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**F. No. 6/40/2020-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
Jeevan Tara Building, Parliament Street, New Delhi**

Dated: 20th September, 2021

**NOTIFICATION
FINAL FINDINGS
Case No. AD (OI) – 35/2020**

Sub: Anti-dumping investigation concerning imports of “Untreated Fumed Silica” originating in and exported from China PR and Korea RP.

A. BACKGROUND OF THE CASE

F. No. 6/40/2020-DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time thereof,

1. The Designated Authority (hereinafter referred to as the “Authority”) received an application from M/s Cabot Sanmar Limited (hereinafter also referred to as “the applicant” or “the petitioner” or “the domestic industry”) in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred to as “the Rules” or “the AD Rules”) thereof for imposition of anti-dumping duty on the imports of “Untreated Fumed Silica” (hereinafter also referred to as “the product under consideration” or “the PUC” or “the subject goods”) from China PR and Korea RP (hereinafter also referred to as the “subject countries”).
2. And whereas, the Authority, on the basis of a duly documented application and sufficient prima-facie evidence submitted by the applicant, issued a public notice vide Notification No. 6/40/2020-DGTR dated 22nd September, 2020 published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with Rule 5 of the AD Rules to determine the existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described hereinbelow has been followed with regard to the investigation:
 - a. The Authority notified the Embassies of the subject countries in India about the receipt of the application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
 - b. The Authority issued a public notice vide notification dated 22nd September, 2020, published in the Gazette of India, Extraordinary, initiating an anti-dumping investigation concerning imports of the subject goods from the subject countries.
 - c. The Embassies of the subject countries in India were informed about the initiation of the investigation in accordance with Rule 6(2) of the Rules.
 - d. The Authority sent a copy of the initiation notification to the Government of the subject countries, through their Embassies in India, known producers/exporters from the subject countries, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within the prescribed time limit.
 - e. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Governments of the subject countries, through their Embassies in India in accordance with Rule 6(3) of the Rules supra.
 - f. The Authority made available the non-confidential version of the evidence presented by the various interested parties. A list of all the interested parties was uploaded on DGTR's website. Due to inaccessibility of the public file in the wake of global pandemic of COVID-19, all the interested parties were asked to share the non-confidential version of all their submissions with all the other interested parties via emails.
 - g. The Authority, upon requests, granted extension of time to the interested parties to file their response to the questionnaire as well as the submissions. The time limit was extended up to 16th December, 2020.
 - h. The Authority sent Exporter's Questionnaire to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the AD Rules:
 - i. M/s Henan Xunyu Chemical Co., Ltd, China PR
 - ii. M/s Shandong Zhonghai New Material Group Co., Ltd, China PR
 - iii. M/s Guanzhou GBS High Tech & Industry Co Limited, China PR
 - iv. M/s Keysu Industrial Co. Ltd, Korea RP
 - i. In response to the initiation of the subject investigation, the following exporters/producers have filed the exporter's questionnaire response, and made submissions during the course of the investigation:
 - i. M/s Shandong Dongyue Silicone Material Co., Ltd., China PR
 - ii. M/s Wacker Chemicals Fumed Silica (Zhangjiagang) Co. Ltd, China PR
 - iii. M/s Wacker Chemicals (China) Co Ltd, China PR
 - iv. M/s OCI Company Ltd, Korea RP

- v. M/s UNID Global Corporation, Korea RP
- j. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their respective countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
- k. The Authority sent questionnaire to the following known importers or users of subject goods in India, calling for necessary information in accordance with Rule 6(4) of the Rules:
- i. M/s Aay Cee Enterprises
 - ii. M/s Adinath Healthcare
 - iii. M/s Amit Trading company
 - iv. M/s B.P Chemicals
 - v. M/s H.R. Organo Chem Pvt Ltd.
 - vi. M/s Jaychem Marketing
 - vii. M/s K.P. Manish Global ingredients Pvt Ltd.
 - viii. M/s Kenda Farben India Pvl. Ltd.
 - ix. M/s Keshav Hichem Pvt. Ltd.
 - x. M/s Nikeon Corporation
 - xi. M/s Nisha Chemicals
 - xii. M/s Prakash Chemicals Pvt. Ltd.
 - xiii. M/s Uma Chemicals
 - xiv. M/s Zydex Industries
- l. In response to the initiation of the subject investigation, the following importers/users have responded by filing questionnaire response, and made submissions during the course of the investigation:
- i. M/s Jay Chem Marketing, Mumbai
 - ii. M/s CJS Specialty Chemicals Private Limited
 - iii. M/s Wacker Metroark Chemicals Pvt Ltd
- m. The Period of Investigation (“POI”) for the purpose of the present investigation is from 1st April, 2019 to 31st March, 2020 (12 months). The injury analysis period covers 1st April, 2016 – 31st March, 2017; 1st April 2017 – 31st March 2018; 1st April 2018 – 31st March, 2019 and the POI.
- n. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of the 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 data for computation of the volume and price of the imports.
- o. The non-injurious price (NIP) was determined based on the optimum cost of production and the cost to make and sell the subject goods in India as per the information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-

- injurious price has been considered to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- p. Due to the worldwide outbreak of COVID-19 pandemic and consequent restrictions of movement imposed by different countries, including India, the physical inspection through on-the-spot verification of the information was not carried out. Desk verification of the information provided by the applicant/producers/exporters, to the extent deemed necessary, was carried out. Only such verified information, with necessary rectification, to the extent deemed necessary, has been relied upon for the purpose of this final findings.
 - q. In accordance with Rule 6(6) of the AD Rules and Trade Notice No. 01/2020 dated 10th April, 2020, the Authority conducted an oral hearing through video conferencing on 27th May, 2021 to provide opportunity to the interested parties to present relevant information orally before the Authority. All the parties that attended the public hearing were advised to file written submissions of the views expressed orally, followed by rejoinders, if any. They were also advised to share the non-confidential versions of their submissions with the other parties by email. The arguments made in such written submissions and rejoinders received from the interested parties have been considered, to the extent deemed necessary, for the purpose of this investigation.
 - r. The 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 the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
 - s. In accordance with the Rules, the Authority disclosed the essential facts of the case that would form the basis of its findings in the form of a disclosure statement on 1.09.2021 and the interested parties were allowed time up to 7.09.2021 to comment on the same. The comments of the interested parties, to the extent relevant, have been considered by the Authority and have been addressed in this finding.
 - t. 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 final findings on the basis of the facts available.
 - u. ‘***’ in the final findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
 - v. The exchange rate for the POI has been taken by the Authority as US\$1 = Rs. 71.65.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

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

“3. The product under consideration in the application is “untreated fumed silica”. Synthetic silica manufactured from a vapour phase flame hydrolysis of a silane

compound, is popularly known as fumed silica. This type of synthetic silica is different from other silica by its functionality and manufacturing process and the raw materials needed. While other synthetic silicas are made from silicate solution in a liquid phase, fumed silica is manufactured in a gas phase at a very high temperature.

4. Fumed silica is classified as untreated fumed silica and treated fumed silica. Untreated fumed silica is made by the flame hydrolysis of Chlorosilane feedstock in an oxygen hydrogen flame at temperatures of 1800 deg C. This process allows production of the silica with unique structure comprising of chain like aggregates and agglomerates.

5. Untreated fumed silica has a large specific surface area. Depending upon its surface area values such as 150 or 200 or 300 or 380 m²/gm the untreated fumed silica is classified as different grades suitable for different applications. The most popular grade is 200m²/gm, used in variety of applications.

6. It is free-flowing powdered product, used for wide applications. Untreated Fumed Silica improves free flow properties in solid systems and used as free flow and tableting agent in pharmaceuticals and an anti-caking agent in foods and agrochemicals. It is also used as a carrier for liquid flavours and fragrances. Product concerned is solid in terms of net weight expressed in terms of kg or MT.

7. Fumed Silica or Silicon di-oxide is classified under Chapter 28, subheading 28112200. The untreated fumed silica being imported into India under different HS codes also under subheading 28112190,2839100 of Chapter 28 and 34049090 of Chapter 34 of the Customs tariff Act, 1975. Customs classification is only indicative in nature and not binding on the scope of the investigation.”

C.1 Views of the other interested parties

5. The following submissions have been made by the other interested parties regarding the product under consideration and the like article
 - a. The PUC can easily be substituted by precipitated silica in agro chemicals as a filler, and by precipitated silica, stearates, tri calcium phosphates, sodium silicate in food industry as anticaking agent and by precipitated silica in the pharmaceutical industries.
 - b. The responding exporters have not produced or exported pharma grade PUC to India.
 - c. The varieties of the PUC sold by the domestic industry are neither directly comparable nor fully interchangeable with those sold by the responding exporters.
 - d. Contrary to the claim of the domestic industry in the hearing, grade N20p is not pharma quality. The suffix “p” denotes that the material is packed and not that the material is of pharmaceutical quality.
 - e. A single digit PCN/segment be introduced in the present case to differentiate between pharma and non-pharma/technical quality.

- f. The import segregation methodology provided by the domestic industry shows that it has included grades of hydrophobic fumed silica (treated fumed silica), that is PM-09L and PM-20L.
- g. In segregating imports, the domestic industry has treated AERODISP W 7520, SIPERNAT 310, MSP-005 as imports of product under consideration, whereas these do not relate to the subject goods.
- h. The domestic industry has considered the terms SIO2 and Unidentified as those relating to product under consideration, whereas such terms may be either treated or untreated fumed silica.
- i. No PCN methodology is required to be considered in the present case.
- j. As per the domestic industry's own admission, the pharmaceutical quality PUC undergoes stringent testing; is of a higher specification and is held to be of higher standards.
- k. The operating or running cost of a plant manufacturing pharmaceutical quality PUC is significantly higher as compared to the technical grade.
- l. Pharma grade PUC cannot be produced at a plant that has authorization to produce only technical grades.

C.2. Views of the domestic industry

6. The following submissions have been made by the domestic industry regarding the product under consideration and the like article:
 - a. The product under consideration in the present investigation is “Untreated Fumed Silica”. Untreated fumed silica and treated fumed silica are two types of fumed silica and are also known as “Colloidal Silicon Dioxide”/ “Fumed Silicon Dioxide”.
 - b. The product is mainly used for pharma and non-pharma applications. However, there is no difference in the raw material or the production/manufacturing process of the product under consideration whether used in pharma or non-pharma grade. The only major difference between the two is that pharma grade requires more stringent testing and higher specifications. However, this is not a result of any difference in the production process. It is only a result of quality testing. There is no material difference in the cost of the production of pharma or non-pharma grade.
 - c. None of the interested parties have suggested the PCNs, barring distinction of pharma and non-pharma grade.
 - d. The product has no substitute. “Precipitated silica” cannot replace “fumed silica” in many applications. Precipitated silica has low purity and is less efficient than fumed silica. There is huge difference between the two.
 - e. The goods produced by the applicant are like article to the imported goods as they are comparable in terms of chemical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods, and are technically and commercially substitutable.

C.3 Examination by the Authority

7. The product under consideration as defined in the notice of initiation is “untreated fumed silica”. Untreated fumed silica is a synthetic, amorphous, colloidal silicon dioxide that is generally regarded as unique in the industry because of its unusual particle characteristics. Synthetic silica, manufactured from a vapour phase flame hydrolysis of a silane compound, is popularly known as fumed silica. The interested parties have contended that untreated fumed silica is the same as the other kinds of silica, i.e., “Precipitated silica”. These interested parties have, however, not established that these two kinds of products are the same product in terms of their functionality, manufacturing process, raw materials, functions & uses, production technology, plant & equipment, costs and prices. The domestic industry submitted that while other synthetic silicas are made from silicate solution in a liquid phase, fumed silica is manufactured in a gas phase at a very high temperature. It is also seen from the import data that there are significant differences in the price of these two types of products.
8. Fumed silica can be two types - treated and untreated. Unlike untreated silica which is hydrophilic, treated silica undergoes treatment with various chemicals to make it hydrophobic. The domestic industry submitted that treated fumed silica can be produced either by further processing of untreated fumed silica, or even undertaking entire production activities at the same time. It is seen from the import data that there are significant differences between the price of untreated fumed silica and treated fumed silica. The scope of the product under consideration is only untreated fumed silica.
9. The product under consideration is made by the flame hydrolysis of chlorosilane feedstock in an oxygen hydrogen flame at temperatures of 1800 degree C. This process allows production of the silica with unique structure comprising chain like aggregates and agglomerates.
10. Untreated fumed silica has a large specific surface area. Depending upon its surface area values such as 150 or 200 or 300 or 380 m²/g, the untreated fumed silica is classified into different grades suitable for different end applications. It is free flowing powdered product, used for wide applications. Untreated Fumed Silica improves free-flow properties in solid systems and is used as free flow and tableting agent in pharmaceuticals and an anti-caking agent in foods and agrochemicals. It is also used as a carrier for liquid flavours and fragrances.
11. The product under consideration is classified under Chapter 28, under the tariff code 28112200. However, untreated fumed silica is also being imported under other HS codes, such as 28112190, 28391900 and 34049090. The customs classification is only indicative and not binding on the scope of the investigation. Further, the product does not have dedicated customs classification and a number of other products which are beyond the scope of the present investigations have also been imported under these classifications.

