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F. No. 6/28/2020–DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001

Dated: 19.08.2021

NOTIFICATION

FINAL FINDING

Case No. ADD-(OI)-23/2020

Subject: Anti-dumping investigation concerning imports of Aceto Acetyl Derivatives of aromatic or hetrocyclic compounds also known as Arylides from China PR.

F. No. 6/28/2020–DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as “the Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as “the Rules”) thereof.

A. BACKGROUND OF THE CASE

1. M/s Laxmi Organics Industries Limited (hereinafter referred to as the ‘applicant’ or ‘applicant company’) filed an application before the Designated Authority in accordance with the Customs Tariff Act 1975 as amended from time to time (hereinafter also 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 (hereinafter also referred as the “Anti-Dumping Rules” or “Rules”) for initiation of anti-dumping investigation concerning imports of certain “Aceto Acetyl Derivatives of aromatic or heterocyclic compounds” also known as “Arylides” (hereinafter referred to as

‘Arylides’ or ‘subject goods’ or ‘product under consideration’) originating in or exported from China PR (hereinafter also referred to as ‘subject country’).

2. The Authority, on the basis of a sufficient evidence submitted by the Applicant, issued a public notice vide Notification F. No. 6/28/2020–DGTR dated 21st August, 2020, published in the Gazette of India, initiating the subject investigation in accordance with Section 9A of the Act, read with Rule 5 of the Rules, to determine the existence, degree and effect of alleged dumping of the subject goods originating in or exported from subject country and to recommend the amount of Anti-dumping duty (ADD), which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed with regard to the subject investigation: -
 - a. The Authority notified the Embassy of the subject country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.
 - b. The Authority issued a public notice dated 21st August 2020 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning the import of subject goods from the subject country.
 - c. The Embassy of subject country in India was informed about the initiation of the investigation in accordance with Rule 6(2) of the Rules. The Authority sent a copy of the initiation notification to the Government of the Subject Country, through its Embassy in India, known producers/exporters from the subject country, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within the prescribed time limit.
 - d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject country, through its Embassy in India in accordance with Rule 6(3) of the Rules
 - e. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
 - f. The Authority also forwarded copy of the notice to known producers/ exporters from the subject country, known importers/users in India, and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within time limit given in the initiation notification.

- g. The Embassy of the subject country in India was also requested to advise the exporters/producers from its 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 the Embassy along with the names and addresses of the known producers/exporters from the subject country.
- h. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the Rules:
- i. M/s Changzhou Tuomei Import And Export Co. Ltd.
 - ii. M/s Hangzhou Dingsheng Chemical Co., Ltd.
 - iii. M/s High Hope Int'l Group Jiangsu Champion Holdings Ltd.,
 - iv. M/s Jiangsu Tiancheng Biochemical Products Co., Ltd.
 - v. M/s Licheng Industrial Co., Ltd.
 - vi. M/s Nantong Acetic Acid Chemical Co., Ltd.
 - vii. M/s Qingdao Double-Peach Speciality Chemicals (Group) Co. Ltd.
 - viii. M/s Qingdao Haiwan Specialty Chemicals Co., Ltd.
 - ix. M/s Zhejiang Tongxiang Foreign Trade Group Co., Ltd.
- i. In response to the above notification, following producers, their related exporters/traders have submitted the exporter questionnaire responses: -
- i. M/s. Nantong Acetic Acid Chemical Co., Ltd.
 - ii. M/s. Nantong Tianhong International Trade Co., Ltd.
 - iii. M/s. Qingdao Haiwan Group Co., Ltd.
 - iv. M/s. Qingdao Haiwan Specialty Chemicals Co., Ltd.
- j. 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. M/s Abad International
 - ii. M/s Hindprakash Tradelink Pvt Ltd.
 - iii. M/s Hubergroup India Private Ltd.
 - iv. M/s Ravi Dyeware Co. Pvt Ltd.
 - v. M/s Siddharth Colorchem Ltd.
 - vi. M/s Yash Enterprise
 - vii. M/s Aayushi Enterprise

- viii. M/s Advaitya Dye Chem
- ix. M/s Akshar Dyes & Chemicals
- x. M/s Ambuja Intermediates Pvt. Ltd.
- xi. M/s Anil Organics
- xii. M/s Anjani Dyes and Intermediates Pvt. Ltd.
- xiii. M/s Anupam Colours Pvt. Ltd.
- xiv. M/s Aries Organics Pvt. Ltd.
- xv. M/s Bhagwati Organics
- xvi. M/s Clariant Chemicals (India) Ltd.
- xvii. M/s Colour Finders
- xviii. M/s Crystal Orgochem Pvt. Ltd.
- xix. M/s Crystal Chem
- xx. M/s Digichem Industries
- xxi. M/s Dynemic Products Ltd.
- xxii. M/s Emco Dyestuff Pvt. Ltd.
- xxiii. M/s Globex Laboratories (R&D) Ltd.
- xxiv. M/s Hercules Pigments Pvt. Ltd.
- xxv. M/s Heubach Colour Pvt. Ltd.
- xxvi. M/s Hubergroup India Pvt. Ltd.
- xxvii. M/s Indian Chemical Industries
- xxviii. M/s Kailash Chemicals
- xxix. M/s kroma Industries
- xxx. M/s Kwaliti Chemical Industries Pvt. Ltd.
- xxxi. M/s Labdhi International Pvt. Ltd.
- xxxii. M/s MAA Organics Enterprise
- xxxiii. M/s Micas Organics Limited
- xxxiv. M/s Micro Inks Ltd.
- xxxv. M/s N.S. Exports
- xxxvi. M/s Neelam Product
- xxxvii. M/s Pidlite Industries Ltd.
- xxxviii. M/s Prasad International Pvt. Ltd.
- xxxix. M/s Ravi Dyeware Co. Pvt. Ltd.
- xl. M/s Shree Raj Corporation
- xli. M/s Shreeji Organics

- xl.ii. M/s Sigma Aldrich Chemiclaspvt. Ltd.
 - xl.iii. M/s Sudarshan Chemical Industries Ltd.
 - xl.iv. M/s Sweta Chemicals
 - xl.v. M/s TCG Lifesciences Pvt. Ltd.
 - xl.vi. M/s Trichem Intermediates Pvt. Ltd.
 - xl.vii. M/s Unity Dye Chem Pvt. Ltd.
 - xl.viii. M/s Vibfast Pigments Pvt. Ltd.
 - xl.ix. M/s Victory sales Enterprise
 - l. M/s Vijay Chemicals Industries
 - li. M/s Vipul Dye Chem Ltd.
 - lii. M/s Vipul Organics Ltd.
- k. In response to the above notification, following importer has submitted importer questionnaire response:
 - i. M/s Crystal Orgochem Private Limited.
- l. In response to the above notification, following users have submitted user questionnaire responses:
 - i. M/s Voxco Pigments and Chemicals Private Limited
 - ii. M/s Sudarshan Chemical Industries Limited
 - iii. M/s Micas Organics Limited
 - iv. M/s Kwaliti Chemical Industries Private Limited
 - v. M/s Unity Dye Chem Pvt. Ltd.
 - vi. M/s Pidilite Industries Limited
 - vii. M/s Vibfast Pigments Private Limited
 - viii. M/s Apex Dyes & Intermediates
 - ix. M/s Advaitya Dye Chem
 - x. M/s Anupam Colours Private Limited.
- m. Further, the following interested party has filed legal submissions during the investigation: -
 - i. China Petroleum and Chemical Industry Federation
- n. In accordance with Rule 6(6) of the Rules, the Authority also provided an opportunity to all interested parties to present their views orally in a hearing held on 15th February,

2021. All the parties who had attended the oral hearing were advised to file written submissions of the views expressed orally. The parties shared their non-confidential submissions with other interested parties and were advised to offer their rebuttals.

- o. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of e-file through email for the interested parties.
- p. A request was made to the Directorate General of Commercial Intelligence and Statistics (DGCIS) to provide transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which has been received by the Authority. The Authority has relied upon DGCIS data for computation of the volume and values of imports and its analysis after due examination of the transactions.
- q. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- r. Information was sought from the applicant and the other interested parties to the extent deemed necessary. Verification of the data provided by the Domestic industry and other interested parties was conducted to the extent considered necessary for the purpose of present investigation.
- s. The period of investigation for the purpose of present investigation is 1st April 2019 to 31st March 2020 (12 Months). The injury examination period has, however, been considered as the period from 2016-17, 2017-18, 2018-19 and the period of investigation.
- t. 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.
- u. A disclosure statement containing the essential facts in this investigation which would have been formed the basis of the final findings was issued to the interested parties on

04.08.2021 and the interested parties were allowed time up to 11.08.2021 to comment on the same. The comments on Disclosure Statement received from the interested parties have been considered, to the extent found relevant, in this final finding notification.

- v. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the present preliminary findings on the basis of the facts available.
- w. The Authority has considered all the arguments raised and information provided by all the interested parties at this stage, to the extent the same are supported with evidence and considered relevant to the present investigation. The Authority will further examine the evidentiary documents submitted by the interested parties subsequent to preliminary findings, which will form the basis for conclusions at the time of final findings.
- x. ‘****’ in this final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- y. The exchange rate adopted by the Authority for the subject investigation is 1 US\$ = Rs 71.65.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

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

“The product under consideration (PUC) is “Aceto Acetyl Derivatives of aromatic or hetrocyclic compounds” or “Arylides”. The following forms of arylides are included within the scope of the present investigation whilst all other forms are excluded:

- a. Acetoacetanilide or AAA;*
- b. Acetoacet-meta-xylidide or AAMX;*
- c. Acetoacet-o-anisidide or AAOA;*
- d. Acetoacet-O-Toluidide or AAOT;*
- e. Acetoacet-O-chloroanilide or AAOCA.*

The product is classified under customs classification 29242920 and 29242990. The customs classification is indicative only and in no way binding on the scope of the present investigation.”

