

**To be published in Gazette of India, Extra ordinary, Part 1, Section1**

**F. No. 6/17/2022-DGTR  
Government of India  
Department of Commerce  
Ministry of Commerce & Industry  
Directorate General of Trade Remedies  
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

**Dated: 28<sup>th</sup> March, 2024**

**NOTIFICATION  
(Final Findings)  
(CASE No. OI-ADD 17/2022)**

**Subject: Anti-dumping investigation concerning imports of Flexible Slabstock Polyol originating in or exported from the China PR and Thailand.**

**A. BACKGROUND OF THE CASE**

1. F. No.6/17/2024-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' or 'AD Rules') thereof;
2. M/s Manali Petrochemicals Ltd. (hereinafter also referred to as the domestic industry or the applicant) have filed an application before the Designated Authority (hereinafter also referred to as the “Authority”) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the “Rules”) for imposition of anti-dumping duty on imports of "Flexible Slabstock Polyol" (hereinafter also referred to as the “subject goods” or PUC) from China PR and Thailand (hereinafter also referred to as the “subject countries”).
3. Whereas the Authority on the basis of sufficient *prima facie* evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 29.3.2023, published in the Gazette of India, Extraordinary, initiating an anti- dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries, in accordance with the Rule 6(1) of the Rules, to determine the existence, degree and effect of alleged dumping and to consider recommendation of the anti-dumping duty.

## **B. PAST INVESTIGATIONS OF THE SUBJECT GOODS**

4. A list of countries and companies subject to anti-dumping duties of the subject goods is summarized in the table below.

<b>Countries Involved</b>	<b>Companies Participated</b>	<b>Current Status</b>
Australia	No company has participated. However, Dow has capacity there.	Duties not Applicable.
Brazil	Dow Quimica SA	Duties Not Applicable.
China	Jin Hua Chemicals (Group) Corporation. Wanhua Chemical Group Co. Ltd.	No Duties at present.
EU	Bayer, Repsol Quimica, S.A.,	Duties Applicable
Japan	Sanyo Chemicals	Duties Not Applicable. However, they have started joint venture with PTT Global Chemical Public Company Limited (GC), Thailand in Thailand.
Korea	SKC Co., Ltd	Duties Not Applicable.
Singapore	Shell Group, BASF, Bayer	Duties Applicable.
Taiwan	Bayer Polyurethanes,	Duties Not Applicable.
USA	Dow Chemical Co.	Duties Not Applicable.
Thailand	Dow Chemical, IRPC-PCC Toyota Tsusho (Thailand) Co., Ltd. GC Polyols Company Allnex	No Duties at present.
Saudi Arabia	Sadara Chemicals Company (SCC) [Dow + Saudi Aramco]	Duties applicable
UAE	Shell group	Duties applicable

## **C. PROCEDURE**

5. The following procedure has been followed with regard to this investigation:
- The Authority, under the above Rules, received a written application from the applicant on behalf of the domestic industry, alleging dumping of 'Flexible Slabstock Polyol from subject countries and consequent injury.
  - The Authority notified the governments of the subject countries, through its embassies in India about the receipt of the anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.
  - The Authority issued a notification dated 29.3.2023 published in the Gazette of India Extraordinary, initiating an anti-dumping investigation concerning imports of the subject goods from subject countries.

- iv. A copy of the public notice was forwarded by the Authority to all known exporters of the subject goods, the governments of the subject countries through their embassies in India, and other interested parties about the initiation of the subject investigation in accordance with Rule 6(2) of the Rules.
- v. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, and to the governments of the subject countries, through its embassies and to other interested parties who made a request in writing in accordance with Rule 6(3) of the Rules supra. 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.
- vi. The Authority forwarded a copy of the public notice initiating the anti-dumping investigation to the known producers / exporters in the subject countries, and other interested parties and provided them an opportunity to file response to a questionnaire in the form and manner prescribed within the time limit as prescribed in the initiation notification or extended time limit, and make their views known in writing in accordance with the Rule 6(4) of the Rules. The Authority sent exporter's questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:
  - i. M/s Zhejiang Sanhuan Chemical Company Ltd., (China)
  - ii. M/s Wanhua Chemical Group Co., Ltd., (China)
  - iii. M/s IRPC Public Company Limited Petrochemical Business (Thailand)
  - iv. M/s Dow Chemical Ltd. (Thailand)
  - v. M/s GC Polyols Company Limited (Thailand)
- vii. The governments of the subject countries, through their embassies in India were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit.
- viii. In response to the notification, following producers/exporters responded by filing exporter's questionnaire responses.
  - i. Wanhua Chemical Group Co., Ltd (Producer/Exporter)
  - ii. Wanhua Chemical (Yantai) Trading Co., Ltd. (Domestic Trader)
  - iii. Wanhua Chemical (Singapore) Pte. Ltd., Singapore (Exporter)
  - iv. Toyota Tsusho (Thailand) Co., Ltd. (Producer/Exporter)
  - v. GC Polyols Company Limited (Producer/Exporter)
  - vi. ALLNEX (Thailand) Ltd. (Producer/Exporter)
  - vii. Allnex Resins (China) Co., Ltd. (Producer/Exporter)
  - viii. Dow Chemical Thailand Ltd (Dow Thailand) (Producer/Exporter)
- ix. The Authority sent importer's questionnaires to the following known importers/users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
  - i. Sheela Foam P Ltd

- ii. Prime Comforts
  - iii. M H Polymers P Ltd
  - iv. Somany Foam Ltd
  - v. Tirupati Foam Ltd
  - vi. Dura Puf
  - vii. Shree Singhal Foams P Ltd
  - viii. Multiwyn Foams (P) Ltd
  - ix. Shree Malani Foams P Ltd
  - x. Joy Foam Pvt Ltd
- x. The Authority issued economic interest questionnaire (EIQ) to all interested parties and the concerned ministry. Response to EIQ was submitted only by Shree Malani Foams (P) Ltd.
- xi. The Authority sent importer's questionnaires to Indian Polyurethane Association the following known associations of the subject goods in India for circulation & calling necessary information in accordance with Rule 6(4) of the Rules:
- xii. The following importer of the subject goods has responded by filing an importer questionnaire response.
- i. Wanhua International (India) Pvt. Ltd., India
  - ii. M/s. Tirupati Foam Ltd
  - iii. M/s. M.H. Polymers Ltd
  - iv. Toyota Tsusho India Pvt. Ltd.
- xiii. Further submissions were also filed by the Indian Polyurethane Association (IPUA) during the course of the investigation.
- xiv. Exporters, foreigner producers and other interested parties who have not responded to the Authority, or not supplied the information relevant to this investigation, are treated as non-cooperating interested parties.
- xv. The Authority issued economic interest questionnaire to the embassies, all the known exporters, importers and the domestic industry.
- xvi. Information provided by the interested parties on a confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority accepts 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 the confidential basis were directed to provide sufficient non-confidential version of the information filed on a confidential basis.
- xvii. The interested parties were asked to share the non-confidential version of the responses, submissions and evidence presented by them with the other interested parties.
- xviii. The period of investigation (POI) for the purpose of the present investigation is

1st January 2022 to 31st December 2023 (12 months). The injury period for the present investigation is 1st April 2019 - 31st March 2020, 1st April 2020 - 31st March 2021, 1st April 2021 - 31st March 2022, and the POI.

- xix. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation. For exporters desk verification was conducted to verify their data. Only verified data was considered for the purpose of this final findings.
- xx. The non-injurious price (NIP) is based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD Rules. It has been worked out so as to ascertain whether a duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xxi. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCIS) to provide the transaction-wise details of imports of the subject goods for the injury period. The same has been relied upon for computation of the volume and value of imports to correlate the quantum of exports from specified exporters and validate responses filed, to the extent feasible.
- xxii. In accordance with Rule 6(6) of the Rules, the Authority provided the opportunity to all interested parties to present their views orally in the oral hearing held on 18.7.2023 which was attended by interested parties. All the parties who presented their views in the oral hearing were requested to file written submissions of these views. Non-confidential versions of the written submissions were circulated to the interested parties by email on 25.7.2023, and an opportunity was given to them to submit rejoinder submissions by 01.08.2023, if any.
- xxiii. 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 this final finding on the basis of the facts available.
- xxiv. The Authority circulated the disclosure statement containing all essential facts under consideration for making final recommendations to the Central Government to all interested parties on 14<sup>th</sup> February 2024. The interested parties were directed to file their comments on the disclosure statement by 23<sup>rd</sup> February 2024. However, on request of interested parties, the Authority has extended the timeline till 29<sup>th</sup> February 2024.
- xxv. The Authority has examined all post – disclosure comments made by the interested parties in these final findings to the extent deemed relevant. Any submission which was merely a reproduction of the previous submission and which had been adequately examined by the Authority have not been repeated for the sake of brevity.