12. It has been contended that exporters/producers have not produced/exported pharma grade untreated fumed silica, while the domestic industry has produced and supplied the product both for pharma and non-pharma applications. The Authority notes that the import data clearly shows the imports of pharma grade untreated fumed silica from the subject countries. It is not material that the responding exporters should have exported all the grades of the product under consideration. Further, the domestic industry submitted that there is no material difference in the cost of production of pharma grade and non-pharma or technical grade untreated fumed silica. The raw materials, the production/manufacturing process of untreated fumed silica produced whether used in pharma or non-pharma grade are the same. The only major difference between the two is that pharma grade requires more stringent testing and higher specifications. The other interested parties contended that since pharma application product requires more stringent testing, it should be classified as a different product type. The Authority notes that the contention of the domestic industry that there is no difference in the product process and the cost of production of the two grades, and the only difference in the testing and more stringent specifications, the Authority considers the two are not required to be considered as separate PCNs. The Authority considers that separate PCN for the two grades are appropriate only when the product has materially different cost of production. Further, the Authority notes that there is no consistent difference in the price of pharma and non-pharma grade product.
13. With regard to import segregation, the Authority notes that the product under consideration does not have dedicated customs classification. Further, imports have been made by using a large number of different descriptions and even the grade names of the suppliers. Despite this, the interested parties have pointed out towards only one entry in the name of N20p in the year 2017-18 as not pertaining to the product under consideration. PM-09L, and PM-20L, AERODISP W 7520, and SIPERNAT 310, and MSP-005 have not been treated as subject untreated fumed silica. As pointed out by the other interested parties, the terms SIO2 and Unidentified are indeed generic terms that could pertain to both treated or untreated fumed silica. The Authority, however, notes that treated fumed silica is priced much higher than untreated fumed silica.
14. In view of the foregoing, the Authority concludes that the product under consideration remains the same as was defined in the initiation notification.

D. SCOPE OF THE DOMESTIC INDUSTRY AND THE STANDING

D.1 Views of the other interested parties

15. The following are the submissions made by the other interested parties with regard to the scope of the domestic industry and the standing:
 - a. The petitioner Cabot Sanmar Limited and Cabot HengYeCheng Performance Materials (Inner Mongolia) Co., Ltd. are directly or indirectly controlled by Cabot Corporation, USA and as such are related to each other.

- b. The domestic industry has not provided complete information regarding its related parties and exports made to India by its related parties to other non-subject countries.
- c. Cabot Sanmar Ltd is a joint venture between Cabot Corporation of USA and Sanmar Group, India. Cabot Corporation has manufacturing plants that produce fumed metal oxides in Germany, among other countries.
- d. Cabot Corporation added capacity of 80,00,000 KGs through a new fumed silica manufacturing site in Wuhai, China PR. It is a joint venture of Cabot Corporation with Inner Mongolia Hengyecheng Silicone Co. Ltd which was not disclosed by the domestic industry.

D.2 Views of the domestic industry

16. The following are the submissions made by the domestic industry with regard to the scope of the domestic industry and its standing:
- a. The application has been filed by M/s Cabot Sanmar Limited. The applicant is the sole producer of the subject goods in India.
 - b. The applicant has not imported the subject goods from the subject countries. The applicant has imported Fumed Silica from its Joint Venture partner Cabot Corporation, USA of non-PUC category, which is of special pharma grades for certain customers.
 - c. The applicant is not related to any importer or exporter of the product under consideration within the meaning of Rule 2(b).
 - d. Mongolia Hengyecheng is a joint venture between Cabot China Limited and Mongolia Hengyecheng Silicone Co., Ltd (HYC). HYC is not related to Cabot Sanmar Ltd, the Indian entity.

D.3 Examination by the Authority

17. Rule 2(b) of the AD Rules defines domestic industry as under:

“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”.

18. The application has been filed by M/s Cabot Sanmar Limited. The applicant is the sole producer of the subject goods in India. The applicant is a 50:50 joint venture between Sanmar Group, India and Cabot Corporation, USA. The Authority notes that under Rule 2(b), only the following are relevant.

- a. relationship of the applicant with exporter or importer of the product under consideration.
 - b. exports made by the related entity.
 - c. exports made during the investigation period.
 - d. exports made from the subject countries only.
19. All other relationship, such as relationship with the producers of the product under consideration in subject countries or other countries, or exports made prior to the investigation period are entirely irrelevant to decide the eligibility under Rule 2(b). In any case, mere exports of the product by affiliates in the POI does not mean that the domestic producer should be disqualified and treated as ineligible domestic industry.
20. With regard to the contention that Mongolia Hengyecheng Performance Materials (Inner Mongolia) Co., Ltd. is related to Cabot Sanmar Limited, the Authority notes that Cabot Sanmar Limited is a 50:50 joint venture between Sanmar Group, India and Cabot Corporation, USA. Mongolia Hengyecheng Performance Materials (Inner Mongolia) is a 20:80 joint venture between Cabot Corporation, USA and Inner Mongolia HengYeCheng Silicone Co., Ltd., China. Thus, while Cabot Corporation USA holds 50% shareholding in the applicant, it holds only 20% holding in Inner Mongolia HengYeCheng Silicone. There are no exports of the product under consideration by Inner Mongolia HengYeCheng Silicone to India during the period of investigation. Further, even if the two parties are related parties, the mere fact of relationship is insufficient to consider the domestic producer as ineligible.
21. In view of the foregoing, the Authority finds that the applicant has neither imported the product under consideration from the subject countries, nor is related to the exporters who have exported the subject goods in the POI or the importers who have imported the subject goods in the POI. Accordingly, the Authority holds that the applicant is an eligible domestic industry within the meaning of Rule 2(b) of the Rules. The application satisfies the criteria of standing in terms of Rule 5(3) of the Rules and the applicant constitutes domestic industry under the Rules.

E. CONFIDENTIALITY

E.1 Views of the other interested parties

22. The following submissions have been made by the other interested parties with regard to confidentiality:
- a. The application filed is grossly incomplete and insufficient. Excessive confidentiality has been claimed. Costing information under Formats A to L and various policies such as purchase, sales, accounting have been kept confidential.
 - b. The domestic industry has also failed to provide adequate non-confidential summary of the costing information.

- c. Domestic industry has not disclosed complete information regarding imports from related parties.
- d. The applicant has falsely claimed that the indexed version of information by the opposing parties has not been made available.

E.2 Views of the domestic industry

23. The following submissions have been made by the domestic industry regarding confidentiality:
- a. The applicant has disclosed all the essential information in the non-confidential version of the application in accordance with Rule 7 of the Rules and as per Trade Notice No. 10/2018 dated 7th September, 2018. Indexed information has also been provided wherever possible, which would allow an analysis of the injury parameters.
 - b. The applicant has provided entire actual information to the Authority. Considering the confidentiality of the data, the applicant has not shared such actual confidential data with other interested parties, as this is business sensitive information and would cause prejudice to the domestic industry.
 - c. The non-confidential version of the responses shows that the interested parties have filed grossly deficient responses even after being given an extension to file sufficient and complete information.
 - d. The foreign producer and the importer have claimed excessive confidentiality with regard to shareholding structure, production process, value chain, production facilities, related parties, name of raw materials, procurement of raw materials, list of products produced and/or sold, name of the holding company, shareholding details, channel of marketing in the home market and for exports to India.
 - e. The exporters have not even provided the information on indexed basis.
 - f. The applicant has been denied sufficient details to permit a reasonable understanding of the information provided to the Authority. The applicant cannot even determine the extent to which information has been provided and whether any reliance can be placed on the same. As a result, the applicant is severely handicapped and unable to comment on the response filed by the exporter.

E.3 Examination by the Authority

24. Various submissions on confidentiality made by the applicant as well as the other interested parties during the course of the investigation, to the extent considered relevant by the Authority, have been examined and addressed as follows.
25. The Authority made available the non-confidential version of the information provided by various interested parties to all the other interested parties.
26. With regard to confidentiality of information, Rule 7 of the Rules provide as follows:

“Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

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

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

27. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered confidential and not disclosed to the other interested parties. Wherever possible, the parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by various interested parties. The non-confidential version of the information related to imports, performance parameters and injury parameters of domestic industry has been made available to all the interested parties. Business sensitive information has been kept confidential as per practice. The Authority also holds that costing information is in the nature of confidential information and the Authority has been consistently allowing confidentiality on costing information wherever warranted. Wherever information is for the injury period, the application contains the same either on actual or indexed basis.

F. MISCELLANEOUS SUBMISSIONS

F.1 Views of the other interested parties

28. The following submissions have been made by other interested parties:
- a. The application does not contain adequate evidence of dumping or injury to justify the initiation of the investigation.
 - b. If high rate of anti-dumping duty is recommended on imports from the subject countries, the imports from the subject countries would stop.

- c. In 2021, there has been a global shortage of silicon metal leading to increase in prices of the PUC which in turn led to an increase in the average price of imports. Majority of the downstream end-users are facing significant cost increases across industries.
- d. The applicant did not comment on why it is completely dependent on the import of its key raw material from China PR despite availability of alternatives.
- e. Many downstream customers have begun shifting from fumed silica to precipitated silica for cost savings.
- f. The present application is filed with an intention to restrict imports from unrelated entities in Korea RP and China PR while safeguarding the imports that are made from related entity/ties in Germany and other countries.
- g. Imposition of an unwarranted anti-dumping duty on the imports from Korea RP will not be in public interest and will only drive out a small and legitimate source of import competition.
- h. Imposition of anti-dumping duty on the PUC will also increase the cost of production of paracetamol tablets (e.g., Dolo-650 mg) that are currently in huge demand and are being administered to Covid-19 patients.

F.2 Views of the domestic industry

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

- a. The contention of the interested parties with regard to insufficient information and evidence in the application is without legal and factual basis. In fact, the investigation was initiated only after the Authority satisfied itself with regard to accuracy and adequacy of the information submitted by the domestic industry regarding dumping, injury & causal link.

F.3 Examination by the Authority

30. The Authority notes that the applicant filed a duly substantiated application based on which the present investigation was initiated. The present investigation was initiated based on the data/information provided by the domestic industry and after prima facie satisfying that there is sufficient evidence of dumping, injury and causal link. The application contained all the information relevant for the purpose of initiation of the investigation.
31. As regards the submission of the interested parties that the anti-dumping duty will lead to stoppage of imports from the subject countries, the Authority notes that anti-dumping measures are intended to ensure fair trade and provide level-playing field to all the stakeholders. These measures do not restrict imports nor cause an unjustified increase in cost of the eventual end products. The purpose of anti-dumping duty is not to give any kind of undue advantage to the domestic producers or cause any undue hardship to the consumers of the product. A consumer cannot seek, as a matter of right, access to a product at dumped prices, particularly when such dumping is found to have caused injury to an established industry in India. The purpose of anti-dumping duty is to remove unfair trade

causing injury to the domestic industry. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. The imposition of anti-dumping duties would not affect the availability of the product to the consumers at fair prices.

