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**F. No. 7/09/2019-DGTR  
Government of India  
Department of Commerce  
Ministry of Commerce & Industry  
Directorate General of Trade Remedies  
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

**NOTIFICATION**

**Dated the 29<sup>th</sup> September, 2020**

**(Final Findings)  
Case No. ADD-SSR 03/2019**

**Subject: Sunset review Investigation concerning imports of “Acetone” originating in or exported from the Korea RP, Saudi Arabia and Taiwan.**

**File No. 7/9/2019-DGTR:** Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the “Rules”) thereof;

**Background of the case**

1. The original investigation on acetone was initiated by the Authority to examine the nature and extent of dumping and its impact on the performance of various economic parameters of the Domestic Industry with respect to imports of “Acetone” originating in or exported from Russia and Korea RP. The product under consideration for the purpose of investigation was “Acetone” (hereinafter also referred to as the “subject goods” or PUC). The Authority vide Notification No. 14/13/2006 dated 14<sup>th</sup> March 2008 terminated the investigation concerning the subject goods, originating in or exported from Russia. Thereafter, Final Finding Notification was issued by the Authority vide Notification No. 14/13/2006-DGAD dated 9<sup>th</sup> May 2008 recommending the imposition of definitive Anti-Dumping duty against imports from Korea RP. The definitive Anti-Dumping duty was imposed vide Notification No.75/2008-Customs dated 10<sup>th</sup> June 2008. A review investigation was carried out and the Authority recommended continued imposition of duty on imports from Korea RP. The Ministry of Finance extended definitive Anti-Dumping duty vide Notifications No. 05/2015-Customs (ADD) dated 18<sup>th</sup> February 2015 and was last amended, *vide* Customs Notification No. 07/2020- Customs (ADD) dated the 15<sup>th</sup> April 2020, the current duties are valid up to 14<sup>th</sup> October, 2020.
2. The original investigation concerning imports of the subject goods from the Taiwan and Saudi Arabia was initiated by the Authority. Final Finding Notification was issued by the Authority vide Notification No. 14/16/2012-DGAD dated 22<sup>nd</sup> January 2015 recommending imposition of definitive Anti-Dumping duty which was imposed vide

Notification No. 13/2015-Customs (ADD) dated 16<sup>th</sup> April 2015 and was last amended, *vide* Customs Notification No. 07/2020- Customs (ADD) dated the 15<sup>th</sup> April 2020, the current duties are valid up to 14<sup>th</sup> October, 2020.

3. In terms of Section 9A (5) of the Act, the anti-dumping-duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
4. Before the expiry of the said duties, SI Group India Pvt. Ltd, Hindustan Organics Chemical Limited and Deepak Phenolics Ltd, constituting the Domestic Industry (hereinafter referred to as the “Applicant” ) have filed a duly substantiated application before the Authority in accordance with the Act and the Rules, for initiation of Sunset Review investigation concerning imports of “ Acetone ” originating in or exported from Korea RP, Saudi Arabia and Taiwan, alleging likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry in case of cessation of existing anti-dumping duties.
5. The Authority on the basis of the prima facie evidence, considered the application for conducting review investigation in respect of imports from Korea RP, Saudi Arabia and Taiwan and initiated sunset review investigation through Public Notice No. 7/09/2019-DGTR dated 07.08.2019 to examine whether the expiry of the said duties on the import of the subject goods originating in or exported from Korea RP, Saudi Arabia and Taiwan (hereinafter referred to as subject country) are likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
6. The scope of the present review covers all aspects of the final findings No. 14/13/2006-DGAD dated 9th May 2008 and No. 14/16/2012-DGAD dated 22<sup>nd</sup> January 2015 concerning imports of the subject goods, originating in or exported from the subject country.

#### **A. PROCEDURE**

7. The following procedure has been followed with regard to this investigation:
  - i. The Authority issued a notification dated 07.08.2019, published in the Gazette of India, Extraordinary, initiating the subject sunset review anti-dumping investigation.
  - ii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject country, through its Embassies and known importers/users in India in accordance with Rule 6(3) of the Rules *supra*. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
  - iii. The Authority also forwarded copy of the notice to known producers/exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the Applicant and requested them to make their views known in writing within 40 days of the initiation notification. The Authority sent Exporter’s Questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:

- a) Kumho P&B Chemical Inc
  - b) LG Chem, Ltd
  - c) Cowin Global Co. Ltd
  - d) HUMADE Corporation
  - e) Jisan Chemical Co., Ltd
  - f) OCI Corporation
  - g) Saudi Kayan Petrochemical Company
  - h) Rabigh Refining and Petrochemical Company
  - i) Chang Chun Plastics Co., Ltd.
  - j) Taiwan Prosperity Chemical Corporation
  - k) Formosa Chemicals and Fibre Corporation
- iv. The Embassies of the subject countries in India were also requested to advise the exporters/producers from the respective country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the concerned Embassy along with the names and addresses of the known producers/ exporters from the subject country.
- v. Further on the request of interested parties, the Authority extended the time period for submission of Questionnaire responses by the interested parties up to 14.10.2019.
- vi. In response to the initiation of the subject investigation, following producers/exporters from the subject country have responded by filing questionnaire response:
- a) Hareesh Petrochem Singapore Pte. Ltd.
  - b) Formosa Chemicals & Fibre Corporation(FCFC)
  - c) Taiwan Prosperity Chemical Corporation(TPCC)
  - d) LG Chem Ltd.
  - e) Sumitomo Chemicals Asia Pte Ltd.
  - f) Vinmar International Limited.
  - g) Kumho P&B Chemicals
  - h) Humade Corporation
  - i) UNID Global Corporation
  - j) Samsung C&T Corporation
  - k) IMS Corporation
  - l) Canko Marketing Inc.
  - m) Saudi Basic Industries Corporation(SABIC)
  - n) Saudi Kayan Petrochemical Company(Saudi Kayan)
  - o) Saudi Asia Pacific Ltd.
  - p) Rabigh Refining and Petrochemical Company (Petro Rabigh)
- vii. The Authority sent Importer's Questionnaire to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
- a) M/s. C.J. Shah and Company
  - b) M/s. PCL Oil & Industries
  - c) M/s Kantilal Manilal & Co. Pvt. Ltd
  - d) M/s Sonkamal Enterprises
  - e) M/s. Khetan Brothers
  - f) M/s. Shubham Dyes & Chemicals Limited
  - g) M/s Acron Enterprises

- h) M/s. Naiknavare Chemicals Limited
- i) M/s. Paras Dyes & Chemicals
- j) M/s. Torrent Pharmaceuticals Limited,
- k) M/s. United Phosphorus Ltd.
- l) M/s. Resins & Plastic Ltd.
- m) M/s. Kailash Polymers
- n) M/s Centrum Metalics Pvt. Ltd.
- o) M/s. Wonder Laminates Pvt. Ltd.
- p) M/s. Meghdev Enterprises
- q) M/s. Satguru International
- r) M/s. High Polymer Labs Ltd.
- s) M/s. Rainbow Colours & Chemicals
- t) M/s Haresh Kumar & Co.
- u) M/s Bleach Marketing Pvt. Ltd.
- v) M/s Karmen International (P) Ltd.
- w) M/s Krishna Antioxidants Pvt. Ltd.
- x) M/s NGP Industries Ltd.
- y) M/s Farmson Pharmaceutical Gujarat Ltd.
- z) M/s India Glycols Ltd.
- aa) M/s Singh Plasticisers and Resins (I) Pvt.
- bb) M/s National Plywood Industries Ltd.
- cc) M/s Kundan Rice Mills Ltd.

- viii. None of the importers or users have filed a response to the questionnaire.
- ix. The Authority sent Importer's Questionnaire to the following known Associations of subject goods in India for circulation & calling necessary information in accordance with Rule 6(4) of the Rules:
  - a) ASSOCHAM
  - b) FIEO
  - c) CII
  - d) FICCI
- x. The Authority made available non-confidential version of the evidence presented by the various interested parties in the form of a public file kept open for inspection by the interested parties;
- xi. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the injury period and period prior to it, and also the period of investigation, and Post POI. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions. The Authority also obtained data from DG-Systems for POI to correlate quantum of exports from specified exporters to validate the responses filed, to the extent feasible.
- xii. Further, keeping in view the submissions made regarding quantum and price of subject goods in Post POI especially the pandemic period, the Authority has further obtained the DGCIS import data.
- xiii. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP)

and Annexure III to the Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

- xiv. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 29.10.2019. Subsequently, fresh oral hearings were held on 06.12.2019 and 03.07.2020 in view of the change of the Designated Authority, which was attended by interested parties. All the parties who presented their views in the oral hearing were requested to file written submissions of their views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and were provided an opportunity to submit their rejoinders thereafter.
- xv. On the spot verification of the information provided by the Applicant was conducted to the extent considered relevant by the Authority.
- xvi. The Period of Investigation (POI) for the purpose of the present review investigation is 01.04.2018 to 31.03.2019 (12 months). The examination of trends in the context of injury and the likelihood analysis covered the periods April 2015- March 2016, April 2016-March 2017, April 2017-March 2018, the POI and also Post POI (6 months). The import price trends of subject goods even beyond the above Post POI period have been examined keeping in view the submission made by the interested parties on the circumstances emerging due to Covid Pandemic.
- xvii. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this disclosure statement.
- xviii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
- xix. 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.
- xx. A Disclosure Statement was issued on 24.7.2020 containing essential facts under consideration of the Designated Authority, giving time up to 28.7.2020 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- xxi. ‘\*\*\*’ in this document represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxii. The exchange rate for the POI (1/4/2018 to 31/3/2019) has been taken by the Authority as Rs.70.82 = 1 US\$. & for Post-POI (1/4/2019 to 30/9/2019) is referenced as Rs. 69.15 per USD.

**B. Scope of product under consideration and like article**

### **B.1 Views of the Domestic Industry**

8. Following submissions were made by the domestic industry with regard to the product under consideration –
  - i. The product under consideration for the purpose of the present investigation is the same as in the earlier investigations.
  - ii. The PUC is an organic chemical also known as Dimethyl Ketone and used for manufacturing bulk pharmaceuticals, agro chemicals, dye stuffs, certain explosives and downstream chemicals.
  - iii. Since the present investigation is a sunset review investigation, the product under consideration remains the same as defined in the previously conducted investigation, no significant developments have taken place over the period. Therefore, the domestic industry refers to and relies upon the previous investigation with regard to product under consideration.

### **B.2 Views of the other interested parties**

9. No submission has been made by any other producers/exporters with regard to the scope of the product under consideration and like article.

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

10. The product under consideration in the present investigation is “Acetone” (hereinafter also referred to as the “subject goods”). The subject product is an organic chemical also known as Dimethyl Ketone and used in the manufacture of bulk pharmaceuticals, agro chemicals, dye stuffs, certain explosives and downstream chemicals.
11. The subject goods are classified under the category “Organic Chemicals” in Chapter 29 of the Customs Tariff Act, 1975 and further under 29141100 as per Indian Trade Classification. The classification, however, is only indicative and in no way binding on the scope of the present investigation. The Authority notes that while different ITCHS may be quoted by producers/exporters, the product description assumes primacy over the ITCHS as the same is indicative.
12. The present investigation being a sunset review investigation and anti-dumping duties being in force on the imports of the subject goods from the subject country, the Authority considers that the scope of the PUC in the present investigation remains the same as that in the original and subsequent review investigation. Moreover, none of the interested parties have made any quantified submission requesting modification (including curtailment) in the scope of the review.
13. The Applicant has claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods and the product under consideration manufactured by the Applicant. The two are technically and commercially substitutable and hence should be treated as ‘like article’ under the Rules
14. With regard to “like article”, Rule 2(d) of the Rules provides as under:

*"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;*

15. After considering the information on record, the Authority is of the view that the subject goods produced by the domestic industry are comparable to the product under consideration in terms of chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. Thus, the Authority is of the view that subject goods produced by the Applicant/ domestic industry are like article to the product under consideration which is imported from subject country in accordance with the Rules. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
16. It is a basic organic chemical produced in single grade. It is a colourless liquid with an agreeable ether-like odour. It is used in numerous organic synthesis either as solvent or as an intermediate. It is used in manufacture of bulk pharmaceuticals, agro-chemicals, dyestuffs, certain explosives and downstream chemicals. Acetone is specifically used in manufacture of Isophorone, Diacetone, Alcohol, Methyl Methacrylate and Bishphenol A. Besides this, it is used in the manufacture of certain rubber chemicals or Oxy Acethylene Cellulose Acetate.
17. The Authority, therefore, confirms that the scope of the product under consideration in the present review remains the same as that of the original investigations.

## **C. Scope of domestic industry & standing**

### **C1. Views of the Domestic Industry**

18. The following submissions have been made by the domestic industry in this regard:
  - i. The current application for the sunset review has been filed by M/s SI Group India Pvt. Ltd (SIG), M/s Hindustan Organic Chemicals Limited (HOCL) and M/s Deepak Phenolics Ltd (DPL) which account for 100% of the Indian production.
  - ii. As per the information on record, the Applicant has imported the subject goods from the subject country although they are not related to any other producer/exporter of subject goods in the subject country or any importer in India. Further, the Applicant accounts for a major proportion in Indian production of the subject goods.
  - iii. There is no legal bar in the law that the company who has commenced its production for only 6 months cannot file an application for continuation of antidumping duty despite the fact it is suffering injury.
  - iv. The volume of imports made by SIG were very low in quantity and was under advance licence.
  - v. In the last 22 findings of the Designated Authority in the matter of Acetone and Phenol, the Authority has considered SI Group as eligible domestic industry when they have imported the product under consideration under advance licence.
  - vi. M/s Deepak Phenolics Ltd has imported insignificant quantity of product under consideration from subject countries before it started manufacturing the product concerned.

- vii. The imports by M/s Deepak Phenolics were made for seed marketing purposes. Once the company started manufacturing the product, the company has stopped its imports.

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

19. The opposing interested parties have made the following submissions:

- i. Two of the major producers (i.e. Deepak Phenolics and SI Group) have imported substantial quantities of product under consideration and unless the DGTR exercises its discretion to include these producers as part of the domestic industry they should not be included.
- ii. The imports made by petitioners accounts for about 5-15% of the total imports during the POI, and have been termed as “insignificant”. Saudi Arabia’s share in imports is lesser than 3%, and should not be considered significant.
- iii. SI Group has been importing the subject goods under advance licence without providing any tenable reasons for these imports.
- iv. Reasoning for imports by M/s Deepak Phenolics is absurd, since Acetone is an established product and does not require seed marketing. M/s Deepak Phenolics acts like any other trader in the market.
- v. M/s SI Group has a related party in Korea as per the financials, which has not been disclosed by the Petitioner.
- vi. HOCL is a sick unit and is under a restructuring process. It cannot be considered a viable domestic producer for the purposes of this investigation.
- vii. There is no viable domestic producers in India to constitute a domestic industry within the meaning of Rule 2(d) of the AD Rules. On such grounds, the current investigation should be terminated.
- viii. According to para no. 4.9.20 of the DGTR Manual interpreting Rule 2(b), domestic producers which import the subject goods are ‘ineligible’ to be considered as domestic industry unless the Hon’ble Designated Authority considers it fit in the overall interest of the investigation to ask for further information.
- ix. If the Authority exercises its discretion to continue the investigation, the imports made by the Domestic Industry must be excluded from the total subject imports for the purposes of analysis in this investigation. It is submitted that both Deepak Phenolics and SI Group must not be considered as eligible domestic industry and therefore, the review investigation should be terminated immediately.

