F.No. 7/36/2018-DGTR
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF TRADE REMEDIES)
Jeevan Tara Building, 4th Floor 5, Parliament Street, New Delhi-110001

Dated 28th June, 2019

NOTIFICATION

FINAL FINDINGS

Subject: Sunset review anti-dumping investigation concerning imports of Purified Terephthalic Acid, originating in or exported from Korea RP and Thailand.

F. No-7/36/2018-DGAD: - 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 Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the "Anti-Dumping Rules"), thereof;

A. BACKGROUND OF THE CASE

1. Whereas, the Designated Authority (hereinafter referred to as the Authority), had issued preliminary findings vide notification No.14/7/2013-DGAD dated 19th June, 2014, recommending imposition of provisional anti-dumping duty against imports of Purified Terephthalic Acid (hereinafter referred to as PTA, the subject goods or product under consideration), originating in or exported from Korea RP and Thailand (hereinafter referred to as the subject countries), which was imposed by Central Government vide Notification No. 36/2014 – Customs (ADD) dated 25th July, 2014.

2. And whereas, the Authority issued final findings vide Notification No. No.14/7/2013-DGAD dated 7th April, 2015 recommending imposition of definitive anti-dumping duties against the imports of subject goods from subject countries. The definitive anti-dumping duties were imposed by the Central Government vide Notification No. 23/2015 – Customs (ADD) dated 27th May, 2015.

3. And whereas, a petition was jointly filed by M/s Reliance Industries Limited and M/s MCPI Private Limited (hereinafter referred to as 'petitioners') in accordance with the Act and the Rules, seeking initiation of sunset review of the anti-dumping duty in force against the subject imports and for extending the duties for a further period of five

years. The request was based on the grounds that the expiry of the measure was likely to result in continuation/recurrence of dumping of the subject goods and consequent injury to the domestic industry.

4. And whereas, in view of the duly substantiated application, filed by the domestic industry, the Authority in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, initiated the sunset review investigation vide Notification No. F.No. 7/36/2018-DGTR dated 31st October, 2018 to review the need for continued imposition of the anti-dumping duties in respect of the subject goods, originating in or exported from Korea RP and Thailand, and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

B. PROCEDURE

5. The procedure described below has been followed with regard to the investigation:

   i. The Authority sent copy of the initiation notification dated 31st October, 2018 to the embassies of the subject countries in India, known producers and exporters from the subject countries, known importers and other interested parties, as per available information. The known interested parties were requested to provide relevant information in the form and manner prescribed and make their views known in writing within the prescribed time-limit.

   ii. Copy of letter and questionnaire sent to the exporters were also sent to embassies of the subject countries along with a list of known exporters/ producers, with a request to advise the exporters/producers from the subject countries to respond within the prescribed time.

   iii. Copy of the non-confidential version of the application filed by the applicants was made available to the known producers/exporters of the subject countries and the embassies of the subject countries in accordance with Rule 6(3) of the Anti-Dumping Rules.

   iv. The Authority forwarded a copy of the public notice initiating the SSR to the following known producers/exporters in the subject countries and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) and 6(4) of the Rules:

      a. Hyosung Corporation, Korea RP
      b. Taekwang Industrial Co., Ltd, Korea RP
      c. Hanwha General Chemical Co., Ltd, Korea RP
      d. Hyosung Petrochemical, Korea RP
      e. Honam Petrochemical Corporation, Korea RP
      f. Samnam Petrochemical Co., Ltd, Korea RP
      g. SK Petrochemical, Korea RP
      h. Lotte Chemical, Korea RP
      i. Siam Mitsui PTA Co., Ltd., Thailand
      j. Indorama Petrochem Limited, Thailand
      k. TPT Petrochemicals Public Co. Ltd, Thailand

v. In response to the initiation of the subject investigation, following producers/ exporters from the subject countries responded by filing questionnaire response and making submissions:
   a. Taekwang Industrial Co. Ltd., Korea RP
   b. Hyosung TNC Corporation, Korea RP
   c. Hanwha General Chemical Co., Korea RP
   d. Indorama Petrochem Limited, Thailand
   e. TPT Petrochemicals Public Company Limited, Thailand

vi. Questionnaire was sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-Dumping Rules:
   a. JBF Industries Limited
   b. Alok Industries Limited
   c. Bhilosa Industries Limited
   d. Garden Silk Mills Limited
   e. Gokulanand Petrofibres
   f. DNH Spinners Private Limited
   g. Filatex India Limited
   h. Rashmi Polyfab Private Limited
   i. Sumeet Industries
   j. SRF Limited
   k. Shubhalakshmi Polyesters Limited
   l. Wellknown Polyester Limited

vii. In response to the above, following importers/users filed importer questionnaire response and made submissions.
   a. Garden Silk Mills Limited
   b. Filatex India Limited
   c. Indo Rama Synthetics (India) Limited
   d. IVL Dhunseri Petrochem Industries Private Limited
   e. Sumeet Industries
   f. The Bombay Dyeing and Manufacturing Company Limited

viii. The following parties also made submissions during the course of this investigation:
   a. Garden Silk Mills Limited
   b. PTA Users Association
   c. Confederation of Indian Textiles Industry
   d. Indian Spinners' Association
   e. The Southern Indian Mills' Association

ix. Exporters, foreign producers and other interested parties who have not responded to the Authority, or not supplied information relevant to this investigation, have been treated as non-cooperating interested parties.

x. Investigation was carried out for the period starting from 1st April, 2017 to 31st March, 2018 (POI). However, injury examination was conducted for a period from 2014-15, 2015-16, 2016-17, and the period of investigation.

xi. Request was made to the Directorate General of Commercial Intelligence and

Statistics (DGCI&S) to arrange for details of imports of subject goods for the past three years and the period of investigation. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis.

xii. Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry. The non-injurious price (NIP) has been determined by the Authority in terms of the principles laid down under Annexure – III to the Anti-Dumping Rules.

xiii. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 29th April, 2019. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.

xiv. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

xv. 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 recorded the disclosure on the basis of available facts.

xvi. A Disclosure Statement was issued to interested parties on 18th June, 2019 containing essential facts under consideration of the Designated Authority, giving time up to 25th June, 2019 to furnish comments, if any, on the Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately in the present final findings.

xvii. *** represents information furnished by an interested party on confidential basis and so considered by the Authority under the AD Rules.

xviii. The average exchange rate of 1US$ = Rs 65.33 prevailing during the POI has been adopted by the Authority

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

6. The product under consideration in the original investigation as well as in the present sunset review is Purified Terephthalic Acid. In the original investigation, the product under consideration was defined as under:

> "*i. The product under consideration in the present investigation, as defined by the Authority in the initiation notification is Purified Terephthalic Acid (PTA), including its variants - Medium Quality Terephthalic Acid (MTA) and Qualified*

Terephthalic Acid (QTA). The PUC is a white, free flowing crystalline powder, free from any visual contamination. Terephthalic Acid is an organic compound whose chemical formula is C6H4(COOH)2. It sublimes at 402ºC and is poorly soluble in water and alcohol. PTA is primary raw material in the manufacture of polyester chips which in turn is used in a number of applications in textile, packaging, furnishings, consumer goods, resins and coatings. Since QTA, MTA and PTA are chemically the same product and further since they are interchangeably used, the scope of the product under consideration covers QTA and MTA as well. The product under consideration is classified under subheading 29173600 of the Customs Tariff Act. However, the customs classification is indicative only and in no way it is binding on the scope of the present investigation.

ii. As claimed by the applicants, Di-Methyl Terephthalate (DMT) is chemically a different product and therefore not covered in the scope of the product under consideration."

7. The Authority found that the subject goods produced by the domestic industry and that imported from subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. The consumers importing the product under consideration have also purchased the same from the domestic industry. In view of the same, the subject goods produced by the domestic industry were treated as domestic like article to the product under consideration imported from subject countries.

8. None of the importers, consumers, exporters, domestic industry and other interested parties have raised any objection with regard to the scope of the product under consideration and like article. In view of the above the investigation conducted, information filed by various interested parties and information on record, the scope of the product under consideration in the present review investigation remains the same as that in the original investigation.

D. DOMESTIC INDUSTRY AND STANDING

9. The application has been filed by M/s Reliance Industries Limited and M/s MCPI Private Limited. There is one more producer of subject goods in India, namely Indian Oil Corporation Limited (IOCL).

10. The definition of domestic industry is provided under Rule 2(b) of the Anti-Dumping Rules, which reads as follows:

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

11. The petitioners constitute more than 90% of the Indian production. Further, the petitioners have not imported the subject goods and are not related to exporters or importers thereof. No submissions have been made by the exporters, importers, users or any other interested party with regard to the scope of the domestic industry. Having regard to the investigation conducted, information filed by various interested parties and information on record, the Authority holds that the petitioners constitute domestic industry under Rule 2(b) of the Rules.

E. CONFIDENTIALITY

E.1 Submissions by the domestic industry

12. Following submissions have been made by the domestic industry with regard to confidentiality –
    i. The users have not provided any reason for claiming confidentiality.
    ii. Publicly available information such as shareholding, annual reports, product specification has been claimed confidential by the exporters and users.
    iii. Exporters have claimed even the names of producers and exporters as confidential, despite the fact that channel of distribution get inevitably mentioned in the duty table.
    iv. Even the names of producers and exporters through which goods have been exported has been claimed as confidential, despite the fact that such details are inevitably mentioned in the duty table.
    v. The exporters have not complied with the Trade Notice 10/2018.
    vi. The confidentiality claims of the domestic industry are consistent with the guidelines prescribed under Trade Notice 10/2018.
    vii. The information provided by the domestic industry was sufficient to allow the interested parties to defend its interests, as they were aware of the contentions of the domestic industry.
    viii. Formats A to L, which contain costing and pricing information of the domestic industry, are confidential by nature, and disclosure thereof would cause severe prejudice to the competitive interests of the domestic producers.
    ix. The data relating to productivity per day and employees cannot be disclosed in as much as the data relating to each company is not only confidential with respect to the other opposing parties, but also against each other.

E.2. Submissions by other interested parties

13. Following submissions have been made by other interested parties in this regard –
    i. The domestic industry has claimed all volume parameters as confidential, whereas the same were disclosed in the findings of the original investigation. The spirit of Trade Notice 10/2018 should not be violated by any party.
    ii. The actual extent of captive consumption is not disclosed to restrict the parties on commenting upon crucial volume parameters.
    iii. The domestic industry has removed rows for cash profit, average capital employed and PBIT as a percentage of capital employed from Format H, in contravention of the prescribed format. The incomplete Format H is certified as complete and authentic whereas it has been tampered and changed by the domestic industry. As a result, the opposing parties do not have information with regard to return on capital employed in actual or indexed form.
    iv. The non-confidential version of application does not allow a sufficient understanding of the information provided on a confidential basis. Significant data provided in the petition is not properly indexed and the justification table indicating reasons for confidentiality provided by the domestic industry is not as per requirements as per Trade Notice.
    v. In response to Section VI, the petitioners have not provided any information at all, but have referred Annexure 6.1, which have been claimed confidential. The costing information is crucial to understand the claims put forward by the petitioners, since a number of arguments referring to injury are based on these documents.
    vi. Indexed data on unit price, total costs, investments, employment and stock have not been explicitly provided and analyzed.
    vii. As per Trade Notice 10/2018, the aggregate data in case of number of employees and average data for productivity per day should have been disclosed, whereas the petitioners have provided the same in trend form.
    viii. The interested parties have claimed certain information confidential as permissible in Rule 7 and a proper reasoning for the same has been provided.
    ix. The domestic industry should be directed to adhere to Rule 7 and disclose essential details so that the opposing parties would get the chance to comment upon the petition effectively.

E.3 Examination by the Authority

14. With regard to confidentiality of information, Rule 7 of the AD Rules provides as follows:

> "*Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and 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 authorise its disclosure in a generalized or summary form, it may disregard such information."

15. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential versions of the evidences submitted by various interested parties in the form of public file.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by the domestic industry

16. The following miscellaneous submissions have been made by the domestic industry:

i. Users' responses need to be rejected as none of the users has filed the relevant and some of the most critical information regarding details of imports, domestic purchases, consumption of product under consideration and profitability, rendering the questionnaire response an empty exercise.
ii. The users have not furnished their financial statements and other exhibits, rendering their response incomplete.
iii. Users have also failed to provide details of post invoicing/sales discounts, which casts a doubt on the accuracy of price reported in respect of imports.
iv. The users have also failed to provide other exhibits.
v. The users have resorted to harsh, accusatory and offensive language, and resorted to wild accusations and allegations to make up for the lack of evidence in support of their claims.
vi. The users have tried to cover up the fact that (a) the user industry across segment have been able to significantly improve their performance, whether it is a question of volumes or profits/margins, (b) the user industry across segment has expanded capacities, (c) PTA consumption grew by *** lakh MT over current

injury period as opposed to *** lakh MT over previous injury period, (d) global consumption has increased during the corresponding period by much lesser proportion.

vii. In response to allegations in this regard, it was submitted that the present proceedings, being related to an anti-dumping investigation and not an investigation under the competition law, allegations of “monopolistic practices” or “abuse of dominant position” have absolutely no relevance to the investigation. There are a number of anti-dumping investigations having one or few producers.

viii. There are three producers of the subject goods in India itself, with another one expected to establish its plant soon. Therefore, even without imports, there cannot be any monopoly in the market.

ix. Even with the duties, the imports may continue, but at un-dumped prices, and therefore, there is no monopoly.

x. Countering the allegations of the respondents, it was urged that it must be borne in mind that the fair competition in the market is being destroyed by the imports, and not by the domestic industry.

xi. The data on record clearly shows that the domestic industry has not earned “monopolistic rent”, “supernormal profits” or a “very high return on capital employed”, as contended by the respondents. The very fact that the price undercutting is nominal shows that the domestic industry is selling the subject goods at an import parity price.

xii. In fact, the user industry have earned better returns than the domestic industry, as is evident from their financial statements, which shows that the domestic industry has not been abusing the alleged dominant position.

xiii. To cover up the fact that the duty has not impacted the user industry, the respondents have refrained from filing the information in the form and manner prescribed by the Designated Authority.

xiv. Responding to the allegation that the domestic industry was throttling the voice of the user industry, it is emphasized that the respondents have resorted to wild accusations only because they have been caught with glaring deficiencies.

xv. The users have resorted to such language to distract the Designated Authority from the actual merits of the case and to malign the reputation of the domestic industry.

xvi. The users have withheld the information that would have proved fatal to their fallacious arguments that they have suffered as a result of imposition of duties.

xvii. Responding to the argument that associations of users form part of definition of interested party, it was submitted that the manner of participation of users is laid out under Rule 6(5) to (a) industrial users and (b) user associations when the product is sold at a retail level.

xviii. The exclusion of right of Association to participate in the investigation does not operate as a bar on right of users to participate and therefore, the users are not left remediless, as claimed by the users.

xix. If the yardstick of “direct or indirect impact of duties on the business” suggested by the respondents were to be considered, then it would lead to a very wide interpretation of the term "interested party" and it may imply that even commission agents, customs house agents, shipping lines, inland transporters, warehouses, etc. engaged in distribution of imported and domestic goods may also be treated as interested parties. Further, by that logic, even a consumer of bottled water made from PET resin or consumer buying garments from man-made fabric may also be treated as an interested party.

xx. With regard to the argument that the user associations are covered under the inclusive definition under Rule 2(c), it was submitted that the respondents cannot be allowed to read the provisions of Rule 2(c) in a manner that makes the provisions of Rule 6(5) redundant.

xxi. It is a settled principle of interpretation of law that if a special provision is made on a certain matter that matter is excluded from the general provision. Therefore, when a special provision has been made under Rule 6(5) for the manner in which the users may participate, the issue shall not be covered under the broader definition of an "interested party" under Rule 2(c).

xxii. As held by Tribunal in the case of Automotive Tyre Importers Association, a user association must establish itself as an interested party by demonstrating its credentials, which has not been done in the present case.

xxiii. Even when it is assumed that Rule 2(c) definition is an inclusive definition, those parties who have not been specified as interested party under Rule 2(c) need to seek the liberty from the Designated Authority for being treated as an interested party.

xxiv. The desire of the responding users for inclusion of the downstream industry appears to stem from the fact that since the present respondents and members of PTA Users Association have not suffered due to the duties in force, they are trying to create an illusion of further downstream users suffering.

xxv. The downstream industry of users, or association thereof is not an interested party as they not have a proximate interest in the levy of duties and the data to analyse their situations is not on record.

xxvi. The associations of downstream industries of spinning, etc. need not only demonstrate an interest, but also the interest must not be remote or negligible; but rather, the party must be able to show a significant impact of duties on its operations.

xxvii. Only such entities may be considered as "included" within the definition, as are of the same class or kind as those enumerated. Since the present definition relates only to producers, exporters, importers, etc. of product under consideration or like article; an entity that is a user of any other article cannot be considered within the scope of definition of interested party.

xxviii. As held by Tribunal in Merino Panel, it is incumbent upon a party to demonstrate itself to be an interested party by filing relevant information. No such information has been filed by associations.

xxix. In terms of the Initiation Notification, the interested parties are also required to intimate their nature of interest. Even, as per US Handbook, parties must state their reasons for participating in the investigation and only a person found by the Secretary to have a proper reason is permitted to appear as an interested party.

xxx. At the very least, association of further downstream users must show a proper reason for participation in that they must provide data to substantiate that they are, in fact, impacted by duties.

xxxi. The reliance on the FAQs by respondents was misplaced as it referred only to users of dumped product.

xxxii. Regarding the reference to decision in Bharat Solvent by users, it was highlighted that the decision made it clear that the interest of the party must be real and proximate.

xxxiii. The associations are also not eligible for the reason that their members are primarily dependent on cotton, and not on man-made fibres.

xxxiv. Even if assuming that the users' downstream industry is suffering, then, the users should be blamed for the same.

xxxv. Responding to the argument that the users were suffering, the domestic industry emphasized that the respondents have failed to show that (a) that they have suffered losses; and (b) that the losses arose as a result of imposition of duties.

xxxvi. The respondents appear to believe that they have a right to unfair priced imports, and the step taken by Government towards establishment of fair competition in the market by imposing anti-dumping duty, has caused losses to them.

xxxvii. Data furnished by the domestic industry shows that almost all users of the subject goods are running profitable business and in fact their profitability has shot up significantly over the period.

xxxviii. For the users that are in losses, their annual reports itself show that the losses are attributable to reasons other than the anti-dumping duties in place.

xxxix. Responding to the claims of stagnation of downstream industry, it was highlighted that many users Filatex India Limited, Chiripal Poly Films Limited, Shubhlakshmi Polysters Limited, Vacmet India Limited, Wellknown Polysters Limited, SRF Limited and Bhilosa Industries Limited have expanded capacity since the levy of duty.

xl. Further, Filatex India Limited, Bhilosa Industries Limited, Ester Limited and Jindal Poly Films Limited are undertaking further capacity expansion, demonstrating that the user industry is not facing stagnation.

xli. The respondents have themselves acknowledged that the downstream industry is growing multifold

xlii. The users have also acknowledged in their annual reports that the margins of the downstream industry of PTA are growing.

xliii. As regards the other industries engaged in spinning, knitting, processing and garments industry; the respondents have not adduced any evidence to show impact of duty on the cost of production of these industries.

xliv. The impact of duties is only about Rs. 1.39 per kg with respect to a textured yarn of around Rs. 110 per kg. Likewise, in a saree of about Rs. 250, the impact of duties is only Rs. 0.56. The duties shall be about Rs. 0.31 in a shirt of about Rs. 146.

xlv. The growth potential of the textile industry underscores the importance of continued growth of the domestic industry to ensure that India remains self-sufficient.

xlvi. The imposition of duties can have no impact on the exports of textiles as the users can easily import the subject goods under advance license for the purpose of exports, without payment of duties.

xlvii. When the users have not been adversely impacted, losses or stagnancy of their downstream industry can only indicate two things – (a) either the users are profiteering and have not passed on the benefit of reduced prices to their consumers; or (b) the losses incurred by the downstream users are not on account of the duties in force.

xlviii. Contrary to the arguments of the respondents, the PCI Wood Mackenzie data shows that the consumption of polyesters has been increasing over the period, showing growth of downstream industry.

xlix. In any case, spinning mills suffer from over capacity.

l. It must be carefully examined as to whether the objections are actually being raised by the respondents as users; or false claims of suffering have been conjured to help their related exporters escape duties.

li. Chairman of the respondent, Filatex India Limited has acknowledged in an interview that the availability of PTA domestically has improved the prospects of the users.

lii. Regarding the argument that RIL has obtained advantage in downstream industry as well, it was submitted that the users have not adduced any evidence to show that they have suffered due to the duties.

liii. Further, when RIL has valued captive consumption of PTA at market value and has not suffered injury in downstream products, there is no basis for the argument that the downstream industry is suffering due to anti-dumping duty.

liv. As regards the reliance of respondents on PSF case, it is submitted that Indo Rama Synthetics, which was earlier suffering due to low capacity utilization, has itself mentioned in its annual report that it is now enjoying higher operating rates and profit margin. Performance of other producers of PSF, especially that Bombay Dyeing, has improved significantly.

lv. As regards the contention of low capacity utilization of PSF industry, it was highlighted that Bombay Dyeing has itself mentioned in its annual report that it achieved a capacity utilization of 93% and that other producers achieved 80%. Even then, the average utilization of PSF producers was low due to Alok Industries, which is operating at 30% due to financial crunch, and Indo Rama Synthetics, which has working capital issues. Further, the findings of the Authority make it clear that the production of the PSF producers increased.

lvi. With regard to reliance on lack of demand supply gap, it is submitted that there is nothing to show that the imports shall not increase now even if there is no demand-supply gap.

lvii. In regard to the argument regarding stoppage of imports, it is pointed out that when the present duties have not led to a complete stoppage of imports, there is no basis for the contention that the continuation of duties shall lead to that.

lviii. In relation to post period of investigation data, it was submitted that such data is only relevant when (a) the dumping margin or injury margin is negative in period of investigation, or (b) the duties have expired post period of investigation, to show likelihood.

lix. If the post period of investigation data is called for, then extension of duties for one year should be requested as the investigation would take longer to conclude.

lx. As regards the argument that there was a shut down at the plant of IOCL, it was submitted that the domestic industry had supplied additional volumes to the consumers to cater to the deficit created by the shutdown to ensure that the consumers did not suffer. Further, RIL's plant at Patalganga can be restarted within a period of 15 days to cater to supply.

lxi. With regard to the reference to Article 8 of ASEAN-India Free Trade Agreement, it was highlighted that the article relates only to non-tariff measures.

lxii. As regards the argument that paperbook was not circulated by the domestic industry, copies of the emails sent were produced. It was also submitted that since the paperbook contained extracts of responses and the domestic industry had already filed letters highlighting deficiencies therein, the respondents got due opportunity to defend.

lxiii. In response to the allegation that application was not duly substantiated, reliance was placed on the observations of the Authority in this regard in the Initiation Notification.

lxiv. Regarding arguments of public interest, it was submitted that the same is for the Government of India to consider, and not for exporters to comment upon. Continuation of duties shall ensure level playing field in the market.

F.2. Submissions by other interested parties

17. Following miscellaneous submissions have been made by other interested parties:

i. The post period of investigation data is relevant in a sunset review, which would show decline in imports.

ii. The argument that users' associations do not have a right to present their views before the Designated Authority is absurd. It cannot be said that the users are remediless in an anti-dumping investigation. Whether the anti-dumping duties have either a direct or indirect impact on the business of a party determines whether a party can be treated as an interested party or not.

iii. The definition under Rule 2(c) is an inclusive definition and it cannot be argued that a party importing for self-consumption cannot be treated as an interested party. The Anti-Dumping Agreement also provides that other parties not included in the list may be treated as interested parties.

iv. The past practice of the Designated Authority also shows the adoption of the inclusive aspect of the definition as the PTA Users Association has been treated as an interested party in the past as well. The Association comprises of users of PTA and anti-dumping duty thereon has a direct impact on the duties.

v. Not only the PTA Users Association, but also the users and associations concerning products supplied by PTA users should also be treated as interested parties, as they suffer due to the anti-dumping duty on PTA.

vi. PTA Users Association along with its members and associations of producers of downstream products are clearly interested parties and any contentions to the contrary by the domestic industry show that they want to shut any voice against their request for continuation of anti-dumping duty.

vii. Incidence of anti-dumping duty in a situation where imports were necessitated due to a demand-supply gap has rendered the user industry vulnerable to mounting losses and stagnation.

viii. The user industry covers many producers in the downstream applications such as PSF, POY, DTY, Film, PET etc., and is also one of the largest employment generating industries in the country consisting of spinning, weaving, knitting, processing and garments industry.

ix. The domestic manufacturers have added significant capacity and the improved supply position combined with the anti-dumping duty protection enjoyed by them has led to tremendous decline in imports into India.

x. The domestic producers enjoy near monopolistic situation and resort to monopolistic rent and manipulate the prices to the disadvantage of the users.

xi. Reliance Industries Limited, the largest producer having vertical integration, enjoys dominant position in the market; whereas the user industry is highly diversified and is affected by the anti-dumping duty on PTA.

xii. The downstream products of PTA earn major foreign exchange, of about Rs. 8,080 crores and if the downstream products up to garmenting are included, the earnings would be about Rs. 1 trillion. This segment represents a very significant share of India's GDP and urban as well as rural employment. All these downstream producers are in serious disadvantage because of antidumping duty.

xiii. The textiles exports are stagnant due to high cost of raw materials because of anti-dumping duty on PTA. Producers of downstream value added textile products in the entire value chain have been rendered vulnerable and have become uncompetitive.

xiv. The change in demand supply situation shows that the domestic industry did not suffer injury.

xv. Performance of domestic industry shows that it is enjoying a fabulous profits and earning a monopolistic rent.

xvi. The declining trend of imports and sharp increase in profitability of the domestic industry signifies that it has been resorting to overcharging the PTA users in India by misusing the anti-dumping duty in place. Any continuation of such limited volumes in the future also should be seen as a balancing factor to stop the domestic industry from overpricing the PTA produced by them.

xvii. Global demand supply situation shows that there is no likelihood of recurrence of dumping from the subject countries.

xviii. Though the imposition of anti-dumping duty on PTA has enriched a few producers of PTA significantly, the growth of dozens of companies in the user segment have been impacted.

xix. The users are the worst sufferers because of the long imposition of anti-dumping duties on their basic raw material. The duty should expire to allow the users breathing space to run their businesses competitively.

xx. The plant of IOCL has been shut down for 3-4 months and the users need a viable alternative source of PTA. There should be free and fair availability of other sources of PTA.