C.1 Submissions made by the domestic industry

5. Following submissions have been made by the domestic industry with regard to the product under consideration:
- The product under consideration is “Aceto acetyl derivatives of aromatic or heterocyclic compounds, also known as Arylides”. Following types of arylides are included (a) Acetoacetanilide or AAA; (b) Acetoacet-meta-xylylide or AAMX; (c) Acetoacet-o-aniside or AAOA; (d) Acetoacet-O-Toluidide or AAOT; (e) Acetoacet-O-chloroanilide or AAOCA.
 - The arylides covered in the present application represents more than 90% of domestic consumption of different forms of arylides. Arylides are organic compounds and are used as intermediates to essentially make different kinds of yellow pigments. They also find small application in other industries like agrochemicals, orange and red pigments.
 - The goods produced by the Applicant are like article to the imported goods as they are comparable in terms of physical and chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods, and are technically and commercially substitutable. There is no known significant difference in the technology employed by the domestic industry and the producers in subject country.
 - The Authority may specifically list out the inclusions and exclusions in the final findings. The domestic industry has no reservations.

C.2 Submissions made by other interested parties

6. Following submissions have been made by other interested parties with regard to the product under consideration:
- The products excluded from the scope of PUC was not clearly detailed in the initiation notification. A clear ruling on the scope of PUC and excluded arylides should be given.
 - All five product types needs to be examined separately. The applicant has included everything in one basket. There must be different product scope in different investigation.

C.3 Examination by the Authority

7. The submissions made by the domestic industry and interested parties with regard to product under consideration related issues are examined and addressed hereunder.

8. The product under consideration in the present investigation is “Aceto Acetyl Derivatives of aromatic or heterocyclic compounds” or “Arylides”. The following forms of arylides are included within the scope of the present investigation whilst all other forms are excluded:

- a. Acetoacetanilide or AAA;*
- b. Acetoacet-meta-xylylide or AAMX;*
- c. Acetoacet-o-aniside or AAOA;*
- d. Acetoacet-O-Toluidide or AAOT;*
- e. Acetoacet-O-chloroanilide or AAOCA.*

9. The Authority notes the argument that the exclusions have not been clearly specified in detail. It is noted in this regard that there can be various kinds of Aceto Acetyl Derivatives of aromatic or heterocyclic compounds produced and sold globally. Following are the other known derivatives that are produced in India, however, are beyond the scope of the product under consideration as these are speciality custom made products, produced in small volume, as per the specific requirements of the customers and there are no known imports of such arylides :

- (i) AAPA - Acetoacet-p-aniside
- (ii) AAPCA - Acetoacet-p-chloroanilide
- (iii) NACSA - Acetoacet-p-cresidine-o-sulfonic acid
- (iv) AAPCOA - Acetoacet-p-chloro-o-aniside
- (v) Cl-DAEP - N, N' – (2-chloro-1,4-phenylene) bis (3-oxobutanamide)
- (vi) AASP - Pot 4 Acetoacetylaminobenzenesulfonate
- (vii) AAPT - Aceto Acet P-Toluidide

10. Following are the other known Aceto acetyl derivatives of aromatic or heterocyclic compounds that are being imported in small volume, but have not been included in the scope of product under consideration for the reason being these are also custom made product types and are not being manufactured by the domestic industry.

- i. 2',5'-Dimethoxy-4'-chloro-Acetoacetanilide, Naphthol ASIRG and
- ii. 5-Acetoacetyl aminobenzimidazolone, 5-AABI

11. The Authority notes the contention of the interested parties that various kinds of arylides have been grouped together whereas all five product types should be examined separately and separate investigation should have been conducted. The Authority considered after examining various relevant parameters and holds that those various kinds of Arylides constitute one product for the purpose of the present investigations. For the purpose, the Authority considered parameters such as manufacturing process, technical properties, manufacturing plant & equipment, functions & uses and costs & prices of different types of the products. Considering the difference in the costs and prices of different types, the Authority has examined dumping margin, price undercutting and injury margin by undertaking separate examination for each type of the product and thereafter quantified weighted average margin for the product under consideration, as per consistent practice followed by the Authority in such situations. The Authority considers that different types of arylides constitute one product for the purpose of present investigation, and difference in costs & prices require separate comparison of comparable types.
12. It is seen from the information available on record that the product produced by the domestic industry is like article to product under consideration imported from China. The product produced by the domestic industry, and subject goods imported from China are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. The contention of the applicant has not been disputed by the other interested parties. The Authority holds that the subject goods produced by the domestic industry are like article to the product imported from China in terms of Rule 2(d) of the AD Rules.
13. The product under consideration is classified under customs classification 29242920 and 29242990. The customs classification is indicative only and in no way binding on the scope of the present investigation.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1 Submissions made by the domestic industry

14. The domestic industry has made the following submissions with regard to the scope of domestic industry and standing:
- a. The applicant is the sole producer of the subject goods in India.
 - b. The applicant has not imported the subject goods from subject country and is not related to any exporter in the subject country or importer of subject goods in India.

c. The applicant satisfies the requirement of Rule 2(b) and Rule 5(3) of the Rules.

D.2 Submissions made by other interested parties

15. There are no submissions by other interested parties regarding standing and scope of the domestic industry.

D.3 Examination by the Authority

16. Rule 2(b) of the 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”.

17. The application has been filed by M/s Laxmi Organic Industries Limited. There is no other producer of the subject goods in India. The applicant has not imported the subject goods from subject country and is not related to any exporter in the subject country or importer in India.

18. Accordingly, the Authority holds that the applicant constitutes domestic industry within the meaning of Rule 2(b) of the Rules and considers that the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1 Submissions made by domestic Industry

19. The domestic industry has made the following submissions with regard to confidentiality:

- a. The responses filed by the producer/exporters from the subject country suffers from excessive confidentiality and further these responses are insufficient and inaccurate information, thus not permitting the domestic industry to provide meaningful comments.

E.2 Submissions made by other interested parties

20. The other interested parties have made the following submissions with regard to confidentiality:

- a. The domestic industry has not complied with the Trade Notice No. 10/2018. The data in trend on inventory as no. of days of production and inventory as no. of days of sales must be provided by the domestic industry but is kept confidential.

- b. The non-confidential version of the petition doesn't give reasonable understanding of the allegations made by the domestic industry. The domestic industry has claimed excessive confidentiality. No information is provided by the domestic industry in response to the Section – VI (costing information) of the petition.

E.3 Examination by the Authority

- 21. Various submissions made by the applicant as well as other interested parties during the course of the investigation with regard to confidentiality, to the extent considered relevant by the Authority, have been examined and addressed as follows.
- 22. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).
 - (i) With regard to confidentiality of information, Rule 7 of the Rules provides as follows:
 - “Confidential information: (1) Notwithstanding anything contained in sub-Rules (2), (3) and (7) of rule 6, sub-rule(2) of rule12,sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*
 - (2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*
 - (3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.”*
 - (ii) As regards the contentions with regard to confidentiality of information, it is noted that information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the

Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by various interested parties in the form of public file. The information related to imports, performance parameters and injury parameters of domestic industry has been made available in the public file. Business sensitive information has been kept confidential as per practice.

F. MISCELLANEOUS SUBMISSIONS

F.1 Submissions of other interested parties

23. The following miscellaneous submissions have been made by the other interested parties:
- a. The domestic industry is unable to fulfil the demand of the Indian market. As per the comparison of Maharashtra pollution control board with market intelligence available with the respondent, the domestic industry cannot fulfil even 10% of the demand of the market even if it operates at full capacity.
 - b. The supply from the domestic industry is not regular and often have failed to supply the material on time. It was shut down due to rains for 3-4 months but this information wasn't disclosed by the domestic industry in the petition.
 - c. A fine was also imposed by the Maharashtra pollution control board during the POI which disrupted the supply again. The plant was also shut down from January to March 2021.
 - d. The domestic industry is currently focused on the non-PUC market.
 - e. The user industry of PUC consists of MSME sector, food packaging, paints and other industries. Imposition of duty will result in monopoly as the petitioner is the sole producer in India and can then increase the prices arbitrarily.
 - f. The manufacture of pigments will become costly and affect the exports. The pigments from China will become extremely viable as a cheaper alternative due to their tax refund policy. Rise in prices in pigments can lead to rise in export prices and loss of export market. This industry contributes valuable foreign exchange to the Indian foreign currency reserve.
 - g. PUC and non – PUC products are manufactured in the same plant. The respondents request the Authority to carry out a detailed verification of the cost allocation done by

the domestic industry to PUC in order to ensure that the non-injurious price is calculated correctly.

- h. Neither there is a sufficient evidence of dumping, material injury, likelihood thereof and causation nor it has been properly examined by DGTR as per Rule 5(3) and Article 5.3 of anti-dumping agreement to justify the initiation as they are largely based on estimates and assumptions.
- i. The domestic industry didn't disclose the closure of plant due to floods in the application and tantamount to misdeclaration and concealment of vital facts. The impact of the closure due to floods on the overall workings and performance must be provided.
- j. Laxmi Organics being sole manufacturer of arylides in India will become a monopoly and will dictate price if anti-dumping duty is imposed. The domestic industry's sole intention in the present investigation is to fortify its monopoly status.
- k. Raw materials for making arylides are imported and any supply distortions will directly impact Laxmi Organics pricing and production quantity leading to suffering for pigment manufacturers.
- l. Arylides production is dependent on diketene manufacturing and being a chemical industry any product outage would result in non-availability of Arylides.
- m. China has multiple producers of arylides along with ample raw material manufacturer, ensuring a fair competition.
- n. Domestic industry does not have sufficient manufacturing capacity and at numerous instances the domestic industry is not able to supply the contracted quantity within stipulated time.
- o. Plant of the domestic industry was shut down several times during the year.
- p. There is no product which can substitute the product under consideration.
- q. Chinese arylides producers have capacity to manage uninterrupted supplies which is proven and experienced since last many years.
- r. Quality-wise supplies from China are comparable with Indian suppliers. However, they are superior in terms of bulk density/volume which gives the benefit of reduced dissolving time allowing for higher outputs.
- s. It is not possible to switch to other sources of supply as the production process of pigment manufacturing is complex and cannot be reformulated to suit new raw materials from different makers.
- t. There are certain small local suppliers of PUC in India.

