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**F. No. 06/31/2020-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001**

Dated: 23rd September, 2021

FINAL FINDINGS

Case No. AD-OI-26/2020

Sub: Anti-Dumping Investigation concerning imports of “Silicone Sealants” originating in or exported China PR.

File No. 06/31/2020-DGTR- Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter also referred to as the “rules”), thereof;

A. BACKGROUND OF THE CASE

1. M/s Alstone Industries Pvt. Ltd (hereinafter also referred to as “Applicant” or “Petitioner”) filed an application/petition seeking initiation of an anti-dumping investigation concerning imports of “Silicone Sealants excluding silicon sealants used in manufacturing of solar photovoltaic modules, and thermal power applications” (hereinafter also referred to as “Subject goods” or “Product Under Consideration” or “PUC”) from China PR (also referred to as “Subject country”) before the Designated Authority (hereinafter also referred to as the “Authority”) in accordance with Customs Tariff Act, 1975 as amended from time to time and Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 as amended.
2. The Authority, on the basis of a sufficient evidence submitted by the Applicant, issued a public notice vide notification No. 6/31/2020-DGTR dated 28th September, 2020, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject country, and to recommend the amount of Anti-Dumping Duty (ADD), which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed with regard to the subject investigation:

- a. The Authority notified the Embassy of the Subject Country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
- b. The Authority issued a public notice dated 28th September, 2020 published in the Gazette of India Extraordinary, initiating an anti-dumping investigation concerning imports of the subject goods from the subject country.
- c. The Authority sent a copy of the initiation notification dated 28th September, 2020, to the Embassy of the subject country in India, the known producers and exporters from the subject country, known importers, importer/user Associations, the Domestic industry, other known Indian producers and other interested parties, as per the addresses made available by the Applicant. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit, in accordance with Rules 6(2) and 6(4) of the Rules.
- d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject country, through its Embassy in India in accordance with Rule 6(3) of the Rules supra.
- e. The Embassy of the subject country in India was also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject country.
- f. The Authority, upon request made by the interested parties, granted extension of time to the interested parties to file their response as well as submissions. Vide communication dated 3rd November, 2020, the time was extended up to 3rd December, 2020. Vide communication dated 3rd December, 2020, the time was extended up to 17th December, 2020.
- g. The Authority sent questionnaires to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the AD Rules;
 - i. Wacker Chemicals China Co Ltd
 - ii. Shandong Thanking Trade Co Ltd
 - iii. Shandong Lonlea Imp Exp Co Ltd
 - iv. M S Shandong Feidu Adhesive Techno Logy Shares Co., Ltd
 - v. Shandong Dongyue Silicone Material Co., Ltd.,
- h. In response, the following exporters/producers from the subject country filed exporter's questionnaire response;
 - i. Hangzhou Joinleader New Materials Co., Ltd
 - ii. Anhui Joinleader new materials technology co., ltd.
 - iii. Shandong Dongyue Silicone Material Co., Ltd.,

- i. The Authority sent Importer's Questionnaire to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rule.
 - i. AIPL Zorro Private Limited
 - ii. Auto Glass Traders Pvt Ltd
 - iii. Kingston Multi Products India Private Ltd
 - iv. Myriad Inc
 - v. Panamax Tapes International
 - vi. Marvel Impex
 - vii. Parshwanath Marketing
 - viii. Promisive Venture
 - ix. Grindwell Norton Ltd
 - x. Mahal Enterprises
 - xi. Pioneer Adhesives Private Limited

- j. In response, the following importers/users who have responded within stipulated and extended time period and filed importer's questionnaire response were considered:
 - i. Grindwell Norton Ltd
 - ii. AIPL Zorro Pvt. Ltd

- k. Apart from the above parties Wacker Chemicals (China) Co., Ltd, Wacker Metroark Chemicals Pvt Ltd and Hamsons Trading (India) LLP filed comments on the petition/investigation. Such submissions are also considered and addressed to the extent found relevant as per the consistent practices of the Authority.

- l. Vide email dated 28.07.2021, M/s Dow Chemical International Private Limited (DCIPL) filed authorization letter and injury submissions in response to petition filed by the domestic Industry. It was however noted that these submissions were outside the time limit prescribed by the Authority for submission of response by interested parties. Therefore, their submissions were not considered.

- m. The Authority made available non-confidential version of the evidence presented/made by the various interested parties to the other parties by directing the parties to exchange such submissions via e-mail based on the list of interested parties relevant for the subject investigation made available to all relevant parties on the website of the DGTR.

- n. A request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has, relied upon the DGCI&S transaction-wise details of imports data for computation of the volume of imports and its analysis after due examination of the transactions.

- o. The Non-Injurious Price (NIP) has been determined based on the cost of production and the cost to make & sell the subject goods in India based on the information furnished by the Domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure-III to the Anti-Dumping Rules so as to ascertain

whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic industry.

- p. The Period of Investigation for the purpose of the present anti-dumping investigation is from 1st April, 2019 to 31st March, 2020 (12 Months). The injury investigation period has however, been considered as the period from April 2016 - March 2017, April 2017 - March 2018, April 2018 - March 2019 and the POI.
- q. Desk verification of the information provided by the applicant, responding producers and exporters from subject country to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary modification/rectification, wherever applicable, has been relied upon for the purpose of present notification.
- r. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held via Video Conferencing on 3rd March, 2021. All the parties who had attended the oral hearing were provided an opportunity to file written submissions by 10th March, 2021, followed by rejoinders, if any by 17th March, 2021.
- s. The submissions made by the interested parties during the course of this investigation so far, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered and addressed by the Authority, in this final finding.
- t. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- u. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views/observations on the basis of the facts available.
- v. ‘***’ in this Final Finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- w. The exchange rate adopted by the Authority for the subject investigation is US\$1 = Rs.71.65

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 4. At the stage of initiation, the product under consideration and like article were defined as:

“3. The product under consideration is “Silicone Sealants excluding silicon sealants used in manufacturing of solar photovoltaic modules, and thermal power applications” originating in or exported China PR.

4. Silicone sealant is a liquid form of adhesive. Typically, it looks, feels, and acts like a gel. It has a different chemical make-up from other organic polymer-based adhesives. Unlike other adhesives, silicone keeps its elasticity and stability in both high and low temperatures. Furthermore, silicone sealant is resistant to other chemicals, moisture, and weathering. This makes it less likely to fail when used in construction of buildings and repairing objects. Unlike some adhesives, silicone sealants must cure. Curing silicone basically means letting it dry. Silicone Sealants are commonly used to seal windows to frames, as they provide a water-resistant seal that maintains a strong hold against harsh weather conditions. Silicone sealants can be used for caulking cracks. Sometimes individuals may use it to try and level surfaces in their home etc. Water-resistant silicone sealants are ideal for repairing areas around sinks and other areas where water is frequently found. Even though silicone isn't a good substance to use for weight-bearing seals, there is still a need for its powerful adhesive properties in many construction jobs. Silicone sealants are commonly used to bind surfaces such as plastic, metal, and glass together. For example, aquariums are often sealed with silicone. Windows are often sealed to frames with silicone sealants since it is weather resistant. Apart from construction/building and glass related applications, Silicone Sealants are used in automobiles, appliances, sealing cables and sensors in electronic devices, basic repairs around the house/tiles/floorings etc.

5. Though Silicone Sealants are used in multiple segments and applications, Silicone Sealants used in the manufacturing of Solar Photovoltaic Modules and Thermal Power applications are not covered in the scope of PUC as the said types were not produced and supplied by the petitioner so far. Such types are claimed to be not identical to the subject goods produced by the applicant and are hence excluded from the scope of PUC.

6. The PUC does not have any dedicated classification under Customs Tariff Act, 1975 (51 of 1975). The imports of PUC have been taking place under respective subheadings of Chapter 32 and 35 and the import of PUC under some other chapters as well is not ruled out.

Like Article

7. The Applicant has claimed that there is no known difference between the subject goods exported from the subject country and that produced by the domestic industry. Subject goods produced by the domestic industry and imported from the subject country is comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers use the two interchangeably. The Applicant has further claimed that the two are technically and commercially substitutable and, hence, should be treated as like article under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced

by the Applicant in India are being treated as 'Like Article' to the subject goods being imported from the subject country."

C.1 Submissions of the domestic industry

5. The Initiation Notification has defined the PUC as "Silicone Sealants excluding silicon sealants used in manufacturing of solar photovoltaic modules, and thermal power applications".
6. The subject goods as covered in the investigation have been produced and sold by the domestic industry during the injury period and such goods are being getting imported into India from China PR during the same period.
7. The definition of the PUC and the views on like article as per the Initiation notification is fair and just and the same should be adopted for the purpose of the final findings and does not warrant any modification.

C.2 Submissions by the other interested parties

8. The following submissions have been made by the other interested parties with regard to the product under consideration and like article:
 - i. The Authority may adopt the product exclusion with regard to Silicone Sealants used in the manufacturing of Solar Photovoltaic Modules and Thermal Power, as the same are admittedly not manufactured by the Petitioner.
 - ii. The domestic industry does not *manufacture* the PUC but instead merely sources all the raw materials required for producing the PUC from outside India and blends them to obtain the PUC. Interestingly, the Petitioner has claimed absolute confidentiality in respect of the production process in the Petition.
 - iii. The Petitioner does not commercially produce the following grades/types of the PUC:
 - a. High Temp HT-150
 - b. SS 999
 - c. IG 998
 - d. NB 6000
 - e. A2A Stix All
 - iv. The Petitioner procures the product type 'A2A Stix All', from another manufacturer M/s Kaneka Polymers in bulk quantities and repackages them into smaller quantities for sale in the open market.
 - v. Paragraph 3.10 of the DGTR's Manual of Operating Practices notes that, mere competence without any production or merchant sales may not be sufficient to include an item in the definition of the PUC.
 - vi. The Hon'ble CESTAT in *Oxo Alcohols Industries' Association vs Designated Authority, 2001 (130) ELT 58* has held that if the products are not manufactured by the domestic industry, the import of the same product cannot cause injury to domestic industry and therefore such product should be excluded from the levy of the anti-dumping duty.
 - vii. There are some products that are similar in appearance to the PUC and fall under the same tariff code as the PUC. The following products must be *specifically*

excluded from the scope of the PUC as they neither fall within the description of the PUC nor are manufactured by the Petitioner:

- a. Polyurethane Sealant: Used for Automotive wind-shield repair
 - b. Polyurethane Foam: Used for Gap filling applications
 - c. Polyurethane Foam Cleaner
 - d. Solar Potting silicone
 - e. Acrylic Sealant
 - f. Siliconised Acrylic Sealant
- viii. The PUC is not a single-homogenous product. It is broadly classified into general-purpose acid cure and neutral cure silicon sealants as well as MS sealants (which are not silicone sealants to begin with). The Petitioner is largely selling neutral cure silicone sealants. The subject imports from China PR into India are predominantly/largely of general-purpose acid cure (acetoxo) silicone sealants. Both these products have different properties and are priced differently. Wacker Group argues that the DGTR must exclude MS sealants from the product scope and to establish PCNs/product groups for acid cure and neutral cure silicone sealants.
- ix. The applicant industry in their petition has mentioned that there is no viable substitutable product despite fully knowing that many alternative products are available.

C.3 Additional Submissions of the Interested parties

9. Vide letter dated 2 April 2021, AIPL Zorro Pvt. Ltd has requested that PCNs should be adopted in the present case. The PCNs categories of PUC as requested are (1) General Purpose, (2) Neutral Grade, (3) Weatherproof Grade, (4) Structural Glazing, (5) RTV Gasket, (6) MS Polymer and (7) Paintable Acrylic Sealant.
10. Further, the following products should be excluded from the scope of PUC as the same are not manufactured by the Petitioner:
- i. Polyurethane Sealant: Used for automotive wind-shield repair. This sealant's appearance is similar to a silicone sealant and falls in the same tariff heading but it is not based on silicone. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
 - ii. Polyurethane Foam: Used for gap filling applications. Its appearance is similar to a silicone sealant and falls in the same tariff heading but it is not based on silicone. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
 - iii. Polyurethane Foam Cleaner: Must be excluded for the reasons given above.
 - iv. Solar Potting Silicone: As silicon sealants used in manufacturing of solar photovoltaic modules are already excluded, an express exclusion for this type of sealant would be helpful for the user industry and trade.
 - v. Acrylic Sealant: This type of sealant is not based on silicone. The Petitioner does not manufacture acrylic based sealants. Therefore, this type must be excluded.

- vi. Acrylic Neutral Sealant: This type of sealant is not based on silicone. The Petitioner does not manufacture acrylic based sealants. Therefore, this type must be excluded.
- vii. Acrylic Weather Sealant: This type of sealant is not based on silicone. The Petitioner does not manufacture acrylic based sealants. Therefore, this type must be excluded.
- viii. Siliconised Acrylic Sealant: This is a mixture of acrylic and silicone, which has water repellent properties. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
- ix. RoHS grade Silicone Sealant: The Petitioner does not manufacture silicone sealants that are compliant with European Union's Restriction of Hazardous Substances (RoHS), also known as Directive 2002/95/EC. Therefore, this type must be excluded.
- x. REACH grade Silicone Sealant: The Petitioner does not manufacture silicone sealants that are compliant with European Union's regulation namely Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). Therefore, this type must be excluded.
- xi. Fire resistant/retardant Silicone Sealant: This type of silicone sealant is resistant to fire. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
- xii. Silicone Sealant used for car and bus windshield pasting: This type of silicone sealant is used to affix glass windshield to metal. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
- xiii. Silicone Sealant used for bus body pasting: This type of silicone sealant is used to affix metal to metal on a bus body. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
- xiv. Silicone Sealant used for building expansion joints: As the name suggests, this type of silicone sealant is used in construction activity. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
- xv. MS Polymer based Sealant: The Petitioner procures the MS polymer from M/s Kaneka Polymers and only rebottles it. The Petitioner does not manufacture MS Polymer based Sealants. Therefore, this type must be excluded.
- xvi. Industrial RTV Silicone Sealant: This type is used for high temperature applications such as in automobile engines for gasket sealing purpose. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
- xvii. High-temperature Neutral Silicone: This type is used for high temperature applications such as in sealing boiler rooms or generator rooms where heat loss from the premises is to be avoided. The Petitioner does not manufacture the same. Therefore, this type must be excluded.