- xxvi. 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.
- xxvii. ‘\*\*\*\*’ in this final finding represents information furnished by an interested parties on a confidential basis, and so considered by the Authority under the Rules.
- xxviii. The exchange rate adopted by the Authority during the POI for the subject investigation is 1 US\$= Rs. 77.54.

#### **D. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

- 6. The product under consideration in the present investigation is Flexible Slabstock Polyol.

##### **D1. Views of the domestic industry**

- 7. Following submissions were made by the domestic industry with regards to the product under consideration –
  - i. The product under consideration in the present investigation is the Flexible Slabstock Polyol, a polymer, originating in or exported from subject countries. The subject product is a clear viscous liquid of molecular weight 3000-4000, manufactured by polymerization of propylene oxide and ethylene oxide with a triol chain starter. It is a polyether and on reaction with catalysts and additives, yields polyurethane foams used in upholstery, mattresses, pillows, bolsters, transport seating and packaging. Flexible Slabstock Polyol is transported in tankers or stored in steel drums.
  - ii. The subject goods are classified under chapter 39 of Customs Tariff Act, 1975 under the sub-heading 3907, 390720, 390791 and 390799. The Custom classification is indicative only and not binding on the scope of investigation.
  - iii. In relation to request of Allenex, it is submitted that polyester resin does not fall under the product under consideration and therefore, cannot be excluded from the scope of the product under consideration.

##### **D2. Views of the other interested parties**

- 8. That the Authority should clarify that products exported by Allenex Thailand i.e., polyester resin is outside the scope of the product under consideration.
- 9. No other submission has been made by the producers/exporters with regard to the scope of the product under consideration and like article.

##### **D3. Examination by the Authority:**

- 10. The product under consideration in the present investigation is Flexible Slabstock Polyol. The subject product is a clear viscous liquid polymer of molecular weight 3000-4000, manufactured by polymerization of propylene oxide and ethylene oxide with a

triol chain starter. It is a polyether and on reaction with catalysts and additives yields polyurethane foams used in upholstery, mattresses, pillows, bolsters, transport seating and packaging. Flexible Slabstock Polyol is transported in tankers or stored in steel drums (hereinafter referred to as the "subject goods").

11. The subject goods are classified under the category "Plastics and articles thereof" in Chapter 39 of the Customs Tariff Act, 1975 and further under 3907 20, 3907 91, 3907 99 as per Indian Trade Classification. The classification, however, is only indicative and in no way binding on the scope of the present investigation. The Authority notes that while different ITCHS may be quoted by producers/exporters, the product description assumes primary over the ITCHS as the same is indicative.
12. With regard to like article, Rule 2(d) of the Anti-Dumping Rules provides as under:

*"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;*
13. After considering the information on record, the Authority is of the view that the subject good produced by the domestic industry is comparable to the product under consideration in terms of chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. Thus, the Authority is of the view that the subject goods produced by the applicant domestic industry are like article to the product under consideration which is imported from subject countries in accordance with the Rules. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
14. As regards, the submissions of the M/s Allnex, it is noted that polyester resin is not part of the product under consideration and therefore, the Authority clarifies that polyester resin is outside the scope of the product under consideration.
15. *The product under consideration in the present investigation is "Flexible Slabstock Polyol of molecular weight 3000- 4000".*
16. Thus, the Authority holds that the subject goods produced by the domestic industry are like article to the product under consideration imported from the subject countries within the scope and meaning of Rule 2(d) of the Rules.

## **E. SCOPE OF DOMESTIC INDUSTRY & STANDING**

### **E1. Views of the domestic industry**

17. The following submissions have been made by the domestic industry in this regard—
  - i. The application has been filed by M/s Manali Petrochemicals Limited for imposition of anti-dumping duty on the subject goods from the subject countries. The applicant also submitted that they account for 100 % share in the Indian

production of the subject goods during the period of investigation. As per the information available with them there is no other known producer of the product under consideration in the country. The applicant has neither imported the subject goods from the subject countries nor are they related to any other producer/exporter of the subject goods in the subject countries or any importer in India. Further, the applicant accounts for a major proportion in Indian production of the subject goods.

- ii. In view of the above and since none of the interested parties have made any submissions in relation to standing of the domestic industry and therefore, the Authority is requested to consider the applicant as domestic industry within the meaning of the Rule 2(b) of the Rules, since the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

#### **E2. Views of the other interested parties**

18. None of the interested parties has made any submissions in relation to the standing and eligibility of the applicant to be considered as eligible domestic industry.

#### **E3. Examination by the Authority:**

19. The application for the present investigation has been filed by M/s Manali Petrochemicals Limited. It is noted that apart from applicant, Expanded Polymer Systems Pvt. Ltd., were also producing the subject goods. However, due to aggressive dumping they have shifted their operations from subject goods to other form of Polyols. Thus, it is noted that there is no other producer of the subject goods in India as claimed by the applicant.
20. None of the producers/exporters/other interested parties has made any submissions with regard to scope and standing of the domestic industry.
21. As per the available information, the applicant, has neither imported the subject goods from the subject countries nor it is related to any importer or exporters of the subject goods. In view of the above, the applicant fulfils the criteria of domestic industry and the standing as laid down under the Rules.
22. Information on record shows that the production by the applicant constitutes “a major proportion” of total Indian production.
23. In view of the above, the Authority has considered the applicant as the domestic industry within the meaning of the Rule 2(b) of the Rules and the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

### **F. Confidentiality**

#### **F1. Views of the Domestic industry**

24. Various submissions made by the domestic industry with regard to confidentiality claims of the exporters/importers and other interested parties are as follows:



- i. Exporters have failed to fulfil their obligations under the Indian law by not providing meaningful non-confidential version of their response. Moreover, exporters / importers have made mockery of the system by claiming excessive confidentiality.
- ii. The applicant has claimed confidentiality on information provided by them as allowed in Rule 7 of the anti-dumping rules and a meaningful summary of such information was also provided. The claims of interested parties that the applicant has claimed excessive confidentiality are baseless.
- iii. In relation to the confidentiality claimed on costing information, the domestic industry has submitted that costing is by nature confidential and therefore, the domestic industry has rightly claimed costing as confidential.

**F2. Views of other interested parties**

25. Various submissions made by the interested parties with regard to confidentiality claims of the domestic industry are as follows:
  - i. Domestic industry has claimed excessive and unwarranted confidentiality in the application. further, their non-confidential version of the application does not comply the guidelines issued by the DGTR through Trade Notice 10/2018.
  - ii. Claim of excessive confidentiality by the domestic industry has restricted the ability of the exporters to comment and also does not permit the proper understanding and appreciation of the facts by other interested parties.
  - iii. In relation to the allegation of the domestic industry of excessive claim by exporters, it is submitted that exporters have claimed confidentiality only on business sensitive information.

**F3. Examination by the Authority**

26. 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, are examined and addressed as follows:
27. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as under:

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

*(2) The Designated Authority may require the parties providing information on*

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

*(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the*

*information is either unwilling to make the information public or to authorize its disclosure in a generalized or summary form, it may disregard such information.*

28. As regards the contention 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 evidences submitted by various interested parties in the form of a public file. The information related to imports, performance parameters and injury parameters of the domestic industry has been made available in the public file. Business sensitive information has been kept confidential as per practice. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

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

### **G1. Views of the domestic industry**

29. The domestic industry *inter alia* submitted as follows:

- i. The domestic industry has provided ample evidence to support their claim of normal value and export price in their petition to best of their ability for the purpose of the initiation.
- ii. The Authority should consider the market price of Propylene Oxide (PO), based on prices published in ICIS LOR or international raw material price for calculating the cost of production for the subject goods in Thailand and not the prices submitted by the producer in Thailand, due to their internal arrangement with raw material suppliers.
- iii. The domestic industry requested the Authority to kindly consider the domestic sales that is purely meant for the consumption of local market in Thailand and not those sales which are ultimately shipped outside Thailand.
- iv. The Authority should closely check the transactions between exporter and its related entity in India, as the domestic industry apprehends that the price between the exporter and its related importer is not correct and is being done at higher value.
- v. The Authority should check the post sales discount given by the

- producers/exporters from the subject countries and Indian related importers to the end users. The domestic industry also requested the Authority to adjust the loss suffered by the importer into the export price as well as landed value for fair comparison.
- vi. That the related importers of the exporters are selling the subject goods at the prices below the landed value of the imports in India. Further, the prices of the exporter / related importers can be checked from the responses filed by users / user associations.
  - vii. That the Authority must ensure that the raw material pricing is at arm's length with respect to transfer of raw materials among related companies. The domestic industry has further requested that at-least the method of transfer price should be disclosed to the domestic industry.