F.2 Submissions by the domestic industry

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

- a. Questionnaire response filed by the exporters should be rejected and the parties should be considered as non-cooperative.
- b. The domestic industry's production did get affected in view of flood and had to shut down for almost three weeks. The loss incurred on this account was insured by the insurance company. In any case, the shut-down could have triggered volume injury, and not price injury. The data at present shows both volume and price injury.
- c. The period referred is post POI and has no relevance to the present investigation. Moreover, such Maharashtra Pollution Control Board (MPCB) orders at times also affects the user industries. The communication referred by the interested parties shows that there were thirteen other factories which had faced similar issues. There is no such shut down for the period Jan- March of the Arylides plant.
- d. The demand supply gap does not justify dumping of goods. The reading by interested parties of the pollution control board certificate is incorrect. Further, the interested parties are importing the product from China because of lower price at which Chinese product is available in the market.
- e. The capacity is not dedicated to PUC or non-PUC. The increase in capacity was for all products.
- f. The interested parties have not shown how they will be impacted with imposition of duties. Further, the argument that the imposition of measures will result into monopoly suggests that antidumping measures cannot be claimed by a sole producer at all. There is no basis to claim so.
- g. Imports for exports are exempted under advance license and thus exports of pigments should not have any adverse impact. In any case, the parties have not shown what is the likely impact on the cost and price of pigments upon imposition of ADD.
- h. The Applicant has provided sufficient evidence in the application justifying initiation of antidumping investigation.
- i. Raw materials for making Arylides are available sufficiently.
- j. The domestic industry has the best technology from Germany and has been consistently manufacturing diketene for more than a decade.
- k. Existence of free imports in India also ensures a fair competition in the Indian market.
- l. The imports fall under OGL category and there are several producers globally.

- m. Domestic industry has 51% unutilized capacity and the current capacity is sufficient for any domestic demand on.
- n. The allegations of non-supply are entirely incorrect. Apart from one instance of flood, domestic industry never had any supply constraints.
- o. Existence of numerous suppliers in China does not necessarily mean the domestic industry in India does not have the capacity to manage uninterrupted supply, and dumping from China should be allowed. Chinese Arylides producers, on other hand, are capable of manipulating the prices.
- p. The imposition of duty does not mean ban on imports, past history of Methyl Acetoacetate shows that imports shall continue even after ADD.
- q. The input prices in China are not reflection of market forces due to non-market economy conditions.
- r. Indian product is comparable with Chinese. Bulk density is not specified in either Chinese or Indian product.
- s. The users in India have been using Indian and Chinese products interchangeably and the contention that pigment manufacturing is complex and cannot be reformulated to suit new raw materials from different markers has no basis. The consumers in India and globally, as far as product under consideration is concerned, interchangeably use arylides produced by different producers.

F.3 Examination by the Authority

25. The Authority has noted all the arguments and counter-arguments of the interested parties and has examined all aspects of the submissions made.
- a. With regard to the contention that there is demand supply gap in India, the Authority notes that contrary to the claim of the interested parties, the domestic industry was holding market share of 33-55% over the injury period. The installed capacities with the domestic industry for various products, including the product under consideration, is about seven times the demand for the present product in the country, and the capacity utilisation of the domestic industry is below 50%. Evidently, the domestic industry can cater to the entire demand for the product in the country, if the PUC in the product mix becomes viable. In any case, the demand-supply gap in the country does not bar a domestic industry from seeking redressal from dumped imports. As held by the CESTAT in the matter of DSM Idemitsu Limited vs. Designated Authority, demand-supply gap does not justify dumping. The foreign producers can

always meet the Indian demand by selling the product at un dumped prices. Even after the imposition of ADD, the imports are not restricted in the country. Therefore, there is no basis for the claim that imposition of ADD can lead to shortage of the raw material for the downstream industry. The Authority notes that imposition of ADD provides a level playing field and does not prevent fair competition in the market.

- b. The Authority notes that the present investigation is for arylides and not for other products. Further, the domestic industry has set up production capacities for a number of products, which share the same production facilities. The combined capacity utilisation of the domestic industry for various products is below 50% and therefore it is not a case where the domestic industry did not have capacity for producing and selling the product under consideration. The capacity utilization during injury period and POI of NPUC (Non PUC) has been in the same range, and therefore, it is not proved that the Domestic industry has switched over to NPUC. The claim that focus of the Domestic industry is on non-PUC market is found to be without any basis.
- c. As regards the contention that the application by the domestic industry is devoid of substantive evidence, sufficient legal and factual basis, the Authority observes that the assertion is neither substantiated nor appropriate. The Authority initiated the investigations upon being satisfied regarding the evidence presented by the domestic industry. The Authority also satisfied itself about the accuracy and the adequacy of the data/information which was necessary to initiate investigations in terms of Rule 5.
- d. As regards the contention that the plant was affected because of flood, it is noted that the flood had affected production of the domestic industry. The company lost production of 18 days. The Authority has however determined the non injurious price for the domestic industry by optimising the production, thus adjusting the effect of the production loss. Further, the Authority considered the effect of loss of production and sales on other economic parameters and it is seen that even if the domestic industry had not lost production for this period, its economic parameters would have still shown deterioration during the POI.
- e. As regards irregular supply of the material by the domestic industry, the Authority notes that no documentary evidence showing inability of the domestic industry to ship committed quantity as per committed delivery schedule has been provided to the Authority.

- f. As regards the submission that the imposition of anti-dumping duty will be against public interest, it is seen that no verifiable evidence has been provided. The Authority notes that the purpose of antidumping duty is not to prevent imports in the country, but to allow the same at fair and non-injurious prices. Further, the product is being imported even from other sources. The users are free to import from any source. The Authority also notes that interested parties can seek review of the present anti-dumping duty under Rule 23 in case there is no continued justification for imposition of the same.
- g. As regards fine imposed by the Pollution Control Board (PCB), the domestic industry clarified that the same pertains to post POI period. The domestic industry further contended that such PCB orders at times also affects the user industries as well and the communication referred by the interested parties shows that there were 13 other factories which had faced similar issues. The domestic industry further clarified that there was no plant shut down for the period Jan- March in case of arylides plant. The Authority notes that it is concerned with performance of the domestic industry and whether the same was adversely impacted by dumped imports. It is not established by the interested parties that this kind of fine has adversely impacted the performance of the domestic industry
- h. As regards imposition of ADD leading to possible monopoly, the Authority notes that more than 15% imports were from non-China sources. Further, in the event of ADD being recommended, the quantum of duty shall remain restricted to an amount found necessary to address the injury to the domestic industry, by capping the duty to injury margin.
- i. As regards the fact that the domestic industry is producing different types of products in the same plant, the Authority has appropriately taken care of the fact while assessing NIP of the domestic industry.

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

G.1 Submissions of the domestic industry

26. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:
 - a. Normal value of Chinese producers cannot be accepted unless the producers show that their accounts reasonably reflect the costs associated with the production and sale of the product under consideration, having regard to the provisions of Rule 7 and 8 of the

Rules, provisions of Accession Protocol of China, and the practice being followed by the Designated Authority.

- b. The normal value can be determined based on para 7 of Annexure I to the Rules.
- c. The applicant has not been able to procure complete and exhaustive verifiable information as required from a producer in market economy third country. The interested parties have also not suggested relevant market economy third country along with evidence for the Authority to proceed with.
- d. Normal value should be determined on the basis of cost of production in India, duly adjusted for selling, general and administrative expenses.
- e. The dumping margin is positive and significant.
- f. The domestic industry has considered conservative approach in claiming the allowances. The Authority may consider appropriate allowances based on the information provided by the exporters after due verification.

G.2 Submissions made by other interested parties

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

- a. The initiation notification does not provide any details of methods adopted to rule out the other options available under para 7 of Annexure I of Rules to determining normal value.
- b. China should not be treated as a non-market economy as per China's accession protocol to WTO, the same was also confirmed by the WTO appellate body in "*EC-Fasteners*". US and EU in their respective bilateral agreement with China had also noted about the expiry of non-market economy status after 15 years after China enters WTO.
- c. The Domestic Industry has not provided any evidence supporting the quantum of deductions made.

G.3 Examination by the Authority

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

- (i) *the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the Rules made under sub-section (6); or*
- (ii) *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the*

exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-

- a. comparable representative price of the like article when exported from the exporting country or territory to 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):*

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

G.3.1 Determination of normal value and export price

Market Economy Status for Chinese Producers

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

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

- (i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
- (ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy*

conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

- (b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*
- (c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*
- (d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector."*

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

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

Normal Value for all Producers in China PR

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

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

33. The Authority notes that normal value could not be determined on the basis of prices or constructed value of the product in an appropriate market economy third country or the prices from such third country to other countries, as the relevant information has neither been made available by the Applicant or an interested party, nor is available with the Authority from any public source. Even though there are imports from other countries into India, since a number of different product types are involved, and imports in significant volumes were not made for each of the type of the product under consideration, it would not be appropriate to consider price from market economy third country to India. Thus, the normal value can only be determined on the basis of price paid or payable in India, duly adjusted to include profit, which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits. The Authority has thus constructed the normal value based on the optimised cost of production, considering prices of major raw

materials and other costs paid in India, as per facts available in view of non-cooperation by the foreign producers. Further, reasonable profit has been added to the cost of sales for the purpose of determination of normal value. The normal value has been determined separately for different grades for all producers and exporters from China PR, and are as follows :

	CNV
Form/Type	(USD/MT)
AAA	***
AAMX	***
AAOA	***
AAOCA	***
AAOT	***

Determination of export price

34. The following Chinese producers/exporters have filed questionnaire response and have provided information relevant to export price determination. Since these exporters have filed questionnaire response and have provided all relevant information, the Authority has determined individual export price and dumping margin in respect of these parties, as detailed below. The export prices being CIF value while the normal values being at ex-factory level, the export prices have been adjusted for ocean freight, marine insurance, commission, inland freight expenses, port expenses, bank charges and VAT refund.

