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F. No. 6/24/2019-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi -110001

Dated: 28th December, 2020

Final Findings
(OI CASE No: 17/2019)

Subject: Anti-dumping investigations on the imports of “Polyethylene Terephthalate (PET Resin)” originating in or exported from China PR.

F. No. 6/24/2019-DGTR: - Having regard to the Customs Tariff Act 1975 as amended from time to time (hereinafter referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof, as amended from time to time (hereinafter referred as the Anti-Dumping Rules or AD Rules);

A. BACKGROUND OF THE CASE

1. Whereas, M/s IVL Dhunseri Petrochem Industries Private Limited and M/s Reliance Industries Limited (hereinafter referred to as the applicants or petitioning domestic industry) have filed an application before the Authority in accordance with the Customs Tariff Act, 1975 and the Anti-Dumping Rules for initiation of anti-dumping investigation concerning imports of the Polyethylene Terephthalate (hereinafter also referred to as the product under consideration or the subject goods) from China PR (hereinafter also referred to as the subject country).
2. And whereas, in view of the duly substantiated application filed by the applicants, the Authority in accordance with Section 9 of the Act read with Rule 5 of the Anti-Dumping Rules, initiated the anti-dumping investigation vide File No. 6/24/2019-DGTR dated 1st October, 2019, published in the Gazette of India, to determine the existence, degree and effect of any alleged dumping of the subject goods and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The following procedure has been followed with regard to this investigation:

- a. The Authority notified the Embassy of subject country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
- b. The Authority issued a public notice dated 1st October, 2019 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning import of subject goods from subject country.
- c. The Authority sent a copy of the initiation notification dated 1st October, 2019, to the embassy of the subject country in India, the known producers and exporters from the subject country, known importers and other interested parties, as per the available information. The interested parties were requested to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.
- d. The Authority also provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Anti-Dumping Rules.
- e. The Embassy of the subject country in India was also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to it along with the names and addresses of the known producers/exporters from the subject country.
- f. The Authority sent questionnaires to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the Rules:
 - i. Jiangsu Sanfangxiang Group Co., Ltd.
 - ii. Zhejiang Wankai New Materials Co. Ltd.
 - iii. Far Eastern Industries (Shanghai) Ltd.
 - iv. Dragon Special Resin(Xiamen) Co. Ltd
 - v. Guangdong IVL PET Polymer Co., Ltd.
 - vi. Zhongxin Industry Co., Ltd.
 - vii. Changzhou Hengqi Plastics Co., Ltd.
 - viii. Chengold
 - ix. Chongqing Pengwei
 - x. Dragon Special Resin
 - xi. Foshan Famous Polymer Materials Co., Ltd.
 - xii. Guangdong IVL PET Polymer Co Ltd. (Indorama Ventures)
 - xiii. Henan Longyu Coal Chemical Co Ltd.
 - xiv. Zhejiang Zhenbang Chemical Fiber Co Ltd
 - xv. Jiangsu Sanfangxiang Group
 - xvi. Maoming Petrochemical Company
 - xvii. Zhejiang Yisheng Petrochemical Co Ltd.
 - xviii. Sinopec Yizheng Chemical Fibre Co Ltd.
 - xix. Tongkun Group Co., Ltd.
 - xx. Henan Zhongfu Industrial Co., Ltd
 - xxi. Zhejiang Zhengkai
 - xxii. Yuhua Polyester Co., Ltd.
- g. In response to the above notification, following exporters/ producers have responded or submitted exporter questionnaire responses:

- i. Jiangyin Chengold Packaging Materials Co. Ltd
- ii. China Prosperity (Jiangyin) Petrochemical Co. Ltd.
- iii. Zhejiang Wankai New Materials
- iv. Jiangsu Xingye Plastic Co., Ltd.
- v. Jiangyin Xingyu New Material Co., Ltd.
- vi. Jiangsu Sanfame International Trade Co., Ltd
- h. The Authority sent questionnaires to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.
 - i. Guala Closures India Private Ltd.
 - ii. Pepsico India Holdings Pvt Ltd.
 - iii. Sunrise Containers Ltd.
 - iv. Asb International Pvt Ltd.
 - v. Starpet Trading Pvt Ltd.
 - vi. Madras Hardtools Pvt Ltd.
 - vii. Saikrupa Polymers Corporation
 - viii. S.S. Polymers
 - ix. Vinay Plastics
 - x. Ketul Chem Pvt Ltd.
- i. Response has been filed by Madras Hardtools Pvt. Ltd. and Indian Plastics Federation.
- j. Authority made available non-confidential version of the evidence presented by various interested parties on mutual basis in the manner prescribed through Trade Notice no. 01/2020 dated 10.04.2020 (extended till 31.12.2020). Submissions made by all interested parties have been taken into account till the extent found necessary by the Authority in this document.
- k. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide transaction-wise details of imports of subject goods for the past three years, including the period of investigation, which has been received by the Authority. The analysis of the DGCI&S data received by the Authority has been done and it has been observed that there is no significant difference in the analysis done by the Authority and the analysis done by the Domestic Industry. Since the interactions with the Domestic Industry could not be held on the transaction wise data for consideration of PUC and Non PUC, the Authority has relied upon the analysis submitted by the Domestic Industry for computation of the volume of imports and the Landed value for final determination.
- l. The Non-Injurious Price (hereinafter referred to as 'NIP') based on the cost of production and reasonable profits the subject goods in India, based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules, 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.
- m. In terms of provision contained in Rule a(d) of the Rules, the Authority issued Preliminary findings dated 05.08.2020 along with a corrigendum notification dated 04.09.2020 published in the Gazette of India Extraordinary, and recommended imposition of provisional anti-dumping duty by Central Government.

- n. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in a hearing held through NIC video conference on 04.12.2020, which was attended by all interested parties. The interested parties who presented their views in the oral hearing were requested to file written submissions of their views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and were provided an opportunity to submit their rejoinders thereafter. Central Government has accorded permission for extension of time period for investigation up to 31st December, 2020 for completing the subject investigation and notifying the final findings.
- o. Disclosure statement (NCV) served to all interested parties with confidential version to concern on 17/12/2020 through email along with reasonable time given for filing the comments, if any. Comments received from interested parties and the same taken on record by the Authority.
- p. Verification of the information provided by the domestic industry was carried out by the Authority, to the extent necessary, by way of on-site visit and table study. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of the subject investigation.
- q. The period of investigation (POI) for the purpose of present investigation is October, 2018 to June, 2019 (9 months). The injury period includes 2016-17, 2017-18, 2018-19 and the period of investigation in addition.
- r. The different submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this document.
- s. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to 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.
- 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 it on the basis of the facts available.
- u. The Authority has considered all the arguments raised and information provided by all the interested parties including post disclosure comments, to the extent the same are supported with evidence and considered relevant to the present investigation.
- v. ‘***’ in this document represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- w. The exchange rate for POI (October, 2018 to June, 2019) adopted by the Authority for the subject investigation is 1 US \$= Rs. 71.79.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1. Submissions of domestic industry

- i. The product under consideration is virgin bottle-grade polyethyleneterephthalate (PET) resin, defined as “polyethylene terephthalate resin having an intrinsic viscosity of 0.72 deciliters per gram or higher” except recycled PET resin.

- ii. The subject goods were classified under the codes 39076010 and 39076020 originally. On 2nd February, 2017, the product's classification was changed to 39076100 and 39076910 and with effect from 1st January, 2020, the classification was further changed to 39076190 and 39076990.

C.2. Examination by the Authority

4. The product under consideration, as stated in the notice of initiation, is “virgin polyethylene terephthalate (PET) resin”, defined as “polyethylene terephthalate resin having an intrinsic viscosity of 0.72 decilitres per gram or higher”. The scope of product under consideration does not include recycled PET Resin. PET Resin is used for the manufacturing of preforms, which are then converted into PET bottle and jars for the storage of mineral water, carbonated soft drinks, edible oils, pharmaceutical products etc.
5. Prior to 2nd February, 2017, the subject goods were classifiable under the codes 39076010 and 39076020. From 2nd February, 2017 the product's classification was changed to 39076100 and 39076910. On 1st January, 2020, the classification was further changed to 39076190 and 39076990. The Customs classification is indicative only and not binding on the scope of present investigation.
6. None of the interested parties have made any submissions in this regard to the scope of product under consideration. The Authority has considered the same scope of product under consideration as was defined at the time of initiation.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions of the domestic industry

7. Following submissions have been made by the domestic industry with regard to the domestic industry and standing:
 - i. The petitioners, namely, M/s IVL Dhunseri Petrochem Industries Private Limited and M/s Reliance Industries Limited are the two largest producers of the subject goods in India accounting for 91% of the domestic production in India.
 - ii. IVL Dhunseri is related to an exporter, Guangdong IVL PET Polymer Co. Ltd but is not in a position to exercise control or direction over it. Although M/s IVL Dhunseri Petrochem Industries Private Limited is indirectly related to a Chinese producer, the quantum of exports by such producer is negligible when compared to the total imports from subject country, the production and sales of the petitioner and the demand in India. The imports by the company account for less than one percent of its total production. Therefore, the producer should be treated as eligible to constitute domestic industry.
 - iii. Exclusion of IVL Dhunseri will distort injury analysis, as it accounts for a significant share of the production.

D.2. Submissions of other interested parties

8. The domestic producers namely IVL Dhunseri Petrochem Industries Pvt. Ltd. (IVL Dhunseri) is related to a producer in China namely Guangdong IVL PET Polymer Co.

Ltd, and the said producer from China has also exported the subject goods to India during the POI and it is a sufficient ground for the exclusion of IVL Dhunseri from the scope of the domestic industry in the current investigation.