- xviii. Two-component Silicone Sealant: This type of sealant is used in a pair, namely Part A and Part B, in a ratio of 1:10. Part A is a small pale, which is a catalyst that activates the sealant and Part B is sealant in a drum. Both parts are mixed and then the mixture is put to use. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
- xix. Paintable Sealants: The oil in silicone sealants will not allow paint to remain on the surface of the silicone sealant. This type of sealant, however, has very less proportion of oil and once cured, the sealant can be painted over. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
- xx. Non-bleeding Weather Silicone: Upon curing, usually the Silicone Sealant will release some oil. This process is called bleeding. However, this type of sealant will not bleed or release oil upon curing. We understand that the Petitioner does not manufacture this product but procures it from the market in bulk and only rebottles it. We request the Authority to examine this aspect and accordingly exclude this product from the scope of PUC.
- xxi. Insulating Glass Silicone: This type of sealant is used to bind two glasses together for the purpose of double glass window glazing. A gas is also filled between the two glass panes and the sealant is used on the perimeter of both glass panes to seal the perimeter. This sealant can withstand UV radiation as well and exhibits much longer life than a normal sealant. It is especially used in modern construction where building facades are entirely of glass. The Petitioner does not manufacture the same. Therefore, this type must be excluded.
- xxii. Nail free adhesive or Mirror fix adhesive: It is a synthetic rubber adhesive specially formulated for construction applications. It is non-silicone based and not produced in India. Even though Petitioner claims they are manufacturing it, it is our submission that this product is not silicone based and cannot be part of the product scope. We request the Authority to examine this aspect and accordingly exclude this product from the scope of PUC.

C.4 Petitioner's response to the additional submissions on PUC made by the interested parties

11. Vide email and letter dated 2nd April, 2021, the Petitioner confirmed that the 22 items/products as mentioned in preceding para are not part of scope of PUC.
12. Thus, with regard to the exclusion of above 22 product types, the Petitioner clarified that none of them are included in the product scope. It was also added that importer is resorting to piece meal submission on the scope of the PUC with sporadic lists with a view to misguide the Authority.
13. The importer has proposed a PCN methodology by taking alleged difference in the price of the alleged grades/types as the ground, whereas the Authority has consistently held that any PCN request must be substantiated with data of difference in both cost and price concerning the alleged types/grades and the claim cannot be mere allegation of difference in price.

14. The imported products and that those produced by the Petitioner cover all Acetoxy Silicone, Neutral Silicone and Modified (MS) Silicone. These product types are not separate products and Silicone Sealants as defined covers products with all such properties.

C.5 Examination by Authority

15. The PUC in this investigation is “*Silicone Sealants excluding silicon sealants used in manufacturing of solar photovoltaic modules, and thermal power applications.*” Silicone sealant is a liquid form of adhesive. Typically, it looks, feels, and acts like a gel. It has a different chemical make-up from other organic polymer-based adhesives. Silicone Sealants are commonly used to seal windows to frames, as they provide a water-resistant seal that maintains a strong hold against harsh weather conditions. Silicone sealants are commonly used to bind surfaces such as plastic, metal, and glass together. The PUC is also used in automobiles, appliances, sealing cables and sensors in electronic devices, basic repairs around the house/tiles/floorings etc.
16. As per the Initiation Notification, Silicone Sealants used in the manufacturing of Solar Photovoltaic Modules and Thermal Power applications are not covered in the scope of PUC as the said types were admittedly not produced and supplied by the Petitioner.
17. The PUC does not have any dedicated classification under Customs Tariff Act, 1975 (51 of 1975). The imports of PUC have been taking place under respective subheadings of Chapter 32 and 35. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.
18. The Authority considered the arguments of the interested parties regarding the exclusion of products from the scope of the PUC and has examined the same after calling for relevant information from the interested parties.
19. The Authority notes that the scope of the PUC is limited to silicone-based sealants. However, the various products identified by the interested parties for exclusion are chemically different from the PUC. Further, it is noted that some of these exclusions sought were specific trade names and these names were not indicated in the transaction wise import data obtained from DGCI&S.
20. After considering the post-initiation submissions made by the other interested parties for exclusion of below mentioned product types, it is noted by the Authority that these product types were specific grades, and were already excluded from the product scope even at the time of initiation. Moreover, it is also noted by the Authority that these product types were not reflected in the transaction wise import data as obtained from DGCI&S. In addition, it is also noted by the Authority that the chemical constitution of the below mentioned product grades are different from the PUC. Further, the domestic industry also confirmed that these items/products were not within the scope of PUC. The Authority, therefore, considered that these products are not within the scope of the PUC.
 - i. Polyurethane Sealant
 - ii. Polyurethane Foam
 - iii. Polyurethane Foam Cleaner
 - iv. Solar Potting Silicone
 - v. Acrylic Sealant
 - vi. Acrylic Neutral Sealant

- vii. Acrylic Weather Sealant
- viii. Siliconised Acrylic Sealant
- ix. RoHS grade Silicone Sealant
- x. REACH grade Silicone Sealant
- xi. Fire resistant/retardant Silicone Sealant
- xii. Silicone Sealant used for car and bus windshield pasting
- xiii. Silicone Sealant used for bus body pasting
- xiv. Silicone Sealant used for building expansion joints
- xv. MS Polymer based Sealant
- xvi. Industrial RTV Silicone Sealant
- xvii. High-temperature Neutral Silicone
- xviii. Two-component Silicone Sealant
- xix. Paintable Sealants
- xx. Non-bleeding Weather Silicone
- xxi. Insulating Glass Silicone
- xxii. Nail free adhesive or Mirror fix adhesive

21. However, post issuance of disclosure statement, the domestic industry contended that the following items identified as non-PUC, fall well within the scope of PUC and this exclusion can also lead to massive circumvention;

- (i) Silicone Sealant used for car and bus windshield pasting
- (ii) Silicone Sealant used for bus body pasting
- (iii) Silicone Sealant used for building expansion joints
- (iv) Industrial RTV Silicone Sealant
- (v) Two-component Silicone Sealant

22. In this regard, the Authority notes that the domestic industry had initially admitted the following in their letter dated 2nd April, 2021:

“Authority may please be noted that none of the above 22 items are included in PUC as well in the import data, the quantum of which is negligible.”

23. It is noted that 5 products as mentioned above were included in the 22 items for which the domestic industry had given the above said declaration. Thus, these 22 items were proposed to be excluded from the PUC in the disclosure statement based on the submissions made by the domestic industry. However, post issuance of disclosure statement, the domestic industry has stated that Silicone Sealant produced by DI can be used for aforementioned 5 applications also, and the Silicone Sealants for such applications are not any different product per se from what is defined as PUC.

24. The contention has been examined, and it is noted that the evidences on record do not indicate that these five products were produced and sold by the domestic industry during the POI.

25. The Authority, however, notes the concern of the domestic industry that exclusion of application-based products from the scope of PUC can also lead to circumvention of the measure.

26. Considering the apprehensions raised by the domestic industry that user-based exclusion of (i) Silicone Sealant used for car and bus windshield pasting, (ii) Silicone Sealant used for bus body pasting, (iii) Silicone Sealant used for building expansion joints may lead to circumvention of any measures by incorrect declaration about the end use, the Authority notes that the user based exclusion of (i) Silicone Sealant used for car and bus windshield pasting, (ii) Silicone Sealant used for bus body pasting, (iii) Silicone Sealant used for building expansion joints shall be strictly limited to imports by actual users only. After examination, the Authority holds that product exclusion with regard to below mentioned three items/products will be strictly limited to actual users only. The actual users shall provide declarations to customs at the time of import regarding bonafide usage in this regard. Actual users would also maintain the monthly record in the form of verifiable consumption register for presentation before any law enforcing agency on demand.
- (i) Silicone Sealant used for car and bus windshield pasting
 - (ii) Silicone Sealant used for bus body pasting
 - (iii) Silicone Sealant used for building expansion joints
27. With regard to the contention that the competition from the subject imports from China PR is mainly in the product/market segment of the general-purpose acid cure (acetoxo) silicone sealants and acid cure and neutral cure silicone sealants are different product segments and MS sealants are an altogether different product, the Authority notes that the contentions are not supported with any evidences. Based on the available information, the Authority notes that the PUC as defined, and, which have been imported, are Silicone Sealants with the exclusions as mentioned earlier. The PUC has curing properties such as acid cure and neutral cure.
28. With regard to the contention of the other interested parties that there is a need for fixing PCNs in the matter, it is noted that none of the parties have substantiated the need for such analysis supported by evidences involving any commercial or technical aspect of the PUC which can be the basis for any PCN methodology.
29. It is also noted that almost 90% of the product imported in India falls under the same price range. Therefore, in the absence of evidence supplied by the claimant parties to show any significant variation between the cost and prices among any purported grade/types or any other technical ground, the Authority has not adopted any PCN methodology as requested by the interested parties.
30. The imported product and that produced and sold by the Petitioner are comparable in terms of basic product properties, uses, raw materials, manufacturing process etc. and the proposed methodology of conducting the examination of relevant factors of dumping and injury in terms of the weight of the product reported in Kg or MT is considered as a reasonable method of comparison.
31. Regarding the issue of the quality of the goods manufactured by the domestic industry, the Authority notes that quality, per-se is not an issue in an anti-dumping investigation.
32. After examination of the contentions of the interested parties, the Authority holds that the product under consideration is "Silicone Sealants excluding silicon sealants used in manufacturing of solar photovoltaic modules, and thermal power applications" originating in or exported China PR. Further the following product types are not within the scope of the PUC.

- i. Polyurethane Sealant
- ii. Polyurethane Foam
- iii. Polyurethane Foam Cleaner
- iv. Solar Potting Silicone
- v. Acrylic Sealant
- vi. Acrylic Neutral Sealant
- vii. Acrylic Weather Sealant
- viii. Siliconised Acrylic Sealant
- ix. RoHS grade Silicone Sealant
- x. REACH grade Silicone Sealant
- xi. Fire resistant/retardant Silicone Sealant
- xii. Silicone Sealant used for car and bus windshield pasting
- xiii. Silicone Sealant used for bus body pasting
- xiv. Silicone Sealant used for building expansion joints
- xv. MS Polymer based Sealant
- xvi. Industrial RTV Silicone Sealant
- xvii. High-temperature Neutral Silicone
- xviii. Two-component Silicone Sealant
- xix. Paintable Sealants
- xx. Non-bleeding Weather Silicone
- xxi. Insulating Glass Silicone
- xxii. Nail free adhesive or Mirror fix adhesive

Provided the product exclusion with regard to below mentioned products will be strictly limited to actual users only. The actual users shall provide declarations to customs at the time of import regarding bonafide usage in this regard. Actual users would also maintain the monthly record in the form of verifiable consumption register for presentation before any law enforcing agency on demand

- i. *Silicone Sealant used for car and bus windshield pasting*
- ii. *Silicone Sealant used for bus body pasting*
- iii. *Silicone Sealant used for building expansion joints*

33. With regard to like article, Rule 2(d) of the Anti-Dumping Rules provides as under:

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

34. After considering the information on record, the Authority holds that the product under consideration produced by the domestic industry and imported from the subject country are comparable in terms of physical & chemical characteristics, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The goods produced by the domestic industry and imported from the subject country are like articles in terms of the Rules. The two are technically and commercially substitutable. Thus, the Authority holds that the subject goods produced by the domestic industry are like article to the product under consideration imported from subject country within the scope and meaning of Rule 2(d) of Anti-Dumping Rules.

D. SCOPE OF THE DOMESTIC INDUSTRY AND STANDING

Submissions made by the domestic industry

35. The submissions made by the domestic industry with regard to scope of domestic industry & standing are as follows:
- i. The application on the basis of which the present investigation was initiated has been filed M/s Alstone Industries Pvt. Ltd which was supported by another producer of the subject goods in India namely M/s HP Adhesives Pvt. Ltd. The petitioner neither imported the subject goods from the subject country nor is related to any exporter or producer of subject goods in the subject country or any importer of the PUC in India. M/s Alstone Industries Pvt. Ltd is an MSME Unit based in Rajasthan. The petitioner holds more than 40-50% (***) share in the total Indian production of the like article and account for more than *** along with the supporter. Thus, the requirements to be treated as domestic industry under Rule (b) are fully met by the petitioner.
 - ii. In addition to this, there are three more producers as per the information of the petitioner namely Adarsha Specialty Chemicals Pvt. Ltd, Anabond Limited, Astral Poly Technik Limited who have neither supported nor opposed the present investigation.
 - iii. The petitioner is the largest producer of the subject goods with the highest capacity and the performance of the petitioner reflects the true situation of the domestic producers as a whole. India has more than *** MT (***) (all producers together) capacity of the POI to produce the subject goods, and as a result of aggressive dumping from China PR, not even 25% of the said capacity could be utilized by the producers as evident from the total Indian production numbers. Silicone Sealants have its own market in India but the companies engaged in the production of this product in India including the petitioner apparently could not reap the benefit of such market opportunities as a result of aggressive dumping practiced by the Chinese exporters. India can be self-reliant on this product, and ADD to remove the injurious effects of dumping will provide due support to this sector to survive through the injurious effects of dumping.
 - iv. The doubts on standing of the petitioner raised by the opposing parties are all unsubstantiated claims and the petitioner has provided most reliable data in terms of total Indian production and the share of petitioner in such total production. The petitioner in fact provided all such information though it is perceived that collection of all such information relevant for the petition is very difficult for India's MSME units like the petitioner.
 - v. It has been contended that as per the Petitioner's filings with the Ministry of Corporate Affairs, the Company is engaged in the business of "manufacturing and trading", and whether the trading business include import of PUC also. The insinuation here is not on any merit. Alstone manufactures subject goods in its factory and sells such products to dealers/distributors/industries etc. It never imported the subject goods from any country including China PR and the petitioner is not involved in any trading of imported subject goods from any country including China PR.

