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Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
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Date: 16<sup>th</sup> April, 2024

Case No- AD(OI)- 05/2023

Preliminary Findings

Subject: Anti-dumping investigation concerning imports of “Isobutylene-Isoprene Rubber (IIR)” originating in or exported from China PR, Russia, Saudi Arabia, Singapore and the United States of America

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**A. BACKGROUND OF THE CASE**

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

1. Whereas, Reliance Sibur Elastomers Private Limited (hereinafter referred to as the “applicant” or “the domestic industry” or “RSEPL”) filed an application before the Designated Authority (hereinafter also referred to as the “Authority”) in accordance with the Customs Tariff Act, 1975 and the anti-dumping rules for initiation of anti-dumping investigation concerning imports of the Isobutylene-Isoprene Rubber (hereinafter also referred to as the “product under consideration” or the “subject goods” or “IIR”) from China PR, Russia, Saudi Arabia, Singapore and the United States of America (hereinafter also referred to as the “subject countries”).
2. And whereas, in view of the duly substantiated application filed by the applicant, the Authority issued a public notice vide Notification No. 6/05/2023-DGTR dated 30<sup>th</sup> June 2023, published in the Gazette of India, initiating an anti-dumping investigation into the imports of the product under consideration originating in or exported from China PR, Russia, Saudi Arabia, Singapore and the United States of America in accordance with Rule 5 of the anti-dumping rules to determine the existence, degree and effect of any alleged dumping of the subject goods and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

**B. PROCEDURE**

3. The procedure described below has been followed with regard to the investigation:
  - a. The Authority notified the embassies of the subject countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.
  - b. The Authority issued a public notice dated 30<sup>th</sup> June 2023, published in the Gazette of India, Extraordinary, initiating an anti-dumping investigation concerning the import of subject goods from the subject countries.
  - c. The Authority sent a copy of the initiation notification to the governments of the subject countries, through their embassies in India, known producers and exporters from the subject countries, known importers/users and the domestic industry as well as other interested parties, as per the addresses made available by the applicant and requested them to make their views known in writing within the prescribed time limit.
  - d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the governments of the subject countries, through their embassies in India, in accordance with Rule 6(3) of the anti-dumping

- rules. A copy of the non-confidential version of the application was made available to other interested parties, wherever requested.
- e. The Authority sent an exporter's questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:
- i. Arlanxeo Singapore Pte. Ltd
  - ii. China Petrochemical Corporation
  - iii. Exxon Mobile Corporation
  - iv. Huntsman International LLC.
  - v. Japan Butyl Co. Ltd
  - vi. Lyondell Basell Industries Holdings B.V
  - vii. Timco Rubber
  - viii. PJSC Nizhnekamskneftekhim
  - ix. SABIC
  - x. TPC Group
  - xi. Zhejiang Cenway New Synthetic Materials Co., Ltd.
- f. The embassies of the subject countries in India were requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit.
- g. In response to the initiation of the subject investigation notification, the following producers/exporters from the subject countries have responded by filing a questionnaire response:
- i. ExxonMobil Asia Pacific Pte Ltd. ("EMAPPL")
  - ii. ExxonMobil Petroleum & Chemical BV, Belgium (EMPC)
  - iii. ExxonMobil Product Solutions Company ("EMPSC")
  - iv. MRF SG PTE LTD.
  - v. Al-Jubail Petrochemical Company ("Kemya")
  - vi. ARLANXEO Singapore Pte Ltd.
  - vii. Public Joint Stock Company
  - viii. Public Joint Stock Sibur Holding
  - ix. Sibur International GMBH,
  - x. Trigon Gulf FZCO
- h. The Authority sent an importer's questionnaire to the following known importers/users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.
- i. Rubberking Tyres India Pvt Ltd
  - ii. Elpha Polychem Private Limited
  - iii. Cavendish Industries Limited
  - iv. Chelna Inc
  - v. Ram Charan Company Private Limited
  - vi. Balaji Enterprises
  - vii. Karnataka Chemical Industries
  - viii. Ganpati General Trading LLP
  - ix. Dev Rubber Factory Private Limited

- x. Braza Tyres Pvt. Ltd.
- xi. Pinkcity Rubber and Chemicals
- xii. Aks Polychem Pvt Ltd.
- xiii. Adven Tyre Tube India Pvt. Limited,
- xiv. Paragon Vial Caps Pvt Ltd
- xv. Ud Pharma Rubber Products
- xvi. Ravinder Kumar Vijay Kumar
- xvii. Sunrise Industrial Corporation
- xviii. Swastik Sales Agency
- xix. Exxon Mobil Company India Pvt Ltd
- xx. Cinq Micron Chem Pvt Ltd
- xxi. Kesoram Industries Ltd
- xxii. Raman Enterprises
- xxiii. Astron Polymers Private Limited
- xxiv. Kohinoor India Pvt Ltd
- xxv. Ambica Boiler & Fabricator
- xxvi. Prs Tyres Limited
- xxvii. Supple Rubber Chemical Pvt Ltd
- xxviii. Hindustan Cycles & Tubes Pvt. Ltd.
- xxix. Seal For Life India Pvt Ltd
- xxx. Sangee
- xxxi. Jonson Rubber Industries Limited
- xxxii. J K Tyre & Industries Ltd.
- xxxiii. Vista Business Ventures LLP
- xxxiv. Bajaj Rubber Company Pvt Ltd
- xxxv. Sonata Rubber Pvt. Ltd
- xxxvi. Sun Exim
- xxxvii. Sahil Enterprises
- xxxviii. Mil Industries Ltd
- xxxix. B. B. M. Impex Pvt Ltd
- xl. Majestic International
- xli. Anabond Ltd
- xlii. Pix Transmissions Ltd
- xliii. Henkel Anand India Private Limited
- xliv. Gujarat Fluoro Chemicals Ltd
- xlv. Jayam Industries
- xlvi. Vee Rubber India Private Limited
- xlvii. Elgi Rubber Company Limited
- xlviii. Maxxis Rubber India Pvt Ltd
- xlix. Bis Polymers Ltd
- l. Specific Ventil Fabrik
- li. Pearl Patch
- lii. Indian Rubber Manufacturers Resear
- liii. Armacell India Pvt Ltd

- liv. Deepak Overseas
- lv. R.K. Polymer
- lvi. Sakshi Impex
- lvii. Maxwell Polymers LLP
- lviii. Hartex Rubber Pvt Ltd
- lix. Rubber India
- lx. Shri Krishan Rubber Chemical
- lxi. Surendra Elastomers Pvt Ltd
- lxii. Thakar Dass & Co
- lxiii. Thomson Rubbers India Pvt Ltd
- lxiv. Jamnadas Industries
- lxv. Midas Treads (India) Private Limited
- lxvi. Polygold Precured Systems Pvt. Ltd.
- lxvii. Rajshila Synthetics Pvt. Ltd
- lxviii. Reliance Sibur Elastomers Private Ltd.
- lxix. B. K. Rubber Industries Pvt Ltd
- lxx. Allied J B Friction Pvt Ltd
- lxxi. Speedways Rubber Company
- lxxii. Chemicolour International Pvt Ltd
- lxxiii. Cherry International
- lxxiv. K.L. Trading Corporation
- lxxv. Classic Auto Tubes Ltd
- lxxvi. Chowdhry Rubber & Chemical Pvt Ltd.
- lxxvii. Metro Tyres Limited
- lxxviii. Midas Butyl Products India Pvt Ltd
- lxxix. Flexilis Private Limited
- lxxx. Zenith Industrial Rubber Products Pvt.
- lxxxii. Yokohama India Pvt. Ltd.
- lxxxii. Ceat Specialty Tyres Limited
- lxxxiii. Jay Ashirwad Trading Co.
- lxxxiv. Tulsiram Hanumanbagas Gilada
- lxxxv. Jasmino Polymertech Pvt Ltd.
- lxxxvi. B.P. Chemicals
- lxxxvii. Abhi Rubber & Chemicals
- lxxxviii. Sagar Rubber Products Pvt. Ltd.
- lxxxix. Agarwal Rubber Limited
- xc. Wrigley India Private Limited
- xc. Toyota Tsusho India Private Limited
- xcii. MRF Limited
- xciii. Sakshi Innovations Private Limited
- xciv. Exel Rubber Private Limited
- xcv. Bharat Rubber Works Private Limited
- xcvi. Classic Industries and Exports Limited
- xcvii. Apollo Tyres Limited.

- xcviii. Goodyear South Asia Tyres Private Ltd.
- xcix. B P Chemicals
  - c. Triton Valves Limited
  - ci. Mysore Polymers And Rubber Products
  - cii. Continental India Private Limited
  - ciii. Jmf Synthetics India Private Limited
  - civ. Balkrishna Industries Limited
  - cv. Jk Tyre & Industries Limited
  - cvi. Elmer Products Pvt Ltd
  - cvii. Bridgestone India Private Limited
  - cviii. Corrosion Engineers Private Limited
  - cix. Satyam Rubber Industries
  - cx. Dolfín Rubbers Ltd.
  - cxi. Hind Elastomers Private Limited
  - cxii. D Decor Exports Private Limited.
  - cxiii. Ceat Limited
  - cxiv. Globus Rubchem Private Limited
  - cxv. Accura Valves Private Limited
  - cxvi. Nishigandha Polymers Pvt Ltd
  - cxvii. Perfetti Van Melle India Private Limited
  - cxviii. Crane Process Flow Technologies (I)
- i. A copy of the initiation notification and non-confidential version of the application was sent to the Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers on July 14, 2023 however the Authority has not received any comments.
- j. The Authority sent the importer's questionnaire to the following known Associations of the subject goods in India for circulation & calling necessary information in accordance with Rule 6(4) of the Rules:
  - i. FICCI
  - ii. CII
  - iii. ASSOCHAM
  - iv. FIEO
- k. In response to the initiation of the subject investigation notification, the following importers/users from the subject countries have responded by filing a questionnaire response:
  - i. ExxonMobil Company India Private Limited ("EMCIPL")
  - ii. Exel Rubber Pvt. Ltd
  - iii. Classic Industries and Exports Ltd.
  - iv. JMF Performance Materials Pvt. Ltd.
  - v. Adven Tyre Tube India Pvt. Ltd.
  - vi. Automotive Tyre Manufacturers' Association ('ATMA')
  - vii. CEAT Ltd
  - viii. MRF Ltd
  - ix. J K Tyre & Industries Ltd

- l. The Authority made available the non-confidential version of the submissions made by the various interested parties. A list of all the interested parties was uploaded on the DGTR website along with the request to all of them to email the non-confidential version of their submissions to all the other interested parties.
- m. Request was made to DG System to provide the transaction-wise details of imports of the subject goods for the injury period and also the period of investigation. The Authority has relied upon the data for computation of the volume of imports and required analysis after due examination of the transactions.
- n. 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 to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- o. The period of investigation (POI) for the purpose of the present investigation is 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 (12 months). The examination of trends in the context of injury analysis covered the periods 2019-20, 2020-21, 2021-22 and the period of investigation.
- p. Information provided by the interested parties on a confidential basis was examined with regard to the 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 a confidential basis were directed to provide sufficient non-confidential versions of the information filed on a confidential basis.
- q. 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.
- r. The Authority conducted a meeting where the interested parties were invited to give their comments on the scope of the product under consideration and PCN methodology.
- s. The Authority has considered all the arguments raised and information provided by all the interested parties up to this stage, to the extent the same are supported with evidence and considered relevant to the present investigation. The Authority will further examine the evidentiary documents submitted by the interested parties subsequent to the preliminary findings, which will form the basis for conclusions at the time of final findings.
- t. ‘\*\*\*’ in this notification represents information furnished by an interested party on a confidential basis and so considered by the Authority under the Rules.
- u. The exchange rate adopted by the Authority for the subject investigation is 1 US\$ = ₹ 80.79.

**C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

4. At the stage of initiation, the product under consideration was defined as follows by the Authority:

*“The product under consideration in the present investigation is Isobutylene-Isoprene Rubber (“IIR”) which is a synthetic rubber, commonly used to manufacture inner tubes for tyres and other high-pressure tubes. IIR has applications in the tube and tyre inner liners, which form an integral part of the pneumatic tyre manufacturing process. It is also used in diaphragms, gaskets, wire and cable insulations, liners, O-rings, seals, weather stripping, and bottle closures.*

*The product under consideration is classified under Chapter 40, under tariff code 40023100 of the First Schedule to the Customs Tariff Act, 1975. The customs classification is only indicative and is not binding on the scope of the present investigation.”*

**C.1 Views of other interested parties**

5. The submissions of the other interested parties with regard to the product under consideration and like article are as follows:

- i. The scope of the product under consideration defined in the initiation notification is broad and covers certain speciality grades which are not produced or sold by the domestic industry and should be excluded from the product scope.
- ii. The two major specifications in the product under consideration which lead to different technical properties resulting in different end-use applications are “Mooney Viscosity”; and “Unsaturation Levels”. While the regular grade produced by the domestic industry and EMPSC have high mooney viscosity and medium unsaturation levels, the speciality grades of IIR manufactured by EMPSC have different combinations of the specifications. The Authority must exclude IIR with low unsaturation content  $\leq 1.35$  mol% and IIR with high unsaturation content  $\geq 2.00$  mol% from the product scope.
- iii. Differences in the mooney viscosity and unsaturation levels in the specialty grades as compared to regular grades lead to differences in chemical composition, molecular structure and technical specifications, which imply that specialty and regular grades are not technically substitutable. Further, the products have different applications and end uses.
- iv. In case the Authority does not exclude the specialty grades from the product scope, it must notify separate PCN for specialty grades since such grades command higher prices on account of different raw material composition, technical properties, and end-use applications.
- v. To ensure a fair comparison between the regular grade and specialty grade, the following PCN is proposed –

SN	PCN parameter	Value	Notation
1.	Mooney Viscosity (MU)	High (51 +/- 5) Low (31 +/- 5)	H L

2.	Unsaturation content (mol%)	High (2.00-2.60)	H
		Medium (1.50-1.90)	M
		Low (0.85-1.35)	L

- vi. The domestic industry does not produce a like article to the food grade IIR produced by Arlanxeo, due to differences in physical and chemical characteristics and end-use. Food grade IIR complies with strict government and industry requirements, for food contact applications (for the production of chewing gums), and has different technical specifications.
- vii. It is requested that the Authority clarify that HIIR is not included in the scope of the product under consideration.
- viii. There is no need for formulation of PCN methodology in the present case.