## **G2. Views of the interested parties**

30. The following submissions have been made by the other interested parties –

- i. That the applicant has provided no reasonable explanation as to how the costs/conversion costs of the domestic industry reflect the costs in Thailand. Further, no evidence substantiating the electricity rates in Thailand has been provided. In view thereof, the normal value claimed by the domestic industry appears to be incorrect and should not be used for any purpose whatsoever.
- ii. The construction of the normal value is based on erroneous and false assertions without adhering to the standards and evidentiary requirements laid down under the Anti- Dumping Agreement (AD Agreement) and the AD Rules. Further, it is submitted that exporters are not giving any post sales discount as alleged by the domestic industry. The exporters have also requested that the dumping margin, and landed value should be based on their data only.
- iii. That the producer has provided all the data to the Authority and they have also requested the Authority to verify their data for normal value and export price from the data they have filed.

## **G3. Examination by the Authority**

### **Determination of normal value and export price**

#### **G.3.1 Normal value computation for Thailand:**

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

- i. The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or
- ii. When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either

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

### **G.3.2 Normal value computation for China**

32. Annexure-I to AD rules states as under:

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

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

*(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member 16country during the three-year period preceding the investigation is a nonmarket economy country*

*Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3)*

*(3) The designated authority shall consider in each case the following criteria as to whether:*

*(a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and*

*investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;*

*(b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;*

*(c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and*

*(d) the exchange rate conversions are carried out at the market rate.*

*Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”*

33. At the stage of initiation, the applicant proceeded with the constructed methodology for calculating normal value with appropriate adjustments. However, for the purpose of this final findings, the Authority has used the duly verified information filed by the exporters.
34. The Authority sent copies of exporters questionnaire to all the known producers/exporters for providing relevant information in this regard. The following entities have responded by filing questionnaire response:

Exporters/Producers from China PR

- a) M/s Wanhua Chemical Group Co., Ltd., China PR,
- b) Wanhua Chemical (Yantai) Trading Co., Ltd., China PR,
- c) Wanhua Chemical (Singapore) Pte. Ltd., Singapore
- d) Wanhua International (India) Pvt. Ltd., India

Exporters/Producers from Thailand

- e) M/s GC Polyols Company Limited,
- f) Toyota Tsusho (Thailand) Co. Ltd, and
- g) Toyota Tsusho India Private Ltd, Importer, India

35. Since the above-mentioned companies have filed the questionnaire responses, the Authority has examined the request for determination of individual dumping margin for these producers and have determined dumping margins wherever appropriate.
36. In the absence of cooperation from the other producers/exporters in the subject countries, the Authority has determined the normal value, on the basis of facts available in terms of Rule 6 (8) of AD Rules read with Article 6.8 of the anti-dumping Agreement.

37. Accordingly, the Authority has determined the normal value, export price and dumping margin in respect of various producers/exporters of the subject countries as follows:

### **G.3.3 Normal Value for China:**

38. It is noted by the Authority that since the producer of the subject goods from China has not claimed market economy status, the Authority has no option but to resort to paragraph 7 of Annexure I to AD Rules for constructing the normal value for producers / exporters from China PR. It is further submitted that in terms of Para 7 neither the domestic industry proposed any surrogate country nor exporters from China suggested any surrogate country. In addition to the above, it is also noted that the prices or constructed value of the subject goods in an appropriate market economy third country or the prices from such third country to other countries, including India, have neither been made available by the applicant nor by any interested parties. It is also noted that majority of the imports (around 68%) coming from the countries which are already subject to anti-dumping duties. Therefore, import prices from other countries (4.20%) cannot be relied by the Authority. Since the alternatives available in Para 7 cannot be adopted for the reasons mentioned above, the Authority has to take recourse to the only remaining option i.e., to determine the normal value considering the price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin (i.e., constructed normal value). The normal value so determined is given in the dumping margin table below.

### **G.3.4 Normal Value for Thailand:**

39. Based on the information furnished in the questionnaire response, the Authority notes that M/s G C Polyol is a producer of the subject goods and has exported the subject goods directly as well as through trader namely M/s Toyota Tsusho (Thailand) Co., Ltd. and M/s Mitsui Bussan Chemicals Co., Ltd. during the POI. M/s Toyota Tsusho (Thailand) Co., Ltd., exported the subject goods to both related entity and unrelated entities in India.
40. The exporter has sold \*\*\* MT of the PUC in the domestic market during the POI while, it has exported \*\*\* MT of the subject goods to India directly as well as through unrelated traders during the POI. the details of exports made to India is as under:

Producer		Qty MT	CIF Value USD	CIF USD/M T	Indian Importers	Qty MT	CIF Value USD	CIF USD/ MT
G C Polyol	Direct	***	***	***				
	Through Traders							
	(1) ***	***	***	***	***	***	***	***
					***	***	***	***
	(2) ***	***	***	***	***	***	***	
Quantity Exported		***	***	***	***	***	***	

Producer		Qty MT	CIF Value USD	CIF USD/M T	Indian Importe rs	Qty MT	CIF Value USD	CIF USD/ MT
d to India								

41. The Authority has first examined whether the total domestic sales of the subject goods by the producers/exporters concerned in the subject countries were representative when compared to their total sales of the subject goods in the exporting country. Thereafter, it was examined whether their sales are under ordinary course of trade in terms of the Annexure-I to the Anti-dumping Rules. The producer / exporter has provided transaction wise details of sales made in the home market. The same has been accepted by the Authority after examination and relied upon to determine the selling price of the subject goods sold in the home market. For the determination of the ordinary course of trade test, the cost of production of the product concerned was examined with reference to the records maintained by the producer/exporter.
42. Further, all the domestic sales transactions were examined with reference to the cost of production determined by the Authority of the subject goods to determine whether the domestic sales were in the ordinary course of trade or not. In order to determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of the subject goods. The Authority considers all transactions in the domestic market for the determination of the normal value if the profitable transactions are more than 80% of the total domestic sales. Where the profitable transactions are equal to or less than 80%, then only the profitable domestic sales are taken into consideration. Based on this ordinary course of trade test, only profitable domestic sales (\*\*\*%) have been taken into account for determination of normal value. The producer has claimed inland freight, and credit cost as post factory expenses, and the same is accepted by the Authority. The normal value determined as above is mentioned in the dumping margin table below.

### **G.3.5 Normal value for all other producers/exporters from Thailand**

43. It is noted that no other producer/exporter from Thailand has cooperated in the present investigation. In view of non-cooperation, the Authority has determined the normal value for such other producers/exporters based on facts available which is calculated and mentioned in the dumping margin table.

### **G.3.6 Export Price**

#### **China**

44. The Authority notes that Wanhua Chemical Group has exported \*\*\* MT of the subject goods to India of invoice value \*\*\* USD through related trader namely Wanhua Chemical (Singapore) Pte. Ltd. to India. Wanhua Singapore has sold the subject goods to Wanhua India. It is further noted that both Wanhua Singapore and Wanhua India has resold the subject goods at losses. The producer/exporter has claimed adjustment on account of ocean freight, port and other related expenses, insurance, inland transportation, credit cost, bank charges details of which were examined through remote

cross checking/desk verification to the extent feasible. Accordingly, the net export price for the PUC at ex-factory level for the producer / exporter is determined accordingly.

### **G.3.7 Other producers from China**

45. The export price for all other non-cooperating producers and exporters of China is determined as per facts available is mentioned in the dumping margin table below.

#### **Thailand**

46. The Authority notes that M/s GC Polyols Company Limited directly exported \*\*\* MT of the subject goods to India of invoice value of USD \*\*\*. They have also exported \*\*\* MT through unrelated traders namely Toyota Tsusho (Thailand) Co., Ltd. and Mitsui Bussan Chemicals Co., Ltd. While Toyota Tsusho has participated in the investigation, Mitsui Bussan has not cooperated. The producer/exporter has claimed adjustment on account of ocean freight, port and other related expenses, insurance, inland transportation, credit cost, bank charges details of which were examined through remote cross checking/desk verification to the extent feasible. Accordingly, the net export price for the PUC at ex-factory level for the producer / exporter is determined accordingly.