32. The Authority considers that the present investigation is an original investigation and post POI developments cannot be selectively considered for the final determination. Consideration of the post POI data implies calling every information for that period. Further, the Rules provide for periodic review. In case an interested party consider that there have been material changes after the investigation period, an interested party can seek review of proposed measures.
33. As regards the dependency of the domestic industry on the imports in respect of the raw material, the Authority notes that it is not necessary for any domestic producer to source all the raw materials within the Indian market. Nor absence of some raw material in the domestic market or sourcing of the same from the international market can deprive a domestic producer from seeking relief under the Rules in case the investigation shows that dumping has caused injury to the domestic industry.
34. As regards the switch over of consumers from fumed silica to precipitated silica for alleged cost savings, the Authority notes that the investigation has shown that the demand for the product has increased over the injury period. Further, the possibility of a switch over in any case should not cause prejudice to any consumer from the proposed measures. The consumers can switch over to such other alternative input.
35. The Authority finds that exports by related entities of the domestic industry are extremely negligible. It is, therefore, without factual basis that the proposed measure was sought with an intention to restrict imports from the unrelated entities while safeguarding the imports that are made from related entity/ties in Germany and other countries.
36. As regards submissions on the possible adverse effect of proposed measures on paracetamol, the Authority notes that the interested parties themselves have contended that the domestic industry supplies significant volumes of pharma grade and imports from the third countries are largely of pharma grade. It is also noted that a significant proportion of demand (about 30%) is met by non-subject imports. In fact, the imports from non-subject countries (1198 MT) are higher than the imports from the subject countries (869 MT).

G. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Market Economy Treatment (Met), Normal Value, Export Price & Determination Of Dumping Margin

G.1 Views of the other interested parties

37. The following submissions have been made by the other interested parties:
 - a. The normal value, the export price and the dumping margin should be determined based on the information provided by the producers/exporters.

- b. Pharma and non-pharma products should be segregated for determination of the normal value and non-injurious price, as only non-pharma grade is imported whereas the domestic industry is producing both.
- c. India must fulfil its obligations under relevant agreements to recognize China's full market economy status and stop using the "surrogate country" approach in anti-dumping investigations against China.
- d. The petitioner and the Authority should provide a legal interpretation and evidence that would permit the continued disregard of Chinese prices and costs and the use of special methodologies in this case for normal value establishment.
- e. The WTO Agreements as they stand now, do not provide any legal basis for the continued disregard of Chinese producers' prices/costs for normal value establishment in anti-dumping investigations. After 11th December, 2016, the burden of proof has shifted to the petitioner and on India to establish that the costs and prices of the Chinese companies are still marred by non-market economy conditions.
- f. There is a higher degree of competition between the local sellers in China PR when compared to the Indian Market wherein the applicant themselves hold more than 50% market share.
- g. The responding exporters request disclosure of the actual claims made by the domestic industry with regard to freight, commission and port expenses.
- h. The Authority should calculate the normal value by taking into account the foreign producers' factors of production at a minimum and using the input costs in India for those factors of production.
- i. All post manufacturing expenses such as selling, distribution, marketing and general administration are also incurred by importers and importers are making reasonable profits.
- j. The normal value, the export price and the dumping margin should be determined based on the information provided by the producers/exporters participating in the investigation.
- k. Since Korea is only exporting technical grade to India, the normal value as defined for Korea should also be applicable for imports from China PR.
- l. Considering EU or Japan for determination of the normal value would be incorrect as the EU exports nearly 65% of the PUC in the pharma grade and only 35% in the technical grade.
- m. Since Korea RP is a subject country, the Authority should rely on the domestic or constructed price based on the data of the Korean exporters.
- n. The Authority's reliance on the domestic industry's cost of production with adjustments is also bound to artificially inflate the normal value as the domestic industry appears to have incurred high and unwarranted costs in the POI, causing injury to the domestic industry.

G.2 Views of the domestic industry

38. The following submissions have been made by the domestic industry with respect to determination of the normal value, the export price and the dumping margin:

- a. China should be considered as a non-market economy in line with the position taken by the Authority in previous cases, and by the investigating Authorities in other countries.
- b. The cost and price of the Chinese producers cannot be relied upon for determination of the normal value, and accordingly, the normal value should be determined in accordance with the provisions of para 7 of Annexure I of the Rules.
- c. Apart from India, the product under consideration is majorly produced and exported from China PR, Korea RP, the European Union and Japan. The average price from European Union to India should be considered for normal value of China.
- d. The applicant could not find price of the subject goods in the domestic market of Korea RP as the product does not have a dedicated code. The normal value in Korea has been determined based on the estimates of the cost of production in Korea, duly adjusted with selling, general and administrative expenses.
- e. The export price is based on transaction wise import data provided by DGCI&S. The export prices have been adjusted for ocean freight, marine insurance, commission, inland freight expenses, port expenses, bank charges and VAT (only for China).
- f. The Authority can only consider the information provided by producers/exporters for determination of export price if the same is complete in all respect.
- g. Since there is no difference in the cost of the pharma grade and the non-pharma grade of the PUC, separate dumping and injury margin analysis for these two grades is not necessary. Also, the normal value and the dumping margin are determined for the PUC, i.e., untreated fumed silica and not for different applications.

G.3 Examination by the Authority

39. The Authority has dealt with the contentions raised by the other interested parties hereunder. Under Section 9A(1)(c) of the Act, normal value in relation to an article means:

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

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

(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

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

40. The Authority had sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have participated in the present investigation:

- a. M/s Shandong Dongyue Silicone Material Co., Ltd., China PR
- b. M/s Wacker Chemicals Fumed Silica (Zhangjiagang) Co. Ltd, China PR
- c. M/s Wacker Chemicals (China) Co Ltd, China PR
- d. M/s OCI Company Ltd., Korea RP
- e. M/s UNID Global Corporation, Korea RP

41. The Authority has examined the submissions made by the interested parties with regard to the determination of the normal value, the export price and the dumping margin and holds as follows:

- a. The interested parties contended that there is a significant price difference between pharma and non-pharma grades and only non-pharma grade has been imported from the subject countries whereas pharma grade has been supplied from Japan and EU. The Authority, therefore, examined the imports and sales data of the domestic industry. The table below shows the imports of pharma and non-pharma grades from various countries.

		Volume KG			
Application	Country	2016-17	2017-18	2018-19	2019-20
Non-Pharma	China	5,51,771	5,00,400	5,46,804	6,42,738
	Korea	1,00,480	1,08,985	67,210	1,33,120
	Japan	2,25,360	3,16,460	3,04,920	3,73,320
	EU	2,47,793	2,72,461	1,47,215	1,25,107
	Other Countries	1,061	1,540	1,269	10,794
Total Non-Pharma		11,26,465	11,99,846	10,67,418	12,85,079
Pharma	China	6,400	19,200	84,400	92,680
	EU	5,07,390	5,37,864	6,21,980	6,82,141
	Other Countries	1,504	6,236	7,855	7,128
Total Pharma		5,15,294	5,63,300	7,14,235	7,81,949
Grand Total		16,41,759	17,63,146	17,81,653	20,67,028

		Rate (Rs/KG)			
Application	Country	2016-17	2017-18	2018-19	2019-20
Non-Pharma	China	239	245	300	285

	Korea	280	266	326	292
	Japan	338	307	320	332
	EU	369	355	366	384
	Other Countries	954	602	891	477
Total Non-Pharma		292	289	317	311
Pharma	China	291	284	302	315
	EU	378	353	384	393
	Other Countries	1,841	896	1,020	1,088
Total Pharma		381	357	381	390
Grand Total		320	310	343	341

- b. As regards the segregation of pharma and non-pharma grade products, the Authority notes that the normal value is determined based on the import price of non-pharma grade alone. It is noted that the product has been majorly produced and exported from China PR, Korea RP, the European Union and Japan in the period of investigation (POI). There is import of pharma and non-pharma products from the EU. The prices of pharma grade are higher than the non-pharma grade. The applicant has claimed that the average export price from the EU to India should be considered for determining the normal value for China PR. However, the other interested parties have contended that considering the EU for determination of normal value is incorrect as the EU exports nearly 65% of the PUC in the Pharma grade at higher price and only 35% in the technical grade. The interested parties have also contended that as only non-pharma grade is imported from China and the prices of pharma grade are higher than the non-pharma grade, the pharma and non-pharma products should be segregated for determination of the normal value and the non-injurious price even if the domestic industry is producing both. The Authority considers that the normal value cannot be determined on the basis of cost or price in EU as the pharma grade prices are higher in the EU. It is also noted that the majority of the imports from China are of non-pharma grades. Therefore, the normal value is determined based on the import price of non-pharma grade alone.
- c. As regards the difference in dumping margin between Chinese and Korean producers, the Authority notes that the dumping margin is the difference between normal value and export price and, therefore, its quantum depends on both the normal value and the export price.
- d. As regards the request for disclosure of actual claims of the domestic industry with regard to the price adjustments, the Authority notes that the export price has been determined after considering the price adjustments reported by the other responding exporters. The Authority has not considered the amount of price adjustment made by the domestic industry.
- e. As regards the consideration of factors of production of the Chinese producers, the Authority considers that the normal value has not been determined on the basis of cost of production in India but on the basis of prices of non-pharma grade from Japan.
- f. None of the interested parties have given any justification why the normal value cannot be determined on the basis of export price from Japan to India. Further, since Korea RP is one of the subject countries, the normal value cannot be determined on the basis of cost or price in Korea RP or export price from Korea RP.

G.3.1. Determination of Normal Value and Export Price

Normal Value for China PR

Market Economy Status for Chinese Producers

42. The Authority notes the following relevant provisions with regard to determination of normal value for China PR.

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

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

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

(3) The designated authority shall consider in each case the following criteria as to whether: (a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand

and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values; (b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts; (c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and (d) the exchange rate conversions are carried out at the market rate. Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph.

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

43. At the stage of initiation, the Authority proceeded with the presumption by treating China as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China PR to respond to the notice of initiation and provide information whether their data/information could be adopted for the purpose of normal value determination. The Authority sent questionnaire to all the known producers/ exporters in China for providing relevant information in this regard.
44. 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 methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

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

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

45. The Authority notes that while the provisions of Article 15 (a)(ii) of China PR's Accession Protocol have expired with effect from 11th December, 2016, the provision under Article 2.2.1.1 of the anti-dumping Agreement read with obligation under 15(a)(i) of the Accession Protocol require criterion stipulated in Para 8 of the Annexure 1 of anti-dumping Rules to be satisfied through the information/data to be provided in the questionnaire issued by the Authority. The Authority notes that no producer or exporter from China has submitted information desired by the Authority. Therefore, the normal value for these producers/exporters are required to be determined in terms of provisions of Para 7 of Annexure-1 of Anti-Dumping Rules.

46. The applicant has claimed that China PR should be treated as a non-market economy, and the normal value should be determined in terms of para-7 of the Annexure I of the Rules. The product has been majorly produced and exported from China PR, Korea RP, the European Union and Japan in the period of investigation (POI). There is import of pharma and non-pharma products from the EU. The prices of pharma grade are higher than the non-pharma grade. The applicant has claimed that the average export price from EU to India should be considered for determining the normal value for China PR. However, the other interested parties have contended that considering EU for determination of normal value is incorrect as the EU exports nearly 65% of the PUC in the Pharma grade and only 35% in the technical grade. The interested parties have also contended that as only non-pharma grade is imported from China and the prices of pharma grade are higher than the non-pharma grade, the pharma and non-pharma products should be segregated for determination of the normal value and the non-injurious price even if the domestic industry is producing both.
47. The normal value for the purpose of the initiation was constructed on the basis of cost of production of the domestic industry with due adjustment for selling general & administrative (SGA) expenses and reasonable profit. None of the producers/ exporters from China have provided information in the form and manner prescribed for the determination of the normal value on the basis of their own data/information.
48. The Authority considers that the normal value is required to be 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 if 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. Accounts shall 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.”

49. The Authority notes that the normal value for a country considered as a non-market economy is required to be computed in accordance with para 7 and 8 of Annexure-I of the Rules. In the instant case, since none of the exporters have filed questionnaire response in this regard for claiming individual normal value, the options under para 7 of Annexure-I to Rules need to be explored. Para 7 lays down hierarchy for determination of normal value and provides that normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis,

including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin.