### C.2 Views of the domestic industry

- 6. The submissions of the domestic industry with regard to the product under consideration and like articles are as follows:
  - i. The domestic industry has provided evidence that it has produced and sold low mooney viscosity. Further, IR with “low” and “high” unsaturation content is already in the product profile of the domestic industry.
  - ii. The demand for low mooney viscosity and High Mooney Viscosity and IIR with low unsaturation content  $\leq 1.35$  mol% and high unsaturation content  $\geq 2.00$  mol% content is quite low in the country i.e., at less than 0.1%.
  - iii. Food grade IIR is used in wrapping or packing material and medicinal items and is in the product profile of the domestic industry.
  - iv. Food grade IIR is also used for making chewing gums, which is not there in the current product profile, but the domestic industry intends to start selling it. The demand for the food grade IIR used in food items is only 50-60 MT.
  - v. Since the domestic industry is a new entrant in the market, it is attempting to first establish itself in the market instead of focusing on market segments.
  - vi. Mere difference in specification does not call a need for PCN. The other interested parties have not provided evidence that there is a significant difference in the cost of the different specifications. The consumer association has categorically stated that there is no need for PCN.

### C.3 Examination by the Authority

- 7. The Authority had granted an opportunity to all the interested parties to file their submissions on the scope of the PUC and PCNs. Further, the interested parties were asked to provide the details of cost and selling price differences for different parameters and values as suggested in their proposed PCN methodology.
- 8. Comments were filed by ExxonMobil Product Solutions Company (“EMPSC”), Arlanxeo Singapore Pte. Ltd and Automotive Tyre Manufacturer’s Association (ATMA).

The domestic industry was also asked to provide its comments on the cost/price differences in the PCNs proposed by the producers/exporters.

9. With regard to specialty grades, the domestic industry showed that the low mooney viscosity has been produced and sold by the domestic industry. Further, the IIR with low unsaturation content  $\leq 1.35$  mol% and IIR with high unsaturation content  $\geq 2.00$  mol% - products with “low” and “high” unsaturation content can be produced by RSEPL, with the existing machinery and technology. Although the other interested parties have argued that these speciality grades should be excluded from the scope of the product under consideration, the Authority notes that there are no imports of IIR with low unsaturation content. Further, only a negligible volume of 300 kg of IIR having low mooney viscosity but high unsaturation has been imported. It is well settled that the question of exclusion arises only when there are imports of the product type, and the domestic industry has not supplied like the article. However, in the present case, there are no imports of the product types for which exclusion has been sought, barring one transaction of negligible volume. There is no material demand for the product in the market, and therefore, the domestic industry has not produced and supplied the same as well. The product with low or high mooney viscosity and unsaturation content can be interchangeably used. Further, the domestic industry has provided evidence to show the production of goods with low mooney viscosity. Further, the domestic industry has also enclosed a specification sheet, which shows that product with different unsaturation contents falls within the specification of goods it can produce. The Authority further notes that the present case involves a new industry, that has set up a facility for a new product and is facing difficulty in capturing the market on account of dumped imports of the product. Further, the product types are not being imported into India as such. In view of the same, it is not appropriate to consider whether the product has actually been produced and sold by the domestic industry, but whether the domestic industry has the capability to produce such products. Accordingly, the Authority provisionally finds that there is no cause for the exclusion of specialty grades from the product scope.
10. With regard to food-grade IIR, it is noted there are two grades of food-grade IIR. One is used for packing in food or medicinal items and the other one is used as an ingredient for making food items like chewing gums. The Authority notes that while food-grade IIR used for wrapping or packaging is being offered for sale by the domestic industry, food-grade IIR used as an ingredient in chewing gum is not. Although the domestic industry has claimed that it intends to start producing and selling this product, it is currently not in its product profile. Since the domestic industry has not shown any ability to produce the food-grade IIR used for making food items, the Authority has excluded the food-grade IIR used as an ingredient in the production of chewing gum from the scope of the current investigation.
11. Accordingly, the scope of the product under consideration is provisionally determined as follows.

“3. The product under consideration in the present investigation is Isobutylene-Isoprene Rubber (“IIR”) which is a synthetic rubber, commonly used to manufacture inner tubes for tyres and other high-pressure tubes. The scope of the product under consideration excludes food-grade IIR used as an ingredient in the production of chewing gum. IIR has applications in the tube and tyre inner liners, which form an integral part of the pneumatic tyre manufacturing process. It is also used in diaphragms, gaskets, wire and cable insulations, liners, O-rings, seals, weather stripping, and bottle closures.

4. The product under consideration is classified under Chapter 40, under tariff code 4002 31 00 of the First Schedule to the Customs Tariff Act, 1975. The customs classification is only indicative and is not binding on the scope of the present investigation.”

12. Further, based on the information supplied by the interested parties and discussions held, the Authority has adopted the following PCN methodology for fair comparison.

SN	PCN parameter	Value	Notation
1.	Mooney Viscosity (MU)	High (51 +/- 5)	H
		Low (31 +/- 5)	L
2.	Unsaturation content (mol%)	High (2.00 - 2.60)	H
		Medium (1.36 - 1.99)	M
		Low (0.85 - 1.35)	L

## D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING

### D.1 Views of other interested parties

13. The submissions of the other interested parties with regard to the scope of the domestic industry and standing are as follows:
- i. SIBUR indirectly controls certain key management and policy decisions of RSEPL, as per the AoA of the petitioner. Two directors are appointed by SIBUR on the board of RSEPL. A decision on reserved matters and joint approval transactions cannot be taken without the approval of at least one of the directors appointed by SIBUR and one of the authorised representatives of one of the shareholders of SIBUR till the time SIBUR holds qualifying shares (25.1%).
  - ii. The only exception to the abovementioned is when the board meeting has been adjourned three times due to the absence of at least one director of each shareholder group. However, such a situation is extraordinary and is unlikely to occur.
  - iii. In case of related party transactions, the directors of the shareholder group with whom the related party transactions are proposed shall not be part of the discussion and shall be bound to vote as per the vote of other shareholder group. Thus, in case

- of related party transactions with RIL, SIBUR gets majority voting rights in the board meeting.
- iv. Even when SIBUR ceases to hold qualifying shares but collectively holds more than 15.1% of shares, related party transactions cannot be approved without the vote of at least one of the directors appointed by SIBUR.
  - v. The *de facto* control of the joint venture lies with both RIL and SIBUR.
  - vi. The transactions related to reserved matters in the annual general meeting as well as the extra ordinary general meeting of RSEPL have been passed only after acceptance by the Chief Operating Officer and the whole-time director appointed by SIBUR.
  - vii. The European Commission in the merger decision between SIBUR and the Tatar-American Investment and Finance group of companies found that although RIL holds the majority of shares in RSEPL, both RIL and SIBUR have joint control over it.
  - viii. RIL and SIBUR signed a technology license agreement wherein RSEPL can use the proprietary butyl rubber production technology of SIBUR, SIBUR will develop basic engineering design for RSEPL and train personnel in this regard. This provides leverage to SIBUR to control the policy and operational decisions of RSEPL.
  - ix. There is a pre-marketing agreement between RIL, RSEPL and Sibur International GmbH. RSEPL exports to Europe and other regions through Sibur International GmbH. Sibur International GmbH exports product under consideration produced by NKNH to India. Both NKNH and Sibur International GmbH are owned and controlled by SIBUR. Thus, RSEPL should not be considered as a domestic industry in this investigation.
  - x. Since SIBUR controls both NKNH and Sibur International GmbH, it should be considered as a single entity for the purpose of this investigation. The claim that there are no direct exports by the Russian producer should not be accepted.
  - xi. The claim of the petitioner that no injury analysis would be possible if it is not considered as an eligible domestic industry does not prevent the Authority from declaring the petitioner as an ineligible domestic industry.

## **D.2 Views of the domestic industry**

14. The submissions of the domestic industry with regard to the scope of domestic industry and standing are as follows:
  - i. Reliance Sibur Elastomers Private Limited (RSEPL) is the sole producer of the subject goods in India.
  - ii. RSEPL was set up as a joint venture of Reliance Industries Limited and Sibur Investment AG, Switzerland.
  - iii. SIBUR Holding also had a shareholding in SIBUR Togliatti, a producer of the product under consideration and has a stake in PJSC Nizhnekamskneftekhim (NKNH), a Russian producer/exporter of the product under consideration.
  - iv. Even though NKNH is engaged in the production of the subject goods, it has not exported the same to India directly.

- v. SIBUR Switzerland has a shareholding in RSEPL, but it is not in a position to legally or operationally exercise restraint or direction over the operations of the latter, since RIL has the majority shareholding.
- vi. The Russian producers NKNH and RSEPL do not control each other, are not under common control of a third party, and do not jointly control a third party.
- vii. Despite the presence of RSEPL in the Indian market, NKNH has been continuously exporting through traders to India.
- viii. ExxonMobil has deliberately and mischievously partially quoted the documents in an attempt to derail the investigation. The object and purpose of the Companies Act and the anti-dumping law are different and the relationship under the Companies Act cannot be relied upon in an anti-dumping investigation. The definition provided in a different law cannot be applied to anti-dumping investigations. In a number of cases, the Authority has held that the meaning of production is different under different laws as they have different objectives.
- ix. While the scope under the Companies Act is wider and concerns operations of the company before commencement of production and up to winding up, the anti-dumping laws and rules are only concerned with the period of investigation. The relationship is also seen during the period of investigation and not pre-period of investigation or post period of investigation. Thus, the meaning of control whether *de jure* or *de-facto* should be examined only in reference to the period of investigation.
- x. The object behind exclusion of related party from the scope of the domestic industry is to exclude producers, which are benefitting from their relationships with the foreign producers. In case of legal or operational control, the domestic producer is said to be related to a foreign producer / exporter. Even if two parties are related, the mere relationship is insufficient to consider domestic producer as ineligible.
- xi. There is a need to check if behavior of related parties is distinct from unrelated parties, if they triggered, intensified, benefitted or shielded itself from dumping, if the injury is self-inflicted, impact of imports made by related party, whether related party had exported the product to India during the period of investigation, if the volume of related exporter is substituting the unrelated domestic producers' market, whether the relationship has the potential to impact decision concerning production, pricing, or cost of like article, the statutory or organizational restrictions by shareholders, whether the related parties operate autonomously or in collusion or are competing with each other and whether they have conflicting interest in anti-dumping investigation.
- xii. In the present investigation while RSEPL will benefit from anti-dumping duty, Sibur will be subject to anti-dumping duty. There is no difference in behavior of RSEPL despite having alleged related parties in the subject country, Both the parties are in competition and conflicting interests. There is no evidence that RSEPL has participated in dumping or the injury is self-inflicted. Thus, it should not be excluded from the scope of the domestic industry.

- xiii. RIL holds majority of shares and directors in RSEPL, the right to nominate the Chairman of the Board rests with RIL and thus, all decision where majority voting is required are of RIL.
- xiv. The reserved matters do not entail day-to-day business or marketing or pricing related decisions of RSEPL which could have allowed RSEPL to suffer self-inflicted injury. SIBUR cannot take any decision unilaterally unless it is supported by RIL. Thus, SIBUR is not in a position to exercise restraint or direction over RSEPL.
- xv. As opposed to the submissions of the other interested parties, AoA does not establish control of SIBUR over the petitioner.
- xvi. The notice and transcript of Annual General Meeting as well as Extra Ordinary General Meeting relied upon by the other interested parties, does not show control and is not relevant to the present investigation as it only concerns capital addition.
- xvii. As opposed to the submissions of the other interested parties, the European Commission held that RIL has control over RSEPL. Further, the document relied upon is related to merger and acquisition and not anti-dumping investigation. The meaning and scope of related parties is different under the two.
- xviii. The media release relied upon by the other interested parties shows acquisition of technology and training from SIBUR. The fact pertains to pre-commissioning of production and not relevant to the present anti-dumping investigation. It does not show control over production, sales, costs, or prices of the petitioner. In a number of cases, technology has been sourced from other producers in other countries.
- xix. As opposed to the submissions of the other interested parties, control of SIBUR over NKNH, TAIF or control of TAIF over NKNH is not relevant to the present investigation.
- xx. No clause of reserved matter shows control of SIBUR on operations of the petitioner regarding production, purchase, sales, pricing, or any other factor relevant to an anti-dumping investigation.
- xxi. Certain clauses in reserved matters, relied upon by Exxon, relate to pre-commercial operations of plant and business establishment funding phase are no longer applicable as the plant has already commenced.
- xxii. The other clauses in reserved matters do not concern anti-dumping investigation nor are in relation to operations in the period of investigation as they relate to expansion plans, general principles of marketing which is a one-line general strategy to sell product at maximum net back, winding up, altering the MoA or other documents, change in authorized capital, creation of a subsidiary, approval of modification of business plan, creation of mortgage or charges, obtaining or providing loans or guarantees, entering into contract with third party regarding engineering services, construction, purchase of equipment or acquisition or sale of immovable property, contract with amount of expenditure over 1,00,00,000 USD per annum and accounting policies.
- xxiii. In case of a deadlock between RIL and SIBUR, RIL has the power to direct SIBUR to sell off its share to RIL. Likewise, SIBUR has power to require RIL to purchase its share. Thus, in a situation of deadlock, RIL assumes control over the entirety of

operations. Thus, SIBUR cannot prevent any decision by RIL directors due to presence of deadlock clause.

- xxiv. The pre-marketing agreement between SIBUR and RSEPL has expired in 2019 while the control of NKNH was acquired by SIBUR in 2021 when such agreement was not in force. The agreement was meant for imports into India for seed marketing and not exports of the product under consideration. The same does not show any control by SIBUR. Exports are irrelevant in the anti-dumping investigation, as activities for export has to be excluded as per Annexure II.
- xxv. All transactions between related parties are at arm's length basis and duly approved by the Audit Committee and Board of the petitioner. In any case, RIL is obliged to ensure that all related party transactions are at arm's length by virtue of its own legal and operational status.
- xxvi. The wholetime director and COO of RSEPL is required to work under the direction and control of the Board of Directors. The mere fact that SIBUR has appointed such person does not imply that the person can work in contravention to the directions of the Board.
- xxvii. ExxonMobil has not identified any related party transactions which would need consent of SIBUR or existence of some transactions which impact the determination relating to dumping, injury and causal link.
- xxviii. There are no direct exports by the Russian producer but exports have been made by unrelated exporter. The exporter determines the market in which the product under consideration will be sold and the price of such goods. Hence, the alleged relationship with SIBUR does not have any relevance in the present investigation.
- xxix. The domestic industry has imported the product under consideration prior to the commencement of production in order to perform seed marketing activity. However, the domestic industry has not imported the product under consideration post commencing commercial production or during the period of investigation.

