diversion of disposable quantity to Indian market. Domestic industry has claimed that the producers in Singapore are already faced with significant surplus capacities, which could be easily diverted to India and at current rate, injury to Domestic Industry will worsen. As per the information made available by the interested parties, and after examination, it is noted that large capacities to manufacture this product continue to exist in the subject country, and though the volumes of imports of subject goods have declined after imposition of anti-dumping duties, their prices continue to adversely affect the domestic industry as illustrated and examined in this disclosure statement.
102. Despite the anti-dumping duty in force, the import of the subject goods from Singapore

continues to be at dumped prices, and dumping margins determined for these producers and exporters continue to be positive. The injury margin determined with respect to cooperating producer/exporter from subject country continues to be positive and significant. The evidence on record shows that India will remain a large export destination for subject country and domestic industry in India remains vulnerable to such dumped imports.

103. It is further noted that the Indian market for the subject goods continues to have a healthy demand for the product. It is also noted that due to this continued growth in the market, India would continue to remain an attractive market for the global players with surplus capacity to export. Further, if the duties are removed, the Indian market will become much more attractive, as they could sell more quantities.
104. Therefore, the Authority holds that there is likelihood of continuation of dumping and injury in the event of cessation of duty.

### **POST DISCLOSURE COMMENTS**

#### **Submissions by the domestic industry**

105. The domestic industry reiterated its submissions regarding rejection of response of Shell group entities for grant of individual dumping margin. They have also reiterated their submissions regarding continued injury to the domestic industry and likelihood of continuation of dumping and injury to the domestic industry. In addition, the domestic industry submitted as mentioned below.
106. The Authority should reject the responses filed by Shell Group, as they have provided incomplete and misleading information about their group companies involved in the production of major inputs used in the manufacturing of the subject goods.
107. Despite repeated submissions, Shell Group has not shared the name of the entities which according to their submissions, are no longer in operation or not involved in the operation of value chain of the subject goods till the time of the disclosure statement. Further, Shell group has not clarified whether any of such entities, have supplied any input during the POI or not. It has also been submitted that that in the unlikely event the Authority holds that the information of related parties is not required to be filed by the exporters, the Authority may give a clear ruling on the same so that the same approach can be adopted in all current and future cases.
108. Whether the profit and SGA of Shell Eastern Chemicals (S), M/s Pure Chemicals Pte. Ltd., Singapore and Pon Pure Chemical India Pvt. Ltd. has been deducted while arriving at ex-factory export price for the Shell Group? The above adjustment is necessary to compare both the normal value and export price at same level of trade as envisaged in the Paragraph 6(i) of the Annexure I of the Rules.

#### **Submissions by other interested parties**

109. In addition to reiterating their earlier submissions regarding not initiating the sunset review investigations against Australia and EU, non-disclosure of the information about related party of the domestic industry, no continued injury to domestic industry, limited capacity of the domestic industry, record profits made by them during the POI, increase in the import price from Singapore during the POI and lack of likelihood of continuation or recurrence of

dumping and injury, the interested parties have submitted as mentioned below.

110. The determination made in the Disclosure Statement with respect to full cooperation by the Respondents and individual margins and duty may be confirmed by the Authority. If there is anything contrary to this in the determination, then an opportunity should be granted to the cooperating exporters to respond.
111. M/s Expanded Polymers Systems Private Limited (EPSPL) has submitted that instead of manufacturing subject goods, they have moved their manufacturing to value added goods such as polymer polyols, where they are using imported subject goods. They also alleged that copy of non-confidential version of the petition was not provided to them, during the course of the investigation.
112. On the issue of product under consideration and like article, EPSPL has submitted that claim of Applicant is only partially correct as though they may be similar in function and end use, there is difference in quality, technical specification and manufacturing process. It has also been claimed that the Applicant uses outdated technology. They have also demanded exclusion of 3000-4000 molecular weight polyether polyol used for the manufacturing of polymer polyol. EPSPL has also questioned the Applicant's claim of like article and product under consideration and stated that both are not identical and claim is partially correct, therefore, PUC cannot be treated as like article. EPSPL has also requested the Authority not to extend the duties, as this will benefit only one company.
113. The Indian Polyurethane Association and Sheela Foam Limited have submitted that the Domestic Industry has very limited capacity as compared to the demand in India. They have further submitted that Domestic Industry is situated in one extreme corner of the country and supply is not cost effective. They have also submitted that Domestic Industry has shown huge profits in their Annual Accounts.
114. Form of duty cannot be changed in a review unless there are material facts substantiating such change. Reliance is placed on case of Hon'ble CESTAT in Puneet Resins Ltd. V. Designated Authority in this regard. Reference price method involves fixing a reference or floor price, which is based on a pre-determined historical data (POI), while resultant duty is applied for next 5 years. Such reference prices may lose relevance in a highly fluctuating market, where the prices of the product or its inputs are susceptible to volatile market conditions. In the facts of present case, it must be noted that the subject goods are petrochemical based products. Since there has been huge fluctuations in the price of the basic raw materials/inputs, it would be catastrophic for the exporters, importers as well as authority to rely on reference price. For this reliance has been placed on Designated Authority's decision on Cold Rolled Flat Products of Stainless Steel from EU, Japan, Canada and USA.