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

20. The application for sunset review was unitedly filed by M/s SI Group India Pvt. Ltd, M/s Hindustan Organic Chemicals Limited and M/s Deepak Phenolics Ltd. Apart from the Applicants, there is no other producer of the subject goods in India. As per the information available on record, the applicants accounts for 100 % of the total Indian production.
21. The Authority notes that the Applicants are not related (either directly or indirectly) to an exporter or producer of product under consideration produced in subject countries or an importer of product under consideration in India. Two of the applicant companies have imported the product under consideration, details of which are as follows:

| <b>Particulars</b>                            | <b>UoM</b> | <b>SI Group</b> | <b>Deepak Phenolics</b> |
|---|------------|-----------------|-------------------------|
| Total Imports from Subject countries          | MT         | 350             | 1,997                   |
| Imports in relation to Company's production   | %          | 1.70            | 11.91                   |
| Imports in relation to Indian Production      | %          | 0.41            | 3.55                    |
| Imports in relation to total Imports to India | %          | 0.30            | 6.88                    |
| Imports in relation to Demand                 | %          | 0.18            | 1.25                    |

22. On the basis of information furnished, the Authority notes that the Applicant companies have made imports of the subject goods from the subject countries during the POI, however, the same are under duty free scheme, as well as for seed marketing purposes before the new plant entirely operational. The Authority has also addressed the issue later in response to the post disclosure comments.
23. In view of the above, the Authority holds that the production by the Applicant constitutes 'a major proportion' of total Indian production of the like product and that the application satisfies the requirements of 'standing' under Rule 5 of the Rules and constitutes 'Domestic Industry' (DI) in terms of Rule 2(b) of the Rules.

#### **D. CONFIDENTIALITY**

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

24. Various submissions made by the domestic industry with regard to confidentiality claims of the exporters/importers and other interested parties are as follows:
- i. The petition is in compliance with the Trade Notice No 1/2013. The opposing interested parties have not provided any instances wherein the domestic industry has claimed excessive confidentiality except for costing formats A-L, and such costing information is by nature confidential and is not amenable to summarization.
  - ii. Interested parties have claimed excessive confidentiality in violation of the Trade Notice no. 10/2018 dated September 7, 2018.
  - iii. No meaningful summary has been provided by the interested parties in the non-confidential version of the questionnaire filed.
  - iv. Authority is requested to reject the exporter questionnaire responses on the grounds of excessive confidentiality and violation of Trade Notice.

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

25. Various submissions made by the interested parties with regard to confidentiality claims of the Domestic Industry are as follows:
- i. Producer/exporters submitted that the petitioners have claimed excessive confidentiality and filed an incomplete petition. In response to Section-VI (Costing Information) of the Application, the petitioners have not furnished any information at all. The domestic industry has replied to all the questions raised in Part VI of the petition "*The costing formats A to L are enclosed as Annexure 5.6*". However, Annexures 5.6 has been claimed as confidential
  - ii. Parameters listed in Rule 11, such as Unit price, total costs, investments, employment and stocks are not explicitly provided and analyzed in narrative of the petition, thereby lacking meaningful analysis.

- iii. Petitioners have not provided sufficient reasons as to why confidentiality was claimed and why summarization was not possible for certain information. The petitioners are required to show justification for their claim but have failed to do so. Accordingly, it is evident that the petitioners have not provided complete information as required under the Application
- iv. The Petitioners have claimed excessive confidentiality. Basic information such as individual sales, capacity, purchase, sales and accounting policy have been claimed confidential. Even the complete project report of DPL has been claimed confidential.
- v. Costing information in Section VI has not been provided in an indexed manner.
- vi. Production quantities have been provided in the Annual Reports, however, the same has been claimed confidential contrary to the mandates for disclosure of information in public domain in Trade Notice 10/2018 dated September 7, 2018.
- vii. Further, as far as confidentiality is concerned, producers/exporters have provided all the information as per the trade notices and guidelines issued by the Authority from time to time whereas on the contrary, the Domestic Industry has itself not fulfilled the criteria of confidentiality in respect of the petition filed. The non-confidential version of the petition clearly violates the requirement of non-confidentiality as per the Trade Notice No 10/2018 dated September 7th, 2018 issued by the Director General.
- viii. In the “Trade Notice Status- Sunset Review Investigations in the matter of imports of Acetone from Korea RP, Saudi Arabia and Taiwan” section of the Petition, the Petitioners have considered the Single Producer/Two Producer standard instead of the “More than Two Producers” standard from the Trade Notice.
- ix. As per the Trade Notice when there are multiple producers as petitioners, then certain data in the petition needs to be aggregated and provided in actual figures but in the present petition the same is provided in indexed form. Accordingly, it is evident that the petitioners have not provided complete information as required under the Application and they are claiming that we have made excessive confidentiality in our questionnaire filed.
- x. In the following standards, the Domestic Industry has failed to provide the required information in the prescribed manner:
  - a. Sales Quantity
  - b. Cost of Sales per Unit- Exports
  - c. PBIT per Unit- Domestic Sales
  - d. Total PBIT- Domestic Sales
  - e. Calculation of NIP

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

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

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

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

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

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

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

## **E. Miscellaneous submissions**

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

29. The following miscellaneous submissions have been made by the Domestic industry:

- i. Producers/exporters from the subject countries have filed contradictory information in the Exporter questionnaire response.
- ii. Incomplete responses have been filed by exporters and producers from subject countries.
- iii. Authority is requested to reject the exporter questionnaire responses on the grounds of incomplete and contradictory information.
- iv. Investigation is not against increased imports, but dumped imports causing injury to the Domestic Industry. BIS licence is irrelevant in such a scenario.
- v. The increased demand and high pricing due to COVID-19 situation is temporary and decision may not be taken on the basis of a temporary situation.

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

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

- i. Any imposition of ADD shall be improper and against overall interests of downstream industries.
- ii. Contrary to the claim of the Petitioners, initiation of sunset review is not mandatory even on a duly substantiated request, as upheld by *Kesoram Rayon vs. The Designated Authority*.
- iii. The application is not duly substantiated and should be dismissed on the basis of 'Lack of Injury', as no injury is established and 'Lack of Dumping', as acknowledged by Petitioners against Saudi Arabia.
- iv. Any imports made under the advance licence scheme should not be included in the assessment and determination of dumping and/or injury.
- v. Effect of expiry of duty would only be on duty paid imports such that the question of analyzing advance licence imports does not arise in the first place.
- vi. There should be no imposition since the imminent introduction of non-tariff barriers (BIS) will result in lower import volumes.
- vii. The mandatory BIS certification of Acetone imports is imminent and would stifle the ease of entry for exports of the products into India.
- viii. Costs should be allocated based on turnover ratio and not on production quantity ratio because of different output ratios and value of Acetone and Phenol.
- ix. Initiation notice is silent on the basis on dumping, injury and likelihood, and hence bad in law due to Rule 6(6).
  - x. Investigation should be terminated since the notice of initiation was bad in law.
- xi. The Application is not as per the prescribed timelines under the Trade Notice No. 02/2017 as it was filed after the expiry of 270 day deadline, without proper justification.
- xii. The combined review has been filed only to circumvent the timelines of the Authority.
- xiii. As per Rule 6 of the AD Rules which applies, *mutatis mutandis*, to a review investigation, the Exporter submits that the Hon'ble Designated Authority is not required to initiate an investigation unless it is *prima facie*, based on duly substantiated evidence, determines that a review investigation is required to be initiated which the Petitioners have failed to do so.
- xiv. After Post-POI during 2020 a lot of developments with respect to rise in demand have taken place due to the COVID-19 pandemic for manufacturing of Acetone based Iso-Propyl Alcohol (IPA) both in India as well as in global market, further growth in demand is certain and likely to be continued in future also. The DI cannot cater the heightened demand supply gap.

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

31. With respect to the argument of insufficient information provided by the domestic industry in the application filed by them, the Authority notes that the application contained all information relevant for the purpose of initiation of investigation. The Authority, only after satisfaction that application contained sufficient evidence to justify initiation of the investigation decided to initiate the present investigation. Further, subsequent to initiation, information has been sought from the applicant to the extent deemed necessary and the same has been provided by the Applicant for the purpose of the present findings. The Authority notes that quality and quantity of evidence improves as an investigation progresses.

32. The argument that imports made under advance licence should be excluded from the total imports was examined. The Authority notes that imports/exports made under advance licence be considered to have not affected the domestic industry or the price in the domestic market. An Advance licence/authorization holder has a choice either to import the inputs on a duty-free basis or procure the same from indigenous sources by using the mechanism of Advance Release Order. The purpose of injury analysis is to examine and capture the effect of dumped imports on the domestic industry. Therefore, it would not be reasonable to exclude the duty-free imports from the injury analysis. Further, import under advance licence is a benchmark for the price at which goods can be imported by a consumer without payment of taxes and duties. It would not be appropriate to consider that imports made under advance licence do not cause injury to the domestic industry. In fact, exporters and importers should not worry if their claim is that imports take place only under duty free scheme because in that case imposition of duty will not impact them at all.
33. As regards to the arguments that due to the introduction of mandatory BIS Licensing, no anti-dumping duties should be imposed. The Authority notes that the purpose of anti-dumping duty is to address the unfair imports. There is no bar in imposition of anti-dumping duty because of existence of BIS licence.

### **Assessment of dumping – Methodology and Parameters**

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

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

34. The domestic industry inter alia submitted as follows:

- i. The Domestic Industry has provided ample evidence to support their claim of normal value and export price in their application for the purpose of the initiation.
- ii. Dumping margin calculated for the subject countries is positive and significant.
- iii. Authority is requested to consider the market price of benzene and propylene while determining elements of cost for computing normal value.

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

35. Following submissions have been made by the other interested parties:

- i. DA appears to have simply accepted the assertions of the DI regarding normal value, export price and consequent dumping margin.
- ii. The evidence for calculation of Normal Value fails to meet the minimum evidentiary standards as the prices provided are for North East Asia and not Korea.
- iii. The journals cannot be relied upon and considered as best information in meaning of Rule 6, as per *Dye Stuff Manufacturers Association v. Govt. of India*.
- iv. Adjustments made for construction of normal value are not tenable under Annexure I of the Rules and are based on mere presumptions.
- v. Adjustments made to Export price are abnormally high and unsubstantiated. The quote provided from the website is untrue and inflated by using invalid presumptions.

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

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

### Normal value computation

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

- (i) *The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*
- (ii) *When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either*
  - (a) *comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
  - (b) *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*

37. As regards the issue of normal value, export price and dumping margin, it is noted that the Authority had initiated the investigation based on the *prima facie* evidence given by the Domestic Industry. At the stage of initiation, the Authority had proceeded with the prices of subject goods based on information submitted by the Applicant based on the prices published in ICIS LOR due to non-availability of internal transactions of Singapore. However, for the purpose of this disclosure statement, the Authority has relied upon the verified data provided by the interested parties.

38. At the stage of initiation, the Authority proceeded as per the information given by the Petitioner. Upon initiation, the Authority advised the producers/ exporters in the subject countries to respond to the notice of initiation and provide information relevant to determination of their normal value and export price. Responses were received from the following –

- a) Haresh Petrochem Singapore Pte. Ltd.
- b) Formosa Chemicals & Fibre Corporation(FCFC)
- c) Taiwan Prosperity Chemical Corporation(TPCC)
- d) LG Chem Ltd.
- e) Sumitomo Chemicals Asia Pte Ltd.
- f) Vinmar International Limited.
- g) Kumho P&B Chemicals
- h) Humade Corporation
- i) UNID Global Corporation
- j) Samsung C&T Corporation
- k) IMS Corporation
- l) Canko Marketing Inc.
- m) Saudi Basic Industries Corporation
- n) Saudi Kayan Petrochemical Company
- o) Saudi Asia Pacific Ltd.

p) Rabigh Refining and Petrochemical Company

39. Since the above-mentioned companies have filed the questionnaire responses, the Authority has examined the request for determination of individual dumping margin based on verified data for these producers and have determined dumping margin, wherever appropriate.
40. In the absence of cooperation from the other producers/exporters in the subject country, the Authority has determined the normal value, on the basis of facts available in terms of Rule 6 (8) of the Rules.
41. Accordingly, the Authority has determined the normal value, export price and dumping margin in respect of various producers/exporters of the subject country as follows:

**Cooperative Producers/Exporters from Taiwan**

**M/s. Formosa Chemicals & Fibre Corporation (FCFC-Taiwan)**

42. M/s. Formosa Chemicals & Fibre Corporation (FCFC) have filed Exporter questionnaires in the formats prescribed for the POI only.
43. FCFC has sold \*\*\* MT of the PUC in the domestic market and it has exported \*\*\* MT of the subject goods to India directly during the POI. Based on their response, it is noted that their domestic sales are in sufficient quantity in the domestic market. In order to determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. In case profit making transactions are more than 80% then the Authority has considered all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, all domestic sales have been taken into account for determination of normal value, since the profitable sales were 100%.
44. For arriving at the ex-factory normal value, the Authority has considered adjustments (in USD/MT) on account of inland freight and credit cost from the invoice price of the producer (FCFC). Accordingly, the ex-factory normal value is calculated and mentioned in the dumping margin table.

**M/s Taiwan Prosperity Chemical Corporation (TPCC-Taiwan)**

45. M/s. Taiwan Prosperity Chemical Corporation have filed Exporter questionnaire in the formats prescribed for the POI only.
46. TPCC has sold \*\*\* MT of the PUC in the domestic market and it has exported \*\*\* MT of the subject goods to India directly during the POI. Based on their response, it is noted that their domestic sales are in sufficient quantity in the domestic market. In order to determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. In case profit making transactions are more than 80% then the Authority has

considered all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, the profitable domestic sales have been taken into account for determination of normal value.

47. For arriving at the ex-factory normal value, the Authority has considered adjustments (in USD/MT) on account of inland freight and credit cost from the invoice price of the producer (TPCC). Accordingly, the ex-factory normal value is calculated as \*\*\* \$/MT and mentioned in the dumping margin table.

### **Cooperative Producers/Exporters from South Korea**

#### **M/s LG Chem**

48. M/s. LG Chem have filed Exporter questionnaires in the formats prescribed for the POI only.
49. M/s LG Chem has sold \*\*\* MT of the PUC in the domestic market and it has exported \*\*\* MT of the subject goods to India directly during the POI. Based on their response, it is noted that their domestic sales are in sufficient quantity in the domestic market. In order to determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. In case profit making transactions are more than 80% then the Authority has considered all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, the profitable domestic sales have been taken into account for determination of normal value.
50. For arriving at the ex-factory normal value, the Authority has considered adjustments (in USD/MT) on account of inland freight and credit cost from the invoice price of the producer (LG Chem). Accordingly, the ex-factory normal value is calculated and mentioned in the dumping margin table.