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

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

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

16. The application has been filed by Reliance Sibur Elastomers Private Limited (RSEPL). RSEPL is the sole producer of the subject goods in India.

17. For the purposes of Rule 2(b), producers shall be deemed to be related to exporters or importers only if, -

*“(a) one of them directly or indirectly controls the other; or  
(b) both of them are directly or indirectly controlled by a third person; or  
(c) together they directly or indirectly control a third person subject to the condition that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producers to behave differently from non-related producers.*

***Note:** For the purpose of this Explanation, a producer shall be deemed to control another producer when the former is legally or operationally in a position to exercise restraint or direction over the latter.”*

18. The Anti-Dumping Agreement, in Article 4, defines domestic industry as follows.

*“4.1 For the purposes of this Agreement, the term “domestic industry” shall be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that:*

*(i) When producers are related to the exporters or importers or are themselves importers of the allegedly dumped product, the term “domestic industry” may be interpreted as referring to the rest of the producers;”*

19. Footnote 11 further clarifies the meaning of related as follows.

*“11. For the purpose of this paragraph, producers shall be deemed to be related to exporters or importers only if (a) one of them directly or indirectly controls the other; or (b) both of them are directly or indirectly controlled by a third person; or (c) together they directly or indirectly control a third person, provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers. For the purpose of this paragraph, one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.”*

20. The Authority notes that the essence of the definition of related party lies in “control”, legal or operational. If one party is not in a position to exercise direction or control over the other, whether directly or through the other party, it cannot be considered that the two parties are related to each other. It is noted that mere shareholding does not amount to the exercise of control and therefore does not make RSEPL related to NKNH within the meaning of Anti-Dumping Rules. Further, even if the two parties are related parties, the mere fact of the relationship is insufficient to consider the domestic producer as

ineligible. There must be evidence that the related domestic producer has acted differently due to the relationship or has participated in dumping practices and has taken such steps which would have resulted in self-inflicted injury.

21. In the present case, RSEPL is a joint venture between Reliance Industries Ltd (RIL) and Sibur Investments AG, Switzerland (SIBUR Switzerland), a subsidiary of PJSC SIBUR Holding (SIBUR Russia). SIBUR Russia also has a stake in PJSC Nizhnekamskneftekhim (NKNH), a producer of the product under consideration in Russia. The Authority notes that RSEPL is majorly controlled by RIL, which owns majority shares whereas SIBUR Switzerland has a minority share, both in terms of voting powers of shareholders and of directors.
22. The petitioner contended that it should be treated as an eligible domestic industry under Rule 2(b) notwithstanding the fact that exports to India have been made by the Russian producer and the petitioner is a joint venture company between Reliance Industries Limited and SIBUR Investments AG. The interested parties have however disputed the eligibility of the petitioner contending that the petitioner is ineligible on the grounds that the petitioner company is controlled by the Russian producers, either directly or indirectly through a third company. The sole ground for seeking ineligibility is the existence of “control” over the petitioner company by both the JV partners. The Authority has examined the issue.
23. The Authority notes that under Rule 2(b), the Authority is required to examine whether a domestic producer should be treated as ineligible because of its potential relationship with a foreign exporter dumping the goods in India or the petitioner itself is an importer of such product.
24. In the facts of the present case, it is seen that the petitioner i.e. RSEPL is a joint venture company between Reliance Industries Limited and SIBUR Investments AG. The joint venture partner SIBUR Investments Ag is a subsidiary of PJSC SIBUR Holding, which is also the holding company of PJSC Nizhnekamskneftekhim, a cooperative producer from Russia in the present case. The questionnaire response filed by PJSC Nizhnekamskneftekhim has therefore been examined. It is noted that PJSC Nizhnekamskneftekhim has reported ownership of the company comprising PJSC SIBUR Holding. The Russian producer was also required to provide complete information with regard to all companies affiliated with the producer, whether or not involved in the production and sale of the PUC and whether or not in Russia. It is noted that PJSC Nizhnekamskneftekhim has reported the following companies as its affiliated entities.
  - a. \*\*\*
  - b. \*\*\*

25. It is noted that PJSC Nizhnekamskneftekhim has not reported the petitioner or RIL as its affiliated company. It is thus seen that PJSC Nizhnekamskneftekhim does not consider itself as related to RSEPL or RIL.
26. The claims made by the petitioner were also examined. It is seen that the petitioner has claimed that it is not related to exporters of Russian goods, nor it is related to Russian producers of the subject goods. The applicant has submitted that the relationship under the Rules is required to be seen with reference to the exporter of the product. The petitioner has denied the relationship on the grounds that (a) there are no direct exports by SIBUR or PJSC Nizhnekamskneftekhim, (b) Reliance has a majority voting power in both shareholders and Board of Directors, (c) SIBUR cannot dictate any day-to-day decisions of RSEPL, (d) RSEPL has not contributed to dumping by SIBUR, and (e) the applicant should be treated as eligible domestic industry in view of past practice.
27. The Authority notes that the objective or the purpose of the discretion conferred onto the Authority under Rule 2(b) is relevant in the present case. The Authority notes that the objective of the provision is to allow the Authority to treat certain domestic producer as ineligible under certain situations. One such condition is when a domestic producer is related to an exporter of the subject goods. However, the term 'related' has been defined in explanation to Rule 2(b) as requiring one of the parties to directly or indirectly control each other, or for the two parties to be controlled by a third person, or together control a third person. The Authority further notes that the mere fact of the relationship is insufficient under the law to exclude such domestic producers. The Rule further provides that a party shall be deemed to control another party where the former is legally or operationally in a position to exercise restraint or direction over the latter. Furthermore, the Authority has discretion under such circumstances to treat such domestic producers as ineligible. In any case, there is no automatic exclusion of such a domestic producer from the scope of domestic industry under Rule 2(b).
28. In the facts of the present case, it is noted that both the petitioner and Russian producer have denied a relationship or existence of control over each other – whether directly or indirectly or through a third person. Further, the petitioner has filed an application seeking the imposition of anti-dumping duties on several countries, including Russia. The petitioner quantified a dumping margin of 50-60% with respect to exports from Russia. The Russian producer filed a questionnaire response and claimed the absence of dumping. Despite the petitioner having the capacity to meet the entirety of the demand, it is seen that a significant volume of the product has been supplied by the Russian producers. As per the questionnaire response filed by the company, it is seen that \*\*\* MT PUC has been exported by the company during the current injury period, and after the commencement of production by the petitioner. Thus, despite the alleged relationship or control, it is seen that the Russian company has exported the product to India during the relevant period. Further, the volume of imports made is not insignificant. Further, whereas the exporter has claimed the absence of dumping, the petitioner claimed dumping by the Russian producer. The Authority has found a significant dumping margin

in respect of exports made by the company. Thus, it is evident that the petitioner has taken steps to prevent dumping in the country, even against Russia, despite alleged control over the petitioner by one of its shareholders. The petitioner has not participated in dumping by the Russian producer, nor provoked, nor shielded itself from such dumping happening from Russia. Rather, the petitioner has taken effective steps in seeking redressal against such dumping happening in the Indian market. It is also seen that there appear no other exports from Russia barring exports by the present company.

29. As regards submissions made by interested parties concerning the existence of control, the Authority notes that the interested parties have referred to information, evidence and documents which concern an entirely different scope of operations of the company. The interested party itself has conceded that the alleged control is in the areas of “reserved category”. The Authority considers that in so far as day-to-day production and sale of the product are concerned, dumping causing injury to the domestic industry and actions by the domestic industry against such dumping were not prevented by the shareholders, thus establishing that the same does not fall in the category of reserved items.
30. It is also undisputed that the majority of the board in the present case is controlled by RIL. Thus, the fact that SIBUR Investments AG holds only two directors on the board of the petitioner establishes that another shareholder, namely, RIL is in a position to give direction or restrain the petitioner from seeking redressal against such dumping. The company has in fact taken such action in filing the present application, which further establishes the inability of SIBUR Investments AG to give direction and the ability of RIL to give direction to seek redressal against dumping.
31. It is seen that various provisions of Article of Association (AOA) provides *de-jure* and the *de-facto* control to RIL and not to SIBUR. While RIL admittedly holds *de-jure* control over the petitioner, the *de-facto* control also rests with RIL, through the provisions of Article 40 of the AoA. While admittedly certain matters have been kept under the reserved category and SIBUR consent is necessary for taking a decision, it is noted that these reserved matters and authority with SIBUR are subjected to provisions of Article 40 of the AoA. Further, it is seen that Article 40 of AoA provides de-facto power to RIL to force a decision in its favour in a situation of difference between RIL and SIBUR nominated directors. In other words, if SIBUR attempts to force a decision by invoking the alleged *de-facto* control, RIL has the ability to override the same, by invoking deadlock provisions under the AoA. It is, thus, provisionally concluded that both the *de-jure* and *de-facto* control on the petitioner rests with RIL, and SIBUR does not acquire the authority to control the petitioner in a manner inconsistent with RIL decision.
32. As regards provisions concerning related party transactions, the Authority notes that in any case, these provisions encourage transparency in transactions with the related parties and attempt to ensure arms-length transactions for such related party transactions. Since RIL is a majority shareholder in the petitioner and is a listed company, anyways RIL is

governed by various provisions concerning related party transactions under the Companies Act. Even RIL is bound to ensure transparency in transactions with the related parties and is required to attempt to ensure arms-length transactions with such related party transactions. Further, the authority also ensures that transactions with related parties are at arms-length for the purpose of injury determination.

33. As regards reference to the European Commission decision, the Authority notes that not only this decision is in an altogether different context, but also the said decision does not establish that the petitioner is controlled by SIBUR.
34. The Authority thus considers that the fact of control is not established in so far as it concerns the present law and proceedings. The Authority further considers that the meaning of control and applicability of the same in other laws is irrelevant for the present purposes. Further, even if the two parties are related parties, the mere fact of relationship is insufficient to consider the domestic producer as ineligible. There must be sufficient grounds justifying exclusion of such related domestic producer. There must be evidence that the related domestic producer has acted differently due to relationship, or has participated in dumping practices and has taken such steps which would have resulted in self-inflicted injury. In the instant case, there is no such evidence that the relationship between the two parties have led to petitioner behaving in a manner different from an unrelated producer.
35. Further, the Authority notes that the behavior of the petitioner as a domestic producer was not such that it could be construed that petitioner has behaved as a related company. The Authority also provisionally holds that the provisions under Company's Act or requirements of special resolutions are not relevant for the present purposes.
36. The Authority further takes note of the fact that there are no direct exports by the Russian producer, PJSC Nizhnekamskneftekhim, or PJSC SIBUR Holding or SIBUR International GmbH. \*\*\* from Russia are through an exporter, \*\*\*, which is not affiliated to the Russian producer or SIBUR entities. It is also not disputed that \*\*\* is not related to RSEPL.
37. In view of the foregoing, the Authority provisionally holds that the applicant is entitled to be treated as a domestic industry within the meaning of Rule 2(b) of the Anti-Dumping Rules.
38. The domestic industry has reported that it has imported IIR before it started commercial production, in order to undertake seed marketing activity in India. However, the imports were made before the period of investigation, and before declaring commercial production. Accordingly, it is noted that the applicant can be considered as eligible to constitute the domestic industry on this account.

39. In view of the foregoing, the Authority provisionally concludes that the applicant constitutes the domestic industry as defined under Rule 2(b) of the Anti-Dumping rules, and the application satisfies the requirement of standing in terms of Rule 5(3) of the Anti-Dumping Rules.

## **E. CONFIDENTIALITY**

### **E.1 Views of other interested parties**

40. The other interested parties have made the following submissions with regard to the confidentiality claimed by the domestic industry:
- i. The domestic industry has not disclosed information prescribed under the trade notice.
  - ii. The domestic industry has not provided evidence of efforts made to determine domestic selling price in other markets.
  - iii. The domestic industry has not provided information with regard to whether R&D expenses were incurred or not, cost of sales for exports, quantity of imports as a percentage of total imports, date of commencement of production and date on which it received approval from customers.
  - iv. The domestic industry has not disclosed the components of non-injurious price or their number in range of +/- 10%.
  - v. The domestic industry has claimed its capacity and financial statements as confidential, despite such information being available publicly.
  - vi. The domestic industry has claimed the entire project report as confidential and has not even provided a non-confidential summary.
  - vii. The domestic industry has claimed that the level of trade / channel of sales should be considered in the determination of injury margin but has not disclosed the same.
  - viii. While the domestic industry has claimed that it has provided price undercutting and injury margin in range, it has not provided the same in Proforma IV B.
  - ix. The exporters / producers have provided the list of products produced, details of manufacturing units, production process, product utilization thereafter.
  - x. The exporters / producers have disclosed their distribution channels for home market and exports to India in descriptive form in their non-confidential questionnaire responses.
  - xi. The exporters / producers have disclosed the nature of adjustments in home market and export prices, but the actual value is business sensitive and cannot be disclosed.
  - xii. The exporters / producers have disclosed that certain auxiliary activities are contracted to a vendor, but the details for the same are business sensitive.
  - xiii. The Trade Notice 10/2018 permits exporters / producers to keep their proprietary information confidential.
  - xiv. The information regarding product catalogue is not typically publicly available, and certain exporters / producers do not circulate product brochures since they sell products through affiliates.

- xv. Certain exporters / producers have claimed that production process, the names of raw materials, details about outsourcing or subcontracting, startup cost adjustments, import of raw material, purchase of raw materials or utilities from related parties is business proprietary information and revealing such information would be detrimental to their business interests.
- xvi. The users addressed most of the questions in the user questionnaire response and the economic interest questionnaire and have not claimed the entire impact of anti-dumping duty as confidential.
- xvii. The petitioner has claimed excessive confidentiality as the price undercutting and price suppression is not given in trend and at least the difference between the cost of sales and selling price in indexed form should have been provided, opening and closing inventory, depreciation, net fixed assets, working capital, details regarding self-imports such as import value, import price, resale price and market share have not been provided in indexed form.