D.3. Examination by the Authority

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

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

10. The application has been filed jointly by M/s IVL Dhunseri Petrochem Industries Private Limited and M/s Reliance Industries Limited. M/s IVL Dhunseri Petrochem Industries Private Limited is related to an exporter, namely, M/s Guandong IVL PET Polymer Co. Ltd, of the alleged dumped goods. However, considering the insignificant quantity of exports by the related exporter, the Authority has considered M/s IVL Dhunseri Petrochem Industries Private Limited as eligible domestic industry within the meaning of the aforementioned Rule.

11. The share of the petitioning domestic industry constitutes 91% of the total eligible domestic production. Hence, the applicants constitute domestic industry under Rule 2 (b) of the Anti-Dumping Rules and the application meets the requirements of Rule 5(3).

E. CONFIDENTIALITY

E.1. Submissions of the domestic industry

12. Following submissions have been made by the domestic industry with regard to the confidentiality:

- i. Confidentiality claimed by the exporters is excessing in respect of publicly available information and names of unrelated exporter.
- ii. The exporter has violated the requirements of Trade Notice 10/2018 by not disclosing the manufacturing process, names of raw material, related party information and trends of total PBIT.
- iii. The domestic industry has submitted an undertaking under Trade Notice No. 7/2018 regarding the non-disclosure of DGCI&S import data and thus, such data cannot be disclosed.
- iv. Disclosure of item-wise details of constructed normal value will adversely impact the domestic industry’s competition with other producers and their own interests.
- v. Evidence of adjustments made to export price have already been provided by the domestic industry.

- vi. Volume and profitability parameters are confidential information of the domestic industry. Further, such parameters have been provided in indexed form.
- vii. Non-injurious has been determined as per Annexure-III of Anti-dumping Rules and no further methodology for the same is required. The figures used to determine the non-injurious cannot be disclosed being confidential.

E.2. Submissions of other interested parties

13. The petitioner has claimed excessive confidentiality regarding DGCI&S import data, item-wise details of constructed normal value, evidence of adjustments made to export price, volume parameters and return on capital and profitability in percentage terms which is not permissible in law, and has the effect of denying the interested parties a reasonable opportunity to make effective submissions protecting their interests.
14. In the present Petition / Updated Petition, the Petitioners have claimed excess confidentiality and have not complied with the guidelines prescribed by the Trade Notice 10 of 2018 for providing insufficient information and the excessive confidentiality claimed by the petitioners is also against the spirit of Supreme Court decision in *Sterlite Industries (India) Ltd. v. Designated Authority*, 2003 (158) ELT 673 (SC) and WTO Appellate Body in *European Communities – Definitive Anti-dumping Measures on Certain Iron or Steel Fasteners from China*.
15. The petitioners have claimed excessive confidentiality with respect to many parameters in the petition like, Volume and Value of Production by all other producers except DI, R&D Expenses, Non-injurious price calculation, etc.
16. The Authority is thus requested to kindly direct the Petitioners to follow the relevant Trade Notice on the factors enumerated above and provide the necessary information. Until the above information, which is crucial for the purposes of determining injury and causal link, is made available, the interested parties will not be able to effectively represent their interests. In the event the Petitioners fail to rectify the above deficiencies in a timely manner, the investigation must be terminated immediately.

E.3. Examination by the Authority

17. Non-confidential version of the information provided by various interested parties were made available to all interested parties through the public file as per Rule 6(7) and Trade Notice No. 10/2018, dated September 2018, read with Trade Notice No. 01/2020 (as extended by the Authority till 31.12.2020).
18. With regards to DGCI&S data, the Authority notes that the data has been shared with interested parties relating to volume & value of imports from exporting countries into India. Further, the applicant has provided a complete list of transaction wise import data. It is also noted that any interested party can obtain data independently from the DGCI&S and lodge its own counter claim based on the data so received. The Authority holds that procedure for sharing and procuring import data has been laid down in the Trade Notice 07/2018 dated 15th March 2018. It provides that (i) the sorted import data relied upon by the domestic industry can be shared in hard copy & (ii) interested parties

can seek authorization from the Authority for seeking raw transaction by transaction import data from DGCI&S. Hard copy of the sorted import data was made accessible to the interested parties based upon declaration/undertaking as per prescribed format. The interested parties who requested for procurement of import data from DGCI&S and provided undertaking as per Trade Notice 07/2018 were also granted authorization to obtain import data in excel file from DGCI&S. The Authority thus notes that the procedure now being applied is consistent, uniform across parties and investigations and provides adequate opportunity to the interested parties to defend their interests.

19. With regard to the confidentiality of information, the Authority notes that the information provided by the domestic industry on confidential basis was examined with regard to sufficiency of the confidentiality claims in accordance with Rule 7 of the Rules. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential.

F. Miscellaneous submissions

F.1. Submissions of the domestic industry

20. Following miscellaneous submissions have been made by the domestic industry:

- i. Contrary to contention of the other interested parties, non-imposition of provisional duties does not mean conclusions drawn in preliminary findings are inappropriate. In a number of cases, the final findings were implemented even though the preliminary findings were not.
- ii. Responding to arguments in this regard, it was submitted that period of investigation of 9 months is appropriate owing to a dramatic increase in imports during said period due to significant dumping. The Authority has considered such a period of investigation in the past as well.
- iii. Imposition of anti-dumping duty is in public interest as it will increase the cost of eventual end product by only 0.001% to 0.34% and will protect the domestic industry from dumping.

F.2. Submissions of other interested parties

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

- i. Consideration of Period of investigation of 9 months is not appropriate since Para 5.4 of the Manual of Operating Practices for trade Remedy Investigations provides that a period shorter than 12 months can be considered only in exceptional and rare cases.
- ii. The petitioner in fact, proposed a period of 6 months claiming dramatic changes in product performance, which cannot be considered as exceptional or rare circumstance.
- iii. Even though, the Hon'ble Authority has not considered the POI of 6 months as proposed by the DI, the Authority has not even stated its reasons for considering the POI of 9 months as against the usual POI of 12 months. Neither has there been any analysis or reasons provided in the preliminary findings for considering POI of 9 months.

- iv. Non-imposition of provisional duties recommended in the preliminary findings issued on August 5 2020 indicates that the Central Government is not convinced with the conclusions and analysis drawn in the preliminary findings concerning the alleged dumping.
- v. The petitioner states that abnormal transactions (understood to mean high price transactions) have been removed from DGCI&S data, but, has not specified the basis on which such transactions have been classified as abnormal. Exclusion of high price transactions amounts to zeroing, which is not permissible in law.
- vi. Conclusions in the preliminary findings have been made based on comparisons between data for period of investigation and the previous year disregarding the remaining injury period and if this is how the conclusion has to be drawn then there is no meaning of seeking details of injury factors for the 4 years, rather, the details of 2 years would be sufficient.
- vii. Further, the conclusion for decline in sales and production in POI is made on the basis of previous year in para 64(d) of the preliminary findings and this again cannot be regarded as objective examination. The lack of objective examination by the Hon'ble Authority is further reflected in para 64(e) and 86(c) of the preliminary findings wherein the conclusion for decline in market share has been recorded on basis of a cursory analysis. Price underselling or price undercutting are not factors of injury to domestic industry and non-conclusion of injury can be drawn on these factors alone as has also been held by CESTAT in *Bridge Stone Tyre Manufacturing v. DA (270) E.L.T. 696 (Tri. - Del.)* and followed by the Hon'ble Authority in case of *Gypsum Plaster Board (F. No. - 7/8/2017-DGAD)*.
- viii. Conclusions in the preliminary findings regarding volume parameters are ambiguous and not conspicuous.
- ix. Evidence provided to establish threat of material injury to the domestic industry is not based on facts but are allegations based on conjectures and remote possibility and the injury to the domestic industry is not clearly foreseen and imminent.
- x. The details of the excess capacities in China have been addressed as mere statements in the preliminary findings and do not disclose as to how such capacities may be diverted to India to cause injury to the domestic industry/petitioners.
- xi. The claims of use of trade remedial measures by USA, Canada, Brazil and Argentina do not imply prohibition of imports to such countries and also do not explain how the same could be diverted to India. The same therefore, reflects a remote possibility and no a real situation.
- xii. The statement of India being the largest export market of subject goods for China does not explain as it being a factor for the threat of injury to the domestic industry.
- xiii. The increase in selling price as well as the import prices itself imply that there is no suppressing or depressing effect on domestic prices and therefore, there can be no likelihood of the same in the future.
- xiv. Inventories of the domestic industry have not been analysed to establish threat of material injury despite the same being a listed factor in Annexure II. Inventories of the domestic industry have declined significantly in the POI as

- compared to all the previous 3 years thereby, implying no threat of material injury.
- xv. Threat of material injury can be established when all listed factors show positive findings for threat, which is not case in present investigation.
 - xvi. Designated Authority has failed to provide appropriate reasons or the exigency for the issuance of the Preliminary Findings imposing provisional duties as is required under Rule 12 of the AD Rules.
 - xvii. Further, Article 7.1 of the AD Agreement also provides that, in order for the provisional levy of anti-dumping duties, the investigating authorities are required to demonstrate the exigency or such facts that demonstrate that the provisional measures would be necessary to prevent injury being caused during the investigation. The same has not been followed in the present case.
 - xviii. Chengold Group has filed supplemental questionnaire response for the market economy status on December 9, 2019. Therefore, Chengold Group's normal value should be determined on the basis of sales made by of Chengold Group in the home market. But, the Authority in para 21 of the preliminary findings has not accorded market treatment to the Chengold Group.
 - xix. The producer submitted that the domestic cost to make and sell and the domestic selling price of the Producer are completely unaffected by any (alleged) manipulation of foreign exchange conversation rates in China, whereby there is no impact on the normal value of the Producers, particularly since the Producers did not import any major raw materials or inputs during the POI.
 - xx. The Producers submitted that their parent company M/s Jiangyin Chengxing Industrial Group Co., Ltd. is neither involved in production nor sales of the PUC. Further submitted that that the Board Members of the Producers run their operations on a day-to-day basis and do not have any overlap with the shareholders of the parent company.
 - xxi. The Producers submitted that the Sinopec neither produces the PUC for the Producers, nor does it supply raw material or any other inputs for the Producers' production of the PUC. Sinopec is simply a customer
 - xxii. The evidence provided by the Petitioners for the "national torch project" appears to be from 2013 (approximately), a period of time prior to the incorporation of the Producers. The evidence adduced by the Petitioners is entirely irrelevant and outdated, and therefore liable to be rejected
 - xxiii. The Designated Authority is requested to grant market economy treatment to Chengold Group, determine an individual margin for Chengold Group based on the questionnaire responses filed and take into consideration Chengold Group's submissions on absence of injury to the Domestic Industry during the issuance of Final Findings.