### **G.3.7 Other producers from Thailand**

47. The normal value and export price for all other non-cooperating producers and exporters of Thailand determined as per facts available considering the data provided by cooperating producer and is the same as is mentioned in the dumping margin table below.

### **G.3.8 Dumping Margin Table:**

48. Based on the above the dumping margin are as under:

Country	Producer	Normal Value / CNV	Export Price	Dumping Margin	Dumping Margin %	Dumping Margin Range
		(US\$/MT)	(US\$/MT)	(US\$/MT)	%	
China PR	Wanhua Chemical Group	***	***	***	***	80-90
	Others	***	***	***	***	80-90
Thailand	G C Polyol	***	***	***	***	30-40
	Other Producers	***	***	***	***	30-40

49. It is seen that the dumping margins are more than the *de-minimis* limits prescribed under the Rules.

## **H. INJURY ASSESSMENT AND CAUSAL LINK**

50. The views on injury and causality are as under:



## **H1. Views of the domestic industry**

- i. That the related importers are reselling the subject goods in India at price lower than that of imported price and incurring losses. It is further submitted that the related importer is giving post sales discounts to match the prices of the domestic industry and thus creating price pressure on them. In this context, the domestic industry requested the Authority to make appropriate adjustments to the net export price as well as the landed value of imports.
- ii. It is also submitted by the domestic industry that despite the landed value of approximately Rs. \*\*\* / KG, coupled with additional direct and indirect cost incurred by the exporters on such imports the importers are selling the subject goods around Rs. \*\*\* / KG in the market. The domestic industry requested to verify this issue and also to make necessary adjustments while determining the dumping margin and injury margin. These adjustments are necessary so that the exporters are not allowed to get away with lower injury margin by adopting the practice of importing at higher CIF prices and subsequently reselling the same at a lower price in the market.
- iii. That when landed value from the subject countries are adjusted appropriately, it would be seen that the adjusted prices are significantly below the non-injurious price/fair price of the domestic industry. Even the price undercutting will also show correct position. These low-priced sales by related importers and post sales discounts are not allowing the domestic industry to fetch a fair price for the subject goods and this is causing material injury to the domestic industry.
- iv. That the contention of the interested parties that domestic industry is unable to fulfil the Indian demand, the domestic industry has submitted that despite constant capacity and increase in demand, they were unable to utilize their full capacity. The fact that the domestic industry has idle capacity, clearly establishes that imports in India are coming due to lower price and not only because of any demand and supply issue, as is being claimed by the interested parties.
- v. With respect to the contention of the interested parties that the domestic industry had not brought any substantive evidence in terms of Rule 5(3) of the Rules, the applicant submitted that they had supplied all the relevant information to Authority and the same has been duly noted in the initiation notification.
- vi. With respect to the argument of the interested parties that the domestic industry had not suffered any injury, as their annual report shows huge profit, it is submitted by the domestic industry that they are a multiproduct company and overall profit does not mean that the domestic industry has not suffered injury on the subject goods.
- vii. That the finance cost and depreciation expenses are a mere \*\*\*% and \*\*\*% respectively of the cost and therefore, does not have any material impact on the injury suffered by the domestic industry. As regards the increase in capital employed, it is submitted that the same has increased because of increase in working capital.
- viii. That despite clear guidelines by the Authority, IPU association has chosen not to fulfill its obligation by providing the requested details required under the law. Moreover, they

have also not provided minutes of the meeting wherein the decision was passed to oppose this investigation.

- ix. That IPU association has failed to assist the Authority in reaching the correct conclusion by providing relevant information relating to purchase price of the subject goods from the domestic industry, traders and exporters from the subject countries.
- x. Market share of the domestic industry declined despite increase in demand. However, during the same period, market share of imports from the subject countries has increased.
- xi. That the domestic industry has claimed NIP in accordance to the Annexure III. The Authority has also verified the data and only such verified data has been used by the Authority.
- xii. That the domestic industry is suffering current injury and incurring huge losses on the subject goods. It is important to highlight that when average landed value for the period of investigation is around \*\*\* Rs/ MT, how importers are selling the subject goods at around \*\*\* Rs/MT. This differential price has made the domestic industry to suffer severe injury.
- xiii. That the landed value from the subject countries is continuously declining and quantum of imports is increasing. Further, the capacity of the subject goods in the subject countries is far beyond the demand in the subject countries which, shows that exporters from the subject countries have no choice but to export the subject goods to other countries. If the situation continues like this, there is every possibility that the injury to domestic industry will intensify. This shows the threat of injury as well.
- xiv. In connection with the allegation of the interested party that the domestic industry is habitual user of trade remedies and that the domestic industry had filed this petition with *malafide* intention of making super profit, it is submitted by the domestic industry that they are always under tremendous pressure from a few multinationals companies who have exported the subject goods at dumped prices from constantly changing sources of supply and thereby causing injury to the domestic industry. Moreover, anti-dumping duties were imposed only when it was proved beyond any doubt that certain companies/groups were regularly dumping the subject goods into India and causing injury to the domestic industry.
- xv. In relation to the submissions of the interested parties relating to undercutting, profitability, the domestic industry has submitted that the price undercutting is the function of comparison between landed value and domestic sales price, whereas, profitability is the function of comparison between cost and sales price. Therefore, any attempt of interested parties to compare landed value and selling price to show that profitability of the domestic industry has no linkage with landed value has no basis. It is further submitted by the domestic industry that when landed value was higher, the domestic industry earned reasonable returns. However, when landed value declined the domestic industry again went into losses.
- xvi. It is also important to note that only after the duties were imposed against Saudi Arabia

and UAE, the quantum of imports from Thailand and China increased. However, the exporters remain similar despite change in countries.

## **H2. Views of other interested parties**

- i. That the alleged injury to the domestic industry is not on account of imports from the subject countries, particularly, Thailand. It is further submitted that the domestic industry's performance has been unaffected by the subject imports of the PUC.
- ii. That there is no correlation between the losses incurred by the domestic industry, price undercutting and the volume of the subject goods from the subject countries during the POI, this aspect needs to be checked by the Authority.
- iii. That there is neither volume injury nor price injury to the domestic industry due to the imports from the subject countries. It was further submitted that the Authority should not only terminate this investigation but also terminate duties against other subject countries.
- iv. That the market share of the domestic industry increased in the POI as compared to the immediately preceding year i.e., 2020-21. This shows no injury to the domestic industry on this account.
- v. That the NIP claimed by the applicant is arbitrary & inflated as applicant's annual report points to high level of profits and the pricing of the applicant is also slightly higher.
- vi. That the substantial increase in the depreciation and finance cost is the main cause of the injury to the domestic industry. The Authority should check this factor. It was also submitted that since there was no enhancement in the capacity of the domestic industry, the Authority should examine the reason for increase in working capital.
- vii. That the domestic industry completely failed to make their case of threat of injury. Moreover, there is no injury to the domestic industry even from the imports from the subject countries. If any injury to the domestic industry, that is because of other reasons like closure of plants and COVID impact.
- viii. The applicant is the sole producer of the subject product in India and has sought and received continued protection for many years in the form of anti-dumping duties against the subject imports entering India from one or the other source. This is a classic case of misuse of anti-dumping duties.
- ix. The data pertaining to profit / loss and ROCE appears to be misrepresented and contrary to the applicant's annual report and requires strict verification and scrutiny.
- x. It is incumbent for the Authority to examine factors other than dumped imports which are causing injury to the domestic industry and such other factors must not be attributed to alleged dumped imports, which include (a) closure of plant; and (c) lack of backward integration.

- xi. The domestic industry has limited capacity to meet the Indian demand. The domestic industry in order to maximize its profit resorts to repeatedly levy of anti-dumping duty.
- xii. That the unsubstantiated claims of the domestic industry in relation to post sales discount should be rejected and the Authority should conclude that the domestic industry is not suffering any injury because of the imports from the subject countries.