## **E.2 Views of the domestic industry**

- 41. The domestic industry has made the following submissions with regard to the confidentiality claimed by the other interested parties.
  - i. The evidence of efforts made to determine domestic selling price in other markets does not relate to confidentiality claimed.
  - ii. The Authority has modified the application proforma which does not require the applicant to provide details of R&D expenses.
  - iii. The domestic industry has filed the application under Trade Notice 5/2021 whereas the specific requirements as per Trade Notice relied upon by the other interested parties is Trade Notice 2/2018 dated 1<sup>st</sup> February 2018.
  - iv. The trade notice does not require the applicant to disclose the components of non-injurious price and its numbers in range of +/- 10%.
  - v. Although the exporter has not been able to cite why disclosure of the date of commercial production and the date on which the domestic industry received approval of customers is required, it is submitted that the domestic industry commenced trial production in September 2019, and declared commercial production in March 2022.
  - vi. The domestic industry has sold goods to unaffiliated customers in the domestic market, which are traders or users of the subject goods. It has also provided details of selling price and various discounts. The Authority should compare its selling price at the same level at which the Authority considers import price and consider actual customs duty paid on imports.
  - vii. The domestic industry has provided a revised non-confidential version of the application with the quantity of imports as a percentage of total imports in range form, revised Proforma IV A with capacity, information with regard to injury margin and financial statements.
  - viii. The project report is confidential in its entirety and have been treated as confidential in the past several investigations as well. The domestic industry has

- provided a summary of the project report, in the form of comparison between actual and projected information in the revised non-confidential version.
- ix. Since the financial statements for 2022-23 have also been published post filing of the application, they have also been supplemented thereafter.
  - x. The questionnaire response filed by other interested parties suffer from various violations of Rule 7 of the Anti-Dumping Rules
  - xi. The exporters / producers have claimed entire responses to certain questions as confidential, without providing a non-confidential summary of the confidential information.
  - xii. The exporters / producers have not provided any statement explaining why a non-confidential summary of the responses is not possible.
  - xiii. The exporters / producers have claimed their product catalogue as confidential without providing a justification for the same.
  - xiv. The statement of reasons for confidentiality filed by the exporters / producers is not as per the format prescribed under Trade Notice 1/2013.
  - xv. The exporters/producers have failed to provide any information regarding the methodology used to report adjustments claimed on export price and in some cases home market price.
  - xvi. The exporters/producers have claimed the channel of distribution is confidential without providing any justification for the same.
  - xvii. The manufacturing process as well as the names of major raw materials has also been claimed confidential, without due justification.
  - xviii. The exporters/producers have provided information regarding post-invoicing/sale discounts or year-end rebates given to their customers. However, the response regarding this has been claimed confidential in its entirety.
  - xix. The exporters/producers have claimed all information regarding the manufacturing units linked to the product under consideration in India as confidential.
  - xx. The users have claimed the information regarding the utilization of the product under consideration.
  - xxi. Some of the users have claimed that the proposed duty would lead to a significant decline in the profitability of the user industry but have claimed the entire quantification of impact as confidential without even sharing a range of impact quantified.
  - xxii. The users have failed to furnish adequate information in the economic interest questionnaires responses and have reserved their comments on certain critical aspects. Such inadequate responses may render the exercise of issuing the questionnaire futile.

### **E.3 Examination by Authority**

42. The Authority made available the non-confidential version of the information provided by the various parties to all the other interested parties as per Rule 6(7).
43. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provide as follows:

*“Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and 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.”*

44. The information provided by the interested parties on a confidential basis was examined with regard to the sufficiency of such claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered confidential and not disclosed to the other interested parties. Wherever possible, the parties providing information on a confidential basis were directed to provide sufficient nonconfidential version of the information filed on a confidential basis. The domestic industry was directed to revise the non-confidential version based on the comments received from the other interested parties and the same was provided by the domestic industry and accepted by the Authority. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.

## **F. MISCELLANEOUS SUBMISSIONS**

### **F.1 Views of other interested parties**

45. The other interested parties have made the following miscellaneous submissions:
- i. The domestic industry has not provided sufficient evidence on why the investigation should be considered as material retardation for an establishing industry.
  - ii. Since the imports have not increased over the injury period, there is no ground to demonstrate material injury or material retardation to the domestic industry.

- iii. As per the website of the domestic industry, their plant was commissioned in 2019. It cannot claim material retardation as per the definition of material retardation provided in the Manual of Operating Practices for Trade Remedy Investigations.
- iv. There is no legal foundation of injury to justify the initiation of the investigation.
- v. All the factors of the domestic industry are positive throughout the injury period considered.
- vi. Financial year 2021-2022 and the proposed POI (January 2022- December 22) has three months in common. The domestic industry should provide data for the comparable calendar years 2019, 2020, and 2021 plus 2022 (POI).
- vii. A comparison of two years with overlap period cannot provide an accurate picture. Only a comparison of identical periods with no overlap periods would allow for a proper assessment of injury to the domestic industry.

**F.2 Views of the domestic industry**

- 46. The domestic industry has made the following miscellaneous submissions.
  - i. The submissions filed by ExxonMobil is belated as the deadline for the same was 14<sup>th</sup> December 2023 while the same have been filed on 9<sup>th</sup> February 2024. Such submissions should be rejected. The Panel and Appellate Body in multiple reports have held that investigating authorities can reject time barred submissions by the interested parties.

**F.3 Examination by the Authority**

- 47. The Authority notes that the applicant has provided a duly substantiated application, based on which the present investigation was initiated. The present investigation was initiated by the Authority based on the information provided by the domestic industry and *prima facie* satisfying itself that there is sufficient evidence of the dumping, the injury and the causal link. Further, subsequent to the initiation, the information has been sought from the applicant to the extent deemed necessary and the same has been provided by the applicant.
- 48. The period of investigation adopted by the Authority is from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 (12 months) and the injury analysis period covers the period of investigation and the three preceding financial years, 2019-20, 2020-21, 2021 -22. The period of investigation considered by the Authority is in accordance with Rule 5(3A) of the Anti-Dumping Rules.
- 49. The Authority has examined material injury to the domestic industry. Therefore, the Authority has not considered the domestic industry to be an establishing industry, for examining material retardation to the establishment of the industry.
- 50. As regards the contention of the domestic industry that the parties have filed belated submissions, while the Authority considers that these submissions are indeed significantly belated, the Authority has considered it appropriate to nevertheless deal

with these submissions. The Authority does consider the conduct of such parties inappropriate.

## **G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

### **G.1 Views of other interested parties**

51. The other interested parties have made the following submissions with regards normal value, export price and dumping margin:
- i. The domestic industry has not provided information or evidence on the cost data for the subject countries.
  - ii. The domestic industry did not provide any explanation as to why it was unable to obtain cost information of the subject countries.
  - iii. The normal value calculated by the domestic industry violates Articles 5.2(iii), Article 2.2, and Article 2.2.2 of the Anti-Dumping Agreement, since the domestic industry has relied on its own data, and not considered the differences in manufacturing cost, SG&A and profits among different subject countries. A single constructed normal value for the subject countries without any reasonable explanation.
  - iv. The domestic industry has not provided any evidence of the adjustments made to the export price obtained for Saudi Arabia, and has used the same ocean freight adjustment for China and for Saudi Arabia without any justification.
  - v. Russia should be treated as a non-market economy as done by USA and Canada in recent investigations. The European Commission has also found significant distortions in certain sectors of the Russian economy.

### **G.2 Views of the domestic industry**

52. The submissions of the domestic industry with regard to the normal value, export price and dumping margin are as follows:
- i. China PR should be treated as a non-market economy in accordance with Article 15(a)(i) of China's Accession Protocol and the normal value should be determined in terms of Annexure I, Rule 7 of the Rules.
  - ii. The domestic industry has determined the normal value for China based on the price payable in India, considering the cost of production of the domestic industry, plus profits.
  - iii. For the other subject countries, there is no evidence available with regard to domestic selling price. Since most of the subject countries are net exporters of the subject goods, the import price into the subject countries cannot be considered.
  - iv. Accordingly, the domestic industry has calculated the normal value on alternative basis. The domestic industry has relied upon available facts with regard to the cost

- of production in the subject countries plus profits, based on information reasonably available to it.
- v. Export price must be determined considering volume and value of imports for the proposed period of investigation adopted from the published DGCIS data after due adjustments are made to determine the ex-factory price.
  - vi. The dumping margin for the subject countries is not only above the *de minimis* levels, but also significant.

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

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

*“i) The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*

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

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

*the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*

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

54. The Authority notes that the following producers/exporters of the subject goods have filed exporter’s questionnaire responses:
- a. ExxonMobil Asia Pacific Pte Ltd.
  - b. ExxonMobil Petroleum & Chemical BV, Belgium
  - c. ExxonMobil Product Solutions Company
  - d. MRF SG PTE LTD.
  - e. Al-Jubail Petrochemical Company
  - f. Sibur International GMBH
  - g. Public Joint Stock Sibur Holding
  - h. Public Joint Stock Company Niznekamskneftkhim
  - i. Trigon Gulf FZCO

### **G.3.1 Determination of Normal value and Export Price**

#### **The normal value for China PR**

55. The Authority notes the following relevant provisions with regard to the determination of normal value for China PR. Provisions under Para 7 and Para 8 of Annexure I to the Anti-Dumping Rules are as under:

*“7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner [keeping in view the level of development of the country concerned and the product in question] and due account shall be taken of any reliable information made available at the time of the selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in a similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay of the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.*

*“8. (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in subparagraph (3).*

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

*(3) The designated authority shall consider in each case the following criteria as to whether: (a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labor, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs*

*of major inputs substantially reflect market values; (b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts; (c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and (d) the exchange rate conversions are carried out at the market rate. Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph.*

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

56. At the stage of initiation, the Authority proceeded with the presumption of treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China PR to respond to the notice of initiation and provide information on whether their data/information could be adopted for normal value determination. The Authority sent copies of the market economy treatment/supplementary questionnaire to all the known producers/ exporters in China PR to provide relevant information in this regard.
57. Article 15 of China's Accession Protocol in WTO provides as follows:

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

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

*The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the*

*industry producing the like product with regard to manufacture, production and sale of that product.*

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

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

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

58. The Authority notes that while the provisions of Article 15 (a)(ii) of China PR's Accession Protocol have expired with effect from 11<sup>th</sup> December 2016, the provision under Article 2.2.1.1 of the Anti-Dumping Agreement read with obligation under 15(a)(i) of the Accession Protocol require criterion stipulated in Para 8 of the Annexure 1 of Anti-Dumping Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming MET status.
59. The Authority notes that none of the producers/exporters from China PR has filed the supplementary questionnaire response to rebut the presumptions as mentioned in para 8 of Annexure – I of the Rules. Under these circumstances, the Authority has to proceed in accordance with para 7 of Annexure – I of the Rules.
60. It is noted that paragraph 7 of Annexure-I to the AD Rules stipulates three methods of constructing the normal value for non-market economies: (a) on the basis of price or constructed value in a market economy third country; (b) export price from a third country to other countries, including India; and (c) on any other reasonable basis. The

Authority notes that under the provisions of paragraph 7 of Annexure-I to the AD Rules, the normal value should first be determined on the basis of the price or constructed value in a surrogate country, or the price of the exports from such country to other countries, including India.

61. At the stage of filing the application, the domestic industry submitted that the normal value for China should be constructed based on the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin.
62. It is to be noted that no information/evidence has been provided by the parties for the construction of the normal value on the basis of the first and second methods. No interested party has suggested a country that may be considered as an appropriate third country, for determination of normal value. There is no information furnished by any party with respect to the price or constructed value of the subject goods produced in a market economy third country.
63. The Authority also examined whether the price from an appropriate third country into India can be considered for the determination of normal value. However, it was noted that the subject imports account for 97% of the total imports into the country. No country, barring the subject countries, has exported a reasonable volume of product to India during the period of investigation. The price of imports from other subject countries are already alleged dumped prices. In view of the same, the normal value cannot be determined based on the price of exports from an appropriate third country to India.
64. In the absence of the above information/evidence, it is not possible for the Authority to determine normal value on the basis of the first or second method. Therefore, the Authority has decided to construct normal value based on the third method, i.e., on any other reasonable basis including the price actually paid or payable in India. The Authority has constructed the normal value on the basis of the price paid or payable in India.
65. For this purpose, the Authority has considered the optimized cost of production of the domestic industry, with a reasonable additional of selling, general and administrative expenses and profits.

**Export price for China PR**

66. None of the producers from China PR have participated in the investigation. Accordingly, the export price has been determined on the basis of facts available. For the purpose, the information provided by DG Systems has been considered. Further, price adjustments have been carried out on account of ocean freight, marine insurance, inland freight, bank charges, port expenses and commission on the basis of facts available.

**Normal value for Singapore**

**ExxonMobil Asia Pacific Pte Ltd. (“EMAPPL”)**

67. ExxonMobil Asia Pacific Pte Ltd. (EMAPPL) is a producer of the subject goods in Singapore. The Authority notes that EMAPPL has not sold goods in the domestic market during the period of investigation. In the absence of domestic sales, the Authority has considered the cost of production of the producer as the basis for the purpose of preliminarily determining the normal value.
68. The Authority determined the normal value on the basis of the ex-factory cost of production with reasonable addition towards selling, general and administrative expenses and profits. The profit margin for the purpose has been considered on the basis of profit of the company as a whole. The normal value so determined has been mentioned in the dumping margin table.

**Normal Value for other producers/exporters in Singapore**

69. The normal value for all other non-cooperating producers and exporters from Singapore has been determined based on facts available and the same is mentioned in the dumping margin table below.

**Export Price for Singapore**

**ExxonMobil Asia Pacific Pte Ltd. (“EMAPPL”), MRF SG PTE Limited (“MRF SG”) and CIAEL Singapore PTE LTD (“CIAEL”)**

70. ExxonMobil Asia Pacific Pte Ltd (EMAPPL) is a producer of the subject goods in Singapore. EMAPPL has exported the subject goods to India directly to un-related customers and through unrelated traders namely MRF SG PTE Limited (MRF SG) and CIAEL Singapore PTE LTD (CIAEL). MRF SG and CIAEL have exported the product under consideration to their related entities in India. Further, EMAPPL has a related entity in India namely ExxonMobil Company India Private Limited (EMCIPL). However, EMCIPL is not involved in manufacturing or buying or selling of the product under consideration. EMCIPL acts as a service entity in India and provides marketing services. Moreover, ExxonMobil Chemical Asia Pacific (EMCAP) is a division of EMAPPL. It is engaged in the purchase and sale of the product under consideration and has exported the product under consideration to India and other countries. However, EMAPPL has not exported the subject goods to India through EMCAP. During the period of investigation, EMAPPL has exported the goods through the following distribution channels.