#### **M/s Kumho P&B Chemicals INC.**

51. M/s. Kumho has filed Exporter questionnaires in the formats prescribed for the POI only. It has sold \*\*\* MT of the PUC directly in the domestic market and it exported \*\*\* MT of the subject goods to India directly as well as jointly with five traders during the POI. Based on their response, it is noted that their domestic sales are in sufficient quantity in the domestic market. In order to determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. In case profit making transactions are more than 80% then the Authority has considered all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, the profitable domestic sales have been taken into account for determination of normal value.
52. For arriving at the ex-factory normal value, the Authority has considered adjustments (in USD/MT) on account of inland freight and credit cost from the invoice price of the

producer (Kumho). Accordingly, the ex-factory normal value is calculated and mentioned in the dumping margin table.

### **Cooperative Producers/Exporters from Saudi Arabia**

#### **M/s Saudi Kayan Petrochemicals Company**

53. M/s. Saudi Kayan Petrochemicals Company (SKPC) has filed Exporter questionnaires in the formats prescribed for the POI only. It has not sold PUC in the domestic market, however, it has exported \*\*\* MT of the subject goods to India through its related exporters M/s Saudi Baic Industries Corporation (SABIC), exporter and M/s SABIC Asia Pacific Pvt. Ltd. (SAPPL), trader during the POI. Based on their response, it is noted that the producer has not made any domestic sales in their home country. Therefore, normal value based on domestic sales is not available. The producer has provided cost of production of PUC and the Authority, after due verification accepted the cost of production provided by them and added 5% profit to arrive at the normal value.
54. Accordingly, the ex-factory normal value is calculated and mentioned in the dumping margin table.

#### **M/s Rabigh Refining and Petrochemical Company (Petro Rabigh)**

55. M/s. Petro Rabigh has filed Exporter questionnaires in the formats prescribed for the POI only. It has not sold PUC in the domestic market, however, it has exported \*\*\* MT of the subject goods to India through its related trader M/s SUMITOMO Chemicals Asia Pt. Ltd. Singapore (SUMITOMO), Exporter during the POI. Based on their response, it is noted that the producer has not made any domestic sales in their home country. Therefore, normal value based on domestic sales is not available. The producer has provided cost of production of PUC and the Authority, after due verification accepted the cost of production provided by them and added 5% profit to arrive at the normal value.
56. Accordingly, the ex-factory normal value is calculated and mentioned in the dumping margin table.

### **Export price:**

#### **Cooperative Producers/Exporters from Taiwan**

##### **M/s. Formosa Chemicals & Fibre Corporation (FCFC-Taiwan)**

57. M/s. Formosa Chemicals & Fibre Corporation have filed Exporter questionnaires in the formats prescribed and also in addition furnished the required information by the Authority for the Post-POI. FCFC has exported \*\*\* MT, FOB value of \*\*\* USD of the subject goods to India directly during the POI and \*\*\* MT, FOB value of \*\*\* USD during Post-POI. It has also exported \*\*\* MT, FOB value of \*\*\* USD of the subject goods to third countries during the POI and \*\*\* MT, FOB value of \*\*\* USD during Post-POI. The producer has claimed port handling and related expenses including harbor facility charges, harbor shore tank handling charges, harbor management charges, credit cost, other port related expenses including documentation charges, notary charges, trade promotion charges etc. which are verified and accepted on table study by the Authority. Accordingly, the Net Export Price for the producer/exporter has been worked out as US\$ \*\*\*/MT for POI and US\$ \*\*\*/MT in Post-POI.

### **M/s Taiwan Prosperity Chemical Corporation (TPCC-Taiwan)**

58. M/s. Taiwan Prosperity Chemical Corporation have filed Exporter questionnaire in the formats prescribed and also, in addition, furnished the required information by the Authority for the Post-POI. TPCC has exported \*\*\* MT, FOB value of \*\*\* USD of the PUC to India directly during the POI and did not export to India during the Post-POI. It has also exported \*\*\* MT, FOB value of \*\*\* USD of the subject goods to third countries during the POI and \*\*\* MT, FOB value of \*\*\* USD during Post-POI. The producer has claimed port handling and related expenses including harbor facility charges, harbor shore tank handling charges, harbor management charges, credit cost, other port related expenses including documentation charges, notary charges, trade promotion charges etc. which are examined on random sampling basis and accepted by the Authority during the table verification. Accordingly, the Net Export Price for this producer/exporter has been worked out as US\$ \*\*\*/MT for POI.

### **Cooperative Producers/Exporters from South Korea**

#### **M/s LG Chem**

59. M/s. LG Chem have filed Exporter questionnaires in the formats prescribed and additionally furnished the required information by the Authority for the Post-POI. It has exported \*\*\* MT, FOB value of \*\*\* USD of the PUC to India directly during the POI and nil volume during the Post-POI. It has also exported \*\*\* MT, FOB value of \*\*\* USD of the subject goods to third countries during the POI and \*\*\* MT, FOB value of \*\*\* USD during Post-POI. The producer has claimed survey fee, customs brokerage fee, bank charges and credit cost which are examined on random sampling basis and accepted by the Authority during the table verification. Accordingly, the Net Export Price for this producer/exporter has been worked out as US\$ \*\*\*/MT for POI.

#### **M/s Kumho P&B Chemicals INC (South Korea)**

60. M/s. Kumho has filed Exporter questionnaires in the formats prescribed for the POI and subsequently the required information also for Post-POI. It has exported total \*\*\* MT including through five traders. Producer has exported \*\*\* MT, FOB value of \*\*\* USD of the PUC to India directly and \*\*\* MT (CIF \*\*\* USD), \*\*\* MT (CIF \*\*\* USD) through unrelated traders namely M/s Canko Marketing Inc, M/s Humade Corporation, M/s UNID Global Corz, M/s Samsung C&T Corp and M/s IMS Corporation respectively during the POI and \*\*\* MT, invoice value of \*\*\* USD during the Post-POI. It has also exported \*\*\* MT, CIF value of \*\*\* USD of the subject goods to third countries during the POI and \*\*\* MT, invoice value of \*\*\* USD during Post-POI.

61. The producer has claimed Ocean freight, inland freight to ware house, ware house rent expenses, inland freight to port, port handling and related expenses, credit cost, inspector's charge, bank charges, duty drawback packing cost, loss of the trader etc. which are examined on random sampling basis and accepted by the Authority during the table verification. Accordingly, the Net Export Price for this producer/exporter has been worked out as KRW \*\*\* /Kg for POI.

## **Cooperative Producers/Exporters from Saudi Arabia**

### **M/s Saudi Kayan Petrochemicals Company (SKPC)**

62. M/s. Saudi Kayan Petrochemicals Company (SKPC) has filed Exporter questionnaires in the formats prescribed for the POI and subsequently the required information also for Post-POI. It has exported \*\*\* MT of the subject goods to India through its related trader-exporters M/s Saudi Basic Industries Corporation (SABIC) and M/s SABIC Asia Pacific Pvt. Ltd. (SAPPL) during the POI. Producer has exported \*\*\* MT, FOB value of \*\*\* USD of the PUC to India. Nil export was made during the Post-POI to India. It has exported FOB value of \*\*\* USD of volume \*\*\* MT of the subject goods to third countries during the POI and \*\*\* MT, FOB value of \*\*\* USD during Post-POI.
63. The producer/exporter has claimed Ocean freight, port handling and related expenses, marketing fee, demurrage, customs expenses, bank charges, etc. which are examined on random sampling basis and accepted by the Authority during the table verification. Accordingly, the Net Export Price for this producer/exporter has been worked out as US\$ \*\*\* /MT for POI.

### **M/s Rabigh Refining and Petrochemical Company (Petro Rabigh)**

64. M/s. Rabigh Refining and Petrochemical Company (Petro Rabigh) has filed Exporter questionnaires in the formats prescribed for the POI and subsequently the required information also for Post-POI. It has exported \*\*\* MT of the subject goods to India through its related trader i.e. M/s SUMITOMO Chemicals Asia Pt. Ltd. Singapore (SUMITOMO) and further to unrelated exporters i.e. M/s Vinmar \*\*\* MT and remainder to M/s Hareh Petrochem Singapore Pte Ltd. during the POI. Thus the Producer has exported \*\*\* MT, FOB value of \*\*\* USD of the PUC to India during the POI. \*\*\* MT export was made during the Post-POI to India. It has exported FOB value of \*\*\* USD of volume \*\*\* MT of the subject goods to third countries during the POI and \*\*\* MT, FOB value of \*\*\* USD during Post-POI.
65. The related trader M/s SUMITOMO has claimed shipping cost, credit cost, other expenses along with losses made which are examined on random sampling basis and accepted by the Authority during the table verification. Accordingly, the Net Export Price for this producer/exporter has been worked out as US\$ \*\*\* /MT for POI and US\$\*\*\*/MT for Post POI.

### **Normal value/Export Price for all other producers/exporters from subject countries**

66. The recommendation regarding non cooperative producers/exporters have been made in the later paras.

### **Determination of Dumping Margin**

67. Based on normal value and net export price, the dumping margin on weighted average basis for each co-operating producers is determined as follows:

#### **POI**

| Sl. No | Country      | Producer               | Normal Value (USD/MT) | Net Exp. Price (USD/MT) | Dumping Margin (USD/MT) | Dumping Margin % | Dumping Margin Range |
|--------|--------------|------------------------|-----------------------|-------------------------|-------------------------|------------------|----------------------|
| 1      | Taiwan       | M/s. Formosa Chemicals | ***                   | ***                     | ***                     | ***              | 0-10                 |
| 2      |              | M/s Taiwan Prosperity  | ***                   | ***                     | ***                     | ***              | 0-10                 |
| 3      | Korea RP     | M/s Kumho              | ***                   | ***                     | ***                     | ***              | 0-10                 |
| 4      |              | M/s LG Chem            | ***                   | ***                     | ***                     | ***              | Negative             |
| 5      | Saudi Arabia | M/s Saudi Kayan        | ***                   | ***                     | ***                     | ***              | 180-200              |
| 6      |              | M/s Rabigh Refining    | ***                   | ***                     | ***                     | ***              | Negative             |

## **DETERMINATION OF INJURY AND CAUSAL LINK**

### **Views of the Domestic industry**

68. Following submissions have been made on behalf of the domestic industry:

- i. Demand for the subject goods has increased over the injury period.
- ii. Production and sales of the Domestic Industry have increased due to the addition of new capacities by Deepak Phenolics in the Period of investigation.
- iii. Imports have declined in absolute terms due to the addition of new capacities. Earlier, there was demand-supply gap in India and hence imports were necessary.
- iv. Decline in imports in the recent period is not a reduction in dumping, but response to fresh capacities in the Country.
- v. Volume of non-essential imports have increased by a big margin.
- vi. Current import levels are much higher than the essential and required imports in the country due to the marginal demand supply gap.
- vii. There is a very significant decline in the import price. Further, the decline is far beyond the decline in the costs due to decline in prices of basic inputs.
- viii. The imports are undercutting the prices of the domestic industry and are depressing the prices of domestic industry in the market.
- ix. The selling prices were below cost during the entire injury period. The domestic industry started facing severe price decline even within the POI.
- x. Imports are resulting in price underselling.
- xi. The Domestic Industry has been in losses throughout the injury period. The domestic industry is unable to earn profits due to presence of dumped products in India.

- xii. Inventories with the Domestic Industry have been significant throughout and have increased significantly in the period of investigation.
- xiii. Injury to Domestic Industry is because of dumped imports. Causal link exists between dumped imports and injury of Domestic Industry.
- xiv. Annual Reports and balance sheet of the Domestic industry are for overall operations and not just the domestic operations of the product under consideration.

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

69. Following submissions have been made by the other interested parties -

- i. Domestic sales, production, market share, productivity per day, return on investment, PBIT etc of Domestic Industry is increased and Domestic Industry has not suffered any material injury due to imports. Positive growth can be seen in all parameters.
- ii. Imports from subject countries have declined by 61%, and from Taiwan have declined by 85%, and therefore are not putting any volume pressure on the Domestic Industry.
- iii. Cost and Selling price of the Domestic Industry have declined, whereas the Landed price from subject countries has increased. There is no price effect from the imports.
- iv. Price undercutting is to be seen in relation to profitability. The price undercutting from Taiwan is positive, but the PBIT has improved sharply.
- v. Market share of the subject countries has declined and is the lowest in the POI, whereas that of the Domestic Industry has increased and is the highest in the POI.
- vi. No. of employees and productivity has increased, whereas mysteriously the wages have remained the same. The number of employees increased from 119 to 352 during the injury.
- vii. There is no causal link since the Petitioners are enjoying growth in profits notwithstanding the alleged price undercutting and price suppression;
- viii. Saudi Arabia accounts for less than 3% of total imports, which is below the de minimis threshold, whereby the impact of such imports would be minimal, if any.
- ix. The selling price has decreased by 12 indexed points whereas the cost of sales decreased by 29 indexed points, thereby showing no effect of suppression or depression.
- x. Production, utilization, sales volume and capital employed have all evidenced a positive trend in the injury period as well as the POI which clearly indicates absence of injury to the domestic industry. Capacity utilization is at 89% current value, which is the highest point during POI.
- xi. Injury is because of higher interest and depreciation costs, which are higher only because of high finance and depreciation values of the (newly set up) plant by Deepak Phenolics Ltd.
- xii. There must be an analysis of material retardation instead of material injury for M/s Deepak Phenolics Ltd.
- xiii. Determination of NIP based on data of one (DPL) domestic producer would be in gross violation of Annexure III of AD Rules.
- xiv. Despite anti-dumping duties in force, HOCL was classified as a sick company and there was no operation till 2015-16.
- xv. Petition shows how imports from Korea have stopped after Nov, 2018 since DPL has started commercial production. Direct exports from KPB have completely stopped too.

- xvi. Import volumes from Korea have evidently reduced significantly over the injury period, by 39% and in the POI by 11%, hence there are no adverse volumes showing volume effect. Post commercial production by DPL, imports from Korea are negligible.
- xvii. In a recent Safeguard application for Phenol, positive ROCE figures were reported for the Applicants in 2019-19. The figures cannot be different for Acetone and Phenol.
- xviii. The DI was making constant improvements even before the introduction of DPL, so all the positive growth cannot be attributed to commencing of production by DPL in November, 2018.
- xix. Cash flow has always been positive apart from the POI, which can also be attributed to the huge capital flow made towards the new constituent.
- xx. DA is requested to examine the effect of crack spread on the profitability of the DI.
- xxi. Phenol and Acetone are produced together, and all demand supply and production of Acetone is linked to Phenol, since Phenol is the pre-dominant product.
- xxii. There is demand- supply disparity for the subject goods and to meet the requirements, goods is imported in significant quantities.
- xxiii. In 2016, a SSR investigation conducted against the imports of subject goods from Japan and Thailand but does not result in extension of AD Duty as it would not help in revival of production of HOCL.
- xxiv. The import is necessitated by substantial demand- supply gap.
- xxv. As per market intelligence reports, the demand of subject goods from different industries is likely to grow at a rate of 11% till 2022.