F.3. Examination by the Authority

22. The Authority has noted all the arguments and counterarguments of the interested parties and has examined all aspects of the submissions made.

23. With regard to the submissions of interested parties regarding non-imposition of provisional duties, the Authority notes it is the duty of the Designated Authority under Rule 4 of the Anti-Dumping Rules to investigate existence, degree and effect of any alleged dumping, identify the article liable to anti-dumping duty, submit findings to the Central Government as to dumping and injury, and recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. It is for the Central Govt. to decide whether or not to impose such duties. The Authority had conducted the present investigation and shall record findings, having regard to the facts and evidence brought forward by all interested parties during the present investigation, irrespective of whether or not the Central Govt. implements such recommendations.
24. With regard to submissions of interested parties regarding the period of investigation, the Authority notes that the period of investigation may range from 6 to 18 months, depending on the facts of each case in the present case, while the domestic industry proposed a period of 6 months as period of investigation, a period of 9 months was considered appropriate for the present investigation, as there was a significant increase in imports during a very short period of time. Considering the sharp increase in imports, significant dumping during this period and consequent adverse impact on the domestic industry, the period of investigation of 9 months was considered appropriate for the purpose of the present investigation.

Assessment of dumping – Methodology and Parameters

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

G.1. Submissions of the Domestic industry

25. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:
- a. Notwithstanding the provision under China's Accession Protocol providing for the application of Article 15(a) only up to December, 2016, the producers of the subject goods must be called upon to demonstrate that market economy conditions prevail in the industry in China.
 - b. If they are unable to do so, the cost of production of subject goods in China must be determined on the basis of cost of production in India along with reasonable profit.
 - c. The petitioner has taken the CIF price and made adjustments pertaining to Ocean freight, Marine insurance, Commission, Port expenses, Inland freight, and VAT difference to determine the export price.
 - d. Dumping margin calculated for the subject country is positive and significant.
26. The claim of market economy treatment cannot be allowed for exporters/ producers for the following reasons:

- i. The foreign exchange rates are determined through government intervention in China and not as per the market rate which is evident from recent undervaluation of its currency.
 - ii. The holding company, Jiangyin Chengxing Industrial Group Co. Ltd has not participated in the investigation.
 - iii. Chengold Packaging has entered into a Strategic Cooperation Agreement with Sinopec (biggest state-owned oil and gas enterprise) on PET projects, which can lead to distortions in cost of production.
 - iv. Chengxing Group has been part of various government research initiatives, including the ‘National Torch Projects’, set up to encourage high-tech enterprises and is receiving infrastructural and technological support from the Government.
 - v. Jiangsu Sanfame International Trade Co. Ltd., Jiangyin Xingyu New Material Co. Ltd. and Jiangsu Xingye Plastics Co. Ltd (Sanfangxiang Group) have claimed that normal value based on their sales but have failed to file MET claim response. US DOC has also examined the status of the exporter and concluded that the Group is not operating under market economy conditions.
 - vi. Costs and prices of Zhejiang Wankai New Materials Co. Ltd. cannot be considered as it has not established existence of market economy conditions.
 - vii. Related producers of Sanfame group, Jiangyin Xingtai New Material Co. Ltd, Jiangyin Xingjia Plastics Co. Ltd, and Jiangsu Xingye Polytech Co. Ltd have not participated in the investigation.
 - viii. Sanfangxiang group exported through an unrelated exporter who has not filed the response and hence, the sales channel is incomplete.
 - ix. Distribution channel disclosed by Jiangsu Sanfame International Trade and Jiangyin Xingyu New Material is not accurate as contradictory statements are made in the EQR regarding the same.
27. Normal value for all the producers must be calculated based on weighted average cost of production of domestic industry along with reasonable profit. The present practice of the Authority to take lowest cost of production amongst domestic producers, is not appropriate as it should not be assumed that the producers in China are operating their plants at the most efficient cost of production.
28. The petitioner has taken the CIF price and made adjustments pertaining to Ocean freight, Marine insurance, Commission, Port expenses, Inland freight, and VAT difference to determine the export price.
29. Contrary to the claims of the interested parties, unless the producers/ exporters establish that they are operating under market economy conditions, normal value cannot be determined based on their domestic prices. The Authority has considered China PR as a non-market economy even after expiry of Article 15(a)(ii) of the Accession Protocol in various findings such as fluoroelastomers, electronic calculators, metaphenylene diamine, nylon multi filament yarn, flat based steel wheels and electric insulators.
30. Construction of normal value based on price payable in India is appropriate since information regarding prices of the subject goods in a market economy third country was not publicly available. The producers/ exporters have neither raised any objection

regarding the same before the oral hearing nor substantiated an appropriate third country for calculating normal value.

31. Normal value based on price paid in India as published in ICIS report cannot be considered as the actual price in India is already suppressed and depressed due to dumped imports.

G.2. Submissions of other interested parties

32. Normal value for China PR has been determined on the basis of cost of production of the domestic industry as normated with due adjustment for SGA expenses and a reasonable profit at the rate of 5% on cost of production which is not in accordance with law. And, it should be determined on basis of domestic sales and cost of subject goods kept in accordance with GAAP of China since the 15 years period envisaged under Para 15(a)(ii) of the Chinese Accession Protocol expired on December 11, 2016 and no provisions permit China's treatment as a Non-market economy (NME).
33. Determination of normal value based on cost of production in India is erroneous since the same can be relied upon only where information regarding a market economy third country is unavailable. In the present case, the petitioner was required to inform a selection of market economy third country in order to provide other interested parties an opportunity to respond with relevant information, or the petitioner ought to have put interested parties to notice about selection of the third country or requested the interested parties to suggest information with respect to a third party, but neither of this was done, which is inconsistent with the decision of the Supreme Court *Shenyang Matsushita S. Battery Co. Ltd. v. Excide Co. Ltd* 2005 (181) ELT 320 (SC).
34. Normal value for China PR under paragraph 7 of Annexure I of Anti-dumping Rules should be determined based on the market prices of subject goods in India as published by ICIS after adjusting the same for inland transportation and customs handling charges and not on the cost of production of the domestic industry which is not representative of the industry as whole.

G.3. Examination by the Authority

35. Under section 9A (1) (c), normal value in relation to an article means:
 - i. *The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*
 - ii. *When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:*
 - a. *comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

- b. *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*
36. The Authority sent questionnaires to the known producers/exporters from the subject country, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have co-operated in this investigation by filing the prescribed questionnaire responses:
- i. Jiangyin Chengold Packaging Materials Co. Ltd.
 - ii. China Prosperity (Jiangyin) Petrochemical Co. Ltd
 - iii. Zhejiang Wankai New Materials Co., Ltd.
 - iv. Jiangsu Xingye Plastic Co., Ltd.
 - v. Jiangyin Xingyu New Material Co., Ltd.
 - vi. Jiangsu Sanfame International Trade Co., Ltd.
37. The Authority notes the following relevant provisions related to normal value computation under the Anti-Dumping Rules as well. Provisions under Para 7 and Para 8 of Annexure I to the Anti-Dumping Rules are as under:

“7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner [keeping in view the level of development of the country concerned and the product in question] and due account shall be taken of any reliable information made available at the time of the selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in 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 nonmarket 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.”

38. At the stage of initiation, the Authority proceeded with the presumption by treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China PR to respond to the notice of initiation and provide information relevant to determination of whether their data/information could be adopted for the purpose of normal value determination. The Authority sent copies of market economy treatment/supplementary questionnaire to all the known producers/exporters for providing relevant information in this regard.

39. Article 15 of China’s Accession Protocol in WTO provides as follows:

“Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (“Anti-Dumping Agreement”) and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

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

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

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

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

(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph

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

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

40. The Authority notes that while the provisions of Article 15 (a) (ii) of China’s Accession Protocol have expired with effect from 11 December 2016, the provision under Article 2.2.1.1 of the Anti-Dumping Agreement read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in Para 8 of the Annexure 1 of Anti-Dumping Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming MET status. The Authority notes that except Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd, no other producer/exporter from China PR has submitted market economy treatment/supplementary questionnaire response. The normal value computation for these other producers/exporters are required to be dealt as per provisions of Para 7 of Annexure-1 of Anti-Dumping Rules. Further, the Authority has provisionally determined not to accord market economy treatment to Jiangyin

Chengold Packaging Materials Co. Ltd. And China Prosperity (Jiangyin) Petrochemical Co. Ltd for reasons as enunciated in subsequent paragraphs.