EMAPPL→Unrelated customers in India

EMAPPL→ MRF SG→Related customers in India

EMAPPL→ CIAEL→Related customers in India

71. It is noted that during the period of investigation, EMAPPL has exported \*\*\* MT of the product under consideration out of which \*\*\* MT is directly exported to unrelated customers in India and \*\*\* MT through unrelated traders. Price adjustments have been carried out towards inland freight, ocean freight, insurance, credit cost, commission, warehousing and related costs for direct sales to India. Price adjustments have been carried out towards credit costs and bank charges for exports through traders to India. The exporter has also claimed adjustments on account of loss on exports made to India for exports from \*\*\*. The same has been accepted for the purpose of present preliminary findings. Accordingly, the Authority has provisionally determined the export price, as mentioned in the dumping margin table below.

**Export price for all non-cooperative producers/exporters from Singapore**

72. The export price for other non-cooperative producers/exporters from Singapore has been determined based on facts available in terms of Rule 6(8) of the Rules.

**The normal value for Saudi Arabia**

**Al-Jubail Petrochemical Company (“Kemya”)**

73. Al-Jubail Petrochemical Company (“Kemya”) is a producer of the subject goods in Saudi Arabia. The Authority notes that Kemya has not sold in the domestic market during the period of investigation. In the absence of domestic sales, the Authority has considered the cost of production for the purpose of preliminarily determining the normal value.

74. The Authority determined the normal value on the basis of the ex-factory cost of production with reasonable addition towards selling, general and administrative expenses and profits. The profit margin for the purpose has been considered on the basis of the profit of the company as a whole (\*\*\*). The normal value so determined has been mentioned in the dumping margin table.

**Normal Value for other producers/exporters in Saudi Arabia**

75. The normal value for all other non-cooperating producers and exporters of Saudi Arabia has been determined based on facts available and the same is mentioned in the dumping margin table below.

**Export Price for Saudi Arabia**

**Al-Jubail Petrochemical Company (“Kemya”), ExxonMobil Petroleum & Chemical BV, (“EMPC”) and ExxonMobil Chemical Asia Pacific (“EMCAP”), CIAEL Singapore PTE LTD (“CIAEL”)**

76. Al-Jubail Petrochemical Company (“Kemya”) is a producer of the subject goods in Saudi Arabia. Kemya has sold the product under consideration to its JV partners i.e.,

ExxonMobil - ExxonMobil Petroleum & Chemical BV, Belgium (EMPC) and ExxonMobil Chemical Asia Pacific, Singapore (EMCAP), for exports to India. EMPCAP has exported the goods to unrelated customers in India. EMPC has purchased goods from Kemya and sold the goods to EMCAP that has re-sold the goods to CIAEL Singapore PTE LTD (CIAEL SG) that has exported the goods to its related entity in India.

Kemya →EMPC →EMCAP→CIAEL SG→ Related entities in India  
Kemya →EMCAP→Unrelated customer in India

77. It is noted that during the POI, Kemya has exported \*\*\* MT of PUC. The adjustments towards inland freight, credit cost, ocean freight, insurance, commission, warehousing cost, port expenses and bank charges have been accepted for the purpose of present preliminary findings. Accordingly, the Authority has provisionally determined the export price, as mentioned in the dumping margin table below.

**Export price for all non-cooperative producers/exporters from Saudi Arabia**

78. The export price for other non-cooperative producers/exporters from Saudi Arabia has been taken as per facts available in terms of Rule 6(8) of the Rules.

**Normal value for Russia**

79. Some of the interested parties have contended that Russia should be treated as a non-market economy for the purpose of the present investigation. The other interested parties have not referred to the legal provision under which Russia should be treated as a non-market economy country, nor established with evidence that the operations in Russia with regards to the subject goods are not in accordance with the market principles of cost or pricing structures. While it is alleged that the USA and Canada have treated Russia as a non-market economy, they have not concluded the same with regard to the present product under consideration. In the absence of evidence on record, Russia cannot be treated as a non-market economy for the purpose of the present investigation.

**Public Joint Stock Company Niznekamskneftekhim (NKNH)**

80. Public Joint Stock Company Niznekamskneftekhim (“NKNH”) is a producer of the subject goods in Russia. NKNH has sold \*\*\* MT of the subject goods in the domestic market during the POI whereas, it has exported \*\*\* MT of the subject goods to India. The Authority notes that the domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducts the ordinary course of trade test to determine profit-making domestic sales transactions with reference to the cost of production of the subject goods, on a PCN-wise basis. If profit-making transactions are more than 80% of the total sales, then all the transactions in the domestic sales are considered for the determination of the normal value and in cases, where profitable transactions are less than 80%, only profitable domestic sales are taken into

consideration for the determination of the normal value. In the present case since more than 80% of domestic sales are profitable hence all domestic sales have been considered to determine normal value. The company has claimed price adjustments on account of insurance and inland transportation and the same is allowed by the Authority. Thus, the normal value at an ex-factory level for NKNH has been calculated for the POI is mentioned in the dumping margin table below.

**Normal Value for other producers/exporters in Russia**

81. The normal value for all other non-cooperating producers and exporters of Russia has been determined based on facts available and the same is mentioned in the dumping margin table below.

**Export Price for Russia**

**Public Joint Stock Company Niznekamskneftekhim (“NKNH”), Sibur International GMBH (“SI GmbH”) and Public Joint Stock Sibur Holding (“SIBUR Holding”) and Trigon Gulf FZCO (“Trigon”)**

82. Public Joint Stock Company Niznekamskneftekhim (NKNH) is a producer of the subject goods in Russia. NKNH has exported the product under consideration to India through unrelated traders in Russia - Sibur International GMBH (GmbH) and Public Joint Stock Sibur Holding (SIBUR Holding) who have further sold the goods to an unrelated exporter in the United Arab Emirates - Trigon Gulf FZCO (Trigon) that has sold the product under consideration to un-related customers in India.

NKNH → SIBUR Holding → SI GmbH → Trigon → Unrelated customers in India  
NKNH → SI GmbH → Trigon → Unrelated customers in India

83. It is noted that during the POI, NKNH through Trigon has exported \*\*\* MT of PUC to unrelated customers in India. The adjustments towards metal containers, inland freight, ocean freight, credit cost, other logistics charges, insurance, port expenses, commission, and storage as claimed have been accepted for the purpose of present preliminary findings. Accordingly, the Authority has provisionally determined the export price, as mentioned in the dumping margin table below.

**Export price for all non-cooperative producers/exporters from Russia**

84. The export price for other non-cooperative producers / exporters from Russia has been taken as per facts available in terms of Rule 6(8) of the Rules.

**Normal value for USA**

**ExxonMobil Product Solutions Company (“EMPSC”)**

85. ExxonMobil Product Solutions Company (“EMPSC”) is a producer of the subject goods in the USA . EMPSC has sold \*\*\* MT of the subject goods in the domestic market during the POI whereas, it has exported \*\*\* MT of the subject goods to India. The Authority notes that the domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority has conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of the subject goods on a PCN-wise basis. The company has claimed price adjustments on account of inland transportation, credit cost and level of trade adjustment and the same is allowed by the Authority. Thus, the normal value at ex-factory level for EMPSC has been calculated for the POI is mentioned in the dumping margin table below.

**Normal Value for other producers/exporters in the USA**

86. The normal value for all other non-cooperating producers and exporters of the USA has been determined based on facts available and the same is mentioned in the dumping margin table below.

**Export price for the USA**

**ExxonMobil Product Solutions Company (“EMPSC”), ExxonMobil Chemical Asia Pacific (“EMCAP”), MRF SG PTE Limited (“MRF SG”) and CIAEL Singapore PTE LTD (“CIAEL”)**

87. ExxonMobil Product Solutions Company (“EMPSC”) is a producer of the subject goods in the USA . EMPSC has sold the product under consideration to one of its JV partners i.e., ExxonMobil - ExxonMobil Chemical Asia Pacific, Singapore (EMCAP) for exports to India and other traders in Singapore - MRF SG PTE Limited (MRF SG) and CIAEL Singapore PTE LTD (CIAEL) that have sold the goods to their related entities in India.

EMPSC→EMCAP→Unrelated customers in India

EMPSC→MRF SG→Related entities in India

EMPSC→CIAEL→ Related entities in India

88. It is noted that during the POI, EMCAP has exported \*\*\* MT of PUC directly to unrelated customers in India. The adjustments towards inland freight, ocean freight, warehousing expenses, insurance, credit cost, commission, port expenses and bank charges have been accepted for the purpose of present preliminary findings. Accordingly, the Authority has provisionally determined the export price, as mentioned in the dumping margin table below.

**Export price for all non-cooperative producers/exporters from the USA**

89. The export price for other non-cooperative producers/exporters from the USA has been taken as per facts available in terms of Rule 6(8) of the Rules.

**G3.2. Dumping Margin**

The normal value, export price and dumping margin determined in the present investigation are as follows:

**Dumping Margin Table**

<b>Producer</b>	<b>Normal Value (USD/MT)</b>	<b>Export Price (USD/MT)</b>	<b>Dumping Margin (USD/MT)</b>	<b>Dumping Margin (%)</b>	<b>Dumping Margin (Range)</b>
Saudi Arabia					
Al-Jubail Petrochemical Company (“KEMYA”)	***	***	***	***	40-50%
Any Other	***	***	***	***	50-60%
Singapore					
ExxonMobil Asia Pacific Pte Ltd/ ExxonMobil Chemical Asia Pacific	***	***	***	***	15-25%
Any Other	***	***	***	***	20-30%
United States of America					
ExxonMobil Product Solutions Company	***	***	***	***	25-35%
Any Other	***	***	***	***	30-40%
Russia					
Public Joint Stock Company Nizhnekamskneftekhim	***	***	***	***	30-40%
Any Other	***	***	***	***	35-45%
China					
Any	***	***	***	***	10-20%

**H. ASSESSMENT OF INJURY AND CAUSAL LINK**

**H.1 Views of other interested parties**

90. The following submissions have been made by the producers / exporters / other interested parties with regard to injury and causal link:

- i. The dumping of the product under consideration by SIBUR entities is an attempt to eliminate non-injurious imports from the other subject countries by cumulating the injurious impact of imports from all subject countries and allow the petitioner to monopolize the market. The Authority must de-cumulate subject imports from Russia in its injury analysis.
- ii. SIBUR consciously exported at low prices till the time of commencement of production by the petitioner and thereafter, reduced exports once the petitioner

- started production. The petitioner was importing the product under consideration from Russia at low prices and selling in the Indian market in 2018-19 and 2019-20.
- iii. Imports from Russia should be de-cumulated for injury analysis as the conditions of competition between imports from Russia are different since the petitioner is related to a major Russian producer/exporter, price charged by Russian exporters are distorted as it is a non-market economy, the import price of Russia has been the lowest amongst the subject countries barring 2020-21, Russia is the largest supplier of the product under consideration to India, the price of imports from Russia increased much less than increase from other countries, the volume of imports from Russia declined while that from other countries increased.
  - iv. The imports from the subject countries have consistently decreased in absolute or relative to the production and consumption. By comparison, the demand and market share of the petitioner has increased.
  - v. The imports from China have increased. Product originating in Russia has been exported from China and the Authority may investigate the same.
  - vi. There is no price effect as while the cost of sales of the domestic industry has not increased and the selling price of the domestic industry has increased leading to a better margin.
  - vii. The domestic industry has not suffered from price undercutting. Further, comparing the prices of alleged dumped imports with the projected price does not fulfill the requirement of this Article 3.2. The domestic industry has not provided the basis of the projected prices and whether this projected price is reasonably in line with the average price of the subject goods.
  - viii. The selling price of the domestic sales is neither suppressed nor depressed but has steadily increasing during the injury period.
  - ix. The landed prices of imports from Saudi Arabia have gradually increased and is in line with the global market prices trend.
  - x. The domestic sales and production volume of the domestic industry gradually increased, while subject imports and other imports declined simultaneously.
  - xi. There is no injury to the petitioner as the capacity, production, capacity utilization, captive consumption for production of HIIR, domestic sales, selling price and productivity has increased. The inventories of the petitioner have declined.
  - xii. The figures of capacity utilization are not correct since the capacity considered is for both captive and merchant production, while only merchant production has been considered. There is a need to analyze whether production includes off-spec product.
  - xiii. The press release by Care Ratings shows that the petitioner has operated at full capacity during Q1 of 2023-24.
  - xiv. The average inventory significantly declined over the entire period due to higher domestic sales volume and decrease in the export sales.
  - xv. The productivity indexes (per day, employee & per day per employee) have gradually increased during the entire period.
  - xvi. The profitability of the domestic industry has improved during the entire injury period.

- xvii. The per unit interest cost of the petitioner has declined. While no interest cost has been reported in the profit and loss statement of the petitioner, the same has been reported in the petition.
- xviii. Since the total interest cost has been volatile, the capital structure is not yet stabilized which is typical of any start-up operation.
- xix. The injury to the petitioner is due to high start-up costs as the petitioner had to make investments prior to commercial production.
- xx. The petitioner has incurred losses due to start-up costs and depreciation in the initial years of operation and the losses have reduced over the injury period.
- xxi. As per the publicly available profit and loss statement, the petitioner has earned profits during 2019-20 when it was producing only IIR. Thus, the data submit does not seem reliable.
- xxii. The petitioner had not manufactured the product under consideration during 2019-20 and 2020-21 as there was no raw material consumed and thus, any loss in such period not attributable to manufacturing operations.
- xxiii. The Authority may verify the agreement between RIL and the petitioner regarding purchase of raw material and check whether such purchase is at arm's length basis.
- xxiv. The petitioner has been continuously investing in property, plant and equipment; thus, it must have envisaged a positive outlook in the Indian market.
- xxv. As opposed to the submissions of the petitioner, it was not forced to export as the exports have declined post 2020-21.
- xxvi. The petitioner has increased its efficiency as the number of employees and cost of salaries have reduced while productivity has increased.
- xxvii. A new entity prior to commercial production, which is at the end of the period of investigation, sends samples to the customers for approval which takes 12-18 months. Hence, delay in achieving commercial production is due to long customer approval process.
- xxviii. The injury may also be due to the limited range offered by the petitioner. The petitioner cannot satisfy the domestic demand for the types required by the customer.
- xxix. The petitioner commenced production at a time when the global market for Butyl Rubber was in an economic downturn. There are global overcapacities leading to low prices in the market globally. Since 2013, the global capacities increased more than increase in global demand.
- xxx. Since 2020, the global TFE costs have increased but Butyl Rubber prices did not increase commensurately. The Authority should separate and distinguish the injurious effect of global economic developments.
- xxxi. Injury to the petitioner is due to COVID-19 which disrupted the supply of the product, demand of the product and led to delay in commercial operations of the petitioner. The petitioner's plant was closed from March 2020 to May 2020. During the period of investigation, the petitioner was in process of recovering from the global pandemic.
- xxxii. The high fixed costs, including depreciation costs, of the petitioner should be normated while determining the non-injurious price.

xxxiii. The domestic industry has alleged unreasonably high non-injurious price without providing any evidence.