#### **Examination by Authority**

- 70. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties.
- 71. 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.
- 72. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

73. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
74. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.
75. In consideration of the various submissions made by the interested parties in this regard, the Authority has examined the current injury, if any, to the domestic industry before examination of the likelihood aspects of dumping and injury on account of imports from the subject countries.

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

76. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports from all sources. The demand for the product under consideration is given below:

| Demand                                     | UOM | 2015-16  | 2016-17  | 2017-18  | POI      | Post<br>POI(A) |
|--|-----|----------|----------|----------|----------|----------------|
| Sales of Domestic Industry                 | MT  | 25,428   | 26,041   | 32,306   | 83,134   | 1,44,475       |
| Trends                                     |     |          |          |          |          |                |
| Imports from Subject countries             | MT  | 94,173   | 56,869   | 42,257   | 36,510   | 15,646         |
| Import from other countries attracting ADD | MT  | 24,080   | 10,167   | 14,539   | 35,758   | 36,776         |
| Import from Other Countries                | MT  | 20,096   | 68,801   | 89,811   | 44,432   | 38,938         |
| Total Demand                               | MT  | 1,63,778 | 1,61,879 | 1,78,912 | 1,99,834 | 2,35,835       |

77. The Authority notes that the demand for the subject goods has increased over the injury period.

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

**Import volume and Market Share**

78. With regard to 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. The table below summarizes the factual position with regard to import volumes and market share:-

| Particulars                                   | UOM            | 2015-16  | 2016-17  | 2017-18  | POI      | POST<br>POI (A) |
|---|----------------|----------|----------|----------|----------|-----------------|
| Import Volumes                                |                |          |          |          |          |                 |
| Subject Countries                             | MT             | 94,173   | 56,869   | 42,257   | 36,510   | 15,646          |
| Other Countries attracting ADD                | MT             | 24,080   | 10,167   | 14,539   | 35,758   | 36,776          |
| Other Countries                               |                | 20,096   | 68,801   | 89,811   | 44,432   | 38,938          |
| Total Imports                                 | MT             | 1,38,350 | 1,35,838 | 1,46,606 | 1,16,700 | 91,380          |
| Market Share in Imports                       |                |          |          |          |          |                 |
| Subject Countries                             | %              | 68.07    | 41.87    | 28.82    | 31.39    | 17              |
| Other Countries attracting ADD                | %              | 17.40    | 7.48     | 9.92     | 30.64    | 40              |
| Other Countries                               | %              | 14.53    | 50.65    | 61.26    | 38.07    | 43              |
| Imports from Subject Countries in relation to |                |          |          |          |          |                 |
| Production                                    | %              | 377      | 213      | 129      | 42       | 9.94            |
| <i>Trend</i>                                  | <i>Indexed</i> | 100      | 56       | 34       | 11       | 3               |
| Indian Consumption                            | %              | 58       | 35       | 24       | 19       | 6.32            |
| <i>Trend</i>                                  | <i>Indexed</i> | 100      | 61       | 41       | 32       | 11              |

79. Based on the table above the Authority notes that the imports from subject countries have declined over the injury period. The Applicants submitted that the imports from the subject countries have declined due to anti-dumping duty in existence and fresh capacities in the market.

**i. Price Effect of the Dumped Imports on the Domestic Industry**

**a. Price Undercutting**

80. With regard to the effect of dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports when compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The Authority has compared landed price of imports with the selling price of the domestic industry for the subject goods. The information for the Period of investigation is as follows-

| Particulars        | Unit   | Saudi Arabia | Taiwan | Korea RP |
|--------------------|--------|--------------|--------|----------|
| Price undercutting | Rs./MT | ***          | ***    | ***      |
| Price undercutting | %      | 10-15%       | 5-10%  | 0-5%     |

81. From the above, the Authority notes that the landed price of imports of subject goods from subject countries is below the net selling price of the domestic industry. The imports from subject countries are undercutting the selling prices of domestic industry.

**b. Price Suppression/ Depression**

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

| Particulars   | UOM            | 2015-16 | 2016-17 | 2017-18 | POI    | Post-POI(A) |
|---------------|----------------|---------|---------|---------|--------|-------------|
| Cost of Sales | Rs/MT          | ***     | ***     | ***     | ***    | ***         |
| <i>Trend</i>  | <i>Indexed</i> | 100     | 104     | 101     | 64     | 58          |
| Selling Price | Rs/MT          | ***     | ***     | ***     | ***    | ***         |
| <i>Trend</i>  | <i>Indexed</i> | 100     | 116     | 115     | 88     | 71          |
| Landed Value  | Rs/MT          | 43,133  | 46,215  | 53,157  | 49,987 | 32,246      |
| <i>Trend</i>  | <i>Indexed</i> | 100     | 107     | 123     | 116    | 75          |

83. The Authority notes that the import price of the product under consideration is neither depressing nor suppressing the prices of the domestic industry during the period of investigation. However, in the post period of investigation, the imports price are depressing the prices of the domestic industry.

#### ii. Economic Parameters relating to the Domestic Industry

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

85. Accordingly, various economic parameters of the Domestic Industry are analyzed herein below:

#### a) **Production, Capacity, Capacity Utilization and Sales Volume**

86. Production, sales, capacity & capacity utilization of the domestic industry moved as shown below:

| Particulars          | UOM            | 2015-16 | 2016-17 | 2017-18 | POI    | Post-POI(A) |
|----------------------|----------------|---------|---------|---------|--------|-------------|
| Installed Capacity   | MT             | 47,140  | 47,140  | 47,140  | 97,140 | 1,67,140    |
| <i>Trend</i>         | <i>Indexed</i> | 100     | 100     | 100     | 206    | 355         |
| Production           | MT             | 24,959  | 26,696  | 32,872  | 86,112 | 1,57,335    |
| <i>Trend</i>         | <i>Indexed</i> | 100     | 107     | 132     | 345    | 630         |
| Capacity Utilisation | %              | 53      | 57      | 70      | 89     | 94          |
| <i>Trend</i>         | <i>Indexed</i> | 100     | 107     | 132     | 167    | 177         |

|                       |                |        |        |        |        |          |
|-----------------------|----------------|--------|--------|--------|--------|----------|
| Domestic Sales Volume | MT             | 25,428 | 26,041 | 32,306 | 79,972 | 1,56,122 |
| Trend                 | <i>Indexed</i> | 100    | 102    | 127    | 315    | 614      |

87. The Authority notes the Capacity with which the Domestic Industry increased in the Period of investigation. This is due to commencement of production by Deepak Phenolic Ltd. in November 2018. Consequently, the production and sales of the Domestic Industry has increased. The same trend is observed in Post POI period.

**b) Market Share in Demand**

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

| Market Share in Demand                     | Units | 2015-16 | 2016-17 | 2017-18 | POI | Post POI |
|--|-------|---------|---------|---------|-----|----------|
| Sales of Domestic Industry                 | %     | 16      | 16      | 18      | 41  | 63       |
| Sales of subject countries                 | %     | 57      | 35      | 24      | 18  | 6        |
| Import from other countries attracting ADD | %     | 15      | 6       | 8       | 18  | 15       |
| Import from Other Countries                | %     | 12      | 43      | 50      | 23  | 16       |
| Total Demand                               | %     | 100     | 100     | 100     | 100 | 100      |

88. It is noted that the market share of the domestic industry has increased in the period of investigation whereas the market share of the subject countries has declined. This is due to the addition of capacities by the Domestic Industry in the Period of investigation and anti-dumping duty in force. The market share of DI has increased in Post POI as well.

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

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

| Particulars                | UOM            | 2015-16 | 2016-17 | 2017-18 | POI | Post POI |
|----------------------------|----------------|---------|---------|---------|-----|----------|
| Cost of Sales              | Rs/MT          | ***     | ***     | ***     | *** | ***      |
| <i>Trend</i>               | <i>Indexed</i> | 100     | 104     | 101     | 64  | 59       |
| Selling Price              | Rs/MT          | ***     | ***     | ***     | *** | ***      |
| <i>Trend</i>               | <i>Indexed</i> | 100     | 116     | 115     | 88  | 71       |
| Profit / (Loss)            | Rs/MT          | ***     | ***     | ***     | *** | ***      |
| <i>Trend</i>               | <i>Indexed</i> | (100)   | (53)    | (42)    | 38  | (9)      |
| Profit / (Loss)            | Rs. Lacs       | ***     | ***     | ***     | *** | ***      |
| <i>Trend</i>               | <i>Indexed</i> | (100)   | (51)    | (52)    | 123 | (56)     |
| PBIT                       | Rs. Lacs       | ***     | ***     | ***     | *** | ***      |
| <i>Trend</i>               | <i>Indexed</i> | (100)   | 2       | (10)    | 297 | 89       |
| Cash Profit                | Rs. Lacs       | ***     | ***     | ***     | *** | ***      |
| <i>Trend</i>               | <i>Indexed</i> | (100)   | (49)    | (52)    | 151 | (2)      |
| Return on Capital Employed | %              | ***     | ***     | ***     | *** | ***      |
| <i>Trend</i>               | <i>Indexed</i> | (100)   | 3       | (12)    | 109 | 14       |

90. The Domestic Industry is suffering losses till 2017-18 and thereafter, the performance of the Domestic Industry has improved during period of investigation. PBIT, cash profits and Return on capital employed has also increased during period of investigation. During Post POI, the above three parameters have shown down turn.

**d) Inventories**

91. Inventories with the Domestic Industry is as follows:

| Particulars   | UOM            | 2015-16 | 2016-17 | 2017-18 | POI   | Post POI |
|---------------|----------------|---------|---------|---------|-------|----------|
| Average Stock | MT             | 422     | 514     | 1,125   | 4,714 | 5,939    |
| <i>Trend</i>  | <i>Indexed</i> | 100     | 122     | 266     | 1,117 | 1407     |

92. It is seen that inventories with the Domestic Industry have increased over the injury period. The inventories are very high in the period of investigation, and further increased during the post period of investigation.

**e) Employment, wages and productivity**

93. Performance of the Domestic Industry with regard to employment, productivity and wages is as follows:

| Particulars          | UOM            | 2015-16 | 2016-17 | 2017-18 | POI | Post PoI(A) |
|----------------------|----------------|---------|---------|---------|-----|-------------|
| Productivity per day | MT/Day         | ***     | ***     | ***     | *** | ***         |
| <i>Trend</i>         | <i>Indexed</i> | 100     | 107     | 132     | 346 | 654         |
| Employment           | Nos            | ***     | ***     | ***     | *** | ***         |
| <i>Trend</i>         | <i>Indexed</i> | 100     | 94      | 92      | 296 | 145         |
| Wages                | Rs. Lacs       | ***     | ***     | ***     | *** | ***         |
| <i>Trend</i>         | <i>Indexed</i> | 100     | 100     | 100     | 100 | 153         |

94. On the basis of the above, the Authority notes that the levels of employment and productivity have increased in the period of investigation due to the addition of Deepak Phenolics in the period of investigation. Wages paid have also shown an increase. This trend continues in post POI.

**f) Magnitude of Dumping**

95. Magnitude of dumping is an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The analysis shows that the dumping margin in case of 4 cooperative producers/exporters is positive in POI and for the other two producers/exporters is positive on the basis of likelihood analysis during Post POI.

**g) Ability to raise Capital Investment**

96. There is no verifiable information presented by the Domestic Industry and neither available on records that can imply that future investment in the sector can be marred by the presence of dumped imports from subject countries.

## h) Magnitude of Injury and injury margin

97. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the exports from the subject countries for determination of injury margin during the POI and the injury margin so worked out is as under:

### POI

| S.No. | Country      | Producer               | NIP (US\$/MT) | Landed Value (US\$/MT) | Injury Margin (US\$/MT) | Injury Margin % | Injury Margin Range % |
|-------|--------------|------------------------|---------------|------------------------|-------------------------|-----------------|-----------------------|
| 1     | Taiwan       | M/s. Formosa Chemicals | ***           | ***                    | ***                     | ***             | Negative              |
| 2     |              | M/s Taiwan Prosperity  | ***           | ***                    | ***                     | ***             | Negative              |
| 3     | Korea RP     | M/s Kumho              | ***           | ***                    | ***                     | ***             | Negative              |
| 4     |              | M/s LG Chem            | ***           | ***                    | ***                     | ***             | Negative              |
| 5     | Saudi Arabia | M/s Saudi Kayan        | ***           | ***                    | ***                     | ***             | 20-40                 |
| 6     |              | M/s Rabigh Refining    | ***           | ***                    | ***                     | ***             | Negative              |

## LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

### Views of the Domestic Industry:

98. Following are the submissions made by the Domestic Industry with regard to likelihood of continuation of dumping and consequent recurrence of injury –

- i. An analysis of exporter questionnaire responses shows likelihood of continuation of dumping and consequent injury.
- ii. Dumping margin determined in all previous investigations relating to the product has been positive.
- iii. Significant imports in presence of anti-dumping duty showing likelihood of increased imports in the event of cessation of duty.
- iv. Excess production capacities held by the producers in the subject countries are significant.
- v. Unutilized capacities with the exporters are concerning.
- vi. Freely disposable capacities with the foreign producers show likelihood of increased imports in the event of cessation of duty.
- vii. Export orientation of producers and exporters in subject countries is very high. The producers are pre-dominantly export oriented, and India market is important to their interests.

- viii. Further expansions by producers in the Subject countries despite a glut in the market.
- ix. Easy availability of feedstock for producers makes them independent of cost and raw material availability of the market,
- x. Producers are habitual of dumping, as can be seen from the third country dumping margins.
- xi. Overcapacity in Asian Countries, Self-sufficiency of Chinese industry have led to oversupply of Acetone in the market. This has significantly changed the market scenarios.
- xii. Shifting pattern of trade in Acetone, whereby the source of the imports into India changes in tandem with the imposition and cessation of anti-dumping duties.
- xiii. Third country anti-dumping duty investigations sees the closure of certain markets for the subject countries.
- xiv. India is a lucrative market for the exporters from subject countries, and no other market offers such prospects, as the Indian market.

**a. Excess production capacities held by producers in subject countries**

99. Domestic industry has furnished evidences showing capacities with the subject country's producers as given below-

| Sr. No. | Exporter                                | Country      | Capacity in Tons |
|---------|---|--------------|------------------|
| A1      | LG Chemicals                            | Korea RP     | 3,60,000         |
| A2      | Kumho P&B                               | Korea RP     | 4,20,000         |
| A3      | Total Korea RP                          |              | 7,80,000         |
| A4      | Demand                                  | Korea RP     | 5,42,000         |
| A5      | Excess capacities                       | Korea RP     | 2,38,000         |
| B1      | Saudi Kayan Petrochemicals              | Saudi Arabia | 1,40,000         |
| B2      | Petro Rabigh                            | Saudi Arabia | 1,50,000         |
| B3      | Total Saudi Arabia                      |              | 2,90,000         |
| B4      | Demand                                  | Saudi Arabia | 59,358           |
| B5      | Excess capacities                       | Saudi Arabia | 230,642          |
| C1      | Chang Chun Plastics                     | Taiwan       | 1,86,000         |
| C2      | Formosa chemicals and fibre corporation | Taiwan       | 2,50,000         |
| C3      | TPCC                                    | Taiwan       | 2,20,000         |
| C4      | Total Taiwan                            |              | 6,56,000         |
| C5      | Demand                                  | Taiwan       | 3,25,000         |
| C6      | Excess capacities                       | Taiwan       | 3,31,000         |

100. The Authority notes that the exporters in subject countries have excess capacities, which can easily cater to the entire demand in India.