G.4. Determination of Normal Value and Export Price for cooperating producers and exporters

G.4.1. Evaluation of MET status of Jiangyin Chengold Packaging Materials Co. Ltd. And China Prosperity (Jiangyin) Petrochemical Co. Ltd and Computation of its Normal Value

41. The Authority notes that Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd have claimed market economy status by submitting the supplementary market economy treatment (MET) response.
42. In the instant case, the Authority notes that M/s Jiangyin Chengxing Industrial Group Co. Ltd. (Chengxing Group), which controls Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd has not filed questionnaire response. A MET claim response must be filed as a group, to assess decision making, purchase cost and financial situation of the exporter under Para 8(3) of Annexure 1 of Anti-Dumping Rules. The incomplete response submitted may not enable comprehensive examination and establishment of market economy status to Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd. The Authority has therefore, considered all producers/exporters of China PR as not qualifying for market economy treatment including Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd which have claimed market economy treatment.
43. The normal value has therefore, been determined on the basis of para 7 of Annexure–I to the Anti-Dumping Rules. The Authority accordingly explored the option of construction of normal value as per the hierarchy laid down in Para 7 of Annexure-I of Rules which 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.
44. The Authority notes that none of interested parties including domestic industry have provided information with regard to price or constructed value in a market economy third country, or the price from such a third country to other countries, including India. Since there is no information on record with regard to cost or price in market economy third country, or the price from such a third country to other countries, including India, normal value could not be determined on the basis of the same. Accordingly, the normal value has been determined on the basis of price paid or payable in India in term of para 7 of Annexure–I, The Authority has therefore, determined normal value on the basis of best estimates of cost of production of the subject goods in India, duly adjusted for selling, general & administrative expenses, with the addition of reasonable profit margin @ 5%.The normal value so constructed is mentioned under dumping margin table.

G.4.2. Determination of normal value and export price for cooperating producers and exporters

A. Chengxing Group

45. Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd, subsidiaries of Chengxing Group are listed companies and, are engaged in production and sale of the subject goods. Both Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd have claimed market economy treatment for computing ‘normal value’ on the basis of their domestic sales in China. The above two entities are related to each other by way of major common shareholder i.e. M/s Jiangyin Chengxing Industrial Group Co., Ltd. The Authority requested the producer/exporter group to file the exporter questionnaire response for the common shareholder also to complete the response for the entire group and also certain supplementing data on the cost of production. The producer/exporter has stated that the parent company is not involved in production or sales of the product under consideration (PUC) and there is a clear distinction between the scope of activities described for the exporters and their parent company, demonstrating that the parent company has separate and unrelated operations to the PUC. The producer/exporter also clarified that this was also mentioned as part of the worldwide structure of the group already filed by them. Therefore since the parent company is not involved in the production or sales of the PUC, as well as the absence of any shareholder of the parent company as board members in the exporters’ Board of Directors, there should not be any requirement upon this company to the its separate response.
46. The Authority noting the submissions of the producer/exporter on considering their response for MET without a separate response by the Shareholding Company holds that ‘Normal Value’ in case of related companies is evaluated for group as a whole. In case where MET status is claimed by the related companies of a group, then criteria stipulated in para 8 of the Annexure 1 of AD Rules are required to be satisfied for the entire group comprehensively, and hence complete response of the group is essential. Further, the producer/exporter was requested to provide the missing cost of production details which they have provided recently. However no evidence regarding purchase price of raw material and utilities being at arm’s length in accordance with market signals has been provided. Therefore the Authority for the purpose of final findings has not considered according MET and individual normal value to the Producer Group.
- a. Normal Value
47. As stated above, Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd have claimed market economy treatment. But as the Chengxing Group did not file response to the information sought for by the Directorate, as stated above the claim of Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd for market economy treatment is not admitted, at this stage. The normal value is constructed as *** US\$/MT as explained above in para 23.

b. Export Price

48. During the period of investigation, Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd have exported *** MT of the subject goods. The exporters have claimed adjustments on account of Ocean Insurance, Commission, Shipping Cost and Profit by trader in determination of ex-factory export price. The weighted average ex-factory value of subject goods exported by Jiangyin Chengold Packaging Materials Co. Ltd. and China Prosperity (Jiangyin) Petrochemical Co. Ltd after necessary adjustments is computed as ***US\$/MT. The Landed Value is computed as *** \$/MT.

B. Zhejiang Wankai New Materials Co., Ltd.

a. Normal Value

49. The producer/exporter has not claimed market economy treatment and accordingly the normal value has been determined in accordance with Para-7 of Annexure-I, as detailed above. The normal value is constructed as *** \$/MT as stated above in para 23.

b. Export Price

50. During the period of investigation, Zhejiang Wankai New Materials Co., Ltd. has exported *** MT of the subject good to India. The exporter has claimed adjustments on account of Ocean Freight, Ocean Insurance, Inland Freight, Credit Cost, Bank Charges, and Port Expenses in determination of export price. The ex-factory export price for the subject goods comes to *** \$/MT, allowing adjustments as reported by the exporter. The Landed Value is computed as *** \$/MT.

C. Jiangsu Xingye Plastic Co., Ltd., Jiangyin Xingyu New Material Co., Ltd. and Jiangsu Sanfame International Trade Co., Ltd.

a. Normal Value

51. The above 3 related producers/exporters have not claimed market economy treatment and accordingly the normal value has been determined in accordance with Para-7 of Annexure-I, as detailed above in para 23. The normal value is constructed as *** \$/MT.

b. Export Price

52. During the period of investigation, Jiangsu Xingye Plastic Co., Ltd. Jiangyin Xingyu New Material Co., Ltd. and Jiangsu Sanfame International Trade Co., Ltd. have exported the subject goods to India directly as well as through an unrelated exporter to an extent of *** MT. The exporters have claimed adjustments on account of ocean freight ocean insurance, inland freight, port expenses, bank charges, credit cost and non-refundable VAT wherever incurred in determination of export price. The ex-factory export price for the subject goods comes to *** US\$/MT, allowing adjustments claimed by the exporter. The Landed Value is computed as *** \$/MT.

G.5. Determination of normal value and export price for non-cooperating producers and exporters

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

G.6. Determination of Dumping Margin

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

S.No.	Producer	Normal value (\$/MT)	Export Price (\$/MT)	Dumping Margin (\$/MT)	Dumping Margin (%)	Dumping Margin (% Range)
1.	Jiangyin Chengold Packaging Materials Co. Ltd and China Prosperity (Jiangyin) Petrochemical Co. Ltd.	***	***	***	***	20-40
2.	Jiangsu Xingye Plastic Co., Ltd., Jiangyin Xingyu New Material Co., Ltd., and Jiangsu Sanfame International Trade Co., Ltd	***	***	***	***	0-20
3.	Zhejiang Wankai New Materials	***	***	***	***	0-20
4.	Any other producer/exporter	***	***	***	***	20-40

H. DETERMINATION OF INJURY AND CAUSAL LINK

H.1. Submissions/views of the Domestic Industry

55. Following submissions have been made by or on behalf of the domestic industry with regard to injury and causal link:

- a. The imports from the subject country have increased drastically during the period of investigation in absolute and relative terms.
- b. The imports have increased at a much faster pace than the demand.
- c. The share of subject imports to total imports has increased from 61% to 94% over the injury period.

- d. The subject imports are significantly undercutting the prices of the domestic industry, with price undercutting increasing in the period of investigation.
- e. The landed price is below the cost of sales and non-injurious price of the domestic industry.
- f. Despite the cost remaining the same, the petitioning domestic industry was forced to reduce its selling price. Therefore, the imports have had a depressing effect on the prices of the petitioning domestic industry.
- g. Despite the increase in domestic capacity, domestic production has reduced in relation to the subject imports.
- h. While the production and sales of the domestic industry have increased, it is not in proportion to the increase in demand.
- i. Production, sales, capacity utilisation increased till 2018-19 but the increase was not commensurate to increase in demand. These parameters declined in period of investigation.
- j. The market share of the domestic industry has fallen from 80% to 64% over the injury period.
- k. The profits of the petitioning domestic industry increased in 2017-18 but drastically fell subsequently. The performance of the domestic industry has also deteriorated in terms of cash profit and return on investment.
- l. While the petitioning domestic industry has been able to achieve a positive growth in respect of production and sales, such growth is not commensurate with increase in demand. Further, its position has deteriorated in terms of market share, profitability, cash profit and return on investment in the period of investigation.
- m. The profitability of domestic industry was low in 2016-17 due to low demand, low operating rates resulting in high fixed costs. With increase in demand, the profitability increased.
- n. The ability of the petitioning domestic industry to raise capital investments has been adversely impacted with a fall in interest coverage ratio.

56. There is a threat of material injury as:

- i. Rate of increase in subject imports is higher than increase in other imports.
- ii. There are surplus capacities in China and further capacity expansion planning. Freely disposable capacities with Chinese exporters have increased at higher rate than increase in demand in their domestic market.
- iii. Exports from China attract anti-dumping duty and countervailing duties in other jurisdictions. Imposition of trade remedial measures by third countries would increase the cost for users of subject goods in those countries resulting in such exports to be diverted to India, injuring the domestic industry further.
- iv. Chinese producers have a trend of employing unfair trade practices.
- v. India is the largest market for exporters in China as exports to India are more than exports to any other country.
- vi. If dumping is not checked, the price of exports may fall further adversely affecting profitability of domestic industry.

57. No other known factor such as demand for subject goods, imports from other countries, pattern of consumption, trade restrictive practices, and development in technology,

export performance, productivity and performance of other products of domestic industry has caused injury to the domestic industry.