- vi. It has been contended that the petitioner has not provided the relevant economic parameters pertaining to the supporter namely HP Adhesives Pvt Ltd. It is submitted in this regard the supporting party has provided the details of its production in the support letter which alone was used while estimating the Indian production, and the claims of standing made by the petitioner meets the requirements of Rule 2 (b). It is the consistent practice of the Authority to consider such support as valid to determine the standing of the petitioner, and the injury data is in any case has been provided by the petitioner based on its records.
- vii. It has been contended that the injury claimed by the sole petitioner cannot define the situation of the whole industry in India. The contention has no legal sanctity. The Rule does not say that all producers in India of the concerned like article must participate in an Anti-dumping (AD) investigation to make the injury representative for the Indian producers concerning such like article. The rule has prescribed major proportion threshold to gauge one's eligibility as domestic industry, and the injury to the eligible domestic industry is presumed as representative of the situation of the Indian producers of the subject goods. The petitioner here fulfils the criteria under Rule 2 (b) to be considered as the domestic industry concerning the subject goods.

Submission of the other interested parties

36. The submissions on the aspect of the domestic industry and the standing as filed by other interested parties are as follows;
 - i. The supporter has not provided the information as required, and a simple support letter should not be considered as proper support.
 - ii. Based on the statements in the petition, the applicant does not seem to represent a major proportion of the Indian production and therefore, cannot be deemed to have standing in this case.
 - iii. When the domestic industry is defined as the producers representing a major proportion of the total domestic production, the investigating authority should take into account the situation of domestic producers outside the domestic industry definition for the injury assessment.
 - iv. DGTR may disclose the aggregate data concerning the Indian production used for standing, and to contact the other non-complaining and non-supporting producers as well.
 - v. As per the Petitioner's filings with the Ministry of Corporate Affairs, it has stated that it is engaged in the business of "manufacturing and trading". In this regard, the Respondent requests the Authority to seek clarity from the Petitioner as to the scope of the Petitioner's trading business. It must be ascertained whether the Petitioner trading business involves importing the subject goods.
 - vi. The domestic industry in the present investigation comprises of only one producer. Annexure I of the Trade Notice provides that actual information in the form of aggregated data/indexed data should be provided regarding certain specific

parameters of the domestic industry. However, on a number of these parameters, the domestic industry has not met the standard set by the Trade Notice.

- vii. As Per Trade Notice No. 13/2018 dated 27th September 2018, the Petitioners were required to provide certain information including the data of the economic parameters of the supporter in the formats prescribed by the Authority in the said Trade Notice. However, in the present investigation, the Petitioners have only provided the production data of the supporter company, and that too as part of the indexed data of the overall domestic production in India.
- viii. The Petitioner has not provided the other data required in the above said Trade Notice such as reasons for not joining the petition, economic parameters such as production, sales, profitability, return on capital employed, etc. Therefore, the Petition has been submitted in gross violation of the Trade Notice issued by the Authority.
- ix. In the oral hearing, the counsel for the Petitioner submitted that it has not provided the data for the supporter since the supporter only commenced production in the financial year 2018-19, and not before that. The Respondent however submits that even if the supporter commenced production in 2018-19, this does not preclude the Petitioner/Supporter from providing the data for 2018-19 and the POI.
- x. The injury claimed by the sole petitioner cannot define the situation of the whole industry in India.
- xi. As per the Petitioner, its share of total domestic production of the like article ranges between 40% to 50% during the POI. The economic condition of the sole petitioner alone cannot define the holistic situation of industry. The Petitioner's contention that it represents more than 25% of total domestic production does not necessarily imply its representativeness of the complete industry.
- xii. The issue of standing is important in this case because if the applicant claim that it had 15%-25% capacity utilization in the POI were to be correct, it logically cannot represent a major proportion of the Indian production of the PUC as required by Article 5.4 ADA.
- xiii. Non-inclusion of a larger share of domestic production, which would exclude information of other domestic producers, would result in distortion of injury analysis and hence other producers should be included in the determination of material injury and causal link.
- xiv. No information is being filed by the supporter HP Adhesives Private Limited hence should not be considered as supporter in the present investigation
- xv. There are many other producers of the subject goods in India who have not even been named in the Petition. This raises serious doubts on what is the total Indian production of the subject goods during the period of investigation and whether Petitioner has major proportion in terms of Rule 2(b) in the total Indian production. These are: Bostik India Pvt. Ltd. (Unit-II), Span Intermediates Pvt. Ltd., McCoy Soudal Sealants Adhesives & Foams Pvt, Accumetric Silicones Pvt. Ltd. The

abovementioned entities have substantial manufacturing capacities and their products are competing with the Petitioner's products in the Indian market. The photographs also show the locations where such products have been manufactured in India in so far as many of the abovementioned brands are concerned

- xvi. Once the Authority arrives at the total Indian production after including the above mentioned entities as well, the Petitioner's share in total Indian production during the POI would fall below the mandatory 25%. Thus, the Petitioner would fail to qualify as the domestic industry in terms of Rule 2(b) read with Rule 5(3) of the AD Rules. Accordingly, the present investigation ought to be terminated immediately.

Examination by the Authority

37. Rule 2 (b) of the AD rules defines the "domestic industry" as under:

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

38. It is noted that the application has been filed by M/s Alstone Industries Pvt. Ltd. and has been supported by another producer of the subject goods in India namely M/s HP Adhesives Pvt. Ltd. It is further noted that the Applicant has neither imported the subject goods from the subject country nor are related to any exporter or producer of subject goods in the subject country or any importer of the PUC in India.
39. As per the petition, there are three more producers of the subject goods in India namely a) Adarsha Specialty Chemicals Pvt. Ltd, b) Anabond Limited and, C) A unit of Astral Poly Technik Limited. It is noted in this regard that none of the other such known producers have neither supported nor registered their opposition to the present investigation even though the Authority has specifically written to all such known parties.
40. The Authority notes that, based on an examination of the information on record, the Applicant accounts for ***% share in the Indian production and the share of the petitioner along with the supporter is noted as ***%.
41. With regard to the contention of the opposing parties that the support letter by M/s HP Adhesives Pvt. Ltd is not proper and should not be considered for the purpose of support to the petition, the Authority notes that M/s HP Adhesives Pvt. Ltd vide their support letter has provided their production details and expressly supported the petition. However, no injury information as required from a supporter has been provided. In view of the same, the support letter of the said producer is used for the limited purpose of determination of standing under Rule 2 (b) and the injury is determined based on the information supplied by the petitioner alone.
42. The Authority further notes that it is desirable that a supporter of an application provides the desired information in the format prescribed in Trade Notice in this regard so that

such information can be used in the context of injury examination also to the extent relevant. However, in a situation where supporting domestic producer has not provided relevant information in prescribed format, but have nonetheless expressed support to the application, the Authority notes that such support cannot be treated as invalid support or opposition for the purpose of determination of the standing under Rule 2 (b).

43. With regard to the contention of the opposing parties that injury to the single petitioner shall not be representative of the overall injury suffered by the Indian producers of the subject goods as a whole, the Authority notes that the requirement under Rule 11 (2) of the Anti-dumping Rules is to determine injury considering the “domestic industry” as determined under the Rule and injury concerning the “domestic industry” is considered in this statement.
44. With regard to the contention of the interested parties regarding other manufacturers of the PUC, the Authority sent the letters to the four producers of PUC where it was alleged that they are also producers of domestic like product. The Authority also emailed to Ministry of Chemicals and Petrochemicals, India so that a list of domestic producers along with their production details may be made available. However, no reply was received from either of the alleged producers or the Ministry of Chemicals and Petrochemicals, India.
45. The Authority further notes from the transaction wise import data that all 4 of the alleged manufacturers have imported the PUC during the POI.
46. Therefore, considering the information on record, and non-receipt of any response from 4 alleged manufacturers, the Authority holds the applicant/petitioner as eligible domestic industry within the meaning of Rule 2(b) of the Rules, and that the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. ISSUES ON CONFIDENTIALITY

Submissions made by the domestic industry

47. The following submissions have been made by the domestic industry with regard to confidentiality issues:
 - i. The participating producers/exporters/importers have resorted to excessive confidentiality in this matter.
 - ii. Producer group like Hangzhou Joinleader New Material Technology Company Ltd has not disclosed even the details of export chain to India which is not justified at all. The response with regard to export and import do not allow any understanding of their activities connected with the subject goods and NCV filed is all only a denial of information to the petitioner.
 - iii. It was stated by Shandong Dongyue Silicone Material Co., Ltd that they adopted reverse indexation which is not any method prescribed by the Authority nor it is done with the permission of the Authority. A reverse indexation should show the opposite trend of a forward indexation and the exporter has not explained the rationale or appropriateness of such indexation anywhere.

- iv. Appendixes to the importer response filed by the importers like AIPL Zorro Private Limited and Grindwell Norton Ltd contain no indexation and there is no trend available about their import volume and price. This is when the petitioner has provided indexation of all the injury parameters. The opposing parties must be directed to provide adequate NCV of the submission filed on confidential basis so that the DI can provide its rebuttals. As it stands, importer responses do not permit any meaning rebuttal.
- v. It has been contended that the petitioner has resorted to excessive confidentiality which is devoid of any merit. The petitioner claimed certain information confidential as permissible in the rule after adducing reasons and such reasons are not disputed. It is in fact the opposing parties who have resorted to excessive confidentiality and to cover up such excessive use of confidentiality provision, an allegation is made against the petitioner which is not of any merit and should be rejected. The NCV version of the petition meets the requirements as per the rules and practices of the Authority and the claims to the contrary are not of any merit.
- vi. It has been contended that the petitioner claimed excessive confidentiality with regard to its annual accounts. The annual reports are not freely circulated publicly by the petitioner or made available on its website etc. and how MCA issues the report to the party seeking it through their portal is a different matter altogether. The document by nature is confidential and should be please treated so in this investigation.
- vii. It has been contended that the claims of confidentiality on DGCI&S T/T data and costing formats is not as per the Rule. DGCI&S T/T data is by nature confidential as evident from the Trade Notice issued by the Authority but a summary of imports have been provided. Costing formats are confidential in nature but a summary/indexation wherever possible has been provided including trend of price and volume parameters. Thus, the contention of excessive confidentiality on this information has no basis.

Submissions made by other interested parties

48. The following submissions have been made by other interested parties with regard to confidentiality issues:
- i. Excessive confidentiality of data and information in the complaint has precluded an understanding of the Complainant's allegations of injurious dumping and the full exercise of their rights of defense by interested parties.
 - ii. The disclosure of the aggregate figure consisting of the data of five producers of the PUC cannot be considered confidential. There is no justification for the treatment of the total Indian demand of the PUC as confidential. The Complainant has itself publicly disclosed its production capacity. Also, the DGCIS data is not disclosed to the interested parties.

- iii. As regards the injury indicators, only indexed data has been provided and no range has been provided. Also, the complete redaction of the annual financial statements of the Complainant is also WTO-inconsistent.
- iv. No information has been provided in the complaint as regards the production norms/the recipe used by the Complainant to establish the normal value, and no information regarding the domestic industry injury's sales prices and non-injurious prices have been provided.
- v. The confidentiality of nearly all the key information starting from the Indian consumption of silicone sealants or the product under consideration ["PUC"] to the main injury and dumping related data, has restricted a proper rebuttal.
- vi. A complete redaction of the majority of the annexes including Annexes 1.2, 1.3, 3.1, 6.1, 6.2, costing information Formats-A, B, C, D, E; and costing information Formats-I, J, K, L of the present complaint, is insufficient to meet the Article 6.5.1 standard.
- vii. Petitioner has claimed excessive confidentiality in the petition in violation of trade notice no. 10/2018 8. Annexure I of Trade Notice No. 10/2018 dated 7th September 2018 provides guidelines for disclosure of information in confidential and non-confidential version on behalf of the domestic industry.
- viii. The petitioner has claimed excessive confidentiality with respect to the Annual accounts and costing information.
- ix. The non-confidential version of the petition does not give a reasonable understanding of the allegations contained therein. Also, the non-confidential version of the petition fails to meet the standards laid down in Rule-7 of the Rules and Trade Notice No 1/2013 dated 9th December 2013, issued by the Director General.