Export price for (a) M/s. Nantong Acetic Acid Chemical Co., Ltd. (producer) and (b) M/s. Nantong Tianhong International Trade Co., Ltd. (exporter)

35. It is noted that M/s Nantong Acetic Acid Chemical Co., Ltd., is a joint-stock company established on 28th May, 2001 in accordance with Company Law of the People's Republic of China. It is noted that during POI, Nantong Acetic Acid Chemical Co., Ltd., has directly exported ***MT of PUC to India, and another ***MT through one trader

namely Nantong Tianhong International Trade Co., Ltd., China PR. It is also noted from the response that M/s Nantong Tianhong International Trade Co., Ltd., is one of the subsidiaries of Nantong Acetic Acid Chemical Co., Ltd., which is involved in purchase and resale of the product under investigation. Nantong Tianhong International Trade Co., Ltd., has purchased product under investigation from Nantong Acetic Acid Chemical Co., Ltd., and then resold the products to Indian customers. Nantong Tianhong International Trade Co., Ltd., did not purchase product under investigation from other sources. It is also noted that M/s Nantong Tianhong International Trade Co., Ltd., has also filed a separate Exporter's Questionnaire.

36. Nantong Acetic Acid Chemical Co., Ltd., has claimed adjustments on account of ocean freight, insurance, inland freight, port charges, bank charges and credit cost which has been allowed after remote cross check. Accordingly, the net export price at ex-factory level for various types of aceto acetyl derivatives of aromatic or heterocyclic compounds, also known as arylides produced by M/s Nantong Acetic Acid Chemical Co., Ltd for export to India has been determined, and weighted average of the same is shown in dumping margin table below:

Export price for (a) M/s. Qingdao Haiwan Specialty Chemicals Co., Ltd. (producer) and (b) M/s. Qingdao Haiwan Group Co., Ltd. (exporter)

37. M/s Qingdao Haiwan Specialty Chemicals Co., Ltd., is a limited liability company which was established under Company Law of People's Republic of China. During POI, Qingdao Haiwan Specialty Chemicals Co., Ltd., has exported *** MT of PUC to India through related trader namely M/s Qingdao Haiwan Group Co., Ltd., China PR. As the principal shareholder of Qingdao Haiwan Specialty Chemicals Co., Ltd., Qingdao Haiwan Group Co., Ltd., is engaged in sale of product under consideration. It is also noted that M/s Qingdao Haiwan Group Co., Ltd., has also filed a separate Exporter's Questionnaire. Accordingly, the net export price at ex-factory level for various types of Aceto acetyl derivatives of aromatic or hetrocyclic compounds, also known as Arylides produced by M/s. Qingdao Haiwan Specialty Chemicals Co., Ltd. for export to India has been determined, and weighted average of the same has thereafter been determined, and is shown in dumping margin table below:

G.3.2 Determination of dumping margin

38. It is noted that both the cooperating producers and their exporters have exported all five types of the Product under consideration during POI. The dumping margin for the product under consideration has been determined after comparing the export price with their normal value of each types i.e AAA, AAMX, AAOA, AAOCA and AAOT during the POI. Thereafter weighted average dumping margin has been determined for both producers from the subject country. After the analysis of the data, the dumping margin has been worked out as mentioned in the table.
39. Considering the normal value and export price for subject goods, the dumping margins have been determined as follows:

Export Sales to India by M/s Nantong Acetic Acid Chemical Co., Ltd.(Producer/Exporter)China PR-Directly and through M/s Nantong Tianhong International Trade Co., Ltd.(Exporter/Trader),China PR

	AAA	AAMX	AAOA	AAOCA	AAOT
Volume	***	***	***	***	***
Constructed Normal value (CNV)	***	***	***	***	***
Export Price (USD/MT)	***	***	***	***	***
Dumping Margin	***	***	***	***	***
Dumping Margin %	***	***	***	***	***
Dumping margin range %	30-40	0-10	20-30	30-40	50-60

Export Sales to India by M/s Qingdao Haiwan Specialty Chemicals Co., Ltd (Producer/ Exporter) China PR through M/s Qingdao Haiwan Group Co., Ltd.(Exporter), China PR -During POI(April 2019 to March 2020)

	AAA	AAMX	AAOA	AAOCA	AAOT
Volume	***	***	***	***	***
Constructed Normal value (CNV)	***	***	***	***	***
Export Price (USD/MT)	***	***	***	***	***
Dumping Margin	***	***	***	***	***
Dumping Margin %	***	***	***	***	***
Dumping margin % range	30-40	0-10	20-30	40-50	60-70

Dumping Margin Determination of responding/cooperating producers and exporters from China PR				
SN	Producers/exporters	Dumping Margin US\$/kg	Dumping Margin%	Dumping margin range
1	Nantong Acetic Acid Chemical Co., Ltd.	***	***	20-30
2	Qingdao Haiwan Group Co., Ltd.	***	***	30-40
3	Others	***	***	40-50

H. ASSESSMENT OF INJURY AND CAUSAL LINK

H.1 Submission made by the Domestic Industry

40. Following submissions have been made by the domestic industry with regard to injury and causal link:

- a. Imports from the subject country has increased significantly in absolute terms as well as in relation to production and consumption in India.
- b. Imports of subject goods from China are undercutting the prices of the domestic industry to a significant extent and are preventing price increase that would have otherwise occurred.
- c. Price undercutting by subject imports has led to price depression in the market.
- d. Performance of the domestic industry declined in terms of production, sales, market share, inventories, profits, return on investments, cash flow.
- e. The domestic industry is suffering financial losses, extent of which increased over the period to such an extent that the domestic industry started suffering cash losses.
- f. The domestic industry is faced with negative ROI, extent of which increased over the injury period.
- g. Average inventories with the domestic industry increased significantly.
- h. Performance of the domestic industry has become adverse in terms of market share.
- i. Despite rising demand, growth of the domestic industry is negative both on volume and price parameters.
- j. The product under consideration is part of many product produced in the plant. There is no increase in the capital employed in the plant. The alleged increase visible in the POI is as a result of allocation, apportionment of different ratio of different products being produced in the plant.
- k. The reason for losses prior to POI was also dumped imports. The dumped imports however intensified in the POI.
- l. Despite increase in demand and decline in production and sales, the inventories have increased. Thus, the domestic industry has not even been able to sell to the extent of production and on the contrary the inventories have risen.
- m. The domestic industry has sufficient capacity to meet domestic demand. The imports are at dumped prices and thus taking away legitimate market share of the domestic industry. The plant utilization level is low and thus the argument has no merit. The domestic industry had capacity to produce more but was prevented from producing owing to the presence of dumped imports in the market.

- n. The other products being produced by the domestic industry are also incurring losses and given a fair market, the domestic industry will be producing more of subject goods.
- o. Injury analysis needs to be done for the PUC as a whole. The different types of arylides form part of one product under consideration. All form of arylides belong to the same family of organic compounds which are being used as intermediates to essentially make primarily yellow pigments. There is difference in terms of cost and price of various types of subject goods, however, that does not render the product types different. Type wise dumping margin and injury margin has been worked out for different kinds of arylides.
- p. The demand has not declined. With healthy demand, the production and sales have declined.
- q. The inventory has increased as the sales have declined. This corresponds to the increase in imports. Thus, it is the imports that are causing injury to the domestic industry.
- r. Profitability of the domestic industry has been adversely affected by dumping over the injury period. The applicant has been suffering financially, extent of which has increased over the injury period. Increase in imports is leading to both decline in sales volumes and increasing financial losses.
- s. The cash profits and ROI have followed the same trend as that of profits. The domestic industry was earning cash profits in base year, albeit at low levels. The domestic industry however started suffering cash losses since 2017-18, extent of which increased thereafter.
- t. The domestic industry has been suffering negative return on investment on the product since base year, extent of which increased over the injury period.
- u. The domestic industry needs to be seen as it exists and not in the ideal situations. Reference is made to the Hon'ble CESTAT order in the matter of *Dsm Idemitsu Limited Versus Designated Authority, Nippon Zeon co. Ltd. Versus Designated Authority and virchow laboratories ltd. Versus Ministry of Finance.*

H.2 Submissions made by other interested parties

41. The submissions made by the interested parties with regard to injury are as follows:

- a. As per the depreciation and amortization expense data, there is an increase in depreciation and amortization expense but no significant increase in installed capacity during the POI.

- b. The increase in cash losses is due to the floods leading the closure of plant. Also, the company has been incurring losses even before the alleged dumping.
- c. As per the inventory data, the increase in stock for 2016-17 to POI cannot be considered in isolation and should be analysed in context with the total production and sales.
- d. The productivity remains unchanged during the base year and POI and thus the domestic industry hasn't faced any injury to production.
- e. The reduced production is the result of multiple products being produced in the same production facility and concentration on other products than the PUC. The domestic industry also was affected by flood in quarter ending Sept. 2019, the profitability of the POI with the injury period cannot be compared. The number of employees does not match with the installed capacity and production. This indicates that the petitioner has employed more workers than necessary.
- f. Each injury parameter to be provided separately for each product in the initiation notification and do a separate dumping and injury analysis of the same.
- g. There is a rise in employees which is in consonance with the increase in capacity and productivity per day. But the production volume of the domestic industry has declined in view of decline in demand over the injury period. However, the number of employees has increased steeply. In such a situation, it is obvious that the productivity per employee would decline. Such a decline has nothing to do with the subject imports.
- h. There seems to be inconsistency as there is a rise in inventory even with fall in production. The respondent claims that the petitioner has a healthy inventory cycle and has deliberately chosen not to disclose this information. The respondent has requested the Authority to direct the petitioner to disclose the inventory in terms of number of days of production and sales.
- i. Laxmi Organics being sole manufacturer of Arylides in India will become a monopoly and will dictate price if anti-dumping duty is imposed. The domestic industry's sole intention in the present investigation is to fortify its monopoly status.
- j. Raw materials for making arylides are imported and any supply distortions will directly impact Laxmi Organics pricing and production quantity leading to suffering for pigment manufacturers.
- k. China has multiple producers of arylides along with ample raw material manufacturer, ensuring a fair competition.