58. Domestic industry had earlier suffered injury due to low demand, but such injury has been segregated to ensure that it is not attributable to subject imports.
59. The injury to domestic industry is due to subject imports as:
- i. The demand of low-priced imports in India increased due to dumping.
 - ii. Subject imports increased in absolute and relative terms.
 - iii. The share of subject imports in total imports increased and the subject imports have taken up the market share of domestic industry.
 - iv. The price undercutting is positive.
 - v. The subject imports have had a depressing effect on the prices of the domestic industry resulting in decline in profits, cash profits and return on capital employed.
60. There is sufficient capacity in India to cater to entire demand. The domestic industry has to rely on exports to dispose of its production even though it earns much lower profits on exports as compared to domestic sales.
61. Volume of imports from China has increased but from other countries has declined.
62. The DGCI&S import data has been sorted to exclude transactions that do not relate to the defined scope of product under consideration and the price of such imports irrelevant in such sorting.
63. The Authority must consider only positive price undercutting and injury margin relying on sufficient jurisprudence.
64. Costs of domestic industry increased in 2018-19 due to increase in cost of raw material. However, such increased cost of raw material has not been reflected in the import prices which continue to be below costs of the domestic industry and have thus affected its profitability, cash flow and return on investment.
65. Price underselling is only one of the factors to determine injury and even if ignored, all remaining parameters show decline, implying injury to the industry.
66. Responding to arguments in this regard, it was submitted that examination of inventories as required under Annexure-II relates to inventories of producers in subject countries and not of domestic industry. Further, Annexure-II only provides an illustrative list of factors to be considered to determine threat of material injury and does not provide that all factors must show positive findings of threat.

H.2. Submissions of the Exporters/Importers/Users/Traders

67. The petitioner has excluded abnormal transaction from DGCI&S data, which is nothing but removal of high-priced transactions and the same amounts to zeroing, which is not permissible in law.
68. Several parameters indicate that there is no injury to Domestic Industry as there is no price suppression and depression, no correlation between price undercutting and profitability, Domestic Industry is still profitable during the POI, and inventories reflect a decline in the injury period.
69. Paragraph 55 of the provisional findings, shows that the Petitioners are still profitable, nearly at the same levels as the base year of the injury period.
70. Further, paragraph 59 of the provisional findings shows that the inventories of the Petitioners have also declined in the period of investigation, which reflects an absence of injury.
71. Further, it is reiterated that the Preliminary Findings does not examine at any point if and how the Petitioners are likely to be injured in the duration of the investigation.
72. The domestic industry is not suffering any material injury or threat of material injury and their claims have not been objectively examined by the Hon'ble Authority.
73. The imports had no price effect on the domestic industry as the domestic prices increased by 26% over the injury period while the import prices increased by 33% and thus, analysis of price undercutting is meaningless.
74. The production, capacity utilization and sales of the domestic industry have increased significantly over the injury period and the domestic industry was able to over utilize its capacity to 110%.
75. It is difficult to appreciate that a decline in market share of the domestic industry has occurred in view of over-utilized capacities and decreasing inventory implying that the domestic industry in fact has no more capacity to increase its sales or production.
76. There can be no price depression as domestic industry was able to increase its prices over the injury period and under such a situation the analysis of price undercutting is meaningless.
77. The profitability, cash flow and return on investment of the domestic industry have been affected due to the increase in cost of wages, depreciation and interest cost of the domestic industry for which no cause can be attributed to imports and no reasons with regard to the increase in its cost have been cited by the domestic industry. The increase in cost of the domestic industry is required to be segregated and viewed independent from the effects of injury as a result of imports.
78. The domestic industry earned profits in 2016-17 and the cash profits and return on capital employed was positive and while the cost of the domestic industry increased by 25%, selling prices increased by 26% and fixed cost declined over the injury period.

However, declining profits despite increasing selling price implies inaccuracies and contradictions in the data provided by the domestic industry and therefore, all the more calls for the need of objective examination.

79. Price underselling is neither a factor of injury to domestic industry and nor attributable to the subject imports but may be due to other factors and as such, the investigation is liable to be terminated as held by CESTAT in *Bridge Stone Tyre Manufacturing v. Designated Authority* (2011 (270) E.L.T. 696 (Tri. - Del.) and followed by the Authority in case of Gypsum Plaster Board.
80. Conclusions in the preliminary findings regarding volume parameters are ambiguous and not conspicuous.
81. Evidence provided to establish threat of material injury to the domestic industry is not based on facts but are allegations based on conjecture and remote possibility.
82. Excess capacities addressed in the preliminary findings do not disclose as to how such capacities may be diverted to India to cause injury.
83. Use of trade remedial measures by USA, Canada, Brazil and Argentina does not imply prohibition of imports to such countries and diversion of same to India.
84. India being the largest export market of subject goods for China does not establish the threat of injury to the domestic industry.
85. The increasing selling price and import prices imply there is no suppressing or depressing effect on domestic prices and there can be no likelihood of the same in future.
86. Inventories of the domestic industry have not been analysed to establish threat of material injury despite the same being a listed factor in Annexure II. Inventories of the domestic industry have declined significantly implying not threat of material injury.
87. Threat of material injury can be established when all listed factors show positive findings for threat, which is not case in present investigation.
88. In absence of any price affect by subject imports on domestic prices and substantial evidence of injury to the domestic industry, there exists no causal link between alleged dumping and injury.

H.3. Examination by Authority

89. The Authority has taken note of various submissions of the domestic industry and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.

90. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-Dumping Rules.
91. With regard to segregation of imports, the Authority notes that in the present investigation, the Authority has considered the imports as obtained from DGCI&S and excluded those transactions, which are not related to product under consideration. Such sorted imports have been used for the purpose of the present findings.
92. The Authority notes that it is not necessary that all parameters show of injury should show deterioration. Some parameters may show deterioration, while some may show improvement. The Designated Authority considers all injury parameters and, thereafter, concludes whether the domestic industry has suffered injury due to dumping or not. Similarly, it is not necessary that all parameters listed in para (vii) of Annexure – II show threat, in order to arrive at a finding of threat of further injury. Rather, the provisions of para (vii) make it amply clear that it is only an illustrative list of factors that may be considered for analysis of threat of injury.

H.3.1. Volume Effect of Dumped Imports on Domestic Industry

a. Assessment of Demand / Apparent Consumption

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

Particular	Unit	2016-17	2017-18	2018-19	POI (Oct,18-Jun,19)	POI Annl.
Domestic industry	MT	***	***	***	***	***
Trend	Indexed	100	120	122	89	118
Other producers	MT	***	***	***	***	***
Trend	Indexed	100	165	137	136	181
Subject imports	MT	***	***	***	***	***

Other imports	MT	***	***	***	***	***
Total Demand	MT	8,19,671	10,47,635	10,88,175	9,02,226	12,02,968
Trend	Indexed	100	128	133	110	147

94. It is seen that the demand for the product has increased consistently during the injury period.

b. **Import Volumes from the subject country**

95. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCI&S.

Particulars	Unit	2016-17	2017-18	2018-19	POI (Oct,18- Jun,19)	POI Annl.
Subject imports	MT	42,718	88,247	1,47,601	1,81,979	2,42,638
Other imports	MT	***	***	***	***	***
Imports in relation to						
Domestic production	%	***	***	***	***	***
Trend	Indexed	100	185	297	497	497
Consumption	%	***	***	***	***	***
Trend	Indexed	100	162	260	387	387
Total Imports	%	***	***	***	***	***
Trend	Indexed	100	135	148	154	154

96. It is seen that:

- a. Subject imports increased significantly over the injury period, while imports from other countries declined.
- b. The subject imports have also increased significantly in relation to gross imports in India, domestic production and consumption.

H.3.2. Price Effect of the Dumped Imports on the Domestic Industry

97. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the Domestic Industry on account of the dumped imports from subject country has been examined with reference to price undercutting, price underselling, price suppression and price

depression, if any. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the Domestic Industry have been compared with landed price of imports of the subject goods from the subject country.

a. **Price Undercutting**

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

Particulars	Unit	2016-17	2017-18	2018-19	POI (Oct,18-Jun,19)
Net Sales Realization	Rs./MT	***	***	***	***
Trend	Indexed	100	109	135	126
Landed price	Rs./MT	***	***	***	***
Trend	Indexed	100	112	138	133
Price undercutting	Rs./MT	***	***	***	***
Price undercutting	%	14.71	11.55	11.44	8.55

99. It is seen that the subject imports are entering the market at a price significantly below the selling price of the domestic industry. The imports are undercutting the prices of the domestic industry in the market.

b. **Price Suppression and Depression**

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

Particulars	Unit	2016-17	2017-18	2018-19	POI (Oct,18-Jun,19)
Cost of Sales	Rs./MT	***	***	***	***
Trend	Indexed	100	105	132	125
Selling Price	Rs./MT	***	***	***	***
Trend	Indexed	100	109	135	126

101. It is seen that whereas the domestic industry was able to increase its selling price more than the increase in cost of sales till 2018-19, both cost of sales and selling price declined in the period of investigation. However, the decline in the selling price was far

more than the decline in the cost of sales. The imports were depressing the prices of the domestic industry in the period of investigation.

c. **Price Underselling**

102. The non-injurious price (NIP) of the Domestic Industry has been determined and compared with the landed value of the subject goods to arrive at the extent of price underselling. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation on the basis of principles mentioned in Annexure III of the Rules. The analysis shows that during the period of investigation, the landed value of subject imports was below the non-injurious price of the Domestic Industry, as can be seen from the table below, demonstrating positive price underselling effect:

Particular	Unit	Subject Country
Non Injurious Price (NIP)	Rs./MT	***
Landed Value	Rs./MT	85,911
Injury Margin	Rs./MT	***
Injury Margin	%	***
Injury Margin	Range	0-10

103. It is seen that the landed price of the subject goods from the subject country was lower than the NIP determined for the domestic industry.