### **H.3 Examination by the Authority**

51. The various submissions of the interested parties and the domestic industry on injury have been examined as per the information available on record. All relevant issues concerning the facts and figures are addressed in the following injury analysis.
  - i. As regards the argument of the opposing interested parties that the petition is deficient and, therefore, the investigation needs to be terminated, the Authority notes that the present investigation was initiated on the basis of *prima facie* evidence furnished by the domestic industry showing dumping, injury and causal link to justifying the initiation of the investigation in accordance with the Act and Rules. The Authority has also called for additional information wherever required and verified the information furnished by the domestic industry.
  - ii. As regard the contention that the antidumping duty being in force for more than 17 years and having served its intended purpose, the Authority has carried out this investigation strictly in accordance with the anti-dumping Rules the Authority is of the view that the domestic industry has every right to seek protection under the law, if exporters from the subject countries are proved to be dumping the subject goods causing material injury to the industry. It is also important to note that no duties can be levied if specific exporters demonstrate they had not dumped the subject goods during the period of investigation.
  - iii. As regards injury analysis, it is the settled position of law that all the mandated parameters need not show deterioration / injury. Some parameters may show deterioration, while some may show improvement. The Designated Authority considers all injury parameters and, thereafter, concludes whether the domestic industry has suffered injury due to dumping or not.
  - iv. As regards the contention that the demand in the country is more than the supplying ability of the producer, it is noted that the demand supply gap in the country cannot be a ground to justify the existence of dumping by the exporters. This reasoning does not find any justification either in law or in the underlying scheme of anti-dumping mechanism. Moreover, anti-dumping duties does not intend to restrict the imports in India and, therefore, the argument of there being. Demand-supply gap in the Indian market, is not sustainable. The purpose of these anti-dumping duties is to protect the domestic producers from injurious dumping and to provide level playing field in the market to the domestic industry and other suppliers / users of the subject goods in India.
  - v. As regards the claim of the interested parties that NIP is inflated and the domestic industry is not suffering any injury, it is noted that NIP is computed on the basis of the Annexure III of the AD Rules. Further, only verified information

is used for the injury analysis and therefore, all the concerns of the interested parties about costing information and injury to them is appropriately taken care off.

- vi. As regards the impact of the dumped imports on the domestic industry, Para (iv) of Annexure-II of the AD Rules states as follows:

*“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”*

52. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the Rules supra.
53. Further Rule 11 of Antidumping Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
54. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

## **I. CUMULATIVE ASSESSMENT**

55. Para (iii) of Annexure II of the Rules provides that in case where imports of a product

from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that :a) margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of imports from each country is three percent of the import of like article or where the import of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article; and b) cumulative assessment of the effect of imports is appropriate in the light of the conditions of competition between the imported article and the like domestic articles.

56. The Authority notes that: a) the subject goods are being dumped into India from the subject countries. The margin of dumping from each of the subject countries is more than the *de minimis* limits prescribed under the Rules. b) The volume of imports from each of the subject countries is individually more than 3% of total volume of imports. c) cumulative assessment of the effects of imports is appropriate as the exports from the subject countries not only directly compete *inter se* but also with the like articles offered by the domestic industry in the Indian market.
57. In view of the above, the Authority considers that it is appropriate to assess injury to the domestic industry cumulatively from imports of the subject goods from the subject countries.
58. Rule 11 of the Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....”. While examining the volume of dumped imports, the Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. 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.
59. The submissions made by the domestic industry and other interested parties during the course of the investigation with regard to injury and causal link, which have been considered relevant by the Authority are examined and addressed as under:

#### **I.1.1 Volume Effect of dumped imports**

#### **I.1.2 Assessment of Demand/ Apparent Consumption**

60. With regard to the volume of the dumped imports, the Authority is required to examine the

trend of imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from the DGCI&S.

61. The Authority has considered, demand or apparent consumption of the product in India as the sum of the domestic sales of the Indian producers and imports from all sources as under:

SN	Particulars	UoM	2019-20	2020-21	2021-22	POI
1	Sales of the domestic	MT	19,198	21,034	18,994	17,204
2	Imports from China PR	MT	3,255	3,084	3,244	14,091
3	Imports from Thailand	MT	168	3,430	15,194	12,914
4	Imports from the subject	MT	3,423	6,514	18,438	27,004
5	Import from Other Countries	MT	85,832	57,571	72,717	72,641
6	Total Imports	MT	89,255	64,085	91,155	99,645
7	Total Demand	MT	108,452	85,118	110,149	116,849

62. The demand of the subject goods has increased by around 8% i.e., from \*\*\* MT in the base year to \*\*\*MT in the POI.

### I.1.3 Volume Effect of Dumped Imports

#### Import volume and Share

SN	Particulars	UoM	2019-20	2020-21	2021-22	POI
1	China PR	MT	3,255	3,084	3,244	14,091
2	Thailand	MT	168	3,430	15,194	12,914
3	Imports from the Subject	MT	3,423	6,514	18,438	27,004
4	Countries attracting ADD	MT	33646	24645	34413	35457
a	Singapore	MT	37493	26055	32209	33004
b	Saudi Arabia	MT	70	0	0	0
c	UAE	MT	14,622	6,872	6,095	4,181
5	Other Countries	MT	33646	24645	34413	35457
6	Total	MT	89,255	64,085	91,155	99,645
7	Share of Imports from					
8	China PR	%	3.65%	4.81%	3.56%	14.14%
9	Thailand	%	0.20%	5.35%	16.67%	12.96%
10	Subject Countries	%	4%	10%	20%	27%
11	Countries attracting ADD	%	79.78%	79.11%	73.09%	68.70%
a	Singapore	%	37.70%	38.46%	37.75%	35.58%
b	Saudi Arabia	%	42.01%	40.66%	35.33%	33.12%
c	UAE	%	0.08%	0.00%	0.00%	0.00%
12	Other Countries	%	16.38%	10.72%	6.69%	4.20%
13	Total	%	100%	100%	100%	100%
14	Production of the domestic	MT	19,816	20,876	19,401	17,783

15	Subject Countries import in relation to					
A	Indian Production	%	17%	31%	95%	152%
B	Indian Demand	%	4%	10%	20%	27%

63. The volume of imports from the subject countries has shown a significant increase during the period of investigation in absolute terms as well as in relative terms as compared with overall imports, production, and demand.

#### **I.1.4 Price Effect of the Dumped Imports on the domestic industry**

##### **a. Price Undercutting**

64. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. While computing the net selling price of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level has been determined for comparison with the landed value of the dumped imports.

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	<b>Landed Price from China PR</b>	<b>Rs/MT</b>	110559	172300	188365	150131
2	Net Selling Price	Rs/MT	***	***	***	***
3	Net Selling Price	Indexed	100	163	169	126
4	Price Undercutting	Rs/MT	***	***	***	(***)
5	Price Undercutting	Indexed	100	584	101	-433
6	Price Undercutting	%	***	***	***	(***)
7	Price Undercutting	Indexed	100	375	59	-319
8	Price Undercutting	Range	0-10	0-10	0-10	(0-10)
9	<b>Landed Price from Thailand</b>	<b>Rs/MT</b>	94445	167368	188231	159046
10	Net Selling Price	Rs/MT	***	***	***	***
11	Net Selling Price	Indexed	100	163	169	126
12	Price Undercutting	Rs/MT	***	***	***	(***)
13	Price Undercutting	Indexed	100	89	11	-95
14	Price Undercutting	%	***	***	***	(***)
15	Price Undercutting	Indexed	100	50	6	-56
16	Price Undercutting	Range	10-20	10-20	0-10	(0-10)
17	<b>Landed Price from Subject Countries</b>	<b>Rs/MT</b>	109768	169703	188254	154394
18	Net Selling Price	Rs/MT	***	***	***	***
19	Net Selling Price	Indexed	100	163	169	126
20	Price Undercutting	Rs/MT	***	***	***	(***)
21	Price Undercutting	Indexed	100	509	75	-464
22	Price Undercutting	%	***	***	***	(***)
23	Price Undercutting	Indexed	100	329	44	-330
24	Price Undercutting	Range	0-10	0-10	0-10	(0-10)



65. The Authority notes that the price undercutting is negative from the subject countries during the POI. It is further noted from the response filed by the related importer of M/s Toyota Tsusho Thailand Co. Ltd. That they are reselling the subject goods at Rs. \*\*\* / MT to the independent customer. The related importer of Wanhua group has re-sold the subject goods at losses and their resales net sales realization is around Rs. \*\*\*/ MT. These resales prices in the market clearly show that the resales prices of the subject goods from the subject countries are lower than the landed value and therefore, price undercutting analysis based on the import data will not reflect the correct situation of the domestic industry. Based on the resales price of the cooperating exporters the price undercutting is as follows:

SN	Particulars	Unit	Wanhua Group	G C Polyol
1	Landed Price	Rs/MT	***	***
	Landed Price	Indexed	100	100
2	Net Selling Price	Rs/MT	***	***
3	Net Selling Price	Indexed	100	100
4	Price Undercutting	Rs/MT	***	***
5	Price Undercutting	Indexed	100	100
6	Price Undercutting	%	***	***
7	Price Undercutting	Indexed	100	100
8	Price Undercutting	Range	10-20	0-10

66. From the above table, it is clear that the price undercutting during the period of investigation is positive post factoring the resale prices in the market by the cooperating exporters.