**b. Unutilized capacities with the exporters**

101. The data with evidences submitted by the Domestic Industry regarding above is as under;

| <b>Korea RP</b>       |     |          |          |          |          |
|-----------------------|-----|----------|----------|----------|----------|
| Particulars           | UOM | 2015     | 2016     | 2017     | 2018     |
| Capacities            | MT  | 5,95,000 | 7,80,000 | 7,80,000 | 7,80,000 |
| Production            | MT  | 5,05,750 | 6,63,000 | 6,63,000 | 6,63,000 |
| Unutilized capacities | MT  | 89,250   | 1,17,000 | 1,17,000 | 1,17,000 |

| <b>Saudi Arabia</b>   |     |          |          |          |          |
|-----------------------|-----|----------|----------|----------|----------|
| Particulars           | UOM | 2015     | 2016     | 2017     | 2018     |
| Capacities            | MT  | 1,40,000 | 1,40,000 | 1,40,000 | 2,90,000 |
| Production            | MT  | 1,19,000 | 1,19,000 | 1,19,000 | 2,46,500 |
| Unutilized capacities | MT  | 21,000   | 21,000   | 21,000   | 43,500   |

| <b>Taiwan</b>         |     |          |          |          |          |
|-----------------------|-----|----------|----------|----------|----------|
| Particulars           | UOM | 2015     | 2016     | 2017     | 2018     |
| Capacities            | MT  | 6,56,000 | 6,56,000 | 6,56,000 | 6,56,000 |
| Production            | MT  | 5,76,490 | 5,84,229 | 5,65,323 | 5,68,484 |
| Unutilized capacities | MT  | 79,510   | 71,771   | 90,677   | 87,516   |

102. It would be seen that the exporters in the subject countries hold significant unutilized capacities. This shows that subject goods may continue to enter India.

**c. Freely disposable capacities with the foreign producers**

103. The data submitted with evidences for freely disposable production capacities as below;

**Korea**

| Particulars                | UOM | 2015     | 2016     | 2017     | 2018     |
|----------------------------|-----|----------|----------|----------|----------|
| Capacities                 | MT  | 5,95,000 | 7,80,000 | 7,80,000 | 7,80,000 |
| Production                 | MT  | 5,05,750 | 6,63,000 | 6,63,000 | 6,63,000 |
| Unutilized capacities      | MT  | 89,250   | 1,17,000 | 1,17,000 | 1,17,000 |
| Exports                    | MT  | 1,94,849 | 2,36,153 | 2,87,449 | 3,28,427 |
| Freely Disposable Capacity | MT  | 2,84,099 | 3,53,153 | 4,04,449 | 4,45,427 |

**Saudi Arabia**

| Particulars                | UOM | 2015     | 2016     | 2017     | 2018     |
|----------------------------|-----|----------|----------|----------|----------|
| Capacities                 | MT  | 140,000  | 140,000  | 140,000  | 290,000  |
| Production                 | MT  | 1,19,000 | 1,19,000 | 1,19,000 | 2,46,500 |
| Unutilized capacities      | MT  | 21,000   | 21,000   | 21,000   | 43,500   |
| Exports                    | MT  | 64,855   | 54,707   | 65,297   | 1,87,142 |
| Freely Disposable Capacity | MT  | 85,855   | 75,707   | 86,297   | 2,30,642 |

**Taiwan**

| Particulars | UOM | 2015 | 2016 | 2017 | 2018 |
|-------------|-----|------|------|------|------|
|-------------|-----|------|------|------|------|

|                            |    |          |          |          |          |
|----------------------------|----|----------|----------|----------|----------|
| Capacities                 | MT | 6,56,000 | 6,56,000 | 6,56,000 | 6,56,000 |
| Production                 | MT | 5,76,490 | 5,84,229 | 5,65,323 | 5,68,484 |
| Unutilized capacities      | MT | 79,510   | 71,771   | 90,677   | 87,516   |
| Exports                    | MT | 2,51,692 | 2,59,473 | 2,40,554 | 2,43,665 |
| Freely Disposable Capacity | MT | 3,31,202 | 3,31,244 | 3,31,231 | 3,31,181 |

104. It would be seen that the subject countries have freely disposable capacity which can easily cater to entire demand in India. Moreover, the exports are likely to be diverted to India in the event of cessation of Anti-dumping duties.

**d. Export orientation of producers and exporters in subject countries**

105. The data with evidences for export orientation are as under;

106. Summarized position of exports from Korea is as follows -

| Year | Value (Rest of World) |            |
|------|-----------------------|------------|
|      | US\$ (million)        | Rs. Crores |
| 2008 | 100.24                | 693        |
| 2009 | 66.01                 | 457        |
| 2010 | 68.31                 | 473        |
| 2011 | 101.60                | 703        |
| 2012 | 78.54                 | 543        |
| 2013 | 170.92                | 1,182      |
| 2014 | 239.44                | 1,656      |
| 2015 | 106.62                | 738        |
| 2016 | 127.32                | 881        |
| 2017 | 203.72                | 1,409      |
| 2018 | 199.13                | 1,378      |

| Particulars       | UOM | 2015     | 2016     | 2017     | 2018     |
|-------------------|-----|----------|----------|----------|----------|
| Capacities        | MT  | 5,95,000 | 7,80,000 | 7,80,000 | 7,80,000 |
| Domestic demand   | MT  | 5,42,000 | 5,42,000 | 5,42,000 | 5,42,000 |
| Production        | MT  | 5,05,750 | 6,63,000 | 6,63,000 | 6,63,000 |
| Exports           | MT  | 1,94,849 | 2,36,153 | 2,87,449 | 3,28,427 |
| Exports as a % of |     |          |          |          |          |
| Capacity          | %   | 33%      | 30%      | 37%      | 42%      |
| Demand            | %   | 36%      | 44%      | 53%      | 61%      |
| Production        | %   | 39%      | 36%      | 43%      | 50%      |

107. Summarized position of exports from Saudi Arabia is as follows -

| Year | Value (Rest of World) |          |
|------|-----------------------|----------|
|      | US\$ (Million)        | Rs.Crore |

|      |        |     |
|------|--------|-----|
| 2011 | 31.29  | 217 |
| 2012 | 48.68  | 337 |
| 2013 | 40.58  | 281 |
| 2014 | 62.54  | 433 |
| 2015 | 38.13  | 264 |
| 2016 | 26.11  | 181 |
| 2017 | 63.96  | 443 |
| 2018 | 121.96 | 845 |

| Particulars                | UOM | 2015     | 2016     | 2017     | 2018     |
|----------------------------|-----|----------|----------|----------|----------|
| Capacities                 | MT  | 1,40,000 | 1,40,000 | 1,40,000 | 2,90,000 |
| Domestic demand            | MT  | 56,226   | 65,445   | 54,654   | 59,358   |
| Surplus capacities         | MT  | 83,774   | 74,555   | 85,346   | 2,30,642 |
| Operating rates            | %   | 85       | 85       | 85       | 85       |
| Production                 | MT  | 1,19,000 | 1,19,000 | 1,19,000 | 2,46,500 |
| Exports                    | MT  | 64,855   | 54,707   | 65,297   | 1,87,142 |
| Exports as % of capacity   | %   | 46%      | 39%      | 47%      | 65%      |
| Exports as % of demand     | %   | 115%     | 84%      | 119%     | 315%     |
| Exports as % of production | %   | 55%      | 46%      | 55%      | 76%      |

108. Summarized position of exports from Taiwan is as follows -

| Year | Value (Rest of World) |            |
|------|-----------------------|------------|
|      | US\$ (million)        | Rs. Crores |
| 2011 | 238                   | 1,649      |
| 2012 | 190                   | 1,320      |
| 2013 | 209                   | 1,448      |
| 2014 | 191                   | 1,327      |
| 2015 | 115                   | 799        |
| 2016 | 117                   | 813        |
| 2017 | 160                   | 1,110      |
| 2018 | 140                   | 970        |

| Particulars        | UOM | 2015     | 2016     | 2017     | 2018     |
|--------------------|-----|----------|----------|----------|----------|
| Capacities         | MT  | 6,56,000 | 6,56,000 | 6,56,000 | 6,56,000 |
| Domestic demand    | MT  | 3,25,000 | 3,25,000 | 3,25,000 | 3,25,000 |
| Surplus capacities | MT  | 3,31,000 | 3,31,000 | 3,31,000 | 3,31,000 |
| Operating rates    | %   | 85       | 85       | 85       | 85       |

|                            |    |          |          |          |          |
|----------------------------|----|----------|----------|----------|----------|
| Production                 | MT | 5,57,600 | 5,57,600 | 5,57,600 | 5,57,600 |
| Exports                    | MT | 2,51,692 | 2,59,473 | 2,40,554 | 2,43,665 |
| Exports as % of capacity   | %  | 38%      | 40%      | 37%      | 37%      |
| Exports as % of demand     | %  | 77%      | 80%      | 74%      | 75%      |
| Exports as % of production | %  | 45%      | 47%      | 43%      | 44%      |

109. It can be seen from the above information that the producers in the subject countries are export focused and have a high degree of export orientation. The Capacities and production in the subject countries are surplus in nature due to the relatively low demand for the product under consideration in the subject countries.

**e. Further expansions by producers in Subject countries**

110. It is submitted that evidences show both the Korean producers, Kumho and LG Chem have plans for expansions and their projected capacities are estimated to increase in 2020. The increase in capacities by subject country producers is a strong indicator of likelihood of dumping on cessation of AD Duty.

**f. Easy availability of feedstock**

111. Domestic Industry has submitted evidences that show producers in Saudi Arabia are backward integrated for the subject goods. Petitioners also submit, that such a setup helps the producers mitigate the negative affect of fluctuations in raw material pricing and availability. Such circumstances may give subject exporters and added advantage.

**g. Third country dumping**

112. Petitioners have provided calculation with regards to pricing behavior of the subject country exporters in third countries. It is noted that the exports from subject countries reveal dumping practices in other countries as well. It is likely that the exporters will continue to dump the subject goods into India.

**h. Overcapacity in Asian Countries**

113. At present the world is faced with over capacity with an exception of India. Evidences submitted show overcapacities in all other countries in Asia for the subject goods. The overall market situation for product under consideration is relevant in the examination of likelihood of dumping and injury.

**i. Shifting pattern of trade in Acetone**

114. India is the preferred destination for export of subject goods. Analysis of the source of import in accordance with the history of past investigation shows that the imports of subject goods has a shifting pattern of trade. Imports come into India from countries where duties expire.

**j. Trade Remedial investigation by other countries**

115. China PR imposed an anti-dumping duty on imports of Acetone in 2008, the same were extended in 2014 and the review investigation for continued imposition was initiated in 2019. The investigation is against imports from South Korea and Taiwan. The Authority notes that such investigations show the tendencies and practices of subject country exporters to dump goods in third countries as well and the likelihood of diversion of exports to India.

**k. Self-sufficiency of Chinese industry**

116. Records evidences show that China has a big demand for the subject goods and imports from the subject countries. As per the information submitted by the Petitioners, the capacities in China PR are increasing by 1.2 Million MT, which shall affect the imports from the subject countries. Such circumstances may lead to increase in imports into India due to diversion from China PR.

**l. Over supply of Acetone**

117. Capacities all over the world for Acetone are abundant whereas the demand outside India has not grown with the same extent. The subject goods face an oversupply and consequently the import price into India has declined severely. It is likely that the over-supply will divert the subject goods into India due to abundant demand in the country.

**m. India is a lucrative market for the exporters from subject countries**

118. The Petitioners submit that India is the most lucrative market for the exporters from subject countries, on account of following factors;

- i. When the world is faced with overcapacity for Acetone, India has increasing demand. The major acetone producing countries have become self-sufficient and therefore the exporters are likely to increase their exports to a country like India where there is increase in demand.
- ii. China and US, being the major market for the subject countries, have initiated or imposed measures, resulting in these markets not being attractive for the exporters. In the event of cessation of anti-dumping duty, these exports are likely to shift to India.
- iii. The producers from subject countries have historically fetched better prices in India as compared to rest of the world, and therefore, India has always been a lucrative market for the producers.
- iv. With other countries attracting anti-dumping duty in India, in the event of cessation of anti-dumping duty, Indian market will become the most lucrative market for its freely disposable capacities. This is further established through shifting patterns of imports into India with levy/non levy of anti-dumping duty.
- v. The producers in Korea, Saudi Arabia and Taiwan are habitually dumping the product which is evident from US and China investigations and current dumping margins in India and third countries. In the event of cessation of anti-dumping duty, the subject country exporters are likely to export the product to India at dumped prices.

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

119. Following are the submissions made by the other interested parties with regard to likelihood of continuation of dumping and consequent recurrence of injury –
- i. The likelihood of injury cannot be established as the post-POI data was not provided, per the Authority in *Viscose Filament Yarn from China PR*.
  - ii. There is no likelihood of continuation or recurrence of injury as there was no verifiable evidence, per the Authority in *Plain Gypsum Plaster Boards from China PR, Indonesia, Thailand & UAE*.
  - iii. No ADD has been imposed by other countries on imports from Saudi Arabia.
  - iv. Allegations of high export orientation & price attractiveness of Indian market are not substantiated by any verifiable evidence.
  - v. Third country dumping data is unverifiable, and only positive margin transactions cannot be considered.
  - vi. The very first criteria of “likelihood” is not satisfied as the imports of the subject goods is declining. The imports from Saudi Arabia is de minimis (2.67%). Imports of the subject goods have declined.
  - vii. The Excess unutilized capacities with Saudi Arabia is alleged to be around 15% which cannot be termed as Significant.
  - viii. Subject exporters do not hold much inventory of the goods and sell it to the domestic and/or third country markets, and there is a high capacity utilisation rate.
  - ix. The data provided in the petition shows that subject country exporters are oriented towards the third markets.
  - x. No evidence has been provided for the argument that producers from Saudi Arabia have easy availability for feedstock as they are backward integrated with the goods. Even if Producers from Saudi Arabia have easy availability of raw materials, it does not imply a surge in imports. In fact, producers of Saudi Arabia have never exported in large quantities.
  - xi. Respondent propensity to export cannot be measure by availability of raw material as apart from vertical integration of the manufacturing plant every other raw material is procured on arm length’s basis.
  - xii. The estimation of dumping margins, price undercutting and injury margin into third country is neither a requirement nor a practice in the investigation of SSR.
  - xiii. SSR investigation has been initiated by China against several countries but not against Saudi Arabia. United States has also initiated AD duty investigations on imports of subject goods from different countries including Saudi Arabia. However, the investigation has been terminated after preliminary determination.
  - xiv. Likelihood of dumping and injury unlikely in post-POI period in light of COVID-19 pandemic.
    - Post POI analysis is an essential component of likelihood analysis undertaken during sunset review. Authority must consider the likelihood of injury in the future if duty is continued. The period of investigation (POI) in the present review is April 2018 to March 2019. Authority has further considered post-POI period as April 2019 to September 2019 to examine likelihood of recurrence of dumping and injury. However, since the said established post-POI period, lot of developments have taken place in the world market, especially Acetone market, in view of COVID-19 pandemic, which must also be considered while undertaking the likelihood analysis.