xxi. The high captive consumption by Reliance should be examined in view of the anti-dumping duty in force, as the chances of Reliance rigging the PTA market is very much possible.

xxii. In the recent investigation into imports of PSF, no duty was levied as the domestic industry could not prove that the injury was caused due to imports. Reliance as a major producer of PSF did not participate, and it determines the price for both PTA as well as for PSF. The Authority found that the domestic industry suffered loss as it could not even pass on the cost of production to its users.

xxiii. The PTA prices in India are most expensive when compared to any other country. The Indian PTA producers are charging additional premium over international PTA prices, in the form of ocean freight, port clearing charge, customs duty and anti-dumping duty. As a result, the domestic industry is able to charge a whopping Rs. 7,120 per ton or USD 102 per ton extra.

xxiv. The user industry needs to get PTA at fair price to explore all the opportunities it has, including the robust export and domestic market for textiles/man-made fibre. The main reason why the share of man made fibres is not increasing is the costly raw material.

xxv. As a result of the duties, the raw material cost of PSF producers increases and they are forced to offer discounts on their finished product, as a result of which they have become sick.

xxvi. As the Indian textile industry grows, it shall benefit all the domestic players, including the PTA producers as also increase employment, exports and GDP.

xxvii. There are short term plant shutdowns, the duration and timing of which is unknown. These shutdowns cause scarcity in the market and the producers use these scarcities to jack up prices.

xxviii. The users cannot consider imports in face of short supply and are cutting operations. While Reliance could meet more than 90% capacity utilization in PSF in 2018-19 and 100% thereafter due to uninterrupted supply of PTA, other PSF producers ended up with lower utilization of 65-75% due to the local shutdowns.

xxix. The supply issues are going to persist for at least another 6 to 12 months and the PTA producers shall use these opportunities to increase prices as they are aware that the users do not find it viable to shift to imports.

xxx. The domestic industry did not circulate the paper book relied upon during the hearing, as is required by Trade Notice issued by the Authority in the past. The domestic industry went on to make one sided allegations without giving any opportunity to the other side to rebut them.

xxxi. Although the paperbook was circulated later on 30th April, 2019, it shall not be appropriate to address them unless the claims are reproduced in writing.

xxxii. Responding to the allegations of the domestic industry, it was submitted that the response by the users contains relevant information about purchases and also imports.

xxxiii. Reply to Section E in the questionnaire was mentioned as not applicable as it is applicable for the imports and resale of product under consideration.

xxxiv. The annual reports of all the users were provided in the respective CD-ROMs, including in the non-confidential version of the CD-ROMs, in case of listed companies.

xxxv. Allegations of the domestic industry with respect to post-invoicing discounts are baseless as replies contain all information on how such items are accorded in the books of account of the respective company.

F.3 Examination by the Authority

18. The present investigation being under anti-dumping law, the Authority has considered and examined only such issues which are relevant and appropriate under the present law. Alleged issues such as monopolistic pricing or abuse of dominant position are not within the scope of the present investigation. It is however noted that the interested parties have not placed any credible evidence on record in support of these allegations. Further, it is noted that the landed price of imports from subject countries are lower than the selling price of each of the petitioners.

19. With regard to scope of interested parties, the Authority notes that Rule 2(c) provides as under:

> "*(c) "Interested party" includes -*
> *(i) an exporter or a foreign producer or the importer of an article subject to investigation for being dumped in India, or a trader or business association a majority of the members of which are producers, exporters or importers of such an article;*
> *(ii) the government of the exporting country; and*
> *(iii) a producer of the like article in India or a trade and business association a majority of the members of which produce the like article in India*"

20. It is noted that the concern regarding impact of anti-dumping duty has been expressed by the downstream users and their associations.

21. It is noted that even though associations of downstream users are not explicitly mentioned in the definition of Rule 2(c), the Authority has examined their submission to address the concerns expressed by these associations. Associations such as SIMA, CITI and ISA, while expressing their views, have not given any concrete evidence to substantiate their claims, nor quantified the impact of the existing duties on their members. Since there was an ADD in force on the product for some time, it was possible for the associations to demonstrate and quantify the impact of ADD. The Authority also notes the submissions of the petitioners quantifying the impact of duties on the final downstream products. The petitioners have also made submissions that the alleged adverse performance of the downstream industry of the consumers are attributable to other factors.

22. As regards the submissions of the responding users regarding the impact of duties, the Authority notes that no concrete or verifiable evidence has been provided by users too to substantiate their contention. The Authority notes that the users have not filed information in the form and manner prescribed and the questionnaire response filed are incomplete. The domestic industry has filed the financial statements and annual reports of a number of consumers, which show that the profitability of the user industry has not declined. Further, the evidence provided by the domestic industry on the contrary shows that the downstream industry is expanding.

23. The Authority also notes that the imposition of anti-dumping duty has not prevented imports in any way, nor would continuation of duty prevent imports in any manner. Continuation of duty would not affect the availability of the product to the consumers. The purpose of imposition of anti-dumping duty, in general, is to address the issue of trade distortion caused by the unfair trade practices in order to re-establish the situation of open and fair competition.

G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

G.1. Submissions by the domestic industry

24. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:
    i. Despite anti-dumping duties in force, the exporters from the subject country have continued to dump the subject goods into India.
    ii. There is a long history of dumping from the subject country and the dumping margin in the present investigation is higher than the dumping margin determined in the past investigations.
    iii. Indorama Petrochem Limited (IRPL), TPT Petrochemical Public Company Limited (TPT) and Hyosung TNC Corporation (HTC) have not filed a response to the Part II of the Exporters' Questionnaire, which is important for carrying out a likelihood analysis.
    iv. HTC was not even in existence during the period of investigation and has no locus to file a response for exports made by M/s Hyosung Corporation. A response by the related party cannot substitute a response by the actual exporter of the goods.
    v. The exporters and traders forming part of the channel of distribution have not participated, leaving the value chain incomplete.
    vi. One of the producers, whose goods have been exported to India by HTC, has not participated in the investigation.
    vii. There are other exporters mentioned in the responses of HTC, Taekwang Industrial Company Limited (“Taekwang”), and TPT, which have not participated in the investigation.
    viii. IRPL, TPT and HTC have not filed details of their third country exports, which is necessary for likelihood analysis.
    ix. HTC has supplied goods of two Korean producers but has filed a response in respect of goods produced by only one of them.

x. IRPL and TPT have suppressed the details of their related importer in India, namely, Indo Rama Synthetics Limited, which has actually imported the subject goods from Thailand.

xi. HTC has suppressed the fact that its related entity has a plant in Korea RP.

xii. The responses filed by the producers / exporters are contradictory in themselves.

xiii. While at one place, HGC purported that none of its shareholders or their related parties are engaged in resale of the product under consideration, it later disclosed that one of its related parties is engaged in resale of the products.

xiv. TPT, IRPL and Taekwang have also made contradictory claims regarding the channel of distribution.

xv. Unless an interested party has filed correct, complete and accurate information, it cannot be considered to have cooperated to the best of its ability with the Designated Authority and its response should be rejected.

xvi. The respondents have claimed to have cooperated by stating that they would provide any "further information" or "details" required. However, at this stage, the Authority may only call for "further" information or details and not information that was already required to be provided by the explicit language of the questionnaire.

xvii. Considering that the duties would expire on 24th July, 2019, and the investigations must be concluded before that, the Designated Authority may consider the appropriate action with regard to incompleteness of responses.

xviii. When the exporters have not even filed Part II of Questionnaire or determination of third country exports, the question of determination of likelihood based on their response does not even arise.

xix. Despite the domestic industry filing multiple letters identifying the deficiencies in the responses giving exporters ample time to respond to the submissions, the respondents are yet to offer any defence or clarification.

xx. Since PX constitutes about 80% of the total cost of the product, considering raw material cost in home market of exporter itself shall serve as a reasonable basis for determination of normal value.

G.2. Submissions by other interested parties

25. The submissions made by other interested parties with regard to normal value, export price and dumping margin are as follows:

i. Though the responses filed are complete to the best of the understanding of the parties, they are ready to provide further information/details.

ii. During the period of investigation, there were significant fluctuations in the global oil market, which directly affected the price of PX and PTA. The dumping margin should be calculated on a month-wise basis.

iii. The petitioners have constructed normal value based on cost of production of the producers in subject countries. The said calculation is hypothetical and not based on actual data.

iv. As per Annexure – I to the Anti-Dumping Agreement, the main purpose of the on-the-spot investigation is to verify information provided or to obtain further details. Therefore, the Exporters' Questionnaire Response is not the end of investigation and the Authority may call for additional information or clarification.

v. The cooperating producers/exporters and other parties as above have submitted all relevant data to determine dumping margins, injury margins etc. respectively and the same should be adopted for final findings.

vi. Response of Hyusong is complete as it reports all exports made to India and has submitted complete data in questionnaire as applicable to an exporter entity.

vii. HTC was previously a trading arm of Hyousong Corporation, but is an independent entity now.

viii. More than 85% of the goods exported are produced by Hanwha and therefore, the value chain for such goods is complete; whereas the Authority always accepts responses where more than 70% of the value chain is complete.

ix. In the original investigation, the dumping margin of Taekwang was only 4-5%, and it is not dumping in the present investigation. The imports from Korea RP are not being dumped and are coming only to fill the demand and supply gap in India.

x. More than 90% of the exports by Taekwang have been made directly and the balance through an unrelated exporter. The exporter did not file a response despite giving verbal assurances for the same. This cannot be considered as non-cooperation by producer/exporter since more than 70% value chain is complete.

xi. The Designated Authority is requested to change the name on record for the purpose of the present investigation from Samsung General Chemical Co., Limited to Hanwha General Chemical.

xii. IRPL and TPT have filed the relevant information in the prescribed format as per Trade Notice issued by the Authority in this regard.

xiii. TPT had exported some volume through certain unrelated exporters but they did not file the response. However, such exports are very insignificant.

xiv. The domestic industry has submitted an inflated normal value and lower export price to exaggerate the dumping margins, which is not correct

xv. The questionnaire requires the exporters to provide third country export data if the normal value claimed is based on domestic price of the exporter. In any case, the performance data provided by the exporter has details of third country exports as well.

xvi. TPT and Indorama have provided their corporate structure in detail.

xvii. IRSL is not related to the exporters in terms of any shareholding and the relation is only in terms of family relations with the directors. The said disclosure is available in the annual report of IRSL filed before the Authority.

xviii. The assertion of the domestic industry that IRSL imported from Thailand is incorrect.

xix. The responses are not deficient and should not be rejected as the interested parties have filed the prescribed responses within the timelines fixed by the Authority and the responses are complete.

H. NORMAL VALUE

26. Exporter’s questionnaire responses have been submitted by the following producers/exporters from Korea RP and Thailand.

i. M/s Taekwang Industrial Co. Ltd., Korea RP
ii. M/s Hyosung TNC Corporation, Korea RP
iii. M/s Hanwha General Chemical Co., Korea RP
iv. M/s Indorama Petrochem Limited, Thailand
v. M/s TPT Petrochemicals Public Company Limited, Thailand

27. Some of the exporters submitted that the dumping margin should be determined by undertaking comparison of normal value and export price on monthly basis. It is however, noted that the exporters have not been able to demonstrate significant variation in both the normal value and export price on the basis of monthly prices.

H.1. Normal value for Korea RP

Normal value for M/s Taekwang Industrial Co. Ltd., Korea RP

28. The Authority notes that M/s Taekwang Industrial filed response. The comapny had exported *** MT of the subject goods directly to India and *** MT through related exporter M/s Posco Daewoo during the period of investigation. M/s Posco Daewoo has not filed a response in the present investigation.

29. In the domestic market, the company has some captive consumption and some sales to related party. The cost of production reported by the company was examined in detail, and after due verification & reconciliation of the data, the cost of production of the company has been determined as US$ ***/MT (excluding packing cost) which has been adopted for the purpose of determination of normal value.

30. Transaction wise details of sales made by the exporter has been examined in detail. Profit margin has been determined in respect of profitable sales as ***%. Further, considering the cost of production, it is seen that ***% sales of the company are profitable. Since sales below cost of production are more than 20%, the normal value has been determined on the basis of profitable sales of the company in the domestic market. Price adjustments have been claimed in respect of inland freight, packing cost, credit cost, which have been allowed after due verification. The normal value so determined comes to US$ *** per MT

Normal value for M/s Hanwha General Chemical Co., Korea RP and M/s Hyosung TNC Corporation, Korea RP

31. The Authority notes that M/s Hanwha General Chemical Co. (HGC) had exported the subject goods through the trading division of M/s Hyosung Corporation (HC) during the

period of investigation. The trading division of HC has been hived off and a new entity M/s Hyosung TNC Corporation has been formed. HTC has filed a response in respect of the exports made by HC. After due verification of the records, the Authority finds it appropriate to determine the dumping margin considering the response filed by HGC and HTC.

32. Transaction wise detailed of domestic sales made by the exporter has been examined in detail. It is noted that ***% of the sales in the domestic market are profitable. Accordingly, the normal value has been considered on the basis of profitable sales. The normal value so determined comes to US $ *** per MT.

Normal value for all other producers/exporters from Korea RP

33. In respect of all other producers/exporters from Korea who are treated to be non-cooperative, the Authority has determined normal value as per facts available in terms of Rule 6(8) of the Anti-Dumping Rules. The normal value so determined is USD *** per MT.