#### **b. Price Suppression/ Depression**

67. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Cost of sales	Rs /MT	***	***	***	***
2	Trend	Indexed	100	92	156	141
3	Selling price	Rs /MT	***	***	***	***
4	Trend	Indexed	100	163	169	126
5	Landed Price from the subject countries	Rs /MT	109768	169703	188254	154394
6	Trend	Indexed	100	155	172	141

68. From the above table, it is also noted that the cost of sales of the domestic industry increased by 41 indexed points whereas the selling price increased by only 26 indexed points due to the pressure exerted by the related importers of the exporters by selling the

subject goods at the prices below the landed value. Thus, the domestic industry has no option but to alien their prices with landed value. This further shows that the prices of the domestic industry are suppressed.

### **I.1.5 Economic Parameters relating to the domestic industry**

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

#### **a. Production, Capacity, Capacity Utilization and Sales Volume**

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Capacity	MT	***	***	***	***
2	Trend	Indexed	100	91	91	91
3	Total Production - Polyol	MT	***	***	***	***
4	Trend	Indexed	100	105	101	98
5	Capacity Utilization– Total Polyol Production	%	***	***	***	***
6	Trend	Indexed	100	117	112	109
7	Production – FSP	MT	***	***	***	***
8	Trend	Indexed	100	105	98	90
9	Domestic Sales Volume – PUC	MT	***	***	***	***
10	Trend	Indexed	100	110	99	90

71. From the above table it is noted that the domestic industry is operating at \*\*\*% of the capacity utilization in the POI despite slight reduction in the capacity. It is further noted that the capacity is for all types of polyols which includes subject goods (FSP) and non-subject goods also. In this context, it is noted that the domestic industry still has around \*\*\*% of the capacity unutilized, which can be utilizes to produce subject goods. The domestic industry has also submitted that only because of dumped imports they are unable to utilize their capacity. The production and sales volume of the product under consideration shows decline during the POI as compared to 2019-20 despite increase in the demand in India.
72. It is also noted that since 2015, domestic industry has reduced its dependency on the

imported propylene oxide (PO), the key raw material used to produce FSP by investing in its manufacturing facilities. During the POI, they have not used imported PO for the production of FSP which, has helped industry to reduce its cost. This facility has not only reduced the cost of subject goods but also assured the continuous supply of the major raw material for the production of the subject goods.

**b. Market Share in Demand**

73. The market share of the domestic industry moved as shown below:

SN	Particulars	UoM	2019-20	2020-21	2021-22	POI
1	Total Demand	MT	108452	85118	110149	116849
2	Share in Demand					
3	Domestic industry	%	17.70%	24.71%	17.24%	14.72%
4	China PR	%	3.00%	3.62%	2.94%	12.06%
5	Thailand	%	0.15%	4.03%	13.79%	11.05%
6	Subject Countries	%	3.16%	7.65%	16.74%	23.11%
8	Other Countries	%	79.14%	67.64%	66.02%	62.17%
9	Total Imports	%	82.30%	75.29%	82.76%	85.28%

74. From the above table, it is noted that the market share of the imports from the subject countries in total demand has increased as compared to the base year, during the same time market share of domestic industry has declined.

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

75. The profitability, return on investment and cash profit / loss situation of the domestic industry is as shown below:

SN	Particulars	Unit	2019-20	2020-21	2021-22	POI
1	Cost of sales	Rs./MT	***	***	***	***
2	Trend	Indexed	100	92	156	141
3	Selling price	Rs./MT	***	***	***	***
4	Trend	Indexed	100	163	169	126
5	Profit/(Loss)	Rs./MT	(***)	***	(***)	(***)
6	Trend	Indexed	-100	166	-109	-196
7	Profit/(Loss)	Rs. Lacs	(***)	***	(***)	(***)
8	Trend	Indexed	-100	182	-107	-176
9	PBIT	Rs. Lacs	(***)	***	(***)	(***)
10	Trend	Indexed	-100	191	-107	-178
11	Cash Profits	Rs. Lacs	(***)	***	(***)	(***)
12	Trend	Indexed	-100	217	-110	-186
13	ROCE	%	(***)	***	(***)	(***)
14	Trend	Indexed	-100	82	-37	-78

76. From the above table it is noted that the domestic industry is selling the subject goods

below the cost of sales. The domestic industry has submitted that related importers of the exporters are selling the goods below landed value by giving post sales discounts or by incurring losses.

**d. Inventories**

77. Inventories with the domestic industry are as follows:

Particulars	UoM	2019-20	2020-21	2021-22	POI
Opening	MT	427	575	305	292
Closing	MT	575	305	205	560
Average	MT	501	440	255	426
Trend	Indexed	100	88	51	85

78. It is noted from the above the average inventory of the domestic industry has reduced in the POI as compared to the base year. However, the same is increased as compared to the immediately preceding year i.e., 2021-22.

**e. Employment and productivity**

79. Performance of the domestic industry with regard to employment, productivity and wages is as follows:

SN	Particulars	UoM	2019-20	2020-21	2021-22	POI
1	Productivity per Day	MT/day	***	***	***	***
2	Trend	Indexed	100	105	98	90
3	Employment (Nos)	Nos.	***	***	***	***
4	Trend	Indexed	100	100	100	100

80. While employment indicated a stable trend between 2019-20 and POI, productivity of the domestic industry remained in the same bend.

**f. Magnitude of Dumping**

81. The Authority has undertaken evaluation of dumping margin for cooperating producers/exporters during POI as stated in the earlier paras. The dumping during POI from the subject countries for cooperative producer/exporters are above *de-minimis* levels and is significant.

**g. Ability to raise Capital Investment:**

82. The future investment in the sector is marred by the presence of dumped imports from the subject countries. Negative profitability and return on investment along with negative cash profit indicates that the ability of the domestic industry to raise capital investments for the sector is jeopardized due to dumped imports from the subject countries.

#### **h. Growth:**

83. The growth of the domestic industry continues to be negative for most of the price parameters. The domestic industry has submitted that continued pressure from the exporters has made the situation of the domestic industry very venerable.

#### **I.1.6. Factors affecting domestic prices**

84. The examination indicates that the demand in India for the subject goods is not a limiting factor for the growth of the domestic industry. The import prices from the subject countries are directly affecting the prices of the domestic industry in the domestic market. It is also noted that the landed value of the subject goods from the subject countries are below non-injurious price of the domestic industry. Further, landed prices of subject goods from the subject countries have depressed prices of the domestic industry. The imports of the product under consideration from countries other than the subject countries and countries already attracting anti-dumping duties are negligible and are not claimed to be injuring the domestic industry. The Demand for the product in this industry has not declined, and, therefore, could not have been a factor responsible for price suppression faced by the domestic industry. Thus, main factor affecting the adverse impact on the domestic industry is the adjusted landed prices of subject goods from subject countries.

#### **I.1.7 Analysis of Material Injury**

85. An examination of the various parameters of injury along with the volume and price effects of imports reveals that there is an increase in the volume of imports of subject goods from the subject countries during the injury investigation period in absolute terms as well as in relation to the total imports, domestic production and total demand in the country. With regard to price effect, it is noted that The Authority notes that the price undercutting is negative from the subject countries due to the fact that resales price from the subject countries is less than the landed value. Therefore, the import price recorded in import data is not showcasing the actual prevailing price of the subject goods from the subject countries in the Indian market, and the price analysis on the basis of the import data has no material bearing on the case, as the same is not reflective of the true numbers. It is noted that landed price of subject goods from subject countries have suppressed the selling price of the domestic industry, and as a result, the domestic industry is selling the subject goods at a price below its cost of sales. With regard to impact of volume and price effect on the domestic industry, it is noted that sales and market share of the domestic industry has been adversely affected. It is also noted that the sales, production and capacity utilization of the domestic industry has not increased in line with increase in demand, and the capacity utilization of the domestic industry remains suboptimal. Further, it is also noted that profitability of the domestic industry has been adversely affected on account of dumped imports of the subject goods from the subject countries.

#### **I.1.8. Magnitude of injury margin**

86. The non-injurious price (NIP) of the domestic industry has been determined and compared with the landed value of the subject goods (as per DGCIS) to arrive at the extent of injury margin. The NIP of the product under consideration has been determined by adopting the verified information/ data relating to the cost of production for

the period of investigation on the basis of principles mentioned in Annexure III of the Rules. The analysis shows that during the period of investigation, the landed value of the subject imports was below the non-injurious price of the domestic industry, as can be seen from the table above, demonstrating positive injury margin.