- l. Domestic industry does not have sufficient manufacturing capacity and at numerous instances the domestic industry is not able to supply the contracted quantity within stipulated time.
- m. Plant of the domestic industry was shut down several times during the year.
- n. There is no product which can substitute the product under consideration.
- o. Chinese arylides producers have capacity to manage uninterrupted supplies which is proven and experienced since last many years.
- p. It is not possible to switch to other sources of supply as the production process of pigment manufacturing is complex and cannot be reformulated to suit new raw materials from different makers.
- q. There are certain small local suppliers of PUC in India.

H.3 Examination by the Authority

42. Rule 11 of Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the Domestic Industry, "...taking into account all relevant facts, including the volume of dumped imports, their effects on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.
43. The Authority notes that the mere fact that domestic industry is sole producer of the product in the country does not imply that the domestic industry is monopoly supplier in the market. Since the product is under OGL, the domestic industry is open to competition from all foreign producers.
44. As regards the contention that the raw material is imported, the authority notes the fact that domestic industry is partly or wholly dependent on imported raw material should not deprive the domestic industry protection against dumped imports.

45. As regards allegations of inability of the domestic industry to supply contracted quantities, the authority notes that the interested parties have not established that the domestic industry took an order for supply of goods and thereafter not executed the same.
46. As regards the allegation of plant closures by the domestic industry, it is noted that the domestic industry had suspended production only during flood. Suspension of production due to such situations such as flood is a normal business phenomenon which may be faced by any manufacturer.
47. As regards alleged difference between domestic and imported product, the authority notes that none of the interested parties have quantified differences in the domestic and imported product which had led to import of the product in the country.
48. With regard to comments of interested parties about proven ability of Chinese producers to supply the product to Indian consumers, it is noted that the same is not a justification for exports at dumped prices, particularly when such dumping causes injury to the domestic industry.

H.3.1 Volume Effect of dumped imports on domestic industry

a. Assessment of demand / apparent consumption

49. 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.

SN	Particulars	Unit	2016-17	2017-18	2018-	POI
1	Sales of Domestic	MT	***	***	***	***
2	Trend	Indexed	100	90	79	72
3	Subject Imports	MT	2,775	3,923	4,608	5,648
4	Trend	Indexed	100	141	166	204
5	Other Countries imports	MT	1,369	742	901	601
6	Trend	Indexed	100	54	66	44
7	Total demand	MT	***	***	***	***
8	Trend	Indexed	100	100	102	106

50. It is seen that the overall demand for the subject goods has increased during the injury period, with a brief decline in 2017-18.

Increase in imports from the subject country in absolute and relative terms

51. With regard to the volume of the imports, the Authority is required to consider whether there has been a significant increase in the imports, either in absolute terms or relative to production or consumption in India. Factual position is as follows :-

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI*
1	Imports from China PR	MT	2,775	3,923	4,608	5,648
2	Imports from other countries	MT	1,369	742	901	601
3	Total Imports	MT	4,144	4,666	5,509	6,249
4	Indian Production	MT	***	***	***	***
Subject Imports in relation to						
A	Total Imports	%	66.97	84.09	83.64	90.39
B	Indian production	%	***	***	***	***
C	Trend	Indexed	100	160	189	288
D	Indian demand	%	***	***	***	***
E	Trend	Indexed	100	146	162	190

POI*: April 2019 – March 2020

52. It is seen that the subject imports have increased significantly in absolute terms over the injury period. The imports have shown an increase of more than 100% over the injury period. The imports have also increased in relation to total imports, production and consumption in India. Further, imports show increase as compared to both base year and immediate previous year.

H.3.2 Price Effect of the dumped imports on the domestic industry

53. With regard to the effect of the dumped imports on the prices of the domestic industry, it is required to be examined whether there has been a significant price undercutting by the dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred 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 suppression and price depression, if any. For the purpose of this analysis, cost of production, net sales realization (NSR) of the

domestic industry have been compared with landed price of imports of the subject goods from the subject country. In view of significant difference in the costs and prices of the product, comparison has been done in respect of same type of product.

a. Price undercutting

54. For the purpose of price undercutting analysis, net selling price of the domestic industry has been compared with the landed value of imports from the subject country, in respect of the same type of arylides. Thereafter, weighted average price undercutting has been determined considering associated import volumes. Accordingly, the undercutting effects of the imports from the subject country during POI work out as follows:

Country of Description	Product	Sum of Qty in MT	NSR Rs/Mt	Landed Price Rs/Mt	Undercutting Rs/Mt	Undercutting %	Undercutting % Range
CHINA RP	AAA	2,382	***	118,139	***	***	0-10%
	AAMX	1,021	***	254,075	***	***	0-10%
	AAOA	1,356	***	216,536	***	***	10-20%
	AAOC A	72	***	180,832	***	***	10-20%
	AAOT	817	***	187,902	***	***	0-10%
CHINA RP Total		5,648	***	177,226	***	***	0-10%

55. It is seen that the imports from subject country are entering at a price below the domestic selling price of the domestic industry, resulting in positive price undercutting.

b. Price suppression and depression

56. In order to determine whether the imports are depressing the domestic prices or whether the effect of such imports was 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 along with import prices. The Table below shows factual position:

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of Sales	Rs/MT	***	***	***	***
2	Trend	Indexed	100	124	141	136
3	Selling Price	Rs/MT	***	***	***	***
4	Trend	Indexed	100	116	129	118
5	Landed Value	Rs/MT	1,66,447	1,75,374	2,14,906	1,74,970

6	Trend	Indexed	100	105	129	105
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The PCN wise price suppression depression is as under.

AAA	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of sales	Rs/MT	***	***	***	***
2	Trend	Indexed	100	131	148	128
3	Selling price	Rs/MT	***	***	***	***
4	Trend	Indexed	100	120	136	107
5	Landed value	Rs/MT	1,25,666	1,31,194	1,61,962	1,16,339
6	Trend	Indexed	100	104	129	93

AAMX	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of sales	Rs/MT	***	***	***	***
2	Trend	Indexed	100	122	149	142
3	Selling price	Rs/MT	***	***	***	***
4	Trend	Indexed	100	112	131	130
5	Landed value	Rs/MT	2,03,419	2,22,812	2,58,800	2,50,204
6	Trend	Indexed	100	110	127	123

AAOA	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of sales	Rs/MT	***	***	***	***
2	Trend	Indexed	100	119	126	127
3	Selling price	Rs/MT	***	***	***	***
4	Trend	Indexed	100	109	120	105
5	Landed value	Rs/MT	2,07,523	2,15,515	2,45,513	2,13,237
6	Trend	Indexed	100	104	118	103

AAOCA	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of sales	Rs/MT	***	***	***	***
2	Trend	Indexed	100	111	175	122
3	Selling price	Rs/MT	***	***	***	***
4	Trend	Indexed	100	97	97	86
5	Landed value	Rs/MT	2,15,294	2,09,785	2,44,613	1,78,077

6	Trend	Indexed	100	97	114	83
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AAOT	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of sales	Rs/MT	***	***	***	***
2	Trend	Indexed	100	120	141	131
3	Selling price	Rs/MT	***	***	***	***
4	Trend	Indexed	100	117	137	119
5	Landed value	Rs/MT	1,87,837	1,86,805	2,15,414	1,85,039
6	Trend	Indexed	100	99	115	99

57. It is seen that

- With the increasing cost of sales, the domestic industry increased its selling price. However, even when the domestic industry increased its selling price, the same have remained lower than the costs throughout the injury period.
- While the costs and prices both were increasing till 2018-19, both declined in the POI. However, the increase in the prices were lower than increase in costs. Further, the decline in the prices in the POI were higher than the decline in the costs.
- The weighted average landed price of imports has remained below the level of cost of sales of the domestic industry during Injury period and POI except 2016-17. However, the weighted average landed price of imports were higher than selling price during injury period and POI.
- Thus, the imports of subject goods from subject country has prevented price increases which otherwise would have occurred due to increase in cost of production. Further, domestic industry has been forced to reduce the prices more than the cost decline. The domestic industry has thus suffered price depression and suppression on account of import of subject goods from subject country.

H.3.3 Economic parameters of the domestic industry

58. Annexure II to the Rules provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below. The Authority

has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

a. Production, capacity, capacity utilization and sales

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Capacity of the plant	MT	***	***	***	***
2	Trend	Indexed	100	100	102	103
3	Production	MT	***	***	***	***
4	Trend	Indexed	100	94	89	72
5	Production other products	MT	***	***	***	***
6	Trend	Indexed	100	104	102	113
7	Gross production in plant	MT	***	***	***	***
8	Capacity utilisation	%	***	***	***	***
9	Trend	Indexed	100	102	98	103
10	Domestic Sales	MT	***	***	***	***
11	Trend	Range	100	90	79	72

60. It is seen that

- The capacity (plant capacity) of the domestic industry has increased over the injury period. It may be mentioned the capacity mentioned in the table is used to manufacture other products also.
- The production and sales of the domestic industry declined throughout the injury period.
- Since the domestic industry has been producing a number of products at the same location and plant, the capacity utilisation has been determined considering capacity for different products cumulatively and production of the plant cumulatively for different product. It is seen that the capacity utilisation of the plant has shown a mixed trend. However, the capacity utilization of PUC has declined consistently. Further, the capacity of the plant is significantly underutilised.