H.2. Normal value for Thailand

Normal Value for M/s Indorama Petrochem Limited (IRPL), Thailand

34. A perusal of the responses filed by M/s Indorama Petrochem Limited (IRPL) shows that they have not filed response to Part II of the questionnaire, which contains information relevant for likelihood determination.

35. Further, data/ detail reported in different appendices do not tally. SGA expenses reported in Appendix 9 is not matching with that in appendix 7 and 8 The profit figure as reported in appendix 5 (for trading) & other raw material cost, packing cost and utility cost as reported in appendix 6 do not match with appendix 7 and 8.

36. Accordingly, the Authority holds the exporter as non-cooperative and has not allowed an individual dumping margin for the exporter.

Normal Value for M/s TPT Petrochemicals Public Company Limited, Thailand

37. A perusal of the responses filed by M/s TPT Petrochemicals Public Company Limited (TPT) shows that they have not filed response to Part II of the questionnaire, which contains information relevant for likelihood determination.

38. The company claimed profit in Appendix 7 and 8 for PUC but this is actually a loss. Appendix 8 is still not as per Trade Notice 05/2018 dated 28.02.2018 as company has not mentioned/claimed per unit cost for PUC. The company has not claimed packing

material cost in appendix 6 whereas the same has been claimed in appendix 7. The sales value as claimed in Appendix 7 and 8 is not matching with Appendix 3 & 4 related to sales.

39. Accordingly, the Authority has treated the exporter as non-cooperative and has not allowed an individual dumping margin for the exporter.

Normal value for all producers/exporters from Thailand

40. Since the Authority has found M/s IRPL and M/s TPT to be non-cooperative and in view of non-participation from any other exporter from Thailand , the Authority holds to determine normal value for all producers/exporters from Thailand as per facts available in terms of Rule 6(8) of the Anti-Dumping Rules. The normal value so determined is USD *** per MT.

I. EXPORT PRICE

I.1. Export price for Korea RP

Export price for M/s Taekwang Industrial Co. Ltd., Korea RP

41. M/s Taekwang Industrial Co. Ltd. has exported the subject goods through 2 channels i.e directly *** MT of PTA during POI to India and *** MT through unrelated party M/s Posco Daewoo. M/s Posco Daewoo has not filed the Exporter Questionnaire Response. However, since exports through unrelated trader M/s Posco Daewoo constitute only ***% of the total exports made by M/s Taekwang Industrial Co. Ltd., Korea RP, the response of M/s Taekwang Industrial Co. Ltd has not been rejected on this ground.

42. The questionnaire response filed by Taekwang Industrial was examined and certain discrepancies were noticed in respect of exports to India and rest of the world.

43. The Authority holds to consider adjustments on account of ocean freight & ocean insurance; wherever applicable, inland transportation, port & other related export expenses, packing charges, credit cost, duty drawback, documents fee and bank charges.

44. Since the unrelated exporter, M/s Posco Daewooo has not filed response, the adjustments to export price for the exports made through M/s Posco Daewoo have been considered on the basis of facts available. The export price for M/s Taekwang Industrial Co. Ltd., has, accordingly, been arrived on the basis of weighted average export price of the direct exports and exports through M/s Posco Daewoo. The Ex-factory export price comes to USD ***/MT.

Export price for M/s Hanwha General Chemical Co., Korea RP and M/s Hyosung TNC Corporation, Korea RP

45. M/s Hanwha General Chemical Co., has exported the subject goods through 2 channels i.e through M/s Hysoung TNC Corporation and through M/s Posco Daewoo. While M/s Hyosung TNC Corporation has filed Exporter Questionnaire Response, M/s Posco Daewoo has not participated in the investigation. However, since exports through unrelated trader M/s Posco Daewoo constitute only ***% of the total exports made by M/s Hanwha General Chemical Co., the response of M/s Hanwha General Chemical Co. has not been rejected on this ground.

46. As regards exports though M/s Hyosung TNC Corporation, it is noted that the exporter has sold these goods to end customers but has incurred losses during POI. The Authority has appropriately adjusted the export price to determine the Ex-factory Export Price. The Authority has considered adjustments ocean freight, inland transportation, port handling, packing charges, credit cost and duty draw back. Further, adjustment on expenses incurred by the exporter, HTC, has also been considered.

47. Since M/s Posco Daewoo has not filed response, the adjustments to export price for the exports made through the said exporter have been considered on the basis of facts available. The export price for M/s Hanwha General Chemical Co., has, accordingly been arrived on the basis of weighted average export price of exports through M/s Hyosung TNC Corporation and exports through M/s Posco Daewoo. The Ex-factory Export Price is determined at *** $/MT.

Export Price for all other producers/exporters from Korea RP

48. The Authority has determined the export price for non-cooperating producers/exporters from Korea RP based on facts available. Accordingly, net export price at ex-factory level for exports from the Korea RP is as shown in the dumping margin table below.

I.2. Export price for Thailand

49. The Authority has determined the export price for all producers/exporters from Thailand on the basis of facts available. Accordingly, net export price at ex-factory level for exports from the Thailand is as shown in the dumping margin table below.

J. Determination of dumping margin for producers and exporters in the subject countries

50. Considering the normal value and export price as above, the dumping margins for all producers/exporters of the subject goods from the subject countries is determined as below:

SN	Country	Producer	Normal Value (USD/MT)	Export Price (USD/MT)	Dumping Margin (USD/MT)	Dumping Margin (%)	Dumping Margin (Range)
1.	Korea RP	Taekwang Industrial Co. Ltd.	***	***	***	***	0-10
2.	Korea RP	Hanwha General Company through Hyosung TNC Corporation	***	***	***	***	10-20
3.	Korea RP	Any other	***	***	***	***	20-30
4.	Thailand	Any	***	***	***	***	10-20

K. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

K.1 Submissions by the domestic industry

51. The submissions of the domestic industry with regard to injury and causal link are reproduced hereinbelow:

i. The domestic industry is in a fragile state and it needs continued support and protection of duties. Cessation of duty is likely to set back the progress made.
ii. Although the volume of imports declined upto 2016-17, it has increased again in the period of investigation by 74%, even though the demand increased by only 9%.
iii. The imports have also increased in relation to production and consumption as compared to the preceding year.
iv. The subject imports continue to hold about 10% of the market.
v. Imports have also increased in relation to total imports, and the imports from other countries have declined. The subject imports account for about 72% of the total imports into India.
vi. Despite there being sufficient capacity to cater to the demand of product in the country, India continues to be a net importer of the subject goods. If the duties are removed and the imports are allowed to increase, it would result in loss of valuable foreign exchange for the country.
vii. Further, the domestic producers are also investing approximately *** crores in capacity expansions to meet the potential demand for the product and as a result, continuation of duties is necessary.

viii. There is stiff price competition between the imports and domestic subject goods. Domestic industry has been forced to almost match the price of imports and is not at liberty to increase its price so as to earn a reasonable return.

ix. The price undercutting in the present investigation is positive and the imports have prevented the domestic industry from earning adequate profits even during the period of investigation.

x. The price underselling is positive and significant showing that the imports are at prices much below fair selling price and the domestic industry shall be injured in case the anti-dumping duty ceases.

xi. The demand in India is sufficient to allow the industry to operate at ***% utilization. However, due to the imports, the domestic industry was forced to export *** Lakh MT at losses, even when operating at ***% capacity.

xii. While the production and sales of the domestic industry have increased, the same is only a result of the duties in force.

xiii. While the market share lost in the period of investigation is not significant, it needs to be considered that such decline is in a situation where the anti-dumping duties are in force.

xiv. Increase in imports has led to increase in inventories by five times of that in base year and the inventory holding period has increased.

xv. The profits of domestic industry are not adequate and the rate of improvement is slow.

xvi. The return on investment is way below the benchmark of 22% set up by the Authority, and even lower than the bank rate of interest.

xvii. When the domestic industry is not even able to earn a bank rate of interest, it shows that the domestic industry would face significant difficulty in raising capital investments.

xviii. There is no requirement to establish the existence of a causal link between the likely dumping and likely injury in a sunset review.

xix. The domestic industry is not likely to suffer injury due to other factors.

xx. There is a clear causal link between dumping of subject goods and the likely injury to the domestic industry in the event of cessation of duties.

  a. There is continued dumping of subject goods.
  b. There is an increase in imports, particularly during the last two quarters, which shows likelihood of increase in imports in the event of cessation of duty.
  c. Resultantly, there is likely to be a decline in demand for goods of domestic industry, which would impact its sales, production and capacity utilization.
  d. There is positive price undercutting and underselling.
  e. In the event of cessation of duty, the import prices are likely to reduce further, which would put a strain on the prices of the domestic industry and its profitability would deteriorate.

xxi. Reliance Industries Limited has been forced to suspend the operations at its plant in Patalganga due to inadequate margins.

xxii. In response to arguments regarding profitability of Reliance, it was submitted that the performance of domestic industry must be seen with regard to product under consideration only, and performance of company as a whole is irrelevant.

xxiii. Responding to the argument that there was a decline in imports from 2014-15, it is submitted that imports during a period when the anti-dumping duty was not in force cannot be compared to a period when the anti-dumping duties were in force. On the contrary, the decline shows that the imports are low only because of the duties in force.

xxiv. The domestic industry had to sell the product at prices much lower than the import price inclusive of duty. Had it tried to increase its prices, the users would have immediately switched to imports.

xxv. Contrary to the arguments of the respondents, the imports from countries not attracting anti-dumping duty has increased by 6 times when compared to the base year.

xxvi. Regarding the arguments that the volume of imports was negligible, the reference is made to the practice in European Union wherein imports from each country above 1% of demand, and collectively from all subject countries above 3% is considered significant.

xxvii. The reliance of respondents on the PSF finding was not appropriate as it was an original investigation, whereas in the present case, the imports account for 10% of market share despite duty.

xxviii. Regarding figures of profit margins as per annual reports of RIL, it was clarified that the margins reported are that at a global level, with the annual report clearly mentioning Platts, ICIS, CCF journals as the source for the margins reported.

xxix. As regards the contention that there was no situation of flood of imports even prior to imposition of duty, it is submitted that the same is contrary to the findings of the Designated Authority.

xxx. Responding to the argument that the injury to the domestic industry had been caused by global demand supply situation, it is submitted that the same is contrary to the finding of the Designated Authority which concluded that the injury to the domestic industry had been caused by dumped imports.

xxxi. With regard to the increase in margin, it was submitted that the increase in margins as compared to a period when the domestic industry was in losses due to dumped imports does not imply that that the profitability in the period of investigation is adequate.

xxxii. As regards the argument of significant captive consumption of RIL, it is submitted that the domestic industry was heavily dependent on the merchant market and it constituted a major share of its turnover.

xxxiii. As regards the argument that the domestic industry is able to charge Rs. *** per ton extra due to freight, port charges, etc., it is submitted that if such expenses are excluded, it would be clear that the price of imports is even below the cost of production of the subject goods.

xxxiv. Regarding the contention that MCPI suffered due to plant shutdowns, it was highlighted that the capacity utilization of MCPI was high during the period of investigation.

K.2 Submissions by other interested parties

52. The other interested parties have submitted as under:
    i. The fact that the performance of domestic industry has improved magnificently, with supernormal profits earned by it because of its near total monopoly in the domestic market due to elimination of imports, demonstrates that the domestic industry neither suffers any current injury nor there is any imminent threat of recurrence of injury if the duties are allowed to expire
    ii. The imports have declined by ***%, which is substantial.
    iii. The domestic industry has been seeking protection of antidumping on the plea of material injury while it is investing and adding capacities with monopolist prices in the domestic market.
    iv. The reduction in imports is linked to increase in capacity to produce PTA in India, which shows that the decline is permanent. Post period of investigation, the imports have decreased further. Further, the imports during this period were abysmal given the demand in India.
    v. The decline in cost was more than the decline in selling price, which shows that the domestic industry has used its dominant position in the market to not pass on the benefits of cost reduction to its customers.
    vi. The decrease in imports and increase in volumes of domestic industry shows that users are relying on domestic producers of PTA except for some minor volumes of duty free imports under Advance License and EPCG.
    vii. The user industry would always prefer local supply, if the price differential is not too high. Therefore, even if the duties are removed the domestic users will continue to buy from the domestic industry unless they resort to monopolistic pricing.
    viii. Negligible level of price undercutting maybe due to monopolistic pricing of the domestic industry due to anti-dumping duty protection and high margins enjoyed by it (in the range of 15-30% during the period of investigation and 30-40% thereafter).
    ix. Even the imports from other sources, not attracting anti-dumping duty have declined, which further indicates a permanent shift of the users to the domestic industry.
    x. The imports are negligible in relation to demand and absence of even such small volume would lead to absolutely monopolistic pricing activities from the domestic industry.
    xi. As held in the finding in anti-dumping investigation into PSF, a negligible share of 7% held by imports in demand cannot be treated as sufficient to cause any injury.
    xii. Parameters such as capacity, production, sales, capacity utilization etc. have been at the highest level during the period of investigation. Such magnificent performance in volume parameters suggests that the domestic industry is not vulnerable to any injury in terms in the event of expiry of present duties.
    xiii. Growth in price parameters such as selling price and cost of production, profitability per unit, PBIT, etc. is stupendous and very significant.

xiv. The fact that reduction in selling price was lower than reduction in cost implies that the domestic industry enjoyed a stronger pricing power, as a result of which there was a strong jump in its PBIT.

xv. Margins achieved by RIL in the recent times show the magnitude of such consistent increases in margins irrespective of certain volatility in some quarters owing to market fluctuations.