87. From the aforesaid table, it is noted that injury margin from the subject countries during the POI is positive. The Authority notes that due to the fact that exporters are selling the subject goods at higher value and their related importers are reselling the subject goods at lower value, the quantum of injury margin as shown in the table below:

		<b>NIP</b>	<b>Landed Value</b>	<b>Injury Margin</b>	<b>Injury margin %</b>	<b>Injury Margin Range</b>
Country	Producer	(US\$MT)	(US\$MT)	(US\$MT)	%	
China	Wanhua Chemical Group	***	***	***	***	30-40
	Others	***	***	***	***	30-40
Thailand	G C Polyol	***	***	***	***	20-30
	Other Producers	***	***	***	***	20-30

88. It is noted that injury margin determined is positive and significant during POI.

#### **I.1.9 Other Known Factors & Causal Link**

89. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-dumping have been examined by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry.

##### **a. Volume and prices of imports from third countries**

90. Apart from countries already attracting anti-dumping duties, imports from other sources are either below *de-minimis* levels or already subject to duties or under scrutiny.

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

91. There has been a rise in demand of the product concerned throughout the injury period.

##### **c. Trade restrictive practices of and competition between the foreign and domestic producers**

92. There is no trade restrictive practice.

##### **d. Export performance of the domestic industry**

93. The injury analysis has been done by the Authority taking into consideration their domestic operations only.
94. No evidence has been brought by any interested parties about existence of significant changes in the technology.

**e. Productivity**

95. The Authority notes that the productivity of the domestic industry has remained in the same bend.
96. The Authority, thus, concludes that the domestic industry has suffered injury on account of the dumped imports from the subject countries.

**I.1.10 Analysis by the Authority on causal link**

97. It is thus noted that listed known other factors do not show that the Domestic Industry could have suffered injury due to these other factors. The Authority examined whether the dumping of the product has caused injury to the domestic industry.
  - a. Imports of the subject goods from the subject countries have increased both in absolute terms and in relation to production and consumption in India over the entire injury period.
  - b. The dumped imports of the subject goods from the subject countries have taken over a significant market share of the domestic industry. In fact, the share of domestic industry in total demand has decreased in the POI due to increase in market share of the dumped imports from the subject countries.
  - c. The Authority notes that the price undercutting is negative from the subject countries due to the fact that exporters from the subject countries export the subject goods to India at a high price and their related party resells the subject goods at a loss. Therefore, the import price recorded in import data is not showcasing the actual prevailing price of the subject goods from the subject countries in the Indian market. It is noted that landed price of subject goods from subject countries have suppressed the selling price of domestic industry, and as a result, the domestic industry is selling the subject goods at a price below its cost of sales.
  - d. With regard to impact of volume and price effect on the domestic industry, it is noted that it is noted that sales and market share of the domestic industry has been adversely affected.
  - e. The price underselling along with significant increase in the volume of dumped imports from subject countries has, thus, resulted in significant deterioration in profits, cash flow and return on investments of the domestic industry.

**J. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

98. 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 producers, 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 to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Further, the Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

99. The Authority considered whether imposition of anti-dumping duty shall have significant adverse public interest. For the purpose, the Authority examined the information on record pertaining to the interests of various parties, including the domestic industry, other domestic producers, importers and consumers of the product.
100. The Authority issued gazette notification inviting views from all interested parties, including importers, consumers, and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information regarding the present investigations, including possible effect of anti-dumping duty 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 anti-dumping duty on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of anti-dumping duty.
101. From the data on record, it is submitted that the imposition of the anti-dumping duties would not impact the user industry as well as the public at large. The domestic industry claimed that the impact of duties on the end consumers will be negligible and will not impact them, this has not been challenged by any of the interested parties by providing counter data / evidence. However, imposition of the duties will give legitimate protection to the domestic producers of the subject goods. According to the calculation provided by the domestic industry, current anti-dumping duties will have an impact of around 1% on the foam manufactures, which is insignificant by any standards.

Particulars	UoM	Ref	Values
The standard size of double mattress is 72 x 48 x 6 inches (1.83 x 1.22 x 0.15 m). For 32 Kg/m <sup>3</sup> density foam, mattress weight will be around	Kg	A	10.6
Price of above Mattress (A)	Rs. / Piece	B	20,000
Flexible Slabstock Polyol (FSP) used	Kg	C	6
Current Market price of FSP	Rs/KG	D	120
Cost of FSP in Mattress	KG	E=C*D	720
Recommended Anti-Dumping Duty on China	%	F	32.08%
Additional quantum of ADD on Foam Manufacturers	Rs/KG	G=E*F	230.976
Impact of ADD on Foam Manufacturers	%	H=G/B	1.15%
Recommended Anti-Dumping Duty on Thailand	%	F	27.21%



Additional quantum of ADD on Foam Manufacturers	Rs/KG	G=E*F	195.912
Impact of ADD on Foam Manufacturers	%	H+G/B	<b>0.98%</b>

102. From the above, it is clear that the recommended duty of 32% on China PR and 27.21% on Thailand has insignificant impact on the user industry. However, these duties will give protection to the domestic industry from dumped and injurious imports from the subject countries.

## **K. POST DISCLOSURE COMMENTS**

103. The Authority issued the disclosure statement on 14.02.2024 disclosing essential facts under consideration in the investigation and inviting comments from all the interested parties. Most of the issues in the disclosure comments have already been raised earlier and addressed appropriately hereinabove. Additional submissions to the extent relevant have been examined below:

### **K.1. Submissions of the other interested parties:**

104. Following submissions have been made by the other interested parties:
- That the domestic industry has not provided any evidence to show that exporters are shifting their base to avoid anti-dumping duties. Secondly, the domestic industry has failed to identify group of exporters who are indulged in such practice.
  - That the imports are coming because of demand and supply gap issues and not because of exporters shifting base.
  - Imposition of anti-dumping duty will also strengthen the monopolistic position of the domestic industry as it is the only domestic producer of the like article in India.
  - There is negative price undercutting when domestic sales are compared with the landed value from the subject countries. Moreover, undercutting based on exporters data is not permissible under the law as well as consistent practice of the Authority. Further, examination of data of two exporters does not explain the position of other exporters.
  - The Authority has kept capacity utilization numbers as confidential whereas the same is available in the public domain and therefore, the Authority should give the numbers of capacity utilization in the final findings.
  - It is further submitted by the interested parties that due to frequent change in the product mix, domestic industry cannot achieve 100% in polyol division. Therefore, achieving 100% utilization is myth and not reality.
  - That decline in performance in the period of investigation is not sufficient to recommend duty, as domestic industry had robust growth in the immediately preceding financial year.
  - That despite post sales discount offered by the exporters, the domestic industry has recorded significant growth in 2020-21, this shows that post landed value discounts have no impact on the performance of the domestic industry.
  - That there is no causal link between the injury suffered by the domestic industry and dumped imports. The domestic Industry is suffering because of high cost in India.
  - The applicant had acknowledged absence of material injury in its earlier application for sunset review which they had got terminated by withdrawing and Authority had fallen prey to the mischief of the applicant by erroneously terminating the said review investigation under Rule 14 of the AD Rules instead of completing the investigation and returning a

finding of no injury and no likelihood of recurrence of injury which was evident from the facts of that case.

- k. The domestic industry's limited production capacity and their location down south at Chennai, forces them to supply to users in southern part of India only. They are not able to cater to the users in western, northern and eastern parts of India. That being so, the users of FSP based in other parts of India are largely dependent upon the imports and are seriously affected by the long imposition of the antidumping duties practically on all sources of imports.
- l. The data used by the Authority in the disclosure statement is different from the data filed by the domestic industry. In view thereof, the exporters have requested the Authority to double check the same.
- m. That the Authority has not provided the transaction-wise import data used by the Authority for reaching the conclusion.
- n. Basic custom duty from Thailand is zero and any imposition of anti-dumping duties would be against the spirit of zero basic custom duty.
- o. That the cost of production and normal value claimed by the exporter and used by the Authority in the disclosure statement are different. In view thereof, the exporter has requested the Authority to use their claimed COP and normal value.
- p. That the Authority should recheck the costing data provided by the domestic industry. Moreover, exporters have requested to appropriately adjust the impact of COVID 19, plant closure and compensation paid by them in 2021-22.
- q. That the injury margin of Wanhua group and rest of China cannot be the same, as per Manual, injury margin for other producers from China should be more.
- r. The domestic producer uses old and outdated technology, highly uneconomical in scale, lacks backward integration, and suffers raw material supply constraints, making it an inefficient producer.
- s. 22% return given by the Authority to the domestic industry is unjustified and should not be used in the instant investigation.
- t. The domestic industry is frequent and habitual user of anti-dumping duties.