61. It is thus seen that production, capacity utilization and sales of the domestic industry declined throughout the injury period. The decline in these parameters is quite significant and the same appears to be a consequence of increase in imports from subject country. Where the volume of imports has significantly increased, the performance of the domestic industry has deteriorated.

b. Market Share in demand

62. Market share of the domestic industry over the injury period is shown in table below:

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Domestic Industry	%	***	***	***	***
2	Trend	Indexed	100	90	77	68
3	Subject Imports	%	***	***	***	***
4	Trend	Indexed	100	142	162	192
5	Other Countries	%	***	***	***	***
6	Trend	Indexed	100	54	64	41
7	Total	%	100	100	100	100

63. It is seen that the market share of the domestic industry has consistently declined over the injury period. The market share of the domestic industry declined by 32 basis points over the injury period, whereas, the share of subject imports in demand increased by 92 basis points over the injury period. The market share of all other countries also declined over the period.

c. Profitability, return on investment and cash profits

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Cost of sales	Rs/MT	***	***	***	***
2	Trend	Indexed	100	124	141	136
3	Selling price	Rs/MT	***	***	***	***
4	Trend	Indexed	100	116	129	118
5	Profit per unit	Rs/MT	***	***	***	***
6	Trend	Indexed	(100)	(317)	(421)	(556)
7	Total profit/loss	Rs. Lacs	***	***	***	***
8	Trend	Indexed	(100)	(267)	(326)	(396)
9	Cash profit	Rs. Lacs	***	***	***	***
10	Trend	Indexed	100	-57	-103	-128
11	Profit before interest	Rs. Lacs	***	***	***	***
12	Trend	Indexed	(100)	(361)	(405)	(515)
13	Return on capital employed	%	***	***	***	***
14	Trend	Indexed	(100)	(315)	(398)	(507)

65. It is seen that

- The Profitability of the domestic industry declined significantly over the injury period. The domestic industry has been suffering loss throughout the injury period.
- The cash profits have remained negative except the base year. The severity of cash losses has increased over the injury period.
- The return on investment was negative throughout injury period and POI and the negative return further deteriorated.

- d. The domestic industry suffered significant financial losses, cash losses and negative return on investment in the POI.

d. Employment, wages and productivity

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	No of employees	Nos	***	***	***	***
2	Trend	Indexed	100	107	150	184
3	Salary and wages	Rs. Lacs	***	***	***	***
4	Trend	Indexed	100	110	111	102
5	Productivity per day	MT/Day	***	***	***	***
6	Trend	Indexed	100	88	59	39

67. It is seen that performance of the domestic industry has improved in respect of employment and wages. The productivity per day has deteriorated over the injury period.

e. Inventories

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Average inventory	MT	***	***	***	***
2	Trend	Indexed	100	24	132	174

69. It is seen that the average inventories with the domestic industry increased significantly in 2018-19 and thereafter in period of investigation as compared to the first two periods of the injury period.

f. Growth

70. The growth of the domestic industry in terms of production, capacity utilization domestic sales volume, inventories, profits, cash profits and return on investment is as per below table. It is seen that the growth of the domestic industry was negative in respect of a number of volume and price parameters-

S. No.	Particulars	Unit	2017-18	2018-19	POI
1	Production	Y/Y	-6%	-6%	-19%
2	Domestic sales	Y/Y	-10%	-12%	-9%
3	Capacity utilization	Y/Y	2%	-5%	6%
4	Average inventory	Y/Y	-76%	439%	32%
5	Market share of DI	Y/Y	-13%	-13%	-12%
6	Profit/(Loss)	Y/Y	-167%	-22%	-21%
7	Cash profit	Y/Y	157%	-82%	-24%

8	PBIT	Y/Y	-261%	-12%	-27%
9	Return on capital employed	Y/Y	-8	-3	-4

g. Magnitude of dumping margin

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

h. Ability to raise capital investment

72. The domestic industry is suffering financial losses throughout the injury period. Further, its capacity for the plant is utilised only to the extent of about 50%. The domestic industry submitted that with the competition being faced from imports, the operations of the industry have been impacted which has affected the ability to raise capital investment. It is noted that the domestic industry is a multi-product company and therefore ability to raise capital investment is not governed based on the performance of the product under consideration (PUC) alone.

i. Factors affecting domestic prices

73. The import prices are directly affecting the prices of the domestic industry in the market. It is noted that the landed value of the subject goods from subject country is not only below its net selling price but also the non-injurious price of the domestic industry. Further the landed prices of subject imports have depressed the prices of the domestic industry leading to increasing financial losses. The imports of subject goods from third countries are in lower volumes and at higher prices. The capacities in the country are sufficient to meet the domestic demand and cannot be the reason of injury to the domestic industry. Dumped imports are impacting the prices of the product in the market. Thus, it is considered that the principal factor adversely affecting the domestic prices is the price of dumped imports of subject goods from the subject country.

74. The Authority has taken note of various submissions made by the domestic industry and other interested parties on injury and causal link, and has analysed the same considering the facts available on record and applicable laws. The injury analysis made in the preceding paras ipso facto addresses submissions made by the domestic industry and other interested parties.

j. Magnitude of injury margin/price underselling/injury margin

75. The Authority has determined Non-injurious price (NIP) for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing cost accountant for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilization of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed. Separate NIP has been determined for each type of the product.
76. For all the non-cooperative producers/exporters from the subject country, the Authority has determined the landed price based on facts available.
77. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority.
78. It is noted that both the cooperating producers and their exporters have exported all five types of the Product under consideration during POI. The injury margin for the product under consideration has been determined after comparing the export price with their normal value of each types i.e **AAA, AAMX, AAOA, AAOCA and AAOT during the POI**. Thereafter weighted average injury margin has been determined for both producers from the subject country. After the analysis of the data, the injury margin has been worked out as mentioned in the table.

Export sales to India by M/s Nantong Acetic Acid Chemical Co., Ltd.(Producer/Exporter)China PR-Directly and through M/s Nantong Tianhong International Trade Co., Ltd.(Exporter/Trader),China PR

	AAA	AAMX	AAOA	AAOCA	AAOT
Volume(MT)	***	***	***	***	***
NIP (USD/MT)	***	***	***	***	***

Landed value(USD/MT)	***	***	***	***	***
Injury margin (USD/MT)	***	***	***	***	***
Injury margin %	***	***	***	***	***
Injury margin range	20-30	0-10	20-30	30-40	50-60

Export Sales to India by M/s Qingdao Haiwan Specialty Chemicals Co., Ltd(Producer/ Exporter) China PR through M/s Qingdao Haiwan Group Co., Ltd.(Exporter), China PR -During POI(April 2019 to March 2020)

	AAA	AAMX	AAOA	AAOCA	AAOT
Volume(MT)	***	***	***	***	***
NIP (USD/MT)	***	***	***	***	***
Landed value (USD/MT)	***	***	***	***	***
Injury margin (USD/MT)	***	***	***	***	***
Injury margin %	***	***	***	***	***
Injury margin range	20-30	0-10	20-30	30-40	40-50

Injury margin determination for responding/cooperating producers and exporters from China PR				
SN	Producers/exporters	Injury Margin US\$/kg	Injury Margin %	Injury margin range
1	Nantong Acetic Acid Chemical Co., Ltd.	***	***	20-30
2	Qingdao Haiwan Group Co., Ltd.	***	***	20-30
3	Others	***	***	40-50

79. 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. The injury margins are positive and significant.

k. Conclusion on injury

80. The examination of the imports of the subject product and performance of domestic industry shows that the volume of imports has increased in absolute terms as well as in relation to production and consumption in India. The imports are undercutting the prices of the domestic industry. The imports of subject goods from subject country have prevented price increases which otherwise would have occurred due to increase in cost of production. The domestic industry has suffered price suppression. Further, the subject imports have depressed the prices of the domestic industry to a very significant extent, as import prices have led to decline in the prices in the market far beyond the decline in the costs.
81. Performance of the domestic industry has deteriorated in respect of a number of vital economic parameters such as production, capacity utilization, domestic sales, market share, inventories, profits, cash profits, return on investment, growth over the injury period. Further, performance on these accounts have suffered when the domestic industry is holding significant capacities and is utilising hardly 50% of its installed capacities. In view of above, the Authority concludes that the domestic industry has suffered material injury.

I. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS

82. As per the 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. The Authority examined whether known factors other than dumped imports could have contributed to the injury to the domestic industry.
83. The other interested parties have submitted that the injury suffered by the applicant is due to other reasons and not due to the imports from the subject country. The Authority has examined all those factors which are either listed under the law or which have been brought to the notice of the Authority during the course of the investigations. Even though the claims made by the opposing interested parties are mere assertions, the same have been examined based on information available on record.

84. The Authority notes that the Rules recognise that dumping need not be the sole cause of injury to the domestic industry. There may be other factors which might have at the same time caused injury to the domestic industry. However, in a situation where other factors have caused injury to the domestic industry, the Authority is required to ascertain whether injury caused due to other factors is so significant that the same outweighs the injury suffered by the domestic industry due to dumped imports. It is also well understood that dumping need not be the principal or predominant cause of injury to the domestic industry.

a. Volume and prices of imports from third countries

85. Imports from subject country account for majority of the imports. Further, import price from other countries is much higher than the import price from China. Thus, volume and price of imports from third countries have not caused the injury to the domestic industry.

b. Demand for the product

86. Demand of the subject goods has increased over the injury period. Possible contraction in demand could not be a reason for the injury found by the Authority.

c. Export performance

87. Exports by the domestic industry are quite low and in the region of 6-12% over the injury period. In any case, the injury information examined here in above relates only to the performance of the domestic industry in domestic market to the extent the same could be segregated. Thus, the injury to the domestic industry found by the Authority cannot be attributed to the possible deterioration in export performance of the domestic industry.

d. Development in technology

88. No evidence has been brought by any interested parties about existence of significant developments in the technology that could have caused injury to the domestic industry found by the Authority.

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

89. It is noted that the domestic industry is a multiproduct, multi location company. The Authority has considered data relating only to the performance of the subject goods. The domestic industry maintains separate information for the location where the goods are produced and financial information relating to this location has been considered to assess the performance of the domestic industry in respect of product under consideration. Therefore, performance of other products produced and sold are not a possible cause of the injury to the domestic industry found by the Authority.

f. Changes in the pattern of consumption

90. There have been no material changes in the pattern of consumption of the product under consideration. Therefore, possible changes in the pattern of consumption could not have caused the claimed injury to the domestic industry.

g. Conditions of Competition and Trade restrictive practices

91. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. No evidence has been submitted by any interested party to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

h. Other factors:

92. The interested parties identified a number of other factors that could have contributed to injury to the domestic industry. The Authority examined existence of these factors and their effect on the injury to the domestic industry found by the Authority.