## **H.2 Views of the domestic industry**

91. Following submissions have been made by the domestic industry with regard to the Injury and causal link are as follows:
- i. In the total period of production, the domestic industry has witnessed plant shutdowns for a period of \*\*\* days or about \*\*\* months.
  - ii. Even though the domestic industry achieved optimum production test run in February 2021, it was forced to hold declaring commercial production.
  - iii. Despite the domestic industry's presence in the market, the volume of imports has remained high and constitute 97% of the total imports into the country.
  - iv. The price undercutting is positive, barring two customers.
  - v. The landed price of imports is significantly below the projected selling price of the domestic industry. Since the domestic industry is a new entrant in the market, it cannot afford to charge a higher price than the import price.
  - vi. Some of the exporters allow post-invoicing discounts, which has resulted in the CIF price being overstated.
  - vii. Some of the users have their affiliated procurement entities set up in the subject countries that have procured the goods domestically and then supplied them at higher prices.
  - viii. The price undercutting should be calculated on a month-wise comparison.
  - ix. There is a significant difference in prices at which the subject goods have been purchased by the same consumer in the same month. The lower priced imports set a benchmark for the prices which the customers expect from the domestic industry.
  - x. While the domestic industry has reduced cash discounts allowed, the exporters are allowing long credit periods of 45-60 days, which must be adjusted in determination of landed price.
  - xi. While it has been questioned as to why the domestic industry has been charging a price less than the price of imports, the domestic industry has been able to sell only a small share of its production in the domestic market.
  - xii. Since there are affiliated party transactions, the price undercutting and injury margin should be determined based on the price of the producer, and not the exporter. This is because the users negotiate prices based on the price at which its affiliated exporter is procuring the product from the producer.
  - xiii. In case of USA, barring a small volume, all the transactions are related party transactions.
  - xiv. The imports have prevented the domestic industry from effecting price increases and has forced it to sell below cost. Further, the domestic industry is selling the subject goods at a price significantly below its projected price.
  - xv. It is well accepted that the domestic industry may suffer volume injury or price injury. It is not necessary for both to subsist.

- xvi. The domestic industry was not able to achieve its projected production and capacity utilization till end of the present period of investigation.
- xvii. The domestic industry had projected to achieve over 90% of capacity utilization within a period of \*\*\* months. Instead, its capacity utilization is only \*\*\*, even after having been producing for \*\*\* months.
- xviii. The domestic industry was not able to declare commercial production for 910 days, due to imports.
- xix. The capacity utilization based on domestic sales is only \*\*%.
- xx. Even though the domestic industry has a capacity exceeding the domestic demand, its market share has been \*\*%.
- xxi. The domestic industry made no projections for exports. Despite this it has been forced to export \*\*% of its production.
- xxii. The domestic industry has incurred cumulative financial losses of ₹ \*\*\* crores during the injury period. While it had projected significant profits in \*\*\* of operation, it has continued to face losses and negative EBIDTA.
- xxiii. The cash profits and return on investment have continued to deteriorate over the period.
- xxiv. The actual PBIT of the domestic industry is lower by 122% than the PBIT necessary for a \*\*% return.
- xxv. Despite the duration of operation, the domestic industry has not been able to break even at this stage.
- xxvi. At the current prices, the domestic industry would incur significant losses, not only at the present capacity utilization, but also at the projected capacity utilization for each year of operations.

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

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

93. The Authority has examined the arguments and counterarguments of the interested parties with regard to injury to the domestic industry. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties.
94. With regard to the agreement between RIL and RSEPL, the Authority notes that data for the domestic industry has been accepted, after due satisfaction for the purpose of present preliminary determination, and pending verification of the information provided, and ensuring that all related party transactions have been made at arms' length prices.
95. With regards to submissions of the other interested parties regarding global economic development and overcapacities, the Authority notes that the petitioner is the sole producer of the subject goods in India and there are no overcapacities in India. If global overcapacities are the cause of dumping and if the same is causing injury to the Indian industry, the industry is justified in seeking remedy against such dumping. The injury to the domestic industry has been analyzed in terms of the domestic market. Overcapacities or changes in price of raw material does not provide a justification for the exporters to engage in unfair trade practice of dumping in India.
96. The domestic industry started trial production in September 2019 and declared commercial production in March 2022. The data for 2019-20 therefore relates to trial production beginning from September 2019 to March 2020.

### **H.3.1 Cumulative assessment of injury**

97. Article 3.3 of WTO agreement and para (iii) of Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
  - a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and
  - b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
98. The Authority notes that:
  - a. The subject goods are being dumped into India from the subject countries. The margin of dumping from each of the subject countries is more than the *de minimis* limits prescribed under the Rules.
  - b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
  - c. Cumulative assessment of the effects of import is appropriate as the imports from the subject countries not only directly compete with the like articles offered by each

of them but also the like articles offered by the domestic industry in the Indian market.

99. With regard to conditions of competition, the trend of import volume from the subject countries shows while imports from Russia and USA declined, imports from Singapore declined in 2020-21 and 2021-22 but increased in the period of investigation. Imports from Saudi Arabia and China PR increased over the injury period. Further, with commencement of domestic production in India, the total import volume in India has reduced. With regard to price of imports, the Authority notes that import prices from all subject countries have shown the same trend over the injury period. There is no material difference in the pattern of prices from various subject countries over the injury period. Further, the landed price of imports from Russia is higher than other subject countries. The Authority also notes that the Appellate Body in the matter of EC – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil noted that there is no reference to the country-by-country volume and price analysis for determining whether cumulation of imports is required. Thus, cumulative assessment of imports is appropriate in the present investigation, in the light of conditions of competition.
100. In view of the above, the Authority considers that it is appropriate to assess the effect of dumped imports of the subject goods from China PR, Russia, Singapore, Saudi Arabia and USA on the domestic industry cumulatively.

### **H.3.2 Volume effect of the dumped imports**

#### **a) Assessment of demand / apparent consumption**

101. For the purpose of the present investigation, the Authority has defined demand or apparent consumption of the product concerned in India as the sum of domestic sales of the domestic industry and other Indian producers and imports from all sources. The demand so assessed is given in the table below.

Particulars	Unit	2019-20	2020-21	2021-22	POI
Sales of applicant	MT	***	***	***	***
Trend	Indexed	100	510	594	816
Subject imports	MT	44,860	36,272	29,808	19,110
Other imports	MT	1,531	566	621	361
Consumption	MT	***	***	***	***
Trend	Indexed	100	125	122	124

102. It is seen that the demand increased in 2020-21, and then declined marginally in 2021-22. The demand has increased again during the period of investigation.

#### **b) Import Volumes from the subject countries**

103. 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 transaction wise import data procured from DG Systems. The import volumes of the subject goods from subject countries and share of the dumped import during the injury investigation period are as follows:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Subject Countries	MT	44,860	36,272	29,808	19,110
Singapore	MT	13,546	6,094	6,830	11,291
Russia	MT	25,847	18,642	14,014	3,104
Saudi Arabia	MT	1,299	1,577	1,790	1,903
U S A	MT	4,168	9,943	6,939	1,563
China PR	MT	0	17	234	1,249
Other Countries	MT	1,531	566	621	361
Total Imports	MT	46,391	36,838	30,428	19,470
Total Indian Production	MT	***	***	***	***
Subject import in relation to:					
Total imports	%	97%	98%	98%	98%
Indian consumption	%	***	***	***	***
Trend	Indexed	100	65	55	34
Indian production	%	***	***	***	***
Trend	Indexed	100	22	17	8

104. It is seen that-

- a. The volume of imports of the subject goods has reduced over the injury period. The Authority notes that the decline in the imports is a consequence of the commencement of new production by the domestic industry. The domestic industry commenced production in September 2019 with a capacity of 1.20 lacs MT and declared commercial production in March 2022.
- b. The imports accounted for more than \*\*\*% of the consumption in India during the period 2019-20 but reduced to \*\*\*% in the period of investigation. As submitted by the domestic industry, this is a result of commencement of production by the domestic industry. Nevertheless, the Authority notes that share of imports has remained high, in comparison to the fact that the domestic industry produced \*\*\* MT in the POI as against \*\*\* MT demand in this period and had capacity sufficient to cater to the entirety of the demand in India.
- c. The volume of imports in relation to production was more than \*\*\*% at the beginning of the injury period. Owing to commencement of production by the domestic industry, the same has reduced. However, it is noted that such production is still significant, considering the capacities installed in India.

- d. The share of imports from the subject countries increased to 98% of the total imports in the period of investigation.
105. The Authority notes that the domestic industry commenced production only during the injury period (in September 2019). Therefore, it is quite common that imports witnessed a decline over the injury period, as the domestic industry increasingly utilized its capacities. However, the domestic industry has sold the goods at significant financial losses, in order to compete with the imports and sell the goods to the customers. Therefore, while the domestic industry has gained volume, its profitability has suffered as a result.
106. With regard to the submissions that imports from China are of the product originating from Russia, it is clarified that the Authority has considered only those transactions where the country of origin has been reported as China in the import transaction.

**H.3.3 Price effect of the dumped imports**

107. In terms of Annexure II (ii) of the Rules, with regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
- a) **Price undercutting**
108. Price undercutting has been determined by comparing the net sales realization of the domestic industry with the landed price of the imports for the period of investigation.

Particular	Unit	POI
Selling price	USD/MT	***
Landed price	USD/MT	2,541
Price undercutting	USD/MT	***
Price undercutting	%	***
Trend	Range	Negative

109. It is noted that during the period of investigation, the price undercutting for the subject countries is negative. However, the domestic industry alleges as a new entrant, it would have to invariably compete with the volume of imports at lower prices. Accordingly, even if some imports have been made at higher prices, it does not negate the injurious effect of imports at lower prices.
110. The applicant has highlighted that there are significant differences between the prices of the imports by the same purchaser, at the same time. Further, there are affiliated party transactions due to which the prices are not representative. The Authority notes that in a

situation where the price undercutting is negative, the Authority is required to determine whether the imports were suppressing or depressing the domestic prices. It is not necessary that the price undercutting and suppression/depression should both be present at the same time in order to conclude adverse price effect of dumped imports onto the domestic industry.

**b) Price suppression/depression**

111. In order to determine whether the dumped imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, were compared as below.

Particular	Unit	2019-20	2020-21	2021-22	POI
Cost of Sales	₹/MT	***	***	***	***
Trend	Indexed	100	64	83	100
Selling Price	₹/MT	***	***	***	***
Trend	Indexed	100	103	122	153
Landed Price	₹/MT	135,678	128,882	153,915	205,267
Trend	Indexed	100	95	113	151

112. It is seen that while the cost of sales increased by ₹ \*\*\* per MT between 2020-21 and POI, the selling price increased only by ₹ \*\*\* per MT. The Authority also notes that the comparison with base year is inappropriate in this regard, as this was the first of commencement of production by the domestic industry.

**H.3.4 Economic parameters of the domestic industry**

113. Annexure II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped 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. The various injury parameters relating to the domestic industry are discussed herein below.

**a) Production, capacity, capacity utilization and sales volumes**

114. Capacity, production, sales and capacity utilization of the domestic industry over the injury period were as below:

Particular	Unit	2019-20	2020-21	2021-22	POI
Installed Capacity	MT	70,000	1,20,000	1,20,000	1,20,000
Trend	Indexed	100	171	171	171
Production	MT	***	***	***	***
Trend	Indexed	100	367	381	516
Capacity Utilization	%	***	***	***	***
Trend	Indexed	100	214	222	301
Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	510	594	816
Export Sales	MT	***	***	***	***
Trend	Indexed	100	611	357	212
Captive Consumption	MT	-	***	***	***
Trend	Indexed	-	100	646	1,315
Number of days production was shutdown	Days	***	***	***	***

115. It is seen that:

- a. Since the domestic industry commenced production during the injury period, the production, capacity utilization and sales of the domestic industry have improved over the period.
- b. While domestic sales of the domestic industry increased, it is seen that the same were materially below production. The domestic industry has contended that as a result, the domestic industry has been forced to export a significant share of its production at losses.

Particulars	Unit	POI
Cost of Sales (exports)	₹/MT	***
Selling Price (exports)	₹/MT	***
Profit/(Loss)	₹/MT	(***)

- c. Further, it is seen that if only the capacity utilized for domestic sales is considered, the domestic industry utilized only \*\*\*% of its capacities towards domestic sales. Therefore, the domestic industry has been able to improve its capacity utilization, only by effecting export sales and as a result of captive consumption.
- d. This is in contrast with the capacity utilization of \*\*\*%, which the domestic industry could have achieved, had it supplied the demand in the country, plus the present export sales.
- e. The Authority also notes that the domestic industry has had to shut down its operations for \*\*\* days during the injury period, and for \*\*\* days during the period of investigation. The domestic industry has claimed that such shutdown was on account of dumping of the product, and continued losses. Table above shows the

period of shutdown over the injury period. It is seen that the domestic industry has suffered production shutdown over the entirety of the period. The domestic industry contended that while shutdown in the beginning of the period may be attributed to new production facilities, it is seen that the same continued till investigation period despite elapse of significant period.