#### **Examination by the Authority**

115. The Authority notes that the post-disclosure comments / submissions made by the interested parties are mostly reiterations and already examined suitably and adequately addressed in the relevant paras of these final findings. Other post-disclosure comments /submissions made by the interested parties and considered relevant by the Authority are examined below.
116. Several claims for rejection of the response of SHELL on the ground of not providing complete information in its questionnaire response were made by the Domestic Industry which have been refuted by SHELL with sufficient evidence.

117. The Authority explicitly notes that the contention for rejecting response of SHELL for not filing the questionnaire response of its 4 related parties viz. (i) Ethylene Glycol Singapore (EGS); (ii) Ellba Eastern Pvt. Ltd.(EEPL); (iii) Polyolefin Company Pte Ltd (PCPL); and (iv) Shell Seraya Pioneer Limited (SSPL) cannot be sustained as SHELL has produced sufficient evidence for showing that none of these companies were involved in production or sale of the PUC or were involved in supply of any raw material used for production of the PUC during the POI.
118. As regards the submissions of the domestic industry with regard to responses filed by exporters from Singapore, it is noted that the Authority has considered and accepted the responses of the all exporters from Singapore after due examination and verification of all information.
119. As regards claims of domestic industry to adjust selling and general administrative expenses of the traders while calculating the ex-factory export price, the Authority notes that comparison of the normal value and ex-factory export price has been done at the ex-factory level of the producer after making appropriate adjustments from its selling prices as mentioned in earlier paragraphs of these Findings. Wherever required, the Authority has also made adjustment on account of selling and general administrative expenses of the trader.
120. As regards the reiteration of submissions relating to Authority's decision to initiate the sunset review only against Singapore, it is noted that there is no discrimination against the exporters from Singapore, as explained above. It is further noted that Rule 23(1B) of the Rules also does not place any restriction on the Authority to exclude any country, against which no positive information about likelihood was submitted by the Domestic Industry. It is also noted that during the investigation also none of the interested parties including Domestic Industry has provided any evidence showing that the conclusion reached by the Authority relating to Australia and EU was incorrect. Hence, the Authority holds that the exclusion of Australia and EU from the scope of the subject countries is appropriate in terms of the law as well as the facts and circumstances of the instant case.
121. As regards the contention of the interested parties that low quantum of imports from the subject countries had prompted the Authority to exclude Australia and EU, the Authority holds that the law does not preclude the Authority to carry out sunset review investigations even when there were no imports from a subject country as the tests under Section 9A(5) of the Act is of likelihood of dumping and injury for which nil imports during the period of investigation is of little consequence. The Authority, in past several cases, has followed the same approach. Therefore, the contention of the interested parties about exclusion of two countries, based on their quantum of imports, is misplaced and incorrect.
122. With regard to the issue of related party of the Domestic Industry situated in Singapore, it is noted that Domestic Industry has provided certification about having no relationship with any exporter of subject goods from subject country or any importer of the subject goods, and they have also stated that they have not imported the subject goods from the subject countries. Further, mere presence of any related entity in subject country does not have any impact on the Domestic Industry in terms of Rule 2(b). In view thereof, the Authority has appropriately considered Applicant as eligible Domestic Industry in terms of the Rules.
123. The Authority has also received submissions from Indian Polyurethane Association (IPU) opposing the imposition of the anti-dumping duties. It is noted that the Association has for the

first time in the investigation raised its objections to the extension of the duties, and that too after issuance of the disclosure statement. It is further noted that the Association has also not provided the information in the form and manner prescribed. In any case, their main submissions related to capacity and profitability of domestic industry have been appropriately addressed in these final findings to the extent found relevant.