xvi. Post period of investigation margins are important in a sunset review case. The data shows that margins increased from USD *** per MT in period of investigation, to USD *** per MT thereafter, driven by monopolistic approach in pricing adopted by the domestic industry.

xvii. Domestic industry is earning return on capital employed in the range of 15% to 30% and such consistent margins show that the domestic industry is no longer vulnerable to any injury from imports.

xviii. While the market share of domestic industry increased, the share of subject countries halved. The imports have come down by 50% as a result of increase in capacity in India by 67%.

xix. There is no preference for the imported product and the imports that took place includes imports for export obligations predominantly.

xx. The positive price undercutting combined with the capability of the domestic industry to maintain high price indicates that the domestic industry is a price giver and not price taker.

xxi. Continuation of anti-dumping duty on PTA from subject countries will impact the user industry adversely in India.

xxii. The claim of injury margin by the domestic industry is exaggerated and the domestic industry is clearly selling above its cost, and even above its non-injurious price. Had the domestic industry not been selling at a fair price, it would not have registered such high profits and margins.

xxiii. In the wake of manifold growth in demand from downstream industry and the ongoing expansion plans by the domestic industry, it is not logical to continue restrictions in PTA availability through anti-dumping duty.

xxiv. As per annual report of Reliance for 2012-13, the global demand supply situation had an impact on the Indian market as well. However, the recently published results show that PTA margins improved due to tight supplies and firm demand.

xxv. There is a growth of ***% in the PTA margin between period of investigation of original investigation and present period of investigation, and by ***% post period of investigation. The figures for RIL should be taken as industry average as it is the largest producer of subject goods.

xxvi. During the last quarter of 2018-19, the margins declined due to sluggish downstream demand and liquidity tightness, which has nothing to do with imports.

xxvii. The domestic industry has come out of the past injuries and the consistent scale of performance indicates that the domestic industry is not vulnerable to any injury from imports.

xxviii. Although the demand has increased from 100 index points in 2014-15 to 128 index points in period of investigation, the imports have declined by ***%. By comparison, the sales of the domestic industry have increased by ***%.

xxix. While the landed price has declined in tandem with the decline in cost, the selling price has not reduced commensurately.

xxx. Price undercutting should not be seen in isolation, but has to be seen in light of the overall performance of the domestic industry, as to whether it is resulting in losses.

xxxi. While the petitioners have claimed that imports are undercutting prices, the data provided shows that price undercutting is negative across the injury period, except in 2016-17.

xxxii. The capacity, production and capacity utilization of the domestic industry have improved over the injury period and the capacity utilization is maximum in the period of investigation.

xxxiii. The domestic sales of the domestic industry have increased, along with substantial increase in captive consumption and exports.

xxxiv. The market share of the domestic industry has increased from 100 in 2014-15 to 130 in the period of investigation, while the share of imports has declined. Share of other Indian producers has also declined.

xxxv. As per the Directors' Report filed by MCPI with MCA in 2016-17, the plant was shut down due to technical troubles, power-dips in the grid supply, etc. The financial statements for 2017-18 are not available, but the financial statements of 2016-17 show that injury to the domestic industry may be caused due to other factors.

xxxvi. When the profits have increased substantially from (100) to 485 index points, the return on investment must have also increased commensurately.

xxxvii. While the number of employees has declined, the productivity of the domestic industry has increased significantly.

xxxviii. The overall performance of the domestic industry is improving and the injury to the domestic industry cannot be attributed to the imports.

xxxix. Imports are increasing in India only to fill the demand and supply gap and not to cause injury to the domestic industry, as alleged.

xl. Any injury suffered by the domestic industry is due to factors other than imports.

xli. Non-attribution analysis should be performed to ensure causal link between the dumped imports and alleged injury.

xlii. Since the period of investigation of the original investigation, global and Indian PTA market situation has improved considerably. If the duty is continued, the petitioners would get an additional and unfair advantage as it would result in abnormal profit of the domestic industry.

xliii. The import quantities have continued to remain at low levels since imposition of duties, and the Indian domestic producers have made huge profits due to increasing PTA-PX spread.

xliv. Reliance Industries has been consistently increasing its production for PX and PTA.

xlv. The fact that it has expanded capacity to meet demands and has further expansions planned negates the contention that the industry is fragile and needs protection. The domestic industry is performing extremely well and the prices realized by them have ensured very high margins on their investments also.

xlvi. There is no provision in the Anti-Dumping Rules to determine or identify the so called ‘fragile industry’ and there is no provision to continue the anti-dumping duty in case it is determined that the domestic industry is fragile.

xlvii. The claims of positive injury margin may be due to irrationally high non-injurious price claimed by the domestic industry.

K.3. Examination by the Authority

53. The Authority has taken note of the arguments and counter-arguments of the interested parties with regard to injury to the domestic industry. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties.

a. Cumulative assessment

54. Para (iii) of Annexure – II of the Anti-Dumping Rules provides that in case imports of a product from more than one country are being simultaneously subjected to an anti-dumping investigation, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that:

i. the margin of dumping established in relation to the imports from each country is more than two per cent expressed as percentage of export price and the volume of the imports from each country is three per cent of the import of like article or where the export of individual countries is less than three per cent, the imports collectively account for more than seven per cent of the import of like article; and

ii. cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

55. In this regard, the Authority observes the following:

i. The margins of dumping from each of the subject countries are more than the limits prescribed above;

ii. The volume of imports from each of the subject countries is more than the limits prescribed;

iii. The subject goods supplied from various subject countries and by the domestic industry are like articles.

iv. Imported and domestic product are being used interchangeably and there is direct competition between the domestic product and imported product.

v. None of the interested parties have brought any such argument which does not justify cumulative assessment.

56. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from Korea RP and Thailand on the

domestic industry.

57. The Authority has taken note of the submissions made by the interested parties. Annexure – II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products.

58. According to Section 9(A)(5) of the Customs Tariff Act, 1975, 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 the order of such extension. In the present case, it is found that the volume of import from each of the subject countries is not insignificant the dumping of the product has continued during the relevant period.

59. In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.

b. Demand and market share

60. For the purpose of assessment of the domestic consumption/demand of the subject goods, the sales volume of the domestic industry and other Indian producers have been added to the total imports into India and the same have been summarized below.

Particulars	Unit	2014-15	2015-16	2016-17	POI
Excluding captive consumption					
Sales of domestic industry	MT	***	***	***	***
Trend	Indexed	100	143	170	192
Other Indian producer	MT	***	***	***	***
Trend	Indexed	100	89	88	63
Subject imports	MT	6,57,507	2,57,387	2,17,599	3,78,037
Imports from other countries attracting duty	MT	3,85,983	4,37,338	1,71,892	1,37,322
Other imports	MT	1,081	1,103	22,932	6,119
Total demand	MT	***	***	***	***
Trend	Indexed	100	109	113	124
Including captive consumption					
Sales of domestic industry	MT	***	***	***	***
Trend	Indexed	100	135	152	166
Other Indian producer	MT	***	***	***	***
Trend	Indexed	100	89	88	63
Subject imports	MT	6,57,507	2,57,387	2,17,599	3,78,037

Imports from other countries attracting duty	MT	3,85,983	4,37,338	1,71,892	1,37,322
Other imports	MT	1,081	1,103	22,932	6,119
Total demand	MT	***	***	***	***
Trend	Indexed	100	115	119	128

61. It is noted that the demand for the product under consideration has increased consistently over the injury period, in both the situations.

L. VOLUME EFFECTS OF DUMPED IMPORTS

a. Import volume and market share

62. With regard to the volume of 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. In the present case, however, ADD has been in force. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCI&S. The volume of imports of the subject goods from the subject countries have been analysed as under –

Particulars	Unit	2014-15	2015-16	2016-17	POI
Subject imports	MT	6,57,507	2,57,387	2,17,599	3,78,037
Imports from other countries attracting duty	MT	3,85,983	4,37,338	1,71,892	1,37,322
Other imports	MT	1,081	1,103	22,932	6,119
Total imports	**MT**	**10,44,572**	**6,95,828**	**4,12,423**	**5,21,478**
Imports in relation to					
Indian production	%	***	***	***	***
Trend	Indexed	100	29	22	36
Demand (exc. captive)	%	***	***	***	***
Trend	Indexed	100	36	29	46
Demand (inc. captive)	%	***	***	***	***
Trend	Indexed	100	34	28	45
Total imports	%	62.95%	36.99%	52.76%	72.49%

63. It is seen that:
    i. Imports from the subject countries declined till 2016-17 and increased thereafter in the period of investigation in absolute terms.
    ii. Imports in relation to Indian production and demand followed a similar trend. Subject imports declined in relation to production and consumption till 2016-17, but increased in the POI.
    iii. Imports from subject countries in relation to total imports declined in 2015-16 and have increased thereafter consistently.

M. PRICE EFFECTS OF THE DUMPED IMPORTS

64. With regard to the effect of the dumped imports on prices, the Designated Authority

is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products 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. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization and non-injurious price of the domestic industry have been compared with the landed cost of imports from the subject countries.

a. Price undercutting

65. In order to determine whether the imports are undercutting the prices, the Authority has undertaken comparison between the landed price of the product and the average selling price of the domestic industry net of all rebates and taxes. The landed price of imports, domestic prices and margin of undercutting are shown as per the table below:

Korea RP

Particulars	Unit	2014-15	2015-16	2016-17	POI
Selling price of domestic industry	Rs/MT	***	***	***	***
Landed price of imports	Rs/MT	57,618	47,134	45,694	48,436
Price undercutting	Rs/MT	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	Negative	Negative	0-10%	0-5%

Thailand

Particulars	Unit	2014-15	2015-16	2016-17	POI
Selling price of domestic industry	Rs/MT	***	***	***	***
Landed price of imports	Rs/MT	56,449	46,398	45,589	48,253
Price undercutting	Rs/MT	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	0-5%	0-5%	0-10%	0-5%

66. It is seen that landed price of imports is below the net sales realization of the domestic industry, showing positive price undercutting.

b. Price suppression or depression

67. In order to determine whether the effect of imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred, the Authority has examined the changes in the landed price of imports, and costs & prices of the domestic industry over the injury period, when ADD was in force.

Particulars	Unit	2014-15	2015-16	2016-17	POI
Landed price of subject imports	Rs/MT	57,192	46,796	45,642	48,335
Trend	Indexed	100	82	80	85
Selling price of domestic industry	Rs/MT	***	***	***	***
Trend	Indexed	100	82	84	87
Cost of sales of domestic industry	Rs/MT	***	***	***	***
Trend	Indexed	100	80	82	82

68. It is seen that while the landed price of imports were declining till 2016-17, the same increased in the POI. Further, while cost of sales declined significantly in 2015-16, the same has increased thereafter. Selling price of the domestic industry too declined significantly in 2015-16, and increased thereafter. With the ADD in force, imports were not leading to price suppression. However, whereas the landed price of imports were above selling price of the domestic industry in 2014-15 and 2015-16, the landed price of imports were below the selling price of the domestic industry thereafter.

c. Price underselling

69. The price underselling has been evaluated by comparing the non-injurious price with the landed price of the subject imports.

Particulars	Unit	Korea RP	Thailand
Non-injurious price	Rs/MT	***	***
Landed price of imports	Rs/MT	48,436	48,253
Price underselling	Rs/MT	***	***
Price underselling	%	***	***
Price underselling	Range	5-15%	5-15%
Anti-dumping duty	Rs/MT	1,289	3,341
Landed price with ADD	Rs/MT	49,725	51,594
Price underselling with ADD	Rs/MT	***	***
Price underselling with ADD	%	***	***
Price underselling with ADD	Range	5-15%	0-10%

70. From a comparison of the landed price with the non-injurious price, it is noted that the price underselling is significant and more than the dumping margin for the responding exporters.

N. ECONOMIC PARAMETERS OF DOMESTIC INDUSTRY

71. Annexure – II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. The Anti-Dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective evaluation of all relevant economic factors and indices

having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed herein below.

a. Production, capacity, capacity utilization and sales volumes

72. The performance of the domestic industry with regard to production, domestic sales, capacity and capacity utilization is as follows.