- a) Increase in depreciation and amortization expense – it has been contended that the interest and depreciation expenses have increased without increase in installed capacity. It is however noted that the domestic industry has production facilities for a number of products and the capacity information given is in relation to collective capacity for all these products. Further, the petitioner has apportioned its interest and depreciation costs onto the product by using appropriate allocation and apportionment methods. With regard to floods leading the closure of plant, it is noted that the operations of the domestic industry were partially impacted for 18 days by the flood. In any case, the loss of production and sales due to the flood is insignificant, having regard to the loss of production and sales suffered by the domestic industry.
- b) It has been contended that reduced production is the result of multiple products being produced in the same production facility and concentration on other products than the PUC. As stated above, while the flood had insignificant impact on production, the fact that the domestic industry produces multiple products at the same plant does not imply that the production of the product under consideration suffered due to alleged preference to other products. It is seen that the overall capacity utilisation of the plants were low, thus clearly showing ability of the domestic industry to produce and sell higher volumes in the event of market demand.

J. CONCLUSION ON CAUSAL LINK

93. It is thus noted that other known factors listed under the Rules do not show that the domestic industry could have suffered injury due to these other factors. The Authority has also examined whether the dumping of the product has caused injury to the domestic industry. The following parameters show that material injury to the domestic industry has been caused by dumped imports:

- a. Imports of the subject goods from subject country have increased in absolute terms as well as in relation to production and consumption.
- b. The market share of subject imports has increased, while the share of domestic industry has declined over the same period.
- c. The dumped imports are undercutting the prices of the domestic industry. Further, the price undercutting has led to suppressing and depressing effects on the prices of the product in the market.
- d. As a result of increase in imports, production and sales of the domestic industry have declined over the period. The capacity utilisation of the domestic industry has remained low. Inventories have increased.
- e. The suppressing and effecting effects caused by the dumped imports has adversely impacted the profits, cash profits and return on capital employed of the domestic industry.

94. It is thus seen that dumped imports of subject goods from subject country have caused material injury to the domestic industry.

K. POST-DISCLOSURE COMMENTS

K.1 Submissions made by the domestic industry

95. The submissions made by the domestic industry are as follows:

- i. The performance of the domestic industry has deteriorated in respect of a number of vital economic parameters such as production, capacity utilization, domestic sales, market share, inventories, profits, cash profits, return on investment, growth over the injury period. Further, performance on these accounts have deteriorated when the domestic industry is holding significant capacities and is utilising hardly 50% of its installed capacities.
- ii. Various users have participated in the present investigation. However, they have not shown with quantified information and evidence that the imposition of ADD may have any adverse impact.
- iii. No information has been provided to establish probable adverse effect of duty on the consumers.

- iv. The effect of anti-dumping measures on public interest must be studied from the perspective of interests of different set of parties –
 - (a) the domestic producer of the product under consideration,
 - (b) the domestic consumers of the product under consideration,
 - (c) the upstream and downstream industries in both the producing and consuming industry,
 - (d) the general public and
 - (e) purpose/ objective of imposition of anti-dumping duties.
- v. In light of large public interest, imposition of anti-dumping duty is also necessary to discourage the import of subject goods to allow domestic industry its due space to compete in a market unburdened with unfair dumped prices.
- vi. Healthy domestic industry is in interest of users.
- vii. There will be enough inter-se competition in the domestic market and the domestic industry will have competitive prices thereby benefitting the downstream industry.
- viii. The duty may kindly be imposed on ad-valorem basis expressed in terms of percentage, considering the dumping margin and injury margin determined.

K.2 Submissions made by other interested parties

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

- a. The Authority is requested to give clear ruling about the scope of PUC. The product excluded from the scope of PUC was not clearly detailed in initiation notification. We request the Authority to give clear ruling about the scope of PUC and excluded Arylides from the investigation to remove any ambiguity.
- b. The petitioner has included all the forms of arylides under one scope of product under consideration. There must be different product scope in different investigation. All those five products must be investigated separately
- c. The “installed capacity” mentioned by the Petitioner is the installed capacity for various products, and not just the PUC. Therefore, it is thoroughly misleading to state here that the installed capacities with the domestic industry for various products is seven times the demand for the present product in the country.
- d. Increase in cost is caused by increase in installed capacity and unstable plant operations. The domestic industry has been operating at more than 100% capacity utilization during the injury period and POI, meaning huge demand supply gap.
- e. The increase in cash losses is mainly due to flood during the POI. There is improvement in terms of employment and wages. Inventory should be analyzed in context of total production and sales.
- f. The Annual reports suggests that the domestic industry was earning profits during the injury period and POI.
- g. It is requested to make separate dumping and injury analysis of all types of the PUC. All injury parameters should be provided separately for each product classified in the initiation notification.

- h. The domestic industry is trying to mislead the Authority as from the statement of profit and loss account, the domestic industry was earning profits during the injury period and POI.
- i. Therefore, it is thoroughly misleading to state here that the installed capacities with the domestic industry for various products is seven times the demand for the present product in the country.
- j. The trend of cost of sales and selling price indicates that domestic industry's selling price has commensurately moved with the movement in cost of sales (excluding outward freight, outward insurance). No claim of price suppression or depression can be made by the domestic industry on this count.
- k. The petitioner has not provided price undercutting data for the previous years in the injury period.

K.3 Examination by the Authority

97. The Authority has examined the post disclosure submissions made by the domestic industry, and other interested parties and notes that some of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the disclosure statement. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below:

- a) With regard to scope of the PUC, it is stated that the same has been clearly defined under the relevant headings of this findings, and also in the duty table.
- b) With regard to the examination of dumping, and injury analysis separately for all five forms of the PUC, it is stated that the dumping margin and injury margin has been separately determined for all five types/forms of the PUC, and thereafter a weighted average dumping and injury margin has been determined for the PUC as a whole. Further, in the injury analysis, the price undercutting, price depression, and price suppression has been determined separately for all different types of PUC, before aggregating the same for the PUC as a whole. The Authority has appropriately examined price effect in the relevant chapters in this finding.
- c) It has been reiterated by the other interested parties that the domestic industry has suffered material injury in view of flood and the domestic industry was not able to cater to the requests of the consumers. It is however seen from the production and sales data of the domestic industry that there was a decline in production in the month of August, which can be attributed to floods. The domestic industry however had stock material at the time of flood and therefore temporary suspension of production due to a natural calamity such as flood did not imply inability of the domestic industry to sell the product without resuming the production.

Month wise	Opening stock	Production	Sales	Closing stock
Apr-19	***	***	***	***
May-19	***	***	***	***
Jun-19	***	***	***	***
Jul-19	***	***	***	***
Aug-19	***	***	***	***
Sep-19	***	***	***	***
Oct-19	***	***	***	***
Nov-19	***	***	***	***
Dec-19	***	***	***	***
Jan-20	***	***	***	***
Feb-20	***	***	***	***
Mar-20	***	***	***	***
2019-20	***	***	***	***

Figures are in MT

Month wise	Opening stock	Production	Sales	Closing stock
Apr-19	100	100	100	100
May-19	77	89	115	38
Jun-19	29	103	67	58
Jul-19	45	132	102	60
Aug-19	46	16	20	50
Sep-19	38	116	83	61
Oct-19	47	109	74	77
Nov-19	60	102	73	87
Dec-19	67	157	89	135
Jan-20	104	139	89	163
Feb-20	126	75	127	68
Mar-20	52	42	38	61

(figures are indexed)

- d) Further, the Authority has determined the non-injurious price for the domestic industry by optimising the production, thus adjusting the effect of the production loss. The landed price of imports is below the level of non-injurious price and the selling price of the domestic industry. This shows that imports are having adverse impact on the domestic industry's performance. Further, the Authority notes that there was a significant decline in the import price of each of the subject type of the PUC, as is evident from the below. Further, it is seen that the import prices declined too steeply from China. The decline in price from non-China inputs was far lower. Thus, it is inappropriate to contend that the performance of the domestic industry has declined due to the absence of production for 18 days caused by a natural calamity.

China	2016-17	2017-18	2018-19	2019-20	Change
AAA	116,384	121,504	150,000	107,746	(42,254)
AAMX	188,394	206,355	239,685	231,724	(7,961)
AAOA	192,196	199,597	227,379	197,488	(29,891)
AAOCA	199,393	194,291	226,546	164,924	(61,622)
AAOT	173,964	173,008	199,504	171,372	(28,132)
Non China					
AAA	121,472	164,067	143,586	140,415	(3,171)
AAMX	195,909	232,925	262,743	246,632	(16,111)
AAOA	251,826	292,585	267,693	243,639	(24,054)
AAOCA	-	-	-	-	-
AAOT	176,685	235,978	252,491	210,713	(41,778)
Selling price					
AAA	***	***	***	***	***
Indexed	100	120	136	107	(30)
AAMX	***	***	***	***	***
Indexed	100	112	131	130	(1)
AAOA	***	***	***	***	***
Indexed	100	109	120	105	(16)
AAOCA	***	***	***	***	***
Indexed	100	97	97	86	(11)
AAOT	***	***	***	***	***
Indexed	100	117	137	119	(18)

(Rates in Rs/MT)

- e) As regards the contention that the domestic industry cannot meet the demand for the product in the country, the argument has been examined again in detail. It is noted that the domestic industry has a gross capacity of *** MT for production of various products, including the PUC. Further, the domestic industry has installed capacity of ***MT which are dedicated for arylides/arylides derivatives, as evidenced by Maharashtra Pollution Control Board (MPCB) order - Consent No. Format1.0/BO/CAC/UAN NO 0000050968/5th CAC-1812001193 issued on 18th December 2018 and is valid upto 28.02.2020. This is almost ***% of the total demand in the country. It is thus seen that the domestic industry has installed dedicated capacity quite comparable to the demand for the product in the country. However, the domestic industry has not utilised even these dedicated capacities. Further, the domestic industry contended that it has significant other production capacities which can be utilised for production of the PUC and other products. The domestic industry has contended that the capacities for some of the other products, namely, esters/ester derivatives (b) ethylene oxide derivatives and (c) sodium acetate can be interchangeably used. Thus, if the market is viable, the industry can utilise other capacities, especially given the fact that the capacities are lying unutilised. The Authority also notes that the current permissions granted

by the Pollution Control Board does not imply that the company cannot enhance its production in future beyond current permissions granted by the PCB. A company can always seek suitable permissions from the PCB and produce more.