50. The Authority considers that the normal value cannot be determined on the basis of cost or price in Europe as necessary information has not been made available by any of the interested parties and also the pharma grade prices are higher in the EU. It is also noted that the majority of the imports from China are of non-pharma grades. It is seen that the imports from Japan are mainly of non-pharma grade and thus comparable to the grade being imported from China. Further, while there were some imports of pharma grade from China also, in any case, consideration of the export price from Japan to India would be appropriate. It is noted that the volume of imports from Japan is quite significant when compared with the import volumes from China and the imports are spread over the investigation period. Further, there are imports of the product not only in the POI but also over the injury period. Further, this also represents the price paid or payable in India. In view of the same, the Authority considers that the normal value in respect of China can be most appropriately determined on the basis of the export price from Japan to India. Since this is a CIF export price, the same has been adjusted for the expenses from CIF to ex-factory. The normal value has thus been determined at ex-factory level, by deducting expenses such as ocean freight, marine insurance, commission, bank charges, port expenses and inland freight from the CIF export price from Japan to India. The normal value determined is shown in the dumping margin table below

G.3.2 Export price for China PR

Export price for Shandong Dongyue Silicone Material Co., Ltd., China PR

51. During the POI, Shandong Dongyue Silicone Material Co., Ltd., has directly exported *** MT of PUC to India of invoice value *** US\$. Shandong Dongyue Silicone Material Co., Ltd., has claimed adjustment on account of ocean freight, insurance, inland transportation, port and other related expense, credit expenses, packing expenses and bank charges and the same have been allowed by the Authority. Accordingly, the export price at ex-factory level for Shandong Dongyue Silicone Material Co., Ltd., China PR is determined as above and the same is shown in the dumping margin table below.

Export price for Wacker Chemicals Fumed Silica (Zhangjiagang) Co Ltd and Wacker Chemicals (China) Co Ltd.

52. The Wacker Group [(a) Wacker Chemicals Fumed Silica (Zhangjiagang) Co., Ltd (producer); (b) Wacker Chemicals (China) Co., Ltd. (exporter) and (c) Wacker Metroark Chemicals Pvt. Ltd. (related user)] filed questionnaire response. The Authority notes that Wacker Chemicals (China) Co., Ltd. has exported the product under consideration manufactured by Wacker Chemicals Fumed Silica (Zhangjiagang) Co., Ltd to India during the POI.
53. It was noted that Wacker Chemicals (China) Co., Ltd. has exported *** Kgs of the product under consideration valued at USD *** to unrelated customers in India and *** Kgs of the

product under consideration valued at USD *** to a related user, i.e., Wacker Metroark Chemicals Pvt. Ltd. in India. The Authority has noted that Wacker Metroark Chemicals Pvt. Ltd. consumes the product and does not resell the product under consideration. The per unit price to unrelated customers was USD *** per Kg and to Wacker Metroark Chemicals Pvt. Ltd. was USD *** per Kg. The Authority notes that the Wacker Chemicals (China) Co., Ltd. recorded a profit for exports to India.

54. Accordingly, the Authority computed the ex-factory export price taking into account exports to both related and unrelated customers. From the net invoice value, the Authority deducted the ocean freight, insurance, inland freight, port and other related expenses, packing cost, credit cost, bank charges, and commission as verified by the Authority. Accordingly, the export price at ex-factory level for Wacker Chemicals Fumed Silica (Zhangjiagang) Co., Ltd determined as above and the same is shown in the dumping margin table below.

Non-cooperating exporters from China PR

55. The export price in respect of the other exporters from China PR has been determined as per the facts available in terms of Rule 6(8) of the Rules. The ex-factory export price as determined is shown in the dumping margin table below.

G.3.3 Normal Value for Korea RP

OCI Company Limited and UNID Global Corporation

56. OCI Company Ltd (“OCI”) is engaged in the production of the subject goods in Korea RP and has sold the subject goods directly in the domestic market. During the period of investigation, OCI has sold the subject goods in the domestic market to unrelated parties only. The domestic sales are in sufficient volumes when compared with exports to India. During the course of verification, it was noted that OCI is captively producing the main raw material, Silicon Tetrachloride (“STC”) which is used in the production of the PUC and is being treated as by-product. STC, used in the production of the PUC, is transferred from OCI’s polysilicon plant using the benchmark prices prevailing in China PR. China PR is one of the subject countries in the present investigation, and is being treated as non-market economy country. The Authority, therefore, has not adopted the price of the raw material as claimed by OCI and replaced the same by raw material costs of the domestic industry. Rest all other costs as claimed by OCI have been accepted. The revised cost of sales of the PUC has been considered for ordinary course of trade test.
57. To determine the normal value, the Authority conducted the ordinary course of trade test using the cost of sales determined as above to determine profit making domestic sales transactions. It was noted that OCI has sold *** MT of the subject goods having total invoice value of KRW ***. It is noted that OCI has sold subject goods both in bulk and packed forms in the domestic market, while it has exported the subject goods to India in packed form only. Thus, for fair comparison, the Authority has taken only the packed sales into account for determination of the normal value for OCI.

58. The Authority examined whether the profit-making transactions are more than 80% or not. If the profitmaking transactions are more than 80%, all transactions in the domestic sales are to be considered for the determination of the normal value and in cases where profit making transactions are less than 80%, only profitable domestic sales are to be taken into consideration for the determination of the normal value. In the present case, the profit-making transactions were more than 80% and, therefore, all the domestic sales transactions have been considered for the determination of the normal value. OCI has claimed adjustments for inland transportation, warehouse expenses, credit cost and packing cost and the same have been allowed by the Authority. Accordingly, the normal value at ex-factory level has been determined and the same is shown in the dumping margin table below.

Normal Value for non-cooperating producers/exporters from Korea RP

59. For all the non-cooperative producers/exporters from Korea RP, the Authority has determined the normal value at ex-factory level on the basis of best available information and the same is shown in the dumping margin table below.

G.3.4 Export price for Korea RP

Export price for OCI Company Limited and UNID Global Corporation

60. During the POI, OCI has exported the subject goods directly to India as well as indirectly through an unrelated Korean trader, namely, UNID Global Corporation (“UNID”). OCI and UNID have provided all the relevant information in the requisite formats. It is noted from the response that during the POI, OCI has directly exported *** MT of the subject goods to India having total invoice value of USD ***. OCI has exported *** MT through UNID having total invoice value of USD ***. OCI has claimed adjustments on account of inland freight, ocean freight, port and other related expenses, overseas insurance, custom broker fees, packing expenses, credit cost, bank charges and duty drawback. All the adjustments have been allowed by the Authority except duty drawback. OCI has exported the subject goods to India in packed form only. Thus, the Authority has taken only the packed sales into account for determination of the export price. The ex-factory export price is as determined is given in the dumping margin table.

Non-cooperating Exporters from Korea RP

61. For the non-cooperating exporters from Korea RP, the Authority has computed the export price on the basis of best available information in terms of Rule 6(8) of the Rules and the same is shown in the dumping margin table below.

G.3.5 Dumping Margin

62. The dumping margin determined for all the producers/exporters from China PR and Korea RP is shown in the dumping margin table below.

Dumping Margin Table

SN	Subject Countries	Normal Value	Export Price	Dumping Margin		
				Amount	%	Range
		(US\$/MT)	(US\$/MT)	(US\$/MT)	(%)	(Range)
A	China PR					
1.	Shandong Dongyue Silicone Material Co., Ltd.	***	***	***	***	50-60
2.	Wacker Chemicals Fumed Silica (Zhangjiagang) Co Ltd., Wacker Chemicals (China) Co Ltd. & Wacker Metroark Chemicals Pvt. Ltd.	***	***	***	***	10-20
3.	All others	***	***	***	***	60-70
B	Korea RP					
1.	OCI Company Limited & UNID Global Corporation	***	***	***	***	Less than 2%
2.	All others	***	***	***	***	10-20

H. ASSESSMENT OF INJURY AND CAUSAL LINK

H.1 Views of the other interested parties

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

- a. There is no causal link between the imports from Korea RP and China PR and the injury to the domestic industry. Injury if any has been caused by other factors.
- b. There is no correlation between the performance of the domestic industry and the imports from Korea RP. There is no increase in the imports from Korea RP and the imports from Korea RP are of non-pharma grade PUC.
- c. The domestic industry's performance and production have improved during the injury period.
- d. Price undercutting is as a result of difference between non-pharma grade exported by the respondents and the product grades (pharma grade and non-pharma grade) sold by the domestic industry.
- e. It is an industry-wide known fact that pharma grade is sold at a significantly higher price than the non-pharma grades.
- f. The domestic industry is suffering from increase in capacity and a consequent increase in fixed cost.
- g. The decline in sales is attributable to the decline in domestic captive consumption.

- h. The imports from non-subject countries with significant market share should not have been excluded from the scope of the present investigation. Imports from Japan constitutes 18.06% and European Union constitutes 39.05% of the total imports of PUC in the POI. This is significantly higher than the 6.44% share of Korea RP. Volume of the imports from Japan increased appreciably.
- i. Imports of the subject goods and the raw materials from China PR by the domestic industry should be examined.
- j. Imports have remained at the same level in the POI as compared to the base year as well as the previous year.
- k. If low price imports were causing price suppression or depression in the Indian market, it would have either forced imports from the non-subject countries to reduce their prices or caused a decline in the imports from the third countries.
- l. Imports excluding Korea RP constitute more than 93% of the total imports during the injury period.
- m. Imports from the subject countries have increased with the increase in demand.
- n. Untreated fumed silica is being substituted with precipitated silica in food, agro chemicals and local pharmaceuticals sectors which has led to decrease in the sales.
- o. The trends of price from the subject countries and the domestic industry have been increasing during the POI as compared to the base year 2016-17.
- p. The selling prices of marginal operators in India is reflective of the low level of marketing and sales overheads undertaken.
- q. The overall contribution (sales less CIF value) as earned by the importer in India has remained consistently high and in line with the industry standards.
- r. Increase in the prices of silicon metal has further led to increases in the import price of the PUC with the latest import CIF value at Rs. *** from China PR. The trend of import prices of the PUC from China PR is in direct, positive and near perfect correlation with the import price of silicon metal for the applicant.
- s. Capacity and domestic sales of the petitioner are increasing very frequently and with the increase in the capacity, the capacity utilization declined.
- t. A simple analysis of the financial statements of the applicant clearly shows that there is no injury to the domestic industry.
- u. The applicant has failed to specify as to why the import price from China PR should not be considered as a Non-Injurious Price (NIP) as defined under the Rules.
- v. The Designated Authority must also consider the impact on the domestic industry as a function of the overall equipment efficiency.
- w. The applicant has tried to distort the import data for untreated fumed silica from China PR vis-à-vis European Union by consolidating the import irrespective of the grade, quality or application.
- x. The applicant's cost of production has been increasing despite a fall in raw material prices and a rise in the cost of sales while the importers have faced increasing prices of the PUC.
- y. The applicant has incurred high depreciation and interest costs incurred during the course of the injury period.