## **K.2. Submissions of the domestic industry**

105. Following submissions have been made by the domestic industry:

- a. That the exporters have not provided critical information even to the Authority and despite that the Authority, instead of rejecting their responses, proposes to reward them by giving them individual duties. Further, confidentiality on the essential information has deprived the domestic industry, its right to comment on the same and assist the Authority in reaching the correct conclusion. The domestic industry further requested copies of all the correspondence with the exporters regarding completion of their responses.
- b. That the domestic industry post getting protection from the dumped and injurious imports reduced its dependability on the imported propylene oxide and during the period of investigation they have not imported a single ton of propylene oxide from the market. Consumption of indigenous propylene oxide helped the domestic industry to reduce its cost and remain competitive in the market.
- c. The fact that related importers are selling the subject goods at prices below landed value, clearly indicates the pressure exerted by the exporters on the domestic industry. It is further

submitted that due to this price pressure only, the only other producer of the subject goods modified its facility to produce other grades of Polyol, as in the subject goods they were unable to compete with the pricing of the multi-national companies.

- d. The domestic Industry is operating at 65% of capacity utilization, this means that still 35% can be used to produce subject goods. The fact that 35% of the capacity is unutilized, clearly indicates that imports are coming because of lower pricing and not because of the demand and supply gap. It is further submitted that they can achieve 100% utilization, while producing subject goods.
- e. It is further submitted that the domestic industry has increased their capacity as under-

Year	2009-10	2010-20	2020-21	2021-22
Capacity in MT	36000	50000	45265	45265

However, post that due to aggressive dumping and price undercutting, and price underselling, the domestic industry was not able to utilize the capacity to its optimum levels and therefore, they have not added additional capacity post that.

- f. In relation to issues relating to the difference in technology and subsequent quality of the product produced by the domestic industry and the exporters, it is submitted that none of the exporters have raised this issue, that there is indeed no material difference in the final product produced out of both the technologies. It is further submitted that neither the difference in technology nor the alleged quality differences can per se be a ground for exclusion of any product or for the purposes of either the dumping margin or the injury analysis. It is further noted that the domestic industry is supplying subject goods to large numbers of customers and their quality is acceptable to all. In any case, none of the interested parties has provided any evidence to substantiate their claim that goods produced by the domestic industry with existing technology cannot be used by them due to quality and other technical issues.
- g. It is submitted that the dumping margin and injury margin is not only positive but also substantial. This shows that the domestic industry is suffering on account of imports from the subject countries.

### **K.3 Examination by the Authority:**

106. The Authority notes that most of the submissions raised by the interested parties are repetitive and has already been addressed hereinabove. The submissions made by the interested parties, to the extent relevant and not addressed elsewhere, is examined below:
107. The Authority notes that all the responding exporters from the subject countries have filed the complete information relating to exports to India.
108. As regards the submission regarding 22% returns allowed to domestic industry being unjustified, the Authority notes that the return to the domestic industry has been allowed in terms of Annexure-III of the Rules as well as the consistent practice of the Authority.
109. As per the apprehensions expressed by the interested parties regarding the correctness of

the data filed by the domestic industry, it is noted that the Authority has relied upon the data verified during the course of the investigation and only such verified data is used for the purpose of this final findings and therefore, no prejudice is caused to any interested parties.

110. As regards the submission regarding the basic customs duty from Thailand being zero, the Authority notes that the object and purpose of the anti-dumping legislation is different from the Free Trade Agreements. Merely because there is an FTA with a country, the same does not condone the practices of dumping.
111. As regards the demand supply gap, it is noted that antidumping duties does not intend to restrict the imports in India, the sole purpose of anti-dumping duty is to create level playing field in the market for the domestic industry and other suppliers / users of the subject goods in India. It is further noted that the domestic industry was under price pressure from the exporters from the subject countries to sell their product. Further, the domestic industry still has the unutilized capacity, which indicates that the domestic industry was not able to increase its production and market share because of price pressure created by the exporters.
112. As regards the contentions of the interested parties regarding import data, it is noted that the Authority has already prescribed the procedure for collecting import data. However, none of the interested parties made any request for import data in the prescribed format.
113. As regards the submissions relating to the absence of injury, the same has already been dealt with at appropriate place in this finding.
114. In relation to issues relating to the difference in technology and subsequent quality of the product produced by the domestic industry, the Authority notes that neither the difference in technology nor the alleged quality differences can per se be a ground for exclusion of any product or for the purposes of either the dumping margin or the injury analysis. It is further noted that the domestic industry is supplying subject goods to large numbers of customers and their quality is acceptable to all. In any case, none of the interested parties has provided any evidence to substantiate their claim that goods produced by the domestic industry with existing technology cannot be used by them due to quality and other technical issues. The Authority, therefore, holds that different technologies cannot form the basis of any conclusion by the Authority as long as the products are technically and commercially substitutable.
115. The Authority further notes that the analysis of the injury being suffered by the domestic Industry has been made on the basis of an objective analysis of the injury parameters in terms of the Annexure II of the AD Rules. Moreover, all the concerns raised by the interested parties are already dealt in detail at the relevant places of these final findings
116. As regards the submissions relating to the absence of causal link, the same has already been dealt with at appropriate place in this finding.

## **L. CONCLUSIONS AND RECOMMENDATIONS**

117. Having regard to the contentions raised, submissions made, information provided and

facts available before the Authority as recorded above and on the basis of the above analysis of dumping and consequent injury to the domestic industry, the Authority concludes that:

- a. The product under consideration has been exported to India at a price below the normal value, resulting in dumping.
  - b. The dumping of the subject goods has injured the domestic industry. The examination of the subject imports and the performance of the domestic industry clearly shows that the volume of subject imports in absolute and relative terms has remained high. The imports are priced below the target prices of the domestic industry leading to price suppression. At current prices, the domestic industry is suffering injury and will not be able to cover its variable costs. The domestic industry has not been able to utilize its capacity utilization to its optimum levels due to aggressive prices offered by the related importers of the exporters. Further, despite significant demand for the product in the countries, the domestic industry has not been able to sell even to the limited extent it has produced, and has been faced with significant inventories. The domestic industry is suffering significant financial losses and negative return on investment.
  - c. Injury margin from the subject countries is significantly positive.
  - d. The information on record shows that the non-imposition of the anti-dumping duty will adversely and materially impact the indigenous production, while imposition of the anti-dumping duty will not materially impact the consumers or the downstream industry or the public at large.
  - e. On the basis of the information provided by the interested party and the investigation conducted, the Authority is of the view that imposition of the anti-dumping duty will not be against the public interest.
118. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, the exporter, the importers and the other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Anti-Dumping Rules, the Authority is of the view that imposition of the anti-dumping duty is required to offset the dumping and consequent injury. The Authority considers it necessary to recommend imposition of the anti-dumping duty on the imports of the subject goods originating in or exported from the subject countries.
119. Having regards to the lesser duty rule followed, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of the anti-dumping duty on the imports of subject goods originating in or exported from the subject countries, from the date of notification to be issued in this regard by the Central Government, equal to the amount mentioned in Col. 7 of the duty table appended below. The landed value of the imports for this purpose shall be the assessable value as determined by the Customs under Customs Act, 1962 and applicable level of the customs duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

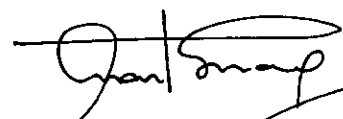
### Duty Table

Sl. No	Heading	Description	Country of origin	Country of Export	Producer	Amount of Duty	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	3907.20 3907.91 3907.99	Flexible Slabstock Polyol of Molecular weight 3000-4000	China PR	China PR	Wanhua Chemical Group	534	MT	USD
2	-do-	-do-	China PR	Any	Any other than at Sl No. 1 above	608	MT	USD
3	-do-	-do-	Any	China PR	Any	608	MT	USD
4	-do-	-do-	Thailand	Thailand	GC Polyols Company Limited	470	MT	USD
5	-do-	-do-	Thailand	Any	Any other than at Sl No. 4 above	480	MT	USD
6	-do-	-do-	Any o	Thailand	Any	480	MT	USD

120. The landed value of imports for the purpose of this notification shall be assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under Sections 3, 8B, 9, 9A of the said Act.

### **M. FURTHER PROCEDURE**

121. An appeal against this determination/review of the Designated Authority in this final finding shall lie before the Customs, Excise, and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

  
**(Anant Swarup)**  
**Designated Authority**