- Since, the end of established post-POI period, entire world, including India, are faced with COVID-19 pandemic. The said pandemic started in December 2019 and cases continues to grow significantly until today.
- Given the large population of India, the demand for hand-sanitizers and disinfectants has increased exponentially and will continue to increase significantly in the future as well. Acetone is a critical raw material for manufacturing Iso-Propyl Alcohol (“IPA”), which are in-turn the key input for disinfectant and hand sanitizers. In fact, during the oral hearing, domestic industry accepted the fact that demand and prices of Acetone have increased during the post POI period during 2020. However, domestic industry also claimed that such increasing trend was a short-term phenomenon.
- The claims of the domestic industry. In this regard are not correct, as explained before, given the nature of COVID-19 pandemic, the demand for hand-sanitizers and disinfectants will continue to grow for a long time and that too consistently as keeping the surroundings as well as hands sanitized regularly is of paramount importance to prevent spread of the virus. Acetone based hand-sanitizers and disinfectants are the most accessible form of sanitizers available for the public at large. The growing demand for Acetone based IPA is corroborated by market reports such as Indian Chemical News, which states as under:

*The COVID-19 pandemic has increased demand for IPA both in India as well as in global market. As per market research, the forecast for global demand of IPA will reach 522,000 TPA during 2020-2024 and half of this growth will come from APAC.*

*As per sources, India’s total demand for IPA is to the tune of 200,000 TPA as there is large IPA demand for sanitizers and this has more than doubled.*

- <sup>1</sup>Even domestic industry constituent – Deepak Phenolics recently started manufacturing acetone-based IPA to cater to the needs to hand-sanitizers<sup>2</sup> and expect the demand of IPA to grow in coming years.
- Given the fact that demand for hand-sanitizers and disinfectants is growing and will continue to grow substantially in future as well, it is natural that demand for Acetone, which is the key raw material is also growing and will continue to grow in future as well. Hence, to even suggest that such increase in demand for hand-sanitizers and in turn demand for Acetone would be short-term has absolutely no merit and must be rejected.
- In addition to increase in demand, there has been a significant increase in prices of Acetone during the post-POI period, especially since the outbreak of COVID-19. As may be observed from table below, prices of Acetone have

almost doubled since the POI. Compared to prices prevailing during POI, the world-wide prices indicate the following trend:

| YEAR                    | 2018 | POI | 2019 | Apr-20      | May-20      | Jun-20      |
|-------------------------|------|-----|------|-------------|-------------|-------------|
|                         |      |     |      | (Last Week) | (Last Week) | (Last Week) |
| ICIS Price ACETONE bulk | 612  | 533 | 449  | 693         | 958         | 1,030       |
| Change compared to POI  |      |     |      | 30%         | 80%         | 93%         |

- Since, the COVID outbreak, Acetone prices have almost doubled during June 2020 compared to POI. The increasing trend is expected to increase even further until the COVID-19 pandemic ends as demand for Acetone based disinfectants would continue to surge. As a result of surge in demand and consequential increase in prices, it is not possible to export Acetone at prices prevailing during POI. The above-mentioned prevailing circumstances clearly indicate that there is no likelihood of recurrence of injury in the future due to imports of Acetone.
- In addition to the fact that demand and prices of Acetone would continue to increase manifold in the future, which reflects that there is no likelihood of dumping in future, it must also be noted that the Indian domestic industry is not self-sufficient to cater to Indian disinfectant/sanitizer demand. Against the domestic demand of 1,99,834 MT during POI, domestic industry had a capacity of only 97,140 MT. Thus, more than half of Indian downstream industries, including disinfectant industries must at all time rely on imported Acetone. Any curb on Acetone imports would be counterproductive to India's fight against COVID-19 as supply of Acetone and resultant disinfectants would be further reduced.
- Thus, given the growing demand and limited capabilities of domestic producers, coupled with the fact that the prices of Acetone are expected to remain high in future, Respondents submit that there is no likelihood of dumping and injury to domestic industry and continuation of anti-dumping duty would be against the larger Indian public interest. For the said reasons, the existing anti-dumping duty should be terminated.

### **POST DISCLOSURE COMMENTS**

120. **M/s Sumitomo Chemicals Asia Pte Ltd. And M/s Vinmar International Limited, Represented by M/s ELP**

- a. The examination by Designated Authority in its Disclosure Statement with regard to domestic industry does not provide objective reasons behind its finding that imports were made by the Petitioners for “seed marketing” as it has concluded that over 6% of the total imports during the POI were on account of “seed marketing”, which is larger in volume than imports by some of the subject countries.
- b. Duty free imports should not be selectively excluded by the Designated Authority when it is convenient to justify the inclusion of the Petitioners as domestic industry and duty free imports should be excluded from the present investigation altogether.
- c. Alternately, the Petitioners that are found to be importing should be removed from the scope of the domestic industry.
- d. Petitioners should be directed to correct their claims of excess confidentiality and non-compliance with the confidentiality requirements as specified under Trade Notice no. 10/2018 dated 7 September 2018. In the absence of immediate corrected data being provided to the interested parties, the Hon’ble Designated Authority must observe its obligations under Rule 7 of the AD Rules and reject the data filed by the Petitioners.
- e. Advance licence imports should not be included as the effect of discontinued or expired duties would only be felt on duty paid imports. Therefore, advance licence imports ought to be excluded altogether from the purview of the present investigation – if duty-free imports are being excluded by the Designated Authority for the domestic industry assessment, then the same standard should be applied impartially and uniformly.
- f. The existence of a mandatory BIS standard for Acetone is not a bar on the imposition of anti-dumping duty but the BIS Certification requirement and associated costs would result in a substantial decline in imports of the PUC. Accordingly, it would be unfair to exclude the impact of the BIS requirement on the assessment of likelihood. Accordingly, there is no likelihood of continuation or recurrence of dumping and injury to the domestic industry in case duties are allowed to expire.
- g. With respect to price undercutting, it is relevant to note that economic parameters of the domestic industry like production, capacity utilization, domestic sales, market share in demand, profitability, inventory, employment, waged and productivity have increased during the POI, while undercutting has remained in the same ranges. Therefore, there is an obvious break in the causal link as there is no correlation between alleged price undercutting and economic parameters of the domestic industry.
- h. The Designated Authority has failed to conduct a comprehensive assessment of the likelihood factors as per the annexure II of AD Rules and precedents. The Designated Authority It appears to have selectively taken into consideration certain factors only ( such as dumping margin in previous investigation, continued imports and export orientation) without providing reasons for the same.
- i. Sumitomo Chemical Asia Pte Ltd and Vinmar International Limited were not participants in the original investigations and the Hon’ble Designated Authority cannot rely on dumping margin determined in previous investigations when assessing likelihood of continuation or recurrence of dumping.
- j. Imports from Saudi Arabia cannot be considered to continue into India at an appreciable volume despite the levy of anti-dumping duties as imports from Petitioners is higher than the total imports made from Saudi Arabia during the POI.
- k. The Hon’ble Designated Authority appears to have equated all capacities that are not utilized for domestic sales as being “freely disposable”, which is commercially

unrealistic and illogical as the producers would most likely have existing markets and commitments in other countries and not all sales for one country are easily transferrable to another market.

- l. Saudi Arabia being export oriented or having 70 – 80% exports as percentage of its production does not mean that the entire export material from Saudi Arabia is imported or is likely to be imported into India. In fact, India is not at all price-attractive for the exporters as export price of the PUC to third countries is much higher than that for India. Therefore, other markets are substantially more price attractive than India, whereby even if duties are removed, there is no likelihood of the subject goods being redirected towards India.
- m. An analysis of the likelihood of dumping and injury requires an assessment of whether after the discontinuation of duty there is still a likelihood of dumping or injury that may be faced by the domestic industry. However, in the present case, anti-dumping duties were in place on the subject goods even during the post-POI period and an assessment of the post-POI does not provide a correct analysis of whether the domestic industry is likely to face dumping or injury once the duties are discontinued but, in effect extends the current POI. Therefore, post-POI assessment would be indicative of likelihood only when there are no duties applicable on the subject goods in the post-POI period.
- n. There is no causal link considering the economic parameters of the domestic industry and even during the post-POI period any injury suffered are due to other factors such as Deepak Phenolics being shut down for a period of 14 days.
- o. The COVID-19 pandemic that has emerged after the post- POI period has led to an increase in demand and prices for Acetone due to its usage in the hand-sanitizers. The increased demand is expected to continue in the future as well.
- p. In fact, one of the Petitioners, M/s Deepak Phenolics has recently set up an acetone-based Isopropyl Alcohol (IPA) manufacturing plant, the impact of which the Designated Authority must consider on the demand and supply of the PUC. Accordingly, it is evident that there exists no likelihood of dumping and consequent injury to domestic industry.
- q. Due to the continued increase in demand, the price of PUC has risen significantly in the recent period and the continuation of anti-dumping duty would be against the larger public interest of the country's fight against the COVID-19 pandemic.

#### **121. M/s FCFC, M/s TPCC And M/s LG Chem**

##### **Represented by WTC**

- a. Exports of Acetone from Korea RP have been very low as compared to demand of the India.
- b. There are only two producers of Acetone in Korea RP. In the original anti-dumping total exports from Korea RP were only 4414 MT (4.4% of total demand) and none of the producer/exporter from Korea RP participated in the said investigation.
- c. In the first sunset review investigation, total exports from Korea RP were 8486 MT against (6.06% of total demand). In this sunset review investigation

responses of these producers/exporters was rejected due to application of value chain concept.

- d. In both the earlier investigations DGTR worked out dumping/injury margins based on facts available and not the actual data of producers/exporters from Korea RP.
- e. In the present second sunset review investigation, both the producers/exporters from Korea RP have participated and DGTR has worked out negative dumping and injury margin in respect of LG Chem and negative injury margin in respect of the other producer.
- f. India is not a target country for exports and dumping for producers/exporters from Korea RP.
- g. In the post POI data considered by DGTR, it was established that LG Chem has not exported the subject goods to India during post poi period (April 2019 to Sept 2019).
- h. During the POI of the current SSR investigation only a small volume of exports were made by LG Chem, that too only in the first four months of the POI . LG Chem only exported 4 shipments of Acetone to India from April 2019 to June 2020.
- i. Exports of Acetone to India by TPCC had been very low as compared to the demand of the country. During the POI of the sunset review investigation TPCC has exported only \*\*\* MT. No exports to India were made thereafter.
- j. DGTR has worked out negative dumping/injury margin in respect of TPCC and other producer from Taiwan. The above background establishes that India is not a target country for exports by TPCC.
- k. TPCC has submitted that the prices of Acetone sold by TPCC in the current period has increased manifold. The domestic as well as exports sales have reached a record level of US\$ 1000 per/MT. These price levels cannot be termed as dumped and injurious and hence there is no justification for continued imposition of existing duty. In support of the claims made by TPCC, they have submitted T by T sales data with regard to domestic sales and exports sales for the period Oct 2019 to June 2020.
- l. Exports prices into China PR by various countries as published by ICIS post start of COVID-19 pandemic has increased manifold and reached a peak of US\$ 1046/MT during June 2020.
- m. TPCC and FCFC have provided T by T export price from Taiwan to China can be seen from Export statistics notified by Government of Taiwan.
- n. As per the Disclosure Statement issued by DGTR, the Authority has concluded that in case of FCFC, the goods were exported to India above the non-injurious levels and hence the Injury Margin was determined to be negative.

- o. FCFC has not been regularly exporting the subject goods to India since August, 2018. During the POI of the current SSR investigation only a small volume of exports were made by FCFC. FCFC only exported small quantities of Acetone to India from Oct 2019 to June 2020. FCFC has filed T by T sales data in respect of domestic sales and exports sales for the period Oct 2019 to June 2020 along with sample invoices.
- p. Globally COVID 19 pandemic started from January 2020 and impacted the demand of Acetone as the same is used for manufacturing Isopropyl Alcohol (IPA). The Authority must take the prevailing circumstances into consideration.
- q. IPA is the most commonly used disinfectant in pharmaceutical industries and is also widely used in alcohol wipes, swabs, hand sanitizers, disinfectants and oral mouthwash. COVID-19 pandemic has increased the demand for IPA both in India as well as in global market. As per market research, the forecast for global demand of IPA will reach 5,22,000 TPA during 2020-2024.
- r. Increase in demand and prices of IPA and consequently demand of Acetone has also increased by manifolds. This has resulted in sharp increase in prices of Acetone as compared to any period before, including POI and post-POI (6 months) as considered by the Authority in the current investigation. Indian Chemical News has stated as under:

*“We are confident that more and more pharmaceutical products will be made in India, owing to seamless supply of IPA.” The COVID-19 pandemic has increased demand for IPA both in India as well as in global market. As per market research, the forecast for global demand of IPA will reach 522,000 TPA during 2020-2024 and half of this growth will come from APAC.*
- s. As per sources, India’s total demand for IPA is to the tune of 200,000 TPA as there is large IPA demand for sanitizers and this has more than doubled.
- t. Demand of Acetone consequent to increase in demand of IPA has increased manifolds and will continue to sustain in future also. Imposition of any anti-dumping duty on Acetone will be counterproductive, as there is already a huge gap existent between demand and supply of Acetone in India. Indian industry only meets 50% of the demand and with further exponential increase in demand due to the outbreak of this pandemic, the gap will further increase.
- u. Exports of to India has almost stopped after commencement of commercial production by Deepak Phenolics.
- v. Major exports of Acetone are being made to China PR and that too at very high prices. There is no possibility of any shift in this behaviour. This trend is likely to continue keeping in view the current pandemic situation around the world.
- w. Immediately after the period of investigation, the prices of Acetone slides downwards globally. This impacted the import prices from all countries.

- x. As per WTO, now onwards the whole world will have to live with COVID-19 and need to take all necessary precautions. Use of sanitizers have become a way of life and hence demand of Acetone will continue to remain at high levels. Demand and prices of Acetone will continue to rise and there is no likelihood of any dumping taking place in future.
- y. The current price levels prevailing in the global market are non-injurious to the domestic industry and there is no likelihood of shifting of exports to India in an event the current anti-dumping duty is withdrawn by the Authority.
- z. The Authority is requested to analyse the books of domestic industry, because at the current prices, the Domestic Industry is making bumper profits and will continue to do so in future also.
- aa. Domestic Industry is unable to meet the demand as is and imposition of anti-dumping duty on ground of likelihood will drive the prices of Acetone off the charts. It is humbly submitted that interests of end-users and the country also need to be taken into thorough consideration as any undue protection to the domestic industry will create a monopolistic market in a situation where the demand of subject goods is only going upwards and so are its prices.
- bb. DGTR should take into consideration the existing situation and likely trends of demand and prices of Acetone while making analysis of likelihood of dumping and injury.
- cc. Impact of COVID-19 pandemic will last for years and it will have major impact on consumption of Acetone resulting from increase of consumption of IPA.
- dd. A short term decline in prices during April 2019 to Sept 2020 shall not be a parameter to judge the likelihood of dumping and injury if existing Anti-dumping Duty is removed.
- ee. During current exceptional circumstances when the whole world is affected by COVID -19, DGTR is requested to examine the likelihood analysis based on the current situation caused due to the pandemic.
- ff. We hope that DGTR will terminate the present investigation and conclude that there is no likelihood of dumping and injury to the domestic industry if the existing Anti-Dumping duty is withdrawn.