Examination by the Authority

49. With regard to confidentiality of information, Rule 7 of the 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.”

50. As required under Rule 6 (7), the Authority made available the evidence presented to it by one interested party to the other interested parties, participating in the investigation. Such information was circulated among the participating interested parties with directions for exchange of such evidences among the interested parties participating in the investigation to avoid physical access to the public file on account of the restrictions put in place in view of the pandemic situation.
51. The Authority notes that the information provided by the domestic industry and other interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims in accordance with Rule 7 of the Rules. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered confidential.
52. With regard to the contention that the petitioner has provided only indexed information and not actual data pertaining to certain parameters, the Authority notes that the Trade Notice 10/2018 dated 7th September 2018 requires a domestic producer (where a single producer is filing the petition) to provide certain data (such as production, capacity etc.) as a trend as opposed to actual data.
53. With regards to contention that the transaction wise import data as per DGCI&S is not placed in the public file, the Authority notes that the consolidated data relating to volume and value of imports from all sources of imports has been shared with the interested parties and the transaction wise details were provided on a confidential basis.
54. With regard to the contention of the opposing parties that the annual reports of the petitioner cannot be treated as confidential as the same can be obtained from the website of the Ministry of Corporate Affairs, the Authority notes that the information available on the website of the said Ministry primarily concerns with the administration of Companies Act 2013. Various information as provided on the said website can be obtained on payment of a fee only which shows some reasonable restriction on obtaining such information and such information cannot be treated as information freely available in the public domain.

F. MISCELLANEOUS SUBMISSIONS

Submission of other interested parties

55. The following submissions have been made by the exporter/ producer/ other interested parties with regard to various issues:
 - i. There is a huge demand supply gap between the demand in the country and the sales of the petitioner and also the capacity of the subject goods. Even if the domestic industry operates at 100% of its capacity, it would not be able to meet even 50% of the demand in the country. Imposition of anti-dumping duty would severely impact

the supply of the subject goods and the gaps cannot be bridged by the domestic industry in any manner. Assessment of the effect of any duty on the users must be checked.

- ii. Due to pandemic, slow down in real estate and availability of cheaper substitute products, the demand of the subject goods declined. Once the awareness about product increases and situation in the real estate change, the situation of the petitioner will also improve.
- iii. The parallel claim of material injury and threat thereof demonstrates the insufficiency of evidence. In any event, the threat of injury claim has not been substantiated.
- iv. In the Petitioner's Annual Financial Statements for FY 2019-20, the Petitioner has reported data regarding certain operational and financial parameters under the segment "Silicon". The petitioner's data regarding profitability in the petition are inconsistent with the data reported in its annual financial statements. The Authority must verify the reasons for the inconsistency in the data.
- v. The petitioner has not brought forth any substantive evidence to establish the conditions for initiation of the anti-dumping investigation, while the investigating authority has not carried out appropriate, enough scrutiny to the related facts. It is advised that the initiation of the present investigation is totally baseless, and the investigating authority ought to terminate the current investigation.
- vi. The petitioners' application for present anti-dumping measures on imports is clearly short of legal and factual basis.
- vii. DGTR should not have initiated the present investigation on the basis of the information contained in the petition.
- viii. The petition filed by the domestic industry does not meet the requirements laid down under the law and the present initiation is bad at law. Further the standard of review applied by the Authority, before initiation of the present investigation, does not meet the standards laid down under the law. Hence, the present investigation should be terminated immediately. It is clear that DGTR had prima facie evidences with them about dumping and material injury to the domestic industry which formed basis for initiation of the present investigation. It may be noted that "prima facie" and "sufficient" are two completely distinct terms, imply different standards and are not interchangeable and the requirement in the rule is sufficient evidences.
- ix. The petitioner has imported Calcium Carbonate from Shengda Tech Inc. a leading nano precipitated calcium carbonate ("NPCC") manufacturer from China PR. On the one hand petitioner is importing raw materials for manufacturing 'silicone sealants' from China PR and on the other hand requesting for dumping measures in Silicone Sealants which is not understood.
- x. Levy of anti-dumping duty will establish monopoly of petitioner and will not be in the public interest. The purpose of anti-dumping investigation is to protect the fair international trade order. Improper implementation of anti-dumping measures as

means of trade protection, cannot play the role of protecting the industry, but will cause an unfair competitive environment and cause damage to the fundamental interests of their respective industries in the long term.

Submissions made by the domestic industry

56. The following miscellaneous submissions have been made by the domestic industry:
- i. As an MSME unit, M/s Alstone Industries Pvt. Ltd is extremely vulnerable to the adverse effects of aggressive dumping of subject goods taking place from China PR, and definitive ADD to counteract such injurious dumping is very essential at the earliest to ensure the continuity of business of the domestic industry.
 - ii. The domestic industry has been incurring financial losses in the POI and such losses are continuing. As a small unit, the domestic industry has limited support system to sail through such losses created by dumping and it is very important that the remedial measure against dumping and injury is put in place at the earliest.
 - iii. There are certain comments on the initiation and petition filed by Wacker Chemicals Co Ltd China PR and Wacker Metroark Chemicals Private Ltd. The Group must be noted as non-cooperative as only submissions are made without filing any Responses which is apparently done to avoid sharing required data with the Authority.
 - iv. It has been contended that there is some mismatch in the profitability claims made by the petitioner in its financial statement and that submitted in the petition. The profitability provided in the petition pertains only to the domestic operation of the subject goods whereas the financial statement covers some other products also. The reconciliation of the figures is part of the costing formats and the mismatches as insinuated are nonexistent.
 - v. It has been contended that the petitioner cannot meet the demand for the product in India. The issue has no merit. Even though the capacity available in India is not sufficient to meet the Indian demand, the fact of the matter is that the actual capacity utilization by the petitioner and also Indian industry as such has been less than 25% which means about 75% of Indian capacity have been idle in a growing market. It is a settled jurisprudence that the demand - supply gap cannot justify dumped imports and ruling of the Hon'ble CESTAT in *DSM Idemitsu Ltd Vs Designated Authority* matter is applicable in this matter also. The present case is not about demand supply gap, but about the inability of the Indian producers to utilize their capacity.
 - vi. It has been contended that the case should not have been initiated based on the information contained in the application. The contention has no evidentiary value. The petition contained all relevant information as required under the rule to initiate an ADD investigation and also to recommend adequate ADD on dumped imports of subject goods which has dismantled the domestic production base of subject goods in India.
 - vii. It has been contended that the levy of the ADD will lead to monopoly of the petitioner and will be against public interest. The claim made by the exporter shows their inclination to dump the material in India and that can be done only when there is no

ADD. It is only a misconception that ADD will lead to monopoly of a party or shall be against public interest. The settled jurisprudence governing ADD investigation in India and elsewhere has no space for such misconceptions and misinformation.

Examination by the Authority

57. The Authority has considered the views of the interested parties, as follows;
- i. With reference to the argument of demand-supply gap, the Authority considers that a gap in demand and supply cannot be a reason for depriving the domestic industry from seeking redressal against dumped imports causing injury. It is noted from the facts of the present case that the demand for the product during the POI was *** MT against which the production of the domestic industry has been *** MT wherein the capacity available with the petitioner/domestic industry is noted *** MT. It is further noted that there are four more producers of the subject goods in India and the total Indian production have been claimed as *** MT and the total Indian capacity have been claimed as *** MT during the POI. Thus, the Indian production and the total available capacity was not sufficient to meet the entire Indian demand during the POI. However, the Authority notes in this regard that substantial part of the available capacity for the product in India have been significantly underutilized during the POI as evident from the 22% capacity utilization by the domestic industry.
 - ii. With regard to the claim made by other interested parties that due to pandemic, slow down in real estate and availability of cheaper substitute products, the demand of the subject goods declined, the Authority notes that the demand increased in the POI.
 - iii. With regard to the contention that the petitioner has not brought forth any substantive evidence to establish the conditions for initiation of the anti-dumping investigation, it is noted that the case was initiated after satisfying those sufficient evidences as required under the rules were available to justify the initiation.
 - iv. With regard to the contention that there are differences in the profitability of the petitioner as reported in annual report and the petition, it is noted that the profitability and other claims were subjected to verification through remote cross check and scrutiny, and only such verified data pertaining to the subject goods alone is considered for the present statement.
 - v. With regard to the contention that Wacker Chemicals Co Ltd China PR and Wacker Metroark Chemicals Private Ltd should be treated as non-cooperative, the Authority notes that Wacker Chemicals Co Ltd China PR and Wacker Metroark Chemicals Private Ltd have not filed any Response and filed only comments on the investigation. However, as per the consistent practice of the Authority, the submissions of the said parties is considered and addressed to the extent found relevant in this investigation.
 - vi. With regard to the contention that ADD will lead to monopoly of the petitioner and any such measures shall be against the public interest, it is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of

the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

G. MARKET ECONOMY TREATMENT (MET), NORMAL VALUE, EXPORT PRICE & DETERMINATION OF DUMPING MARGIN

Submissions made by the domestic industry

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

- a. China PR should be treated as a non-market economy country and normal value in case of the producers/exporters from China PR should be determined in accordance with para-7 read with para 8 (2) and (3) of Annexure I of the Rules. In terms of Para 8 in Annexure 1 to the Rules, it is presumed that the producers of the subject goods in China PR are operating under non-market economy conditions. Therefore, normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules.
- b. The petition shows very significant dumping taking place in this product from China PR and the dumping margin was in the range of 90-110% as provided in the petition.
- c. Large number of new and existing producers of the subject goods is competing to dump the product in large market like India and the same is reflected in the magnitude of dumping margin.
- d. Dumping is apparently adopted as a strategy to decimate the Indian production base for PUC itself and it should be noted that the import price from China PR have been at a rate much lower rate than the import price of significant import from other countries at non injurious level also.
- e. None of the responding producers/exporters from China PR have rebutted that NME presumption by filing the applicable Questionnaire. Determination of normal value for China PR in terms of paragraph-7 of Annexure I of the Rules is essential in view of this fact alone.
- f. EQR filed by Shandong Dongyue Silicone Material Co., Ltd, who has apparently commenced production of PUC in the year 2018-19, shows only 4 transactions involving export of PUC to India in Appendix-3A. If the actual exports also show very small volume, which is not commercial in nature, no individual margin should be granted for the company. Reliance is placed on the finding in '*All Fully Drawn or Fully Oriented Yarn / Spin Draw Yarn / Flat Yarn of Polyester (nontextured and non-POY) SSR ADD matter.*
- g. Responses have been filed by Hangzhou Joinleader New Materials Co., Ltd, Exporter, Anhui join leader new materials technology co., ltd, Producer and Grindwell Norton Ltd, importer and these parties are related parties. However, it is stated at Section D. Q.5 of the response of the producer that the producer Anhui join leader new materials technology co., ltd. started production since May 2020 only

which is after the POI of the present matter. If that is the case, who is the producer of the subject goods which have been exported by Hangzhou Joinleader New Materials Co., Ltd is not clear. Since, the producer started production only after the POI, no margins can be determined for the producer and the exporter will have to show the value chain from producer if it has to claim individual margin.

- h. It has been contended that the methodology adopted by the petitioner to determine normal value is inconsistent with the provisions of the AD rules. The claim has no basis. The normal value claimed has been as per the rules only and the party has not shown which rule is violated other than making sweeping comments. Nor there is any normal value provided on alternative basis by the party other than making wild arguments. It is also contended that that the Petitioner's costs of production are bound to be high on account of its inefficient utilization of capacity for producing the PUC. It may be noted in this regard that the utilization is low because of dumping and the situation of the DI needs to be assessed in actual conditions and not based on any ideal situation as ruled by Hon'ble CESTAT in *Nippon Zeon* matter. The cost incurred by the petitioner is true cost and contentions to the contrary must be rejected.
- i. Producers/exporters have questioned treatment of China PR as NME country. The claims have no legal sanctity and it is settled jurisprudence now that China PR continues to be an NME and it is for the producers/exporters from China PR to refute the presumption of NME. None of the responding parties from China PR has made any MET claims and normal value for China PR should be determined by applying NME principles as being consistently done by the Authority. The Authority so far and till present time, treated China PR as an NME and the present case is not any exception. Also, the treatment of China PR as NME country is not overruled by WTO and the practice followed by the Authority is permissible under the Indian Rules.
- j. It has been contended that a segmented analysis/PCN should be conducted for the assessment of dumping and injury. The claimant parties have not shared its cost and price details to show existence of significant cost and price difference between different alleged types of PUC. In the absence of any evidences to support the claims for segment/PCN analysis in view of the thresholds set in matters like *Black Toner Case* and *Soda Ash case* as cited, the unsubstantiated claim for segment wise analysis of dumping should be rejected.
- k. With regard to the contention that no reason has been given by the Petitioner in not determining normal value on the basis of either (i) price or constructed value in a market economy third country; or (ii) price from such a third country to other countries, including India, it may be noted that it was submitted in the petition itself that no such information is available.
- l. It has been contended that Complainant has simply made the non-refundable VAT adjustment without any explanation. Explanation is provided in the petition and such adjustments are consistently made in case of exports from China PR and it is a settled practice that VAT adjustments are made even when the normal value is not determined based on domestic price. Evidences have been provided to the extent feasible for other adjustments claimed from export price also.