H.3.3. Economic Parameters of the Domestic Industry

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

105. 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, Capacity utilization and Sale**

106. Capacity, production, sales and capacity utilization of the Domestic Industry over the injury period is given in the following table:

Particulars	Unit	2016-17	2017-18	2018-19	POI (Oct,18- Jun,19)	POI Annl.
Capacity	MT	***	***	***	***	***
Trend	Indexed	100	100	100	75	100
Production – PUC	MT	***	***	***	***	***
Trend	Indexed	100	108	114	84	111
Production – Plant	MT	***	***	***	***	***
Trend	Indexed	100	109	114	83	110
Capacity Utilization	%	***	***	***	***	***
Trend	Indexed	100	109	114	110	110
Domestic Sales	MT	***	***	***	***	***
Trend	Indexed	100	120	122	89	118

107. It is seen that while the capacity remained constant over the injury period, production, capacity utilization and sales increased till 2018-19, though not commensurate with the increase in demand. However, production, capacity utilization and sales declined during the period of investigation, although demand for the subject goods increased. Whereas the demand increased by 47%, the sales of the domestic industry increased only by 18%.

b. **Market Share**

108. Market share of the domestic industry was as shown in table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI (Oct,18- Jun,19)
Subject Country	%	5.21	8.42	13.56	20.17
Trend	Indexed	100	162	260	387
Other Countries	%	3.26	1.70	1.30	1.16
Trend	Indexed	100	52	40	36
Domestic Industry	%	80.18	75.21	73.42	64.69
Trend	Indexed	100	94	92	81
Other Producers	%	11.35	14.67	11.71	13.98
Trend	Indexed	100	129	103	123

109. It is seen that the market share of subject imports increased considerably over the injury period, while the market share of the petitioning domestic industry fell. The data shows that the domestic producers have lost market to the imports from the subject country.

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

110. Profitability, return on investment and cash profits of the Domestic Industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI (Oct,18- Jun,19)	POI Annl.
Selling price	Rs./MT	***	***	***	***	***
Trend	Indexed	100	109	135	126	126
Cost of sales	Rs/MT	***	***	***	***	***
Trend	Indexed	100	105	132	127	127
Profit/(Loss)	Rs/MT	***	***	***	***	***
Trend	Indexed	100	215	211	79	79
Profit/(Loss)	Rs Lacs	***	***	***	***	***
Trend	Indexed	100	257	256	70	94
Cash Profits	Rs.Lacs	***	***	***	***	***
Trend	Indexed	100	203	196	66	88
Return on Capital Employed	%	***	***	***	***	***
Trend	Indexed	100	245	221	93	93

111. It is seen that

- Profits of the domestic industry which was increasing until 2017-18, declined in 2018-19 and fell more than 50% in the period of investigation.
- Cash profits of the domestic industry increased till 2017-18, declined slightly in 2018-19 and declined sharply during the period of investigation.
- The return on capital employed of the domestic industry, which was increasing until 2017-18, declined slightly in 2018-19 and significantly in the period of investigation.

d. **Employment, Wages and Productivity**

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

Particulars	Unit	2016-17	2017-18	2018-19	POI (Oct,18- Jun,19)	POI Annl.
No of Employees	Nos	***	***	***	***	***
Trend	Indexed	100	99	97	97	97
Productivity per day	MT/DAY	***	***	***	***	***

Trend	Indexed	100	108	114	111	111
Productivity per employee	MT/Nos	***	***	***	***	***
Trend	Indexed	100	109	118	86	115
Wages	₹ Lacs	***	***	***	***	***
Trend	Indexed	100	82	133	137	137
Wages per Unit	₹/MT	***	***	***	***	***
Trend	Indexed	100	72	113	121	121

113. It is seen that: -

- a. Number of employees of the domestic industry has reduced over the injury period.
- b. Wages and wages per unit have increased over the injury period.
- c. Productivity of the domestic industry has also increased over the injury period with a slight fall during the period of investigation.

d. **Inventories**

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

Particulars	Unit	2016-17	2017-18	2018-19	POI (Oct,18-Jun,19)
Opening inventory	MT	***	***	***	***
Closing inventory	MT	***	***	***	***
Average inventory	MT	***	***	***	***
Trend	Indexed	100	118	108	86

115. It is seen that the average inventories with the domestic industry decreased over the injury period with the decline in production in the period of investigation.

f. **Magnitude of Dumping**

116. It is noted that the subject goods are being dumped into India and the dumping margin is positive and significant.

g. **Growth**

Particulars	Units	2017-18	2018-19	POI
Production volume	%	8	6	(3)
Domestic sales volume	%	20	1	(3)
Profit/(loss) per unit (Rs./MT)	%	142	0	(42)
Cash Profits	%	139	(1)	(41)

Return on capital employed	%	225	(9)	(47)
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117. While the domestic industry has been able to achieve a positive growth in respect of production, sales, and capacity utilization upto 2018-19, these factors declined in the period of investigation. Further, its position has deteriorated with regard to market share, profitability, cash profits and return on investment in the period of investigation.

h. Ability to Raise Capital Investment

118. The profits earned by the domestic industry have declined sharply in the period of investigation. The decline in profits before interest shows that the dumped imports may impact the ability of the domestic industry to raise capital investment.

i. Overall Assessment of Injury

119. On the basis of the above, the following conclusions have been made:

- a. The subject imports have increased both in absolute terms as well as in relation to production and consumption during the period of investigation.
- b. The subject imports are significantly undercutting the prices of the petitioning domestic industry.
- c. The subject imports have had a depressing effect on the prices of the domestic industry and the price underselling is positive.
- d. The production and sales of the domestic industry increased till 2018-19, but declined in the period of investigation.
- e. While the market share of the petitioning domestic industry declined over the injury period, the subject imports gained significant market share.
- f. The profits, cash profits and return on investment of the petitioning domestic industry have deteriorated since 2017-18 and drastically declined during the period of investigation.
- g. While the petitioning domestic industry has been able to achieve a positive growth in some volume parameters, the same has declined during the period of investigation. Further, its performance in the profitability parameters also shows a decline.

H.3.4. Threat of material injury

120. The applicants have also claimed threat of material injury. Submissions made regarding threat have been examined below:

a. Rate of increase in imports

121. The subject imports have increased significantly over the injury period. Further, the subject imports have increased at a rate higher than the increase in demand.

Particular	Unit	2016-17	2017-18	2018-19	POI Annl.
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Subject imports	MT	42,718	88,247	1,47,601	2,42,638
Trend	Indexed	100	207	346	568
Total Demand	MT	8,19,671	10,47,635	10,88,175	12,02,968
Trend	Indexed	100	128	133	147

b. Surplus capacities with producers

122. The petitioners have claimed that the producers in China PR have excess capacities, as under;

Particulars	Unit	2017	2018	2019	2020	2021
Capacity*	Lakh MT	78.99	94.72	102.22	125.05	133.05
Production*	Lakh MT	69.55	78.50	84.85	88.25	89.87
Surplus capacities	Lakh MT	9.44	16.22	17.37	36.80	43.18

**Wood Mackenzie Chemicals*

123. It is seen that Chinese producers are holding significant surplus capacities.

c. Trade remedy measures imposed in third countries

124. Information provided by the petitioners shows that trade remedial measures have been invoked by USA, Canada, Brazil and Argentina against Chinese imports of subject goods show the pattern of dumping by the concerned producers/exporters of the subject country. The petitioners have emphasized that the closure of these markets to the exporters indicates threat of increased dumping and further injury to the domestic industry.

d. Prominence of India as a market

125. The petitioners have also referred to the trade data of Chinese customs which shows that India is also the single largest market for Chinese exporters. Further, the share of exports to India in the total exports from China PR has increased from 5% in Apr-Sept, 2018 to 7% in Oct-Dec, 2018, 9% in Jan-Mar, 2019 and 10% in Apr-Jun, 2019. The exports from China to India are increasing at a much faster pace than those to third countries. The increasing importance of India as a market itself highlights threat of material injury.

e. Whether imports are entering the market at prices that will have a suppressing or depressing effect on the prices of the domestic industry

126. With the subject imports undercutting the prices of the domestic industry, the domestic industry has already been forced to reduce its prices. The continued positive undercutting suggests that the imports are likely to have a further suppressing or depressing effect on the prices of the domestic industry.

127. With respect to threat of injury, the following is concluded:

- a. The subject imports have increased at a rapid rate.
- b. There are significant surplus capacities in China PR, which are expected to increase further.
- c. Other markets such as USA, Canada, Brazil and Argentina may be closed for the exporters due to imposition of trade remedial measures.
- d. India is an important market for the exporters in the subject country, being the largest export market.
- e. The imports are entering the domestic market at such prices as are likely to have a further suppressing or depressing effect.

128. The factors identified above show existence of a threat of further injury to the domestic industry.

H.4. Magnitude of Injury and Injury Margin

129. The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in Anti-Dumping Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The non-injurious price of the domestic industry has been worked out and it has been compared with the landed price from each of the producers/exporters from the subject country for calculating injury margin. The injury margin for the non-cooperative exporters has been determined based on the facts available with the Authority.