116. It is clarified that the capacity utilization has been determined after considering both merchant and captive production of the domestic industry. Thus, both capacity and capacity utilization are for total production by the domestic industry. It is also noted that the volume of off-spec production was high only in the initial period of commencement of production and was quite low during the period of investigation.
117. With regard to the submission that the petitioner has operated at full capacity in the post POI, the Authority notes that it has examined material injury to the domestic industry and the domestic industry produced and sold over the entire injury period. There is no reason why the Authority should consider post POI in the present investigation.
118. Some interested parties have submitted that the injury to the domestic industry is due to COVID-19. The Authority notes that the period of investigation in the present investigation is 2022-23, and there is no evidence of adverse effect of Covid-19 during this period.

**b) Market share**

119. Market share of the domestic industry and of imports was as shown in table below:

Market share	Unit	2019-20	2020-21	2021-22	POI
Domestic industry	%-Indexed	100	391	473	636
Subject imports	%-Indexed	100	65	55	35
Other imports	%-Indexed	100	33	33	33

120. It is noted that since the domestic industry has commenced production during the injury period, its market share has shown an increase, while that of the imports declined. However, the imports continue to account for almost \*\*\* of the market, despite there being sufficient capacity with the domestic industry to cater to the domestic demand. Further, the Authority notes that had the domestic industry been able to utilize a greater share of its capacity, it could have catered to the entirety of the demand, even after accounting for captive consumption and export sales. By contrast, the domestic industry achieved a market share of only \*\*\*%. The domestic industry has contended that it has been able to increase its market share only at the cost of financial losses suffered. The domestic industry has contended that its cumulative financial losses since commencement of business were Rs. \*\*\* crores by the end of the POI.

**c) Inventories**

121. Inventory position of the domestic industry over the injury period is given in the table below:

Particular	Unit	2019-20	2020-21	2021-22	POI
Opening Inventory	MT	***	***	***	***
Closing Inventory	MT	***	***	***	***
Average Inventory	MT	***	***	***	***
Trend	Indexed	100	184	124	82

122. It is noted that the average inventories of the domestic industry have reduced over the period. It is seen that the same is because the domestic sales of the domestic industry increased. However, the domestic industry has stated that it has been forced to suspend production for \*\*\* days during the present injury period and \*\*\* days during the period of investigation, because of market situation created by dumping.

**d) Profitability, cash profits and return on capital employed**

123. Profitability, return on investment and cash profits of the domestic industry over the injury period is given in the table below:

Particulars	Units	2019-20	2020-21	2021-22	POI
Profit/ (loss)	₹ Lacs	***	***	***	***
Trend	Indexed	-100	-114	-236	-349
Cash Profit	₹ Lacs	***	***	***	***
Trend	Indexed	-100	-114	-236	-263
Return of investment	%	***	***	***	***
Trend	Indexed	-100	-25	-92	-125

124. It is seen that–

- a. The domestic industry has incurred significant losses throughout the injury period. While the losses during the base year may be attributable to low-capacity utilization, new production facilities, and low volume of sales, the losses have increased during the period of investigation, despite higher capacity utilization.
- b. The domestic industry increased its production by 416%, domestic sales by 716%. Despite these, its losses increased by 249%, while cash losses increased by 163% and return on capital employed deteriorated further by 25% over the injury period. Thus, the domestic industry improved its volumes significantly, but lost significantly further in respect of price parameters.
- c. The domestic industry has faced significant cash losses and negative EBIDTA throughout the injury period. Further, cash losses, and loss before interest increased

- significantly over the injury period, despite significant increase in production and domestic sales.
- d. In absolute terms, the losses and cash losses are the highest during the period of investigation.
  - e. The domestic industry has not been able to break even despite having been in operation for 43 months.
  - f. The return on capital employed has remained negative throughout the injury period, and deteriorated over the injury period.
125. However, while the domestic industry had provided information with regards to its overall selling price, the Authority noted that \*\*\*% of the sales during 2019-20 were sales of off-specification product, while that during the subsequent periods were lower. The domestic industry contended that the Authority should examine the prices of the domestic industry having regard to the selling price for prime grade only. The domestic industry additionally submitted that consideration of prices of prime product is appropriate in the present case, since the Authority is required to exclude injurious effects of other factors. Since in the base year, the selling price would be suppressed due to sale of off-specification product, leading to higher losses, the effect of the same must be segregated.
126. The domestic industry has incurred cumulative losses of ₹ \*\*\* crores over the injury period. This implies that the domestic industry has already lost an amount equivalent to almost \*\*\*% of the capital employed, since it began production, in the form of losses. The domestic industry contended, by contrast, it would have earned Rs. \*\*\* crores as per its project report, over the period of its operations for this period.
127. The domestic industry contended that in order to earn a return of \*\*\*% on the capital employed, the domestic industry would have to earn a PBIT of ₹ \*\*\* per MT. By contrast, it has incurred a loss of ₹ \*\*\* per MT. This implies a loss of revenue at Rs. \*\*\* per MT on a sale volume of \*\*\* per MT.
128. The Authority notes that the domestic industry has suffered financial losses throughout the injury period, even considering selling price of prime product. The losses suffered on the domestic sales continue to show an increasing trend.
129. With regard to the submission that the interest cost is not reported in the P&L statement of the petitioner, the Authority notes that the same has been reported in the Financial Statements of 2022-23. Since the commercial production was not declared in previous year, the interest cost was capitalized for the purpose of the books of accounts. However, the petitioner has reported the same as per the formats issued by the Authority for the purpose of the present investigation.
130. With regard to the submission that the losses to the domestic industry are due to startup costs and depreciation, the Authority notes any start-up costs are capitalized under the

GAAP of India. Further, the domestic industry has been in operation since 43 months. 2019-20 was the first year of operation and therefore the start-up costs are limited to 2019-20. There is no evidence of start-up costs impacting in the present POI. However, the loss per unit of the domestic industry has increased during the period of investigation as compared to 2020-21 and 2021-22.

131. The domestic industry contended that analysis of the project report would show that the domestic industry had projected profits in the very first full year of its operations, and significant profits by third year of operations. Thus, the losses in the POI cannot be attributed to start-up costs.

Particulars	UOM	IIR		
		POI-Actual	Projected Year-3	Projected Year 4
Installed Capacity*	MT	120,000	120,000	120,000
Total Production Qty	MT	***	***	***
Capacity Utilization	%	***	***	***
<b>Sales Quantity</b>	MT	***	***	***
Domestic Sales	MT	***	***	***
Export Sales	MT	***	***	***
Captive transfer	MT	***	***	***
Cost of Sales (ex-factory)	₹/MT	***	***	***
Net Sales Realisation	₹/MT	***	***	***
PBT (Profit before Tax)	₹/MT	(***)	***	***
PBT (Profit before Tax)	₹ Lacs	(***)	***	***
Depreciation	₹/MT	***	***	***
Cash Profit (PBT+ Depreciation)	₹/MT	(***)	***	***
Interest Cost	₹/MT	***	***	***
PBIT	₹ Lacs	(***)	***	***
PBDIT (Profit before Depreciation, Interest & Tax)	₹/MT	(***)	***	***
PBDIT (Profit before Depreciation, Interest & Tax)	₹ Lacs	(***)	***	***
<b>Average capital employed</b>	₹ Lacs	***	***	***
Net Fixed Assets	₹ Lacs	***	***	***
Working Capital	₹ Lacs	***	***	***
PBIT as % of Average Capital Employed (ROI)	₹ Lacs	(***)	***	***

132. Some interested parties have contended that the petitioner has earned profits in 2019-20. The Authority notes the domestic industry has suffered financial losses in 2019-20.
133. With regard to the contention that the applicant has not manufactured subject goods during 2019-20 and 2020-21; and, hence, losses cannot be attributed to manufacturing operations, the Authority notes that the domestic industry produced and sold significant volumes of the subject goods in these two years and suffered significant financial losses

in this period. Further, the losses suffered by the domestic industry have increased in 2022-23 despite increase in the sales volumes. It is seen that the as the domestic industry produced and sold more over the injury period, it suffered increasingly higher financial losses.

**e) Employment, productivity and wages**

134. The Authority has examined the information relating to employment, wages and productivity, as given below.

Particular	Unit	2019-20	2020-21	2021-22	POI
No of employees	Nos.	***	***	***	***
Trend	Indexed	100	94	77	87
Salaries & Wages	₹ Lacs	***	***	***	***
Trend	Indexed	100	341	272	250
Productivity per day	MT/Days	***	***	***	***
Trend	Indexed	100	214	222	301
Productivity per employee	MT/Nos	***	***	***	***
Trend	Indexed	100	228	287	346

135. It is noted that the number of employees declined till 2021-22, and thereafter increased. By contrast, salary increased in 2020-21, then declined. The productivity of the domestic industry has also improved. The domestic industry has not claimed injury on this account.

**f) Growth**

Particulars	Unit	2020-21	2021-22	POI
Production	%	267%	4%	35%
Domestic Sales	%	410%	17%	37%
Profit/(Loss)	%	-14%	-107%	-48%
Cash Profit	%	-14%	-107%	-11%
Return on Capital Employed	%	75%	-264%	-36%

136. It is seen that as the domestic industry commenced production during the injury period, its volume parameters have improved. However, the profitability parameters of the domestic industry have declined throughout the period. Despite significant increase in volume parameters, the growth in price parameters is very adverse.

**g) Impact on ability to raise capital investments**

137. The domestic industry set up capacity for the subject goods, and thus, was able to raise capital investment. However, over the period the domestic industry has incurred steep losses and is facing negative returns. The EBIDTA is negative and has deteriorated over the injury period. Therefore, the domestic industry has not earned enough to service its

present debt obligations. In view of the same, the Authority finds that the imports have adversely impacted the ability of the domestic industry to raise capital investments.

**h) Factors affecting prices**

138. It is noted that since the price of the subject imports is lower than the cost of sales of the subject goods, the same also creates a strain on the prices of the domestic industry. Further, the imports are below the NIP of the domestic industry. This has forced the domestic industry to sell at prices below their cost, resulting in underutilized capacity and financial losses. The domestic industry is unable to fetch its target prices in India. The imports have prevented price increases, which otherwise would have occurred, and the domestic industry has incurred steep losses.
139. Consideration of the import prices from the subject countries, change in the cost structure, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that the landed value of significant proportion of imported subject goods from the subject countries below the selling price of the domestic industry, caused significant price suppression in the Indian market. There is no viable substitute to this product. Demand for the subject goods has shown increase and this could not have been a factor affecting domestic prices. Given significant demand of the subject goods in the country and significant volume of the product that the domestic industry must sell, the only option with the domestic industry is to sell at loss making prices. The consumers have been negotiating the prices with the domestic industry on the basis of imported product prices. Thus, the principal factor responsible for the domestic industry prices is the landed prices of the subject goods.

**i) The magnitude of dumping**

140. There is significant dumping of subject goods from the subject countries which has destroyed the conditions of fair competition in the market.

**H.3.5 Overall assessment of injury**

141. The examination of the imports of the subject product and performance of domestic industry clearly shows that:
- i. The domestic industry commenced production from September, 2019. The capacities with the domestic industry are more than demand for the product in the country. The volume of imports declined with commencement of production by the domestic industry and increasing supplies by the domestic industry. Consequently, the volume parameters of the domestic industry have increased.
  - ii. The weighted average capacity utilization of the domestic industry was only \*\*\*% in the POI, thus resulting in significant under utilization of production capacities.
  - iii. The domestic industry has exported a significant share of its inventories at losses, to dispose of production, in view of significant presence of dumped imports in the market.
  - iv. The imports have suppressed the prices of the domestic industry.

- v. The profits of the domestic industry deteriorated over the period, with consistent and even increasing losses, cash losses, and negative return on capital employed. The domestic industry has suffered financial losses throughout the injury period.
- vi. The domestic industry is facing negative EBIDTA throughout the injury period.
- vii. Despite 43 months of production, the domestic industry has not been able to break even.
- viii. While the volume parameters of the domestic industry showed positive growth, the price and profits parameters deteriorated significantly.
- ix. The imports have adversely impacted the ability of the domestic industry to raise further capital investments.
- x. The dumping margin is positive and significant.
- xi. The imports are affecting the prices of the domestic industry.

142. In view of the foregoing, the Authority provisionally concludes that the domestic industry has suffered material injury.

### **H3.6 Non-attribution analysis and casual link**

143. Having examined the existence of injury, volume and price effects of dumped imports on the prices of the domestic industry, the Authority has examined whether injury to the domestic industry can be attributed to any factor, other than the dumped imports, as listed under the Rules.

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

144. It is noted that there are negligible imports from any other country. The imports from the subject countries constitute 97% of the imports in India. Therefore, the injury is not attributable to imports from third countries.

#### **b) Contraction in demand**

145. The demand for the product under consideration has steadily increased and was the highest during in the period of investigation. The demand for the subject goods is expected to continue to grow. The domestic industry has not suffered injury due to possible contraction in demand.

#### **c) Pattern of consumption**

146. It is noted that there has been no material change in the pattern of consumption of the product under consideration, which could have caused injury to the domestic industry.

#### **d) Conditions of competition and trade restrictive practices**

147. The Authority notes that there is no evidence of conditions of competition or trade restrictive practices that are responsible for the claimed injury to the domestic industry.

#### **e) Developments in technology**

148. There has been no change in technology for production of the subject goods. The domestic industry has set up a new plant for the production of the subject goods.

**f) Productivity**

149. The Authority notes that the productivity of the domestic industry has increased over the injury period. Therefore, the domestic industry has not suffered injury on this account.

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

150. The injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. Thus, the injury suffered cannot be attributed to the export performance of the domestic industry.

**h) Performance of other products**

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

**H3.7 Conclusions on causal link**

152. While other known factors listed under the Rules have not caused injury to the domestic industry, the Authority notes that the following parameters show that injury to the domestic industry is caused by the dumped imports.

- i. There is dumping of the subject goods from the subject countries.
- ii. Since the domestic industry commenced production during the injury period, the capacity production, sales and capacity utilization increased. The dumping has however prevented optimum utilization of production capacities.
- iii. Even when the volume of imports has declined, as a consequence of new production, the volume is quite significant and prevented the domestic industry from selling up to the extent of its production and installed capacities.
- iv. The market share of imports has remained significant, despite the domestic industry having the capacity to meet Indian demand, even after supplying to export markets, and providing for its captive consumption.
- v. The capacity utilized for domestic sales is only \*\*\*% during the period of investigation. The domestic industry has been able to utilize a higher share of its capacities only on account of captive consumption and export sales.
- vi. The domestic industry was forced to export at losses, in order to dispose of its inventories.
- vii. The imports have prevented price increases, which otherwise would have occurred.
- viii. The domestic industry has incurred heavy losses throughout the injury period, and its losses have increased during the period of investigation.
- ix. The cash flows and return on capital employed of the domestic industry have deteriorated over the period, and are negative.
- x. While the volume parameters of the domestic industry showed positive growth, the profitability parameters deteriorated.
- xi. The imports have adversely impacted the ability of the domestic industry to raise further capital investments.