- z. It is unclear as to how the captive consumption can be negative. It can be at best zero but not negative.
- aa. The applicant has requested for a cumulative assessment of injury to the domestic industry but has failed to provide any evidence or justification for the same.
- bb. The import price fell with a decline in the cost of sales. However, the sales realization managed to remain steady despite a small decline in the cost of sales.
- cc. The applicant has faced healthy year-on-year growth throughout the injury and investigation period.
- dd. The applicant has not suffered losses during the entire injury period.
- ee. Pharmaceutical quality sales account for a decent part of the domestic industry's sales and cannot be co-mingled with the non-pharmaceutical quality.
- ff. While there has been an increase in the volume of imports from China PR, the applicant continues to hold the majority of the market share in the domestic market. The volume indicators of the domestic industry also developed positively.
- gg. The domestic industry has not cited any reasons for import of subject goods from USA or the share of such imports as a % of total imports.
- hh. The applicant did not comment on why it is completely dependent on import of its key raw material from China PR despite the availability of alternatives.
- ii. The issues mentioned in the Annual Reports of the petitioning company are not reflected anywhere in the petition such as market growth, internal problems and impact of the pandemic COVID-19.
- jj. In 2021, there is a global shortage of silicon metal leading to increases in prices of the PUC which led to an increase in the average price of imports and the majority of downstream end-users are facing significant cost increases across industries.
- kk. Approximately 53% of the transaction-by-transaction import data from China has been treated as unknown, indeterminate or non-PUC data.
- ll. The overall market share for Jaychem Marketing along with other marginal operators does not exceed the actual growth in the market demand in India.
- mm. The applicant must showcase the level of dumping margin and injury margin separately for pharma grade and technical grade for apple-to-apple comparison.
- nn. The applicant has contradicted its own statements. In Para 29 ii (b), the applicant states "Whereas demand for the product increased by 4%..." while in Para 31 the applicant has stated "The demand for the subject goods has increased by 25%..."
- oo. The applicant is claiming a reduction in the domestic sales during the POI but fails to mention the near halting of the entire automotive industry which is one of the major downstream consumers of the subject PUC.
- pp. A reduction in domestic market share from over 76% to over 50% does not showcase any injury but rather showcases the establishment of a free and open market economy.
- qq. The applicant continues to hold a higher profit as %age of sales compared to the average of the chemical industry in India.
- rr. Despite a CPI of over 55% since April, 2013, the pharmaceutical industry has only been able to increase its prices by an average 18% on account of low WPI.

- ss. While making a material injury analysis, the Authority is required to evaluate the trend of the injury factors and indices and not merely make an end-point to end-point comparison of data.

H.2 Views of the domestic injury

64. The submissions made by the domestic industry with regard to injury and causal link are summarized as below:
- a. The domestic industry has suffered injury due to dumping of the product under consideration as can be seen from the information contained in the application.
 - b. The injury to the domestic industry is required to be assessed on a cumulative basis.
 - c. Demand or apparent consumption of the subject goods has increased throughout the injury period.
 - d. The volume of imports from the subject countries in absolute terms has increased throughout the injury period. Whereas the demand for the product increased by 4%, the subject imports increased by 26%.
 - e. The imports from the subject countries in relation to production & consumption in India has declined from the base year in 2017-18 and then increased till the POI.
 - f. Imports are significantly undercutting the prices of the domestic industry in the market.
 - g. The cost of sales has increased from the base year in 2018-19 and slightly declined in the POI whereas selling price has declined from the base year in 2017-18 and thereafter increased till the POI. Comparison of cost of sales and landed price of imports of the subject countries shows that the landed price of imports is much below the level of cost of production of the domestic industry for the product concerned. The selling price of the subject goods has not increased commensurate with the cost thereof.
 - h. The subject goods have had a suppressing and depressing effect on the prices of the domestic industry.
 - i. The subject imports are at prices significantly below the non-Injurious price of the domestic industry, thus resulting in significant price underselling/ injury margin.
 - j. The domestic industry has increased its capacity over the injury period.
 - k. The production of the domestic industry has increased initially with addition of capacities but declined in the POI.
 - l. The capacity utilization of the domestic industry has declined from the base year in 2017-18, increased in 2018-19 and again declined in the POI.
 - m. The domestic sales of the domestic industry have declined in the period of investigation. The market share of domestic industry has increased from the base year to 2018-19 and steeply declined in the POI even below the levels in the base year. The imports have not only prevented the domestic industry from achieving its potential market share but also resulted in a decline in market share of the domestic industry from 76% to only 46%.
 - n. Inventories increased by 123% in the POI when compared to the base year and inventory holding period during the period of investigation is the highest.
 - o. The profitability of the domestic industry has declined significantly from the base year to 2017-18 and thereafter increased till POI. Cash profit and profit before interest have

- also followed the same trend. The return on investment has declined in 2017-18 as compared to base year thereafter remained low till the POI.
- p. The domestic industry is not able to compete with the cheaper priced imports from China PR and Korea RP and compelled to lower the supply price hence the profitability eroded and has lost its market to cheaper priced imports from China PR and Korea RP.
 - q. The employment has been stable throughout the injury period except for a slight decline in the POI.
 - r. The wages have increased throughout the injury period. However, wages are not solely dependent on the subject goods' performance.
 - s. The productivity per day and productivity per employee has increased throughout the injury period except slight decline in the POI.
 - t. The performance of the domestic industry has deteriorated over the period. Both the volume and price parameters have shown deterioration in the period of investigation.
 - u. The dumping margin is not only more than de-minimis but also substantial. The impact of dumping on the domestic industry is adverse.
 - v. The domestic industry has recently increased its production capacities. The ability of the domestic industry to raise capital investment will be jeopardized if the subject imports from the subject countries remain unaddressed.
 - w. The raw material prices over the period increased and but the import prices declined.
 - x. There is no captive consumption involved and the products produced are sold in the market. Quality defective products generated during the period are shown as captive consumption. They are very negligible and vary between (0.1% -0.2%) of sales quantity. Captive consumption is negative as there is a reversal of consumption and net generation of C grade stock (quality defective products) reported as captive consumption in the data. During the year 2018-19, the domestic industry has reprocessed *** Kgs of C grade stock to normal untreated stock.
 - y. The legal requirement for causal link is existence of "a" causal relationship and not existence of "the" causal link between dumped imports and injury.
 - z. The import price from the rest of the world shows the kind of prices prevailing for the product. It is also indicative of higher costs in these countries as compared to India.
 - aa. The petitioner has *** direct consumers and *** dealers. The 10 dealers are in turn selling to a number of consumers. Such a large consumer base is not catered through individual price offers and negotiations. It can be catered only through price lists and application of the same. The domestic industry has lost sales to a number of customers who have either started or increased their sourcing from imports.
 - bb. Under anti-dumping Agreement and the Indian anti-dumping rules, 3% of dumped imports to total is considered as significant and the affected domestic industry can seek relief under the antidumping law. In the present case, the imports from the Korea RP enjoy a significant share in the total imports and demand.
 - cc. The performance in the Annual Report is not indicative of the performance of the product under consideration as the applicant is a multi-product company. The applicant is not facing injury in treated fumed silica. Annual Report shows that the profitability has eroded due to unfair pricing by exporters of the subject countries and also the market share dropped in the POI. Performance of the company mentioned is only

regarding the impact of COVID 19 lockdown in the month of March 2020 and not for the complete POI.

- dd. One of the key raw materials of PUC is Metallurgical Grade Silicon which is not available in India. China is the largest producer of Metallurgical Grade silicon in the world. The other major countries exporting MG Silicon are Norway, USA and South Africa. The applicant does import MG Silicon from these countries also.
- ee. The year 2021 is not the period of investigation and being original investigation, the Authority need not analyze the post POI data either for the product under consideration or the raw material prices.
- ff. The demand is more than the capacity of the domestic industry despite which the sales of the domestic industry have come down. Thus, the only factor responsible for the domestic industry's prices is the import prices of the product.
- gg. The data provided in the application establishes that injury is not due to other factors.
- hh. The subject countries account for 42% of the total imports into the country. Other than that, the imports from European Union and Japan account for 57% of the total imports. However, the imports from the EU and Japan not only are at much higher prices than the subject imports, but also above the selling price of the domestic industry.
- ii. Contraction in demand has not caused injury to the domestic industry.
- jj. The performance of the domestic industry has been segregated between the domestic and export operations and the export performance is not a cause of injury to the domestic industry.
- kk. There has been no material change in the pattern of consumption of the product under consideration.
- ll. No trade restrictive practice, which could have contributed to the injury to the domestic industry.
- mm. The technology for the production process for producing product under consideration has not undergone any significant development. Possible developments in technology are not a cause of injury to the domestic industry.
- nn. The data provided relates only to the performance of the subject goods. Therefore, the injury suffered cannot be attributed to the performance of the other products that are being produced and sold by the domestic industry.
- oo. The domestic industry imports raw materials from suppliers located in China PR. Those suppliers are not related to the domestic industry.
- pp. Price depression suffered by the domestic industry is due to dumped imports which has resulted in decline in profits, profit before interest, cash flow and return on capital employed.
- qq. There is significant price underselling due to low priced dumped imports as the landed price of imports are significantly below the non-injurious price of the domestic industry.
- rr. Market share of the domestic industry has decreased even though demand for the subject goods has been rising in India.
- ss. The producers in the subject countries reduced price to retain their volume and market in the country. Resultantly, the domestic industry was prevented from maintaining its market share even after commencing commercial production.

H.3 Examination by the Authority

H.3.1 Cumulative Assessment

65. Article 3 of WTO Agreement and Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
- a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and
 - b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
66. In order to ascertain whether cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles, the following parameters have been examined: -
- a. Products supplied by different parties are like articles and are comparable in properties.
 - b. Domestically produced products and imported products are interchangeable.
 - c. There is direct competition between the domestic product and the imported product and inter-se between the imported product.
 - d. Consumers are using domestic material and imported material interchangeably and exporter and domestic industry have sold the same product to same set of customers.
 - e. Import price from subject countries have moved in tandem.
67. The Authority notes that:
- a. the subject goods are being dumped into India from the subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
 - b. the volume of imports from each of the subject country is individually more than 3% of the total volume of imports.
 - c. cumulative assessment of the effects of import is appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market.
68. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from China PR and Korea RP on the domestic industry.
69. Rule 11 of 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 effects 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 Rules.

H.3.2 Volume effect of the dumped imports on the domestic industry

a. Assessment of demand/apparent consumption

70. For the purpose of the present investigation, the Authority has taken into consideration the demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources.

SN	Particulars	Units	2016-17	2017-18	2018-19	POI
1	Domestic industry sales	KG	***	***	***	***
		Indexed	100	123	130	120
2	Sales of other domestic producers	KG	-	-	-	-
3	Imports from Subject Countries	KG	6,58,651	6,28,585	6,98,414	8,68,538
a	China PR	KG	5,58,171	5,19,600	6,31,204	7,35,418
b	Korea PR	KG	1,00,480	1,08,985	67,210	1,33,120
4	Imports from Other Countries	KG	9,83,108	11,34,561	10,83,239	11,98,490
5	Total Demand	KG	***	***	***	***
		Indexed	100	115	119	123

71. It is seen that the demand of the product under consideration has continuously increased over the injury period.

b. Import volumes from the subject countries

72. 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 from the subject countries, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction-wise import data procured from DGCI&S. The volume of imports of the subject goods from the subject country has been analysed as under:

SN	Particulars	Units	2016-17	2017-18	2018-19	POI
1	Imports from Subject Countries	KG	6,58,651	6,28,585	6,98,414	8,68,538

a	China PR	KG	5,58,171	5,19,600	6,31,204	7,35,418
b	Korea PR	KG	1,00,480	1,08,985	67,210	1,33,120
2	Imports from Other Countries	KG	9,83,108	11,34,561	10,83,239	11,98,490
3	Total Imports	KG	16,41,759	17,63,146	17,81,653	20,67,028

73. It is seen that the volume of imports from the subject countries declined in 2017-18 and thereafter increased till the POI. Further, the increase in the POI was quite significant. Whereas the demand increased merely by 4% in the POI as compared to the preceding year, the import volumes increased by 26%. In absolute terms, whereas the demand increased by 1,27,958 kgs, the subject imports increased by 1,70,124 kgs. It is also noted that the dumping margin is de-minimis in the case of the only responding producer-exporter from Korea RP.

c. Subject Countries imports in relative terms

SN	Particulars	Units	2016-17	2017-18	2018-19	POI
	Subject Countries import in relation to:					
1	Total imports into India	%	***	***	***	***
		Indexed	100	89	98	105
2	Indian Production	%	***	***	***	***
		Indexed	100	76	78	104
3	Domestic Sales	%	***	***	***	***
		Indexed	100	78	81	110
4	Consumption	%	***	***	***	***
		Indexed	100	83	89	107

74. It is seen that:

- the imports from the subject countries declined in relation to gross imports in 2017-18 and increased thereafter till the POI
- the imports in relation to production, consumption and sales of the domestic industry declined in 2017-18 and increased thereafter till the POI.
- the increase in imports in relation to gross imports, production, consumption in India and sales of the domestic industry in the POI was higher than the levels prevailing in the POI.