Submission of other interested parties

59. The following submissions have been made by the other interested parties concerning determination of normal value, export price and dumping margin:-
- i. Both the group companies namely, Zhejiang Joinleader Silicon Co Ltd and Anhui Join Leader New Material Technology Ltd are entitled to individual duties as per the consistent practice of the Authority to grant individual treatment to group companies irrespective of whether they had exported to India during the period of investigation or not.
 - ii. As regards the claim of dumping, the export price pertaining mainly to general-purpose acid cure (acetoxo) silicone sealants has been compared with the normal value of a highly costly and specialized MS sealant.
 - iii. In order to ensure fair comparison for the dumping and injury margin calculation purposes, DGTR should (i) exclude MS Sealants from the product scope as these are not silicone sealants, and (ii) establish consistent PCNs or undertake a segregated analysis for the two/three sealant categories.
 - iv. The continued treatment of China as a non-market economy, pursuant to Paras. 7 and 8 of Annexure I of the AD Rules, is WTO-inconsistent. DGTR may investigate the details of the product for which the Complainant has provided the constructed normal value. In any event, should the normal value for China be constructed on the basis of the production costs of the Complainant, then, the costs for the right sealant type should be used for comparison with the export price.
 - v. The Complainant did not provide any sort of evidence supporting the continued treatment of China as a NME. The mere reliance on the NME treatment of China by the EU, USA and Australia does not establish that China is a NME. In any event, strictly speaking, since December 2017, China has been excluded from the EU's list of NMEs. In fact, the EU no longer uses the NME approach in AD cases against WTO members.
 - vi. With regard to the establishment of the export price, the Complainant has adjusted the import volumes and values but no explanation of the detailed changes to this effect has been provided. Therefore, the DGTR may cross-check that calculation in depth. Also, the Complainant has simply made the non-refundable VAT adjustment without any explanation and the credit cost reduced is high when compared to the short-term borrowing rate in China and interest is also added in the normal value by increasing it.
 - vii. The Complainant has reduced the export price for ocean freight, inland freight charges, handling and loading charges as well as documentation charges without any justification and source of the amounts deducted.
 - viii. Paragraph 7 of Annexure-I of the AD Rules prescribes a hierarchy of the methodologies to be followed in the determination of the normal value. The third methodology may be resorted to only when the first two methodologies cannot be resorted to. Therefore, it is impermissible in law for the Petitioner to directly resort

to the third methodology when the applicability of the first two methodologies have not been exhausted by the Petitioner.

- ix. No reason has been given by the Petitioner in not determining normal value on the basis of either (i) price or constructed value in a market economy third country; or (ii) price from such a third country to other countries, including India.
- x. The Petitioner's costs of production are bound to be high on account of its inefficient utilization of capacity for producing the PUC. This would present an inflated dumping margin which would not be consistent with the provisions of paragraph 7. For this reason, the Authority is requested to reject the Petitioner's attempt to determine normal value on the basis of its costs of production. The Petitioner may be directed to first determine normal value on the basis of the hierarchy of methodologies prescribed in paragraph 7
- xi. MS Polymer-S is seen as part of constructed normal value. MS Polymer is a costly raw material used for certain types. Two major core components that are used to produce silicone sealants are Cyclic Dimethyl Siloxane Silicone Rubber (DMC) (Not used for MS polymer production process) and Nano precipitated calcium carbonate ("NPCC") or Fumed Silica. Thus, the petitioner substituted cost of higher-grade product on lower grade product to justify injury claim.
- xii. The exporter from China PR is surprised to note that the Indian Investigating Authority has issued a separate questionnaire to exporters from China PR seeking voluminous information with regard to claims of Market Economy status. China PR had been treated as a Non-Market Economy country by India in the past. It is submitted that in accordance with relevant provisions of the Protocol on China's accession to the WTO, the "surrogate country" practice in Anti-Dumping actions should be lacking in multilateral legal basis since 11th Dec, 2016.

Examination by the Authority

Normal value

60. Under Section 9A (1)(c), normal value in relation to an article means:

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

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

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

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

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

61. The Authority sent questionnaires to the known producers/exporters from the subject country, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have filed the response in the prescribed exporter questionnaire responses:

- a) Hangzhou Joinleader New Materials Co., Ltd
- b) Anhui Joinleader new materials technology co., ltd.
- c) Shandong Dongyue Silicone Material Co., Ltd.,

Market Economy Status for Chinese Producers

62. Article 15 of China's Accession Protocol in WTO provides as follows: "Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

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

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

(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are

special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

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

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

63. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producers/ exporters from China PR have not submitted response to questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules.

64. Accordingly, the normal value for all the producers/exporters from the subject country have been determined as below.

Normal Value for all Producers in China PR

65. As none of the producers from China PR have claimed determination of normal value on the basis of their own data/information, the normal value has been determined in accordance with para 7 of Annexure I of the Rules which reads as under:

In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin.

An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Account shall also be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.

66. The Authority notes that normal value could not be determined on the basis of prices or constructed value of the product in an appropriate market economy third country or the prices from such third country to other countries, as the relevant information has neither been made available by the Applicant or an interested party, nor is available with the Authority from any public source. Even though there are imports from other countries into India, since this product does not have a dedicated classification, it would not be appropriate to consider price from market economy third country to India. Thus, the normal value can only be determined on the basis of price paid or payable in India, duly adjusted to include profit, which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits. The Authority has thus constructed the normal value based on the optimised cost of production, considering prices of major raw materials and other costs paid in India, as per facts available. Further, reasonable profit has been added to the cost of production for the purpose of determination of normal value. The normal value has been determined for all producers and exporters from China PR, and are mentioned in the dumping margin table.

Determination of Export Price for cooperating producers and exporters

i. Export Price

a) Hangzhou Joinleader New Materials Co., Ltd and Anhui Joinleader new materials technology co., ltd.

67. From the exporters' questionnaire response of Anhui Joinleader New Materials Technology Co., Ltd. who is the producer of subject goods, and Hangzhou Joinleader New Materials Co., Ltd. who is the exporter of the subject goods, it is noted that during the POI they have exported *** MT to India. Out of this *** MT, they have exported *** MT to related parties and remaining *** MT to unrelated parties in India. The Authority has verified the data through remote cross check, and other supporting documents. The producer / exporter has claimed adjustments on account of inland freight, overseas freight, marine insurance, bank charges, and port charges, and the same have been allowed. Accordingly, the export price determined is provided in the dumping margin Table.

b) Shandong Dongyue Silicone Material Co., Ltd.,

68. Shandong Dongyue Silicone Material Co., Ltd. is a company limited by shares under China's law. None of the owner/principal shareholders are related to any other company engaged in production and sale of the product under investigation. Shandong Dongyue Silicone Material Co., Ltd. has reported export of the subject goods to India during the POI. The goods have been sold directly to customers in India. The sales to Indian customers are on CIF basis. The company has exported *** MT of subject goods to India during the POI. The producer has claimed adjustments on account of ocean freight, insurance, inland transportation, port charges, credit cost, packing expenses and bank charges.
69. In this regard, the Authority notes that the exporter has exported the PUC in bulk whereas the product is sold in domestic market in packed form. Under these circumstances, the exporter has claimed adjustment of packing expenses while calculating the net export price.
70. The Authority for the purpose of determining the dumping margin, has, accordingly adjusted the constructed normal value to take into account the packing expenses. The Dumping Margin determined in as shown in the Dumping Margin Table.

Determination of Normal Value and Export Price for all non-cooperating Producers and Exporters in China PR

71. The normal value and export price for other non-cooperating exporters from China PR has been determined as per facts available taking into account the data examined for the co-operating exporters and the same is mentioned in the dumping margin table.

Dumping Margin

72. Considering the normal value and export price for subject goods, the dumping margins for the subject goods from subject country have been determined as follows;

Dumping Margin Table

S.No	Country	Producer	Normal Value US\$/ MT	Net Export Price US\$/ MT	Dumping Margin US\$/ MT	Dumping Margin %	Dumping Margin (Range %)
1	China PR	Anhui Joinleader new materials technology co., Ltd	***	***	***	***	20-30
2	China PR	Shandong Dongyue Silicone Material Co., Ltd.	***	***	***	***	30-40

S.No	Country	Producer	Normal Value US\$/ MT	Net Export Price US\$/ MT	Dumping Margin US\$/ MT	Dumping Margin %	Dumping Margin (Range %)
3	China PR	Any other producer	***	***	***	***	40-50

H. INJURY ASSESSMENT AND CAUSAL LINK

Submissions made by the domestic industry

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

- i. The facts of the present case shows that the domestic industry has suffered material injury in the present matter as narrated in the petition.
- ii. Dumped imports disrupted the market share of the domestic industry.
- iii. Though the market share of supporting producer increased between the period 2018-19 and POI, the same is not indicative of any trend as the actual sale of the party is very low. The company started production only in 2018-19 and the support by the said party itself shows the said supporter was also impacted because of dumped imports.
- iv. Market share gain by the dumped imports created volume injury on the domestic industry. Increase in market share of the dumped imports created volume effect on the domestic industry and domestic industry lost market share to such dumped imports and as a cascading effect suffered volume injury. Volume injury in the present case lies in the fact that even after a decade into production, the domestic industry could not even achieve 25% capacity utilization in the injury period and such suboptimal utilization when the product has had significant demand shows volume injury on account of dumped imports.
- v. Core price and other injury parameters also show that the domestic industry (DI) suffered material injury. While the cost of sales of the DI increased from 100 basis indexed points to 118 points which is normal, the selling price moved from 100 basis points to 103 points only.
- vi. The per unit profitability moved from 100 to -15 and PBIT moved from 100 to -3 basis points and such fall in profitability impacted the ROCE also and the ROCE moved from 100 basis points in the base year to -3 points in the POI. Cash profit also showed a sharp decline from 100 to 17 points in the POI. The fact that the petitioner could not increase the prices to desired level in a situation of increasing cost shows price suppression effects on top of significant price undercutting evident in the matter.
- vii. It is also very evident that the petitioner registered negative growth in all core parameters and such negative growths when the demand was increasing significantly shows the adverse effects of dumped imports.

- viii. Parameters such as employment level also declined though the petitioner has the potential to employ more. However, there improvement in productivity per day and per employee which shows decline in productivity was not the cause of injury.
- ix. The causes of injury to the DI have been dumped import alone and the same is evident from the movement in landed price and price undercutting.
- x. It has been argued cunningly by opposing parties that landed price from China PR increased and such price after increase cannot be the cause of injury. The contention is completely misleading.
- xi. It is also pertinent to note that the NSR of the DI is not any abnormally high or so leading to such under cutting. Substantial imports from other countries have also been taking place at much higher prices than China PR and what is very evident is that dumped prices have been offered by China PR to decimate petitioner and also other fair imports taking place in India so as to capture entire market share for the product in India.
- xii. The Authority may conclude that dumping is very evident in the exports of subject goods from China PR to India and the domestic industry concerning the subject goods has suffered material in injury and there is causal link between such dumping and injury and accordingly recommend anti-dumping duties at the earliest in this matter.
- xiii. It has been contended by opposing parties that there is no causal link between injury and imports. The facts of import price shows that the cause of injury to the DI has been landed price of dumped imports and undercutting and underselling which alone establish causal link. Even though the landed price increased over the base year, the landed price in actual terms was much lower than the NSR of the DI. The petitioner was not in losses in the base year when the price undercutting was significant for the reason that the volume of import at that point in time was 1742 MT only. By the POI, dumped imports more than doubled and the undercutting effects with such high volume had an even severe effect on the DI. Thus, the causal relation between landed price of imports and injury to the DI is well established beyond any doubts in this matter.
- xiv. The contention that the injury to the DI was on account of other factors which is not substantiated and not true. The opposing parties failed to answer the reason for import of PUC at very low price from China PR which has caused injury to the DI. The utilization of the producer remains below 25% due to presence of dumped imports. There are no other reasons shown by the party which shows injury was on account of some other reasons only.
- xv. It has been contended that there are serious performance and manufacturing issues concerning products manufactured by the domestic industry and the same is the cause of injury. The Hon'ble CESTAT in the case of *Automotive Tyre Manufacturers' Association (ATMA) vs. Designated Authority* had held that the process of manufacture and quality are not relevant factors under anti-dumping law and the said decision is applicable in the present matter also. Thus, the quality issues cited are not the cause of injury.

- xvi. It has been contended that the injury to the petitioner is due to fire at petitioner's factory premises. Fire in our plant was an unfortunate incident and is part of the use of Hydrogen Gas but the same was not the cause of injury. The damage on account of the same is separately provided for in the books and it is baseless to say that the injury as claimed has been on account of a fire incident.
- xvii. It has been contended that the cause of injury is increase in share of other producers which is only a frivolous argument. The sales by the other parties have been very low and the market share was lost to dumped imports. It is a baseless assertion that one time installation of capacity anticipating demand is the cause of injury.
- xviii. It has been contended that the statements of the petitioner on its LinkedIn page posted on 15 November 2018 says that "*[i]n India, Alstome has seen a rapid increase in its market share which is reflection of its growing demand and conviction among customers that it is the best product.*". The statement on LinkedIn does not vitiate the claims in the petition. The Company was growing and making some profits till recent years and it suffered losses in the POI and the LinkedIn post pertains to good times which were spoiled by dumping practiced by producers in China PR.
- xix. It is already demonstrated that none of the opposing parties including could show the need for segment analysis. The onus of showing the need for such analysis cannot be shifted to the petitioner.

Submissions made by other interested parties

74. The submissions made by the other interested parties have been as follows:
- i. A proper analysis of the injury parameters would reveal and establish that applicant did not suffer any injury, let alone material injury. The injury parameters show improvement from the base year as well as from the preceding years. The applicant failed to show any dumping and consequent injury as per the requirements of Annexure II, paragraphs (ii) and (iv).
 - ii. The marginal increase in imports was on account of demand supply gap. Even the marginal decline of 4% in domestic sales during the POI is on account of the phenomenal increase of 427% in the sales of the so-called supporting company in the same period. Even the sales of the other producers have increased by 19%.
 - iii. It may be appreciated that the landed price of the subject goods has increased by 45% i.e. from Rs 101.75/Kg in the base year to Rs 147.94 in the POI. Such significant increase in the landed price cannot be a cause for dumping especially when the selling prices were not affected to the same extent. Thus, it is incorrect to say there was price injury.
 - iv. The provisions relating to assessment of injury specifically requires that the sales, profits, output, market share, productivity, return on investments or utilization of capacity should show a decline. However, the domestic industry has either seen significant increase with respect to capacity utilization, sales, output, market share, productivity, and return investment during the POI from the base year.