- f) It is also noted that the PUC has been imported over the injury period from a number of countries, such as Europe and Japan. Therefore, it is not appropriate to look into demand-supply gap by merely comparing demand with current capacities.
- g) As regards the argument that the Annual Report of the company shows that the domestic industry is earning profits, it is noted that the Annual Report includes performance of various products produced by the domestic industry and concerns with the overall performance of the company. Profits reported in Annual Report are not reflective of the performance of the domestic industry for the product under consideration. The Annual Report portions quoted by the Authority does not provide information on the subject goods. The Authority notes that Annexure-II to the Rules specifically requires that the effect of the dumped imports should be assessed in relation to the domestic production of the like article when available data permit the separate identification of that production. It is only if such separate identification of that production is not possible that the effects of the dumped imports can be assessed by examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided. It was noted that the domestic industry produces the PUC in its “Unit-2 Plant”. The company maintains complete financial records for “Unit-2” division, from the stage of sales revenue and upto the stage of profit/loss. The application formats prescribed by the Authority requires the company to provide information for “company as a whole”, “for the division” where the PUC falls and where the financial records are maintained and for the “PUC”. The company has provided detailed financial information from its books of accounts relating to the division with regard to the profitability of the Division and the PUC. It was seen that the PUC forms ***% of the turnover of this Division. Further, whereas other products in the Division were profitable, the PUC suffered financial losses. The Authority has examined and verified the allocation and apportionment of the expenses adopted by the company for segregating its financial information between the PUC and Other Products in the Division, and has satisfied itself that the domestic industry has suffered financial losses in the PUC. Thus, the Authority notes that the published financial results published in the Annual Report of the company in respect of a large number of products does not give any decisive guidance with regard to the performance of the domestic industry with regard to the PUC over the injury period.
- h) As regards the argument on the form of duty, the Authority notes that there is a significant difference in cost and price of different types of the product under

consideration. Therefore, it would be most appropriate to recommend ADD in the form of adv-valorem (percentage of CIF import price). Antidumping duty in the form of a reference price or fixed duty would not be appropriate as it would lead excessive duty in some product types and significantly low duty in some other types.

L. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

98. The Authority considered whether imposition of ADD shall have adverse public interest.

For the same, the Authority examined whether the imposition of the duty on imports of the product under investigation would be against the larger public interest. This determination is based on consideration of information on record and the interests of various parties, including domestic industry, importers and consumers of the product.

99. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide the relevant information with regard to the present investigation, including the possible effect of the ADD on their operations. The Authority sought information on, inter-alia, interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of the ADD on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of ADD, impact of imposing the present duty. The authority notes that following consumers filed questionnaire response:

- i. M/s Voxco Pigments & Chemicals Pvt. Ltd.
- ii. M/s Sudarshan Chemical Industries Ltd.
- iii. M/s Micas Organics Ltd.
- iv. M/s Kwalitey Chemical Industries Pvt. Ltd.
- v. M/s Unity Dye Chem Pvt. Ltd.
- vi. M/s Pidilite Industries Ltd.
- vii. M/s Vibfast Pigment Pvt. Ltd.
- viii. M/s Apex Pigment India
- ix. M/s Advaitya Dye Chem
- x. M/s Anupam Colours Pvt. Ltd.

100. These consumers also attended the oral hearing and made submissions, have been taken into account. The authority notes that these interested parties have not shown with

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

101. The product has been imported from a number of countries. The table below shows import volume and price of the product from various countries during relevant period.

Country	Quantity (MT)				Rate (Rs/MT)			
	2016-17	2017-18	2018-19	2019-20	2016-17	2017-18	2018-19	2019-20
BELGIUM	-	-	13	-	-	-	2,54,771	-
CHINA P RP	2,775	3,923	4,608	5,648	1,53,761	1,62,009	1,98,528	1,61,636
GERMANY	1,337	625	825	600	1,84,528	2,24,646	2,15,310	2,14,128
JAPAN	32	117	64	-	2,06,638	2,22,220	2,67,213	-
U S A	-	-	-	1	-	-	-	3,06,677
Grand Total	4,144	4,666	5,509	6,249	1,64,095	1,71,914	2,01,966	1,66,689

*Source – DGCI&S Import Data

102. The Authority also considered the import price of different types from various countries. Table below shows import price from China and the rest of the world. It is seen that the import price from the rest of the world are higher than the import price from China. Further, import price of subject goods from the rest of the world are higher than the selling price of the domestic industry. It is thus seen that the import price of subject goods from China are lower while imports are at higher price from the rest of the world.

Rates in Rs/MT

China	2016-17	2017-18	2018-19	2019-20
AAA	1,16,384	1,21,504	1,50,000	1,07,746
AAMX	1,88,394	2,06,355	2,39,685	2,31,724
AAOA	1,92,196	1,99,597	2,27,379	1,97,488
AAOCA	1,99,393	1,94,291	2,26,546	1,64,924
AAOT	1,73,964	1,73,008	1,99,504	1,71,372
Non-China				
AAA	1,21,472	1,64,067	1,43,586	1,40,415
AAMX	1,95,909	2,32,925	2,62,743	2,46,632
AAOA	2,51,826	2,92,585	2,67,693	2,43,639

AAOCA	-	-	-	-
AAOT	1,76,685	2,35,978	2,52,491	2,10,713

103. It is thus seen that a significant proportion of the product is being imported from various countries not subject to investigation. Further, the CIF import price from these countries are higher than the import price from China.
104. The information of the domestic industry shows that the manufacturing facilities of the domestic industry are under-utilised. The domestic industry is fully competent to cater to the entire demand of the product under consideration.
105. Analysis of the information over the injury period also shows that the selling price of the domestic industry have remained aligned to the import prices. The company produces a number of different types of products, which share significant production facilities. The overall capacity utilisation of the domestic industry for various products is quite low and clearly shows that the domestic industry is in a position to cater to the demand for the product in the country.
106. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.

M. CONCLUSION & RECOMMENDATIONS

107. After examining the submissions made by the interested parties and issues raised therein and considering the facts available on record, the Authority concludes that:
- The Applicant constitutes domestic industry under Rule 2(b) of the Rules and the application satisfied the criteria of standing in terms of Rule 5(3) of the Rule.

- b. The product produced by the domestic industry is like article to the PUC imported from the subject country.
- c. Considering the normal value and export price for subject goods, grade wise dumping margin for the subject goods from the subject country has been determined, and the margins are positive and significant.
- d. The domestic industry has suffered material injury. The examination of the imports of the subject product and the performance of the domestic industry shows that the volume of dumped imports from the subject country has increased in both absolute and relative terms. The volume of the subject goods has increased by more than 100% whereas demand has increased by only 6%. The imports from the subject country are undercutting the prices of the domestic industry, and the margin of price undercutting is significant. It is also noted that the imports of the subject goods from the subject country are suppressing the prices of the domestic industry. The production, sales, and the market share of the domestic industry has declined in the period of investigation while the capacity utilisation remains suboptimal. It is noted that the market share of domestic industry has declined by 32%. The performance of the domestic industry has significantly deteriorated in respect of profits, cash profits and return on capital employed. The domestic industry has suffered financial losses, cash losses and negative return on investments in the period of investigation.
- e. The material injury suffered by the domestic industry has been caused by the dumped imports.
- f. The Authority has determined the non injurious price for the domestic industry by optimising the production, thus adjusting the effect of the production loss to address the issue concerning effect of production loss caused by floods on the injury examination. Further, it is noted that even if the domestic industry had not lost production for this period, its economic parameters would have still shown deterioration during the POI.

- g. Despite providing all formats for users to quantify the impact of ADD and elaborate on how imposition of ADD will adversely impact them, none of the users have provided relevant information. The interested parties have not established impact of ADD on the user industry with verifiable information. Non-imposition of anti-dumping duty will adversely impact the indigenous production of the product concerned and the fact that the impact of antidumping duty is miniscule to the consumers of the product under consideration, the Authority is of the view that the imposition of anti-dumping duty will be in public interest.
108. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and the causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the Authority is of the view that imposition of Anti-Dumping is required to offset dumping and injury. Therefore, the Authority recommends imposition of anti-dumping duty on imports of subject goods from the subject country.
109. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to lesser of margin of dumping and the margin of injury so as to remove the injury to the domestic industry. The Authority, therefore, considers it necessary and recommends imposition of anti- dumping duty as an ad valorem duty, to be worked out as a percentage of the CIF value of imports of the subject goods from the subject country, on all imports of goods described at Column 3 of the duty table, originating in or exported from China PR, from the date of notification to be issued in this regard by the Central Government.

Duty Table

SN	Heading	Description of Goods	Country of origin	Country of export	Producer	% of CIF Value
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	29242920 and 29242990 (Note 1)	“Aceto Acetyl Derivatives of aromatic or heterocyclic compounds” or “Arylides” (Note 2)	China PR	Any country including China PR	Qingdao Haiwan Specialty Chemicals Co., Ltd	24.79
2	-do-	-do-	China PR	Any country including China PR	Nantong Acetic Acid Chemical Co., Ltd	26.64
3	-do-	-do-	China PR	Any country including China PR	Any producer other than mentioned in serial no 1 and 2	44.90
4	-do-	-do-	Any country other than China PR	China PR	Any	44.90

Note 1-Customs classification mentioned is only indicative.

Note 2-Following forms of arylides are included within the scope of the present PUC whilst all other forms are excluded:

- a. Acetoacetanilide or AAA;*
- b. Acetoacet-meta-xylylide or AAMX;*
- c. Acetoacet-o-aniside or AAOA;*
- d. Acetoacet-O-Toluidide or AAOT;*
- e. Acetoacet-O-chloroanilide or AAOCA*

N. FURTHER PROCEDURE

110. An appeal against these findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

(Anant Swarup)
Designated Authority