Particulars	Unit	2014-15	2015-16	2016-17	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	125	165	167
Production	MT	***	***	***	***
Trend	Indexed	100	141	160	174
Capacity utilization	%	***	***	***	***
Trend	Indexed	100	96	97	104
Domestic sales	MT	***	***	***	***
Trend	Indexed	100	143	170	192
Captive consumption	MT	***	***	***	***
Trend	Indexed	100	127	133	138
Exports	MT	-	***	***	***
Trend	Indexed	-	100	160	145

73. It is seen that

a. the capacity with the domestic industry increased during the injury period. The combined capacity with Indian industry stands at *** lacs MT as against demand of *** lacs MT in the Country.

b. the production and capacity utilization has increased over the injury period to meet the growing demand within the country.

c. The domestic sales of the domestic industry have increased over the injury period.

d. The captive consumption has also increased over the injury period. The increase in merchant domestic sales is higher than the increase in captive consumption.

e. The domestic industry has exported part of its production. The domestic industry has contended that it has undertaken exports only because of absence of demand from the domestic market.

b. Market share in demand

74. The effects of the dumped imports on the market share of the domestic industry have been examined as below –

Particulars	Unit	2014-15	2015-16	2016-17	POI

Demand including Captive					
Subject imports	%	***	***	***	***
Trend	Indexed	100	34	28	45
Other imports	%	***	***	***	***
Trend	Indexed	100	99	42	29
Domestic industry	%	***	***	***	***
Trend	Indexed	100	118	127	129
Other Indian producer	%	***	***	***	***
Trend	Indexed	100	78	74	49
Demand excluding Captive					
Subject imports	%	***	***	***	***
Trend	Indexed	100	36	29	46
Other imports	%	***	***	***	***
Trend	Indexed	100	104	45	30
Domestic industry	%	***	***	***	***
Trend	Indexed	100	131	150	155
Other Indian producer	%	***	***	***	***
Trend	Indexed	100	82	78	51

75. It is seen that the market share of domestic industry has increased over the injury period, with the duties being in force. Further, while the share of imports from the subject country in demand has declined over the injury period, it has increased in the period of investigation as compared to the preceding year. The market share of subject imports was not insignificant during the present POI.

c. Inventories

76. The data relating to inventory of the subject goods are shown in the following table–

Particulars	Unit	2014-15	2015-16	2016-17	POI
Opening Inventory	MT	***	***	***	***
Trend	Indexed	100	242	496	743
Closing inventory	MT	***	***	***	***
Trend	Indexed	100	205	306	418

77. It is seen that there has been a significant increase in the level of inventories in the period of investigation.

d. Profit or loss, cash profits and return on investment

78. Profit/loss, cash profits and return on investment of the domestic industry are as follows:

Particulars	Unit	2014-15	2015-16	2016-17	POI
Profit/(Loss)	Rs/MT	(***)	***	***	***

Trend	Indexed	(100)	40	69	256
Cash Profit	Rs/MT	***	***	***	***
Trend	Indexed	100	200	347	499
Return on capital employed	%	(***)	***	***	***
Trend	Indexed	(100)	47	70	196

79. It is seen that
    a. The profitability of the domestic industry has improved over the injury period. The domestic industry was earlier suffering financial losses. With anti-dumping measure in force, the domestic industry has come out of losses but the profit earned even now is sub-optimal considering the inadequate ROCE.
    b. Cash profits earned per unit of product was positive throughout the injury period and has improved over the injury period.
    c. Return on capital employed (ROCE) earned was negative in 2014-15, became positive in 2015-16 and improved marginally over the injury period. The ROI earned by the domestic industry was however sub-optimal.

e. Employment, wages and productivity

80. The situation of the domestic industry with regard to employment, wages and productivity was as below –

Particulars	Unit	2014-15	2015-16	2016-17	POI
Wages	₹ Lacs	***	***	***	***
Trend	Indexed	100	101	99	75
Wages per Unit	₹ / MT	***	***	***	***
Trend	Indexed	100	72	62	43
No of Employees	Nos	***	***	***	***
Trend	Indexed	100	100	96	94
Productivity per employee	MT/No	***	***	***	***
Trend	Indexed	100	140	167	185
Productivity per Day	MT/Day	***	***	***	***
Trend	Indexed	100	141	160	174

81. It is seen that the number of employees has decreased over the injury period, with decline in wages per unit too. The productivity per employee and per day have however increase over the injury period.

f. Growth

Particulars	Unit	2014-15	2015-16	2016-17	POI
Sales	%	-	43%	19%	13%
Production	%	-	20%	34%	9%
Profit per unit	%	-	140%	74%	271%
Cash profit per unit	%	-	100%	73%	44%

Return on investment	%	-	147%	50%	179%

82. It is noted that both volume and profit parameters of the domestic industry have shown a growth over the period. It is also noted that despite high growth the ROI is below ***%.

g. Margin of dumping

83. It is found that the margin of dumping is positive. There is continued dumping of subject goods from the subject countries. The volume of imports is not insignificant either in absolute terms or in relation to production or merchant demand for the product in the Country.

h. Factors affecting prices

84. The Authority notes that there is a stiff price competition in the market. Comparison of landed price of imports with the selling price of the domestic industry shows that the domestic industry is aligning its prices with the price of imports. It is also noted that the landed price of subject goods from subject countries are below non-injurious price and selling price of the domestic industry.

i. Ability to raise capital investments

85. It is seen that one of the constituents of the domestic industry has enhanced capacity for the subject goods. The domestic industry has made significant capital investment. This signifies that ADD has resulted in improving their ability to raise capital investment.

O. CONCLUSIONS ON INJURY

86. With regard to volume effect, the Authority notes that the volume of imports had first declined and then increased in absolute terms as well as in relation to production and consumption in India. There is price competition between imports and the domestic industry. The price undercutting is positive Further, the price underselling is also positive. The ADD has prevented imports from causing suppression or depression effects on the prices of the domestic industry in the market. Though some of the economic parameters of the domestic industry have shown signs of improvement yet profitability and the return on capital employed remains sub-optimal. The return on capital employed is 4.82%, which is not enough to recover the cost of interest even. Injury margins on account of these continued dumped imports remains positive and significant.

P. MAGNITUDE OF INJURY AND INJURY MARGIN

87. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed price of the exports from the subject countries for determination of injury margin during the period of investigation. The injury margin thus determined is as under:

Country	Producer	Exporter	NIP US$/MT	Landed Value US$/MT	Injury Margin US$/MT	Injury Margin %	Injury Margin % Range
Korea RP	Taekwang Industrial Co. Ltd.	Taekwang Industrial Co. Ltd.	***	***	***	***	10-20
Korea RP	Hanwha General Company through Hyosung TNC Corporation	Hanwha General Company through Hyosung TNC Corporation	***	***	***	***	10-20
Korea RP	Any other	Any other	***	***	***	***	20-30
Thailand	Any	Any	***	***	***	***	10-20

Q. CAUSAL LINK

88. Having examined the existence of injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price undercutting; the Authority has examined whether injury to the domestic industry can be attributed to any factor, other than the dumped imports, as listed under the Anti-Dumping Rules.

a. Volume and prices of imports from third countries

89. The Authority notes that apart from subject countries and countries attracting duties, the imports from other countries are only 1% of the imports. Imports from other sources could not have caused injury to the domestic industry.

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

90. The Authority notes that there is no contraction of demand. On the contrary, overall demand for subject goods has shown improvement over the injury period. Further, there have been no changes in the pattern of consumption which can cause injury to the domestic industry.

c. Developments in technology

91. The Authority notes that none of the interested parties has furnished any evidence to demonstrate possible significant changes in technology.

d. Trade restrictive practices of and competition between the foreign and domestic producers

92. The Authority notes that the subject goods can be freely imported. The domestic industry constitutes of three major producers of the subject goods and accounts for significant domestic production and sales. There is thus no restrictive practice causing injury to the domestic industry.

e. Export performance of the domestic industry:

93. The exports by the domestic industry have increased. While the Authority has segregated data relating to export sales and profits while assessing injury to the domestic industry, the domestic industry has contended that they have been forced to export only because of absence of demand for their product within the Country.

94. From the above analysis, the Authority notes that injury to the domestic industry has not been caused by any other known factor. Further, the causal link between the dumping and injury is evident from the following:
    i. There is continued dumping of the subject goods, despite duties in force.
    ii. The domestic industry is not able to charge prices which could have led to reasonable return to the domestic industry.
    iii. In the event of cessation of duties, the imports are likely to cause either deterioration in price & profit parameters of the domestic industry, or is likely to adversely affect volume parameters of the domestic industry or both.

R. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

95. In a review investigation, the Authority has to determine whether the subject goods are continuing to enter or likely to enter the Indian market at dumped prices and whether injury to the domestic industry is likely to continue or recur due to these dumped imports if the duty is removed.

R.1. Submissions by the domestic industry

96. The domestic industry submitted as follows with regard to likelihood of continuation or recurrence of dumping or injury –
    i. There is continued dumping of subject goods and the imports are entering the market at injurious prices.
    ii. The dumping margin and the injury margin in the present investigation are more than the original investigation, indicating intensified dumping.
    iii. The unfair pricing behaviour of the exporters is evident from the fact that the dumping margin and injury margin have been positive across the injury period.
    iv. Moreover, the exporters in the subject countries are dumping in third countries as well. ***% of the exports from Korea and ***% of exports of from Thailand are

at dumped and injurious prices. The dumping margin and injury margin for third country exports is also significant.

v. The increase in imports in the period of investigation itself is indicative of the likelihood of increase in imports in the event of cessation of anti-dumping duty.

vi. Further, the imports have also increased across the period of investigation on a quarter-wise basis, which is a clear indicator of increase in imports in the event of cessation of duty.

vii. The users have themselves admitted their inclination towards imports from subject countries at dumped prices. It indicates that the imports will increase significantly after removal of duty.

viii. The capacity in the subject countries is about *** lakh MT, whereas demand is sufficient to meet only about 45% of the capacity, leaving the exporters in the subject countries with huge freely exportable capacities to the extent of *** million MT.

ix. In fact, about 20% of the capacities in the subject countries remained idle. Even if such idle capacities are used, it would result in the subject imports capturing an additional share of more than 40% of the merchant Indian market.

x. The producers in the subject countries are heavily dependent upon their export markets.

xi. The domestic demand in the subject countries is stagnant and does not offer much potential. Further, the exports from the subject countries have declined. As a result, the producers in subject countries shall be forced to look for alternative markets.

xii. There has been a decline in exports of downstream products, except PET, from the subject countries, which indicates that the domestic demand for PTA would have declined.

xiii. India, European Union and China PR are the major markets for the exports from subject goods. However, China PR shall not be available to subject exporters due to anti-dumping duties on one hand and expanding capacities in China PR on the other hand.

xiv. Indorama Ventures has taken over a non-operational plant in Europe in July, 2018 and had also expanded capacity in 2017, as a result of which the capacity in European Union has increased by 14 lakh MT. With the closure of European Union market, India shall remain as the only viable market for the exporters.

xv. Despite existing anti-dumping duty, India accounts for 8% of exports from Korea and 21% of exports from Thailand. This makes it amongst the top 5 export destination for subject goods from the subject countries.

xvi. India is a price attractive market for the exporters in as much as ***% of exports from Thailand and ***% of exports from Korea RP are at prices lower than that for India.

xvii. Therefore, India shall continue to remain as a major market for the exporters in the subject countries.

xviii. Considering the positive price undercutting and the fact that the imports have prevented the domestic industry from earning adequate profits, it is likely that the imports would suppress or depress the prices of domestic industry in the absence of duties.

xix. Regarding the argument that the global demand supply situation is balanced, it was emphasized that there is a global surplus with regard to the subject goods, to the extent of 15-20%.

xx. While the capacity for the subject goods is projected to increase by 19,601K MT, demand is projected to increase by only 13,941K MT, creating a global surplus.

xxi. In a situation where the users are admittedly importing for export requirements, they will import for meet their domestic requirement as well in the event of cessation of duty.

xxii. Regarding the argument that the Indian industry would have excess capacity in five years, it was submitted that it does not throw any light on the present status or the likely scenario in the event of cessation of duty in the near future.

xxiii. Since the purpose of a sunset review to evaluate whether injury to the domestic industry is likely in the event of cessation of duties, price undercutting should be calculated based on landed price exclusive of duty.

xxiv. In the event of expiry of duties, if the domestic industry does not reduce its prices, the imports are likely to take over its market share. In such a situation, the production of the domestic industry would be completely wiped out, except to the extent of captive production of RIL. In such a situation, the domestic industry is likely to incur significant losses in the form of fixed costs.

xxv. In the alternative, if the domestic industry reduces its prices, its profitability is likely to decline steeply.

R.2. Submissions by other interested parties

97. Following submissions have been made by other interested parties with regard to likelihood of continuation or recurrence of dumping or injury:

i. There is no likelihood of dumping and injury, and the anti-dumping duty has served its purpose as the performance of Domestic Industry has improved.

ii. The scale of pricing power being enjoyed by the domestic industry clearly shows that there is no likelihood of price suppression or depression in the event of expiry of present duties.

iii. There is no basis for the argument that imposition of duties by other countries on downstream products of subject countries would reduce the demand for PTA in subject countries, as the duties on downstream products of PTA against exports from India did not cause any decline in domestic demand thereof.

iv. The projected global demand for the subject goods is expected to increase by 15.53% in the next five years, with a commensurate increase in production by 15.58%. The capacity shall increase by 19%. 80-85% capacity utilization should be seen as a reasonably comfortable and prevalent rate of utilization in PTA. The Wood Mackenzie data shows highly balanced demand supply situation in the world.

v. The capacity and capacity utilization in the subject countries is expected to remain the same, with a slight increase in demand.

vi. Despite the capacity in subject countries being higher than the domestic demand, there is no demand and capacity imbalance as such and no idle capacity waiting to be activated if India removes anti-dumping duty on PTA.

vii. Decline in exports from Thailand are attributable to debottlenecking of one of the downstream units in Thailand and a new polyester plant consuming PTA.

viii. Excess capacity in subject countries is not true since imports into India in 2014 were in the range of 3 to 6 lakhs MT. Had there been 16.61 lakh MT excess capacities, the imports into India would have been much more.

ix. There was no spike in exports of PTA to India from subject countries when China imposed anti-dumping duty on imports of PTA from subject countries in the year 2010.

x. The claim that new capacities in EU will also impact the export of PTA from subject countries to EU which may lead to higher exports to India is also a mere allegation. The exporters in subject countries are operating at very high levels and there are not any imminent situation of loss of market as the overall world demand supply is well balanced and the producers of PTA across the globe are doing well.

xi. There is expected to be considerable growth in capacity, production and demand in India, and it would have 11% excess capacity in five years, which is higher than global average.

xii. India has a stable market for PTA and there are many factors driving the demand. Indian Textile Market size which was US$ 140 BN in 2015-16 is expected to reach US$ 300 BN by 2024-25.

xiii. Since the downstream industry in India is expected to grow significantly, it would necessitate imports, but the balanced demand supply gap shall ensure a fair price.

xiv. There was no preference for the imported products per se if the product is available domestically and the price is right.

xv. The users have stated that they are procuring from DI and shifting to any import source is not viable for the reasons therein such as poor infra associated with the import etc.

xvi. The domestic industry commanded about ***% of the market, even when there were no duties in place. There were no scenarios of imports at dumped rate flooding the market and the imports were clearly necessitated and were proportionate to the demand supply gap in India. Had the users been focused on dumped prices as alleged, the domestic industry would not have maintained such a huge market share.

xvii. There are no surplus capacities in the subject countries. Hanwha General Chemical is operating at its optimal capacity and has no immediate plans for capacity expansion.

xviii. The concept of surplus capacities as capacity minus domestic demand as explained by petitioners is incorrect and baseless.

xix. Citing some situation of imports allegedly at dumped prices historically have no basis and the time ahead will see only further reduction in the imports as the domestic demand supply is now pretty balanced.

xx. There has been a further decline in imports post period of investigation.