H3.3 Price effect of the dumped imports

75. In terms of Annexure II (ii) of the Rules, 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 dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred, to a significant degree in the normal course.

a. Price Undercutting

76. For the purpose of price undercutting analysis, the net selling price of the domestic industry has been compared with the landed value of the imports from the subject countries. 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 compared with the landed value of the dumped imports. Accordingly, the undercutting effects of the dumped imports from the subject countries has been worked out as follows:

SN	Particulars	Units	POI		
			China PR	Korea RP	Subject Countries
1	Landed price	Rs/KG	302	292	301
2	Net sales realization	Rs/KG	***	***	***
3	Price undercutting	Rs/KG	***	***	***
4	Price undercutting	%	***	***	***
5	Price undercutting	Range	10-20	20-30	20-30

77. It is seen that landed price of the subject goods from the subject countries is at prices materially below the selling price of the domestic industry in the POI. Price undercutting is positive and significant for both the subject countries.

b. Price suppression and depression

78. 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, have been compared as below:

SN	Particulars	Units	2016-17	2017-18	2018-19	POI
1	Cost of Sales	Rs/KG	***	***	***	***
		Indexed	100	109	109	112
2	Selling Price	Rs/KG	***	***	***	***
		Indexed	100	94	105	106
3	Average Landed Price from subject countries	Rs/KG	264	268	325	310
		Indexed	100	102	123	117

79. It is seen that:

- a. the landed price of imports from the subject countries was lower than the cost of sales of domestic industry in the POI.
- b. whereas both cost and price have increased over the injury period.
- c. In the POI, prices are depressed as compared to 2018-19.

H.3.4. Economic parameters of the domestic industry

80. Annexure II to the AD Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed herein below. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

a. **Production, capacity, sales and capacity utilization**

81. Capacity, production, sales and capacity utilization of the domestic industry over the injury period are as follows. Since the domestic industry has used the production facilities for production of untreated fumed silica as well as treated fumed silica, the Authority has evaluated the performance of the domestic industry in respect of both, individually and thereafter collectively.

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Installed Capacity Plant	KG	***	***	***	***
		Indexed	100	146	146	151
2	Production Quantity Plant	KG	***	***	***	***
		Indexed	100	125	151	142
3	Capacity Utilisation	%	***	***	***	***
		Indexed	100	85	103	94
4	Production Quantity PUC	KG	***	***	***	***
		Indexed	100	126	137	126
5	Production Quantity NPUC	KG	***	***	***	***
		Indexed	100	104	313	324
6	Sales Quantity					
a	Domestic	KG	***	***	***	***
		Indexed	100	123	130	120
b	Export	KG	-	-	***	-
		Indexed	-	-	100	-
c	Captive Consumption	KG	***	***	(***)	***
		Indexed	100	48	(55)	89

82. It is seen that:

a. The domestic industry increased its capacities in the year 2017-18 and then again in the POI. It is seen that the demand for the product is increasing significantly. Further, capacities with the domestic industry are lower than the demand for the product in the country. With

the rising capacities, the domestic industry has been able to cater to higher degree of demand for the product in the country in the POI as compared to the base year.

- b. Production of the domestic industry for the untreated fumed silica increased till 2018-19 but declined in the POI. Production of treated fumed silica, however, increased throughout the injury period. However, the decline in the production in the POI was so significant that gross production of the plant declined in the POI. The decline in production for untreated fumed silica is despite increase in demand for the product. Further, the decline in production is despite increase in capacity.
- c. The capacity utilization declined in 2017-18, increased in 2018-19 and thereafter declined in the POI. The production had increased in 2017-18 and the decline in the capacity utilization was largely due to increase in the capacity. Even if the capacity addition of the domestic industry in the POI is ignored, it is seen that the capacity utilization was lower than both the base year and the preceding year.
- d. Domestic sales increased consistently till 2018-19, but declined significantly in the POI even though the demand/consumption increased. The domestic industry suffered a decline of 10% in the POI as compared to the previous year. Demand in this period increased by 4% and the subject imports increased by 26%.
- e. The Authority examined the trends in exports and captive consumption by the domestic industry. It is seen that the domestic industry had no exports, barring in 2018-19. Further, the captive consumption is nothing but processing of untreated fumed silica to treated fumed silica. The negative captive consumption in 2018-19 is due to accounting treatments and reversal of some captive consumption. However, captive consumption of untreated fumed silica is only ***% (cumulative for the injury period).

b. Market share in demand

83. Market share of the domestic industry and of the imports is shown in the table below:

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	of domestic industry	%	***	***	***	***
		Indexed	100	107	110	97
2	Import from subject countries	%	***	***	***	***
		Indexed	100	83	89	107
3	Import from Other countries	%	***	***	***	***
		Indexed	100	101	93	99
4	Total Demand	%	100.00%	100.00%	100.00%	100.00%
		Indexed	100	100	100	100

84. It is seen that:

- a. The market share of the subject imports declined in 2017-18 and increased thereafter till the POI. The share of subject imports in the POI was higher than the base year.
- b. The market share of domestic industry increased till 2018-19 and declined significantly in the POI. The share of domestic industry in the POI was lower than the base year.
- c. The decline in the market share of the domestic industry is despite increase in capacity by the domestic industry.

- d. The imports from the non-subject countries are significant but they are not causing injury because they are priced very high in comparison to the imports from the subject country.

c. Profit/Loss, Cash Flow, Return on Capital Employed

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of Sales	Rs/KG	***	***	***	***
		Indexed	100	109	109	112
2	Selling price	Rs/KG	***	***	***	***
		Indexed	100	94	105	106
3	Profit before tax	Rs/KG	***	***	***	***
		Indexed	100	37	88	83
4	Total Profit before Tax	Rs.Lacs	***	***	***	***
		Indexed	100	45	115	99
5	Total Profit before interest	Rs.Lacs	***	***	***	***
		Indexed	100	63	117	100
6	Cash Profit	Rs.Lacs	***	***	***	***
		Indexed	100	59	121	106
7	Capital employed	Rs.Lacs	***	***	***	***
		Indexed	100	237	188	203
8	Return on capital employed	%	***	***	***	***
		Indexed	100	27	62	49

86. It is seen that:

- The profits of the domestic industry declined significantly in 2017-18, increased in 2018-19 and again declined in the POI.
- The cash profits and ROCE declined significantly in 2017-18, increased in 2018-19 and thereafter declined in POI.
- Even when profits, cash profits and ROCE increased in the POI, the same were below the levels prevailing in the POI.
- While ROCE decline could be partly attributed to increase in capital employed, the profit before interest has remained almost at the same levels. Thus, even when the domestic industry has doubled the capital employed over the injury period, it has earned the same level of profits.
- Whereas the domestic industry increased its capacity over the injury period and consequently its production and sales increased over the injury period, its profit before tax, profit before interest and cash profits were almost at the same levels in the POI as were prevailing in the base year. Despite 20% increase in domestic sales over the injury period, the profit before tax was lower than base year, whereas profit before interest was almost at the same level and cash profits increased by 7%.

87. The interested parties have contended that whereas the domestic industry has claimed decline in profits, its Annual Report shows increase in profits. The Authority, therefore, examined the profitability of the domestic industry in respect of the PUC, other products and overall company's operations. The Authority notes that the domestic industry is engaged in production of only untreated fumed silica and treated fumed silica. Therefore, the Annual Report shows performance of these two products. The company provided information with regard to its overall operations and untreated fumed silica. The Authority, therefore, examined the performance of the domestic industry for overall operations, and segregated into untreated fumed silica and treated fumed silica. The table below shows profit/loss for the untreated fumed silica and treated fumed silica.

Particular	Unit	2016-17	2017-18	2018-19	POI
Untreated fumed silica	Rs.Lacs	***	***	***	***
	Indexed	100	45	105	98
Treated fumed silica	Rs.Lacs	***	***	***	***
	Indexed	100	885	2464	5186
Total for the company	Rs.Lacs	***	***	***	***
	Indexed	100	56	135	164

88. The Authority further noted that whereas the production and the domestic sales of untreated fumed silica declined, that of treated fumed silica increased. It is thus seen that the performance of untreated fumed silica declined, whereas performance of treated fumed silica increased. The Authority notes that untreated fumed silica forms ****% to ****% of the overall production. Further, the share of untreated fumed silica declined as compared to treated fumed silica. The performance of domestic industry has got materially impacted in respect of untreated fumed silica, whereas its performance for treated fumed silica improved, leading to overall improvement in performance of the domestic industry.

d. Inventories

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Opening Stock	KG	***	***	***	***
		Indexed	100	70	90	85
2	Closing Stock	KG	***	***	***	***
		Indexed	100	129	121	226
3	Average	KG	***	***	***	***
		Indexed	100	94	103	143

90. It is seen that the inventories with the domestic industry declined sharply in 2017-18. However, inventories increased thereafter rather significantly till the POI. The domestic industry is suffering from accumulation of inventories. The inventories at the end of the POI were 39% higher than 2018-19.

e. Employment, productivity and wages

91. Performance of the domestic industry with regard to employment, productivity and wages over the injury period was as follows:

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	No of Employees	Nos	***	***	***	***
		Indexed	100	100	100	98
2	Wages	Rs.Lacs	***	***	***	***
		Indexed	100	103	100	125
3	Productivity per day	Kgs/Day	***	***	***	***
		Indexed	100	125	151	142
4	Productivity per employee	No/Kgs	***	***	***	***
		Indexed	100	125	151	144

92. It is seen that the number of employees has remained constant over the injury period even though wages increased over the injury period and productivity of the domestic industry increased over the injury period.

f. Growth

	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Production	%	-	26.26	8.30	(7.55)
2	Domestic Sales Volume	%	-	22.94	6.01	(8.18)
3	Capacity Utilisation	%	-	(14.96)	20.88	(8.39)
4	Cost of sales	%	-	8.98	0.00	2.71
5	Selling price	%	-	(5.77)	11.12	1.18
6	Average stock	%	-	(5.78)	9.10	38.87
7	Cash Profit	%	-	(40.91)	104.86	(12.04)
8	Return on Capital Employed	%	-	(73.28)	133.32	(21.03)
9	Profit before Interest and Tax	%	-	(36.58)	84.77	(14.59)
10	Market share	%				

93. It is seen that the growth of the domestic industry in respect of various volume and price parameters was negative in the POI.

g. Ability to raise capital investments

94. The Authority notes that the domestic industry has increased its production capacities. Further, the domestic industry has been profitable over the injury period. It is seen that the performance of the domestic industry is not impacted in respect of its ability to raise capital investments.

h. Magnitude of dumping

95. It is noted that the subject goods are being dumped into India and the dumping margin is positive and significant in the case of China PR. However, the dumping margin is de-minimis in the case of the only responding producer-exporter from Korea RP.

i. Factors affecting domestic prices

96. The examination of the import prices from the subject countries, 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 shows that the landed value of the subject goods from the subject countries is significantly below the selling price of the domestic industry. The domestic industry is the sole domestic supplier of the product in the country. Landed price of imports from non-subject countries are much higher than the landed price of imports from subject countries and, therefore, could not have benchmarked the domestic prices. It is thus seen that the landed prices of subject goods from the subject countries are affecting the prices of the domestic industry.

H.3.5 CONCLUSION ON THE INJURY

97. The examination of the imports of the subject goods and performance of domestic industry shows that the volume of imports has increased in absolute terms as well as in relation to production and consumption in India over the injury period. The imports are undercutting the prices of the domestic industry. The price underselling is positive. The imports of the subject goods from the subject countries have resulted in price depression in the market.

98. While the capacity of the domestic industry has increased over the period, the production of untreated fumed silica declined in the POI, leading to decline in gross production, including treated fumed silica. Sales of the domestic industry, which were increasing till 2018-19, declined in the POI. The market share of subject imports is significant. While the market share of domestic industry increased till 2018-19, it has declined in the POI. The capacity utilisation of the domestic industry has declined as a result of decline in production. The domestic industry has suffered in respect of profits before tax, profit before interest, cash profit over the injury period. The per unit profits generated by the PUC declined significantly as compared to base year, leading to significant decline in return on capital employed over the injury period. The dumping margin and injury margin are positive and significant. However, the dumping margin is de-minimis in the case of the only responding producer-exporter from Korea RP.