122. **By Sarvada**

**Representing the following:** (1) Kumho P&B Chemicals, (2) Humade Corporation, (3) Unid Global Corporation, (4) Samsung C&T Corporation, (5) IMS Corporation and (6) Canko Marketing Inc.

**A. Post-POI and likelihood analysis considering the post-COVID-19 situation must be examined.**

- a. The demand and prices of Acetone continue to surge post COVID-19 outbreak since Acetone is a key ingredient in manufacturing IPA hand-sanitizers, whose demand has increased exponentially.
- b. When compared to prices of Acetone prevailing during POI, the world-wide prices of Acetone indicate that prices increased by 30%, 80% and 93% during April 2020, May 2020 and June 2020 respectively. The increasing trend is expected to increase even further until the COVID-19 pandemic ends as demand for Acetone based disinfectants would continue to surge. Similarly, KPБ's own export prices to India as well as to third-countries during post-POI indicate similar increasing trend compared to the world-wide prices.
- c. Authority has already determined negative injury margin for Respondents during POI. Such being the case, where the prices were significantly higher during post-POI and post-COVID-19 as compared to the POI, the question of likelihood of recurrence of dumping and injury does not arise.

**B. Negative Injury Margin established for Respondents**

- d. Authority has arrived at negative injury margin for the Respondents, which establishes the fact that imports of subject goods produced and exported by Respondents are not injuring the domestic industry in any manner and the domestic industry is well positioned to compete with the imported goods. The sole objective of anti-dumping duty is to curb injurious effects of dumping, which has been achieved in the present case.

**C. No injury to the domestic industry confirmed by Authority**

- e. In the disclosure statement, the Authority has determined the following:
  - i. Increase in domestic industry sales and corresponding decline in imports: Sales of domestic industry increased by 148% between 2017-18 and POI and by 95% between POI and post-POI period. In contrast, during the respective periods, there was a steep decline in imports from subject countries by 14% and 57%. The decline in exports by the Respondents was even steeper by almost 85%, which clearly indicates lack of causal relationship between imports and domestic industry performance.
  - ii. Improvement in production, sales, capacity and utilization of domestic industry: Authority has confirmed that domestic industry has not suffered any injury and its volume parameters has shown significant increase during the POI. Post-POI figures also indicate robust growth, which indicates that domestic industry is not likely to suffer any adverse injury in the future.
  - iii. No price suppression or depression: Apart from determining negative injury margin for Respondents, Authority has also determined that during the POI, imports from

subject countries are not depressing or suppressing the prices of the domestic industry.

- iv. Significant improvement in DI's market share, profitability, employment, wages and productivity.
- v. Ability to raise capital investment: Authority has clearly stated that domestic industry has not presented any information which suggests that future investment in the sector can be marred by the presence of dumped imports from subject countries. This indicates that the domestic industry is healthy and will be able to perform well in the future as well.

#### **D. No likelihood or recurrence of dumping and injury in respect of Respondents**

- f. There is no likelihood of recurrence of dumping and injury insofar it relates to Respondents for the following reasons:
  - i. Past dumping margin determinations irrelevant: The market dynamics as existing during the original investigation and first sunset review have significantly changed over the past 12 years. Thus, mere comparison of dumping margins existing in 2008 or 2014 and comparing the same with dumping margins in 2020 will not lead to a proper comparison.
  - ii. In sunset review concerning imports of '4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA)' from the China PR and sunset review concerning imports of "Melamine" from European Union, Iran, Indonesia and Japan, Authority recommended withdrawal of anti-dumping duties, though it determined positive dumping margin. Facts of the present case are similar or even stronger with respect to withdrawal of anti-dumping duty.
  - iii. Significant decline in exports to India by Respondents: There is no appreciable increase in import volumes. Actual exports to India data of the Respondents indicate that exports declined by 31% between 2018 and POI; by 85% between POI and post-POI period and by 90% between 2018 and post-POI period. Such being the case, it is inconceivable to even suggest that imports are continuing at appreciable volumes.
  - iv. No export orientation: Mere export orientation in itself is insufficient to conclude that there exists likelihood of recurrence of dumping and injury. Respondents' as-filed data indicates that Respondents' total export to India out of its total exports as well as in relation to its production was very insignificant as exports to India has almost stopped since POI. This indicates lack of export orientation.
  - v. No trade diversion: Firstly, domestic industry has offered no evidence to suggest that trade diversion is likely. Secondly, negative injury margin has been determined by Authority for the Respondents. Thus, even if anti-dumping duties are discontinued, the 3<sup>rd</sup> country exports would enter Indian market at a non-injurious level. Resultantly, the likelihood of recurrence of injury does not arise.
  - vi. India not a lucrative market for Respondents: India is not a lucrative market for the Respondents since exports to India by Respondents has almost entirely stopped.

- vii. No freely disposable capacity with Respondents: At the outset, mere existence of capacities in subject countries do not ipso-facto result in increased exports to India. In fact, data submitted by the Respondents indicates that Respondents are already operating above optimal capacity utilization. Thus, the question of unutilized or freely disposable capacity does not arise.
- viii. No plans for expansion: There are no basis for domestic industry's claim that Respondents have plans for expansion. No concrete evidence has been provided in this regard. The said claim of domestic industry is factually incorrect.
- ix. Post-POI performance of domestic industry: Analysis of post-POI economic parameters of domestic industry indicates significant & continuous improvement in its performance. The fact that over the past three years, domestic industry has been performing well is a clear indicator of the fact that imports from subject countries are no longer a threat to the domestic industry.
- x. DA is requested to terminate anti-dumping duty against the Respondents.
- xi. Determination of injury margin establishes the fact that imports of subject goods produced and exported by Respondents are not injuring the domestic industry in any manner and the domestic industry is well positioned to compete with the imported goods. In fact, domestic industry has been able to sell the like article at a much higher price compared to imported subject goods and make healthy profits at the same time.
- xii. Respondents pray for immediate termination of the present sunset review investigation.

## 123. SUBMISSIONS ON BEHALF OF SABIC AND PETRO RABIGH by LKS

### A. Domestic Industry

- i. It is submitted that SI Group and Deepak Phenolics have imported the subject goods into India in significant quantities. The imports made by the Domestic Industry constitute approximately 15% of the total subject imports, which are being claimed as 'insignificant' by the Domestic Industry. Saudi Arabia's share in imports is lesser than 3%, and should not be considered significant.
- ii. Additionally, HOCL is a sick unit and is under a restructuring process. It cannot be considered a viable domestic producer for the purposes of this investigation.
- iii. It is clear that there exist no viable domestic producers in India to constitute a domestic industry within the meaning of Rule 2(d) of the AD Rules. On such grounds, the current investigation should be terminated.
- iv. If the Authority exercises its discretion to continue the investigation, the imports made by the Domestic Industry must be excluded from the total subject imports for the purposes of analysis in this investigation.

### B. Confidentiality

- v. No excessive confidentiality has been claimed by the Respondents. The submissions duly comply with the requirements of Trade Notice 10/2018.
- vi. In the "Trade Notice Status- Sunset Review Investigations in the matter of imports of Acetone from Korea RP, Saudi Arabia and Taiwan" section of the Petition, the

Petitioners have considered the Single Producer/Two Producer standard instead of the “More than Two Producers” standard from the Trade Notice.

- vii. In the following standards, the Domestic Industry has failed to provide the required information in the prescribed manner:
- a. Sales Quantity
  - b. Cost of Sales per Unit- Exports
  - c. PBIT per Unit- Domestic Sales
  - d. Total PBIT- Domestic Sales
  - e. Calculation of NIP

C. Cumulation of Imports

- viii. Saudi Arabia accounts for 2.67% of the imports in the POI, 0.71% in 2017-18 and there are no imports from Saudi Arabia in the previous years. Imports from Saudi Arabia are de-minimus and should be assessed separately.

D. Normal Value, Export Price and Dumping Margin

- ix. The Petition does not contain any evidentiary data with regard to the adjustments. The Applicants have failed to provide any explanation as to why the charges have been pegged at such a high level. This has unfairly lowered the export price determined.
- x. The valuation of raw material should be done on the basis of the actual data in the exporter’s questionnaire response submitted by it to the Authority as done in the original investigation.

E. Injury

- xi. Volume of the subject imports has declined substantially in both absolute terms and relative to production and consumption.
- xii. Saudi Arabia’s imports are insignificant and have a share of 2.67% in the total imports.
- xiii. Petitioners have increased their installed capacity for production of the subject goods with the installation of a plant by Deepak Phenolics in 2018.
- xiv. The capacity utilization of the domestic industry in the POI is at 89%, which is significantly high and is the highest in the last four years.
- xv. The domestic industry has been able to substantially increase its capacity utilization in the POI vis-à-vis the previous year despite having doubled its capacity in the POI. In case of Deepak Phenolics, the producer has been able to achieve capacity utilization of 100% in Q4 of FY 2018-19.
- xvi. The Petitioners’ production of the subject goods has increased from 24,959 MT in 2015-16 to 86,112 MT, i.e. by 245% in the POI.
- xvii. The domestic sales of the Petitioners have increased commensurate to increased production over the period of injury. The Petitioners’ domestic sales have also increased threefold in the POI.
- xviii. The Total PBIT increased from a loss of INR 1,565 lakhs in 2015-16 to a profit of INR 1,352 lakhs in the POI.
- xix. The cost of sales as well as the selling price has declined but the decline in selling price is less than the decline in cost of sales, which has resulted in a higher profit margin.

- xx. Despite the increase in capital employed, the domestic industry's return on capital employed has increased in the POI after being negative in the previous year (2017-18)
- xxi. The number of employees has increased from 119 to 352 over the period of injury, commensurate with increased capacity.
- xxii. The massive increase in productivity per day from 71 MT/Day to 246 MT/DAY indicates better efficiencies.

F. Likelihood of Injury

- xxiii. Based on the observed pricing trends, it appears that the pricing policy of the subject countries does not affect the pricing policy of the petitioners.
- xxiv. The landed value of all the imports, without the addition of the ADD has been rising consistently.
- xxv. The unutilized capacity in Saudi Arabia is only around 15%, which is 43,500 MT. Respondents do not hold much inventory of the subject goods, but rather sell the same in the domestic market and / or third country export markets.
- xxvi. The Petitioners have not provided any post POI data to indicate the likelihood of the continuation or recurrence of dumping and injury, even though data of the post POI 6 months could easily have been supplied.
- xxvii. Producers from the subject countries have established third country markets such as in Europe and therefore, there is no evidence to presume that such sales would be redirected to the Indian market or that there will be a surge in exports to India upon revocation of ADD.
- xxviii. The Petitioners have claimed that there is an increase in the capacity of Saudi Kayan by 37% over the injury period. However, this is not true, since there has been no increase in capacity at all.
- xxix. They have claimed that inventories with the company have increased. It must be noted that inventory as percentage of production has decreased, and that is the relevant factor which must be analyzed.
- xxx. The imports from Saudi Arabia have always been meagre. Despite its export orientation claimed by the domestic industry, it barely makes any exports to India. Anti-dumping duty was imposed on Acetone imported from Saudi Arabia in 2015. Saudi Arabia has been exporting only small quantities of Acetone to India for the past decade, irrespective of the duty imposed on them.
- xxxi. With 5 years of duty enforcement, the trade channels have been realigned and there is no reason to presume that the producers and exporters in Saudi Arabia including the Respondents would revise their trade routes to create a sudden surge in exports to India upon revocation of duties.
- xxxii. Easy availability of raw material through backward integration does not imply a rise in imports into India. Considering the argument, the producers in Saudi Arabia have always had backward integration but have never exported in large quantities to India. Their landed price has also always been at the higher end.
- xxxiii. In the injury period, the dumping margin, injury margin, and price undercutting caused by the imports from Saudi Arabia to third countries has been negative

- xxxiv. Estimation of dumping margins, price undercutting and injury margin in third countries is neither a requirement nor a practice for the Authority in the conduct of sunset review investigations.
- xxxv. No investigation has been initiated by China against Saudi Arabia.
- xxxvi. The International Trade Commission of United States has terminated the antidumping duty investigation on acetone from Saudi Arabia due to low imports.

#### G. Causal Link

- xxxvii. As per an Investor Communication dated 24 October 2019, for Quarter 2, 2019-20, Deepak Phenolics stated that any injury caused to the company is due to several other reasons not related to imports from Saudi Arabia:
  - a. Slowing economic growth globally
  - b. Subdued activity levels in the automotive and real estate sector
  - c. Planned shutdown of the plant for 14 days during the quarter
- xxxviii. HOCL is a sick unit and have been facing operational difficulties with its Acetone manufacturing units.
- xxxix. Volume of imports from other countries combined is significantly higher than the volume of imports from the subject countries, especially Saudi Arabia.

#### H. Miscellaneous

- xl. The Authority has conducted more than 10 (ten) trade remedy investigations on the subject goods imported from various countries in the past two decades (1999-2019).
- xli. Even though production of Acetone by the domestic industry has increased in the POI vis-à-vis the previous year, it is grossly insufficient to meet the increasing demand.
- xlii. Contradictory to the claim of the domestic industry, there are no other indications of the role of SABIC in the channel of distribution. There is a clear flowchart provided in the Questionnaire Responses, and the same can be verified by the Authority.

#### 124. **Brief of Domestic Industry Comments**

- i. Higher Demand for Acetone than capacities only justify imports, and not dumping.
- ii. Due to inevitable imports, DI has to disregard its cost price and raw material costs and set its selling prices as per the dumped prices offered by foreign exporters.
- iii. CESTAT held in DSM Idemitsu Limited v. Designated Authority, that demand-supply gap does not warrant exporters dumping goods. If fulfilling the demand is the purpose, then exports can be made at a price equivalent to the normal value.
- iv. The Authority as practice, has never considered demand supply issue relevant in the previous findings when the other factors have established that there is likelihood of dumping and consequent injury to the domestic industry. ADD has been recommended at even higher Demand supply gaps.
- v. Any data or information beyond the post POI period cannot be considered. COVID 19 situation is only temporary. Any decision on imposition of ADD cannot be based on a temporary situation.
- vi. The Authority as practice, in previous investigations, including Phenol, has confined the post poi period to be 6 months after the POI. Point 17.30 of the SOP manual also states 6 months subsequent to POI as the post POI period.