- v. There is no negative effect with respect to cash flow, inventories, employment, wages, growth, ability to raise capital investments as all such parameters have seen consistent improvement in the injury investigation period.
- vi. Injury, if any, suffered by the domestic industry is on account of other factors such as significant increase of share in sales by other producers, one time installation of capacity in anticipation of market share with appreciating challenges in the market on account of acceptability in the market and substitutes etc. decline in the demand and slow-down in the real estate sector and inventory position due to acceptance issues.
- vii. The Complainant's claims of injurious dumping are contradicted by its 15 November 2018 LinkedIn post noting that "[i]n India, Alstome has seen a rapid increase in its market share which is reflection of its growing demand and conviction among customers that it is the best product." Additionally, there are three important points to note. First, three out of the five Indian producers of the PUC do not seem to have any problem with the Chinese imports. Second, if at all, as the complainant claims, the low-priced dumped Chinese imports destroyed the Indian producers' sales notably that of the Complainant, it would have made no economic sense for a new producer, i.e., HP Adhesives, to enter a battered Indian market. Third, if at all the Chinese imports are pulling down the market prices, then, it is highly questionable as to how third country imports that are competing in the same Indian market are being imported and sold at much higher prices and have managed to maintain a much higher total import share compared to the subject imports.
- viii. The effective increase in the volume of the subject imports could not have had any perceivable effect on the domestic industry/the complainant.
- ix. The price effects of the subject imports have been misrepresented by the complainant and are not based on a comparison of comparable products;
- x. In the context of the non-attribution obligation, the injury to the Complainant was on account of the following "other factors": (a) the complainant's unreasonably high product costs and structural problems, (b) the lack of exports and export competitiveness of the complainant, and (c) the emergence of a new competitor on the Indian market.
- xi. Parallel claim of material injury and threat thereof demonstrates the insufficiency of evidence. To the extent that the Complainant claims that it is suffering both "material injury" and a "threat of material injury" simultaneously, the complaint is legally deficient and plainly reflects that in making an alternate claim, the Complainant was cognizant of the fact that it was not suffering material injury and thus could not have adduced sufficient evidence for this.
- xii. While the Complainant repeats that it lost sales due to undercutting by the subject imports, no evidence to the effect of loss of sales based on customer quotes, or market studies etc. have been provided by the Complainant. The bare statements by the Complainant cannot be taken on face value in the absence of positive evidence when in fact a new player, HP Adhesives, entered the Indian market and visibly is able to sell in spite of the presence of the Chinese imports.

- xiii. The Complainant did not take the differences in the product mix into account and similar to the claim of undercutting, the claim of suppression and underselling is not based on a comparison of comparable products.
- xiv. The subject import prices sharply increased over the IIP. In particular subject import prices increased by 67% in 2018-2019 and by 45% in the POI compared to 2016-2017. The import prices of silicone sealants from third country sources more or less followed the same trend of significant increase in prices as detailed in the chart below. However, the Complainant did not increase its sales prices.
- xv. The complainant and the domestic industry's production, production capacity and capacity utilization did not decrease while the inventory did.
- xvi. It is also reiterated that, at the level of the entire Indian industry manufacturing the PUC, the production capacity, production and capacity utilization have increased.
- xvii. The supposed decline in the complainant's market share can hardly be linked to the subject imports from China. The key aspect to be underlined is that, as was the case with production and sales, the market share of the Complainant has also been increasing with the increase in the subject imports in 2018-2019 and the POI. Thus, there is no correlation or coincidence between the development of the imports from China and the situation of the Complainant
- xviii. Additionally, in 2018-2019, HP Adhesives started production and likely started selling in appreciable volumes by taking the advantage of the growing Indian market and took over sales from the Complainant. However, during the POI Indian demand fell by around 6%. Therefore, it is reasonable to infer that HP Adhesives took over the market share not only from the third country imports in the POI but equally from the other Indian producers namely the Complainant
- xix. While the Complainant claims that it was unable to increase market prices in 2017-2018 and 2018-2019 due to the Chinese imports, factors like increase in price of imports disprove its claim. In the POI when the subject import prices from China declined by 12%, the Complainant increased its sales price.
- xx. No information has been provided by the Complainant as regards the reasons for the high production costs over the past two years.
- xxi. It is deemed necessary to underline that, contrary to the claim of the complainant, it is not a single product company as is evident from its website. In fact, according to the website of the company, at the Kotputli plant, the complainant not only produces silicone sealants but also sheet glass.
- xxii. DGTR should address the limited competitive overlap between the subject imports from China and the domestic like product produced and sold by the complainant, in the causation analysis. For this a product segment-based injury analysis is necessary.

- xxiii. The other cause of injury are the complainant's unreasonably high product costs and structural problems, The lack of exports and export competitiveness of the Complainant, the emergence of a new competitor on the Indian market
- xxiv. MS Polymer-S is only required for manufacturing certain types of Silicone Sealants. Incidentally, MS Polymer-S is a high-cost raw material. The Petitioner however has claimed this high cost of production for the entire basket of silicone sealants produced by it.

Examination by the Authority

75. The Authority has taken note of various submissions of the domestic industry and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties. However, with regard to the contention of the opposing parties that the cause of injury is the fire at the factory of the petitioner, the Authority notes that the losses on account of a fire incident was separately provided in the annual accounts of the petitioner by the Auditor and the losses accorded for such incident is not included in the cost of production for the purpose of NIP.
76. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "*.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....*". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-Dumping Rules.
77. With regard to the contention of the opposing parties that the cause of injury is the fire at the factory of the petitioner, the Authority notes that the losses on account of a fire incident was separately provided in the annual accounts of the petitioner by the Auditor and the losses accorded for such incident is not included in the cost of production for the purpose of NIP.
78. With regard to the submission that the Authority must modify the practice of applying 22% ROCE keeping in view existing tax and interest rate structure, it is noted that the 22% ROCE allowed for the purpose of NIP determination is as per the consistent practices in the Department and such practice is considered as appropriate in the present matter also.
79. With regard to the submission that the assessment of injury should be made on a product segment basis, it is noted that the products covered do not show any significant cost and

price difference and in view of the same examinations on an average basis in terms of weight of the product is considered as an appropriate methodology.

80. It is also noted that the contentions of the opposing parties as captured herein above are on the claims of injury by the domestic industry and such contentions are addressed ipso facto here under while examining the injury parameters and in view of the same contention on injury is not being addressed separately for the sake of brevity.
81. With regard to the contention that in the POI when the subject import prices from China declined by 12%, the complainant increased its sales price, the Authority notes that the landed price has been much below the selling price of the domestic industry as well the cost of sales throughout the Injury Investigation Period.

i. Volume Effect of Dumped Imports on the domestic industry

a. Assessment of Demand/Apparent Consumption

82. The Authority has taken into consideration, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed has increased during the injury period.

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Imports from China PR (Subject Country)	MT	1,742	2,994	3,648	3,726
Trend	Indexed	100	172	209	214
Total Imports from Other Countries	MT	3,982	5,414	5,612	4,630
Total Imports into the Country	MT	5,724	8,408	9,260	8,356
Domestic Sales of Petitioner	MT	***	***	***	***
Trend	Indexed	100	95	123	119
Domestic Sales of Supporter	MT	-	-	***	***
Trend	Indexed	-	-	100	527
Domestic Sales of Other Producers	MT	335	300	370	400
Trend	Indexed	100	90	110	119
Total Demand	MT	***	***	***	***
Trend	Indexed	100	141	158	148

83. As can be seen from the above table, demand for the subject goods in India during the POI has increased over the base year though there has been a decline of 10 index points between POI and previous year.

b. Import Volumes from subject country

84. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Imports from China PR (Subject Country)	MT	1,742	2,994	3,648	3,726
Share of Subject Country in total Imports	%	30.43	35.61	39.40	44.60
Share of Other Countries in total imports	%	69.57	64.39	60.60	55.40
	%	100	100	100	100

85. It is seen that dumped imports of the subject goods from the subject country has increased from 1742 MT in the base year to 3726 MT in the POI. In terms of percentage, the share of dumped imports from subject country in overall imports into India increased from 30.43% in the base year to 44.60% in the POI while the share of imports from other countries decreased from 69.57% in the base year to 55.40% by the POI.

c. Subject Country Imports in relative terms

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Total Imports from Subject Country	MT	1,742	2,994	3,648	3,726
Total Demand	MT	***	***	***	***
Trend	Indexed	100	141	158	148
Production of Domestic industry (DI)	MT	***	***	***	***
Trend	Indexed	100	89	112	118
Imports from subject country relative to Indian consumption	%	***	***	***	***
Trend	Indexed	100	123	132	138
Imports from subject country relative to production of DI	%	***	***	***	***
Trend	Indexed	100	192	187	181

ii. Price Effect of the imports on the domestic industry

86. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject country has been examined with reference to price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales

realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with landed price of imports of the subject goods from the subject country.

a) Price Undercutting

87. For the purpose of price undercutting analysis, the net selling price of the domestic industry has been compared with the landed value of imports from the subject country. While computing the net selling price of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level has been determined for comparison with the landed value of the dumped imports. Accordingly, the undercutting effects of the dumped imports from the subject country work out as follows:

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Net Sales Realization	Rs./Kg	***	***	***	***
Landed Price (LV)	Rs./Kg	101.75	121.95	169.58	147.94
Price Undercutting	Rs./Kg	***	***	***	***
Price Undercutting	% of LV	***	***	***	***
Price Undercutting	Range	50-60	40-50	20-30	30-40

88. It is noted from the aforesaid table that imports from subject country have been entering Indian market at a price below the net sales realization of the domestic industry, resulting in positive price undercutting. It is further noted that though the landed price of imports had increased over the years, the gap between landed price of dumped imports and NSR of the domestic industry remained very significant.

b) Price Suppression/Depression

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

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Cost of Sales	Rs./Kg	***	***	***	***
	<i>Indexed</i>	100	97	112	112
Domestic Selling Price	Rs./Kg	***	***	***	***
	<i>Indexed</i>	100	100	100	103
Landed Value-Subject Country	Rs./Kg	101.75	121.95	169.58	147.94
	<i>Indexed</i>	100	120	167	145

90. It is observed that cost of production has increased from 100 basis points to 112 basis points from 2016-17 to 2019-20 whereas the selling price has increased from 100 basis points to 103 basis points during this period. It is also noted that landed value during

the injury period has remained very low as compared to cost of sales and domestic selling prices. Therefore, it is noted that the imports of subject goods from subject country are suppressing the selling prices of the domestic Industry as the increase in cost of sales is much more than increase in selling price of the domestic industry.

iii. **Economic Parameters of the domestic industry**

91. Annexure-II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped imports on domestic producers of such products, the Anti-dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.
92. While disclosing the essential facts on injury and causal link, the Authority has also examined the injury parameters objectively taking into account various submissions made by all the interested parties so far in this investigation so as to address all such submissions as well.

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

93. The performance of the domestic industry with regard to production, domestic sales, capacity and capacity utilization was as follows:

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Installed Capacity	MT	***	***	***	***
Trend	Indexed	100	100	100	100
Production	MT	***	***	***	***
Trend	Indexed	100	89	112	118
Capacity Utilization	%	***	***	***	***
Trend	Indexed	100	89	112	118
Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	95	123	119

94. It is noted that while the capacity remained constant over the injury period, production and capacity utilization increased over the injury period. Sales of the domestic industry, however, declined slightly in the POI over the immediate previous year.
95. It is further noted in this regard that though core volume parameters have shown some increases over the years, the increase was not commensurate with the increase in overall demand, and actual capacity utilization figures of the domestic industry remained very less. It has been contended by the domestic industry that the underutilization of the capacity in growing market is a serious concern for the industry and it has been

requested that the below par utilization of the capacity in a robust market must be considered as an indicator of volume injury.

96. It is seen that the dumped imports from subject country in relation to production and demand/consumption in India increased between base year and the POI.

d. Market Share in Demand

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Imports from China PR (Subject Country)	MT	1,742	2,994	3,648	3,726
Trend	Indexed	100	172	209	214
Total Imports from Other Countries	MT	3,982	5,414	5,612	4,630
Total Imports into the Country	MT	5,724	8,408	9,260	8,356
Domestic Sales of Petitioner	MT	***	***	***	***
Trend	Indexed	100	95	123	119
Domestic Sales of Supporter	MT	-	-	***	***
Trend	Indexed	-	-	100	527
Domestic Sales of Other Producers	MT	335	300	370	400
Trend	Indexed	100	90	110	119
Total Demand	MT	***	***	***	***
Trend	Indexed	100	141	158	148
Share in Indian Demand that of;					
Imports from China PR (Subject Country)	%	***	***	***	***
Trend	Indexed	100	122	133	145
Total Imports from Other Countries	%	***	***	***	***
Trend	Indexed	100	97	89	79
Total Imports into the Country	%	***	***	***	***
Trend	Indexed	100	104	103	99
Domestic Sales of Petitioner	%	***	***	***	***
Trend	Indexed	100	68	78	81
Domestic Sales of Supporter	%	***	***	***	***
Trend	Indexed			100	561.6
Domestic Sales of Other Producers	%	***	***	***	***
Trend	Indexed	100	64	70	81
Domestic sales of Indian producers	%	***	***	***	***
	Indexed	100	66	80	109

97. The Authority notes that the market share of the subject imports has increased between the base year and POI from 100 basis indexed points to 145 indexed points in the POI. However, the share of the domestic industry in demand has declined in the same period from 100 indexed points in the base year to 81 indexed points in the POI.