R.3. Examination by the Authority

98. The Authority has examined the likelihood of continuation or recurrence of injury considering the requirement laid down under Section 9A(5), Rule 23 and parameters relating to the threat of material injury in terms of Annexure – II (vii) of the Anti-Dumping Rules, and other relevant factors brought on record by the interested parties. The Authority notes as under.

a. Rate of increase in imports during the period of investigation

99. The Authority has undertaken analysis of the volume of imports of the subject goods into India from the subject countries over the injury period. It is observed that while imports declined up to 2016-17, the same increased during the period of investigation. While imports declined by 61% in 2015-16 and by 15% in 2016-17, the same increased by 74% in POI. The rate of increase in imports in POI is especially significant when compared to the rate of increase in demand and considering that ADD is in force.

Particulars	**UOM**	**2014-15**	**2015-16**	**2016-17**	**POI**
Subject imports	MT	6,57,507	2,57,387	2,17,599	3,78,037
Change over previous year	%		(-) 61%	(-) 15%	74%
Demand (excluding captive)	MT	***	***	***	***
Change over previous year	%		9%	4%	9%

b. Surplus capacities in subject countries and ability of other export markets to absorb additional capacities

100. As part of questionnaire response, the Authority sought information from each exporter with regard to country's gross production, company's production, other producers' sales in domestic market, total sales in domestic market, imports in the country, total demand in the country, company's exports to India, company's export to countries other than India, other producers' exports to India, other producers exports to countries other than India. However, while the exporters from Thailand have not furnished any such information, the responding exporters from Korea have given contradictory figures, that too without quoting any source of data. The Authority has therefore relied upon other relevant information publicly available, and provided by the domestic industry, which was also disclosed to the interested parties for their counter comments.

101. With regard to surplus capacities in subject countries, the PCI Wood Mackenzie data for the year 2017 furnished by the domestic industry is as under –

Volumes in '000 MT

Particulars	Korea RP	Thailand	Subject Countries
Capacities of the producers	5,705	2,740	8,445
Domestic demand	2,619	1,262	3,881
Surplus capacities	3,086	1,478	4,564
Exports from subject countries	1,940	963	2,903
Idle capacities	1,146	515	1,661

Source – PCI Wood Mackenzie

102. The Authority notes that the exporters in the subject countries have 16.61 lakh MT of idle capacities.

c. Likely suppressing or depressing effect on the prices of the domestic industry

103. The Authority notes that the price undercutting is positive and is at low levels showing stiff competition in the market. The ROI of the domestic industry is low thus showing that the domestic industry has not been able to increase its prices to a level where it could earn reasonable return. These facts suggest that the imports are likely to have a suppressing or depressing effect on the prices of the domestic industry in the event of cessation of ADD.

d. Level of current margin

104. The Authority notes that dumping margin in the original investigation was positive and significant, which led to the imposition of duties. The dumping margin continues to be positive in the present review for imports from the subject countries.

e. Price attractiveness of Indian market

105. The Authority examined the price at which the goods were exported to India and rest of the world. The questionnaire response filed by the responding exporters were examined to ascertain the volume of their exports to rest of the world at a price below export price to India. On average basis considering customs data, it is seen that ***% or *** MT of the exports from Korea are made at prices below the price to India. In case of Thailand, ***% or *** MT of the third countries exports are priced below the price to India. Questionnaire response filed by the responding exporters with regard to volume of third countries exports at a price below exports to India is as under :

Particular	Taekwang	Hanwha	Total
Gross exports	***	***	***
Exports to India	***	***	***
Exports to third countries , at a price	***	***	***

below export price to India			
Exports at prices below price to India as a % of total exports to third countries	***	***	***
Exports at prices below price to India as a % of total exports to third countries (Range)	60-70%	65-75%	65-75%

106. It is seen that the responding exporters have significant exports to rest of the world at a price below export price to India, which are likely to be diverted to India in the event of cessation of ADD.

R.4. Conclusion on likelihood of continuation or recurrence of dumping and injury

107. It is noted that there is continued dumping of the subject goods. Further, dumping is likely to continue in the event of cessation of duty at enhanced volume and cause injury to the domestic industry. Even during the present period of investigation, the imports were undercutting the prices of the domestic industry and the return on capital employed earned by the domestic industry is low. In the event of cessation of duty, the imports are likely to further impact the prices and profitability of the domestic industry adversely. The foreign producers are holding significant surplus capacities. The volume of exports from subject countries to third countries at a price below export price to India is significant. Therefore, the Authority holds that there is likelihood of continuation of dumping and injury in the event of cessation of duty.

S. POST DISCLOSURE COMMENTS

108. The post disclosure submissions have been received from the interested parties. Majority of the issues raised therein have already been raised earlier during the investigation and also addressed appropriately. Additional submissions have been analyzed as under –

S.1. Submissions by the domestic industry

109. The domestic industry reiterated its submissions regarding rejection of response of HTC, injury to the domestic industry, likelihood of continuation of dumping and injury and high profitability of the user industry. In addition, the domestic industry submitted as under:
   i. Since Ministry of Finance may take upto three months to consider the recommendations of the Authority, the Authority may request for extension of duties for at least three months.
   ii. The prices of the PET resin, PSF, PET film and filament yarn practically moved in tandem with the prices of PTA. The difficulties of the textile industry are linked to other factors such as surge in imports from China PR, low customs duty, inverted duty structure in GST, over capacities.
   iii. The objections by the users to the duties is not on account of their own suffering,

but in order to obtain an advantage for their Thai related producers.

iv. Since Taekwang, Hanwha and Sam Nam are de facto related entities, the normal value and export price cannot be determined without participation of all three entities. In any case, since Hanwha has supplied PX to Taekwang, the cost of production for the latter cannot be determined without any information regarding transfer pricing of PX between Hanwha and Taekwang. There is an arrangement between Hanwha, Sam Nam and Taekwang with regard to production and exports, which has not been disclosed to the Authority.

v. Taekwang has suffered loss in its PTA operations.

vi. Since Hanwha has captive raw material, the cost of production of Taekwang cannot be lower than that of Hanwha.

vii. In view of non-participation by M/s Posco Daewoo, export price may be determined considering adverse facts available.

viii. The responding producers have not admitted to the existence of post invoicing discounts, even though the importers have acknowledged the same.

ix. HTC has suppressed the fact that its related entity Hyosung Chemical Corporation has a plant for production of PTA in Korea RP.

x. IRSL is related to IRPL and TPT, as per the definition of the term "related" under Trade Notice 9/2018. Further, Indorama Ventures has acquired a stake of 31.79% in IRSL post period of investigation. Further, the other related importer, IDPIPL has not filed a complete response.

xi. The price undercutting is positive despite the fact that the domestic industry is selling its goods at prices below the non-injurious price and at prices that are not adequately remunerative

xii. The non-injurious price should be determined on the basis of cost of production for the period of investigation as per para (3) of Annexure – III.

xiii. Since the dumping margin, injury margin and causal link have been established for the period of investigation itself, there is no need to refer to post POI data.

xiv. Since Taekwang has exported significant volume at a higher dumping margin than that determined for India, there is a need for continuation of existing duties on Taekwang. For other exporters, there is a need for modification and enhancement of duty as dumping margin and injury margin have increased.

S.2. Submissions by other interested parties

110. In addition to reiterating their earlier submissions regarding improvement in the performance of domestic industry and lack of likelihood of continuation or recurrence of dumping and injury, the interested parties submitted as under:

i. The goods produced by Taekwang are sold in three different types of packing. The packing cost considered for determination of export price is different from that claimed by Taekwang. Detailed workings of packing cost have not been provided.

ii. The port and related expenses adjusted for are not as claimed by Taekwang and no working or reasons for rejection of claim have been provided.

iii. As Taekwang has made most of the exports to India on FOB basis, ocean freight and insurance cannot be allocated on all transactions. No commission or warranty expenses have been paid in respect of exports to India. Bank charges have been provided on a transaction-wise basis.

iv. The cost of production claimed by Taekwang has not been accepted. No information has been provided regarding factors that have been modified.

v. The analysis of price attractiveness is not appropriate as average prices for the period of investigation have been compared to the transaction-wise exports, whereas the prices have fluctuated over the period.

vi. Hanwha has provided month-wise cost of production. Since no analysis was undertaken by Authority regarding month-wise production, there was no opportunity to Hanwha to demonstrate significant variation in its normal value and export price. There is a variation of 14% between the highest and lower cost of production.

vii. The Authority had undertaken month-wise analysis in the previous investigation as well.

viii. The Authority has taken selling, general and administrative expenses for Hyosung Corporation as a whole, which is higher than that for the trading division, which was subsequently hived off as HTC. Since Hyosung Corporation is a multi-product company, total selling, general and administrative expenses cannot be considered. In the alternative, Authority may consider selling, general and administrative expenses of another producer of the subject country.

ix. Applying selling, general and administrative expenses of an unrelated trader is not a reasonable basis in terms of Section 9A(b) and is not in conformity with the WTO jurisprudence and practices followed by other investigating authorities.

x. IRPL and TPT have not filed Part – II of exporter's questionnaire as it is not prescribed under the trade notices and website of DGTR. No Part – II of the questionnaire is available on the website. Trade Notice 5/2018, which supersedes all previous instructions and trade notices on this issue does not prescribe Part – II.

xi. IRPL and TPT had explained reasons for not filing Part – II in their post hearing submissions, which have not been considered.

xii. The Authority has acted in contravention of Annexure – II of the WTO as it neither issued Part – II of the questionnaire, nor it pointed out that such information was missing. The Authority could not resort to facts available when they did not clearly request the relevant information from the party in question, in line with findings of Panel and Appellate Body.

xiii. While the responses of IRPL and TPT have been rejected, the responses of Korean exporters have been accepted despite discrepancies and non-cooperation by one of the exporters. . Similarly, discrepancies were noted in the data of Taekwang, but the response has been accepted. Further, even the domestic industry had not filed Format H in the prescribed format, but no cognizance has been taken of the same.

xiv. Since Part – II contains information regarding likelihood, the Authority could have used facts available for IRPL and TPT only with regard to likelihood analysis. Part – II is not relevant for determination of current dumping and injury.

xv. The rejection of responses of IRPL and TPT is unjustified as no deficiencies were pointed out in the letter calling for records for the purpose of table study.

xvi. There are a number of sunset reviews wherein the exporters have been allowed an individual dumping margin without filing any Part – II of the questionnaire. As the questionnaire is not available on the website, the Authority issues the same on a case-specific basis if it wants additional information regarding likelihood.

xvii. The dumping margins determined for Thailand after rejecting responses are highly inflated and arbitrary.

xviii. The imports have declined post POI, as evident from DGCI&S data submitted by the interested parties. However, the same has not been considered. The imports have declined in absolute terms as well as in relation to production and consumption.

xix. There is nothing to show unfair price competition in the market, whereas the domestic industry wishes to prevent all imports.

xx. It is not clear what has been considered as reasonable return by the Authority. The domestic industry of PTA in India is enjoying good margins.

xxi. In the instant case there is no current injury as has been observed by the Authority. The fact that the performance of the domestic industry has tremendously improved, in spite of presence of dumped imports clearly shows that there is no likelihood of recurrence of injury to the domestic industry.

xxii. Since anti-dumping investigation is to address unfair pricing behaviour, the Authority has the responsibility to see whether the domestic industry is abusing the provisions of the law to create a monopolistic situation in the domestic market.

xxiii. The fact that landed price of imports is lower shows that domestic industry obtains a premium on its prices.

xxiv. The observations of the Authority with regard to surplus capacities is flawed as historically the optimum capacity utilizations across the world have remained at the current level.

xxv. The findings of the Authority that dumping and injury will continue is flawed as various Panels and Appellate Body decisions have held that the likelihood examination should based on facts and not on some remote possibilities.

xxvi. The Authority has not considered the submission of the interested parties that Format H submitted by the domestic industry is incomplete.

xxvii. The users had quantified their concerns in their written submissions and submitted that PTA constituted 55-75% of the cost of production of PSF, FDY, POY and Polyester chips. The users had also submitted that domestic producers are charging additional premium over international PTA prices. Submissions made by the users have not been appropriately addressed.

xxviii. The Authority has admitted the evidence provided by the domestic industry that the downstream users are expanding. However, such evidence has not been made part of Disclosure Statement.

xxix. The evidence adduced by the respondents showing demand and supply over the next five years has not been considered, and instead, data for 2017 has been relied upon.

xxx. The imports were very negligible and were to the extent of scarcity of material in the market is not addressed by the Authority at all.