SN	Producer	NIP (USD/MT)	Injury Margin (USD/MT)	Injury Margin (%)	injury Margin (Range)
1.	Jiangyin Chengold Packaging Materials Co. Ltd and China Prosperity (Jiangyin) Petrochemical Co. Ltd.	***	***	***	0-20
2.	Jiangsu Xingye Plastic Co., Ltd., Jiangyin Xingyu New Material Co., Ltd., and Jiangsu Sanfame International Trade Co., Ltd	***	***	***	0-20
3.	Zhejiang Wankai New Materials	***	***	***	0-20
4.	All Others	***	***	***	0-20

I. NON-ATTRIBUTION ANALYSIS

130. As per the Anti-Dumping Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed

to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the domestic industry.

a. Volume and prices of imports from third countries

131. The imports from countries other than the subject country are not significant in volume terms so as to cause or threaten to cause injury to the domestic industry. Thus, it cannot be said that imports from other countries are causing injury.

b. Changes in the pattern of consumption

132. There have been no material changes in the pattern of consumption of the product under consideration. Hence, changes in the pattern of consumption have not caused injury to the domestic industry.

c. Trade restrictive practices

133. The Authority notes that there is no trade restrictive practice, which could have caused injury to the domestic industry.

d. Change in technology

134. The Authority also notes that technology for production of the product has not undergone any change. Developments in technology are, therefore, not a factor of injury.

e. Export performance

135. The Authority has considered data for the domestic operations only. Any possible deterioration in the export performance of the domestic industry, therefore, cannot be a cause for the injury to the domestic industry.

f. Productivity

136. The Authority notes that the productivity of the petitioning domestic industry has increased. Therefore, it has not suffered injury on this account.

g. Performance of other products

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

J. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

138. Submissions made by M/s Indian Plastics Federation;

- a. The quality of PET Resins manufactured by domestic producers and those imported from China are comparable in terms of essential product characteristics such as physical and chemical. There is no observable difference. However, quality standards can be ascertained only by a certification agency like the BIS or similar organisation.
- b. Supply of raw material by indigenous raw material producers is uncertain. There is also short supply of materials by domestic producers. Furthermore, there are certain varieties of PET resins that are not manufactured by domestic producers.
- c. Large discounts are offered to big companies. This is not available to small and medium units. This price disparity goes against small and medium industries. Hence small and medium industries prefer to import raw materials from China since their pricing policy and terms and conditions of payment are easier.
- d. There are no credit facilities available from indigenous raw material producers. This is available to imports from China.
- e. Our members and Federation are of the opinion that any anti-dumping duty on imports from China will affect the domestic processors adversely and, therefore, the proposed anti-dumping duty should not be imposed.

139. Submissions made by M/s Madras Hardtools Pvt. Ltd.;

- a. There is no injury being caused to the domestic manufactures of goods. The imported goods catering to the local users are competitive in price and good in quality with delivery time lines well kept. The landed cost of PET at our doors, is considerably cheaper in price. RIL material is always in demand and not easily available. Their terms and prices are not capable of being affordable for small manufacturers therefore, the injury claimed by the complainant is simply a bullying tactic to have monopoly in PET market.
- b. The overseas exporters give us a quality material at a competitive price keeping delivery timelines as against the inconsistency and one-upmanship and chaotic situations created by local suppliers. Direct interaction with the tertiary level dealers and manufacturers will reveal the position.
- c. The complainant is fairly a big player in the market and also exports the subject goods. The imports of PET from overseas ensures uninterrupted supply and comparative prices and delivery schedules. Imposing of ADD would push the cost of material and the local supply will not meet the demand. Small manufacturers and down the line consumers will suffer. The impact is highly dangerous. We are not in favour of imposition of anti-dumping measures.
- d. The Authority should take research in the PET Industries market, to realize the marketing strategy adopted by the complainant by curtailing supplies, increasing the prices affecting the production and adversely impacting the small and medium scale manufacturers. Most of the units will go out of production ending up in huge losses and unemployment and self-

employment. In spite of the above facts and circumstances, if the Authority considers imposition of ADD it may be made prospective.

K. EXAMINATION OF MAJOR ISSUES RAISED SUBSEQUENT TO PF

140. The Authority notes that in response to the preliminary finding dated 5/8/2020, interested parties have filed submissions and later made additional submissions post the oral hearing held on 4/12/2020. The main issues raised by M/s TracoLegal Advocates & Consultants representing M/s Zhejiang Wankai New Materials Co. Ltd., China, M/s Jiangyin Xingyu New Material Co. Ltd., China, M/s Jiangsu Sanfame International Trade Co., Ltd., China and M/s Jiangsu Xingye Plastic Co., Ltd., China relate to methodology of normal value, standing of domestic industry, tenure of POI, excessive confidentiality claimed by domestic industry, filtering of DGCIS's data and no injury to the domestic industry. M/s ELP representing M/s Jiangyin Chengold Packaging Materials Co. Ltd and M/s China Prosperity (Jiangyin) Petrochemical Co., Ltd have mainly contested non grant of Market Economy Treatment (MET) status to the cooperating exporter and thereby non grant of individual margin.
141. The Authority notes that domestic industry has stated that low imports were made by Domestic Industry during POI from the subject country which were less than 1% of its total production. There has been an adverse impact on their profitability due to the dumped imports. The Authority further notes that the export price adopted for the two cooperating producers/exporters groups in its preliminary finding has not been contested.
142. The Authority notes that the exports by cooperative producers/exporters account of for almost one third of total imports from subject country and the data of producer/exporter has been considered for evaluating dumping margin. For non-cooperative producers/exporters, the data of cooperative producers/exporters has been referenced by considering highest dumping margin/injury margin and therefore the issue of any DGCIS data not having been reliably filtered does not seem appropriate. As regards the standing of the domestic industry, the Authority considered the submissions in accordance with Rule 2(b) of AD Rules and relevant decisions on this issue in various AD cases.
143. As regards injury, the Authority considered all injury parameters as per Annexure 2 of the AD Rules. On the submissions of excessive confidentiality the Authority recalls para 3 (o) of the preliminary finding and hold that the norms of confidentiality have been non discriminatorily applied to all interested parties in accordance with relevant Rules/Trade Notice. As regards POI, the AD rules on this aspect have been amended in February 2020. The Authority has in past considered POI of period less than 12 months. The Authority notes that M/s TracoLegal Advocates & Consultants has submitted to refer FoB price in India as a basis for constructing normal value for the cooperative producer/exporter. The Authority recalls para 23 of preliminary finding wherein it has been stated that no information on the stipulated hierarchy in AD Rules has been provided. The submissions made by Traco Legal do not fall in the options stated in the hierarchy. As regards the claim of MET by M/s ELP the Authority notes that in para 21 of preliminary finding, this issue has been dealt. The Authority also notes that certain

cost issues/deficiencies raised by DGTR in mail dated 3/7/2020 have not been responded. On 16/12/2020, the producer/exporter has only referred to the earlier filed annexures without providing the requisite information. Further, non-filing of the questionnaire by the holding company M/s Jiangyin Chengxing Industrial Group Co., Ltd. as stated in para 21 of the preliminary finding does not enable Authority to evaluate the issues of market economy comprehensively for the entire group. The Authority therefore confirms the methodology for CNV for both cooperative exporter groups in the final finding.

144. As regards the submissions on issues of delivery schedule of supply of subject goods, price competitiveness the Authority only addressed the aspect of unfair trade practice of dumping so as to redress the injury caused to the domestic industry. The Authority further notes that 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 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.

145. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Anti-Dumping Rules, the essential facts gathered by the Authority during the course of the present investigation and as established by the Authority on the basis of information received from various sources are disclosed to the interested parties in order to enable these interested parties to offer their comments on these facts gathered by the Authority.

L. Post-Disclosure Comments

L.1. Submissions of domestic industry

146. The domestic industry largely reiterated the submissions made earlier. In particular, the domestic industry emphasized on the following issues :

- a. In addition to non-participation of the parent company, the MET claim of Chengold group was, in any case, not acceptable due to the following reasons.
 - i. Foreign exchange conversion rates in China are determined through government intervention and not market rates which is evident from the fact that China recently undervalued its currency in response to tariffs imposed by the USA.
 - ii. Jiangyin Chengold Packaging Materials Company Limited has entered into a Strategic Cooperation Agreement with Sinopec, one of the biggest state-owned oil and gas enterprise in China PR, for PET projects. This will lead to significant distortion in the cost of production of the responding exporter.
 - iii. Chengxing Group has been a part of various government initiatives including 'National Torch Project'. Such infrastructural and technological support from the Government will impact the costs of producers involved in production of

- subject goods.
- b. The methodology of determining normal value based on optimized cost of production of domestic industry is not appropriate as it assumes that the producers in the subject country are operating their plants at optimum levels, and at the lowest cost. The normal value should be determined based on weighted average actual cost of the domestic industry as a whole.
 - c. Post-invoicing discounts should not be treated in the same manner as on-invoice discounts for determination of non-injurious price. Only discounts given at the time of sale can be reduced from cost of production.
 - d. Injury margin and price undercutting should be determined considering only those import transactions whose landed price is below selling price and the non-injurious price. This is because the petitioner is only concerned with the injurious imports. This is consistent with the observations of the WTO Panel in the case of European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil and the decision of the Tribunal in the case of Kothari Sugars & Chemicals Limited V Designated Authority.
 - e. The Indian industry consists of four producers which have the capacity much more than the existing demand in the country and will be able to cater to present as well as future demand in the country, thereby truly fulfilling the vision of Aatmanirbhar Bharat.
 - f. The market for the product holds a significant potential and can attract future investments if fair competition prevails in the market. There is a need to protect present and future investment, against unfair trading practices of the foreign producers.
 - g. Raw materials and utilities costs forms about 85% of the total cost of production for the product. The producers have low margins and any price competition adversely impacts the prices and profitability of the domestic producers.
 - h. The Indian industry produces bottle grade PET resin of high quality, which can be relied upon by the consumers.
 - i. There are global overcapacities of the product under consideration leading to oversupply in the market. There is stiff competition in the global market due to limited demand.
 - j. A number of countries hold capacities in excess of their demand. China PR is the global leader in PET resin production capacities, holding about 30% of world capacity. Despite existing surplus capacities, significant capacity addition took place in China in 2016- 17 with about 50% increase in capacities.
 - k. China PR is holding excess capacities to the extent of 70% of domestic consumption. Even after significant exports to the tune of about 25% of production, the Chinese producers are faced with under-utilised capacities. The current capacity utilisation in China PR is 70- 75% and the Chinese producers are forced to look for global market to utilise these capacities.
 - l. The situation of overcapacities is such that the producers of subject goods are dumping in other countries as well which is evident from the fact that they face trade remedial actions in various countries. These measures have restricted Chinese producers from increasing their exports, as is evident from the fact that exports from China to third countries have not increased at the same pace as the exports to India, despite unutilised capacities.
 - m. India is the single largest export market for the product, despite being self-sufficient.