- vii. As submitted previously, sanitizers have been removed from the list of essential items by the Government and therefore the acetone-based IPA is no more an essential item.
- viii. Since DI is not suffering injury in the present investigation, the case is required to be decided on the basis of likelihood/threat examination. It is not appropriate to modify the duty in such an event.
- ix. The injury margin is relevant only when the Designated Authority finds that the domestic industry is currently suffering injury. As a practice, the Authority extends the same quantum of duty on grounds of likelihood of recurrence of injury. The same has been re-affirmed by the Gujarat High Court in Nirma Ltd. v. Union of India.
- x. As per Rule 17(2), the question of quantum of injury shall arise only when the Designated Authority finds injury to the domestic industry.
- xi. If the Designated Authority does not find injury to the domestic industry, the Designated Authority is not required to determine injury margin. In fact, when there is no injury, there can be no need for determining injury margin.
- xii. As noted in the Disclosure Statement, there is a likelihood that cessation of duty would lead to dumping and injury to the domestic industry. It can be seen that –Dumping margin is the current investigation as well as the previous investigations were positive and above de minimus levels.
- xiii. Imports from subject countries have continued in substantial volumes despite anti-dumping duty in existence.
- xiv. The responding exporters are highly export oriented, as per the data filed by the responding producers, their exports to India are at dumped prices and at injurious prices during period of investigation or Post period of investigation, further the exports to 3rd countries other than India during Post POI on likely diversion to India would be injurious.
- xv. Additional disclosure of relevant documents is requested to enable DI to come to a meaningful conclusion, non-confidential version of supplementary information, if any, filed by foreign producers, non-confidential version of deficiencies issued to foreign producers, if any, may be provided. Copy of communications sent by the Authority and copy the replies filed by the interested parties, Copy of rejoinder submissions, a non-confidential version of verification report may also be provided.
- xvi. The period for which duty has been in force is no relevant consideration to determine whether further extension is required. Authorities in multiple jurisdictions have extended ADD beyond 20 years.
- xvii. The Domestic Industry has provided post POI data in compliance with the Trade Notice No 1/2013.
- xviii. The initiation notification is as per the established practice of DGTR. The petition contains all the necessary information, a copy of which has been provided to all the known exporters and respective Embassies.
- xix. The opposing interested parties have not established any prejudice caused to them due to lack of alleged information in the notice of initiation, when the notice of initiation is required to be read along with the petition.

- xx. It would be grossly inappropriate to consider turnover of relevant day/week/month/quarter/year to determine their position over the injury period. If the effect of dumped import on the domestic industry is required to be assessed, the effect of other product performance is required to be segregated.
- xxi. As per the past practice of the Authority, including in Acetone and Phenol investigations, even where the Dumping Margin and Injury Margin has found to be negative, the Authority has extended the same duty on the basis of likelihood of recurrence of injury.
- xxii. As per the practice of Authority, the duty should be imposed in terms of USD (\$). Rupee has depreciated significantly and therefore, the definitive duties may kindly be expressed in US\$. The depreciation of INR has impacted the costs of the raw materials, utilities and other costs.

**Examination by Authority**

125. The Authority had disclosed dumping margin and injury margin during POI and Post POI in the disclosure statement to all concerned producers/exporters. The comments received from various interested parties in response to the Disclosure have been appropriately examined. As regards imports by domestic industry of the subject goods during POI, the Authority notes the submissions of various interested parties on the imports made by M/s Deepak Phenolics Ltd and M/s SI Group India Pvt. Ltd were 2% of total imports. M/s Deepak Phenolics Ltd. imported the same for seed marketing purpose. The Authority in the foregoing paras quantum of dumping and injury to the domestic industry during POI holds that after assessing the POI analysis does not support continuance of existing ADD but SSR warrants a likelihood analysis of dumping and injury which thereby requires an analysis in post POI period as well. The Authority has undertaken a post POI analysis of likelihood of dumping and injury as done consistently in similar circumstances. The Authority has examined the likelihood of continuation or recurrence of injury considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Rules as follows:

**a. Dumping margin determined in previous investigations**

Authority notes that the original investigations into the import of subject goods, and the subsequent reviews brought out the existence of significant dumping as follows:

| <b>Nature of Investigation</b> | <b>Dumping Margin (%)</b> | <b>Subject Country</b>  |
|--------------------------------|---------------------------|-------------------------|
| Original Investigation         | 32.77%                    | Korea RP                |
| Sunset Review Investigation    | 15-25%                    |                         |
| Original Investigation         | 5-45%                     | Saudi Arabia and Taiwan |

The Authority notes that in POI, dumping margin is above de minimis for 4 cooperative producers/exporters i.e. SABIC, TPCC, FCFC and Kumho. The Authority has examined

likelihood of dumping during the post POI period especially for those producers/exporters for whom the dumping is below deminimis in the POI.

**b. Continued imports of appreciable quantum in presence of anti-dumping duty**

Imports have though reduced but continue into India at appreciable volume despite the levy of Anti-dumping duties which have been considered for likelihood examination of dumping and also injury as stated in later paras.

**c. Export orientation of subject countries**

The Authority noting the claim made by domestic industry in the foregoing paragraphs on surplus capacity and high export orientation. As per the data filed by the cooperative producers/exporters, the export orientation of producers/exporters in the 3 subject countries is observed as under, which broadly correlated with the claim of the DI.

| Country      | Exports as percentage of production |
|--------------|-------------------------------------|
| South Korea  | 30-40                               |
| Taiwan       | 40-50                               |
| Saudi Arabia | 70-80                               |

The Authority notes that some interested parties have stated that merely with a surplus capacity, the subject country may not be targeting India. The Authority holds that if that is the case with the participating producers/exporters the continuance of AD duty may not impact their business model of exporting to countries other than India. However, there could be other producers/exporters who may look at India for exports and hence the continuance of AD duty after the likelihood analysis may be required.

**d. Likelihood analysis on Dumping and Injury**

The Authority notes that in the current SSR, the cooperative producers/exporters from the subject countries account for almost 83% of imports of PUC into India during POI. The cooperative producers/exporters have also provided post POI data as requested. Keeping in view the high degree of participation, the exports of subject goods during post POI from the subject countries to India are quite representative and have been analysed for likelihood of dumping or injury as warranted and considered appropriate.

The Authority has referred the post POI data of 6 months of producers/exporters to evaluate the likelihood of dumping or injury. The methodology of analysis of this data adopted is as under;

- a. Dumping Margin and Injury Margin have been evaluated for exports to India during Post POI after these were found to be negative/deminimis during POI as the case may be.
- b. (i) If there are no exports to India during Post POI or if DM/IM is also deminimis/negative in Post POI for India, dumping margin has been evaluated for exports to 3rd countries other than India and  
(ii) Injury during Post POI has been evaluated considering likely diversion of exports made by cooperative producer/exporter to 3rd countries to India if the

Indian market is found to be attractive by the producers/exporters due to likely realisation of higher price.

By applying the aforesaid methodology the following is held;

### **Saudi Arabia**

1. M/s Saudi Basic Industries Corporation (SABIC) - The exports from SABIC continue to be dumped and injurious during POI, as is evidenced from the dumping and injury table in the foregoing paras.
2. M/s Rabigh Refining and Petrochemical Company (Rabigh) - The exports by Rabigh to India during Post POI are noted to be dumped and injurious.
3. The Authority also notes the comments of producers/exporters from Saudi Arabia that their exports have been very insignificant. The Authority holds that the continuance of anti-dumping duty is on the basis of a likelihood analysis on various parameters as stated in this finding. If the cooperative producers/exporters are not inclined to export to India, the continuance of anti-dumping duty would not impact them but for the other non cooperative producers/exporters, there is a need to ensure protection on a likely dumping and consequential injury to the domestic industry.

### **Taiwan**

1. M/s Taiwan Prosperity Chemical Corporation(TPCC) – The exports by TPCC during POI are noted to be dumped as depicted in dumping table in foregoing para, The 3<sup>rd</sup> countries exports during post POI on likely diversion to India are noted to be injurious.
2. M/s Formosa Chemicals & Fibre Corporation(FCFC) – While the exports by FCFC to India in POI are noted to be dumped, the likely diversion of FCFC's exports from 3<sup>rd</sup> countries (other than India) to India during Post POI are observed to be injurious.

### **South Korea**

1. M/s LG Chem, Ltd (LG) – The exports of LG during POI are noted to be non-dumped and non-injurious. During Post POI, there are no exports to India, however exports to 3<sup>rd</sup> countries other than India are noted to be dumped and their likely diversion to India indicates that they would be injurious.
2. M/s Kumho P&B Chemicals (Kumho) – The exports by M/s Kumho to India are noted to be dumped during POI and the exports to 3<sup>rd</sup> countries other than India during Post POI on likely diversion to India would be injurious.

The Authority holds that there is likelihood of dumping and injury in view of the aforesaid analysis. Authority notes the submission by Kumho regarding error in the confidential calculations which is further re-examined and corrected appropriately.

The treatment accorded to the cooperative producers/exporters for continuance of AD duty is also applicable to the non-cooperative producers/exporters. The Authority recommended continuance of the earlier AD duty as imposed on them as per previous investigation at the later paras of this finding.

### **Causal Link**

126. The imports are noted to be undercutting the prices of the Domestic Industry and have a depressing effect. Also, due to the price effects, the petitioners are suffering financial losses.

Under Section 9A (5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties irrespective of whether there have been any imports of the product under consideration during the review investigation period or not. The other parameters listed under the AD Rules which could contribute to injury to the domestic industry are noted as follows and have been evaluated as demonstrated below;

- a. Third Country: The imports from third country are either attracting anti-dumping duty or under ADD investigation are at higher prices.
- b. Demand: The demand of the product under consideration has increased since the base year.
- c. Export Performance – The domestic industry has exported the product under consideration in negligible volumes. Possible deterioration in the export performance of the domestic industry is, therefore, not a cause of injury to the domestic industry.
- d. Technology – The technology as also the production process for producing product under consideration has not undergone any significant development. Possible development in technology is not a cause of injury to the domestic industry.
- e. Performance of other products of the company – Performance of other products being produced and sold by the Petitioners is not a possible cause of injury to the Domestic Industry. The information relating to the product under consideration which is the relevant information for the present purpose has been considered in all the injury parameters.
- f. Conditions of competition and Trade Restrictive Practices – There is no trade restrictive practice, which could have contributed to the injury to the domestic industry
- g. Changes in the patterns of consumption – There have been no material change in the pattern of consumption of the product under consideration during POI.

127. The Authority notes that many interested parties have mentioned that the domestic industry's profitability on the basis of current prices has improved which does not warrant continuance of anti-dumping duty. The Authority further notes that various interested parties have also mentioned that prices of Acetone have increased significant in early 2020 on account of Covid Pandemic as this is a input for making sanitisers, and therefore, continuance of AD duty is not warranted on this product. The Authority notes that prices of acetone ranged between 600\$/MT to 1000\$/MT during first quarter of 2020 and later in May to June 2020 are on an average range of 800 \$/MT. The post POI considered is 1/4/2019 to 30/9/2019 i.e. 6 months as normally considered. However, in few cases which required examination of developments beyond 6 months, Post POI of more than 6 months has also been considered. In the instant case as the circumstances warrant examination of the current facts also keeping in view the continuing pandemic, the Authority has obtained the recent import data also as stated above. The Authority notes that the prices of Acetone are still ranging high and keeping in view the ongoing situation and the views of interested parties on the domestic industry making profits, it is considered appropriate to recommend a price triggering mechanism so that AD duty is invoked only when the price of import is lower than the established trigger price. The Authority further notes that in the instant case

it is the likelihood of continuance of dumping and injury which have been established in the foregoing paras. The Authority also notes that in the earlier investigation of the subject countries, the AD duty was referenced as per the injury margin and in the current scenario an appropriate trigger point needs to be referenced keeping in view the current prices and a price which would not be injurious to the domestic industry for which the NIP has been evaluated during POI. Further, the price which would not be injurious in current time is considered appropriate and realistic to set up a trigger price, since, the composition of the DI has significantly changed in the current SSR as compared to the earlier investigations. The Authority therefore recommends a trigger price as 508 \$/MT (CIF). AD duty would be liable to be paid if the CIF import price of the subject goods from the subject countries is below 508 \$/MT.

128. The Authority notes that in case of imports from South Korea, the present case is second SSR. The Authority notes that investigation includes 2<sup>nd</sup> SSR on imports from South Korea while for Saudi Arabia and Taiwan it is the first SSR. Keeping in view the likelihood of dumping and injury the Authority recommends extension of the existing ADD on imports of subject goods from Saudi Arabia, Taiwan and South Korea as notified vide C.N. No. 05/2015-Customs (ADD) dated 18/2/2015 and C.N No. 13/2015-Customs (ADD) dated 16/4/2015. Subject to above mentioned (para 132) price triggering mechanism.

129. In view of the aforesaid, the Authority recommends imposition of definitive Anti-Dumping Duties on the import of the Subject Goods, originating in or exported from the subject country in Col (7) of the duty table below for a further period of 5 years from the date of Notification to be issued in this regard by the central government substituting existing custom Notification No. 07/2020-Customs (ADD) dated 15/4/2020.

**Duty Table**

| S. No | Heading /Sub-heading | Description of Group | Country of origin   | Country of export | Producer                               | Duty Amount * | Currency | Unit |
|-------|----------------------|----------------------|---|-------------------|--|---------------|----------|------|
| 1     | 2                    | 3                    | 4   | 5                 | 6                                      | 7             | 8        | 9    |
| 1     | 2914 11 00           | Acetone              | Taiwan  | Any               | Formosa Chemicals and Fibre Corp.      | 86.10         | USD      | MT   |
| 2     | -do-                 | -do-                 | Taiwan  | Any               | Taiwan Prosperity Chemical Corporation | 205.05        | USD      | MT   |
| 3     | -do-                 | -do-                 | Taiwan  | Any               | Any other than at Sl. No 1 and 2 above | 271.37        | USD      | MT   |
| 4     | -do-                 | -do-                 | Any country other than country attracting anti-dumping duty | Taiwan            | Any                                    | 271.37        | USD      | MT   |

|    |      |      |   |              |   |        |     |    |
|----|------|------|---|--------------|---|--------|-----|----|
| 5  | -do- | -do- | Korea RP  | Any          | Kumho P&B Chemicals Inc                   | 79.75  | USD | MT |
| 6  | -do- | -do- | Korea RP  | Any          | LG Chem, Ltd.                             | 79.75  | USD | MT |
| 7  | -do- | -do- | Korea RP  | Any          | Any other than at Sl. No 5 and 6 above    | 79.75  | USD | MT |
| 8  | -do- | -do- | Any country other than country attracting anti-dumping duty | Korea RP     | Any                                       | 79.75  | USD | MT |
| 9  | -do- | -do- | Saudi Arabia  | Any          | Saudi Kayan Petrochemical Company         | 132.98 | USD | MT |
| 10 | -do- | -do- | Saudi Arabia  | Any          | Rabigh Refining and Petrochemical Company | 203.85 | USD | MT |
| 11 | -do- | -do- | Saudi Arabia  | Any          | Any other than at Sl. No 9 and 10 above   | 203.85 | USD | MT |
| 12 | -do- | -do- | Any country other than country attracting anti-dumping duty | Saudi Arabia | Any                                       | 203.85 | USD | MT |

\* The aforesaid AD duty would be levied only when CIF price of import is below 508 USD/MT.

#### Further Procedure

130. An appeal against this notification shall lie before the Customs, Excise, and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.



(B.B. Swain)

Special Secretary & Designated Authority