98. The petitioner has claimed that the decline in market share of the domestic industry at a time when there has been an increase in demand can be related to the increase in share of dumped imports alone in the same period.

b) Profitability, return on investment and cash profits

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

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Profit/Loss	Rs. Kg	***	***	***	***
Trend	Indexed	100	132	5	30
Profit/(Loss) before Int. & Tax (PBIT)	Rs. Kg	***	***	***	***
Trend	Indexed	100	124	14	37
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	100	112	33	52
Average Capital Employed	Rs. Lacs	***	***	***	***
Trend	Indexed	100	98	120	119
Return on Capital Employed	%	***	***	***	***
Trend	Indexed	100	120	14	37

100. From the above table, it is noted that the profit of the domestic industry increased till 2017-18, then declined sharply in 2018-19 and then improved in the POI. Similar trend is observed in cash profits and Return on Capital Employed.

c) Employment, productivity and wages

101. Employment, productivity and wages of domestic industry over the injury period are given in the table below.

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Employment	Nos	***	***	***	***
Trend	Indexed	100	88	98	96
Wages	Rs. Kg	***	***	***	***
Trend	Indexed	100	116	137	133
Productivity per employee	MT/Person	***	***	***	***
Trend	Indexed	100	101	114	123

It is noted that:

- There was not much change in the employment situation during the injury period.
- Wages per unit have increased over the injury period.
- Productivity of the domestic industry, however, have increased over the injury period and was at the highest level during the POI.

d) Magnitude of Dumping Margin

102. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India. The investigation has shown that dumping margin is positive and significant in the investigation period.

e) Inventories

103. Inventory position with the domestic industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Inventory	MT	***	***	***	***
Trend	<i>Indexed</i>	100	122	77	67

104. It is noted that inventory with the domestic industry declined by the POI viz. the base year.

f) Growth

105. The Authority notes that growth of the domestic industry with regard to volume parameters like production, capacity utilization and inventory have been positive but sales volume and price parameters such as profits, return on investment and employment have been declining and the growth was negative during the POI as can be seen from the table below;

Particulars	Unit	2016-17	2017-18	2018-19	2019-20 (POI)
Production	%	-	(10.57)	25.42	5.16
Sales Volume Domestic	%	-	(5.10)	29.87	(3.23)
Capacity Utilization	%	-	(10.57)	25.42	5.16
Inventory	%	-	22.46	(37.32)	(13.07)
Employment	%	-	(11.76)	11.11	(2.00)
Selling Price Per KG	%	-	0.46	(0.09)	2.82
Cost of Sales Per KG	%	-	(3.38)	16.12	0.03
Return on Capital Employed	%	-	20.48	(88.22)	161.83
Profit per Unit	%	-	31.65	(96.55)	561.86
PBIT Per Unit	%	-	24.49	(88.92)	168.33

106. It is noted that key injury parameters registered positive growth in the POI except domestic sales volume, inventory and employment.

g) Ability to raise capital investments

107. The Authority notes that the domestic industry has made capital investments to set up the plant to produce the subject goods. However, the performance of the domestic industry has deteriorated during the injury period, though its performance has improved during the POI as compared to previous year. It is noted that the domestic industry is a

multi-product company and therefore ability to raise capital investment is not governed based on the performance of the product under consideration (PUC) alone.

h) Factors affecting domestic prices

108. The examination of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc. shows that the landed value of imported material from the subject country is below the selling price and cost of sales, causing significant price undercutting, and price suppression. It is also noted that the demand for the subject goods was showing significant increase during the injury period and therefore it could not have been a factor affecting domestic prices. Thus, it can be noted that the principal factor affecting the domestic prices is the dumped imports of subject goods from subject country.

i) Magnitude of Injury Margin/Price Underselling

109. The Authority has determined Non-Injurious Price (NIP) for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing cost accountant for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilization of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed. Separate NIP has been determined for each type of the product.

110. For all the non-cooperative producers/exporters from the subject country, the Authority has determined the landed price based on facts available.

111. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority.

Injury Margin

S. No	Country	Producer	NIP US\$/MT	Landed Value US\$/MT	Injury Margin US\$/MT	Injury Margin %	Injury Margin % Range
1	China PR	Anhui Joinleader new materials	***	***	***	***	10-20

S. No	Country	Producer	NIP US\$/MT	Landed Value US\$/MT	Injury Margin US\$/MT	Injury Margin %	Injury Margin % Range
		technology co., ltd					
2	China PR	Shandong Dongyue Silicone Material Co., Ltd.	***	***	***	***	20-30
3	China PR	Any other producer	***	***	***	***	20-30

I. NON-ATTRIBUTION ANALYSIS

112. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the domestic industry.

(i) Volume and price of imports from third countries

113. The imports from countries other than the subject country have been taking place at much higher price than the subject country and such prices cannot be considered to have adversely impacted the domestic industry.

(ii) Export Performance

114. The Authority has considered the data for domestic operations only for its injury analysis. In fact, there were no exports made by the domestic industry.

(iii) Contraction in demand Changes in pattern of consumption

115. It is noted that the demand of the subject goods has increased over the injury period. Thus, it can be noted that the injury to the domestic industry was not due to contraction in demand to any significant level.

(iv) Trade restrictive practices of and competition between the foreign and domestic producers

116. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. No evidence has been submitted by any interested party to

suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

(v) **Developments in technology**

117. None of the interested parties have furnished any evidence to demonstrate significant changes in the technology that could have caused injury to the domestic industry.

(vi) **Changes in pattern of consumption**

118. The subject goods produced by the domestic industry and that imported into India are comparable and the end users find these goods interchangeable. Possible changes in pattern of consumption are not a factor that could have caused claimed injury to the domestic industry.

(vii) **Performance of the domestic industry with respect to other products**

119. The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performances concerning the subject goods. The information considered by the Authority is with respect to the product under consideration only.

(viii) **Productivity of the domestic industry**

120. Productivity per employee increased by the POI. Thus, the Authority notes that deterioration in productivity has not been any cause of injury to the domestic industry.

Conclusions on injury and causal link

121. The following are conclusions in injury and causal link:

- a. The product under consideration has been exported from subject countries except at a price below the normal value, thus resulting in dumping
- b. Imports from subject country have increased in absolute terms and also in relation to production and consumption in India.
- c. The imports from subject country are undercutting the prices of the domestic industry.
- d. Both the selling price and cost of sales have increased during the injury period. However, the increase in selling price was not commensurate with the increase in cost evidencing price suppression. The landed price of imports which increased between base year and immediate previous year, declined significantly in the POI, and was all along less than cost of sales and domestic selling price of domestic industry.
- e. Though the landed price increased between base year and the POI, the difference in landed price and selling price of the dumped imports have been significant and such price difference has affected the domestic selling price.
- f. Production, sales and capacity utilization of the domestic industry has increased over the injury period though sales during the POI marginally declined over the immediate previous year. The capacity utilization of the domestic industry has been very low in the entire injury period.

- g. The performance of the domestic industry has significantly deteriorated in respect of profitability parameters and return on capital employed by the POI over the base year even though there were some upticks in these parameters during the POI viz. the immediate previous year. The fall in profitability of the domestic industry between base year and the POI have been very substantial.
- h. There is causal link between dumping of product under consideration from subject and injury to the domestic industry

J. POST DISCLOSURE COMMENTS

Submissions made by the domestic industry

122. The submissions made by the domestic industry are as follows

- a) The DI feels that the following items identified as non-PUC but fall well within the scope of PUC and the proposed exclusion can also lead to massive circumvention;
 - (i) Silicone Sealant used for car and bus windshield pasting
 - (ii) Silicone Sealant used for bus body pasting
 - (iii) Silicone Sealant used for building expansion joints
 - (iv) Industrial RTV Silicone Sealant
 - (v) Two-component Silicone Sealant

Silicone Sealant produced by the DI can be used for all such 5 applications and the Silicone Sealants for such applications are not any different product per se from what is defined as the PUC.

- b) It is also a fact that the complete end use of the product is not mentioned always when the product is imported and the product having description only as silicone sealants might cover the end uses like the 5 applications mentioned above since there are not any separate classification etc. for the import of silicone sealants meant for such applications.
- c) It is submitted that silicone sealants for such end uses were prevalent during the POI also and might have been declared as silicone sealants only and silicone sealant types suitable for such applications also have been produced and sold by the DI.
- d) Since the PUC as defined and the product produced by the DI covers Silicone Sealants for the 5 applications as provided above, we request the Authority to remove the name of above mentioned 5 types from the excluded applications at para 26 of the disclosure statement. It may be clarified that the PUC covers Silicone sealants for the above mentioned 5 applications.
- e) It will not be possible for the customs authorities to differentiate between PUC as defined and silicone sealants for the above 5 applications as the product is basically the same only.
- f) Silicone sealants for the above 5 applications are in fact covered in the scope of the PUC also for the very technical reason that none of the opposing parties have demonstrated that the silicone sealants for the above 5 applications are different products from the silicone sealants defined as the PUC to warrant such exclusions.
- g) NIP determined for product sold in bulk condition needs reconsideration. The NIP constructed for subject goods sold in bulk form does not carry any packing cost which is not the reality. The packing cost of subject goods in bulk cannot be zero as the bulk

form also needs packing both primary in drums and secondary in pallets for transportation.

- h) The Authority cannot include the cost of packing in the NIP of bulk material as domestic industry has not sold any subject goods in bulk condition, the Authority must deduct cost of packing in terms of drums and wooden pallet from the landed value of bulk imports as an alternative so that an apple-to-apple comparison for the purpose of injury margin is carried out.
- i) The exporter must be directed to show verifiable export documents which contains the form of packing without any ambiguity.
- j) The Authority may confirm its views on dumping including NME treatment to Chinese producers/exporters.
- k) The facts as disclosed clearly show injury and causal link of the same to dumped imports and the injury margin is also significantly positive warranting recommendation of duties.

Submissions made by the other interested parties

123. The submissions made by the other interested parties are as follows:

- a) The Authority in its final findings should clarify the exclusion of 22 product types from the scope of the PUC and provide proper details to avoid any further confusion in the mind of DGTR as well as other interested parties
- b) The domestic industry does not manufacture the PUC but instead merely sources all the raw materials required for producing the PUC from outside India and blends them to obtain the PUC.
- c) The goods produced by the domestic industry and imported from China PR are not like articles in terms of the AD Rules nor are these two technically and commercially substitutable.
- d) The respondents humbly request the Authority to kindly relook at the calculations of landed value and injury margin based on exports made in bulk and packed form.
- e) Reference price duties would be most appropriate in current scenario.
- f) There is no correlation between the imports from China and the supposed injury to the complainant because as the subject imports from China increased, the complainant's economic situation improved.
- g) There is a global shortage of silicone sealants including in India and imports of silicone sealants into India from many sources have reduced/stopped. The result of these global developments is that the imports of silicone sealants from China have also reduced drastically since the initiation of the investigation and the prices of the subject product on the Indian market have significantly increased. These developments and their positive impact on the complainant should be taken into account.
- h) The methodology as well as the factual basis for the establishment of the residual duty rate and the residual dumping and injury is requested.
- i) The residual duty rate should be capped at the level of the cooperating Chinese exporting producer with the highest duty rate.
- j) The Authority is requested to conduct a physical/spot verification of the petitioner's factory/production premises to ascertain the quantitative and qualitative limitations of the petitioner with regard to the production of the PUC in India and their production process.

- k) The Authority is requested to confirm the 22 product exclusions proposed in the disclosure statement and also to mention the same below the duty table in the final findings and the customs notification. For the sake of clarification, the products to be excluded are the following as confirmed by the Authority in the disclosure statement:
- i. Polyurethane Sealant
 - ii. Polyurethane Foam
 - iii. Polyurethane Foam Cleaner
 - iv. Solar Potting Silicone
 - v. Acrylic Sealant
 - vi. Acrylic Neutral Sealant
 - vii. Acrylic Weather Sealant
 - viii. Siliconised Acrylic Sealant
 - ix. RoHS grade Silicone Sealant
 - x. REACH grade Silicone Sealant
 - xi. Fire resistant/retardant Silicone Sealant
 - xii. Silicone Sealant used for car and bus windshield pasting
 - xiii. Silicone Sealant used for bus body pasting
 - xiv. Silicone Sealant used for building expansion joints
 - xv. MS Polymer based Sealant
 - xvi. Industrial RTV Silicone Sealant
 - xvii. High-temperature Neutral Silicone
 - xviii. Two-component Silicone Sealant
 - xix. Paintable Sealants
 - xx. Non-bleeding Weather Silicone
 - xxi. Insulating Glass Silicone
 - xxii. Nail free adhesive or Mirror fix adhesive
- l) The Authority is requested to verify, through on-site verification whether the petitioner is indeed *manufacturing* the PUC.
- m) Petitioner's standing to constitute a domestic manufacturer of the PUC is highly questionable since the petitioner is importing the bulk of the main raw materials from China PR and undertaking some minimal value addition to the same.
- n) There are many domestic producers of the PUC in India other than the petitioner, the supporter, and the three domestic producers identified by the petitioner. These include Accumetric Silicones Pvt. Ltd., Bostik India Pvt. Ltd., McCoy Soudal Sealants Adhesives & Foams Pvt. Ltd., Span Intermediaries Pvt. Ltd. and Smart-Bond Chemicals Pvt. Ltd. If the Authority factors the domestic production of the PUC by the other domestic producers, then the petitioner's share in total domestic production would be significantly lower than that noted by the Authority. On this basis, the petitioner would not have the necessary standing to constitute the domestic industry under Rule 2(b).
- o) We have provided evidence of the PUC produced by these other producers by way of product brochures, product photographs, screenshots from their websites.
- p) The Authority has also observed from the transaction wise import data that all 4 of the alleged manufacturers have imported the PUC during the POI, without further clarifying the quantum of imports.
- q) The Authority should at least disclose the range of actual production of petitioner and the total demand in India.