- n. Imposition of anti-dumping duty will not have any significant adverse impact on public at large as PET forms an insignificant proportion in the cost of production of various product, where it serves as a packaging material.
- o. As the normal value is based on cost of production in India based on the data of the domestic industry, it should be disclosed to the domestic industry.

L.2. Submissions of other interested parties

147. Apart from reiterating their earlier submissions, the other interested parties have submitted as under.

- a. The claim of market economy treatment of Jiangyin Chengold Packaging Materials & China Prosperity (Jiangyin) Petrochemical should be accepted as Para 8 of Annexure I does not have an express requirement of the participation of entire group. Further, the parent company of the group, namely, Jiangyin Chengxing Industrial Group Company Limited is not involved in production and sales of subject goods and the board members of Chengold group run their operations on day-to-day basis and do not have any overlap with the shareholders of the parent company. The functioning and performance of the parent company functioning and performance does not directly effect the group and filing of questionnaire will not grant any additional benefit on the issue of granting MET to Chengold group.
- b. Chengold Group has filed questionnaire response and MET questionnaire response and has provided evidence of purchase price of raw material and utilities. If the Authority had any concerns regarding purchase price being at arm's length, it could have sought further clarification from Chengold group.
- c. The Authority has failed to consider submissions made by the group that the petitioners have claimed excessive confidentiality and have not complied with the Trade Notice 10/2018 in providing the source of volume and value of production by all other producers except domestic industry; R&D expenses and funds raised, and non-injurious price.
- d. Reliance is placed on the decision in case of Reliance Industries V. Designated Authority, Sterlite Industries (India) Limited V. Designated Authority and UOI V. Meghmani Organics Limited to submit that the obligations under Rule 7 must be observed.
- e. The Authority must clarify if it has considered taken the arguments raised by the group into consideration. The Authority is requested to provide reasons for accepting or rejecting them.
- f. The name of the company was changed from Zhejiang Wankai New Materials Company Limited to Wankai New Materials Company Limited subsequent to submission of the response by the company. It is a simple name change with no material changes in the business or its ownership.
- g. IVL Dhunseri should be excluded from scope of domestic industry, being related to a producer in China. Such misuse of anti-dumping duty should not be permitted.
- h. There are no dramatic changes in the facts and circumstances of the case since the preliminary findings, where the Central Government did not concur with. The investigation should be terminated on this ground alone.
- i. In the anti-dumping investigations, increase in imports, presence of dumping and injury to the domestic industry are necessary elements but that these elements cannot be regarded as exceptional circumstances warranting for a period of

- investigation of 9 months duration.
- j. The import data of the cooperating exporters has not been used in the injury analysis and arbitrarily sorted DGCI&S import data has been used.
 - k. The normal value for the producers from China may be determined on the basis of their records as the interpretation of the provisions of the Article 15(a)(ii) of China's Accession Protocol eventually puts these provisions to nullity. This was never the intention of the drafter of the aforesaid provisions.
 - l. Normal value should be determined on the basis of the published FOB prices in India, which is 'on the basis of price paid or payable in India', one of the alternatives given in Para 7 of Annexure I. These prices are most reliable and appropriate for normal value as these are the real market driven prices and there are no notional elements of costs/profits etc. or use of arbitrariness by the domestic industry in the computation of normal value.
 - m. The domestic industry has not suffered any injury due to alleged imports. The statements of the domestic industry have been accepted on their face value without applying the principles of objective examination of injury by making due analysis or enquiry from the domestic industry.
 - n. There is no causal link in the current investigation as there was no evidence for the significant price effect by the subject imports on domestic prices and there was no evidence that the domestic industry is experiencing injury due to alleged dumped imports from China.

L.3. Examination by the Authority

148. As regards normal value computation by the cooperating producer/exporter groups, the Authority notes that M/s TracoLegal Advocates & Consultants representing M/s Zhejiang Wankai New Materials Co. Ltd., China, M/s Jiangyin Xingyu New Material Co. Ltd., China, M/s Jiangsu Sanfame International Trade Co., Ltd., China and M/s Jiangsu Xingye Plastic Co., Ltd., China have reiterated consideration of FoB price from India as 'CNV' for China. The Authority also notes that MET was not substantiated by the participating exporter/producer by not filing the response to the MET questionnaire. As stated in the disclosure, the option of normal value desired by the producer/exporter is not contained in para 7 and hence the Authority confirms the determination of normal value for the producer/exporter in accordance with the methodology of CNV adopted in the preliminary finding. As regards, the other cooperative producer/exporter i.e. M/s Jiangyin Chengold Packaging Materials Co. Ltd and M/s China Prosperity (Jiangyin) Petrochemical Co., Ltd. represented by M/s ELP the Authority notes that they have reiterated their justification for not filing the response by the Group's holding company on the ground that they were not involved in the manufacture of PUC. However, to establish the participating producer/exporter for admissibility of MET, the Authority needs to establish the claim for the same as per the parameters stipulated in para 8 of Annexure 1 of AD Rules wherein para 8(3) stipulated the information beyond PUC. Due to non-filing of questionnaire for the entire group, the claim of MET by M/s Jiangyin Chengold Packaging Materials Co. Ltd and M/s China Prosperity (Jiangyin) Petrochemical Co., Ltd cannot be considered for establishing the MET status. Further, the producer/exporter did not file data on the additional costing information sought through email dated 03.07.2020. At a belated stage on 17.12.2020 the producer/exporter merely reiterated the same response filed earlier which was infact considered deficient

for which additional details were sought. In view of the aforesaid non-cooperation by the producer/exporter, the Authority has not considered granting MET status to M/s Jiangyin Chengold Packaging Materials Co. Ltd and M/s China Prosperity (Jiangyin) Petrochemical Co., Ltd and confirms the methodology for CNV as adopted in the preliminary finding.

149. As regards submission regarding injury to domestic industry the Authority has examined all injury parameters in accordance with Annexure 2 of AD Rules. The Authority reiterates its determination on material injury and threat of injury as stated in the preliminary finding and in paras 119 to 128 of this finding.

150. With regard to confidentiality and source of information, Authority notes as follows;

- i. As regards information on funds raised, R&D etc, Authority notes that domestic industry has not claimed any amount dedicated to product under consideration on these accounts, and has relied upon their annual report.
- ii. As regards production and sales information on other Indian producers, the petitioner has provided this information based on their market intelligence, information on gross Indian production was disclosed to all interested parties. None of the interested parties have provided any information to demonstrate that the information given by the petitioner is incorrect.
- iii. The Authority further notes the submission by M/s ELP regarding disclosure of NIP and holding that since it has provided the range of injury margin and the export price of cooperative producer/exporter has also been disclosed to the cooperative producer/exporter, the issue raised by the producer/exporter stands addressed. The Authority has provided treatment of confidentiality claim to all interested parties as per its consistent practice.

151. As regards sorting of DGCIS's import data, the Authority notes that the analysis has been done mainly on description of the product. However, certain transactions where the price is noted to be both as abnormally low or high have also been excluded. This exclusion in fact lowers the volume of import. Further, this filtering in no way impacts the specific parameters evaluated for the cooperative producers/exporters. Since the exclusion done by filtering of PUC is only of low quantum, the Authority notes that it also does not impact the overall injury assessment.

152. As regards to the request of name change by Tracolegal, the Authority accepted the same as Wankai New Materials Co., Ltd. (erstwhile Zhejiang Wankai New Materials Co., Ltd).

CONCLUSION & RECOMMENDATIONS

153. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, Embassies of the subject countries, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the

provisions laid down under the Rules, the Authority is of the view that imposition of Anti-Dumping Duty is required to offset dumping the injury. Therefore, Authority recommends imposition of anti-dumping duty on imports of subject goods from the subject country.

154. In terms of provision contained in Rule 4(d) & Rule 17(1) (b) of the Rules, the Authority recommends imposition of 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, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the duty table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on all imports of goods described at Column 3 of the duty table, originating in or exported from China PR.

Duty – Table

S. No.	HS Code	Description of goods	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	39076190 and 39076990	“Polyethylene terephthalate resin having an intrinsic viscosity of 0.72 decilitres per gram or higher”	China PR	China PR	Jiangyin Chengold Packaging Materials Co., Ltd. / China Prosperity (Jiangyin) Petrochemical Co., Ltd	146.11	MT	USD
2.	39076190 and 39076990	“Polyethylene terephthalate resin having an intrinsic viscosity of 0.72 decilitres per gram or higher”	China PR	China PR	Wankai New Materials Co., Ltd.	15.54	MT	USD
3.	39076190 and 39076990	“Polyethylene terephthalate resin having an intrinsic viscosity of 0.72 decilitres per gram or higher”	China PR	China PR	Jiangsu Xingye Plastic Co., Ltd. / Jiangyin Xingyu New Material Co., Ltd. / Jiangsu Sanfame International Trade Co., Ltd.	60.92	MT	USD

4.	39076190 and 39076990	“Polyethylene terephthalate resin having an intrinsic viscosity of 0.72 decilitres per gram or higher”	China PR	China PR	Any producer other than producers mentioned at S.No. 1, 2 & 3 above.	200.66	MT	USD
5.	39076190 and 39076990	“Polyethylene terephthalate resin having an intrinsic viscosity of 0.72 decilitres per gram or higher”	China PR	Any country other than China	Any	200.66	MT	USD
6.	39076190 and 39076990	“Polyethylene terephthalate resin having an intrinsic viscosity of 0.72 decilitres per gram or higher”	Any country other than China	China PR	Any	200.66	MT	USD

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



(B.B. Swain)

Special Secretary and Designated Authority