H.3.6 Injury Margin

99. 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 countries for calculating the 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 utilisation 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 as per consistent practice of the Authority.

100. Landed price of imports for cooperative producers/exporters from the subject countries has been determined on the basis of their questionnaire responses. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.

101. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below:

SN	Subject Countries	Non-Injurious Price	Landed Value	Injury Margin	Injury Margin	Injury Margin
		(US\$/MT)	(US\$/MT)	(US\$/MT)	(%)	(Range)
A	China PR					
1.	Shandong Dongyue Silicone Material Co., Ltd.	***	***	***	***	20-30
2.	Wacker Chemicals Fumed Silica (Zhangjiagang) Co Ltd., Wacker Chemicals (China) Co Ltd. & Wacker Metroark Chemicals Pvt Ltd.	***	***	(***)	(***)	(0-10)
3.	All others	***	***	***	***	30-40
B	Korea RP					
1.	OCI Company Limited & UNID Global Corporation	***	***	***	***	10-20
2.	All Others	***	***	***	***	20-30

I. NON-ATTRIBUTION ANALYSIS

102. Having examined the existence of injury, volume and price effects of dumped imports on the prices of the domestic industry, the Authority has examined whether injury to the

domestic industry can be attributed to any factor, other than the dumped imports, as listed under the Rules.

a. Imports from other sources

103. Imports above de-minimis levels have been reported from Belgium, China, Germany, Japan and Korea. The Authority examined the volume, average import price and share of each of these countries.

Volumes in Kgs

	2016-17	2017-18	2018-19	2019-20
Belgium	2,17,320	2,42,900	1,24,000	1,04,000
China	5,58,171	5,19,600	6,31,204	7,35,418
Germany	5,37,862	5,67,364	6,41,595	7,03,141
Japan	2,25,360	3,16,460	3,04,920	3,73,320
Korea	1,00,480	1,08,985	67,210	1,33,120

Average price Rs./Kgs

	2016-17	2017-18	2018-19	2019-20
Belgium	368	354	367	381
China	239	247	300	289
Germany	378	353	384	393
Japan	338	307	320	332
Korea	280	266	326	292

Share in %

	2016-17	2017-18	2018-19	2019-20
Belgium	13.24	13.78	6.96	5.03
China	34.00	29.47	35.43	35.58
Germany	32.76	32.18	36.01	34.02
Japan	13.73	17.95	17.11	18.06
Korea	6.12	6.18	3.77	6.44

104. It is seen that:

- i. The import prices from each of the non-subject countries were higher than the import price from China and Korea.
- ii. Since significant increase in the imports occurred in the POI, the Authority examined the trend in prices from the subject and the non-subject countries between 2018-19 and POI. It is seen that whereas import prices declined in the POI (as compared to 2018-19) from the subject countries, the import prices increased from the non-subject countries.

b. Increase in demand

105. The demand of the product under consideration has increased over the injury period. Further, the domestic industry has lost market share to the subject imports in the POI, and

its production, domestic sales and capacity utilisation declined in the POI. Thus, the injury is not on account of any possible contraction in demand.

c. Changes in the pattern of consumption

106. There is no evidence of any change in the pattern of consumption with regard to the product under consideration. Further, the demand for untreated fumed silica has shown increase over the injury period. The domestic industry has increased the capacities and significant imports are from non-subject countries as well. Therefore, there is no evidence of possible changes in the pattern of consumption that could have caused injury to the domestic industry.

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

107. There is no trade restrictive practice, which could have contributed to the injury to the domestic industry. The domestic industry is the sole domestic producer. Further, significant imports are from non-subject countries, that too from more than one source. Imports from different sources are at different prices. It is thus seen that there is enough competition within the domestic market. Imports from the subject countries have been found at dumped prices.

e. Developments in technology

108. 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. The domestic industry has added significant capacities over the injury period.

f. Export performance

109. The injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. In any case, barring 2018-19, the domestic industry does not have exports. Thus, the injury suffered cannot be attributed to the export performance of the domestic industry.

g. Performance of other products being produced and sold by the domestic industry

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

J. EXAMINATION ON CAUSAL LINK

111. It is noted that other known factors listed under the Rules do not show that the domestic industry could have suffered injury due to these other known listed factors. It is also noted that the domestic industry has not suffered injury due to any other factor identified by the interested parties. The Authority examined whether the dumping of the product has caused

injury to the domestic industry. The following parameters show that material injury to the domestic industry has been caused by dumped imports.

- a. Imports were undercutting the prices of the domestic industry. Further, the price undercutting is quite significant. Resultantly, the volume of imports has increased significantly over the period.
- b. Whereas the market share of the subject imports has increased, that of the domestic industry has declined. Further, the domestic industry has lost sales volumes in the POI. Thus, the decline in market share of the domestic industry is due to decline in domestic sales of the domestic industry.
- c. The domestic industry lost domestic sales in the POI. Consequently, its production and capacity utilization declined in the POI, while inventories increased significantly.
- d. The per unit profits of the domestic industry declined over the injury period. Resultantly, the ROI declined over the injury period.
- e. Growth of the domestic industry was negative in the POI in both volume and price factors.
- f. The increase in subject imports in the POI was far beyond the increase in demand for the product in the market. Resultantly, the domestic industry lost market share, sales volumes, and consequently production and capacity utilization.

K. POST DISCLOSURE COMMENTS

K.1 Views of the other interested parties

112. The following post-disclosure submissions have been made by the other interested parties:

- a. The dumping margin determined for OCI Company Limited and UNID Global Corporation is less than 2% and the Authority may confirm it in the final findings. If there is any change, the Authority should issue revised disclosure statement and provide opportunity to the interested parties to offer the comments.
- b. The dumping margin calculated for OCI is de minimis. Therefore, immediate termination of the investigation against OCI is warranted in the light of the Article 5.8 of the Anti-dumping Agreement & WTO Appellate Body in Mexico – Definitive anti-dumping measures on Beef and Rice.
- c. As per Section 9A (6A) of the Customs Tariff Act, 1975, the normal value shall be determined based on the records maintained by the producer/exporter. The Authority has disregarded the information for raw material Silicon Tetrachloride (“STC”) which OCI is captively producing. The actual records maintained by the company reflect benchmark prices prevailing in China PR, and prices of STC in China PR are suitable benchmark. Further, STC is not procured by them from China PR and, therefore, the raw material cost cannot be rejected on the ground that China PR is a non-market economy.
- d. The Authority may reconsider its decision regarding separate PCNs for pharma and non-pharma grades to ensure ‘apple-to-apple’ fair comparison of prices and adopt PCN

methodology for fair comparison between pharma grade PUC and non-pharma grade PUC and determine the dumping margin and the injury margin for pharma grade PUC and non-pharma grade PUC separately. The observations of the Authority are inconsistent and irreconcilable with the import data of pharma grade and non-pharma grade

- e. The non-pharma grade cannot compete with the pharma grade PUC. The comparison of landed price of exports comprising only the non-pharma grade with the average non-injurious price of the domestic industry comprising pharma as well as non-pharma grade will show exaggerated injury margin and not reflective of the actual situation. The Authority may perform a segmented analysis (pharmaceutical and technical quality) of the injury to come to an accurate finding and not unduly punish fair imports. Such difference in the product mix leads to inaccuracy in (a) calculating and assessing an accurate normal value and consequently dumping margin, (b) calculating and assessing an accurate non-injurious price and injury margin, (c) assessing the volume and price effects and other injury parameters and (d) assessing and establishing a causal link between the allegedly dumped imports and the injury claimed.
- f. A significant increase in the fixed costs of the domestic industry has led to the decline of the profitability of the domestic industry. The Authority should note the impact of high fixed costs and depreciation while assessing causal link between the imports and the injury to the domestic industry. The imports cannot be blamed for losses caused due to sudden increase in the fixed and depreciation cost. The Authority has not examined that why losses caused cannot be attributed to sudden increase in the fixed cost and depreciation cost.
- g. The claim of applicant that Untreated Fumed Silica is different from other synthetic Silica has been proven to be untrue as Precipitated Silica is a direct substitute in the majority of the applications. Precipitated silica while different in nature, its production process and the end products have the same properties and provide the same benefits to downstream users with Precipitated Silica being significantly cost effective in comparison. These common features are important to high volume industries like agrochemicals, silicon rubber, food processing industry, etc.
- h. The applicant has falsely claimed that the indexed version of information is not made available. This is either because the actual data relating to the imports has been considered as non-confidential or as the information was not relating to costs or capacity utilization.
- i. The import CIF value of the PUC is at Rs. 355 from China PR in the current year which is higher than the normal value based on CIF of imports from Japan.
- j. There has been significant increase in the landed price for the imports from China PR from the period of investigation to date.
- k. The applicant would be the singular benefactor of any ADD and all downstream customers will face with an undue increase in price beyond what is already faced.
- l. A similar analysis should be made for all downstream customers who are currently facing additional pressures of an unsecure and uncertain supply and a widely varying demand month-on-month.

- m. The impact Analysis provided by the applicant clearly points out the additional burden on the already COVID stressed downstream customers. The supply chain costs have also increased significantly and the impact analysis is to ensure public interest for over downstream end users.
- n. The Authority should consider variable duty by notifying reference price. Thus, importers like Jay Chem Marketing would be allowed the opportunity to not pay anti-dumping duty but rather ensure and abide by an import price higher than the set reference price. The Authority may revise the prices to remove the dumping, or the injurious effect of dumping.
- o. Shandong Dongyue Silicone Material Co., Ltd has exported total 24 transactions out of which 3 transactions are on FOB and rest are of CIF. The Authority shall compute landed value of these 3 FOB transactions after converting into CIF price by adding notional impact of ocean freight and insurance to FOB values as claimed in Appendix-3A of Shandong Dongyue filed with DGTR.
- p. The operating or running cost of a plant manufacturing pharmaceutical quality PUC is significantly higher due to the climate control, sanitation, and other manufacturing protocols which are in operation at all the times.
- q. Since normal value is based on the import data, the same should also be disclosed, along with the import prices from which countries have been included in determination of normal value. (Melamine from China PR case relied upon)
- r. The injury analysis must only contain an analysis of the 'dumped' imports and its effect on the domestic industry.
- s. The Authority should not recommend the imposition of any measures since the injury margin calculated for Wacker Chemicals (China) Co. Ltd, Wacker Chemicals Fumed Silica (Zhangjiagang) Co. Ltd and Wacker Metroark Chemicals Pvt. Ltd. is negative.

K.2 Views of the domestic industry

113. The following are the post-disclosure submissions made by the domestic industry:

- a. The imposition of anti-dumping measure on the imports of the product under consideration would be in the interests of the domestic manufacturers. Further, it is in the consumers' interest and the public at large to have a competitive domestic industry capable of supplying the product in competition to the fair priced imports.
- b. The objective of imposition of the anti-dumping duty is to establish a level playing field, by removing any trade distortion by the producers in the subject countries and allowing the Indian industry an opportunity for fair competition.
- c. The impact of the duty on the eventual end products are miniscule.
- d. OCI has sold the subject goods both in bulk and packed forms in the domestic market, while it has exported the subject goods to India in packed form only. The Authority has taken only the packed sales into account for determination of the normal value for OCI. No PCN has been framed in the present case and such being the case, different types of the product cannot be excluded.

- e. OCI and UNID are related entities. As the sales are made to a related exporter, the export price should be determined from the selling price of those goods by the exporter to the independent buyers after making appropriate additional adjustments such as SGA, reasonable profit and the interest incurred by the related exporter.
- f. India chose to adopt lesser duty law. This is the first disadvantage created against the domestic industry. The NIP has been determined in this case by (a) changing the apportionment methods for major items of expenses and (b) by ignoring the legitimate business expenses. This has resulted in unduly low NIP and resultantly injury margin.
- g. The non-injurious price determined by the Authority may be reviewed, as this is too low to protect legitimate interests of the domestic industry. The cost of production reported by the applicant has been modified by the Authority without giving the proper justification for the same. In spite, the fact that the allocation methods used by the company for calculating the COP for ADD purpose was as per the books of accounts maintained by the company and the same allocation method was used by company for inventory valuation and has been accepted by statutory auditors also.
- h. The selling price methodology will highly distort overhead allocation. There is no linkage between the price of the two products and the overhead expenses incurred.
- i. Special adhoc compensation is a component of salary paid to the employees and is the part of CTC of these employees.
- j. During November, 2019, some of the equipments were installed and capitalised in the books. However, remaining activities to increase the capacity to *** MT were completed in March, 2021 and were capitalised on 24.03.2021.
- k. The condensers are constructed with high end metals, and it takes long delivery period. Hence, this system was installed and commissioned in March, 2021.
- l. The duty should be imposed as fixed amount expressed in terms of US\$.