- r) Absence of response from the other producers or the Ministry does not preclude the Authority from considering the information submitted by the interested parties regarding the existence of other domestic producers of the PUC.
- s) The Authority is requested to include the other domestic producers within the scope of the PUC to ensure representativeness of the domestic industry.
- t) Having noted that the Indian production and the total available capacity was not sufficient to meet the entire Indian demand during the POI, the Authority must give weightage to this demand-supply gap.
- u) The significant difference between the profitability data as reported by the petitioner in its petition and that recorded by the Authority in the disclosure statement with regard to the POI raises significant questions on the authenticity of the petitioner's data.
- v) There are serious performance and manufacturing issues concerning products manufactured by the petitioner such as delayed curing, pre-mature curing.
- w) Performance and manufacturing issues are not mere qualitative issues that are subjective in nature but one of serious shortcomings in the manufacturing and performance standards and that is objective in nature.
- x) If the Authority recommends imposition of anti-dumping duty, we request the Authority to recommend anti-dumping measure in the form of a reference price.
- y) There is no *significant* increase in the volume of imports. Increase in share of imports from the subject country vis-à-vis other countries is not a relevant criterion for determining volume effect.
- z) Increase in the volume of subject imports relative to demand in India must not be examined in isolation but in context of the increase in demand.
- aa) Landed prices increased continuously and significantly throughout the injury period, except for the POI, and is close to fifty percent more than that in the base year.
- bb) There is no price depression and suppression as the petitioner's domestic selling prices have increased in the POI.
- cc) Petitioner's core economic parameters have improved over the injury period: production and capacity utilization are the highest in the POI.
- dd) There is no correlation between the volume of subject imports and operational performance of the petitioner.
- ee) There is no correlation between the movement in the petitioner's landed prices and price undercutting levels, and the operational performance of the petitioner.
- ff) Decline in petitioner's market share is primarily because of the entry of the supporter.
- gg) There is significant difference between the profitability data as reported by the petitioner in its petition and that recorded by the Authority in the disclosure statement with regard to the POI. This raises significant questions on the authenticity of the petitioner's data.
- hh) Decline in inventory levels inspite of an increase in sales shows that the petitioner's supply is not able to keep up with demand.
- ii) One of the biggest reasons for the petitioner's financial losses in the POI was on account of a fire at its factory at Kotputli. The Authority has only observed the accounting treatment for such incident in the petitioner's books of accounts and has not appropriately assessed injury to the petitioner on account of such incident.

Examination by the Authority

124. The Authority has examined the post disclosure submissions made by the domestic industry, and the other interested parties representing exporting producers, exporters, importers and users, and notes that some of the comments are reiterations which have

already been examined suitably and addressed adequately in the relevant paras of the final finding. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below:

- a) The domestic industry has contended that the following items identified as non-PUC, fall well within the scope of PUC and the proposed exclusion can also lead to massive circumvention;
- (i) Silicone Sealant used for car and bus windshield pasting
 - (ii) Silicone Sealant used for bus body pasting
 - (iii) Silicone Sealant used for building expansion joints
 - (iv) Industrial RTV Silicone Sealant
 - (v) Two-component Silicone Sealant

- b) In this regard, the Authority notes that the domestic industry had initially admitted the following in his letter dated 2nd April, 2021 which is as follows:

“Authority may please be noted that none of the above 22 items are included in PUC as well in the import data, the quantum of which is negligible.”

- c) It is noted that 5 products as mentioned above were included in the 22 items for which the domestic industry had given the above said declaration. Thus, these 22 items were proposed to be excluded from the PUC in the disclosure statement based on the submissions made by the domestic industry. However, post issuance of disclosure statement, the domestic industry has stated that Silicone Sealant produced by DI can be used for aforementioned 5 applications also, and the Silicone Sealants for such applications are not any different product per se from what is defined as PUC.
- d) The contention has been examined, and it is noted that the evidences on record do not indicate that these five products were produced and sold by the domestic industry during the POI.
- e) The Authority, however, notes the concern of the domestic industry that exclusion of application-based products from the scope of PUC can also lead to circumvention of the measure.
- f) Considering the apprehensions raised by the domestic industry that user-based exclusion of (i) Silicone Sealant used for car and bus windshield pasting, (ii) Silicone Sealant used for bus body pasting, (iii) Silicone Sealant used for building expansion joints may lead to circumvention of any measures by incorrect declaration about the end use, the Authority notes that the user based exclusion of (i) Silicone Sealant used for car and bus windshield pasting, (ii) Silicone Sealant used for bus body pasting, (iii) Silicone Sealant used for building expansion joints shall be strictly limited to imports by actual users only. After examination, the Authority holds that product exclusion with regard to below mentioned three items/products will be strictly limited to actual users only. The actual users shall provide declarations to customs at the time of import regarding bonafide usage in this regard. Actual users would also maintain the monthly record in the form of verifiable consumption register for presentation before any law enforcing agency on demand.
- (i) Silicone Sealant used for car and bus windshield pasting
 - (ii) Silicone Sealant used for bus body pasting
 - (iii) Silicone Sealant used for building expansion joints

- g) With regard to the issues relating to determination of non-injurious price, it is stated that NIP has been worked by following due procedure as laid down vide Annexure III of AD Rule.
- h) The Authority notes the contention of the domestic industry that the Authority must deduct cost of packing in terms of drums and wooden pallet from the landed value of bulk imports for an apple-to-apple comparison, and has therefore adjusted the Landed value and Net Export Price accordingly. The same is mentioned in the Injury Margin and Dumping Margin Tables above.
- i) With regard to the submission of the other interested parties on the production of PUC, the Authority re-iterates that the contentions are not supported with any evidence. Based on the available information, the Authority notes that the PUC as defined, and, which have been imported, are silicone sealants with the exclusions as mentioned earlier. The PUC has curing properties such as acid cure and neutral cure.
- j) With regard to the standing of the domestic industry, the Authority re-iterates that after considering the information on record, non-receipt of any response from four alleged manufacturers and the Ministry of Chemicals and Petrochemicals, the Authority holds the applicant/petitioner as the eligible domestic industry within the meaning of Rule 2(b) of the Rules, and that the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules
- k) The Authority has mentioned the methodology for calculation of residual duties in appropriate paragraphs of this final finding.
- l) Though core volume parameters have shown some increases over the years, the increase was not commensurate with the increase in overall demand, and actual capacity utilization figures of the domestic industry remained very low.
- m) Though the landed price increased between the base year and the POI, the difference in landed price and the selling price of the dumped imports have been significant and such price difference has affected the domestic selling price.

K. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

- 125. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of an open and fair competition in the Indian market, which is in the general interest of the country. The Authority considered whether imposition of ADD shall have adverse public interest. For the same, the Authority examined whether the imposition of the duty on imports of the product under investigation would be against the larger public interest. This determination is based on consideration of information on record and the interests of various parties, including domestic industry, importers and consumers of the product.
- 126. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide the relevant information with regard to the present investigation, including the possible effect of the ADD on their operations. The Authority sought information on, inter-alia, interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of the ADD on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of ADD, impact of imposing the present duty.
- 127. The views of the consumers who also attended the oral hearing and made submissions, have been examined. The Authority notes that these interested parties have not shown

with quantified information that the imposition of the ADD shall have significant adverse effect either on these consumers or the public at large. The submissions made by the users that the imposition of duties on domestic industry will make the applicant monopolist and dictate prices and has already been addressed in the appropriate headings in this final finding.

128. It is also noted that the product has been imported from a number of countries. The table below shows import volume and price of the product from various countries during relevant period.

Country	Quantity (MT)				Rate (Rs/MT)			
	2016-17	2017-18	2018-19	2019-20	2016-17	2017-18	2018-19	2019-20
CHINA PR	1742	3056	3648	3726	92246	109469	152776	133279
KOREA RP	22	3726	4380	3664	180301	189016	234742	259052
VIETNAM	-	112	240	209	-	246817	285202	237842
USA	200	274	168	200	342292	418533	511375	523534
THAILAND	260	584	-	192	186815	210571	-	253733
Grand Total	5724	8408	9260	8356	161567	173286	215263	209854

*Source – DGCI&S Import Data

129. It is thus seen that a significant proportion of the product is being imported from various countries are not subject to investigation. Thus, there are other sources of supply of the subject goods apart from the subject country. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.
130. Regarding monopoly of the domestic industry, the Authority notes that there are 3 other producers of the PUC in India thus showing significant domestic competition. Further, there are review provisions under the Rules to address the developments in subsequent periods.
131. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.

L. CONCLUSION & RECOMMENDATIONS

132. Having regard to the contentions raised, information received, submissions made and facts available before the Authority as recorded in these findings and on the basis of the determination of dumping and consequent injury to the domestic industry made hereinabove, the Authority concludes that:
- a. The product under consideration has been exported from the subject country at a price below the normal value, thus resulting in dumping.
 - b. The domestic industry has suffered material injury. The examination of the imports of the subject product and the performance of the domestic industry shows that the volume of imports from subject country have increased in absolute terms and also in relation to production and consumption in India.
 - c. The imports from the subject country are undercutting the prices of the domestic industry.
 - d. Both the selling price and cost of sales have increased during the injury period. However, the increase in selling price was not commensurate with the increase in cost evidencing price suppression. The landed price of imports which increased between the base year and the immediate previous year, declined significantly in the POI, and was all along less than cost of sales and domestic selling price of the domestic industry.
 - e. Though the landed price increased between the base year and the POI, the difference in landed price and the selling price of the dumped imports have been significant and such price difference has affected the domestic selling price.
 - f. Production, sales and capacity utilization of the domestic industry has increased over the injury period though sales during the POI marginally declined over the immediate previous year. The capacity utilization of the domestic industry has been very low in the entire injury period.
 - g. The performance of the domestic industry has significantly deteriorated in respect of profitability parameters and return on capital employed during the POI over the base year even though there were some upticks in these parameters during the POI viz a viz the immediate previous year. The fall in profitability of the domestic industry between base year and the POI have been very substantial.
 - h. There is causal link between dumping of the product under consideration from the subject country and injury to the domestic industry
 - i. None of the users have provided any relevant information. The interested parties have not established the impact of ADD on the user industry with verifiable information. Since the duty recommended is based on injury margin as per the lesser duty rule, the duty recommended is fairly reasonable and it is not likely to cause any adverse impact on the downstream industry.
 - j. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and the causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the Authority is of the view that imposition of anti-dumping duty is required to offset dumping and injury. Therefore, the Authority recommends imposition of anti-dumping duty on imports of subject goods from the subject country.

- k. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to lesser of margin of dumping and the margin of injury so as to remove the injury to the domestic industry. The Authority, therefore, considers it necessary and recommends imposition of anti-dumping duty equal to the amount specified in column 7 of the duty table below on imports of the subject goods from the subject country, on all imports of goods described at Column 3 of the duty table, originating in or exported from China PR, from the date of notification to be issued in this regard by the Central Government. The landed value of imports for this purpose shall be the assessable value as determined by the customs under the Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

Duty Table

S.No.	Heading	Description *	Country of Origin	Country of export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1	Chapter 32 and 35	Silicone Sealants excluding silicon sealants used in manufacturing of solar photovoltaic modules, and thermal power applications	China PR	Any country including China PR	Anhui Join Leader New Materials Technology Co., Ltd.	396.99	Per MT	USD
2	-do-	-do-	China PR	Any country including China PR	Shandong Dongyue Silicone Material Co., Ltd.	501.55	Per MT	USD
3	-do-	-do-	China PR	Any country including China PR	Any producer other than serial no 1 to 2	738.73	Per MT	USD
4	-do-	-do-	Any country other than China PR	China PR	Any producer	738.73	Per MT	USD

**The following products are excluded from the product description:*

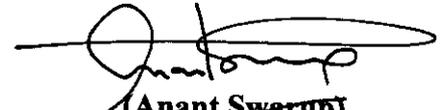
- i. *Polyurethane Sealant*
- ii. *Polyurethane Foam*
- iii. *Polyurethane Foam Cleaner*
- iv. *Solar Potting Silicone*
- v. *Acrylic Sealant*
- vi. *Acrylic Neutral Sealant*
- vii. *Acrylic Weather Sealant*
- viii. *Siliconised Acrylic Sealant*
- ix. *RoHS grade Silicone Sealant*
- x. *REACH grade Silicone Sealant*
- xi. *Fire resistant/retardant Silicone Sealant*
- xii. *Silicone Sealant used for car and bus windshield pasting*
- xiii. *Silicone Sealant used for bus body pasting*
- xiv. *Silicone Sealant used for building expansion joints*
- xv. *MS Polymer based Sealant*
- xvi. *Industrial RTV Silicone Sealant*
- xvii. *High-temperature Neutral Silicone*
- xviii. *Two-component Silicone Sealant*
- xix. *Paintable Sealants*
- xx. *Non-bleeding Weather Silicone*
- xxi. *Insulating Glass Silicone*
- xxii. *Nail free adhesive or Mirror fix adhesive*

Provided the product exclusion with regard to below mentioned products will be strictly limited to actual users only. The actual users shall provide declarations to customs at the time of import regarding bonafide usage in this regard. Actual users would also maintain the monthly record in the form of verifiable consumption register for presentation before any law enforcing agency on demand

- i. *Silicone Sealant used for car and bus windshield pasting*
- ii. *Silicone Sealant used for bus body pasting*
- iii. *Silicone Sealant used for building expansion joints*

M. FURTHER PROCEDURE

133. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.


(Anant Swarup)
Designated Authority