S.3. Examination by the Authority

111. As regards the submissions of the domestic industry with regard to responses filed by Taekwang and HTC, it is noted that the Authority has considered and accepted the responses of the parties after due examination and verification of all information.

112. As regards the argument that HTC was not in existence during the period of investigation, the Authority notes that the selling, general and administrative expenses of Hyosung Corporation have been considered for determination of export price after due verification.

113. With regard to the claim that non-injurious price has not been appropriately determined, it is noted that the Authority has determined the non-injurious price in accordance with the guidelines prescribed under Annexure – III to the Anti-Dumping Rules.

114. Taekwang reported that only one form of packing was used in sale of PUC in the domestic market, whereas the material was exported in three different forms of packing Further, the exporter did not reconcile total packing expenses incurred and reported in the books with the expenses incurred separately in respect of exports to India and exports to third countries in respect of different forms of packing. The exporter has thus not adequately and sufficiently identified in its books of accounts packing expense for different forms of packing and for different markets. . It was therefore not possible for the Authority to co-relate different forms of packing, for different markets and for different shipments. Under the circumstances, the Authority has considered total packing expenses reported by the company in its books of accounts and total volume of material packed and sold. The packing cost has been determined on the basis of average packing cost incurred by the company.

115. As regards price adjustments on account of port and related expenses, the Authority notes that the exporter has reported selling and distribution expenses in Appendices 5, 7, 8 and 9. However, it is seen that these expenses are not duly reconciled with each other. Thus, the exporter has not precisely identified these expenses incurred for a particular market and has not correlated the same to the books of accounts. Under the circumstances, Authority holds it appropriate to adopt all expenses incurred by the company on this account and apportion the same on total exports made. It is also noted that there is no explanation given by the exporter why expenses on this account would be different depending on market. The exporter has not explained why expenses up to the FOB stage would also be different in respect of exports made to different countries.

116. The ocean freight and insurance expenses have been adjusted on actual basis, as claimed by the Taekwang.

117. While Taekwang has stated that no commission has been paid by the exporter, the

domestic industry has reported that Mr. Rohit Dutta M/s. Chemsynth, 25-A, Pocket-F, Mayur Vihar Phase 2 Delhi – 110 091 is an agent working for the company and assisting the company in sales of the product. . However, the Authority cannot take cognizance of the claim made by the domestic industry at this belated stage.

118. As regards rejection of cost of production, the Authority has accepted all claims made by the company with regard to manufacturing cost. The only difference is in respect of selling and distribution cost claimed by the exporter.

119. As regards price attractiveness, the Authority has considered exporter's own data and has compared its export price to India with export price to rest of the world. Further, in those situations where export price to rest of the world is lower than export price to India, it has not been demonstrated by exporters/foreign producers why those shipments would not be diverted to Indian markets in the event of cessation of duty.

120. As regards the contention that Hanwha has provided details of month wise cost of production and that there is a variation in the same thus justifying monthly comparison, the Authority notes that the need for such an analysis in this investigation could not be established by interested parties.

121. As regards Hanwa's argument concerning general and administrative expenses, and the contention that the same includes expenses for manufacturing and trading activity, the Authority notes that by its very nature, manufacturing expenses are included in the the cost of goods manufactured. Selling, general and administrative expenses by their very nature are not limited to either manufacturing or trading. It is therefore appropriate to apportion these expenses based on overall turnover of the company. It is also noted that even if the selling, general and administrative expenses are considered as claimed by the exporter, the dumping margin remains higher than the dumping margin determined in the original investigation. .

122. As regards inclusion of unrelated trading company's selling, general and administrative expenses, it is noted that since the trader is selling at a loss, it is appropriate to make adjustments of this loss at the ex-factory export price of the producer or to make deduction of SGA from the export price at which trader sells the subject goods.

123. The contention of IRPL and TPT that they have not filed Part – II of the Exporter's Questionnaire as it is not prescribed under Trade Notice 5/2018, which supersedes all previous instructions with regard to the information to be provided by producer/exporters is incorrect because (a) other exporters have filed the same, (b) the domestic industry had raised this issue during the oral hearing and (c) the letter issued by the Authority to all the known exporters, including these exporters, clearly stated this requirement and a web link of the same was also provided. The exporter has stated that even though the web link was provided in the letter issued by the Authority, the same was not opening and the parties went by the Trade Notice as above. The authority notes that in that case the exporter should have approached the Directorate for

necessary clarification instead of presuming that the information relating to part –II of the Exporters questionnaire was not necessary. It is further noted that link was opened in presence of the legal representative of the exporter when he sought meeting post-issuance of disclosure. It is also noted by the authority that specific communication to the exporter seeking part II of exporter's questionnaire should in any case prevail.

124. As regards the contention that supplementary questionnaire or deficiency letter could have been issued, it is noted that the question for issue of deficiency letter arises only in when a party has filed response to questionnaire in the form and manner prescribed. However, in a situation where a party has not filed response to questionnaire itself, the question of raising deficiencies should not arise. It is further noted that reference to the past investigations and determinations in this regard is inappropriate.

125. As regards acceptance of questionnaire response of other Korean producers, it is clarified that the Korean producers have provided complete details of their exports to third countries.

126. IRPL and TPT have also submitted that the relevant Trade notice or the website of DGTR did not prescribe any additional annexure to be submitted in a sunset review investigation as part-II of the questionnaire and that even today no such questionnaire is available on the website of the DGTR. This matter was examined by the Authority and it was found that while updating the website the part-II of questionnaire was inadvertently deleted from the website of the Directorate subsequently. While this explanation does not justify non-filing of the response by the exporter, considering the practical difficulty expressed by the exporter, the authority considers it appropriate to examine the questionnaire response and submissions of the Thai exporters. However, the authority further notes that these exporters however have themselves conceded in their post disclosure comment that the Authority could apply adverse facts available against them with regard to likelihood analysis. It is also noted that while disputing the disclosure statement, the exporter has not even shown absence of likelihood of dumping. On the contrary, it is seen that the dumping margins admitted by both these Thailand exporters are significantly beyond de-minimis limits (***% i.e. USD *** per MT in case of IRPL and ***% i.e., *** USD per MT in case of TPT). The Authority accordingly concludes that the dumping from these Thai exporters continue and the revocation of anti-dumping duty will cause injury to the domestic industry

127. As regards injury information provided by the domestic industry, it is clarified that the domestic industry has provided all relevant information required by the authority. In fact, disclosure statement contains elaborate analysis of the same.

128. As regards the dumping margin determined in case of Thailand, it is clarified that the authority has determined normal value on the basis of best estimates of cost of production, after addition for SGA and reasonable profits. In any case, as stated above, the response filed by the Thai exporters itself shows a dumping margin of ***% and

***% in respect of their exports to India.

129. As regards decline in imports in post POI period, it is noted that imports in post POI period from subject countries have on the contrary increased from 378,037 MT in the period of investigation to 408,862 MT (annualized) in the six months from April to September, 2018.

130. While contending that the price undercutting has remained at similar level historically and globally, the interested parties have not shown on the basis of their own capacity, production, sales, price and cost data that dumping and consequent injury is unlikely in the event of cessation of duty.

131. With regard to the contention that likelihood determination cannot be based on remote possibilities, the Authority notes that the interested parties have not provided any evidence to substantiate how the evidence provided by them shows absence of likelihood of dumping and injury.

132. It is noted that all relevant injury information, as called for in Format H, with regard to present investigation and concerning injury to the domestic industry is on record of the authority.

133. As regards the contention concerning share of PTA in gross cost of production of downstream product, the Authority notes that the respondents have only provided estimated share of PTA in the cost of production and not the impact of duty in their cost. Further, these consumers in fact have preferred not to file information in the form and manner prescribed in the importers' questionnaire response, as noted hereinabove. The importer's questionnaire in particular requires the importers to provide relevant information such as utilization of the product and profitability of the users. It is however noted that said information has been withheld by these interested parties by not furnishing any relevant annexure. At the same time, the information provided by the domestic industry shows that the impact of present anti-dumping duty on the eventual downstream product shall be in the range of 0.21% to 1.53%.

134. As regards the information concerning demand and supply situation over next five years, the Authority notes that the injury period in the present case is upto 31st March, 2018. Further, the interested parties have not established absence of likelihood on the basis of this prospective information.

135. The volume of imports in the period of investigation was not negligible, as contended. In fact, the rules specifically prescribe that a volume of import beyond 3% shall be considered significant, in the context of original investigations. In any case, in the present period, imports from subject countries constituted about 10% of the merchant demand in India. Since the purpose of present investigation is to determine likelihood of dumping and injury, the interested parties were required to establish that the dumping and injury is unlikely in the event of cessation of duty. While the questionnaire

response filed by two exporters showing their third country export clearly shows a likelihood of continuation of dumping, the Thai producers have admitted that the Authority could apply facts available in this regard. The participating consumers have provided no information or evidence to show that dumping and consequent injury to the domestic industry is unlikely in the event of cessation of duty.

136. As regards the contention that the domestic industry wishes to prevent all imports, the authority notes that 13% of the merchant demand in the country during POI was still met by imports.

137. It is clarified that the Authority has considered 22% return on capital employed for the purpose of non-injurious price determination, as per consistent practice. Further, it is also noted that the actual return earned by the domestic industry is far lower.

138. The contention that there is absence of current injury and therefore there is no likelihood of recurrence of injury, is contrary to the express legal provisions. It is noted that the question of likelihood of recurrence of injury arises only when there is no continued injury. However, in the present case, the Authority has noted that the performance of the domestic industry has remained sub-optimal with regard to profits, and ROCE.

139. As regards the contention regarding abusing the provisions of law or creating monopolistic situation, it is noted that examination of this issue does not fall within the scope of the trade remedy investigation. Moreover, except for making statements, none of the interested parties have furnished any evidence whatsoever. Further, it is noted that there are three producers of the product in the country and therefore it cannot be said that the domestic industry is in a monopolistic position.

140. The Authority notes that the fact that import price is lower than the selling price of the domestic industry shows existence of positive price undercutting.

T. CONCLUSION

141. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the likelihood of recurrence of dumping and consequent injury, the Authority concludes that:

a. There is continued dumping of the subject goods and the imports are likely to enter the Indian market at dumped prices in the event of expiry of duty.

b. The parameters such as significant dumping margin, injury margin, significant volume of imports, positive price undercutting, price attractiveness of the Indian market, low return on investment earned by the domestic industry and surplus capacities of the exporters, collectively and cumulatively shows that injury to the domestic industry is likely in the event of cessation of duty. The situation of domestic industry is likely to deteriorate if the existing anti-dumping duties are allowed to cease.

c. The deterioration in the performance of the domestic industry is likely because of dumped imports from the subject country. Thus, the anti-dumping duties are required to be extended.

d. The domestic industry has itself sought continued imposition of duty. The authority therefore concludes that it is appropriate to continue the same level of anti-dumping duty as imposed earlier in the original investigation.

U. RECOMMENDATIONS

142. Having examined the likelihood of continuation/recurrence of dumping and injury to the domestic industry in case of expiry of the current measure in place, and in view of the foregoing conclusions, the Authority recommends continued imposition of Anti-Dumping Duty as indicated in column (8) of the table below for a period of five (5) years concerning all imports of the subject good originating in or exported from the subject countries.

DUTY TABLE

Sl. No	Sub-heading	Description of goods	Country of origin	Country of Export	Producer	Exporter	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	29173600	Purified Terephthalic Acid	Korea RP	Korea RP	Hanwha General Chemical Co., Ltd.	Hyosung TNC Corporation	27.32	MT	USD
2	29173600	Purified Terephthalic Acid	Korea RP	Korea RP	Taekwang Industrial Co., Ltd.	Taekwang Industrial Co., Ltd.	23.61	MT	USD
3	29173600	Purified Terephthalic Acid	Korea RP	Korea RP	Any combination other than mentioned in S. No. 1 & 2 above.		78.28	MT	USD
4	29173600	Purified Terephthalic Acid	Korea RP	Any country	Any	Any	78.28	MT	USD
5.	29173600	Purified Terephthalic Acid	Any country other than	Korea RP	Any	Any	78.28	MT	USD

			those subject to anti-dumping duty.						
6.	29173600	Purified Terephthalic Acid	Thailand	Thailand	Indorama Petrochem Ltd.	Indorama Petrochem Ltd.	45.43	MT	USD
7.	29173600	Purified Terephthalic Acid	Thailand	Thailand	TPT Petrochemicals Public Co. Ltd.	TPT Petrochemicals Public Co. Ltd.	45.43	MT	USD
8.	29173600	Purified Terephthalic Acid	Thailand	Thailand	Any combination other than mentioned in S. No. 6 & 7 above.		62.55	MT	USD
9.	29173600	Purified Terephthalic Acid	Thailand	Any country	Any	Any	62.55	MT	USD
10.	29173600	Purified Terephthalic Acid	Any country other than those subject to anti-dumping duty	Thailand	Any	Any	62.55	MT	USD

V. FURTHER PROCEDURE

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

(Sunil Kumar)
Additional Secretary and Director General