K.3 Examination by the Authority

114. The Authority has examined the post disclosure submissions made by the other interested parties and notes that though most comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the findings, the Authority examines the issues raised in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority as below.

- a. With regard to the claim of domestic industry that related trader's expenses and profit should also be adjusted while calculating the ex-factory export price for OCI, it is noted that related trader's expenses and profit are required to be adjusted if the Authority adopts related trader's export price to Indian customers for working out the ex-factory export price. If the Authority adopts the price at which producer has sold the goods to the related trader for determination of ex-factory export price, then trader's expenses and profit are not required to be adjusted. The ex-factory price worked out by both the aforesaid methodologies would ultimately be same. In the present case, the Authority has adopted the sale price of OCI to UNID for determination of ex-factory export price and therefore no adjustment for expenses incurred by UNID and profit of UNID is

required to be made while working out the ex-factory export price. The Authority has duly examined and noted that UNID has not incurred any loss with regard to exports of PUC to India and therefore there is no need for any adjustment on account of loss incurred by trader.

- b. With regard to the claim of domestic industry that Authority should not make packed to packed comparison for calculation of dumping margin for OCI as NIP has not been determined separately for packed and bulk products, the Authority notes that NIP has no relevance or purpose in calculation of dumping margin. NIP is used for calculation of Injury Margin. Dumping margin is the comparison of normal value and export price to India. In the present case, OCI has sold subject goods both in bulk and packed forms in the domestic market, while it has exported the subject goods to India in packed form only. Therefore, keeping in mind the principles of fair comparison enshrined in AD Rules, it is incumbent upon the Authority to consider only the packed sales into account for determination of the normal value for OCI. This is also in accordance with the consistent practice of the Authority. In one of the recently concluded investigation on "Rubber Chemical PX-13" from China PR, Korea RP and USA, the Authority has adopted the same approach for calculation of dumping margin for the cooperating producer/exporter from Korea RP.
- c. As regards the contention that OCI has sold the subject goods both in bulk and packed forms in the domestic market while it has exported the subject goods to India in packed form only, the Authority reiterates that in order to have a fair comparison, it has taken only the packed sales into account for the determination of the normal value for OCI.
- d. As regards to the contention that the NIP determined is unduly low leading to very low margins, the Authority notes that the rules require the Authority to recommend ADD considering dumping margin and injury margin. If the injury margin determined is lower than the dumping margin, the Authority is required to consider such injury margin while recommending the duty.
- e. The non-injurious Price (NIP) based on the optimum cost of production and the cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry. Regarding the inconsistency in calculation of NIP, it is noted that the NIP has been calculated on the basis of principles laid down under the Rules. 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, duly certified by the practising cost accountant and examined by the Authority.

- f. As regards to the contention that there should be separate PCNs for pharma and non-pharma grades, the Authority reiterates that there is no difference in the raw material used or the production/manufacturing process involved whether for pharma or non-pharma grade. The only major difference between the two is that pharma grade requires more stringent testing and higher specifications. However, this is not a result of any difference in the production process. It is only a result of quality testing. There is no material difference in the cost of the production of the pharma or the non-pharma grade.
- g. As regards to the contention that a significant increase in fixed costs of the domestic industry has led to decline of profitability of the domestic industry, the Authority notes that the causal link provision requires the investigating authorities, as part of their causation analysis, to examine all known factors other than dumped imports, which are causing injury to the domestic industry at the same time as the dumped imports. The Authority has ensured that injuries which are caused to the domestic industry by the known factors, other than dumped imports, are not 'attributed to the dumped imports'.
- h. As regards to the contention that precipitated silica is a direct substitute of the PUC in the majority of the applications, the Authority reiterates that "Precipitated silica" cannot replace "fumed silica" in many applications and the interested parties have not established that these two kinds of products are the same product in terms of their functionality, manufacturing process, raw materials, functions & uses, production technology, plant & equipment, costs and prices. While other synthetic silicas are made from silicate solution in a liquid phase, fumed silica is manufactured in a gas phase at a very high temperature. It is also seen from the import data that there are significant differences in the price of these two types of products. The product has no substitute. Precipitated silica has low purity and is less efficient than fumed silica. There is huge difference between the two.
- i. As regards to the contention that M/s Shandong Dongyue Silicone Material Co., Ltd. has exported a total of 24 transactions, out of which 3 transactions are on FOB basis and rest on CIF basis, the Authority notes that it has appropriately converted the FOB transactions into the CIF prices, considering the adjustments claimed by the responding exporter.

L. INDIAN INDUSTRY INTERESTS AND OTHER ISSUES

115. The Authority recognizes that the imposition of the anti-dumping duties might affect the price levels of the product in India. However, the fair competition in the Indian market will not be reduced by the imposition of the anti-dumping measures. On the contrary, the imposition of the anti-dumping measures would remove the unfair advantages gained by the dumping practices, prevent the decline of the domestic industry and help maintain the 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.

116. The Authority considered whether imposition of ADD shall have adverse public interest. For the same, the Authority examined whether the imposition of the anti-dumping duty on imports of the product under investigation would be against the larger public interest. This determination is based on the consideration of the information on record and interests of the various parties, including domestic industry, the importers and the consumers of the product.
117. The Authority issued gazette notification inviting views from all the interested parties, including the importers, the consumers and the other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to the present investigations, including possible effect of the ADD on their operations. The Authority sought information on, inter-alia, interchange ability of the product supplied by the 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 the ADD.
118. Three importers, namely, M/s Jay Chem Marketing, Mumbai, M/s CJS Specialty Chemicals Private Limited and M/s Wacker Metroark Chemicals Pvt Ltd have filed the questionnaire response in the manner prescribed by the Authority. The Authority has considered the arguments of all the interested parties in the present findings and questionnaire response filed by these parties. Though the parties have contended that there shall be adverse effect of proposed ADD on the public at large but none of these importers have provided any verifiable information to demonstrate the effect of the anti-dumping duty on the consumers. Further, in this regard, the Authority reiterates that the imposition of the anti-dumping measures would not restrict the imports from the subject countries in any way and, therefore, would not affect the availability of the product to the consumers.
119. Even though the Authority has prescribed formats for the users to quantify the impact of the ADD and elaborate how imposition of the ADD shall adversely impact them, it is noted that none of the interested parties have provided relevant information. It is, thus, noted that the interested parties have not established the impact of the ADD on the user industry with verifiable information. Further, the domestic industry has quantified the impact of the recommended anti-dumping duty on the consumer industry and submitted that the impact is meagre.
120. The Authority notes that the product is under free import category and, therefore, can be freely imported from various countries. The imposition of the anti-dumping measures would not restrict the imports from the subject countries in any way and, therefore, would

not affect the availability of the product to the consumers. The imposition of the anti-dumping duties, therefore, would neither affect the availability of the product to the consumers nor create monopoly.

121. Further, the capacity utilization of the domestic industry is low in the period of investigation and declined as compared to the preceding year. The domestic industry had the potential to cater a much higher degree of demand in India. However, due to dumping of the product under consideration, the domestic industry was faced with unutilized capacity and had a lesser share in domestic market as compared to the subject imports.

122. It is noted that the interested parties have not demonstrated how the prices of subject goods have adversely impacted the consumers. On the other hand, the domestic industry has submitted quantified information showing that the impact of the proposed antidumping duty on the user industry would be miniscule. The domestic industry has submitted that the cost of the product under consideration in the final product is very minimal and will have almost no effect on the end-users. The product is mainly used in the production of Paracetamol (Dolo-650 mg), Resins - Gel coats, Enamel Paints (high gloss) and Garam masala / curry powders. The impact of anti-dumping evaluated on these end products is below 1%. From the information on record, it is also noted that the impact of anti-dumping duty is miniscule to the consumers of the product under consideration, and the Authority is of the view that the imposition of anti-dumping duty will be in public interest.

123. It is, thus, noted that while the interested parties have not established possible adverse impact of the proposed ADD on the user industry with verifiable information, even if it is considered that the imposition of the ADD might affect the price levels of the product manufactured using the subject goods, the impact of the antidumping duty on the eventual product would be insignificant. Further, the fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the ADD is restricted to an amount necessary to redress the injury to the domestic industry. The objective of the imposition of the anti-dumping measure is to remove the unfair advantages gained by the dumping practices to prevent the injury to the domestic industry and help maintain the availability of a wider choice to the consumers of the subject goods.

M. CONCLUSION & RECOMMENDATIONS

124. After examining the submissions made by the interested parties and the issues raised therein, and considering the facts available on record, the Authority concludes that:

- a. The product produced by the domestic industry is like article to the product under consideration imported from the subject country.
- b. The application contained all the information relevant for the purpose of initiation of investigation and the application contained sufficient evidence to justify initiation of the investigation.

- c. Considering the normal value and the export price for the subject goods, the dumping margins for the subject goods from the subject countries have been determined, and the margins are significant.
- d. The domestic industry has suffered material injury. The examination of the imports of the subject product and the performance of the domestic industry clearly shows that the volume of the dumped imports from the subject countries has increased significantly in absolute terms and remained significant despite the significant capacity addition by the domestic industry and increase in its production. The imports from the subject country are undercutting the prices of the domestic industry. The imports are depressing the prices of the domestic industry. The capacity utilization declined and the inventories have increased in the period of investigation.
- e. The material injury suffered by the domestic industry has been caused by the dumped imports.
- f. Despite providing sufficient opportunity to the interested parties to quantify the impact of the ADD and elaborate on how imposition of the ADD will adversely impact them, none of the consumers have demonstrated possible adverse effect. The information on record shows that the non-imposition of the anti-dumping duty will adversely and materially impact the indigenous production, while imposition of the duty will not materially impact the consumer or the downstream industry or public at large. On the basis of the information provided by the interested parties and the investigation conducted, the Authority is of the considered view that the imposition of the anti-dumping duty will not be against the public interest.

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

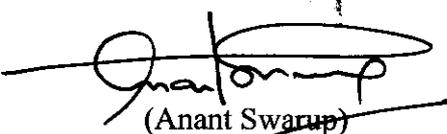
126. Having regard to the lesser duty rule followed by the Authority, the Authority recommends the imposition of the anti-dumping duty equal to the lesser of margin of dumping and the margin of injury so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of the antidumping duty on the imports of the subject goods, originating in or exported from the subject countries, from the date of the notification to be issued in this regard by the Central Government, equal to the amount mentioned in Col. 7 of the duty table appended below. The landed value of imports for this purpose shall be assessable value as determined by the Customs under 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

SN	Heading	Description	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1.	28112200	Untreated fumed silica	China PR	Any country including China PR	M/s Shandong Dongyue Silicone Material Co., Ltd.	1,018	MT	US\$
2.	28112200	Untreated fumed silica	China PR	Any country including China PR	Wacker Chemicals Fumed Silica (Zhangjiagang) Co., Ltd.	NIL	MT	US\$
3.	28112200	Untreated fumed silica	China PR	Any country including China PR	Any producer other than SN 1. and 2.	1,296	MT	US\$
4.	28112200	Untreated fumed silica	Any country other than China PR and Korea RP	China PR	Any	1,296	MT	US\$
5.	28112200	Untreated fumed silica	Korea RP	Any country including Korea RP	OCI Company Limited	NIL	MT	US\$
6.	28112200	Untreated fumed silica	Korea RP	Any country including Korea RP	Any producer other than SN 5.	373	MT	US\$
7.	28112200	Untreated fumed silica	Any country other than Korea RP and China PR	Korea RP	Any	373	MT	US\$

N. FURTHER PROCEDURE

127. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the appropriate Forum.


 (Anant Swarup)
 Designated Authority