124. Post issuance of the disclosure statement, the only other known producer of the subject goods, namely, M/s Expanded Polymers Systems Pvt. Ltd., has opposed the extension of the anti-dumping duties against Singapore. They have also stated that they are not manufacturing the like product anymore, and they are now importing the subject goods. On the issue of standing, and domestic industry, it is noted that change of status of the other producer ( as per original investigation) ,who is now an importer , has no implication on the status of the applicant as Domestic Industry, since the Applicant now accounts for 100 % of the total domestic production in India. With regard to EPSPL submissions for not having received the notice of initiation and questionnaire, it is noted that after the initiation of investigation, a copy of public notice through a notification was duly sent to EPSPL asking them to submit their response. Further, the said notification was also placed on DGTR website, and the same was publicly available to all interested parties for participating in the investigation. Further, a notice for oral hearing was also placed on the website of DGTR for information to all interested parties. Thus, the Authority has made all possible efforts to reach interested parties. However, response was not received from this importer till the final stage of the investigation or in the form and manner prescribed. Nevertheless, the Authority has examined the issues raised by them in these final findings. As regards the claim of obsolete technology used by the Domestic Industry and issues related to quality in the subject goods manufactured by Applicant industry is concerned, it is noted that the EPSPL has made mere statements without providing any supporting evidence to substantiate their claim. Moreover, the goods produced by the Domestic Industry and imported subject goods are used interchangeably by the users in the Indian market. In view thereof, the claim made by EPSPL is not sustainable.
125. With regard to the request for imposition of duties in form of reference price, after examining all the submissions made on behalf of the Domestic Industry as well as the other interested parties, the Authority notes that no cogent evidence or material has been produced to substantiate the need to change the form of anti-dumping duty pursuant to the present sunset review investigation. Therefore, the Authority does not deem it appropriate to recommend change in form of anti-dumping duty for the PUC.

## **H. INDIAN INDUSTRY'S INTEREST**

126. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to 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 restrict imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.
127. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by

dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

## **I. CONCLUSION**

128. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the domestic industry, the Authority concludes that:
- a. There is continued dumping of the subject goods from subject country and the imports are likely to enter the Indian market at dumped prices in the event of expiry of duty.
  - b. The domestic industry has suffered continued injury on account of dumped imports from the subject country.
  - c. The information on record shows likelihood of continuation of dumping and injury in case the Anti-dumping duty in force is allowed to cease at this stage.
  - d. There is sufficient evidence to indicate that the revocation of the anti-dumping duty at this stage will lead to continuation of dumping and injury to the Domestic Industry.

## **J. RECOMMENDATIONS**

129. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and the causal link.
130. Having concluded that there is positive evidence on the aspect of dumping, injury and causal link and likelihood of dumping and injury if the existing anti-dumping duties are allowed to cease, the Authority is of the view that continuation of duty is required on the import of PUC from the subject country.
131. Under the circumstances, the Designated Authority considers it appropriate to recommend continuation of definitive anti-dumping duty, as modified, on all imports of the subject goods from the subject country as per column 7 in the duty table below:

### **Duty Table**

S. No	Sub-heading	Description of Goods	Country of origin	Country of exports	Producer	Amount	Unit of measurement	Currency
1	2	3	4	5	6	7	8	9
1.	3907.20	Flexible Slabstock Polyol of Molecular weight 3000-4000	Singapore	Any country including Singapore	M/s Shell Eastern Petroleum (Pte) Ltd	45.73	MT	US\$
2.	-do-	-do-	Singapore	Any country including Singapore	Any other producer other than serial no. 1	153.89	MT	US\$
3.	-do-	-do-	Any country other than Singapore	Singapore	Any	153.89	MT	US\$

132. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975 as amended from time to time.
133. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the with the relevant provisions of the Act.

**(Bhupinder S. Bhalla)**  
**Additional Secretary & Designated Authority**