153. The Authority, thus, provisionally concludes that there exists causal link between the dumping of the subject goods and injury to the domestic industry.

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

### **I.1. Submissions by other interested parties**

154. The other interested parties have made the submissions with regard to the Indian industry's interest:

- i. The domestic industry, that is the sole producer of the subject goods in India has set its targeted prices on a very high level.
- ii. Any imposition of anti-dumping duty will increase the cost for the users and their customers.
- iii. In case of imposition of duties, either the user will absorb the duty paid on imports or they will pass it to its end customer by increasing the selling price. In the first situation the imposition of duties will lead to severe decline in profitability and eventually results in loss to the user industry and in second situation the duty will lead to a significant increase in the sales value/selling price of the finished goods manufactured using the product under consideration.
- iv. Any increase in the cost of the product under consideration will cause a ripple effect on the downstream users which may make the users uncompetitive or even push them into operational losses.
- v. Imposition of duty could open doors for monopolistic behavior by the domestic industry.
- vi. Imposition of duty would limit supplies from the subject countries and cause a severe demand-supply gap that the domestic industry may not be able to adequately fill.
- vii. The domestic industry has not provided any evidence of its ability to cover the domestic demand.
- viii. Proceeding with the investigation and imposition of the measures will be against the public interest of the end users.

### **I.2 Submissions by the domestic industry**

155. The domestic industry has made the following submissions with regard to the Indian industry's interest:

- i. There is no demand supply gap in the country for the subject goods.
- ii. The domestic industry has the capacity to cater to the entire Indian demand and in case of increased demand, it has the infrastructure to increase its capacity.
- iii. Production facilities for the product under consideration is highly capital intensive. The domestic industry has invested nearly ₹ \*\*\*crores to make India self-sufficient, of which IIR accounts for approximately ₹ \*\*\*crores.
- iv. If the current situation continues, the domestic industry will have no option but to permanently shut down its operations and India will once again become entirely import dependent.

- v. The domestic industry is the sole producer of the subject goods in the country.
- vi. There was no domestic production of the product under consideration in the country, even though it is a very critical input for tyres industry.
- vii. The impact of the proposed measures on the eventual end products shall be quite minimal.
- viii. The product thus forms hardly 1.3 - 1.6% share in the price of the downstream product.
- ix. The price of tyres in the retail market do not vary according to prices of IIR.
- x. Natural and synthetic rubber constitutes majority of the cost of raw materials for tyre industry and prices of the other the raw materials do not have any material impact on tyre industry operations.
- xi. Technology for production of the product under consideration is highly regulated and limited and it has taken significant efforts to obtain this technology for production in the country.

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

156. The Authority notes that the primary objective of anti-dumping duties is to remedy the injury inflicted upon the domestic industry by the unjust trade practices of dumping, thereby fostering an environment of open and equitable competition in the Indian market. This is not merely a regulatory measure, but a matter of national interest. The imposition of anti-dumping measures is not designed to curtail imports from the subject countries arbitrarily. Rather, it is a mechanism to ensure a level playing field. The Authority acknowledges that the persistence of anti-dumping duties may influence the price levels of the product in India. However, it is crucial to note that the essence of fair competition in the Indian market will remain unscathed by the imposition of these measures. Far from diminishing competition, the imposition of anti-dumping measures serves to prevent the accrual of unfair advantages through dumping practices. It safeguards the consumers' access to a broad selection of the subject goods. Thus, anti-dumping duties are not a hindrance but a facilitator of fair-trade practices.
157. The Authority issued the initiation notification, inviting views from all interested parties including importers, users and consumers. An Economic Interest Questionnaire was also prescribed to allow various stakeholders, including the domestic industry, producers/exporters and importers/users/consumers to provide relevant information concerning the present investigation, including the possible effect of anti-dumping duty on their operations.
158. The Authority notes that the response to the Economic Interest Questionnaire was furnished by the domestic industry and only two importers / consumers of the subject goods namely Exel Rubber Pvt. Limited and Classic Industries and Exports Limited. No other consumer of the subject goods has cooperated with the Authority nor furnished a response to the Economic Interest Questionnaire.

159. The Authority notes that the subject goods are a necessary raw material for manufacturing tyres. However, the tyre industry has not provided any evidence to show impact of proposed ADD on their operations. The absence of cooperation and participation by the tyre industry with regard to impact of duties, despite Automotive Tyre Manufacturers' Association making submissions in the present investigation underscores the Authority's position and reinforces the necessity of anti-dumping measures to ensure fair trade practices.
160. The Authority notes that prior to the establishment of the plant by the domestic industry, India was completely import dependent. The domestic industry has heavily invested in the plant to manufacture the subject goods and make India self-reliant. The domestic industry has emphasized that if the dumping from the subject countries continues, the domestic industry will have no option but to permanently shut down its operations.
161. The Authority also notes that the subject goods are an integral part of tyre. In such a scenario it is important that the country has domestic availability of the subject goods. Further, as highlighted by the domestic industry, the main cost component in a tyre is natural rubber and materials such as IIR, although integral, constitute a small component in the tyre. Thus, they are not a major cost to the tyre industry. Further, if the impact is determined on the further downstream product, the impact would be miniscule indeed.
162. The Authority further notes that the imposition of anti-dumping duty will not lead to scarcity of the subject goods in India. It is noted that anti-dumping duty does not restrict imports but ensures that imports are available at fair prices. The imposition of duty would, therefore, not affect the availability of the product. In any case, the capacity of the domestic industry is more than the demand in India, thereby ensuring that there remains sufficient supply in the country.
163. Although the other interested parties have argued that the domestic industry has not given sufficient evidence to show that they can cater to the Indian demand, it is seen that the domestic industry has sufficient capacity to meet the Indian demand.
164. Further, the Authority notes that although the subject imports constitute 97% of the imports into the country, the technology to manufacture the product is available in a number of countries globally. Thus, the goods can be imported from other sources such as Austria, Belgium and Japan as well. In this regard, the Authority notes that the product under consideration has been imported in past from other sources as well.
165. The Authority also notes that significant investment has been made by the domestic industry, of ₹ \*\*\*crores. Further, it has sourced the technology from international producers, in order to set up a plant. However, within a period of 43 months, the domestic industry has incurred losses of ₹ \*\*\*crores. Therefore, the domestic industry is having high losses, which poses threat to the viability of the investments made.

**J. MAGNITUDE OF INJURY MARGIN**

166. The Authority has determined Non-Injurious Price for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the information/data relating to the cost of production for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject countries for calculating injury margin. For determining the non-injurious price, the best utilization of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilization of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.
167. With regards to submissions of the other interested parties regarding determination of non-injurious price, the Authority notes that the non-injurious price has been determined as per Annexure III of the Rules and the established practice of the Authority.
168. The landed price for the cooperative exporters has been determined on the basis of the data furnished by the exporters. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.
169. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below.

**Injury Margin**

<b>Producer</b>	<b>NIP (USD/MT)</b>	<b>Landed Price (USD/MT)</b>	<b>Injury Margin (USD/MT)</b>	<b>Injury Margin (%)</b>	<b>Injury Margin (Range)</b>
Saudi Arabia					
Al-Jubail Petrochemical Company (“KEMYA”)	***	***	***	***	15-25%
Any Other	***	***	***	***	20-30%
Singapore					
ExxonMobil Asia Pacific Pte Ltd/ ExxonMobil Chemical Asia Pacific	***	***	***	***	40-50%
Any Other	***	***	***	***	45-55%

United States of America					
ExxonMobil Product Solutions Company	***	***	***	***	25-35%
Any Other	***	***	***	***	30-40%
Russia					
Public Joint Stock Company Nizhnekamskneftekhim	***	***	***	***	50-60%
Any Other	***	***	***	***	60-70%
China					
Any	***	***	***	***	25-35%

## **K. CONCLUSION & RECOMMENDATIONS**

170. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority provisionally concludes that:
- i. The application for initiation of the anti-dumping investigation against imports of Isobutylene-Isoprene Rubber (IIR) originating in or exported from China PR, Russia, Saudi Arabia, Singapore and the United States of America was filed by Reliance Sibur Elastomers Private Limited. The applicant is the sole producer of the subject goods and constitute domestic industry for the purpose of the present investigation.
  - ii. The product under consideration is Isobutylene-Isoprene Rubber (IIR) which is a which is a synthetic rubber, commonly used to manufacture inner tubes for tires and other high-pressure tubes. Food-grade IIR used in the production of chewing gum is excluded from the scope of the product under consideration.
  - iii. The Authority has adopted a PCN methodology and notified the same.
  - iv. Since no producer from China PR has filed request for market economy treatment, China PR has been considered as a non-market economy and the normal value has been determined based on the price payable in India which is based on cost of production of the domestic industry.
  - v. The normal value and export price for cooperative producers and exporters have been determined based on the information provided by them, subject to verification of such information.
  - vi. Considering the normal value and export price determined, the dumping margin for the subject goods from the subject countries is significant and above *de minimis*.
  - vii. The demand for the subject goods declined in 2021-22 and increased again and was the highest during the period of investigation.
  - viii. The imports have declined in response to the supplies by the domestic industry with the commencement of production in new production facilities.
  - ix. The imports from the subject countries constitute 97% of the imports into the country.

- x. The price undercutting is negative in the present investigation. However, the domestic industry has suffered price suppression in the market, as the domestic industry has not been able to increase its prices in proportion to the increase in cost of production.
- xi. As regards the effect of such dumped on the economic parameters of the domestic industry, the following conclusions are reached:
  - a. The domestic industry was forced to shut down its operations due to the dumping, for \*\*\* days during the injury period.
  - b. The domestic industry has suffered from underutilized capacities throughout the injury period.
  - c. Since the domestic industry has commenced production during the injury period, its market share has increased over the injury period. However, the same is not in line with the capacities of the domestic industry, after excluding the captive consumption and export sales.
  - d. The average inventories of the domestic industry have decreased over the injury period.
  - e. The domestic industry was forced to export subject goods in order to avoid inventory accumulation.
  - f. The domestic industry has suffered from losses, cash losses and negative return.
  - g. The EBIDTA of the domestic industry is negative.
  - h. The volume parameters of the domestic industry have improved but the profitability parameters have declined.
  - i. The imports have adversely impacted the ability of the domestic industry to raise further investments.
- xii. The domestic industry has suffered injury as a result of the dumped goods from the subject countries.
- xiii. The injury margin is significant.
- xiv. No other factor appears to have caused injury to the domestic industry. It is noted that domestic industry has suffered material injury as a result of the dumped imports.
- xv. The anti-dumping duty is in the interest of the public. This is evident from the following:
  - a. The domestic industry has made significant investment in the plant to manufacture the subject goods and make India self-reliant.
  - b. The subject goods are not a major cost to the downstream industry.
  - c. The major application for the subject goods is in the tyre industry. However, the tyre industry has not established significant adverse impact of the duties.
  - d. The imposition of duty would, therefore, not affect the availability of the product. The domestic industry has the capacity to cater to the entire Indian demand.
  - e. The goods can be imported from other sources as well.

171. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Anti-Dumping Rules, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury, pending completion of the investigation. Therefore, Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of subject goods from the subject countries.

172. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of provisional anti-dumping duty on the imports of subject goods, originating in or exported from the subject countries, from the date of notification to be issued in this regard by the Central Government, equal to the amount mentioned in Col. 7 of the duty table appended below.

**Duty Table**

S. No.	Heading	Description	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	40023100	Isobutylene-Isoprene Rubber	China	Any country, including China	Any	319	MT	USD
2	-do-	-do-	Any country other than China, Russia, Saudi Arabia, Singapore and United States of America	China	Any	319	MT	USD
3	-do-	-do-	Russia	Russia	Public Joint Stock	519	MT	USD

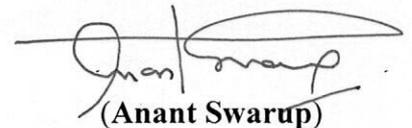
					Compan y Nizneka mskneft ekhim			
4	-do-	-do-	Russia	Any country, including Russia	Any producer other than (3)	571	MT	USD
5	-do-	-do-	Any country other than China, Russia, Saudi Arabia, Singapor e and United States of America	Russia	Any	571	MT	USD
6	-do-	-do-	Saudi Arabia	Saudi Arabia	Al- Jubail Petroche mical Compan y	588	MT	USD
7	-do-	-do-	Saudi Arabia	Any country, including Saudi Arabia	Any producer other than (6)	647	MT	USD
8	-do-	-do-	Any country other than China, Russia, Saudi Arabia, Singapor e and United	Saudi Arabia	Any	647	MT	USD

			States of America					
9	-do-	-do-	Singapore	Singapore	ExxonMobil Asia Pacific Pte Ltd	431	MT	USD
10	-do-	-do-	Singapore	Any country, including Singapore	Any producer other than (9)	474	MT	USD
11	-do-	-do-	Any country other than China, Russia, Saudi Arabia, Singapore and United States of America	Singapore	Any	474	MT	USD
12	-do-	-do-	United States of America	United States of America	ExxonMobil Product Solutions Company	663	MT	USD
13	-do-	-do-	United States of America	Any country, including United States of America	Any producer other than (12)	729	MT	USD
14	-do-	-do-	Any country other than China, Russia, Saudi Arabia, Singapore	United States of America	Any	729	MT	USD

			e and United States of America					
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**L. FURTHER PROCEDURE**

173. The procedure as mentioned below would be followed subsequent to notifying the preliminary findings:
- i. The Authority invites comments on these provisional findings from all interested parties within 30 days from the publication of these findings, and the same, to the extent considered relevant by the Authority, would be considered in the final findings.
  - ii. The Authority would conduct an oral hearing in terms of rule 6(6) to provide an opportunity to the interested parties to present their views relevant to the subject investigation.
  - iii. The date of the oral hearing will be published on the DGTR website (dgtr.gov.in).
  - iv. The Authority would conduct further verification to the extent deemed necessary.
  - v. The Authority would disclose the essential facts as per the anti-dumping rules before giving its final findings.

  
(Anant Swarup)  
Designated Authority